LAW ON THE PROTECTION OF PERSONAL DATA

CHAPTER ONE
Purpose, Scope and Definitions

Purpose

ARTICLE 1 - (1) The purpose of this Law is to protect fundamental rights and freedoms of people, particularly the right to privacy, with respect to processing of personal data and to set forth obligations, principles and procedures which shall be binding upon natural or legal persons who process personal data.

Scope

ARTICLE 2 - (1) The provisions of this Law shall apply to natural persons whose personal data are processed as well as to natural or legal persons who process such data fully or partially through automatic means or provided that the process is a part of any data registry system, through non-automatic means.

Definitions

ARTICLE 3 - (1) For the purposes of this Law the following definitions shall apply:

a) Explicit consent: freely given, specific and informed consent,

b) Anonymizing: rendering personal data impossible to link with an identified or identifiable natural person, even through matching them with other data,

c) President: President of the Personal Data Protection Authority,

ç) Data subject: the natural person, whose personal data is processed,

d) Personal data: all the information relating to an identified or identifiable natural person,

e) Processing of personal data: any operation performed upon personal data such as collection, recording, storage, retention, alteration, re-organization, disclosure, transferring, taking over, making retrievable, classification or preventing the use thereof, fully or partially through automatic means or provided that the process is a part of any data registry system, through non-automatic means,

f) Board: the Personal Data Protection Board,

g) Authority: the Personal Data Protection Authority,

ğ) Processor: the natural or legal person who processes personal data on behalf of the controller upon his authorization,

h) Data registry system: the registry system which the personal data is registered into through being structured according to certain criteria,

ı) Controller: the natural or legal person who determines the purpose and means of processing personal data and is responsible for establishing and managing the data registry system.

CHAPTER TWO

Processing of Personal Data

General principles

ARTICLE 4 - (1) Personal data may only be processed in compliance with the procedures and principles set forth in this Law and other laws.

(2) The following principles shall be complied within the processing of personal data:

a) Lawfulness and conformity with rules of *bona fides*.

b) Accuracy and being up to date, where necessary.

c) Being processed for specific, explicit and legitimate purposes.

ç) Being relevant with, limited to and proportionate to the purposes for which they are processed.

d) Being retained for the period of time stipulated by relevant legislation or the purpose for which they are processed.

Conditions for processing of personal data

ARTICLE 5- (1) Personal data cannot be processed without the explicit consent of the data subject.

(2) Personal data may be processed without seeking the explicit consent of the data subject only in cases where one of the following conditions is met:

a) it is clearly provided for by the laws.

b) it is mandatory for the protection of life or physical integrity of the person or of any other person who is bodily incapable of giving his consent or whose consent is not deemed legally valid.

c) processing of personal data belonging to the parties of a contract, is necessary provided that it is directly related to the conclusion or fulfilment of that contract.

ç) it is mandatory for the controller to be able to perform his legal obligations.

d) the data concerned is made available to the public by the data subject himself.

e) data processing is mandatory for the establishment, exercise or protection of any right.

f) it is mandatory for the legitimate interests of the controller, provided that this processing shall not violate the fundamental rights and freedoms of the data subject.

Conditions for processing of personal data of special nature

ARTICLE 6- (1) Personal data relating to the race, ethnic origin, political opinion, philosophical belief, religion, sect or other belief, clothing, membership to associations, foundations or trade-unions, health, sexual life, convictions and security measures, and the biometric and genetic data are deemed to be personal data of special nature.

(2) It is prohibited to process the personal data of special nature without explicit consent of the data subject.

(3) Personal data, excluding those relating to health and sexual life, listed in the first paragraph may be processed without seeking explicit consent of the data subject, in the cases provided for by laws. Personal data relating to health and sexual life may only be processed, without seeking explicit consent of the data subject, by any person or authorised public institutions and organizations that have confidentiality obligation, for the purposes of protection of public health, operation of preventive medicine, medical diagnosis, treatment and nursing services, planning and management of health-care services as well as their financing.

(4) It is stipulated that adequate measures determined by the Board are also taken while processing the personal data of special nature.

Erasure, destruction or anonymizing of personal data

ARTICLE 7- (1) Despite being processed under the provisions of this Law and other related laws, personal data shall be erased, destructed or anonymized by the controller, ex officio or upon demand by the data subject, upon disappearance of reasons which require the process.

(2) Provisions of other laws concerning the erasure, destruction or anonymizing of personal data are reserved.

(3) Procedures and principles for the erasure, destruction or anonymizing of personal data shall be laid down through a by-law.

Transfer of personal data

ARTICLE 8- (1) Personal data cannot be transferred without explicit consent of the data subject.

(2) Personal data may be transferred without seeking explicit consent of data subject upon the existence of one of the conditions provided for in:

a) the second paragraph of Article 5,

b) the third paragraph of Article 6, provided that sufficient measures are taken.

(3) Provisions of other laws concerning transfer of personal data are reserved.

Transfer of personal data abroad

ARTICLE 9- (1) Personal data cannot be transferred abroad without explicit consent of the data subject.

(2) Personal data may be transferred abroad without explicit consent of the data subject provided that one of the conditions set forth in the second paragraph of Article 5 and the third paragraph of Article 6 exist and that;

(a) sufficient protection is provided in the foreign country where the data is to be transferred,

(b) the controllers in Turkey and in the related foreign country guarantee a sufficient protection in writing and the Board has authorized such transfer, where sufficient protection is not provided.

(3) The Board determines and announces the countries where sufficient level of protection is provided.

(4) The Board shall decide whether there is sufficient protection in the foreign country concerned and whether such transfer will be authorised under the sub-paragraph (b) of second paragraph, by evaluating the followings and by receiving the opinions of related public institutions and organizations, where necessary:

a) the international conventions to which Turkey is a party,

b) the state of reciprocity concerning data transfer between the requesting country and Turkey,

c) the nature of the data, the purpose and duration of processing regarding each concrete, individual case of data transfer,

ç) the relevant legislation and its implementation in the country to which the personal data is to be transferred,

d) the measures guaranteed by the controller in the country to which the personal data is to be transferred,

(5) In cases where interest of Turkey or the data subject will seriously be harmed, personal data, without prejudice to the provisions of international agreements, may only be transferred abroad upon the permission to be given by the Board after receiving the opinions of related public institutions and organizations.

(6) Provisions of other laws concerning the transfer of personal data abroad are reserved.

CHAPTER THREE
Rights and Obligations

Obligation of Controller to Inform-

ARTICLE 10- (1) Whilst collecting personal data, the controller or the person authorised by him is obliged to inform the data subjects about the following:

a) the identity of the controller and of his representative, if any,

b) the purpose of data processing;

c) to whom and for what purposes the processed data may be transferred,

ç) the method and legal reason of collection of personal data,

d) other rights referred to in Article 11.

The Rights of Data Subject

ARTICLE 11- (1) Each person has the right to apply to the controller and

a) to learn whether his personal data are processed or not,

b) to request information if his personal data are processed,

c) to learn the purpose of his data processing and whether this data is used for intended purposes,

ç) to know the third parties to whom his personal data is transferred at home or abroad,

d) to request the rectification of the incomplete or inaccurate data, if any,

e) to request the erasure or destruction of his personal data under the conditions laid down in Article 7,

f) to request notification of the operations carried out in compliance with sub-paragraphs (d) and (e) to third parties to whom his personal data has been transferred,

g) to object to the processing, exclusively by automatic means, of his personal data, which leads to an unfavourable consequence for the data subject,

ğ) to request compensation for the damage arising from the unlawful processing of his personal data.

Obligations concerning data security

ARTICLE 12- (1) The controllers are obliged to take all necessary technical and administrative measures to provide a sufficient level of security in order to:

a) prevent unlawful processing of personal data,

b) prevent unlawful access to personal data,

c) ensure the retention of personal data.

(2) In case of the processing of personal data by a natural or legal person on behalf of the controller, the controller shall jointly be responsible with these persons for taking the measures laid down in the first paragraph.

(3) The controller shall be obliged to conduct necessary inspections, or have them conducted in his own institution or organization, with the aim of implementing the provisions of this Law.

(4) The controllers and processors shall not disclose the personal data that they learned to anyone in breach of this Law, neither shall they use such data for purposes other than processing. This obligation shall continue even after the end of their term.

(5) In case the processed data are collected by other parties through unlawful methods, the controller shall notify the data subject and the Board within the shortest time. Where necessary, the Board may announce such breach at its official website or through other methods it deems appropriate.

CHAPTER FOUR

Application, Complaint and Registry

Application to the Controller

ARTICLE 13- (1) The data subject shall lodge an application in writing to the controller about his demands concerning the implementation of this Law or via other methods specified by the Board.

(2) The data controller shall conclude the demands involved in the applications within the shortest time possible depending on the nature of the demand and within thirty days at the latest and free of charge. However if the action in question incurs another cost, the price set by the Board may be collected.

(3) The data controller shall accept the application or decline it on justified grounds and communicate its response to data subject in writing or in electronic media. If the demand involved in the application found admissible, it shall be indulged by the data controller. Data subject shall be reimbursed for the application fee provided that the application has been lodged due to a mistake made by the controller.

Complaint to the Board

ARTICLE 14- (1) If the application is declined, the response is found unsatisfactory or the response is not given in due time, the data subject may file a complaint with the Board within thirty days as of he learns about the response of the controller, or within sixty days as of the application date, in any case.

(2) A complaint cannot be filed before exhausting the remedy of application to the controller under Article 13.

(3) The right to compensation under general provisions of those whose personal rights are violated is reserved.

Procedures and principles of examination ex officio or upon complaint

ARTICLE 15- (1) The Board shall make the necessary examination in the matters falling within its scope of work upon complaint or ex officio, where it learnt about the alleged violation.

(2) The notices and complaints not meeting the requirements laid down in Article 6 of the Law No. 3071 of 1/11/1984 on the Use of Right to Petition shall not be examined.

(3) Except for the information and documents having the status of state secret, the controller shall be obliged to communicate within fifteen days the information and documents related to the subject of examination which the Board has requested, and shall enable, where necessary, on-the-spot examination.

(4) The Board shall finalise the examination upon complaint and give an answer to data subjects. In case the Board fails to answer the data subject's application in sixty days as of the application date, it is deemed rejected.

(5) Following the examination made upon complaint or ex officio, in cases where it is understood that an infringement exists, the Board shall decide that the identified infringements shall be remedied by the relevant controller and notify this decision to all it may concern. This decision shall be implemented without delay and within thirty days after the notification at the latest,

(6) Following the examination made upon complaint or ex officio, in cases where it is determined that the infringement is widespread, the Board shall adopt and publish a resolution in this regard. Before adopting the resolution, the Board may also refer to the opinions of related institutions and organisations, if needed.

(7) The Board may decide that processing of data or its transfer abroad should be stopped if such operation may lead to damages that are difficult or impossible to recover and if it is clearly unlawful.

Registry of Controllers

ARTICLE 16- (1) The Presidency shall maintain a publicly accessible Registry of Controllers under the supervision of the Board.

(2) Natural or legal persons who process personal data shall be obliged to enrol in the Registry of Data Controllers before proceeding with data processing. However, by taking into account the objective criteria set by the Board such as the nature and quantity of the data processed, the legal requirement for data processing, or transferring the data to third parties, the Board may provide exception to the obligation of enrolment in the Registry of Data Controllers.

(3) Application for enrolling in the Registry of Data Controllers shall be made with a notification including:

a) identity and address of the controller and of his representative, if any,

b) purposes for which the personal data will be processed,

c) explanations about group(s) of personal data subjects as well as about the data categories belonging to these people,

ç) recipients or groups of recipients to whom the personal data may be transferred,

d) personal data which is envisaged to be transferred abroad,

e) measures taken for the security of personal data.

(f) maximum period of time required for the purpose of the processing of personal data.

(4) Any changes in the information provided under the third paragraph shall be immediately notified to the Presidency

(5) Other procedures and principles governing the Registry of Data Controllers shall be laid down through a by-law.

CHAPTER FIVE

Crimes and Misdemeanours

Crimes

ARTICLE 17- (1) Articles 135-140 of Turkish Penal Code No. 5237 of 26/9/2004 shall apply in terms of the crimes concerning personal data.

(2) Those who fail to erase or anonymize personal data in breach of Article 7 herein shall be punished under Article 138 of the Law No. 5237.

Misdemeanours

ARTICLE 18- (1) For the purposes of this Law;

a) those who fail to comply with obligation to inform provided for in Article 10 herein shall be required to pay an administrative fine of 5.000 to 100.000 TL,

b) those who fail to comply with obligations related to data security provided for in Article 12 herein shall be required to pay an administrative fine of 15.000 to 1.000.000 TL,

c) those who fail to comply with the decisions issued by the Board under Article 15 herein shall be required to pay an administrative fine of 25.000 to 1.000.000 TL,

ç) those who fail to meet the obligations for enrolling in the Registry of Data Controllers and making a notification as provided for in Article 16 herein shall be required to pay an administrative fine of 20.000 to 1.000.000 TL.

(2) The administrative fines listed in this article shall be applicable to natural persons and private law legal persons who are controllers.

(3) Should the acts listed in the first paragraph be committed within the public institutions and organizations as well as professional associations having the status of public institution, disciplinary procedures shall be applied to the civil servants and other public officers employed in the relevant public institutions and organisations and those employed in the professional associations having the status of public institution upon a notice by the Board and the result is communicated to the Board.

CHAPTER SIX
Personal Data Protection Authority and its Organization

Personal Data Protection Authority

ARTICLE 19- (1) Personal Data Protection Authority which is a public law body with public law legal personality having administrative and financial autonomy has been established to carry out duties provided by this Law

(2) The Authority is affiliated to the office of the Prime Minister

(3) The Headquarters of the Authority is in Ankara

(4) The Authority is composed of the Board and the Presidency. Decision making body of the Authority is the Board.

Duties of the Authority

ARTICLE 20 - (1) The duties of the Authority are as follows;

(a) to follow the latest developments in the legislation and practices, make evaluations and recommendations, conduct researches and analyses or have them conducted within its field of duty.

(b) to cooperate with public institutions and organisations, NGOs, professional associations or universities within its field of duty, if needed.

(c) to follow and evaluate the latest international developments on personal data; and within its field of duty cooperate with international organisations and participate to the meetings

(ç) to submit its annual activity report to the office of the President of Turkish Republic, the Committee on Human Rights Inquiry of Grand National Assembly of Turkey and office of the Prime Minister.

(d) to carry out other duties provided by laws.

Personal Data Protection Board

ARTICLE 21 - (1) The Board shall perform and exercise the duties and powers conferred on it by this law and other laws, independently and under its own responsibility. No body, authority, office or person shall give orders and instructions, recommendations or suggestions to the Board on matters falling within the scope of its duties and powers.

(2) The Board is composed of nine members. Five members of the Board shall be elected by the Grand National Assembly of Turkey, two members shall be elected by the President of Turkey and two members shall be elected by the Council of Ministers.

(3) The following conditions shall be met in order to be elected for the Board:

a) Being informed on and being experienced in the issues falling within Authority's field of duty.

b) Complying with the requirements set forth in points (1), (4), (5), (6) and (7) of sub-paragraph (A) of first paragraph of Article 48 of the Public Servants Law No. 657 of 14/7/1965.

c) Not being a member of any political party.

ç) Having been graduated from at least a four-year graduate program.

d) Having been employed in public institutions and organisations, international organisations, non-governmental organisations, or professional associations having the status of public institution or in the private sector for at least ten years in total.

(4) Those who are elected for the membership should express their consent. Elections are held so as to pluralistical representation of those who are informed on and experienced in the issues falling within Authority's field of duty.

(5) Board members shall be elected by the Grand National Assembly of Turkey on the basis of the following procedure:

a) Persons twice as many as the number of members to be determined in proportion to the number of deputies of political party groups shall be nominated for election and the members of the Board shall be elected by the Plenary of the Grand National Assembly from among these candidates on the basis of the number of deputies allocated to each political party. However, political party groups shall not negotiate or decide whom to vote for in the elections to be held in the Grand National Assembly of Turkey.

b) The Board members shall be elected within ten days after the designation and announcement of the candidates. For the candidates designated by the political party groups, a composite ballot in the form of separate lists shall be prepared. Voting shall be cast by ticking of the specific space across the names of the candidates. The votes casted more than the numbers of the members to be elected for the Board from the political party quotas, determined in accordance with paragraph two, shall be deemed invalid.

c) Provided that the quorum is ensured, candidates the number of whom corresponds to the number of vacancies and who take most of the votes shall be deemed to have been elected.

ç) The election for the renewal of the members shall be held two months before the expiration of their term of office; should there be a vacancy in the memberships for any reason, there shall be an election within one month as of the date of vacancy; or if the date of vacancy coincides with the recess of the Grand National Assembly of Turkey. the election shall take place within one month from the end of the recess, by employing the same procedure. During these elections, the allocation of the vacant memberships to the political party groups shall be made by considering the number of the elected members from the political party groups' quotas in the first election and the current proportions of the political party groups.

(6) Forty-five days before the expiration of the term of office or in case of expiration of term of office by any reason of the members elected by the President of Turkey or the Council of Ministers, the Authority shall notify the situation in fifteen days to the office of the Prime Minister so as to be submitted to the office of the President of Turkey or the Council of Ministers; A new election shall take place one month before the expiration of term of office of the members. Should there be a vacancy in these memberships before the expiration of term of office, there shall be an election within fifteen days as of the date of notification.

(7) The Board shall designate the Head and the Second Head of the Board among its members. The Head of the Board is also the President of the Authority.

(8) Term of office of the Board members is four years. Members may be re-elected after expiration of their term of office. The person who is elected instead of the member whose post ends before the expiration of his/her term of office for any reason, shall complete the remaining term of office.

(9) Members of the Board shall take the following oath before Court of Cassation's Board of First Presidency: "I do solemnly swear on my honour and on my dignity that I will carry out my duties with absolute impartiality, *bona fides*, fairness and with sense of justice in

line with the Constitution and the relevant legislation." Application to Court of Cassation for oath taking is deemed to be one of the pressing matters.

(10) Unless provided for by a specific law, the members shall not assume any public or private tasks other than those related with carrying out their official duties in the Board; shall not act as executives in associations, foundations, cooperatives and in similar bodies; shall not engage in commercial activities, shall not engage in self-employment, shall not act as arbitrators and expert witnesses. However, Board members may prepare scientific publications, give lectures and attend conferences so as not to hinder their primary duties, and may receive copyrights and fees associated with those.

(11) Investigations into the claims about the crimes allegedly committed by the members in connection with their duties shall be conducted as per the Law No. 4483 of 2/12/1999 on Adjudication of Public Servants and Other Public Employees, and permission for investigation shall be granted by the Prime Minister.

(12) Provisions of the Law No. 657 shall apply to disciplinary investigations and prosecutions about the members of the Board.

(13) Members shall not be removed from their office by any reason before the expiration of their term of office. However, members of the Board may be removed from office by the Board decision if:

a) it is found out subsequently that they do not meet the conditions required for their election,

b) the verdict, which is rendered for crimes committed by them in connection with their duties, becomes final

c) a medical report is issued by board of health to certify that they are not suitable for office,

ç) it is ascertained that they were absent from work for fifteen consecutive days or for a total of thirty days within a year, without legitimate permission and excuse.

d) it is ascertained that they fail to attend three Board meetings in one month and ten Board meetings in one year without any permission and excuse.

(14) Those who are appointed as the members of the Board shall be removed from their previous posts during their term of office in the Board. On the condition that they do not fail to meet the requirements of being employed as a civil servant, those who are assigned as Board members whilst on duty shall be appointed to posts that are appropriate for their vested positions and titles in one month, in case their term of office ends or they express their will to resign and lodge an application in this regard to their former institution within thirty days. Until the assignment, Authority shall continue to make any payment they are vested with. Until they take another post or take up another employment, Authority shall continue to make the payment of those who are appointed as Board members despite not being public servants and whose term of office terminated as stated hereinabove; and the payments to be made under this scope shall not exceed three months. With regard to personal and other rights, terms spent in the Authority shall be deemed to have spent in the previous institutions or organisations.

Duties and powers of the Board

ARTICLE 22 - (1) Duties and powers of the Board are as follows:

a) to ensure that the personal data are processed in compliance with fundamental rights and freedoms.

b) to conclude the complaints of those claiming that their rights with regard to personal data protection have been violated.

c) to examine whether the personal data are processed in compliance with the laws, upon complaint, or ex officio where it learnt about the alleged violation, and to take temporary measures, if necessary.

ç) to determine the adequate measures which are necessary for the processing of the data of special nature.

d) to ensure that Registry of Controllers is maintained.

e) to draft regulatory acts on the matters concerning the Board's field of duty and operation of the Authority.

f) to draft regulatory acts in order to lay out the liabilities concerning data security.

g) to draft regulatory acts on the matters concerning duties, powers and responsibilities of the Controller and of his representative.

ğ) to decide on the administrative sanctions provided for in this Law.

h) to deliver its opinion about the legislation drafted by other institutions or organizations that contain provisions on personal data.

ı) to conclude the Strategic Plan of the Authority; to determine the purpose, targets, service quality standards and performance criteria of the Authority.

i) to discuss and decide on Strategic Plan and the budget proposal of the Authority which are prepared in compliance with its purposes and targets.

j) to approve and publish the draft reports on the performance, financial situation, annual activities and other matters related with the Authority.

k) to discuss and decide on the recommendations as regards the purchase, sale and lease of immovable properties.

l) to carry out other tasks provided for by laws.

Working Principles of the Board

ARTICLE 23 - (1) Head of the Board shall determine the dates and agenda of the meetings. The Board may be called for an extraordinary meeting by the Head, if necessary.

(2) The Board shall convene at least with six members, including the Head of the Board, and shall take decisions by simple majority of its total members. Members of the Board shall not cast abstaining vote.

(3) Members shall not attend and cast vote in meetings, which concern issues regarding themselves, their relatives by blood up to third degree and relatives by affinity of marriage up to second degree, their adopted children and their spouses even if the marriage has ended.

(4) Members of the Board shall not disclose the secrets they learned as to data subjects and third parties during their work to anyone other than legally authorized bodies, neither shall they use such secrets for their benefits. This obligation shall apply even after the end of their term of office.

(5) The outcome of the agenda of the Board shall be written down. The decisions and dissenting opinions, if any, shall be written within 15 days at the latest. The Board shall announce to public the decisions it deems necessary.

(6) The meetings of the Board are confidential unless decided otherwise

(7) Working procedures and principles of the Board and the writing procedure of the decisions and other issues shall be laid down through a by-law.

The President

ARTICLE 24 - (1) The President, as the head of both the Authority and the Board, is the highest-level official of the Authority, and organises and conducts the services of the Authority in accordance with the legislation, Authority's purpose and policies, Strategic Plan, performance criteria and service quality standards, and , ensures coordination between service units, as well.

(2) The President is responsible for the general management and representation of the Authority. This responsibility entails the duties and powers concerning regulation, execution, inspection, evaluation of Authority's work and, its announcement to the public, when necessary.

(3) The duties of the President are as follows;

a) to chair the Board's meetings.

b) to ensure the notification of Board decisions and public announcement of these when deemed necessary by the Board, and to monitor their implementation.

c) to appoint Deputy President, Heads of Departments and Authority's personnel.

ç) to finalize the recommendations communicated by service units and submit them to the Board.

d) to ensure the implementation of the Strategic Plan and to establish the human resources and working policies in line with service quality standards.

e) to prepare the annual budget and financial tables of the Authority in line with the determined strategies, annual purposes and targets.

f) to ensure coordination in order for the Board and service units to work in harmony in an efficient, disciplined and well-ordered manner.

g) to maintain the relations of the Authority with other institutions.

ğ) to determine the scope of the duties and powers of the personnel authorized to sign on behalf of the President.

h) to carry out other duties related to the management and operation of the Authority

(4) The Second President is entitled to act on behalf of the President in his absence.

Composition and Duties of the Presidency

ARTICLE 25 - (1) The Presidency is composed of Deputy President and service units. The Presidency shall fulfill the duties listed in paragraph four through the service units which are organized as departments. The number of departments shall not be more than seven.

(2) A Deputy President shall be appointed by the President in order to assist him in his administrative duties.

(3) The Deputy President and Heads of Departments shall be appointed by the President among those who have been graduated from at least a four-year higher education institution and worked in the public institutions for at least ten years.

(4) The duties of the Presidency are as follows,

a) to maintain the Registry of Controllers.

b) to carry out clerical services for the Authority and the Board.

c) to represent the Authority through lawyers at the lawsuits and execution proceedings to which the Authority is a party; to follow up such lawsuits or have them followed up and carry out the legal services.

ç) to carry out personnel-related services of the Board members and Authority's personnel.

d) to perform the duties foreseen by laws with regard to financial services and strategy development units.

e) to ensure that the information systems are established and used in order to carry out acts and actions of the Authority.

f) to draft reports on the annual activities of the Authority or on other issues which are deemed necessary, and submit them to the Board.

g) to draft the Strategic Plan of the Authority.

ğ) to determine the personnel policy of the Authority, prepare and implement the education and career-based plans for the personnel.

h) to carry out the appointment, transfer, discipline, performance, promotion, retirement and other similar procedures regarding the personnel.

ı) to determine the ethical principles for the personnel and give necessary training.

i) to carry out the services with regard to purchasing, leasing, maintenance, repair, construction, archive, health and social issues and similar ones within the framework of the Public Financial Management and Control Law No. 5018 of 10/12/2003.

j) to keep record of the movable and immovable property of the Authority

k) to fulfill other duties conferred on it by the Board or the President.

(5) Service units and their working procedures and principles shall be laid down through a by-law which is put into force by the Council of Ministers upon Authority's proposal drafted as per the field of activity, duties and powers stated in the Law herein.

The Personal Data Protection Experts and the Assistant Experts

ARTICLE 26 - (1) The Personal Data Protection Experts and the Assistant Experts may be recruited by the Authority. The experts and assistant experts who are appointed as Personal Data Protection Expert within the framework of additional Article 41 of the Law No. 657 shall receive one extra grade for once only.

Provisions on the Personnel and Personnel Rights

ARTICLE 27- (1) Personnel of the Authority shall be subject to the Law No. 657, excluding the matters regulated through the Law herein.

(2) Head and members of the Board and personnel of the Authority shall receive remunerations determined to be paid to the precedent personnel, within the scope of financial

and social rights, as per Additional Article 11 of the Decree Law No. 375 of 27/6/1989, within the framework of the same procedures and principles applicable. Among the remunerations paid to the precedent personnel, those which are exempt from taxes and other legal deductions shall also be exempt from taxes and deductions as per the Law herein.

(3) Head and members of the Board and personnel of the Authority are subject to the sub-paragraph (c) of the first paragraph of Article 4 of the Social Insurance and Universal Health Insurance Law No. 5510 of 31/5/2006. Head and members of the Board and personnel of the Authority shall be considered equal with the precedent personnel in terms of retirement rights. Among the personnel who were appointed as Head and members of the Board when insured under sub-paragraph (c) of the first paragraph of Article 4 of the Law No. 5510, terms of office in these duties shall be considered while ascertaining acquired rights, salaries, grades and steps of those whose term of office ends or who express their will to resign. The relevant term of office of those who fall within the scope of Provisional Article 4 of the Law No. 5510 while on duty, shall be deemed as the period for which position and representation compensation should be paid. Removal from previous institutions and organisations of those who were appointed as Head and members of the Board when insured under sub-paragraph (a) of the first paragraph of Article 4 of the Law No. 5510, shall not entail receiving a severance pay or termination pay. In such a case, term of office qualified for a severance pay or termination pay, shall be added to the service periods spent as Head and member of the Board, and accepted as the period for which a retirement bonus.

(4) Civil servants working in public administrations attached to the centralized government, social security institutions, local administrations, administrations attached to local administrations, local administrative unions, revolving fund enterprises, funds established with laws, public entities, organizations more than 50% of whose capital belongs to public, public economic enterprises, state-owned economic enterprises, and associations and establishments attached to these, as well as other public officials may be seconded to the Authority upon the consent of their own institution, provided that their salaries, allowances, any increases thereof, compensations and other social and financial rights and aids are paid by their own institution. Requests of the Authority in this regard shall be concluded with priority by the related institutions and organizations. Personnel assigned accordingly shall be deemed on paid leave. During this leave, rights of the personnel and their connection with civil service shall be maintained, this period of leave shall be taken into account in promotions and retirement, and they shall be promoted in due time without any need to further action. Periods spent in the Authority by those assigned under this Article shall be deemed to have been spent in their own institutions. Number of the personnel assigned accordingly shall not exceed ten per cent of the total number of posts for Personal Data Protection Experts and Personal Data Protection Assistant Experts, and the term of assignment shall not exceed two years. However, when deemed necessary, this term may be extended in one-year periods.

(5) Titles and numbers of posts regarding the personnel to be employed in the Authority are presented in the annexed Table (I). Changes in titles and grade; addition of new titles and annulment of vacant posts shall be realized upon the decision of the Board, provided that it shall not exceed the total number of posts, and shall be limited with the titles in the annexed tables of the Decree Law No. 190 on the General Posts and Procedures, dated 13/12/1983.

CHAPTER SEVEN
Miscellaneous

Exceptions

ARTICLE 28 (1) The provisions of this Law shall not be applied in the following cases where:

a) personal data is processed by natural persons within the scope of purely personal activities of the data subject or of family members living together with him in the same dwelling provided that it is not to be disclosed to third parties and the obligations about data security is to be complied with.

b) personal data is processed for the purpose of official statistics and for research, planning and statistical purposes after having been anonymized.

(c) personal data is processed with artistic, historical, literary or scientific purposes, or within the scope of freedom of expression provided that national defence, national security, public security, public order, economic security, right to privacy or personal rights are not violated or they are processed so as not to constitute a crime.

(ç) personal data is processed within the scope of preventive, protective and intelligence activities carried out by public institutions and organizations duly authorised and assigned to maintain national defence, national security, public security, public order or economic security.

(d) personal data is processed by judicial authorities or execution authorities with regard to investigation, prosecution, criminal proceedings or execution proceedings.

(2) Provided that it is in compliance with and proportionate to the purpose and fundamental principles of this Law, Article 10 regarding the data controller's obligation to inform, Article 11 regarding the rights of the data subject, excluding the right to demand compensation, and Article 16 regarding the requirement of enrolling in the Registry of Data Controllers shall not be applied in the following cases where personal data processing:

a) is required for the prevention of a crime or crime investigation.

b) is carried out on the data which is made public by the data subject himself.

c) is required for inspection or regulatory duties and disciplinary investigation and prosecution to be carried out by the public institutions and organizations and by professional associations having the status of public institution, assigned and authorised for such actions, in accordance with the power conferred on them by the law,

ç) is required for protection of State’s economic and financial interests with regard to budgetary, tax-related and financial issues.

The Budget and the Revenues of the Authority

ARTICLE 29 - (1) The budget of the Authority shall be prepared and adopted in accordance with procedures and principles provided for in the Law No. 5018.

(2) The revenues of the Authority are as follows;

a) Treasury grants from the general budget.

b) The revenues from the movable and immovable properties of the Authority.

c) Donations and grants received.
ç) The revenues from the utilization of the revenues.
d) Other revenues.

Amended and Inserted Provisions

ARTICLE 30 - (1) The following line was inserted into the Table (III) attached to the Law No. 5018:
"10) Personal Data Protection Authority"

(2) The phrase "Any person" in the second paragraph of Article 135 of the Law No. 5237 was amended as "Any personal data, any person"; and the phrase "Any person who records the information as personal data shall be punished according to the provisions of the above subsection." as "the punishment to be given in accordance with the first paragraph is aggravated by half more."

(3) The expression "children" in third paragraph of Article 226 of the Law No. 5237 was amended as "children, symbolic images of children or persons with a juvenile image"

(4) The expression "and" in first paragraph of Article 243 of the Law No. 5237 was amended as "or", and the following paragraph was added.
"(4) Person who, by employing technical means, illegally monitors the data transfer carried out within an information system or between information systems without entering in the system, shall be punished with imprisonment from one year to three years"

(5) The following Article was inserted to follow Article 245 of the Law No.5237:
"Prohibited device or programmes"
Article 245/A- In case a device, computer programme, password or other security code are produced to commit the crimes inscribed exclusively within this Part and those that may be committed by using information system as a means, the person who produces, imports, dispatches, transfers, stores, accepts, sells, supplies, purchases, lends another person or possesses these shall be punished with imprisonment from one to three years and with a punitive fine up to five thousand days"

(6) Sub-paragraph (f) of the first paragraph of Article 3 of the Health Services Fundamental Law No 3359 of 7/5/1987 was amended as follows:
"f) With the aim of tracking the medical condition of everybody and to ensure that healthcare services are carried out in a more effective and rapid way, Ministry of Health and its associated institutions shall establish the required registration and notification system. This system may also be established in electronic environment in line with the e-State practices. To this end, a nationwide information system may be established by the Ministry of Health."

(7) Article 47 of the Decree Law No 663 of 11/10/2011 on the Organization and Duties of the Ministry of Health and its Associated Institutions was amended as follows:
"ARTICLE 47- (1) Of those applying to the public or private health organizations and health professionals to receive health service, personal data provided compulsorily as a requirement of health service or provided in relation with the service they received may be processed.
(2) The Ministry may process the data obtained within the framework of the first paragraph in order to provide the health services, protect the public health, maintain the

services of preventive medicine, medical diagnosis, treatment and care, and to plan the health services and calculate their cost. This data shall not be transferred except for the conditions stipulated under the Law on the Protection of Personal Data.

(3) The Ministry shall establish a system that will enable the persons themselves or any third person authorized by them to access the personal data gathered and processed pursuant to the second paragraph,

(4) Standards relating to the security and reliability of the systems established as per the third paragraph shall be determined by the Ministry in compliance with the principles determined by the Personal Data Protection Board. The Ministry shall take the necessary measures to ensure the security of the personal health data obtained pursuant to the Law herein. To this end, the Ministry shall establish a security system enabling the supervision of the official and the purpose of using the registered data in the system.

(5) Public institutions and organizations, natural persons and legal entities under the private law employing health personnel shall be obliged to inform the Ministry about the personnel employed and the personnel movements.

(6) Other matters relating to the processing and security of personal health data and the implementation of the Article herein shall be governed through a by-law to be put into force by the Ministry."

By-law

ARTICLE 31 (1) By-laws related to the implementation of this Law shall be put into force by the Authority.

Transitional Provisions

PROVISIONAL ARTICLE (1) The members of the Board shall be selected and the organizational structure of the Presidency shall be established within six months following the date of publication of this Law, as per the procedure stipulated in Article 21.

(2) Data controllers are obliged to enrol in the Registry of Data Controllers within the time specified and announced by the Board.

(3) The personal data that were processed before the publication date of this Law shall be rendered compatible with the provisions of this Law within two years as of its date of publication. The personal data which are found to be in breach of the provisions of this Law shall be immediately erased, destroyed or anonymized. However, consents duly taken before the publication date of this Law shall be deemed compatible with the provisions of this Law, unless no declaration of intent is made to the contrary within one year.

(4) The by-laws provided for by this Law shall be put into force within one year as of the date of publication of this Law.

(5) A high-level executive, to ensure coordination with regard to the implementation of the Law in public institutions and organisations, shall be appointed and notified to the Presidency within one year as of the date of publication of this Law.

(6) The term of office for the first elected President, the Deputy President, and two members who are determined by ballot, shall be six years; this period shall be four years for the remaining five members.

(7) Until the budget of the Authority is allocated;

a) The expenditures of the Authority shall be reimbursed by the budget of the office of the Prime Minister.

b) All necessary support services such as the premises, equipment, furnishing and the hardware shall be provided by the office of the Prime Minister in order for the Authority to fulfill its duties.

(8) The clerical services of the Authority shall be carried out by the office of the Prime Minister until the service units of the Authority has become fully functional.

Entry into force

ARTICLE 32 - (1) For the purposes of this Law;

a) Articles 8, 9, 11, 13, 14, 15, 16, 17 and 18 shall enter into force after six months as of the date of its publication.

b) Other Articles shall enter into force on the date of its publication.

Enforcement

ARTICLE 33 – (1) The provisions of this law shall be enforced by the Council of Ministers.

TABLE NO (1)

PERSONAL DATA PROTECTION AUTHORİTY

LIST OF STAFF POSITIONS

CLASS	TITLE	GRADE	TOTAL
GAS	Deputy President	1	1
GAS	Head of Department	1	7
GAS	Legal Counsel	1	1
GAS	Legal Counsel	3	3
JS	Lawyer	6	4
GAS	Personal Data Protection Expert	5	10
GAS	Personal Data Protection Expert	7	20
GAS	Personal Data Protection Assistant Expert	9	60
GAS	Financial Services Expert	6	2
GAS	Financial Services Assistant Expert	9	2
GAS	Civil Servant	5	5
GAS	Civil Servant	7	5
GAS	Civil Servant	9	5
GAS	Civil Servant	11	5
GAS	Civil Servant	13	5
GAS	Computer Operator	7	5
GAS	Data Preparation and Control Operator	6	5
GAS	Data Preparation and Control Operator	7	5
GAS	Data Preparation and Control Operator	8	5
GAS	Data Preparation and Control Operator	9	5
GAS	Data Preparation and Control Operator	10	5
GAS	Secretary	5	3
GAS	Secretary	8	7
GAS	Switchboard Operator	9	1
GAS	Driver	11	4
TS	Technician	6	3
AS	Assistant Technician	9	2
AS	Servant	11	10
	TOTAL		**195**