

Supreme Court revokes its decision on service date of electronic notifications

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Introduction

As of 1 January 2019, the scope of electronic notification was expanded to include several institutions, including all public institutions and organisations, lawyers, notaries, experts and mediators following amendments to the Notification Law (7201). The Post and Telegraph Organisation has been assigned the operation of electronic notification transactions through the National Electronic Notification System. Further, the Regulation on Notification via Electronic Means came into force on 1 January 2019.

The Notification Law and the Regulation on Notification via Electronic Means stipulate that "electronic notifications are deemed to have been served by the end of the fifth day upon their delivery to the electronic address of the addressee". Pursuant to this provision, electronic notifications are deemed to be served by the end of the fifth day after their delivery, regardless of whether the addressee has viewed the notification.

Supreme Court case law

In an 18 September 2019 decision, the Ninth Chamber of the Supreme Court examined the date on which an addressee had viewed an electronic notification. The Supreme Court asserted that:

- the notification pertaining to the court decision had been successfully submitted to the electronic system on 6 March 2019; and
- the addressee had viewed the notification on the same date.

For that reason, the Supreme Court ruled that the defendant's attorney had missed the eight-day appeal period for labour disputes, as they had filed their appeal on 19 March 2019.

On 3 December 2019 the Ninth Chamber of the Supreme Court revoked said decision following opposition by the defendants, stating that the decision had been made based on a substantial error. In the latter decision, it has been stated that notification should have been deemed to be served by the end of the fifth day from the date on which it had been uploaded to the electronic notification system. It was therefore accepted that the defendant's attorney had filed the appeal within the legal deadline.

Comment

The Ninth Chamber of the Supreme Court's first decision had given rise to uncertainty as it had accepted the date on which the notification was viewed as the notification date. However, the court's later decision eliminated these doubts. The Supreme Court provided clear legal guidance that electronic notifications will be deemed to have been served by the end of the fifth day following their delivery, regardless of whether the addressee has viewed the notification.

For further information on this topic please contact [Riza Gumbüşoğlu](#) or [Beril Yayla Sapan](#) at [Gün & Partners](#) by telephone (+90 212 354 00 00) or email (riza.gumbusoglu@gun.av.tr or beril.yayla@gun.av.tr). The [Gün & Partners](#) website can be accessed at www.gun.av.tr.

Kardelen Özden, legal trainee, assisted in the preparation of this article.

AUTHORS

[Riza Gumbüşoğlu](#)



[Beril Yayla Sapan](#)



