

MAGNA LAW LEGAL & CONSULTING



**Policy on the Protection and Processing of
Personal Data**

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1. Introduction

With this Policy on the Protection and Processing of Personal Data, principles of Magna Law Legal& Consulting (“Magna Law”) to ensure full compatibility with the Protection of Personal Data Law No.6698 dated 24.03.2016 published in Official Gazette of the Republic of Turkey in 07.04.2016 and force, application of this Law, by-laws, annunciations, decisions, resolutions and other regulations published by Personal Data Protection Authority have been explained.

2. Purpose and Scope

The purpose of the Law No.6698 is to protect fundamental rights and freedoms of persons, particularly the right to privacy, with respect to the 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. Herein this policy is prepared in consideration of the legislations. The purpose of this policy is to achieve full compatibility with related legislations and regulations on the protection of personal data. Accordingly, the content of this text is the protection and process of the personal data of clients, potential clients, visitors, candidate employees, candidate interns, representatives and other employees of clients, family members and relatives of data subjects and other third parties.

The personal data is collected to perform of legal obligations, to protect the rights of data controller and data subject, to legal and consultancy service, to give a legal opinion, to ensure the website’s security, to improve the website, to evaluate job applications, to share information on legislation and current legal issues, to communicate with the data subject to the extent permitted by them, to inform the data subject about new services, to inform of the data subject via e-mail and other communication channels if the person concerned is a member.

3. Definitions

Constitution: Constitution of the Republic of Turkey No.2709.

Law

No.6698: Protection of Personal Data Law No.6698.

Authority: Personal Data Protection Authority.

Board: Personal Data Protection Board.

Personal Data: Any information relating to an identified or identifiable natural person (*Law does not cover the processing of legal persons.*)

Private Personal Data: Biometric and genetic information concerning race; ethnicity; political opinions; philosophical opinions; religion, sect or other beliefs; appearance; subscriptions to associations, foundations or syndicates; health; sex life; convictions; and data concerning security measures.

Processing of Personal Data: Any operation which is performed upon personal data such as collection, recording, storage, preservation, alteration, adaptation, disclosure, transfer, retrieval, making available for collection, categorization or blocking its use by wholly or

partly automatic means or otherwise than by automatic means which form part of a filing system.

Data Controller: Natural or legal person who determines the purposes and means of the processing of personal data, and who is responsible for the establishment and management of the filing system.

Data Subject: Natural person whose personal data are processed.

Deleting Personal Data: To delete personal data or to render data in such a way that the personal data is no longer accessible to or reusable for users.

Destroying Personal Data: To render personal data in such a way that it is inaccessible, unrecoverable and not reusable by anyone.

Anonymization: Rendering personal data by no means identified or identifiable with a natural person even by linking with other data.

User Concerned: Persons who process personal data within the organization of the data controller or upon authorization and instructions received from the data controller, other than the person or department which is responsible for the technical storage, protection and backup of personal data.

4. Processing of Personal Data

Magna Law processes all personal data in line with the relevant legislation especially Protection of Personal Data Law No.6698 and Legal Practitioners Law No.1136. In this context, the processing of personal data is practised in compliance with the principles and clauses of Law No.6698.

4.1 General Principles

Magna Law processes all personal data in line with the following principles:

4.1.1. Lawfulness and Fairness

Magna Law & Consulting processes all personal data in line with the law and good faith. In this scope, Magna Law & Consulting considers the proportion of requirements when processing personal data and does not utilise the data for reasons other than what the purpose requires.

4.1.2. Being Accurate and Kept Up to Date Where Necessary

Magna Law ensures the accuracy and up-to-date nature of processed personal data by considering the basic rights of the data subjects and their legitimate interests and takes the required precautions in this regard.

4.1.3. Being Processed for Specified, Explicit and Legitimate Purpose

The legitimate and legal purpose for processing personal data is defined explicitly and clearly. Magna Law clearly states the purpose of processing personal data before beginning of the process and it is only used for the stated purpose.

4.1.4. Being Relevant, Limited and Proportionate to the Purposes for Which They Are Processed

Magna Law processes personal data in a fashion that allows for carrying out the specified objectives. Personal data which is not related to the purpose in question is not processed. In this scope, processing of personal data is limited to the specified purpose and legal obligations.

4.1.5. Being Stored for the Period Laid Down by Relevant Legislation or the Period Required for the Purpose for Which the Personal Data Are Processed

Magna Law stores personal data for as long as defined in the relevant legislation or where necessary for its purpose. In this scope, Magna Law keeps personal data according to the period specified in relevant legislation. If the period is not specified, Magna Law keeps the personal data for as long as necessary for the purpose for which the personal data was collected.

4.2. Conditions for Processing Personal Data

Protection of personal data is a constitutional right. While processing personal data, Magna Law acquires explicit consent of data subject in line with the Constitution, the Law No.6698 and other legislations or processes personal data in the presence of conditions regarding which are limited and cannot be extended under the Article 5¹ and 6² of Law.

¹Law No.6698 Art.5: "(1) Personal data shall not be processed without obtaining the explicit consent of the data subject.

(2) Personal data may be processed without obtaining the explicit consent of the data subject if one of the below conditions exists:

a) It is expressly permitted by any law;

b) It is necessary in order to protect the life or physical integrity of the data subject or another person where the data subject is physically or legally incapable of giving consent;

c) It is necessary to process the personal data of parties of a contract, provided that the processing is directly related to the execution or performance of the contract;

ç) It is necessary for compliance with a legal obligation which the controller is subject to;

d) The relevant information is revealed to the public by the data subject herself/himself;

e) It is necessary for the institution, usage, or protection of a right;

f) It is necessary for the legitimate interests of the data controller, provided that the fundamental rights and freedoms of the data subject are not harmed."

²Law No.6698 Art.6: "(1) Data relating to race, ethnic origin, political opinions, philosophical beliefs, religion, sect or other beliefs, appearance and dressing, membership of association, foundation or trade-union, health, sexual life, criminal conviction and security measures, and biometrics and genetics are special categories of personal data.

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

(3) Personal data indicated in paragraph 1, other than personal data relating to health and sexual life, may be processed without obtaining the explicit consent of the data subject if processing is permitted by any law. Personal data relating to health and sexual life may only be processed without obtaining the explicit consent of the data subject for purposes of protection of public health, operation of preventive medicine, medical diagnosis, treatment, and care services, planning and management of health services and financing by persons under the obligation of secrecy or authorized institutions and organizations.

(4) It is additionally required to take the adequate measures designated by the Board when special categories of personal data are processed.

No.6698.

Giving explicit consent to the data controller by the data subject is one of the ways that allows the processing of personal data. Additionally, processing of personal data can be practised under the listed conditions below.

4.2.1. The Data Subject Has Given His/Her Explicit Consent

In case the explicit consent of the person who owns the personal data is given by free will as a result of the enlightenment, the processing of the personal data can be carried out.

4.2.2. It Is Expressly Provided for by the Laws

If expressly prescribed by law, the personal data of a data subject can be processed in accordance with the law, regardless of any other conditions.

4.2.3. It Is Necessary for the Protection of Life or Physical Integrity of The Person Himself/ Herself or of Any Other Person, Who Is Unable to Explain His/Her Consent Due to the Physical Disability or Whose Consent Is Not Deemed Legally Valid

If processing of personal data is mandatory for the protection of life or physical integrity of the person himself/ herself or of any other person, who is bodily incapable of giving his/her consent or whose consent is not deemed legally valid, the processing of personal data can be carried out even if the data subject does not have explicit consent.

4.2.4. Processing of Personal Data of the Parties of a Contract Is Necessary Provided That It Is Directly Related to the Establishment or Performance of The Contract

If 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, the processing of personal data can be carried out even if the data subject does not have explicit consent.

4.2.5. It Is Necessary for Compliance with A Legal Obligation to Which the Data Controller Is Subject

In circumstances in which data controller must perform a legal obligation, personal data can be processed without explicit consent of the data subject.

4.2.6. Personal Data Being Made Public by The Data Subject Himself/Herself

If the personal data has been made available to the public by the data subject himself/herself, personal data can be processed without explicit consent of the data subject.

4.2.7. Data Processing Is Necessary for The Establishment, Exercise or Protection of Any Right

If the processing of personal data is mandatory for the establishment, exercise or protection of a right, the personal data of the data subject can be processed without explicit consent.

4.2.8. Processing of Data Is Necessary for the Legitimate Interests Pursued by the Controller, Provided That This Processing Shall Not Violate the Fundamental Rights and Freedoms of the Data Subject

Provided that fundamental rights and freedoms of the data subject are not violated, personal data can be processed if it is necessary for the legitimate interests of the data controller.

While processing personal data, Magna Law evaluates whether above-mentioned conditions are met.

4.3. Conditions for Processing of Special Categories of Personal Data

Some personal data is described as “special categories” of personal data under the Law. In this scope, personal data relating to the race, ethnic origin, political opinion, philosophical belief, religion, religious sect or other belief, appearance, membership to associations, foundations or trade-unions, data concerning health, sexual life, criminal convictions and security measures, and the biometric and genetic data are deemed to be special categories of personal data. While processing the special categories of personal data, Magna Law takes necessary precautions set out by Law No.6698, the relevant secondary legislation and the Authority.

In principle, special categories of personal data cannot be processed without the explicit consent of the data subject. Magna Law requires explicit consent before processing special categories of personal data.

Personal data, except for data concerning 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 concerning health and sexual life may only be processed, without seeking explicit consent of the data subject, by the persons subject to secrecy obligation or competent public institutions and organizations, 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.

In the presence of these situations, Magna Law acts in accordance with the instructions of the Law and the Authority by taking the necessary measures.

5. Erasure, Destruction and Anonymisation of Personal Data

The personal data which is processed by Magna Law as per the terms of the relevant law, if the reason for processing the data no longer exists, is erased, disposed of or anonymised *ex officio* or by the request of the data subject.

Magna Law abides by the personal data protection and destruction policy under “*By-Law on Erasure, Destruction or Anonymization of Personal Data*” which is prepared by the Personal Data Protection Authority, and in this scope, takes technical and administrative precautions.

Unless otherwise decided by the Board, Magna Law chooses to either erase, dispose or anonymize the personal data.

6. Transfer of Personal Data

Magna Law pays ultimate attention to domestic or cross border transfer of personal data in line with the clauses of the Constitution, the Law No.6698 and relevant legislation. In this scope, Magna Law transfers personal data or special categories of personal data either with the explicit consent of the data subject or without the explicit consent of data subject upon the existence of one of the conditions referred to in Article 8³ of Law No.6698, taking adequate measures.

Even if all the legal conditions for the transfer of personal data without explicit consent is met, Magna Law seeks adequate protection for both domestic and cross border transfer of personal data. If adequate protection does not exist, Magna Law requires the data controller to guarantee adequate protection or the Authority’s permission.

When personal data is requested by competent public institutions and organizations, the transfer of personal data is made limited to the purpose of the requested information in the context of legal rights, notably the confidentiality obligation. Besides, for timely payment of employee wages, premiums, taxes, fees and reimbursement related to clients etc., personal data is transferred to financial consultancies under adequate measures, particularly the confidentiality obligation.

³ Law No.6698 Art 8: “(1) *Personal data shall not be transferred without obtaining the explicit consent of the data subject.*

(2) *Personal data may be transferred without obtaining the explicit consent of the data subject if one of the conditions set forth under the following exists:*

a) *The second paragraph of article 5,*

b) *On the condition that adequate measures are taken, the third paragraph of article 6.*

(3) *Provisions of other laws relating to the transfer of personal data are reserved.”*

7. The Categorization of Data Subject

Magna Law processes personal data by informing data subjects. This process is exercised which complies with principles of limitation and proportionality, under the scope of legitimate purposes and in line with the processing conditions of personal data in compliance with all other principles and obligations.

In this context, the processing of personal data is carried out according to the following categories and explanations of these categories:

Employee: Natural person working in the positions of attorney, legal intern, executive assistant, administrative staff etc. within the office.

Employee Candidate: Natural person who applies for a job to join Magna Law by any means and share their personal data with Magna Law.

Client: Natural persons who have any contractual relationship with Magna Law and receive services such as advocacy, counselling, legal opinion served by Magna Law.

Candidate Client: Those who have requested or benefited from the services that are provided by Magna Law are natural persons deemed possible by evaluating them within the framework of good faith.

Family Members: Personas expresses the family members and relatives of employees and clients who are to be notified at the first instance of communication in case personal data is used to communicate with the data subject within the scope of the first paragraph of the sub-clause of the title "*The Obligation to Inform in cases where personal data are not obtained directly from data subject*" regulated by the Article 6 of the "Communique On Principles And Procedures To Be Followed In Fulfilment Of The Obligation To Inform" published by the institution.

8. Obligation of Data Controller to Inform

At the time when personal data is processed, Magna Law informs the data subjects about the purpose of the processing of personal data, the identity of the data controller and of its representative, if any, to whom and for which purposes the processed personal data may be transferred, the method and legal basis of the collection of personal data.

At the same time, the data subject has the right to request to the Magna Law about him/her; to learn whether his/her personal data are processed or not, to demand for information as to if his/her personal data have been processed, to learn the purpose of the processing of his/her personal data and whether these personal data are used in compliance with the purpose, to know the third parties to whom his personal data are transferred in country or abroad, to request the rectification of the incomplete or inaccurate data, if any, to request the erasure or destruction of his/her personal data under the conditions referred to in Article 7⁴, to request reporting of the operations carried out pursuant to sub-paragraphs (d)

⁴ Law No.6698 Art.7: "(1) Personal data that is processed in accordance with this Law or relevant other laws shall be deleted, destroyed or anonymised either ex officio or upon request by the data subject in case the reasons necessitating their processing cease to exist.

(2) Provisions of other laws relating to deletion, destruction, and anonymization of personal data are reserved.

and (e) to third parties to whom his/her personal data have been transferred, to object to the occurrence of a result against the person himself/herself by analysing the data processed solely through automated systems, to claim compensation for the damage arising from the unlawful processing of his/her personal data.

Magna Law announces to the data subjects and third parties that it carries out processing activities of all kinds of public documents and personal data in accordance with the law and ethical norms. In this context, it informs the data subjects and third parties in the scope of the transparency principle in the process of personal data.

9. Securing Personal Data

Magna Law is obliged to take all necessary technical and organizational measures stated in Law No.6698 and related secondary legislation to provide an appropriate level of security for the purposes of preventing unlawful process of personal data, preventing unlawful access to personal data, ensuring the protection of personal data.

The necessary inspections are made in order to ensure the implementation of the provisions of this Law. In order to ensure the security of the personal data, necessary information and training are provided to the employees within the Magna Law for the ensuring the protection of personal data and the exercise of the process in accordance with the law.

Any person who learns the personal data of data subjects due to their duties shall not disclose and misuse personal data contrary to the provisions of Law No.6698, Attorneyship Act No.1136 and other relevant legislation. This obligation shall continue after leaving office.

In addition to taking all necessary administrative and technical measures to ensure the security of the personal data of the persons concerned, in case processed personal data is acquired by others through unlawful means, Magna Law shall notify the data subject and the Board about the situation as soon as possible.

10. Rights of Data Subject

Data subjects have right to learn whether his/her personal data are processed or not, to demand for information as to his/her personal data have been processed, to learn the purpose processing of his/her data and whether these personal data are used in compliance with the purpose, to know the third parties to whom his personal data are transferred in country or abroad, to request the rectification of the incomplete or inaccurate data, if any, to request the erasure or destruction of his/her personal data under the conditions referred to in Article 7, to request reporting of the operations carried out in compliance with sub-paragraphs (d) and e) to third parties to whom his personal data have been transferred, to object to the occurrence of a result against the person himself/herself by analysing the processed data solely through

(3) Procedures and principles relating to deletion, destruction and anonymization of personal data shall be set forth by a regulation."

automated systems and to claim compensation for the damage arising from the unlawful processing of his/her personal data.

In this scope, the data subject can make the requests relating to the implementation of Law No.6698 to the Magna Law in writing or by other means to be determined by the Board.

Magna Law concludes demands in the request within the shortest time by considering the nature of the demand and at the latest within thirty days and free of charge. However, if the action requires an extra cost, Magna Law can demand extra fees charged by authorities or payments due to legislation.

11. Exemptions

According to the Article 28/1 law shall not be applied in the following cases where:

- Personal data are processed by natural persons within the scope of purely personal activities of the data subject or of family members living together with him/her 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,
- personal data are processed for official statistics and provided that they are being anonymized for the purposes for such as research, planning and statistics.
- personal data are 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 the process doesn't constitute a crime.
- Personal data are processed within the scope of preventive, protective and intelligence activities carried out by public institutions and organizations duly authorised and assigned by law to maintain national defence, national security, public security, public order or economic security,
- Personal data are processed by judicial authorities or execution authorities with regard to investigation, prosecution, judicial or execution proceedings.

Provided that it is in compliance with and proportionate to the purpose and fundamental principles of the Law No.6698, excluding the data controller's obligation to inform and the rights of the data subject, excluding the right to claim compensation, the rights of data subjects shall not be applied in the following cases where personal data processing:

- is necessary for the prevention of committing a crime or for crime investigation,
- is carried out on the data which are made public by the data subject himself/herself,
- is necessary for performance of supervision or regulatory duties and disciplinary investigation and prosecution to be carried out by the assigned and authorised public

institutions and organizations and by public professional organizations, in accordance with the power conferred on them by the law,

- is necessary for protection of the economic and financial interests of the State related to budget, tax and financial matters.

