

The Constitutional Court has decided that Exposing the Personal Identity in Public Documents Violates the Right to Protection of Personal Data

29 Apr 2022

The Constitutional Court ("**Court**") evaluated a complaint filed on the illegal seizure of personal data. As a result, the Court decided that the right to demand the protection of personal data was violated, on the grounds that the identity should be kept confidential in public documents.

Application filed in the Court decision published in Official Gazette dated 18 March 2022 and numbered 31782, is regarding the allegation that the right to demand the protection of personal data within the scope of the right to respect for private life has been violated due to the lack of an effective criminal investigation against the complaint regarding the unlawful seizure of personal data.

In the present case,

- The applicant ("**Applicant**") filed a complaint against her spouse with the allegation that her premarital hospital records and treatment information were seized by her spouse and presented to the court as evidence, which violates her right to privacy and protection of personal data.
- By emphasizing the doctor-patient confidentiality, the Applicant stated in the petition that her spouse has accessed information that should be kept confidential by the hospital, by taking advantage of the convenience of being a doctor, using his professional privilege and without the request of the competent authority, and that using this information for his own benefit was against the Turkish Penal Code and the Regulation on Patient Rights.
- The Office of the Chief Public Prosecutor, on the other hand, decided not to prosecute on the grounds that the spouses were immediate family regarding the applicant's complaint and that this could not be considered as a violation of privacy.
- The applicant objected and her objection was rejected by the Afyonkarahisar 1st Criminal Court of Peace ("**Local Court**") on the grounds that the decision of the Office of the Chief Public Prosecutor was in compliance with the procedure and legislation. Thereupon, the Applicant brought the matter to Court.
- The Court (i) accepted the request to keep the identity of the applicant confidential in public documents, (ii) found the claim that the right to request the protection of personal data has been violated acceptable, (iii) determined that the right to demand the protection of personal data, which is assured in article 20 of the Turkish Constitution, has been violated, and (iv) decided to convey the decision to the Local Court for a re-investigation to eliminate the consequences of the violation of the right to request the protection of personal data.

You can access the full text of the Court decision with application number 2019/20473, published in Official Gazette dated 18 March 2022 and numbered 31782, at [this link](#). (Only available in Turkish)

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