

Significant Changes Introduced to the Geographical Data License Regulation

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The Regulation Amending the Geographical Data License Regulation (“Amendment Regulation”) is published in the Official Gazette of March 31, 2023¹ and has brought significant changes to the legal framework on geographical data including different types of licenses along with the obligations of licensees. To better grasp the changes introduced by the Amendment Regulation, we find it useful to revisit the geographical data license obligation stipulated under Article 1/2 of Law No. 7221 on Geographical Information Systems and Amendment to Certain Laws², Article 14 of the Presidential Decree No. 49³ and Geographical Data License Regulation. In this respect, collection, production, sharing, and sale of geographical data within the scope of the National Geographical Data Responsibility Matrix by local or foreign real and legal person is subject to the license granted by the Ministry of Environment, Urbanization and Climate Change (“Ministry”), provided that such persons have the necessary documents to carry out commercial activities.

Within this framework, the Amendment Regulation introduces three (3) different types of licenses based on the activities carried out by licensees: (i) Group A license, *a license granted for collection and/or production, sharing and sale of geographical data, where the parties enter into a license agreement*; (ii) Group B license, *a license granted for collection of geographical data, where the parties enter into a license agreement*; and (iii) Group C license, *a license granted for data mining and/or new data production by using the existing data, where the parties enter into a license protocol as well as license agreement*.

In parallel with this classification, the Amendment Regulation sets forth new obligations based on different types of licenses and elaborates on the existing obligations under Geographical Data License Regulation. Most significantly, the Amendment Regulation

¹ <https://www.resmigazete.gov.tr/eskiler/2023/03/20230331-5.htm> (Last accessed on June 20, 2023)

² <https://www.resmigazete.gov.tr/eskiler/2020/02/20200220-1.htm> (Last accessed on June 20, 2023)

³ <https://www.resmigazete.gov.tr/eskiler/2019/11/20191107-9.pdf> (Last accessed on June 20, 2023)

regulates that Group A and Group B licensees are obliged to execute the license agreement prepared by the Ministry, whereas Group C licensees are obliged to execute the license/cooperation protocol along with the license agreement and Group A licensees should notify within fifteen (15) days the relevant governorship and the Ministry of the changes in responsible person's contact information and vehicles and staff to be used, if any.

Regardless of the license types, as per the newly amended Article 6 of Geographical Data License Regulation, the licensees should register the data and data information regarding the activities indicated in the license agreement with the Ministry's electronic infrastructure in the periods determined by the Ministry and by following the format described by the Ministry, they should ensure the accuracy and security of the data along with its confidentiality and they should grant the persons assigned by the Ministry or the authorized institutions access to information and documents subject to the license during the audits. The Amendment Regulation also underlines that the licensees should submit or ensure the submission of all kinds of geographical data within the scope of National Geographical Data Responsibility Matrix they work on, together with the data information to National Geographical Information Platform ("*Ulusal Coğrafi Bilgi Platformu*" or "*UCBP*" in Turkish) in line with the standards published in the Official Gazette within the license period.

Further, the documents pertaining to the employment of geographical information system specialists or operators which are required by the Ministry for license application differ according to the license types and the licensees might be exempted from the provision of such documents if it is their first application. Nevertheless, it is important to note that the paragraphs (f), (g) and (ğ) of Article 7/6 of Geographical Data License Regulation regarding the documents on the employment of geographical information system specialists or operators in terms of Group A and Group B licensees will be effective after January 1, 2025.

In addition, the Amendment Regulation defines data mining. Accordingly data mining is defined as "*all work and transactions carried out by using the shared large-scale data subject to cooperation in order to obtain useful information, put forward the relationships between the data and endorse decision support mechanisms by making it possible to get accurate*

predictions” and regulates data mining and new data production under Article 8/A of Geographical Data License Regulation. In this regard, all data mining and new data production activities should be carried out through the system to be created by the Ministry and in cooperation with the Ministry personnel, expenses such as the Ministry personnel’s education, equipment, software, hardware and license should be covered by the licensees and the intellectual property rights over the works and transactions at the stage of data mining and new data production and the final products should belong to the Ministry. The Ministry is also entitled to determine the period during which the licensees are allowed to use the produced data. Moreover, the details of the revenue share regarding the income generated by new data production and data mining are stipulated under the Amendment Regulation.

With regard to sanctions, pursuant to the newly amended Article 13/A of Geographical Data License Regulation, in case the license is cancelled, the real and legal persons will be deemed carrying out activities without the permission of the Ministry and such persons will be granted at least ten (10) days as of the notification for application. The activities of those who do not apply within the specified period will be suspended and an administrative fine of fivefold the license fee will be imposed.

As can be seen, the Amendment Regulation introduces significant changes as well as clarification to the legal framework on geographical data and license obligation which should be carefully considered and followed by the constituents of the sector who are under the obligation to obtain license from the Ministry to conduct the contemplated activities on geographical data.

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(First published by Mondaq on July 13, 2023)