

White Collar Crime - Turkey

Government rocked by waves of corruption

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Introduction

During the past decade Turkey has undergone a significant economic transformation. While further economic growth is expected, commentators have been shocked by recent alarming allegations.

On December 17 2013 a corruption scandal emerged in Istanbul. The investigation commenced after Iranian gold merchant Riza Sarraf was mentioned on the suspect list of the Illicit Money Report prepared by the Turkish Financial Crimes Investigation Board (MASAK) in 2008. In light of the report, the Public Prosecution Office issued criminal charges for corruption and other white-collar crimes against 49 individuals, including bureaucrats, several distinguished businessmen, a mayor of Istanbul and the sons of three ministers. A second wave of arrests followed on December 25 2013, with an investigation into the son of Prime Minister Recep Tayyip Erdoğan and many others.

Corruption has been seen as one of the greatest challenges to Erdoğan's 11-year reign. However, as at the earlier Gezi Park protests, he has declared that blame lies with the 'parallel state' that he claims is attempting to take hold of both the judiciary and police organisations in Turkey.

Investigations

The investigation conducted by the Public Prosecution Office included the mayor and high-level officials from the Fatih Municipality, as well as several construction companies and architects who were alleged to have overlooked certain construction activities that resulted in the demolition of a subway station, in return for personal benefits.

In addition, Sarraf was alleged to have played a major part through his 'personal' relations with three ministers, and several bureaucrats have smuggled gold and transferred funds through Halk Bank, which were ultimately transferred to Iran. The illegal transfers amounted up to \$10 billion, with the rate of bribes in return for such transfers asserted to be 0.3% to 0.4%.

Although the investigations are not focused on Halk Bank's role as a trade bridge between Iran and Turkey, given that 20% of its shares are traded by Citibank (a US bank), its managers were put under the spotlight. The allegations subject to investigation by the Public Prosecution Office cover Turkish companies and individuals involved in business transactions with Iran. As a number of different trade penalties are seized by the United Nations, the European Union and United States (ie, under the Foreign Corrupt Practices Act) against Iran with extraterritorial scope, it is possible that companies operating in Turkey may be affected.

Likewise, following the investigation into the corruption scandal on January 7 2014, it has been announced that a Turkish company has been scrutinised by the US Ministry of Commerce. The ministry has issued an instant decree on the prohibition of the sale of two Boeing aeroplanes to Iran's Pouya Airway. The ministry also penalised US company Adaero International Trade, which delivered the aircraft engines. Under the decree, both companies are banned from trading the products listed in the US trade control list for 180 days; otherwise, they will face litigation in the United States. Furthermore, neither banks nor other credit institutions will be able to finance these companies.

Although uncertainty still remains as to whether the alleged crimes were committed, it

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is nonetheless anticipated that the continuing investigations may affect international trade and money transfers conducted through Turkey to blacklisted countries, inspiring prosecutors to challenge matters related to corruption with greater scrutiny.

These investigations have triggered other decisions and investigations. On January 21 2014 an investigation was carried out at the Amasya Sugar Refinery, one of the biggest sugar refineries in Turkey, into allegations of bribery. The execution board was charged with unjust enrichment, corruption, irregularity and forgery of official documents. The investigation against the refinery was allegedly launched by the Public Prosecution Office as a result of a report prepared by MASAK and the Customs Investigation Office, in which it was revealed that the company's losses from 2004 to 2011 amounted to approximately TRY4.5 million, but the unjust enrichment amounted to almost TRY2 million. However, of the 31 people taken into custody during the raid, nine were released by the police, one was released by the prosecution office and the others were released by an examination decision of the court. While the full scope of these investigations is unknown, it appears that high-profile companies and individuals are an increasing focus for the Public Prosecution Office.

Comment

Although Turkish anti-corruption laws have not yet been enforced to a significant extent in respect of corporate malpractice, new investigations are expected in the near future as awareness is growing and the so-called 'parallel state' is continuing in its aim to reveal the corruption that takes place behind the government's closed doors.

Consequently, certain threshold considerations should be taken into account by companies operating in Turkey to avoid the risk of being accused of corruption. To avoid such investigations, companies must assess carefully and more broadly the risks resulting from their activities. Furthermore, they should take precautions to prevent any affiliations with companies that trade with Iran or other blacklisted countries, and as well as with companies mentioned in the investigations by the Public Prosecution Office. In order to minimise the risk of an investigation, companies operating in Turkey should:

- demonstrate a commitment to anti-corruption;
- implement appropriate policies and procedures;
- periodically conduct due diligence; and
- build an effective system for monitoring and surveillance purposes.

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