

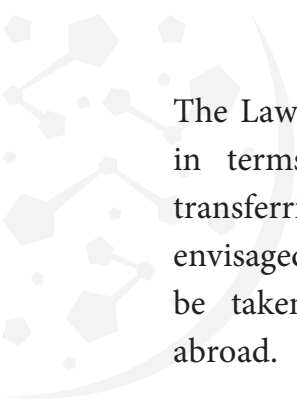
TRANSFER OF PERSONAL DATA ABROAD




1. Data Transfer To Abroad

As required under Article 9 of the Personal Data Protection Law No. 6698", a cross-border transfer may take place in one of the following cases that;

- The data subject has given her/his explicit consent,
- The country is approved by Board as "Country ensuring adequate protection" and one of the conditions provided for in second paragraph of Article 5 and third paragraph of Article 6 of the Law No. 6698 exists,
- If the country is not approved by Board as "Country ensuring adequate protection", then data controllers in Turkey and abroad commit in writing to provide an adequate level of protection and the Board has authorized this transfer where existence of the circumstances referred to in second paragraph of Article 5 and third paragraph of Article 6 of the Law No. 6698).



The Law No. 6698 seeks the same conditions in terms of processing personal data and transferring these data abroad. It also envisaged that additional measures should be taken in the transfer of personal data abroad.



If the data subject has explicit consent, it is possible to transfer personal data to abroad. In cases other than express consent, the Law No. 6698 has introduced different provisions for the transfer of personal data to abroad, depending on whether there is sufficient protection in the country where the transfer is to be made.

a. Existence Adequate Protection

Personal data may be transferred abroad if:

- Being clearly stipulated in the laws,
- Being compulsory for the protection of life or physical integrity of the person or another person, who is unable to express his consent due to actual impossibility or whose consent is not legally recognized,
- Provided that it is directly related to the establishment or performance of a contract, being necessary to process the personal data may be transferred abroad if:" of the parties to the contract,
- Being mandatory for the data controller to fulfill its legal obligation,
- Being the person concerned has been made public by himself,
- For the establishment, exercise or protection of a right being data processing is mandatory,

- Provided that it does not harm the fundamental rights and freedoms of related person, it can be transferred abroad in cases where data processing is necessary for the legitimate interests of the data controller.

Special categories of personal data may be transferred abroad ;

If there is sufficient protection in the country to which it will be transferred, personal data may be transferred abroad if:" other than health and sexual life may be transferred to abroad, provided that it is stipulated in the Law No. 6698 .

In countries ensuring adequate protection, personal data related to health and sexual life can only be transferred abroad by persons or authorized institutions and persons who are under the obligation to keep confidential for the purpose of protecting public health, performing preventive medicine, medical diagnosis, treatment and care services, planning and managing health services and financing without seeking the explicit consent of data subject.

Countries with adequate protection will be announced by the Board.

b. Absence of Sufficient Protection

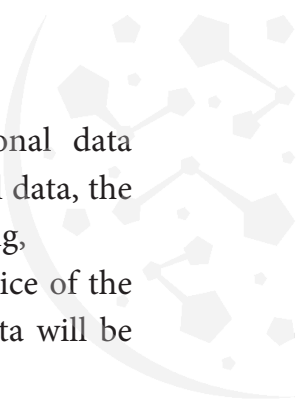
In case;

- The fulfillment of one of the conditions specified in the second paragraph of Article 5 of the Law No. 6698 and in the third paragraph of article 6 of the Law No. 6698 for special categories of personal data,
- The data controllers in Turkey and in the relevant foreign country provide commitment for adequate protection in writing,
- Having the authorisation of the board personal data may be transferred abroad.


2. Criteria to be Considered in Determining the Countries ensuring Adequate Protection and in the Permits to be Given by the Board for Data Transfer to Abroad


To evaluate;

- The Board shall give decision on whether the country, to which personal data are to be transferred, provides adequate protection or in case adequate protection is not provided on whether it would authorize the transfer provided that data controllers in Turkey and the relevant foreign country commit adequate protection in writing by evaluating followings and by receiving the opinions of relevant institutions and organizations, where necessary;
- International conventions to which Turkey is a party,
- The reciprocity of data transfer between the country requesting personal data and Turkey,

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- Regarding each concrete personal data transfer, the nature of the personal data, the purpose and duration of processing,
 - The relevant legislation and practice of the country to which the personal data will be transferred,
 - Measures undertaken by the data controller in the country to which personal data will be transferred.

In addition, without prejudice to the provisions of international conventions, in cases where the interests of Turkey or the person concerned would be seriously harmed, it is foreseen that the personal data will be transferred abroad with the authorisation of the Board, only after obtaining the opinion of the relevant public institution or organization.





Provisions in other laws regarding the transfer of personal data to abroad are being reserved.





TRANSFER OF PERSONAL

Explicit consent

Data can be transferred to abroad

* Without prejudice to the provisions of international conventions, personal data can be transferred abroad with the authorisation of the Board, only after obtaining the opinion of the relevant public institution or organization, in cases where the interests of Turkey or the person concerned will be seriously harmed.

DATA TO ABROAD

Circumstances provided for
Articles 5/2 and 6/3 of the Law No.
6698

Existence Adequate Protection

Absence of Sufficient Protection

Data can be transferred

Data controllers in Turkey
and in the country to which
data will be transferred must
undertake in writing to
adequate protection
and obtaining Board
authorisation

Data can be transferred



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