

## Privacy in Turkey: overview

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### LEGISLATION

#### 1. What national laws (if any) regulate the right to respect for private and family life and freedom of expression?

The Turkish Constitution dated 1982 (Constitution) is the main legislative authority which sets out the rights of individuals (for details of rights, see *Question 3*).

Turkey is a signatory to the European Convention on Human Rights (ECHR) and Articles 20 and 26 of the Constitution reflect Articles 8 and 10 of the ECHR.

Turkey respects and follows the rulings of the European Court on Human Rights with minor exceptions.

Article 134 of the Turkish Criminal Code No 5237 provides that violations of private and family life are subject to imprisonment for a term of between one and three years.

#### 2. Who can commence proceedings to protect privacy?

Individuals can commence both civil and criminal proceedings as the rights holders.

Criminal proceedings under Article 134 cannot be started *ex-officio* by the public prosecutors without a prior complaint by the rights holder.

#### 3. What privacy rights are granted and imposed?

Article 20 of the Constitution provides that everyone has the right to demand respect for his/her private and family life. Privacy of private or family life must not be violated.

Furthermore, Article 26 of the Constitution states that everyone has the right to express and disseminate his/her thoughts and opinions by speech, in writing or in pictures or through other media, individually or collectively. This freedom includes the liberty of receiving or imparting information or ideas without interference by official authorities.

See also *Question 1*.

#### 4. What is the jurisdictional scope of the privacy law rules?

Claims resulting from the violation of personality rights via media such as press, radio, television or via internet and other mass communications, according to the preference of the damaged party, will be subjected to (as applicable) (*Article 35, Private International and Procedural Law No 5718*):

- The law of the habitual residence of the damaged party where the party that caused the damage was in a position to know that the damage would occur in that state.
- The law of state where the workplace or the habitual residence of the party who caused the damage is located.
- The law of state where the damage occurred where the damaging party was in a position to know that the damage would occur in that state.

#### 5. What remedies are available to redress the infringement of those privacy rights?

The damaged party can request damages to redress the infringement under Article 25 of the Civil Code.

Furthermore, the damaged party can request the court to make an order to:

- Take an action for prevention of the infringement.
- Eliminate the infringement threat.
- Take a decision to determine the consequences of the assault unlawful.

#### 6. Are there any other ways in which privacy rights can be enforced?

Individuals can lodge a complaint and ask for a criminal case to be initiated against the infringer pursuant to Article 134 of the Turkish Criminal Code.

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## Practical Law Contributor profile

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#### **Recent transactions**

- Advising an international chemical company for a data protection compliance project.
- Advising a multinational leading household products company for a multi-jurisdiction data protection benchmarking project.
- Advising for a leading German automotive company regarding data protection requirements for infotainment devices on cars.
- Advising for a leading education company for their data retention policy.

**Languages.** English and Turkish

**Professional associations/memberships.** ITECHLAW; International Association of Privacy Professionals; Istanbul Bar Association.

#### **Publications**

- *DLA Piper's Data Protection Laws of the World Handbook, 2016.*
- *DLA Piper Telecommunication Laws of the World Handbook, 2017.*
- *Catching up with the data protection developments in France and Turkey DLA Piper IPT News EMEA (with Carol Umhoefer and Jonathan Rofe), 2013.*