



# Legality

"A seminal publication of Şengün Group"

October - November 2023 | E-Bulletin

International Humanitarian Law Principles

The Use of Emojis Within Law

Guest Sector:  
Challenges in the Automotive Industry

Special Day:  
29 October Republic Day

News to the World  
World News

News from Şengün



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## OCTOBER - NOVEMBER 2023

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## Legality Editor's Note

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**Dear Reader,**

Şengün Academy is delighted to present the October-November 2023 issue of its newsletter that will cover the latest local and global developments.

Our articles will include the International Humanitarian Law Principles and the Use of Emojis within Law.

This month, our industry-in-focus will be the automotive industry, and we will discuss the challenges that this industry faces.

In this issue, the special day will be 29 October Republic Day, and we will explore this day's history as well as our sentiments about it.

Our "News to the World" section will address the latest regulations, decisions, communiqués, laws, requirements and amendments affecting national and international relations.

In the "World News" section, we will keep you up-to-date with the latest international news in a transparent fashion.

Finally, we will announce the latest developments from our team in "News from Şengün".

**Enjoy reading!**

**Istanbul, October-November 2023  
Şengün Academy**



# Articles



## Article

# International Humanitarian Law Principles

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### A. Introduction

Although its history dates back to ancient times, the determination of its principles and serious and comprehensive determinations within the framework of international human rights have been made recently. The concept of a “just war,” although based on a legitimate ground, still involves discussions about the principles and limits of war due to certain violations to this day.

The determination of humanitarian law principles to prevent humanitarian sufferings and to restrict states from thinking they have the right to wage war under their sovereignty is of great importance. It must not be forgotten that the responsibilities of states to act in accordance with international humanitarian law principles, which have been determined after long periods and great humanitarian sufferings, are the common denominator of their obligations to act according to humanitarian law and international law rules. The aim of the international humanitarian law principles, also known as “Principles of War Law,” is to minimize the brutality caused by war as much as possible.

### B. Historical Development Process of International Humanitarian Law

From the earliest ages of war history, although it has been accepted as a right under the sovereignty of communities and then states, the effort to completely outlaw war and to determine additional rules has been a very important topic continuously on the international agenda due to the evolving and changing world order, political and technological developments. Steps have been taken for this reason, especially considering the direct and severe consequences on civilians’ lives and preventing severe violations of human rights even by the parties to the war.

Indeed, while certain principles related to the state of war have been tried to be determined according to moral and religious customs since ancient times, systematic principles were established with Grotius’ “Law of War and Peace (De Jure Belli Ac Pacis)” in the 17th century. However, due to its inadequacy alongside the developing world order and the failure of these attempts, effective steps were taken in the 19th century.

#### B.1. Pre-World War I Period

Although the historical process aimed to completely prohibit war, it was not quite possible, so the determination of procedures and principles for war came to the forefront. The goal was to bring the impact and consequences of war to a point where they could be overcome with less damage, especially for civilians. Many international treaties have been concluded in this context, but the most notable are the 1907 Hague Conventions.

The aim was to codify ongoing customs to eliminate legal loopholes and to provide this information to military personnel, primarily using the Mertens Clause. However, looking at both world wars, the desired result was not achieved because the mentioned Hague Conventions would apply on the condition of “si omnes,” meaning adherence to the rules depending on the “general participation condition” of all warring parties. Since this condition could not be met, an effective result could not be achieved either.



### B.2. Pre-World War II Period

Despite the inconclusive results of the efforts made, the idea of “humanizing” war became a subject of debate in the international arena. Numerous international treaties were concluded during this period, including:

- The Washington Treaty of February 6, 1922, on the Prohibition of the Use of Poisonous Gases and Submarines in War,
- The Geneva Protocol of June 17, 1925, on the Prohibition of Chemical and Bacteriological Warfare,
- The Havana Convention of February 20, 1928, on Neutrality in Naval Warfare,
- The Geneva Final Act and Conventions of July 27, 1929, on the Treatment of Armies in War Zones, including Prisoners of War, and Improving the Conditions of the Wounded and Sick in Armed Forces in the Field,
- The London Naval Treaty of April 22, 1930, on the Limitation of Naval Armaments and Submarine Warfare,
- The Washington Convention of April 15, 1935, on the Protection of Historical Monuments, Art Institutions, and Scientific Works,
- The London Protocol of November 6, 1936, on Submarine Warfare Rules,
- The Nyon Agreement of September 14, 1937, and the Additional Geneva Convention of September 17, 1937.

Despite these treaties, the explanations and attitudes of states regarding the prohibition of war were contradictory to their actions, and the occurrence of World War II could not be prevented.

### B.3. Post-World War II Period and Efforts to Humanize War

Considering the historical development process, World War II has been a turning point for all states. The brutal nature of the war, especially the outright massacre of civilians and the legitimization of this attitude as a “right,” exceeded the limits of acceptability in the international arena.

Following these brutal outcomes, more concrete and enforceable steps have been accepted as the absolute way out. Thus, the right to use force has been completely banned, and the legitimacy of using force has been left to the control of the United Nations Security Council.

The inhumane experiences led to a departure from evaluating states separately based on the principle of “sovereign equality” at the United Nations Security Council. This shift facilitated the transformation of the idea of a state’s ‘right’ to use force into ‘UNIVERSAL LAW’ norms, with these legal rules being utilized through the member states.

As a result of these efforts, there are currently three types of War Law Regulations in treaties:

**1)** The Hague Type Conventions primarily focus on land wars and armed conflicts, regulating their administration, movement, neutrality in occupation cases, and primarily aim to protect civilians from inhumane

treatment and to set and not exceed the boundaries of war principles.

**2)** New York Type Conventions consist of agreements adopted within the framework of the United Nations Charter and the United Nations Organization.

**3)** Geneva Type Conventions predominantly regulate the management authority in the conduct and administration of armed conflicts concerning prisoners of war, religious personnel, healthcare workers, the wounded and dead, and maritime disaster victims.

In essence, international humanitarian law rules, based mainly on customary practices, have been drawn to certain legal boundaries, and these rules have materialized through the declarations of states accepting these rules as legal norms. The existence of multilateral treaties, primarily based on the explicit consent of states, has shaped these rules within the internal legal regulations of states regarding military administration and operations.

### C. Basic Principles of International Humanitarian Law

Before explaining these principles, it is appropriate to examine the concept of war and its relationship with the law of war. There is no universally accepted definition of war in International Law. Historically, definitions of war have evolved, often linked to the interests of states. However, it is undisputed that a definition is typically shaped by a combination of political, economic, ideological, sociological, and psychological needs.



According to one definition, war is “a struggle entered into by a society, nation, or group of states to force their will upon another nation or group of states.” Another definition describes it as “an armed conflict conducted between states in accordance with international law rules, necessitating adherence to the law of war by belligerent states and neutrality law by non-participating states.” A more general definition suggests war as an “armed conflict between rival political forces within a state or nation, usually conducted openly and declared.” (Savaş Hukukunun Temel Prensipleri, TBB DERGİSİ, Issue 79, pp 235 and cont., 2008, Z.T.: 01.11.2023.)

Although there is no clear definition, any armed use of force by states, motivated by sovereign will, resulting in human rights violations, can be considered war.

The law of war, increasingly relevant in recent times, is significant for determining the legitimacy of states’ use of force. Although armed conflicts are categorized under four headings, international organizations typically recognize conflicts between states. These categories include:

- 1) Armed conflicts between states.
- 2) Armed conflicts where one party is an international organization.
- 3) Conflicts between a state’s government forces and opposing armed groups.
- 4) Conflicts between different armed groups within a state.

However, international norms primarily focus on armed conflicts between states, distinguishing between war and less severe armed conflicts.

The Geneva Conventions of 1949 and their common Article 2 mandate that humanitarian law applies to both declared wars and armed conflicts. States, while asserting their right to use force, must not detach it from legitimacy, and humanitarian law explicitly outlines regulations to prevent its misuse.

In its narrowest sense, the law of war comprises humanitarian rules that warring parties must obey to protect individuals. In a broader sense, it encompasses traditional war customs and regulations protecting the legitimate interests of belligerents and neutral states.

The concept of “just war” is significant in war law. The 1907 Hague Conventions provide for compensation for states acting contrary to the conventions and international trial for individuals committing war crimes. Post-1945, states’ arbitrary right to use force has been abolished.

War law defines the relationships of warring states and their behavior towards non-participating states. The protection of civilians and the necessity of actions in war, respecting human rights and dignity, are of utmost importance.

The historical development of war law, international treaties, and experiences have shaped its current form. The main principles include:

- Prohibiting unnecessary suffering in war.
- Humane treatment of civilians, the wounded, and prisoners of war.
- Prioritizing peace negotiations and steps towards peace.

These principles manifest in the following key concepts:

**a) Military Necessity:** Ensuring the enemy’s surrender to restore peace, within the constraints of international prohibitive principles.

**b) Prohibition of Unnecessary Suffering:** Adhering to fundamental human rights and avoiding the use of cruel means and methods.

**c) Principle of Proportionality:** Balancing military necessity and prohibition of suffering, with specific emphasis on preventing unnecessary suffering and death, and protecting non-combatants and civilian areas.

States can use force within defined limits, targeting military forces and objectives that offer a definite military advantage. Attacks on civilians and civilian property are prohibited, with exceptions under very specific and justified circumstances.

Despite these rules, compliance by states is not always assured. War imposes significant responsibilities on belligerents, demanding strict adherence to these principles for psychological and political management during conflicts. For instance, during World War II, indiscriminate bombing by the United States and the United Kingdom was justified as a means to hasten the end of the war, despite the resulting civilian casualties and destruction, clearly violating humanitarian law.



The International Committee of the Red Cross outlines fundamental principles to protect those not involved in hostilities:

- 1) Respect for the life, physical and mental integrity of non-combatants and non-participants.
- 2) Prohibition of harming or killing a surrendered or non-combatant enemy.
- 3) Collection and care of the wounded and sick by the party in control, extending protection to health personnel, facilities, and symbols like the Red Cross and Red Crescent.
- 4) Protection of the lives, honor, personal rights, and beliefs of captured combatants and civilians under enemy control.
- 5) Prohibition of holding anyone responsible for an act they did not commit, or subjecting them to physical or mental torture, or inhumane treatment.
- 6) Restrictions on the choice of methods and means of warfare, banning those causing unnecessary losses or excessive harm.
- 7) Separation of civilians from combatants, with civilians and civilian objects not being targets of attack. Attacks should be directed solely at military objectives.

#### D. Evaluation and Conclusion

Despite years of experience and numerous international treaties, the brutal face of war persists in the global legal arena, with thousands of civilians killed under the guise of legitimate warfare. States have engaged in actions amounting to war crimes despite their treaty obligations, emphasizing the primary need for peace and civilian protection.

These goals are achievable not just through written rules but through the attitudes and actions of states exercising sovereign power. No legal justification should override the fundamental human right to life and dignified treatment.

While the total prohibition of war is an unattainable goal, the main aim should be absolute peace and adherence to human dignity.

**Gülşah Güven, LL.M.,  
Managing Senior Associate**





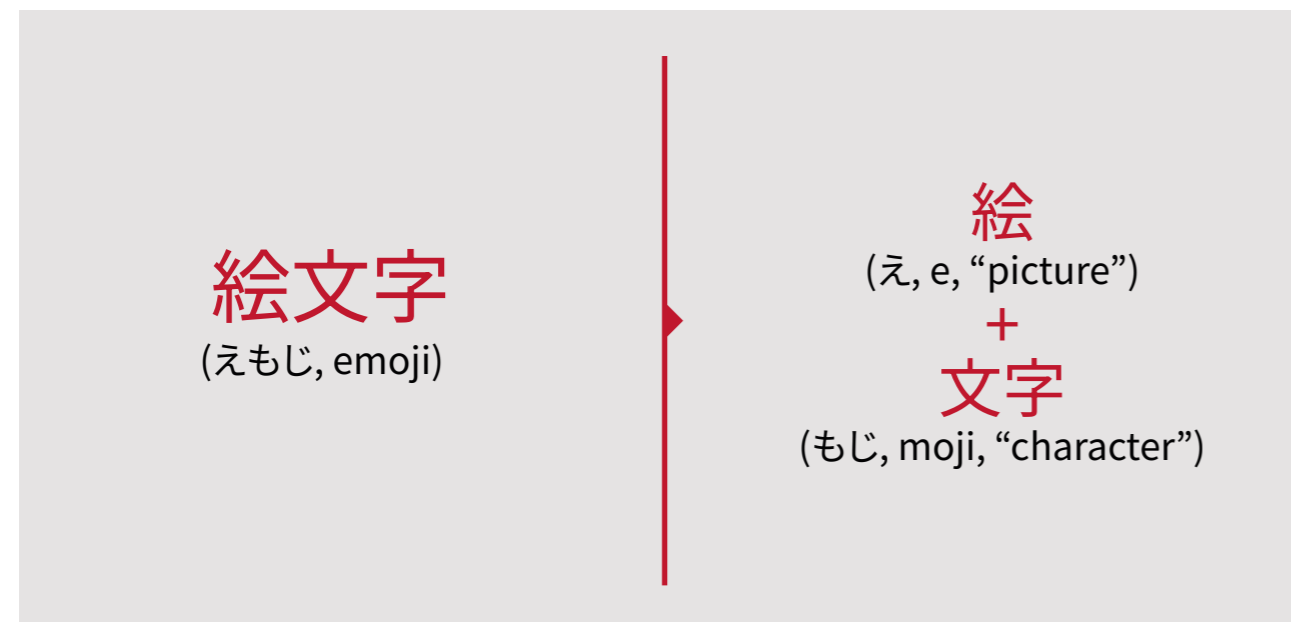
## Article

# The Use of Emojis Within Law

Emojis refers the used expression method in today`s world of communication that replaces words in digital life. The word itself, emoji, comes from Japanese, where “e” means picture and “moji” means character.

However, we seem to have started to express ourselves through tiny pictures symbolizing our facial expressions and gestures in the modern digital world, human beings first expressed themselves with images and pictures such as emojis in the process until the creation of modern alphabets due to the human desire to communicate.

In today`s world, communication is now carried out through social networks, and in order to be fast and effective, it is practical to use emojis, which correspond to almost all our feelings and thoughts.



Even though a universal language is wanted to be created with emojis and almost all of the emojis are considered understandable by everyone because they mean something to us. Unfortunately, due to cultural differences, they do not actually have the same meanings and sometimes even opposite meanings can be attributed to them.

It will be inevitable for emojis, which are the way we express ourselves in communication, to gain a place in the legal world. In our country, although e-mail correspondences are considered evidence, WhatsApp correspondences are accepted as the beginning of evidence. For this reason, emojis used in communication activities through these digital streams, communication apps and other applications which aims to communication have legal consequences

In order to better determine the legal consequences, it would be useful to examine emoji disputes that have recently been brought to court.

**While the knife and gun emojis may be a threat, and also the emoji with crossed eyes may be considered as an element of intent for murder, and the thumbs up emoji may lead to the conclusion of a contract and the person becoming a debtor.**



### Bed Bath & Beyond (BBB) Case

BBB is America's retail store with 14,000 stores and more than 37,000 employees. Ryan Cohen is a stock investor who holds BBB's shares in his portfolio. "At least her cart is full," Cohen wrote of a CNBC story involving a woman using a shopping cart at the BBB store and he added a smiling full moon emoji to his tweet.

Following Cohen's tweet, BBB's share price increased by almost \$6, and thousands of investors purchased the company's shares. Cohen sold all of his shares in BBB when the share price reached \$30 in August. Shortly after Cohen's sale, the share price fell to \$0.30.

The meaning of the "smiling moon" emoji was evaluated after an investor applied to the court to determine whether Cohen's action was stock fraud or not.

Columbia District Court Judge Trevor McFadden ruled that the smiling moon

emoji was used to express a strong belief in the stock market that the value of stocks would rise, so Cohen's followers were influenced by this tweet and encouraged to invest. According to the court, it was possible for an investor to take Cohen's tweet seriously and include it in his investment plans.

- As can be clearly seen in the above decision, in the evaluation made by the court, Cohen's personality characteristics, the stock market and the characteristics of his followers on social networks were taken into account within the scope of the smiling moon emoji concrete case.

- Although the smiling moon emoji in daily life only evokes the meaning of smile in many people, when the place where the emoji is used and the people it addresses are taken into consideration, the meaning of the emoji completely changes and gains a completely different meaning.

### Thumbs Up Emoji Case

In the decision made by a judge in Canada, it was decided that the thumbs up emoji meant the acceptance of the contract.

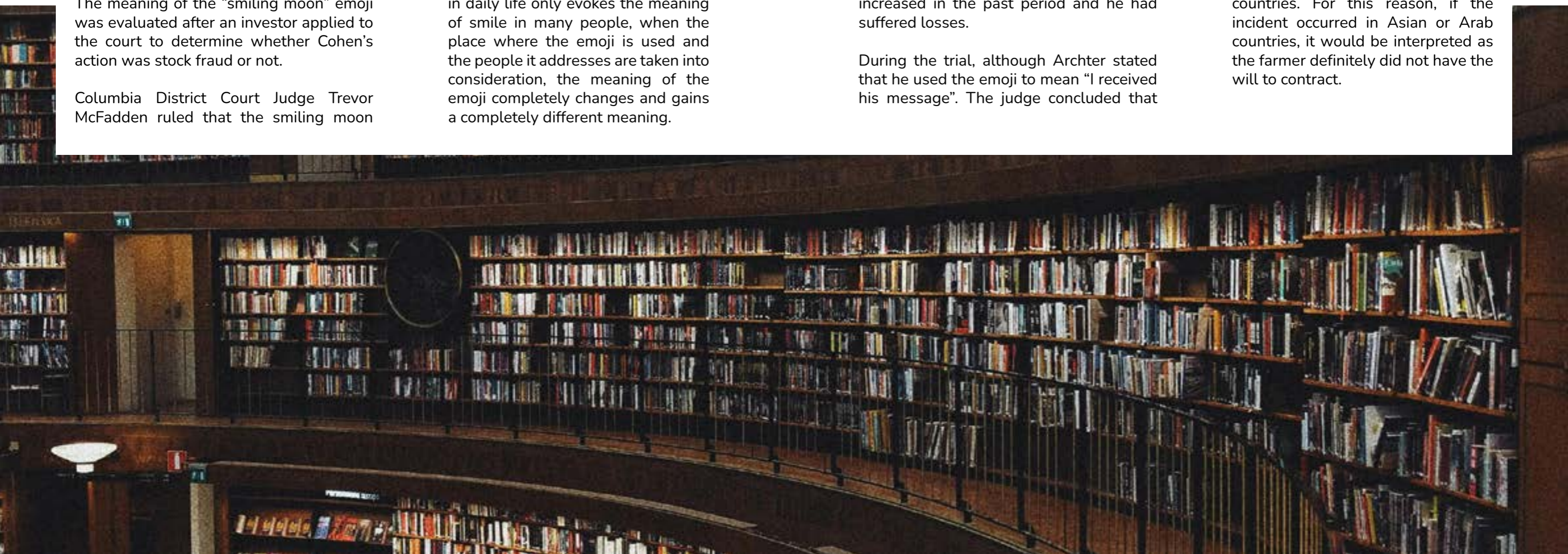
A grain buyer sent a message to farmers and expressed his desire to buy flax. Some time after the phone call with farmer Achter, the buyer sent a contract stating that the flax would be delivered on November 21, and the message said: "Flax Contract, please confirm." he wrote. Archter then sent the thumbs up emoji to the recipient. However, the flax was not delivered to the buyer on the delivery date. Later on, the buyer applied to the court, stating that he believed that the contract was established, and that flax prices had increased in the past period and he had suffered losses.

During the trial, although Archter stated that he used the emoji to mean "I received his message". The judge concluded that

the emoji was used to mean acceptance. It was decided that the up emoji meant the acceptance of the contract.

- When the contract is examined from a legal perspective, it can be seen that the necessary conditions for the establishment of the contract are met. It is possible to accept that there is an offer and acceptance in the contract if the thumbs up emoji is used to mean "acceptance".

- However, it is important to evaluate emojis within the context of a concrete event. Although the thumbs up emoji means agreeing and accepting in Canada and Türkiye, it also means an insult in Asian and many Arab countries. For this reason, if the incident occurred in Asian or Arab countries, it would be interpreted as the farmer definitely did not have the will to contract.



More emoji disputes that have been brought to court:

- An investigation was launched against a 12-year-old student in Virginia for threatening because of the gun, knife and bomb emojis that the student sent to the school administration, and the threat charge was later deemed not serious.

- A law student in Michigan was sued for a text message which he sent to another female student. Although it was claimed that the sticking out tongue emoji placed at the end of the text added a joking expression to the text, the judge decided that the “sticking out tongue smile” emoji did not change the meaning of the text.

- A young man in France was sentenced to three months in prison for threatening his ex-girlfriend for constantly sending gun emojis through girl’s phone.

- Russian Government requested the removal of gay-themed emojis, but then they gave up this request when Apple suggested that such emojis might not be gay, but maybe two close friends.



- Different skin colors were added to emojis because emojis representing only white people were interpreted as racism.

- A judge in Delaware deemed the winking emoji sexual harassment. The emoji sent to a friend by a boss who bought a plane ticket to fly side by side with his employee was accepted as an opportunity for sexual harassment against the employee.

**Conclusion**

Although there is no high court decision regarding emoji in Türkiye yet, it seems possible that Turkish law will encounter it in the near future. For this reason, the environment and recipient of the emojis used should be evaluated. If cultural differences would be found, their meaning in the opposite culture should be investigated, and the frequent use of emojis with negative meanings should be avoided. If you think that you cannot express yourself with the emoji used or that you express yourself incompletely, it will be more useful to explain the situation through words.



# Guest Sector



## Guest Sector

# Challenges in the Automotive Industry

The challenges in the automotive industry include the global chip shortage, supply chain disruptions, high production costs, environmental issues and waste management, the cost of transition to electric vehicles, and low demand for domestic vehicles.

The automotive industry is integrated with various industries, playing a crucial role for both domestic and global economies. Being an innovative and competitive industry that drives technological progress, the automotive industry still has its own challenges like other industries. These challenges should be overcome through innovative strategies to get the most out of the automotive industry.



**•The Global Chip Shortage:** This issue affects the supply of semiconductors used in many auto parts. Possible reasons for it are the growing demand for electronic devices after the pandemic, the fact that chip manufacturers prioritize industries with higher profits, and the war in Ukraine. The automotive industry has been affected by this issue due to the increase in vehicle prices, demand disruptions, and production line stoppage. Today, the Global Chip Shortage is not as common as it was in 2020; however, it is still ongoing and likely to affect production until the end of the year.

**•Supply Chain Disruptions:** Manufacturing of automobiles requires a global supply chain. When

a supply chain is disrupted for any reason (such as logistical issues, unavailability of parts, etc.), delays and shortages occur in production. As a result, vehicle production and delivery are interrupted, which increases prices while reducing customer satisfaction. Supply chain issues can be solved with the creation of sustainable supply chains and the adoption of different strategies to improve logistics processes.

**•High Production Costs:** The factors that increase production costs include high-quality materials used for the manufacturing of automobiles, the relevant labor costs, agreements with trade unions, and investments to achieve high standards and efficiency. R&D activities to develop new technologies and products based on changing consumer preferences also generate high costs in the automotive industry. Therefore, automobile manufacturers should manage their costs and develop the right pricing strategy to make a profit while increasing efficiency.

**•Environmental Issues and Waste Management:** The production and use of automobiles generate lots of waste. To ensure sustainability, automobile manufacturers should manage their waste, recycle, and adopt waste reduction strategies. Automobiles emit greenhouse gases due to the use of fossil fuels, contributing to climate change. As a result, the automotive industry has turned to the use of electric vehicles, an eco-friendly technology.

•**Cost of Transition to Electric Vehicles:** The cost of transition to electric vehicles is influenced by various factors, depending on the country or the company in question. However, the general effects of electric vehicles on automobile manufacturers and consumers are as follows: Electric vehicle manufacturers produce more expensive vehicles than conventional internal combustion engine vehicles since electric vehicles have different engine and charging systems. On the other hand, electric vehicles consume less energy and require less maintenance; therefore, automobile buyers can save money in the long term. As a result, electric vehicles are considered as a sustainable option.

•**Low Demand for Domestic Vehicles:** Buyers' preference for domestic products in the automotive industry contributes significantly to a country's economy. However, Turkish consumers tend to dismiss domestic products in the automotive industry on grounds of quality, technology and cost, which increases current deficit in the country. As a solution to this problem, local manufacturers should be supported, the quality of products should be increased, up-to-date and cutting-edge products should be developed, and the society should be encouraged to use domestic products.

In summary, the automotive industry has a crucial place in Türkiye and around the world. In the automotive industry, which creates lots of employment opportunities and is interconnected with



various industries, competition, rapid technological advances, increasing costs, and changing consumer needs give rise to many challenges. If those challenges are eliminated sustainably with the right strategies, both producers and consumers will benefit significantly. In fact, with the challenges overcome, manufacturers will take advantage of the industry, consumer needs will be satisfied, environmental issues will be mitigated, and significant measures will be taken to guarantee economic growth.

İrem Öztürkmen, Associate

# Special Day



## Special Day

# 29 October Republic Day

## The Protector of the Unprotected: Republic

**Republic is a form of administration in which the political power of the state is in the hands of the people and is shared with representatives appointed by the people through elections. In the Republic administration, sovereignty belongs to the people. The people elect their representatives through elections, in this way the government of the country is indirectly provided by the people. In this respect, it is a democratic form of government administration.**

From the first years of the Turkish War of Independence; Our Great Leader Mustafa Kemal Atatürk announced the good news that the Republic would be declared, stating that the sultanate would be abolished, and the will of the people would prevail in the administration of the country.

However, in the conditions of our country at that time, there were some obstacles to the proclamation of the Republic. First of all, the Sultanate had to be abolished and the war had to end with victory. Likewise, before the Erzurum Congress, Atatürk asked his friend Mazhar Müfit Kansu what the form of government he thought would be established in Türkiye in the future: "Let me tell you clearly, the form of government will be the Republic when the time comes." He replied that the Republic would be determined as the form of government, and with the expression "when the time comes", he mentioned that there were other things that needed to be done before the establishment of the Republic.

The country was at war, the only thing to think about as being of one heart, was war. This war was perhaps our last chance for our country to gain independence. The form of government was a matter to be considered much later; first of all, it was

necessary to save the country from enemy occupation. All citizens were fighting for independence for their homeland as being of one heart. Soldiers bravely sacrificed their lives on the front, and citizens made great efforts to crown this difficult struggle with victory by giving everything they had to the state without hesitation. The Sultan and his entourage were only acting in their own interests. The nation was acephalous.

When the invited both governments together to the Lausanne Peace Conference in order to create a conflict between the Turkish Grand National Assembly government and the Istanbul Government, that the sultan's authority was dominant; Mustafa Kemal Atatürk, who thought it was necessary to abolish the sultanate from the beginning, decided on 1 November 1922 in order to prevent a possible crisis and he abolished the sultanate. With the Lausanne Peace Treaty signed on July 24, 1923, at the end of the Lausanne Peace Conference, the Turkish War of Independence was crowned with victory on the table after the victory on the front. Even though the homeland was saved from enemy occupation and gained independence; Its agriculture, trade, industry and ultimately its economy were destroyed, and its legal and education systems became dysfunctional. Modernizing and reactivating these sectors was of great importance to ensure the permanence of the victories won at the front. Mustafa Kemal also believed that the independence gained by blood could only become permanent through modernization. The biggest obstacle to reaching the level of contemporary civilizations was the form of country's administration. A new form of administration had to be determined immediately. For this reason, our Great

Leader said, "The administration that best suits the nature and customs of the Turkish nation is the administration of the Republic." He started to work for the proclamation of the Republic, which he described as the most advanced form of government that best suits the character of the Turkish nation.

Finally, the expected day came, and the Republic was declared, which is celebrated every year with the same enthusiasm as when it was declared, even though it turned 100 years old this year. Türkiye had now become a country that Democracy would prevail and be governed with the Republic. In fact, the concepts of Republic and Democracy could not be considered separately from each other. Because the Republic was the most developed form







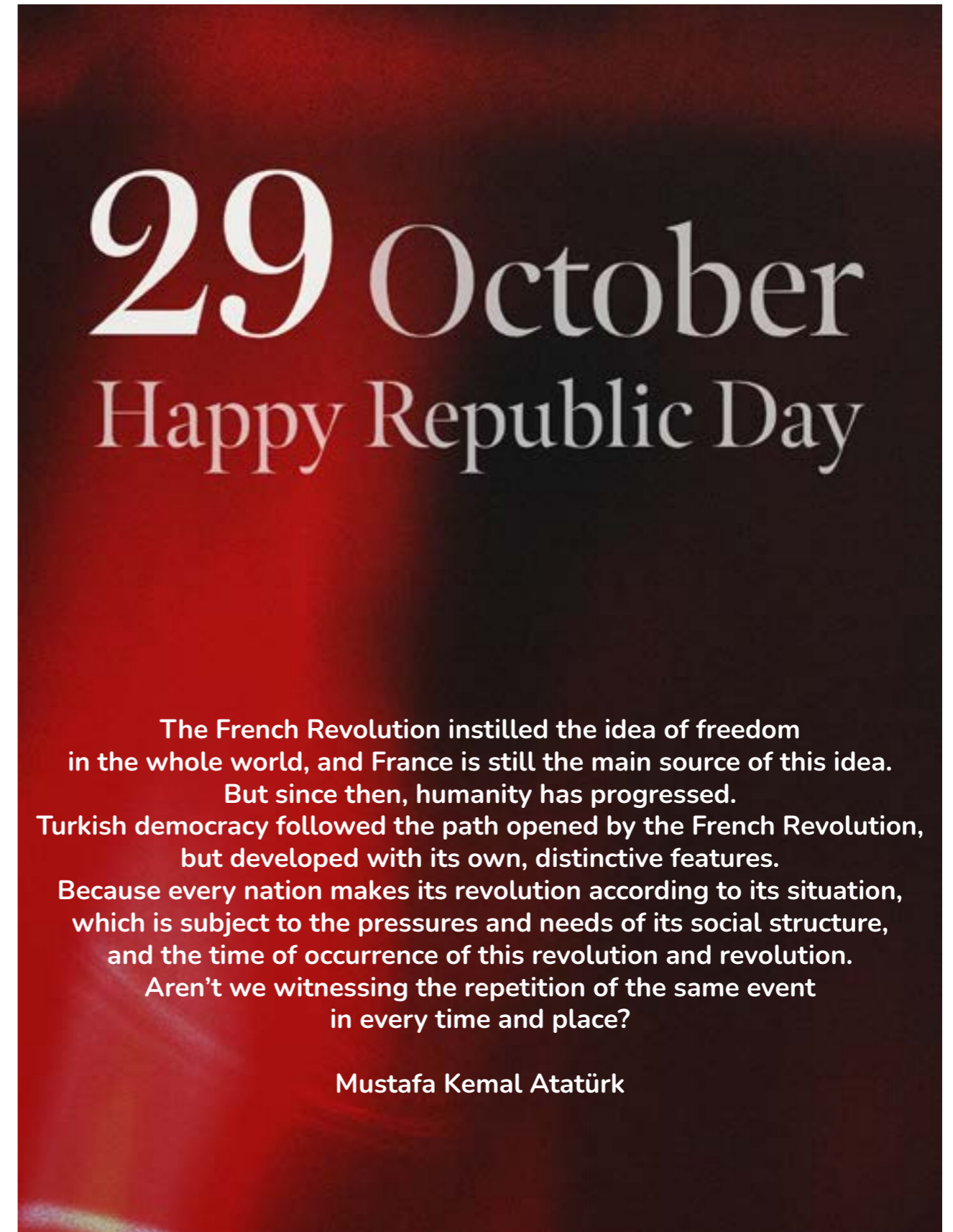
of democracy. Atatürk stated that, “The form of government that ensures the most modern and logical implementation of the principle of democracy is the Republic.” about this situation. Atatürk explained the basic nature of the Republic in his statement to Le Matin newspaper on March 8, 1928. In this statement, Mustafa Kemal Atatürk said: “The French Revolution instilled the idea of freedom in the whole world, and France is still the main source of this idea. But since then, humanity has progressed. Turkish democracy followed the path opened by the French Revolution, but developed with its own, distinctive features. Because every nation makes its revolution according to its situation, which is subject to the pressures and needs of its social structure, and the time of occurrence of this revolution and revolution. Aren’t we witnessing the repetition of the same event in every time and place?” He announced the unique and national aspect of the Turkish Republic to the world by including his statements.

With the Republic adopted in our country under the leadership of Mustafa Kemal Atatürk, before most countries in the world, the people have achieved many gains, especially the right to vote and

be elected. Although the Republic is considered a concept in the political field, the declaration of the Republic brought about some movements in the social and cultural fields for Türkiye. Because the public interest, which is in the background of the Republican idea, has also shown its impact in other areas. In particular, the place of our women in society has changed significantly, and the Republic has been a pioneering step in ensuring gender equality. Great changes have also been seen in the fields of education and health. Education has been modernized, the tendency towards schools has increased, and as a result, a modern society that has knowledge of positive sciences and knows its rights has begun to form. Although epidemic diseases were very common in the world in those years, the health system was not sufficient in any country. However, with the wind of modernization brought by the proclamation of the Republic, innovations were also made in the field of health. Even citizens in the most remote villages of Anatolia have been provided access to health institutions, and health screenings have been carried out throughout the country. The declaration of the Republic paved the way for revolutions in other areas, and Atatürk’s ideal, the modern Republic of Türkiye, began to make its presence felt to the world.

In order to keep alive the Republic, the 100th anniversary of which we celebrate with great joy and pride, and which is the greatest gift of our Ancestor to us, the protector of the unprotected; we must be aware of all the difficult roads we have passed and the sacrifices we have made, and we must keep our Republic alive forever.

**Dila Yıldırım, Legal Intern**





# News to the World

# Legality News to the World

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## National Vehicle Recognition System Implementation General Communiqué (Sequence Number: 1)

In order to ensure equality of competition in the fuel market and to combat the unrecorded economy, many studies are being carried out and new regulations are being implemented. “National Vehicle Recognition System Implementation General Communiqué” was published in the Official Gazette dated 05 October 2023 and numbered 32330 by the Ministry of Treasury and Finance and entered into force. As stated in the explanatory information note published, in this communiqué; regulations have been made regarding the automatic transmission of licence plate information to the new generation fuel pump payment recorders and the determination of the technical specifications of the system in this context.

The Communiqué is a continuation of the arrangements and studies for the replacement of the payment recording devices at the fuel stations with “New Generation Fuel Pump Payment Recording Devices”, which are capable of instant data transfer and have an increased security level, which was previously implemented with the General Communiqué on Tax Procedure Law (Sequence No: 527) published in the Official Gazette in order to ensure competitive equality. The purpose of the Communiqué is to determine the obligation to setup National Vehicle Recognition Systems at the fuel stations and other procedures and principles regarding the implementation.



Within the scope of this Communiqué, the definition of UTTS (National Vehicle Recognition System) is defined as “National Vehicle Recognition System” that enables the communication between “TTB” and “TTO” and “YN Pumps” and the interoperability of these devices. Within the scope of the new regulation, UTTS will be installed at fuel stations and this system will be operated in such a way that it will be possible to enable tracking the activities of companies, identifying vehicles and transferring information to the Technology systems of Revenue Administration.

The General Communiqué on the Implementation of the National Vehicle Identification System also obliges fuel pump guns to be attached with a Vehicle Identification Reader Device (TTO). Pursuant to the relevant regulations, fuel station operators are required to provide TTO’s produced by the Mint or authorised companies on the gun mechanisms of at least one pump unit until 31 December 2024.

Another obligation brought by the Communiqué is the obligation to attach a Vehicle Identification Unit (TTB) to the vehicles that receive fuel, and it is obligatory to attach TTB to the vehicles acquired through leasing or included in the enterprise until 31 December 2024. TTB is defined as Vehicle Recognition Unit that can be placed at the fuel tank inlet of the vehicles to which fuel is supplied and that keeps in its memory issues such as the number plate information of the vehicle and information about the payer and allows this information to be transmitted automatically during fuel purchase. Other vehicles that are not acquired through leasing or are not included in a business are not within the scope of obligation. However, these vehicles can also be optionally be equipped with TTB.

The relevant penalty provisions of the Law No. 213 will be applied to those who act contrary to the procedures and principles set out in the Communiqué.

For the full of the communiqué, see:

<https://www.resmigazete.gov.tr/eskiler/2023/10/20231005-4.htm>

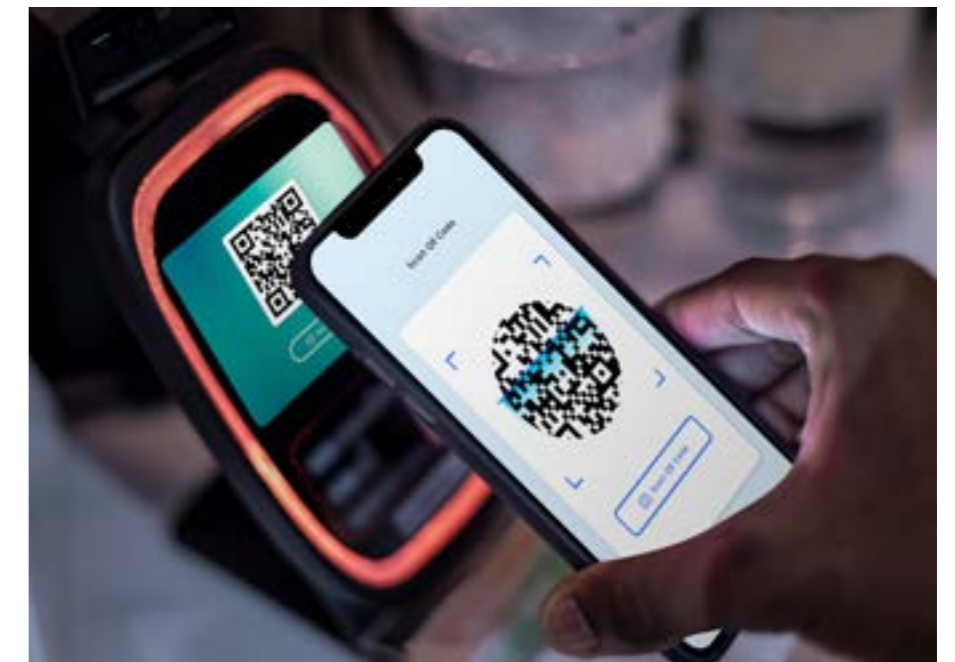


With the Regulation Amending the Regulation on Payment Services and Electronic Money Issuance and Payment Service Providers, “Digital Wallet” Was Defined for the First Time in Turkish Legislation

The Regulation Amending the Regulation on Payment Services and Electronic Money Issuance and Payment Service Providers prepared by the Central Bank of the Republic of Türkiye was published in the Official Gazette dated 7 October 2023 and numbered 32332. The Regulation regulates the procedures and principles regarding the providing of digital wallet services and important issues for the use and popularisation of this service.

The concept of “digital wallet” was introduced to our legislation for the first time, and its definition in the regulation is as follows: A payment instrument that is offered as an electronic device, online service or application where the information regarding the payment account or payment instrument defined by the customer is stored, and which enables the customer to perform payment transactions using the payment account.

Pursuant to the Regulation, digital wallet services may be offered by payment service providers which are authorised to operate in this field. In addition, in the event that the digital wallet is used as a payment instrument at workplaces and the funds are transferred through the digital wallet service provider, the service provider must be authorised to issue electronic money.



Persons providing digital wallet services before 7 October 2023, which is the effective date of Article 4/A of this Regulation, and which can be included in the category of payment institution or electronic money institution within the scope of the relevant laws, but do not have an operating permit, must apply to the Bank within one year from the effective date of Article 4/A of this Regulation and obtain the necessary permits. The institutions that offer digital wallet services are also obliged to comply with this article within one year as of the effective date of Article 4/A of this Regulation.

The Law defines an electronic money institution as “a legal entity authorised by the Law to issue electronic money” and a payment institution as “a legal entity authorised by the Law to provide and perform payment services”.



For the full text and its appendices, see:

<https://www.resmigazete.gov.tr/eskiler/2023/10/20231007-3.htm>



“Draft Communiqué on Green Asset Ratio” Published by the Banking Regulation and Supervision Agency Was Opened to Public Opinion

The “Draft Communiqué on Green Asset Ratio”, which is expected to make important contributions to Türkiye’s green economic transformation and aims to measure the contribution of banks to climate-related targets, was published by the Banking Regulation and Supervision Agency and opened to public opinion. The Draft Communiqué was published with four annexes, namely “Technical Screening Criteria, Criteria for No Significant Harm to the Environment, Minimum Security Measures, and General Justification”. The purpose of the Draft is stated as Determining the principles and procedures for the calculation of the green asset ratio and other key performance indicators that will enable the assessment of banks’ contributions to the financing of sustainable economic activities.

The draft Communiqué, in which many concepts such as “European Union (EU) Taxonomy, Environmentally Sustainable Economic Activities, Renewable Energy, Green Painting” are defined, is mainly based on the EU Taxonomy framework. According to the draft;

- The primary performance measure for banks’ contribution to environmental sustainability is the green asset ratio. This green asset ratio will be calculated by dividing the compatible assets in the unconsolidated balance sheets of banks by the compatible assets.
- Harmonised assets will be calculated by summing the gross amounts of financial assets related to economic activities that fulfil all of the conditions of contributing significantly to environmental objectives and not causing significant harm to environmental objectives.

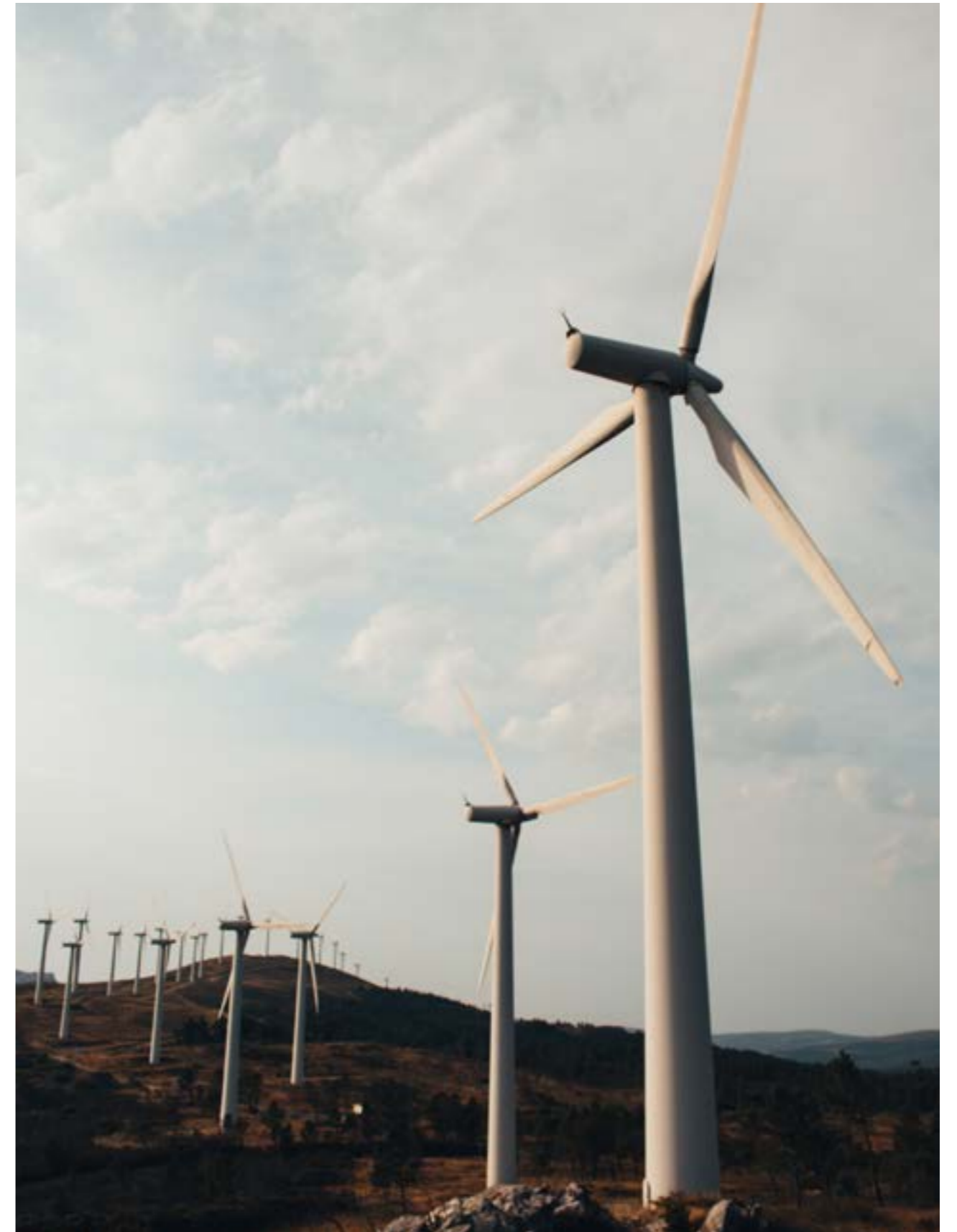


- It was determined that the environmental objectives cover the objectives of minimising climate change, adaptation to climate change, sustainable use and protection of water and marine resources, pollution prevention and protection of biodiversity and ecosystems, which are included in the EU taxonomy.
- Banks are obliged to classify the assets constituting the green asset ratio, establish monitoring and control processes, make necessary arrangements in databases and establish a reporting system.
- Under Appendix 1, “technical screening criteria” have been determined. Within the scope of Appendix-2, the criteria for not causing significant harm to the environment are analysed under the sub-headings of “violating the condition of not causing significant harm to the environment, climate risk assessment, sustainable use and protection of water and marine resources, pollution prevention and control related to the use and presence of chemicals, and biodiversity and ecosystem restoration and protection”. Within the scope of Appendix-3, the principles of minimum safety measures have been determined.



For the full draft communiqué, see:

<https://www.bddk.org.tr/Mevzuat/DokumanGetir/1195>

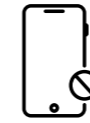


# World News



## Legality World News

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### Apple Faces Partial iPhone Ban in China

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The Wall Street Journal reported that China ordered officials at central government agencies not to use Apple's iPhones and other foreign-branded devices for work and to refrain from bringing them into the office, citing people familiar with the matter. According to this news article by the Wall Street Journal, based on close sources, the ban on using these devices was imposed on employees by senior managers, but the article stated that there was not enough information about the scope of the application.

Following the news on the subject, Apple's shares lost up to 4 per cent in value, which was interpreted as the increasing technological tension between the world's two largest technology producers, the US and China, could increase further.

Analysts believe that it is a move to reduce the country's dependence on American technologies. The fact that China is one of Apple's largest foreign markets and is also the company's production base has worried investors about the future of the company, which derives 20 per cent of its revenue from China.



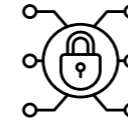


**ECHR Finds Conviction for Social Media Posts a Violation of Rights**

B.D. was convicted to one year and ten days in prison for making propaganda in favor of the terrorist organization in his Facebook posts about the PKK, Abdullah Öcalan and Kobani. İ.B. was convicted to ten months in prison for insulting President Recep Tayyip Erdoğan in a post on her Twitter account regarding the corruption operations in December 2013.

At the end of the relevant proceedings, the local courts decided to “deferment the announcement of the verdict” against the two applicants in accordance with Article 231 of the Code of Criminal Procedures of Türkiye. İ.D. was given probation for three years and İ.B. for five years. Between 2018 and 2020, the applicants’ appeals against these decisions and individual applications to the Constitutional Court were rejected.

The European Court of Human Rights (ECtHR) ruled that the criminal convictions and prison sentences, together with the decisions to “deferment the announcement of the verdict” in line with Article 231 of the Criminal Code, constituted an interference with the applicants’ right to freedom of expression, given their potentially deterrent effect, and that the convictions of B.D. and İ.B. for their social media posts constituted a violation of their rights. For all these reasons, the Court ruled that Türkiye violated Article 10 of the European Convention on Human Rights.



**OpenAI Announces That CHATGPT Is Under DDoS Attack**

ChatGPT developer OpenAI admitted the other day that “Distributed Denial of Service (DDoS) Attacks” were the cause of intermittent outages in its flagship generative AI offering. According to OpenAI, ChatGPT and its API have been suffering from “periodic outages” since November 8 at noon PST. Although the app appears to be working normally at the time of writing, affected users have taken to X (formerly Twitter) in droves to complain. A person using the API confirmed a “429 - Too Many Requests” error, which will result in OpenAI’s DDoS diagnosis as the source of the problem.

In addition to its stated goal of targeting “any American company,” the group claimed to have singled out OPENAI for its support of Israel. The country has recently been widely condemned for bombing Palestinian civilians. He also claimed that CHATGPT is being used by Israel to “put pressure on the Palestinians” and that “Artificial intelligence is now being used in weapons development and by intelligence agencies such as Mossad.”

The group claimed responsibility for DDoS attacks on Swedish companies at the beginning of the year, which it claimed were revenge for the Koran burning incident that took place near the Turkish Embassy in Stockholm. However, experts have suggested that the hacktivist outfit is actually a Russian state-sponsored group with a mission to strengthen anti-Western sentiment. He was also linked to the prolific Russian ‘hacktivist’ group Killnet.

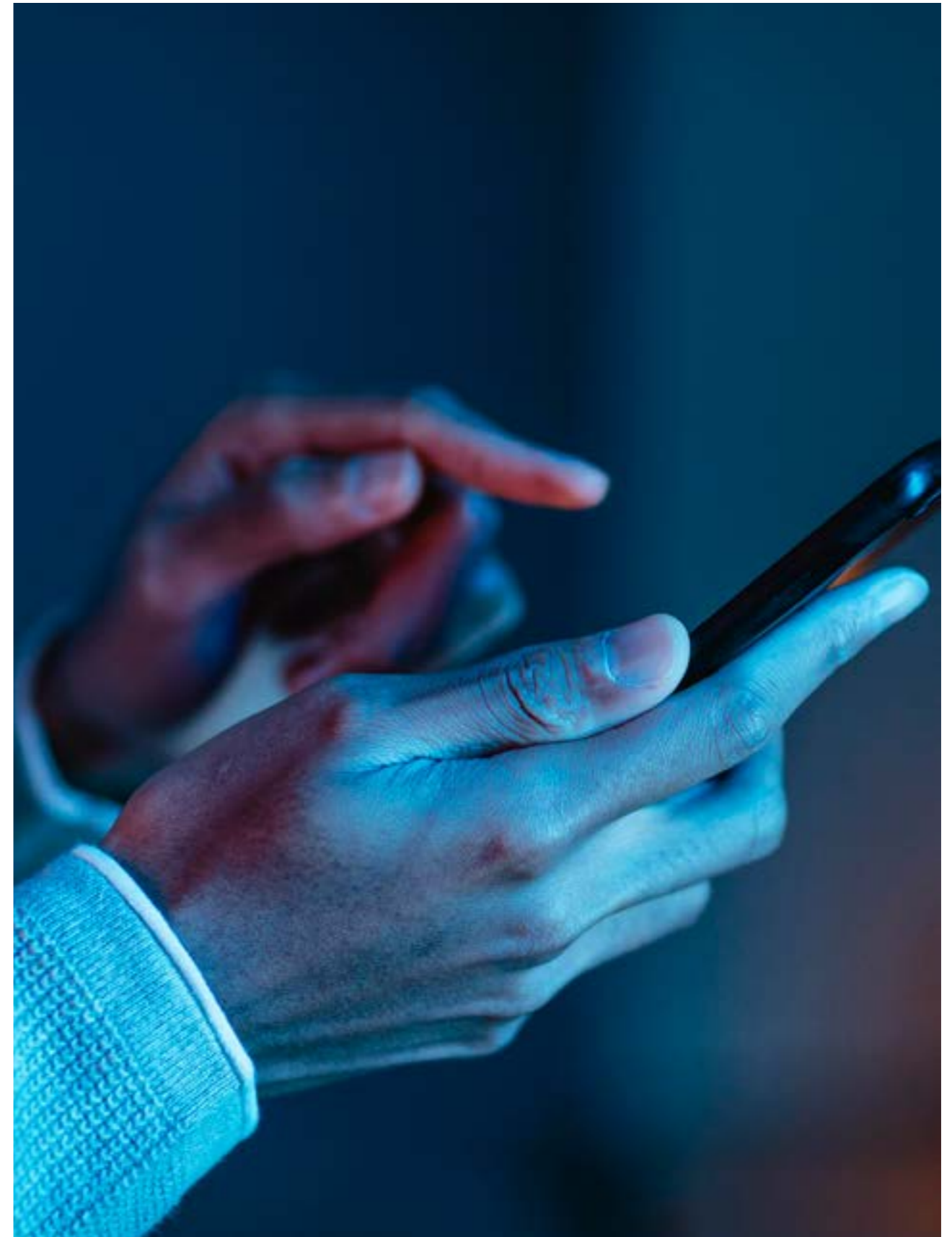


**42 States  
Came Together to  
Sue Meta**

District attorneys in dozens of states sued Meta this week, accusing the company of intentionally designing its products to harm children’s mental health. In the lawsuit filed in California federal court, 33 states, including California, Colorado, New York, Arizona and Illinois, argue there are violations of state and federal laws by Meta in the process of influencing young US users to engage more on Facebook and Instagram. In addition to the 33 states suing Meta collectively, nine district attorneys filed individual lawsuits in their respective states and the District of Columbia making parallel allegations about Meta’s deceptive and harmful practices targeting young users.

The prosecutors point to the Children’s Online Privacy Protection Act (COPPA), a law Meta violated by collecting data from users under the age of 13 without parental consent. They also argue that Meta violated state consumer protection laws with business practices that targeted young users. The lawsuit emphasizes several ways in which Meta allegedly violated laws protecting young consumers: “maximizing” minors’ time and attention on its platforms, publicly minimizing risks to children while capitalizing on addictive product design and ignoring both internal and external research showing that social platforms may harm young users.

Experts suggested that such lawsuits are usually intended to settle, not to win in court, and that a settlement may force Meta to agree to changes that lessen some of the harms cited in the lawsuit. Although the prosecutors chose to target one social media company in particular, Meta is thought to have been intended only as an example that could resonate across the industry. Ultimately, the image of a protracted battle between the social media giant and a bipartisan coalition of most US states over the safety of children may be more than Meta can bear.



# News from Şengün



## Legality News from Şengün



The event of Istanbul Arbitration Week, ISTAW 2023, was held at Istanbul Mandarin Oriental Bosphorus on 2-6 October 2023, welcoming speakers that are experts in their fields. As members of Şengün Group and Şengün Media, which are among the sponsors of ISTAW, N. Korhan Şengün (Attorney and the Founder of Şengün & Partners Attorney Partnership and Şengün Group), Güzin Şengün (Attorney and the Managing Partner of Şengün & Partners Attorney Partnership), Gül Ruscuklu (Attorney, Arbitrator and Partner at Şengün & Partners Attorney Partnership), Gülşah Güven (Managing Senior Associate at Şengün & Partners Attorney Partnership), and Ezgi Aydoğanoğlu (Editor of Şengün Media) participated in panels and events held throughout the week.



Bakıcı Culture and Art Foundation granted Anatolia Awards 2023 with the ceremony at Hilton Istanbul. This year's awards were given to competent legal entities with the theme of "Woman Gets to Say".

Şengün Media, a member of Şengün Group, was represented by Ezgi Aydoğanoğlu (Editor) in the awards ceremony as a media guest.



Summit 2023, a Sales Network event, united the leaders of the business world.

As a sponsor to Sales Network Summit 2023, held at Uniq Istanbul on 4-5 October 2023 with the theme of "GO GLOBAL for a better world", Şengün & Partners Attorney Partnership was represented by Gazali Soysal (Managing Senior Associate), Gülşah Güven (Managing Senior Associate), Hilal Yayla (Associate), Öykü Güldürmez (Associate), Yiğit Okuldaş (Associate), Yasemin Yüksel (Associate), İpek Kurtoğlu (Legal Intern), Dila Yıldırım (Legal Intern), Seda Açar Eraslan (Manager), and Ezgi Aydoğanoğlu (Editor of Şengün Media).

Moreover, Nedim Korhan Şengün (Attorney and the Founder of Şengün & Partners Attorney Partnership and Şengün Group) addressed the participants of Sales Network Summit 2023 as a speaker at the session of "Can You Play It Safe While Competing?".

## Legality News from Şengün



Şengün & Partners Attorney Partnership, which offers legal counseling to leading manufacturers in the sectors of corrugated cardboard, paper and packaging, participated in the 35th Anniversary Dinner of OMÜD, the Corrugated Board Manufacturers Association. The firm was represented by Nedim Korhan Şengün (Attorney and the Founder of Şengün & Partners Attorney Partnership) and Birgi Kuzumoğlu (Senior Associate). In honor of the 35th anniversary of the establishment of OMÜD, which was founded in 1987 as the first professional association in the packaging industry to represent the Turkish corrugated cardboard manufacturers, the leaders of the industry gathered on Thursday evening, 12 October 2023, and made speeches about the industry's progress and its role in Türkiye, providing recommendations.



A significant launch took place in the financial sector. The guests included members of Şengün & Partners Attorney Partnership, namely Güzin Şengün (Attorney and Managing Partner), Gülşah Güven (Managing Senior Associate), Hilal Yayla (Associate) and Yiğit Okuldaş (Associate).



Industrial conferences continue to be organized in the corrugated cardboard industry. The conference, which offered a platform to discuss the industry's development and provided networking opportunities, was participated by N. Korhan Şengün, Attorney and the Founder of Şengün & Partners Attorney Partnership and Şengün Group.



Şengün & Partners Attorney Partnership continues to organize internal academy conferences.

Elif Kahya, Associate, made a presentation titled Media Law, where she outlined the regulations in media law.

## Legality Sources

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- <https://www.resmigazete.gov.tr/eskiler/2023/10/20231005-4.htm>
- <https://www.resmigazete.gov.tr/eskiler/2023/10/20231007-3.htm>
- <https://www.bddk.org.tr/Mevzuat/DokumanGetir/1195>

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