**INFORMATION NOTE ON TURKEY’S EFFORTS**

**IN THE FIGHT AGAINST CORRUPTION**

The Republic of Turkey is a state governed by the rule of law. Supremacy of the law, respect of human rights and commitment to democracy are its inalienable values.

The responsibilities of the legislative, executive and judiciary organs are established by the Constitution and the relevant laws. The Constitution also guarantees that organs cannot use any power not conferred to them.

International agreements which have been duly ratified, are considered to be above national laws according to the Constitution. In this sense, in line with the supremacy of law and the establishment of international standards, important steps have been taken in the fight against corruption in Turkey.

**1. Transparency**

One of the main criteria in the fight against corruption is transparency. The activities related to the intensification of the fight against corruption are carried out within the context of the “Strategy to Increase Transparency and Strengthen the Fight against Corruption”, adopted by the Council of Ministers on 1 February 2010. As required by the afore-mentioned document, an Action Plan for the implementation of this Strategy was also prepared by the Prime Minister’s Office.

Art. 71 of the Constitution requires public servants to declare their properties as well as their claims and debts at regular intervals and stipulates that those working for legislative and judiciary organs cannot be exempted from this.

Also in the context of endorsing transparency, following international agreements have been signed by Turkey:

* UN Convention Against Corruption,
* UN Convention against Transnational Organized Crime
* The Council of Europe Civil Law Convention on Corruption
* The Council of Europe Criminal Law Convention on Corruption
* The European Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime
* The European Convention on the Obtaining Abroad of Information and Evidence in Administrative Matters
* OECD Convention on Combating Bribery of Foreign Public Officials

**2. Reform of the Legislation**

The recommendations and requirements established by the UN Convention against Corruption have been met to a larger extent by the domestic legislation. In particular, the national legislation has been rendered consistent to a great extent with the provisions laid out in the chapters “Preventive Measures”, “Asset Recovery”, “Criminalization and law enforcement” of the Convention.

**a) Criminalization of corruption**

Although there is no basic criminal offence defined as “corruption”, different types of criminal offences have been established in domestic legislation.

The relevant articles of the Turkish Penal Code include offenses related to the abuse of trust (Art. 155), forgery of official document (Art. 204), forgery of special document (Art. 207), tender-rigging (Art. 235), fraud in execution of contract (Art. 236), divulgation of trade secret (Art. 239), extortion (Art. 247), negligence in supervision (Art. 251), misuse of bank or credit cards (Art. 245), bribery and provisions related to bribing of foreign officials (Art. 252), misconduct of officials (Art 257).

With the amendments made in 2013 to the “Law on Declaration of Wealth and Fight against Bribery and Corruptions”, direct investigation in cases of corruption offences has been adopted. Prosecutors that receive a complaint or an information may carry out an investigation at their own initiative and press public charges if necessary.

**b) Prosecution and criminal case process**

 According to domestic legislation, no specific rules apply for the prosecution of corruption crimes. In line with the Criminal Procedure Code, general provisions of relevant laws apply in cases of corruption.

 In some cases of embezzlement as well as in more serious cases such as smuggling, arms and drugs trafficking, Turkish legislation promotes those who report illegal acts. In this regard, the legislation foresees reward and gratification and providing security measures to whistle-blowers. Although legislation on rewarding is complex and the reward might be granted, the common provision of various laws stipulate to keep the identity of whistle-blowers confidential.

 In terms of the Law on Taxation, rewards on the reporting of tax irregularities are offered on the basis of Law No. 1905 on “Reward for Whistle-blowers of Concealed Permanent Taxes for Movable and Immovable Property and their Usufruct Rights”, which entered into force on 31 December 1931 and is still in effect.

 Furthermore, relevant provisions of the Anti-Smuggling Law, which entered into force on 31 March 2007, set forth a reward for whistle-blowers on the basis of reporting crimes as stated in the said law.

**3. Institutional Reforms**

Since 2001, Turkey has realized important reforms in the field of public administration, specifically in the fight against corruption. In this regard, some important provisions are listed below.

a) The public procurement system in Turkey was reformed with the aim to ensure that bidding procedures are conducted in compliance with international standards and to guarantee competition, transparency, equal treatment, increase of savings as well as efficiency and to prevent irregularities. In this regard, Law No. 4734 on “Public Procurement” and Law No. 4735 on “Public Procurement Contracts” entered into force on 1 January 2003.

b) Subsequently, the afore-mentioned laws have enhanced the transparency and accountability of public procurements. The Public Procurement Institution concludes complaints regarding bidding procedures and plays a crucial role in safeguarding the constitutional principles of “Right to Remedy” and “Equality before the Law”.

c) With reference to changes made in the Public Procurement Law, the creation of the Electronic Public Procurement Platform (EPPP) can be mentioned as one good practice in the fight against corruption. The decree to implement the EPPP entered into force on 17 December 2010. Every year public administrations across Turkey conduct thousands of bidding processes. The main reason for improving electronic procurement applications is to ensure transparency, competition, effectiveness, efficiency and savings. Furthermore, procurement processes can be standardized, and integrity, accuracy and consistency of information can be ensured. Public auditing on accountability can also be created.

d) The Law No. 3628 on “Declaration of Property and Fight against Bribery and Corruption” can be mentioned as another example of good practice. This law stipulates that in certain time intervals public servants have to declare to relevant authorities their movable and immovable properties as well as their claims and debts, including of their marital partners and children. It also stipulates that public servants can be directly investigated for crimes of bribery, dishonesty, tender-rigging, smuggling and revelation of state secrets. This regulation aims to prevent unlawful profit, bribery and unfair advantage/benefit. Likewise, another law (Law No. 5176) prohibits public servants to receive gifts under some conditions.

e) With the aim to uphold ethic principles, the Action Plan on “Increasing Transparency and Strengthening Fight against Corruption” has created new institutions on various levels. These institutions are tasked to investigate corruption allegations and to eliminate any human rights violations caused by these cases.

f) In 2010, a Special Section has been established within the General Directorate of Security (National Police) dealing with the proceeds of crime.

**-Ombudsman’s Institution**

As another good practice in terms of fighting corruption, the Ombudsman’s Institution, an independent and impartial institution started its functioning on 12 December 2012. It contributes to the protection and promotion of human rights in the sphere of public administration. Its deliberations play an increasingly crucial role in the fight against corruption.

Dependent of the Grand National Assembly of Turkey and with its own specific budget, it monitors and investigates all acts, operations and general behaviour of the administration (including local administrative bodies and social security institutions), with a view to uphold the rule of law and to make recommendations thereupon. Within the framework of these investigations, all required documents and information should be provided within 30 days.

The Ombudsman’s Institution started to accept complaints or applications by individuals as of 29 March 2013. The Institution received a total of 17655 applications as of 31 August 2015 (7638 in 2013, 5639 in 2014 and 4378 in 2015). It has deliberated on 6097 cases in 2013, on 6348 cases in 2014 and on 4506 cases in 2015. In 6082 cases, the deliberations were in favor of the applicant. In addition, 90 applications were solved with reconciliation.

**-Ethical Board of Public Servants**

 Another institution supporting anti-corruption efforts within the administration is the Ethical Board of Public Servants. Established in 2004, this Board with 11 members has the following powers and functions:

* Set forth ethical behavioral principles for public servants, such as transparency, impartiality, integrity, accountability and monitor their implementation,
* Pursue investigations following applications upon allegations of violations of ethical principles and inform relevant authorities about the result of the investigation accordingly,
* Review, whenever needed, the declarations of property that have to be made by public servants,
* Determine the limits of the ban on receiving gifts by public servants and whenever needed, request the list of gifts received by higher level public servants (General Director and higher) at the end of each calendar year.
* Conduct and support research activities on distilling a culture of ethics within the public administration.

**4. Right to Information**

Increasing transparency within the administration is a critical aspect of the efforts aiming at reducing corruption. One of the most important steps taken in this direction is the Right to Information Act, effective as of 24 April 2004. With the latest Constitutional amendments adopted in 2010, right to information has become a Constitutional right.

In this context, a Communication Center has been established in 2006 at the Office of the Prime Minister (“Başbakanlık İletişim Merkezi” - BIMER). Basically, BIMER is a public tool benefiting largely from information and communication technologies, consisting of an interactive online platform of questions and answers. It also has a dedicated phone line for placing inquiries (“ALO-150”). Through BIMER, individuals can forward their request of information to relevant authorities, including allegations of human rights violations. The relevant authorities have to reply to the request at the end of a 15 working days or a 30 days deadline according to the nature of the request. As such, BIMER ensures that individuals stay connected to the public administration and get answers to their questions, in a transparent manner, keeping the channels of information constantly open.

**5. Witness protection**

In the area of witness protection, a Law enacted on 27 December 2007 is a particularly significant legal document. This law confers important powers and duties to all public institutions, especially the Ministries of the Interior and Justice, as well as to the other private and corporate entities.

Likewise, a European Union twinning project with the IRZ Foundation (Germany) has been launched on institutional capacity building on the implementation of measures on witness protection, with the participation of the Ministry of Justice, the General Directorate of Security (National Police) and the General Command of Gendarmerie.