

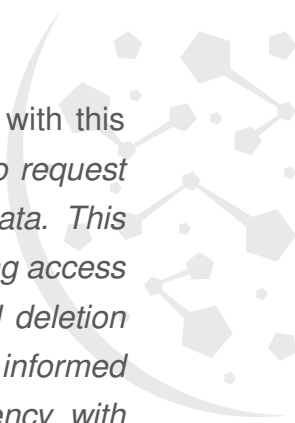
RIGHT TO REQUEST THE PROTECTION OF PERSONAL DATA AS A CONSTITUTIONAL RIGHT





The second chapter of the Constitution of the Republic of Türkiye regulates the rights and duties of the individual. The right to privacy is one of the fundamental rights of the individual, which is guaranteed in Article 20 of the Constitution. A need for legal regulations in this regard has arisen as a result of the technological advancement that paves the way for the intervention in fundamental rights and freedoms.

After the amendment made to the Constitution with Law No. 5982 in 2010, a paragraph was added to Article 20 of the Constitution, providing a constitutional guarantee to personal data within the scope of the “right to privacy



and protection of private life.” In line with this paragraph, *“Everyone has the right to request the protection of his/her personal data. This right includes being informed of, having access to and requesting the correction and deletion of his/her personal data, and being informed whether these are used in consistency with envisaged objectives. Personal data can be processed only in cases envisaged by law or by the person’s explicit consent. The principles and procedures regarding the protection of personal data shall be laid down in law.”*

In accordance with this Constitution provision;

- Everyone has the right to request the protection of his/her personal data.
- In this regard, individuals basically have the right to request for the necessary measures to be taken to prevent the personal data concerning themselves from being accessed by irrelevant third parties.

This right includes the right to obtain information regarding personal data concerning data



subjects, access to the data, obtain rectification or erasure of such data, and learn whether or not personal data is used in line with the initial purposes for the processing. Accordingly, individuals have the right to learn what personal data is used and the purpose of the use of their personal data, as well as to request rectification or erasure of inaccurate personal data.

- Personal data can only be processed in compliance with the conditions envisaged in the law or with the explicit consent of the data subject. Where there is no legal basis or an explicit declaration of intent by the data subject

for the processing activity, personal data cannot be processed.

The reason for the proposal of amendment to this Article is explained as follows: *“There are indirect provisions for the protection of personal data in the Constitution; however, they are insufficient. The importance of personal data protection is underlined both in comparative law and international instruments to which we are a party. With this Article, the right to request the protection of personal data is guaranteed as a constitutional right. In this context, the Article determines what rights and powers individuals have over personal data concerning them and in which cases personal data can be processed, while it also ensures that principles and procedures related to the protection of personal data will be regulated by law.”*

Article 20(3) of the Constitution requisites protection of personal data. Therefore, unlawful processing of personal data means violation of personal inviolability, the right to protect and improve corporeal and spiritual existence

guaranteed in Article 17 of the Constitution, and the right to privacy and protection of private life laid down in Articles 20 and 22 of the Constitution.



Article 20(3) of the Constitution also rules that personal data can only be processed in cases envisaged by law or by the person's explicit consent, and the principles and procedures regarding the protection of personal data will be regulated by law. Although the provision of the Constitution notes that personal data can be processed in cases stipulated by law, it is also seen that it does not set specific limitation grounds.

In pursuance of the constitutional provision, “Draft Law on Protection of Personal Data” was submitted to the Presidency of the Grand National Assembly of Türkiye on 26 December 2014. After the Draft was enacted into law on 24 March 2016, the Personal Data Protection Law No 6698 entered into force, following its publication in the Official Gazette dated 7 April 2016 and numbered 29677, thereby finalizing

the legal infrastructure needed for the protection of personal data.





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