

The Constitutional Court has Ruled that the Right to Request the Protection of Personal Data was Violated due to the Lack of an Effective Criminal Investigation into the Unlawful Transfer of Personal Data

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The data subject ("**Applicant**") filed a criminal complaint alleging that his employer, who terminated the employment contract, examined his bank account movements without the applicant's knowledge and consent in order not to pay his labor receivables.

- The applicant alleges that the employer was accused of obtaining unjust gains and that his employer's bank and credit card account transactions were examined for this reason, with the parties involved in money exchanges identified and contacted based on his employer's account activity to inquire about the purpose of the transfers.
- Furthermore, the Applicant states that his employer filed a criminal complaint against him and requested an examination of his bank account transactions.
- On 14 October 2020, The Chief Prosecutor's Office decided not to prosecute, citing the lack of the alleged crime.
- The Applicant appealed to the Samsun 1st Criminal Magistrates' Court, claiming that a decision of non-prosecution had been issued despite the submission of evidence. However, the Criminal Judgeship of Peace rejected the objection.
- Following the notification of the final decision, the Applicant filed an individual application on 24 November 2020, asserting that the application should be examined within the scope of the right to request the protection of personal data.
- In its review, the Constitutional Court stated that personal data is not only limited to identity information but also includes data such as email addresses, shopping habits, hobbies, preferences, and interactions with other people.
- The state is obligated to refrain from arbitrary interference with an individual's right to the protection of personal data while also being responsible for taking measures against attacks by third parties. It has been emphasized that the criminal justice authorities have failed to provide an effective legal mechanism for the Applicant to present their claims and evidence, thereby failing to fulfill the procedural positive obligation.
- The Constitutional Court's decision, with application no. 2020/36976, and dated 13 February 2024 ("**Decision**"), ruled that the Applicant's claims were admissible and that his right to request the protection of personal data within the framework of the right to respect for private life guaranteed under Article 20 of the Constitution was violated.

The full text of the Decision can be accessible via [this link](#). (Only available in Turkish)

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