

Anti-corruption Practices in Turkey

Most countries assure independency and impartiality of their civil servants by means of to-the-point legislation. Specific laws play an important role in the enhancement of state administration and elimination of time-consuming bureaucracy which traditionally goes hand in hand with corruption. They also contribute to the creation of a pacifist social environment where citizens' trust in public authority is soaring.

The Turkish legislator has enacted a set of laws providing for restrictions as to (i) post-employment of civil servants and (ii) their receipt of gifts or hospitality by persons with whom they have dealt within the course of their public duty. The most noteworthy pieces of legislation setting norms of ethical conduct in this respect are highlighted below.

I. Employment of civil servants

First of all, Law No. 657¹ on Civil Servants (the **Law**) prohibits civil servants from being involved in any commercial activity. Therefore, throughout their employment with the government, civil servants can neither be employed by nor provide consultancy services to any private entity.

Furthermore, Law No. 2531² on Works Banned From Being Performed by Civil Servants Who Quit Public Duty stipulates that, unless otherwise provided by law, former government officials are prohibited (for a period of three 3 (three) years from the date of their retirement or resignation) from acting as broker, representative or consultant, directly or indirectly, towards government agency(ies) that they have served in the last 2 (two) years before their date of retirement or resignation, with regards to the activities falling within the scope of their past duty. The violation of such prohibition may result in the imprisonment of the civil servant in question from 6 (six) months to 2 (two) years.

For instance, in case a civil servant, who is formerly employed by the Turkish Privatization Administration (**TPA**), resigns and establishes his/her own consultancy firm, he/she cannot provide any consultancy services relating to the activities of the TPA for a period of three 3 (three) years starting from his/her resignation date. There are recent court precedents sanctioning such behavior.

II. Gifts and Hospitality received by Civil Servants

• Under domestic law

Applicable legislation. Turkish law provides for a very rigid scheme in order to prevent civil servants from receiving gifts and/or hospitality. Apart from the Turkish Constitution, circulars and decisions of the Council of Ethics for Civil Servants (*Kamu Gorevlileri Etik Kurulu*) (the **Council**) are worth to be considered. The Council has been established in accordance with Law No. 5176³ on Establishment of the Council of Ethics for Civil Servants and is empowered to determine code of ethics to be abided by civil servants throughout their public duties.

Rule. The Law forbids civil servants to receive gifts and hospitality in connection with their duties (the **Rule**). Regulation on the Ethical Behavior Principles of Civil Servants (the **Regulation**)⁴ also prohibits civil servants from receiving gifts or obtaining further benefits for themselves, their relatives, third parties or institutions from individuals or legal entities in relation to their duties. The Regulation does not set any monetary limit on such gifts or benefits. According to the Resolution (*ilke kararı*) No. 2007/1 of the Council, the receipt of gift or hospitality, irrespective of its monetary value, constitutes a violation of the Rule set forth by both the Law and the Regulation.

Scope. The scope of the Regulation covers civil servants other than the President of the Republic in addition to the members of the Parliament, Council of Ministers, Turkish Armed Forces, the judiciary

¹ Published in the Official Gazette dated 23 July 1965 and numbered 12056.

² Published in the Official Gazette dated 6 October 1981 and numbered 17480.

³ Published in the Official Gazette dated 8 June 2004 and numbered 25486.

⁴ Published in the Official Gazette dated 13 April 2005 and numbered 25785.

administration and state universities. Therefore, apart from the excluded persons, the norms of ethical conduct stipulated in the Regulation are mandatory for all civil servants.

Exceptions. Article 15 of the Regulation provides that the following items do not fall within the scope of the Rule: (i) gifts donated to institutions or received on the condition that they are allocated to public service, registered with the inventory list of the relevant public institution and announced to the public; (ii) books, magazines, articles, cassettes, calendars, CDs or similar materials; (iii) rewards and gifts received within public contests, campaigns or events; (iv) souvenirs given in public conferences, symposiums, forums, panels, meals, receptions and similar events; (v) advertisement and handicraft products distributed to everyone and having symbolic value; and (vi) loans extended by financial institutions on market conditions.

For the avoidance of any confusion on the above-listed exceptions, the Regulation also provides another list of items that should be interpreted within the scope of the Rule: (i) gifts of greeting⁵, farewell and celebration⁶; scholarships; travel fees; cost-free accommodation⁷ and gift vouchers received from those who have a service or interest relationship with the institution that the respective civil servant(s) works for; (ii) transactions performed at unreasonable prices compared to market price while purchasing, selling or hiring service, movable or real property; (iii) gifts including jewelry, clothes, food or any other goods offered by those benefiting from the public service; and (iv) loans and borrowings obtained from those who have business or service relationship with the relevant institution.

All-in-all, civil servants in Turkey are strictly forbidden to receive gifts or hospitality. In a recent interview published in the *Hurriyet* newspaper⁸, the president of the Council stated that although some countries (e.g., the United States) set some monetary limits for civil servants to accept gifts or hospitality, such limit in Turkey is determined as “zero”.

• Under international law

Turkey is party to a number of international conventions combating bribery (*i.e.*, Council of Europe Civil Law Convention on Corruption; Council of Europe Criminal Law Convention on Corruption; and United Nations Convention against Corruption, which is signed but not ratified by the Parliament as of 1 February 2010⁹). Moreover, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (the **Convention**), which was ratified by Turkey in 2000 through Law No. 4518¹⁰, is also noteworthy.

The first and most important consequence of the application of the Convention has been the establishment of the Council having the authority to dictate the ethical conduct standards of civil servants.

In accordance with the *Phase 2 bis Report on the Application of the Convention and the 1997 Recommendation on Combating Bribery in International Business Transactions*¹¹, which was approved and adopted by the Working Group on Bribery in International Business Transactions on 18 June 2009, Turkey has showed significant progress in complying with the recommendations of the Working Group on Bribery.

Accordingly, (i) a number of foreign bribery cases are currently under investigation, (ii) a law introducing corporate liability for foreign bribery up to TL 2,000,000 (approximately EUR 1,000,000) has been adopted by the Turkish Parliament¹² in accordance with the suggestions of the examination team, and (iii) Turkey has implemented a wide range of awareness-raising efforts.

⁵ Pursuant to the resolution No. 2008/2 of the Council, teachers are prohibited receiving gifts (except for flowers and alike) from their students on Teacher’s Day.

⁶ Decision of the Council dated 5 November 2009 under No. 2009/40, as published in the Official Gazette dated 18 December 2009 and numbered 27436.

⁷ Decision of the Council dated 23 January 2009 under No. 2009/1, as published in the Official Gazette dated 7 March 2009 and numbered 27162.

⁸ <http://www.hurriyet.com.tr/gundem/13323346.asp> (in Turkish language).

⁹ <http://www.masak.gov.tr/en/LaunderingProceedsofCrime/Chronology.htm>

¹⁰ Published in the Official Gazette dated 6 February 2000 and numbered 23956.

¹¹ <http://www.oecd.org/dataoecd/2/18/43198860.pdf>

¹² The Law No. 5918 Amending the Turkish Criminal Code and some other laws, published in the Official Gazette dated 9 July 2009 and numbered 27283.

The Phase 3 examinations of the OECD countries will begin in 2011, whereby the representatives of Iceland and Bulgaria will be in charge of conducting the examination of Turkey throughout 2014.

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