COUNTRY: **TURKEY**

SCORE: 52.38 | RANK: 18/24

Turkey continues to have some gaps in its coverage of basic cyberlaws. For example, there is currently no data protection law in Turkey.

Turkey also has rules on Internet content regulation in place that may act as a barrier to cloud services. The enforcement of cybercrime laws remains weak, and there is some concern that the penalties imposed for Internet crimes are not an effective deterrent.

Intellectual property protection in Turkey is reasonably up to date, but enforcement is patchy.

Turkey is making progress toward integration with the European and international communities, but some domestic preferences are still in place for government procurement opportunities.

The government has an ambitious target of providing fast broadband to 95% of households by 2020. However, Turkey faces significant challenges in reaching this goal.

Turkey made minor improvements to its infrastructure score in the 2013 Scorecard, but its policy environment remains largely unchanged. Its ranking falls one spot — to 18th.

Q TURKEY	RESPONSE	EXPLANATORY TEXT
DATA PRIVACY		
1. Are there laws or regulations governing the collection, use, or other processing of personal information?	✖	A draft Law Concerning Protection of Personal Data has been under development for some time.
2. What is the scope and coverage of privacy law?	Not applicable	
3. Is the privacy law compatible with the Privacy Principles in the EU Data Protection Directive?	✖	The draft law is based on the EU Directive.
4. Is the privacy law compatible with the Privacy Principles in the APEC Privacy Framework?	✖	
5. Is an independent private right of action available for breaches of data privacy?	Available	Some limited privacy rights are available in Turkey. Article 20 of the Turkish Constitution on the Confidentiality and Protection of Private Life states that "every person has the right to confidentiality and personal privacy and these rights are untouchable." This regulation also states that "every person has absolute freedom to decide whether to provide or not his/her personal data and in the latter, he/she shall not be compelled to do so." A range of exemptions apply. Article 24 of the Turkish Civil Code also states that a person whose civil rights are violated can claim protection. In practice, these private rights are very difficult to enforce in Turkey.
6. Is there an effective agency (or regulator) tasked with the enforcement of privacy laws?	None	The draft Law Concerning Protection of Personal Data includes a proposal to establish a Personal Data Protection Authority.
7. What is the nature of the privacy regulator?	Not applicable	
8. Are data controllers free from registration requirements?	✔	There are no registration requirements in force in Turkey at this time.
9. Are cross-border transfers free from registration requirements?	✔	There are no cross-border data transfer restrictions in place at this time.
10. Is there a breach notification law?	✖	Turkey has no relevant data breach notification requirements.

Q TURKEY	RESPONSE	EXPLANATORY TEXT
SECURITY		
1. Is there a law or regulation that gives electronic signatures clear legal weight?	✔	The Law of Electronic Signature (No. 5070, dated January 15, 2004) contains the key provisions. The Ordinance on the Procedures and Principles Pertaining to the Implementation of Electronic Signature Law 2005, contains the procedures and principles for the legal, technical aspects, and implementation of electronic signatures.
2. Are ISPs and content service providers free from mandatory filtering or censoring?	✖	Internet censorship is common in Turkey, and sites can be blocked for a number of reasons — many of which appear politically motivated — under the Law on the Internet (No. 5651/2007). In November 2011, the Information and Communication Technologies Authority (BTK) <www.tk.gov.tr> introduced a system where all Internet users are offered a "choice" of filters ("child" or "family"). However, blocking of specific sites by the government remains common and would still occur where a user opted for the "standard" feed. Internet cafes and kiosks are also subject to mandatory filtering requirements. Around 15,000 sites are now blocked in Turkey.
3. Are there laws or enforceable codes containing general security requirements for digital data hosting and cloud service providers?	None	There are no enforceable security requirements for digital data hosting in place in Turkey.
4. Are there laws or enforceable codes containing specific security audit requirements for digital data hosting and cloud service providers?	None	There are no security audit requirements in place in Turkey.
5. Are there security laws and regulations requiring specific certifications for technology products?	Comprehensive requirements (including common criteria)	Turkey is a Certificate Authoring Member (the highest level of membership) of the Common Criteria Recognition Arrangement (CCRA) <www.commoncriteriaportal.org>. The use of certifications for technology products in Turkey is small but growing.
CYBERCRIME		
1. Are cybercrime laws in place?	✔	The Turkish Penal Code (as amended in 2005) includes numerous computer-related offenses. The controversial Regulation of Internet Publications and Combating Crimes Committed through such Publications (2007) also covers some cybercrime activities.
2. Are cybercrime laws consistent with the Budapest Convention on Cybercrime?	◑	Turkey signed the Convention on Cybercrime in 2010 but has not yet ratified it. The full range of offenses in the Cybercrime Convention have not yet been implemented in Turkish domestic law. The key outstanding requirement is that Turkey does not yet have an offense relating to "misuse of devices" as required by Article 6 of the Cybercrime Convention.
3. What access do law enforcement authorities have to encrypted data held or transmitted by data hosting providers, carriers, or other service providers?	Not stated	There is no specific law or regulation regarding access to encrypted data in Turkey.
4. How does the law deal with extraterritorial offenses?	Limited coverage	Turkish criminal law includes extraterritorial application to Turkish citizens, no matter where they are located.
INTELLECTUAL PROPERTY RIGHTS		
1. Is the country a member of the TRIPS Agreement?	✔	Turkey became a member of the TRIPS Agreement in 1995.
2. Have IP laws been enacted to implement TRIPS?	✔	Law No. 5846 of December 5, 1951, on Intellectual and Artistic Works (the Copyright Law) has been regularly updated to comply with international treaties and EU directives.
3. Is the country party to the WIPO Copyright Treaty?	✔	The WIPO Copyright Treaty entered into force in Spain in 2008.
4. Have laws implementing the WIPO Copyright Treaty been enacted?	✔	Turkey's Copyright Law is very close to compliant with the WIPO Copyright Treaty. However, some further amendments are under discussion to strengthen criminal enforcement in line with the WIPO Copyright Treaty and other EU instruments.

Q TURKEY	RESPONSE	EXPLANATORY TEXT
5. Are civil sanctions available for unauthorized making available (posting) of copyright holders' works on the Internet?	✔	Sanctions are available for unauthorized communication, to the public, of any work subject to copyright.
6. Are criminal sanctions available for unauthorized making available (posting) of copyright holders' works on the Internet?	Undecided	It is unclear whether criminal sanctions are available for simply making material available. The takedown process discussed below is more likely to be used than a criminal investigation and prosecution.
7. Are there laws governing ISP liability for content that infringes copyright?	✔	Article 4 of the Copyright Law (added as part of the 2004 amendments) sets out a simple regime for ISP liability and cooperation.
8. Is there a basis for ISPs to be held liable for content that infringes copyright found on their sites or systems?	✔	Copyright owners who allege an infringement can ask the content provider to stop the infringement. Should the content providers not stop the copyright infringement within three working days, the copyright holder is entitled to ask the public prosecutor to order the relevant ISP to suspend the service to the content provider.
9. What sanctions are available for ISP liability for copyright infringing content found on their site or system?	Civil and criminal	A wide range of civil and criminal sanctions are available, including damages, injunctions, fines, and imprisonment. In practice, enforcement is rare.
10. Must ISPs take down content that infringes copyright, upon notification by the right holder?	✔	If infringing material is not removed within three days, ISPs can be ordered to suspend services to the offending subscriber. In practice, online copyright breaches remain common, and the use of takedown notices and suspensions is rare.
11. Are ISPs required to inform subscribers upon receiving a notification that the subscriber is using the ISP's service to distribute content that infringes copyright?	✘	ISPs do not have a direct role in informing subscribers about alleged breaches, although they may be required to issue suspension notices following action by prosecutors.
12. Is there clear legal protection against misappropriation of cloud computing services, including effective enforcement?	Comprehensive protection	Turkey has a moderate level of protection available for cloud services, through a combination of its cybercrime legislation and copyright laws. However, both laws have minor gaps, and Turkey does not yet have data protection legislation in place.
SUPPORT FOR INDUSTRY-LED STANDARDS & INTERNATIONAL HARMONIZATION OF RULES		
1. Are there laws, regulations or policies that establish a standards-setting framework for interoperability and portability of data?	✔	Turkey manages standards through the Organization Law (No. 132 of 1960).
2. Is there a regulatory body responsible for standards development for the country?	✔	Turkish Standards Institution (Türk Standardlari Enstitüsü ([SE]) <www.tse.org.tr>.
3. Are e-commerce laws in place?	◑	The Law of Electronic Signature (No. 5070 of January 15, 2004) contains some limited e-commerce provisions.
4. What international instruments are the e-commerce laws based on?	Other	The Law of Electronic Signature is limited; the signature sections are based on the UNCITRAL Model Law on Electronic Signatures.
5. Is the downloading of applications or digital data from foreign cloud service providers free from tariff or other trade barriers?	✔	Turkey now follows EU policy on setting tariffs, and there are no relevant tariffs or other barriers in the ICT sector.
6. Are international standards favored over domestic standards?	✔	Turkey favors a mix of EU and international standards over domestic standards.
7. Does the government participate in international standards-setting process?	✔	Turkey is an active participant in ISO committees and working groups.

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Q TURKEY	RESPONSE	EXPLANATORY TEXT
PROMOTING FREE TRADE		
1. Are any laws or policies in place that implement technology neutrality in government?	✖	There are no specific laws or policies on technology neutrality in Turkey.
2. Are cloud computing services able to operate free from laws or policies that mandate the use of certain products (including, but not limited to, types of software), services, standards, or technologies?	✔	There are no relevant mandatory requirements in Turkey.
3. Are cloud computing services able to operate free from laws or policies that establish preferences for certain products (including, but not limited to, types of software), services, standards, or technologies?	✔	There are no relevant preferences in place in Turkey, although several government agencies (including defense) have significant open source projects under way.
4. Are cloud computing services able to operate free from laws that discriminate based on the nationality of the vendor, developer, or service provider?	✖	Turkey is an observer, but not a member, of the WTO plurilateral Agreement on Government Procurement. Turkey's public tender law still provides a price preference of up to 15% for domestic bidders.
ICT READINESS, BROADBAND DEPLOYMENT		
1. Is there a national broadband plan?	• By 2013, the Broadband Subscriber Penetration Rate to increase to 20% • By 2013, the proportion of Internet users to increase to 60%	The Information Society Strategy for Turkey (2006-2010) <www2.dpt.gov.tr/konj/DPT_Tanitim/pdf/Action_Plan.pdf> had the following aspiration for national broadband: • The opportunity of high quality and affordable broadband access to all segments of the society. In 2006, the Ninth Development Plan of Turkey (2007-2013) <www2.dpt.gov.tr/konj/DPT_Tanitim/pdf/Ninth_Development_Plan.pdf> set the following targets: • By 2013 the Broadband Subscriber Penetration Rate increase to 20% (with an annual growth rate of 28.3%) from 3.5% in 2006 • By 2013 the number of Internet users to increase to 60% (with an annual growth rate of 17%) from 20% in 2006 While these targets may not be met, Turkey's Internet usage and broadband growth rates are higher than in most other European economies. In 2011 the Turkish Prime Minister's Office undertook a National Broadband Vision Study of Turkey, "From Silk Road to Broadband: Enabling Economic Growth and Competitiveness," linking development of broadband networks with economic development. Refer to <www.infodev.org/en/Article.779.html> for more information.
2. Are there laws or policies that regulate the establishment of different service levels for data transmission based on the nature of data transmitted?	No regulation and limited public debate	Issues of net neutrality have not yet been the subject of significant consideration in Turkey.
3. Base Indicators		
3.1. Population (2011)	73,639,596	In 2011, the population of Turkey increased by 1.2%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) <www.itu.int/ITU-D/ict/publications/world/world.html>]
3.2. Urban Population (%) (2011)	72%	[United Nations, Department of Economic and Social Affairs, Population Division (2012). World Urbanization Prospects: The 2011 Revision, <esa.un.org/unup/CD-ROM/Urban-Rural-Population.htm>]
3.3. Number of Households (2011)	16,656,000	In 2011, the number of households in Turkey increased by 3.5%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) <www.itu.int/ITU-D/ict/publications/world/world.html>]
3.4. Population Density (people per square km) (2010)	95	[World Bank, Data Catalog, Indicators, Population Density (2012) <data.worldbank.org/indicator/EN.POP.DNST>]

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3.5. Per Capita GDP (US$ 2011)	$10,498	In 2011, the per capita GDP for Turkey increased by 8.5% to US$10,498. [World Bank, Data Catalog, Indicators: GDP per capita, current US$ (2012) <data.worldbank.org/indicator/NY.GDP.PCAP.CD> and GDP growth, annual % (2012) <data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG>]
3.6. Public Cloud Services Market Value (2011) (Billions of US$)	0.08	Gartner has calculated the value of the public cloud services market in Turkey in 2011 to be US$0.08 billion. This is a 33% increase from 2010 and ranks Turkey 19 (out of 20 countries) in the forecast. Gartner has projected the five-year compound annual growth rate (CAGR) to 2016 to be 28.3%, and this ranks Turkey 5 (out of 20 countries) for growth in the value of the market for public cloud services to 2016. [Gartner, Forecast Overview: Public Cloud Services, Worldwide, 2011-2016 (August 2012 Update) <www.gartner.com/id=2126916>]
3.7. Personal Computers (% of households) (2011)	48%	In 2011, 48.5% of households in Turkey had personal computers. This is a 9.6% increase since 2010 and ranks Turkey 72 out of 182 countries surveyed. The growth from 2010 is below the five-year CAGR from 2006 to 2011 of 21.5%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) <www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx>] Note: In some jurisdictions this is an estimate and subsequent editions of the ITU ICT Indicators Database may update this indicator for prior years.
4. ICT and Network Readiness Indicators		
4.1. ITU ICT Development Index (IDI) (2011) (Score is out of 10)	4.38	Turkey's ITU ICT Development Index (IDI) for 2011 is 4.38 (out of 10), resulting in a rank of 69 (out of 161 economies). The 2011 IDI for Turkey has increased by 5%, and the IDI ranking has declined by three places from a rank of 66 since 2010. [International Telecommunication Union (ITU), Measuring the Information Society (2012) <www.itu.int/ITU-D/ict/publications/idi/2012>] Note: In some jurisdictions this is an estimate and subsequent editions of the ITU ICT Indicators Database may adjust this indicator, both for 2011 and prior years.
4.2. World Economic Forum Networked Readiness Index (NRI) (2012) (Score is out of 7)	4.28	Turkey has a Networked Readiness Index (NRI) score of 4.28 (out of 7), resulting in a rank of 59 (out of 142 economies) and a rank of 13 (out of 39) in the upper-middle income grouping of economies. The 2012 NRI for Turkey has increased by 12.9% and improved from a rank of 71 since 2011. [World Economic Forum, Global Information Technology Report (2012) <www.networkedreadiness.com/gitr>]
4.3. International Connectivity Score (2011) (Score is out of 10)	5.51	Turkey has a Connectivity Score of 5.51 (out of 10), resulting in a rank of 4 (out of 25) in the resource-driven grouping of countries/economies. [Nokia Siemens, Connectivity Scorecard (2011) <www.connectivityscorecard.org>]
4.4. IT Industry Competitiveness Index (2011) (Score is out of 100)	38.70	Turkey has an IT Industry Competitiveness Index Score of 38.7 (out of 100), resulting in a rank of 41 (out of 66 countries/economies included in the index). The 2011 index score is a 14.8% increase on the 2009 score. Turkey has moved up the ranking by five places since 2009. [Business Software Alliance (BSA) / Economist Intelligence Unit (EIU), IT Industry Competitiveness Index (2011) <globalindex11.bsa.org>]
5. Internet Users and International Bandwidth		
5.1. Internet Users (2011)	31,002,270	[calculated from 8.3.1. and 8.5.2.]
5.2. Internet Users as % of Population (2011)	42%	In 2011, 42% of the population in Turkey used the Internet, resulting in a ranking of 89 out of 199 countries surveyed. This is a 5.7% increase since 2010. The growth from 2010 is below the five-year CAGR from 2006 to 2011 of 18.2%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (December 2012) <www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx>] Note: There may be some variations as to how countries calculate this. Some countries base this upon all or part of the population, such as between 16 and 72 years of age. Note: In some jurisdictions this is an estimate and subsequent editions of the ITU ICT Indicators Database may adjust this indicator, both for 2011 and prior years.
5.3. International Internet Bandwidth (bits per second per Internet user) (2011)	33,938	Turkey's International Internet Bandwidth (per Internet user) has increased by 78% since 2010. [International Telecommunication Union (ITU), Measuring the Information Society (2012) <www.itu.int/ITU-D/ict/publications/idi/2012>]

Q TURKEY	RESPONSE	EXPLANATORY TEXT
5.4. International Internet Bandwidth (2011) (total gigabits per second [Gbps] per country)	1,052	Turkey has increased its International Internet Bandwidth by 90% since 2010 to 1,052 Gbps and is ranked 19 out of 188 countries surveyed. The growth from 2010 is above the five-year CAGR from 2006 to 2011 of 87%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) <www.itu.int/ITU-D/ict/publications/world/world.html>]
6. Fixed Broadband		
6.1. Fixed Broadband Subscriptions (2011)	7,554,725	Turkey has increased the number of fixed broadband subscribers by 7% since 2010 to, 7,554,725, and is ranked 15 out of 182 countries surveyed. The growth from 2010 is below the five-year CAGR from 2006 to 2011 of 22.2%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) <www.itu.int/ITU-D/ict/publications/world/world.html>] Note: In some jurisdictions this is an estimate and subsequent editions of the ITU ICT Indicators Database may adjust this indicator, both for 2011 and for prior years.
6.2. Fixed Broadband Subscriptions as % of Households (2011)	45%	[calculated from 8.3.3. and 8.6.1.] Note: This may be skewed by business usage in some countries (refer to OECD comments about this).
6.3. Fixed Broadband Subscriptions as % of Population (2011)	10%	Turkey has increased its fixed broadband subscriptions (as a share of the population) by 5% since 2010, which is below the five-year CAGR from 2006 to 2011 of 20.6%. This ranks Turkey 15 out of 187 countries surveyed.[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (June 2011) <www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx>] The OECD figures below present a breakdown on the type of fixed broadband connections in Turkey. In the OECD, Turkey was ranked 34 (out of 34) for fixed (wired) broadband subscribers as a percentage of population [OECD Broadband Subscribers (Dec 2011) <www.oecd.org/sti/ict/broadband>] – DSL: 9.3% – Cable: 0.6% – Fiber/LAN: 0.4% Total: 10.4% (7,576,798 subscriptions). The OECD average total for 2011 was 25.6%. Turkey's fixed broadband growth for 2011 was 6.7% (ranked 8 out of 34 for growth), above the OECD average growth of 4.1%. Note: There may be minor variations in the ITU and OECD subscriber totals due to definition, timing or population baseline differences. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (July 2011) <www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx>]
6.4. Fixed Broadband Subscriptions as % of Internet Users (2011)	24%	[calculated from 8.5.1 and 8.6.1]
7. Mobile Broadband		
7.1. Mobile Cellular Subscriptions (2011)	65,321,745	In 2011, Turkey increased the number of mobile cellular subscriptions by 5.8% and is ranked 19 out of 195 countries surveyed. The number of subscriptions account for 89% of the population. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) <www.itu.int/ITU-D/ict/publications/world/world.html>] Note: This figure may be inflated due to multiple subscriptions per head of population, but excludes dedicated mobile broadband devices (such as 3G data cards and tablets)/

Q TURKEY	RESPONSE	EXPLANATORY TEXT
7.2. Active Mobile Broadband Subscriptions per 100 inhabitants (2011)	9	Turkey has increased the number of active mobile broadband subscriptions (as a share of the population) by 340% since 2010. This ranks Turkey 87 out of 144 countries surveyed.
		The OECD figures below present a breakdown on the type of mobile broadband connections in Turkey.
		For 2011, Turkey's OECD rank has not changed and was 33 (out of 34) for mobile wireless broadband subscribers as a percentage of population [OECD Broadband Subscribers (Dec 2011) <www.oecd.org/sti/ict/broadband>]
		– Satellite: 0%
		– Terrestrial fixed wireless: 0.2%
		– Standard mobile broadband subscription: 6.7% (up from 2% in 2010)
		– Dedicated mobile data subscriptions: 2.1% (up from 0% in 2010)
		Total: 8.9% (6,465,606 subscriptions). The OECD average total for 2011 was 54.3%.
		Turkey's wireless broadband growth for 2011 was 345% (ranked 2 out of 34 for growth), well above the OECD average growth of 30.5%.
		Note: The mobile broadband subscription types were first reported by OECD in 2010, and ITU data are beginning to have this granularity.
		Note: The OECD figures include mobile data subscriptions, which are not as consistently reported in the ITU indicators.
		[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) <www.itu.int/ITU-D/ict/publications/world/world.html>]
		Note: This refers to the sum of standard mobile broadband and dedicated mobile broadband subscriptions to the public Internet. It covers actual subscribers, not potential subscribers, even though the latter may have broadband-enabled handsets.
		Note: In some jurisdictions this is an estimate and subsequent editions of the ITU ICT Indicators Database may adjust this indicator, both for 2011 and for prior years.
7.3. Number of Active Mobile Broadband Subscriptions (2011)	6,454,801	In 2011, Turkey increased the number of active mobile broadband subscriptions by 346% and is ranked 87 out of 145 countries surveyed.
		[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) <www.itu.int/ITU-D/ict/publications/world/world.html>]