

White Collar Crime - Turkey

Graft probe takes interesting turn

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Introduction

The graft probe of December 2013, which involved bribery and corruption allegations against four ministers of state and their family members (for further details please see "[Government rocked by waves of corruption](#)") was concluded at the beginning of 2015 with the dismissal of charges and the release of suspects, despite significant criticism and concerns. However, its impact continues to dominate the news agenda in Turkey, especially as the investigations have taken an interesting turn.

Following the conclusion of investigations in favour of the accused high-level public officials, attention has turned towards the prosecutors and judges who initiated and managed the investigations, along with private media corporations alleged to have interfered with the process. Those parties are now the subject of criminal investigations with allegations of misconduct and corruption related to an alleged conspiracy against the government.

This sequence of events, which is difficult to explain by legal means, illustrates the issue's political background and points to a power struggle between the government and the Gülen movement, which is alleged to have influenced prosecutors and judges to initiate the graft probe in the first place.⁽¹⁾

This update focuses on the new direction of the investigations, the impact of the amended procedural rules on ongoing procedures and developments thereon.

Prosecutors and judiciary

Following the release of the graft probe suspects, the four prosecutors who initiated the criminal investigations (Zekeriya Öz, Celal Kara, Muammer Akkaş and Mehmet Yüzgeç) were placed under disciplinary investigation by the Supreme Board of Judges and Prosecutors (HSYK), where their alleged misconduct, corrupt activities and improper relationships were to be investigated. The four prosecutors have been removed from their duties until the end of the disciplinary investigation and face being discharged from their duties definitively. Although the four prosecutors are in the media spotlight, they are among 166 judges and prosecutors who were removed from their roles by the HSYK following the graft probe.

In addition to the administrative disciplinary investigations, the HSYK granted a permit for the criminal prosecution of prosecutors Kara and Akkaş and Judge Süleyman Karaçöl on March 7 2015. Kara was charged with illegal wiretapping of suspects along with carrying out illegal confiscation measures. Akkaş is accused of violating the confidentiality of investigations by rendering decisions without reviewing case files. Karaçöl is accused of rendering an arbitrary confiscation of property warrant without any evidence that the property was a criminal asset. They will stand trial before the Court of Appeals.

Further, prosecutor Öz was charged with alleged bribery and his visits to Dubai, which were supposedly financed by the owner of a construction company, were scrutinised. However, the HSYK found that these allegations were not substantial enough to grant a permit for criminal prosecution.

Media corporations

Media corporations have also come under the radar of the enforcement authorities. On December 14 2014 Turkey woke up to dawn raids in 13 different cities of private media and publication entities linked to the Gülen movement. During the raid at the headquarters of the Samanyolu Media Group, its president and the editor in chief of sister company the *Zaman* newspaper were taken into custody, along with some television series scriptwriters and actors.

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Amendments have been made to the Criminal Procedure Code in the past year following the graft probe and the aforementioned operation is an example of the enforcement of these amendments.(2)

The first set of amendments related to preventive crime measures and made confiscation and telecommunication inspection decisions harder to issue. The amendments were welcomed for proportioning preventive measures, but were criticised for their timing and raised concerns over their possible effect on the release of graft probe suspects.

However, the later set of amendments took a step back from this lenient approach and was almost a contradiction. The level of doubt needed to issue a search warrant was reduced from a "high level of doubt based on material evidence" to merely "reasonable doubt". Accordingly, dawn raids became much easier to conduct.

Comment

The dramatic graft probe investigations, which included corruption allegations against bureaucrats, several prominent business figures, the mayor of Istanbul and the sons of three ministers, and ended in their release, has taken an interesting turn towards those who initiated and managed the investigations. The legislative amendments made throughout the process can be said to have made these developments possible.

Despite the issue's complex political background, it illustrates the dynamics of Turkey's criminal legislative framework and its enforcement, which can evolve in a completely different direction in the blink of an eye. The ease with which search warrants and dawn raids can be carried out by the enforcement authorities against private establishments is worrying given the scope for misuse and exploitation.

The final outcome of these investigations is still not clear. However, foreign companies investing or operating in Turkey must be aware of the investigations and the amended procedural rules and establish solid procedures in an attempt to maintain a sense of balance during this unstable time.

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Endnotes

(1) A Turkish court issued an arrest warrant on December 19 2014 for the US-based Islamic cleric Fethullah Gülen for allegations of operating and creating an armed terror group, aspersion and the deprivation of liberty.

(2) Criminal Procedural Law (5271/2004).

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