

COMMUNIQUÉ ON DISCLOSURE OBLIGATION OF DATA CONTROLLERS

The Communiqué on the Principles and Procedures for Disclosure Obligation (the “**Communiqué**”) has been published in the Official Gazette dated 10 March 2018 and numbered 30356. The Communiqué is published by the Data Protection Board of Turkey (the “**Board**”) with a view to provide further details on the obligations of the data controllers in terms of their disclosure requirements towards data subjects as per the Law on the Protection of Personal Data No: 6698 (the “**Law**”). The Communiqué has entered into force upon its publication.

This Monthly Update aims to highlight the principles regarding the disclosure of information by data controllers towards data subjects under the Communiqué.

Disclosure Obligation of Data Controllers

With the enactment of the Communiqué, further detail is provided by the Board in terms of the methods and content of disclosures that should be followed by data controllers while processing personal data.

For the purposes of this Monthly Update;

Personal data; shall mean any kind of information relating to an identified or identifiable real person.

Data subjects; shall mean real persons whose personal data is processed.

Data controllers; shall mean real person or legal entities determining the purposes and means of processing personal data and who are also responsible for establishment and management of the registration system.

Data processing; shall mean collection, recording, storage, preservation, change, revision, disclosure, transmission, assignment, making available, classification or prevention of use of personal data partially by automatic means, or by means of a manual data recording system.

Content of Disclosure Obligation

As per the Communiqué, data subjects shall be provided with sufficient information by the data controllers with respect to the processing of their personal data. Accordingly; the disclosure shall at least contain the following information:

- (i) Identity of the data controller and its representative, if any;
- (ii) Purpose of the data processing;
- (iii) To whom and for what purpose personal data to be transferred;
- (iv) Method and legal grounds for collection of personal data; and
- (v) Rights of the data subjects arising from the Law.

Further Obligations on Disclosure Obligation

The Communiqué sets forth principles and procedures to be taken into account while processing personal data by physical or electronic means such as through oral and written methods, voice recordings or call centers:



Missed an issue? Want more copies to be sent to clients or friends? Send an email to info@taboglu.av.tr



Contact Us

Taboglu Attorneys at Law
Levent Caddesi, No.9
1. Levent, 34330
Istanbul, Turkey
Telephone: (90) 212 339 8800

The aim of this Monthly Updates is to give an executive summary on certain legal matters. This has been prepared for information purposes only and does not constitute any legal advice. Thus, one should not rely on it for specific advice. For further information or advice please contact Taboglu Attorneys at Law, a full-service law firm based in Istanbul.

- (i) Disclosure obligation shall be fulfilled by data controllers at each time when a personal data is processed, subject to explicit consent of the data subject and other conditions for data processing set forth under the Law;
- (ii) Disclosure obligation shall be repeated before the date is processed in case the purpose for the processing changes;
- (iii) Disclosure obligation shall be fulfilled by each department of data controllers in case such departments process personal data for different purposes;
- (iv) Information provided in the disclosure shall be in compliance with the information provided to the Data Controllers Registry, in case there is a registry obligation with the Data Controllers Registry;
- (v) Disclosure obligation shall be fulfilled regardless of the request by data subjects;
- (vi) Burden of proof regarding the fulfillment of disclosure obligation shall be on data controllers;
- (vii) In case the data processing is subject to an explicit consent; the disclosure obligation and the obligation to acquire explicit consent shall be fulfilled separately;
- (viii) Purpose of data processing to be disclosed shall be precise, explicit and legitimate and shall not contain vague explanations;
- (ix) Notices to be made to data subjects shall contain a clear, plain and simple language;
- (x) Disclosure should specify the basis of data processing in terms of Article 5 and Article 6 of the Law (i.e. such provisions regulates that personal data may only be processed through prior consents of the data subjects, save for certain exceptions specifically enumerated therein, provided that private personal data may only be processed with a prior consent);
- (xi) Purpose of data processing and receiver groups should be disclosed to the data subject;
- (xii) Data subjects shall be informed of the method of acquiring personal data by the data processor either by automatic means, wholly or partially, or otherwise by non-automatic means, which forms a part of a data recording system; and
- (xiii) Disclosure obligation shall not contain false, misleading or incomplete information.

Disclosure Obligation in case Data is not Acquired from Data Subject

If personal data is acquired from a person other than data subject the following conditions shall be fulfilled in terms of disclosure obligation:

- (i) Disclosure obligation shall be fulfilled within a reasonable period as of the acquisition of such personal data;
- (ii) If such personal data will be used for the purposes of communication with the data subjects, disclosure obligation shall be fulfilled at the time of initial communication with the data subject; and
- (iii) If the personal data will be transferred, disclosure obligation shall be fulfilled first time it is transferred.