

Personal Data Protection Authority Published Guidelines on the Right to be Forgotten

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Personal Data Protection Authority has published guidelines ("**Guidelines**") regulating the rights of the data subjects regarding the request to be forgotten, specific to search engines. The Guidelines, published by the Personal Data Protection Board ("**Board**") with the aim of clarifying the discussions on whether there is a right to be forgotten in practice and/or how it can be used, once again underlined that this right can be exercised by the data subjects. Key matters covered by the Guidelines are as follows:

Although there is no specific provision for the right to be forgotten under Personal Data Protection Law numbered 6698 ("**DP Law**"), there are different regulations to provide this right.

The right to request the protection of personal data in article 20 of the Constitution includes the right to be informed about personal data about oneself, to access these data, to learn whether they are used for intended purposes and to request their correction or deletion.

Article 4 of the DP Law regulating the general principles regarding the processing of personal data, article 7 regulating the right to request the deletion, destruction or anonymization of personal data, and article 11 regulating the rights of the data subjects, including the right to request the deletion or destruction of personal data, are the basis of the right to be forgotten.

According to the DP Law, it is possible to establish the right to be forgotten —it does not need to be defined as a separate right. The demands of the data subjects regarding this right must be fulfilled. In Board decision dated 23 June 2020 and numbered 2020/481 ("**Decision**") it has been decided that the data subject can make a request to remove the results shown as a result of a search on search engines with his/her own name and surname, and in case the data controller is rejected by the search engines or their requests are not answered, it is also possible to directly apply to the judiciary while making an application to the Board.

The reason why the right to be forgotten is not an absolute right that can be asserted by the data subjects under all circumstances is based on the balance test attributed by the Board in its Decision, it is necessary to make an evaluation specific to each concrete case.

As stated in the Decision, the criteria to be considered in the evaluation and to be examined on each concrete case are as follows:

- The data subject plays an important role in public life,
- Child being the subject of the search results,
- The accuracy of the content of the information,
- Relevance of knowledge to one's working life
- The information has the nature of insulting, humiliating, slander about the person concerned,

- The fact that the information is sensitive personal data,
- Currency of information,
- Information causing prejudice about the person,
- Information posing a risk to the person,
- The state of publishing the information by the person himself,
- The content's coverage of data processed within the scope of journalistic activity,
- Legal obligation to publish information,
- The information is related to a criminal offense.

You can access the full text of the Guidelines from [this link](#). (Only available in Turkish)

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