

Turkey – Data Privacy

Turkey is party to various international conventions that regulate the protection of personal data, including the European Convention on Protection of Human Rights and Fundamental Freedoms since 1954 and Council of Europe Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data since 1981. The right to protection of personal data is also regulated by the Turkish Constitution and Civil Code. The Turkish Criminal Code provides sanctions (imprisonment and monetary fines) for breach of data protection rules. The Turkish Labour Code regulates the obligation of an employer to obtain and keep certain information in relation to its employees. Currently, there is no specific data protection law in force in Turkey defining data protection; however, a draft data protection law has been discussed since 2008.

Collection, Processing and Transfer of Personal Data	
<i>Compliance Alternatives</i>	<p>Under the Turkish Constitution and Civil Code personal data may only be collected processed or transferred (i) if the relevant person consents, (ii) if there is a legal requirement, or (iii) if there is a prevailing public interest.</p> <p>Once an employer is granted personal data of the employee, the employer use that personal information in accordance with the laws and the principle of good faith, and not to disclose any of it if the employee has a reasonable benefit in the confidential treatment of such information.</p>
<i>Disclosure/ Registration</i>	<p>Pursuant to Turkish Labour Code, employers are required to prepare a personnel file for each of their employees. The personnel file includes all kinds of documents and records that the employer is required to keep pursuant to the applicable law, in addition to the employee's identification information. The employer must disclose such information to authorized officers and official authorities when required. Failure to keep the personnel file may subject the employer to administrative fines.</p> <p>There is no specific rule concerning the transfer of personal information of the employees abroad, other than the general data protection and disclosure principles.</p>
<i>Other Requirements</i>	<p>There is not a separate or distinct set of rules regulating the investigation by an employer of an employee's emails, phone records (landline and mobile), internet usage and any footage recorded in the workplace. In the Turkish employment law literature, it is commented that the "management authority" of an employer includes reasonable intervention in the private lives of employees to the extent that it is necessary for a sound operation of the business. The necessity and reasonableness tests require a case-by-case analysis.</p>
<i>Sanctions</i>	<p>Under the Turkish Civil Code, in case of breach of data protection rules, individuals are entitled to initiate a claim (i) seeking to enjoin an ongoing breach of personal rights, (ii) seeking the prevention of the violation, (iii) seeking determination of the violation and/or (iv) seeking compensation for pecuniary or non-pecuniary damages arising from the infringement of personal rights.</p> <p>The Turkish Criminal Code provides for various fines and terms of imprisonment for the wrongful (i) registration, (ii) collection, (iii) distribution of personal data to third parties, (iv) obtaining personal data in an illegal form, or (v) abstaining from destroying personal data that is required to be destroyed within the period prescribed by law.</p> <p>These sanctions under the Turkish Criminal Code may be increased by half if the person committing the act does so by exploiting his or her profession. Legal entities committing the foregoing crimes may be subject to special security measures such as revocation of permits and seizure of the means used for and any profit generated as a result of the crime if the crime is intentionally committed by its corporate organs.</p>

This summary is intended to reflect local law and practice as at 1 May 2013. Please note, however, that recent amendments and legal interpretations of the local law may not be included in these summaries. In addition, corporate governance, administration, and option plan design facts that are specific to your company may impact how the local laws affect the company's equity based compensation plans. With these matters in mind, companies should not rely on the information provided in this summary when implementing their stock plans.