

White Collar Crime - Turkey

Legislative developments in fight against corruption

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Introduction

The government's strategy for increasing transparency and strengthening the fight against corruption for 2010 to 2014 was published in the *Official Gazette* on February 22 2010. This action plan provides a strategy for tackling corruption, focusing on three main components:

- preventive measures;
- law enforcement measures; and
- measures to raise awareness.

Within the scope of this action plan, measures expected to be taken by the government include:

- completing the ongoing work for the creation of ombudsmen;
- improving the transparency of the financing of political parties and elections;
- finalising expected legislation regarding state and trade secrets; and
- revisiting the public procurement system.

Legal response to corruption

The Criminal Code (5237/2004) remains the main regulation that governs corruption and bribery. However, as the name suggests, this is a general law for all types of crime of which only a few provisions are allocated to corruption and bribery. Those provisions cover the definitions, variations and penalties relating to such crimes. As a result of the code's wide-ranging scope, the application and enforcement of the corruption and bribery provisions are often ineffective.

Although some secondary legislation has been put in place (eg, the Law on Declaration of Assets and Combat against Bribery and Corruption), there is no umbrella law under which all those laws and regulations concerning corruption and bribery are mentioned or systematised. A special law focusing on corruption and bribery would be a positive development.

On the other hand, there are a large number of provisions in various laws (eg, the Commercial Code, the Customs Law, the Smuggling Law and the Tender Law) that deal with corruption in one way or another. The most significant of these is the Customs Law (4458). In the law and its associated regulation, as well as secondary communiqués related thereto, the main focus is on corruption, although the terminology used differs at times. This focus is understandable, as importers (whether real persons or legal entities) are continually interacting with customs officers to complete their transactions and the risks of bribery are high.

Comment

Turkey is undergoing a transformation in regard to how it sees corruption and bribery and how it deals with such acts. Society is becoming more aware of and more interested in the fight against corruption, and is no longer taking corrupt systems lightly. In response, with the amendment to Article 252 of the code, the legislature has broadened the scope of bribery (for further details please see "[Tackling domestic bribery: lawmakers and judiciary take staunch approach](#)"). Consequently, Turkey may expect less criticism from international bodies and

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advocates of anti-corruption activities in this regard in future.

In addition, the National Assembly is considering a draft law re-establishing liability for legal persons, which would also include corporate liability in respect of corruption. It is hoped that this law would increase the deterrent effect of measures against corruption.

A special law dealing with corruption and bribery in detail would also help to increase the effectiveness of deterrent actions. There have been discussions in some circles where practitioners and scholars have pressed for such a law, but the outcome of such discussions remains to be seen.

A recent trend shows increased intervention of prosecutors in commercial issues involving allegations of corruption and bribery. Such interventions seem to have taken the place of investigations in relation to people or issues of political or greater public interest, which is causing concern among practitioners and scholars.

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