



**CORRUPTION
ASSESSMENT REPORT
TURKEY**

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SELDI is an anti-corruption and good governance initiative formed by NGOs from Albania, Bosnia-Herzegovina, Bulgaria, Croatia, Kosovo, FYROM, Montenegro, Serbia, and Turkey. In addition to providing support to local civil societies, SELDI has the capacity to assist in policy making and joining public forums through its deliberation mechanism in fighting corruption and promoting good governance. This civil society initiative increases public knowledge and supports reformist policy making in good governance at the local level and anti-corruption policy forum. SELDI is coordinated by the Center for the Study of Democracy and TESEV Good Governance Program is a member of this network.

CORRUPTION ASSESSMENT REPORT TURKEY

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INTRODUCTION

This report is the product of the research conducted by TESEV's Good Governance program under the network of Southeast European Leadership for Development and Integrity (SELDI). Comprised of 15 NGOs from the states of Montenegro, Bosnia-Herzegovina, Serbia, Albania, FYROM, Kosovo, and Turkey, all of whom have aspirations of joining the European Union, alongside the recent EU member states Croatia and Bulgaria, the SELDI network acts as a transnational research and collaboration platform for these NGOs.

The main goal of the SELDI partnership, through empirical research and data-based assessments of corruption, is to understand and alleviate the problems of corruption and the lack of good governance, which have become a deep-rooted ailment in Southeastern European states and Turkey.

This report documents the agenda of the first phase of the SELDI partnership that spans 2012 through 2014. Along with presenting evidence on the degree of corruption in Turkey, the report analyzes the current legal setting and the effects of corruption on the economy. It emphasizes the importance of a free judicial system, the role of civil society, and the benefits of international collaboration in fighting corruption. The paper also offers possible solutions to fighting corruption, focusing on the elements that make corruption commonplace. The second phase of the SELDI partnership (2014-16) will continue with capacity building projects and public awareness campaigns.

The survey presented in this report was conducted between February 28th and March 11th, 2014 and the results indicate an increase in the number of respondents who view corruption as the most significant policy issue in Turkey. 44% of the respondents believe that corruption is the most urgent problem to tackle and 9% declared that they gave a bribe in the past year, far surpassing the levels indicated by the surveys done in the EU.

Since the early 2000s, a number of international organizations have criticized Turkey's anti-corruption laws and policies, to which Turkey has responded by showing its willingness to reduce the levels of corruption to European standards through various programs. Among these, the most significant study is the *2010-14 National Anti-Corruption Strategy* published under the instigation and guidance of organizations including GRECO, which provides a legal framework for anti-corruption strategies. This document serves as a guideline for the Prime Ministry Inspection Board to 'increase transparency and strengthen the fight against corruption.' Although the adoption of this strategy has gained significant pace, the Committee of Ministers has yet to disclose their decision at this stage. As indicated in the EU progress reports, this process lacks transparency and the involvement of civil society.

As can be inferred by the suggestions in this report, Turkey needs to adopt new regulations in legal statutes and institutional operations to decrease corruption. The most important steps to be taken in this direction will be the revision of the permissions system regarding the legal cases of civil servants and prevention of impunities, formation of a Council of Political Ethics, and reorganization of the Council of Ethics for Public Service. Further progress is needed on mandatory declaration of financiers for election campaigns and declaration of property and the regulation of the Public Procurement Law to conform to the EU norms.

It is imperative for public officials, businesses, and civil society to quickly and effectively address the issue of corruption, which has become a chronic problem that affects both living and work conditions. We hope the following data and the evaluations in the report will shed light on the anti-corruption efforts and good governance reforms that will be undertaken in Turkey.

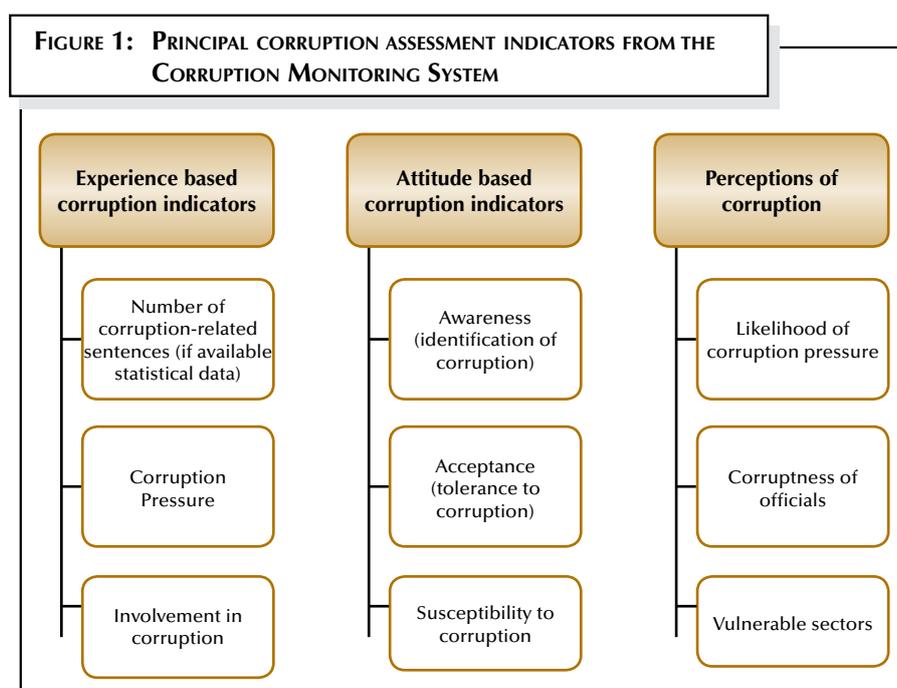
CHAPTER 1 – CORRUPTION LEVELS IN TURKEY

The survey was conducted between February 28th and March 11th, 2014, lasting 12 days. It has a sample size of 1206 people and uses random sampling. 15% of the sample lives in rural areas whereas 84% lives in urban areas. Most of the participants are between the ages of 18 and 49 (above 18 years of age).

This data was collected and organized by adopting the methodology of the Corruption Monitoring System as preferred by other SELDI network partner countries. The sampling frame was designed on the basis of the NUTS system (Nomenclature of Territorial Units for Statistics).¹ The findings of the national survey are analyzed to demonstrate the public perceptions regarding corruption and the degree of its penetration in various social structures and public institutions in Turkey.

Corruption Indexes

The Corruption Monitoring System features four pairs of indices (classical indices), which measure attitudes, involvement, assessments, and expectations through calculating a function of relevant questions. For the needs of the SELDI project, another model of indices (new indices) was developed to demonstrate the corruption and anti-corruption environment in a country by monitoring the share of the population who had experience with corruption. Below are the indices results of the Turkey survey on corruption.



¹ NUTS (nomenclature d'unités territoriales statistiques) is a geocode standard used by the European Union for referencing the subdivisions of countries for statistical purposes. Turkey has been using this system in various research projects since 2002.

Classical Indices

Attitudes Towards Corruption

Acceptability in Principle - This index reflects the extent to which corrupt practices or corruption is tolerated within the value system of the society. The mean value for Turkey for the acceptability index is 1.8, which is very close to the lowest value 0, standing for unacceptable. We believe that this result stands more for normative unacceptance and not necessarily tolerance, since it is possible to state that the degree of tolerance towards corrupt practices is not as low.

Susceptibility to corruption - This index measures citizens' inclination to compromise their values under the pressure of circumstances, i.e. when faced with real life situations, which require making a decision on whether to seek corrupt behaviors or not knowing that there will be immediate consequences for the decision-taker. The value for this index in Turkey is 1.4, which falls into the category of 'I would not accept/pay under any condition/means'.

Involvement in Corrupt Practices

Corruption pressure - This index measures the incidence of attempts by public officials to exert direct or indirect pressure on citizens in order to obtain money, gifts, or favors and stands at 1.0 on a scale of 0 to 10. The officials in the public sector seem to exert pressure on citizens in a negligible number of cases in Turkey.

Involvement in corrupt practices - The index reflects the self-assessed involvement of the respondents in various forms of corrupt behavior (bribery). The Turkey result stands at 0.6, again very close to the lowest level of 0; pointing to no corrupt transactions with public administration.

Assessment of the Spread of Corruption

Spread of corruption - This index registers citizens' assessments of the spread of corrupt practices among public sector employees. The value in Turkey stands at 5.2, which is closer to the 6.6 value, which indicates most officials are involved in corruption.

Practical efficiency of corruption - This index shows citizens' assessments of the extent to which corruption is an efficient means of solving personal problems, i.e. it assesses whether corruption pays off. Turkey's index value stands at 5.4, which shows that corruption is a rather likely efficient means to solve personal problems.

Corruption Expectations

Potential to reduce corruption - This index registers citizens' assessments of the capacity (potential) of their societies to cope with the problem of corruption and stands at a value of 4.4 in Turkey, falling closer to the 3.3 level pointing that corruption in Turkey can be substantially reduced.

New Indices

These indices demonstrate the corruption and anti-corruption environment in a country by monitoring the share of the population who have had experience with corruption.

Identification (awareness) of corruption – According to the survey results, 63% of respondents have a high level of awareness of corruption, while 27% have a moderate and 9% a low level of awareness.

Level of corruption of the environment – According to this index, 82% of survey respondents in Turkey consider the overall environment as corrupt, while 18% consider it as not corrupt.

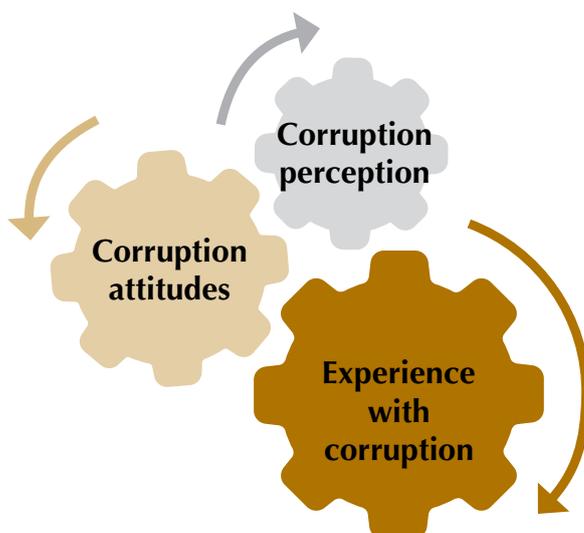
Susceptibility to corruption – According to the index calculation, 16% of the population is susceptible to corruption, 58% is not susceptible, and 26% portrays mixed behavior regarding declared behavior/ reaction to bribery opportunities.

Tolerance of corruption practices (acceptability) – This index calculation shows that 68% of respondents in Turkey do not accept while 32% accept corruption in their country.

Corruption pressure – This index shows that 42% of the respondents have had no contact with administration; among the population that has had contact 13% experienced corruption pressure (3% as don't know/not available).

Involvement in corruption – This index again shows that 42% of respondents have had no contact with administration; among the population that has had contact, 9% gave a bribe and 47% did not give a bribe (2% registered their responses as don't know/not available).

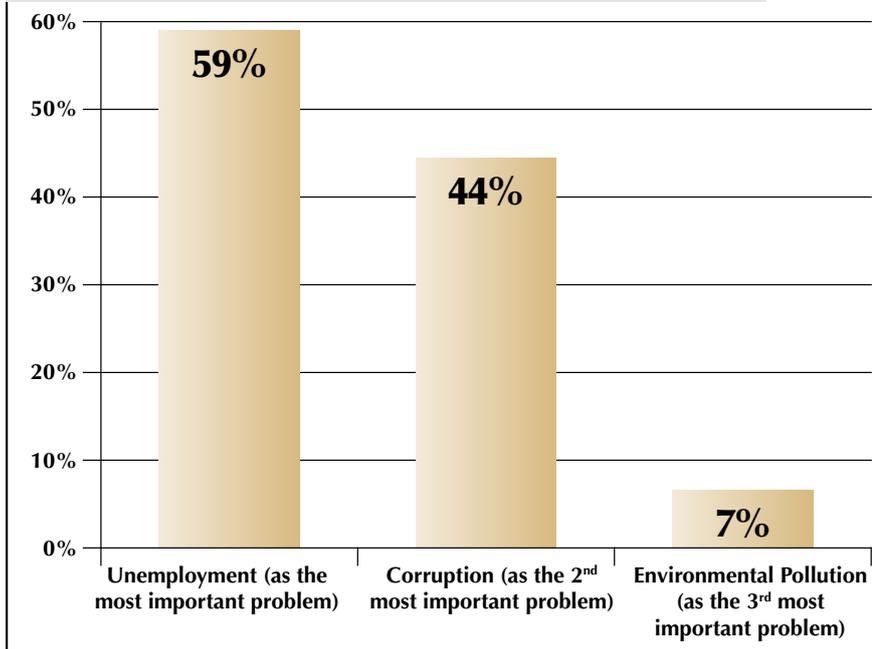
FIGURE 2: INTERACTIONS BETWEEN CORRUPTION INDICES



This graph visualizes the interaction between corruption indicators such as corruption perception, corruption attitudes and experience with corruption. Corruption perceptions and experience with corruption are in direct proportion meaning that corruption perceptions change in the same direction as experience with corruption. On the other hand, corruption perceptions are inversely related with corruption attitudes.

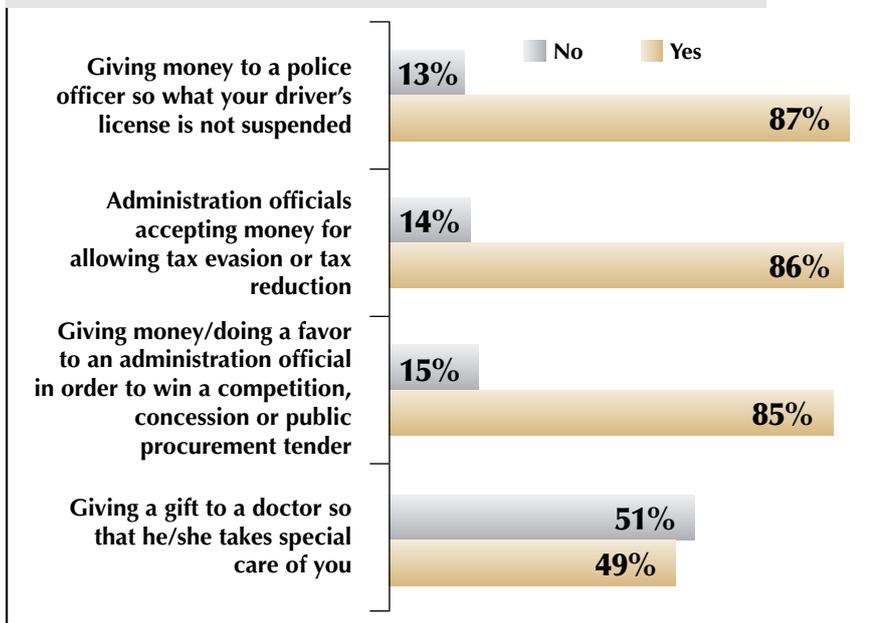
Important Findings of the Turkey Fieldwork

GRAPH 1: WHAT DO YOU BELIEVE ARE THE THREE MOST PRESSING PROBLEMS FACING TURKEY TODAY?



The question “According to you, which are the three paramount problems in Turkey today?” aims to identify how participants position “corruption” in Turkey among other problems in terms of its importance. The problem that is perceived most paramount in Turkey by 59% of the participants is “unemployment”. The second most pressing problem is “corruption”, with 44%. “Environmental pollution” follows as the third problem, though by wide margin, scoring only 7%. Although not directly comparable, 44% of the vote submitted to corruption seems to be higher than the results of surveys² of previous years.

GRAPH 2: WHICH OF THE FOLLOWING DO YOU CONSIDER TO BE EXAMPLES OF ‘CORRUPTION’?

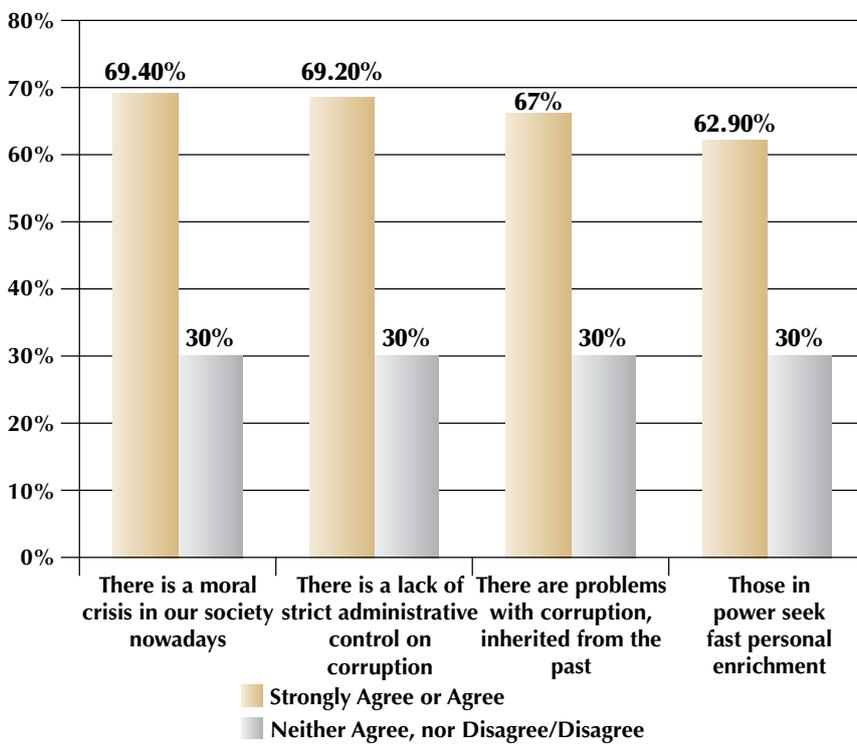


This question aims to discover what actions participants regard as “corruption”. 87% of the participants consider “giving money to a police officer so that your driver’s license is not suspended” as corruption, which is not a surprising result since this has traditionally been the most common form of corruption in Turkey. “Administration officials accepting money for allowing tax evasion or tax reduction” and “giving money / doing a favor to an administration official in order to win a competition, concession or public procurement tender” get the second and third places with similar percentages. The 2010 Global Integrity report states

that it is part of the Turkish culture to offer gifts; therefore, the regulations are generally ineffective, which might explain the contrast between gift giving and the rest of the examples.³

2 Surveys undertaken by other institutions for other research projects. For example, a TEPAV survey from 2008 shows corruption at 3% and a 2000 TESEV survey at 14% (of respondents seeing corruption as a problem).
 3 This report has been prepared by an independent civil society organization called Global Integrity. This organization prepares annual reports on transparency and accountability by using the Innovative Technologies. <https://www.globalintegrity.org/about/mission/>

GRAPH 3: WOULD YOU STRONGLY AGREE, AGREE, NEITHER AGREE, NOR DISAGREE, DISAGREE, OR STRONGLY DISAGREE WITH EACH OF THE FOLLOWING STATEMENT:



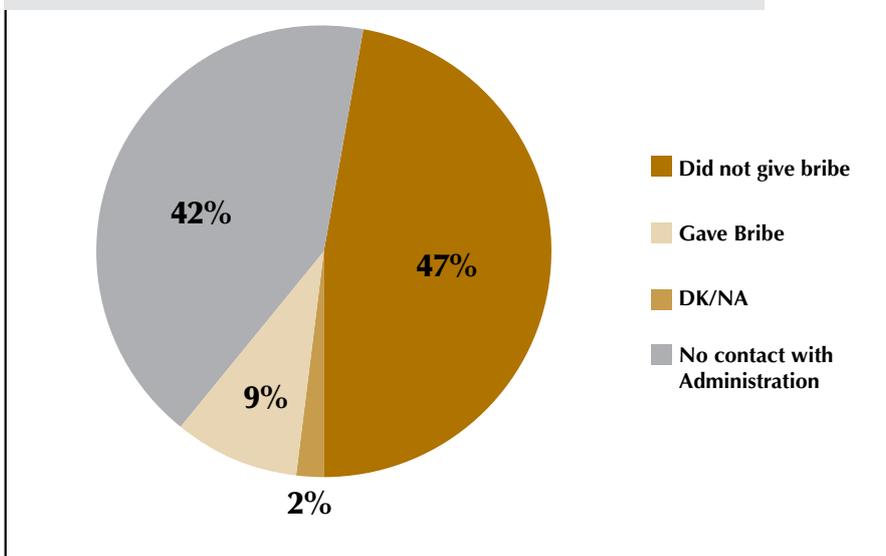
This question aims to identify the perception of the participants on the importance and the possible reasons for the presence of corruption in Turkey, and the functionality of the practices that fight corruption. As can be seen from the results, a dominating percentage of participants believe that there is a moral crisis in the society nowadays and a lack of strict administrative control on corruption. Also, 67% of the participants believe that some of the problems related to corruption are inherited from the past.

Spread and Dynamics of Corruption

This section sheds light on the most rooted corrupt behaviors in Turkey. It also aims to find out in which facets of the economic and political bodies' corruption is most common.

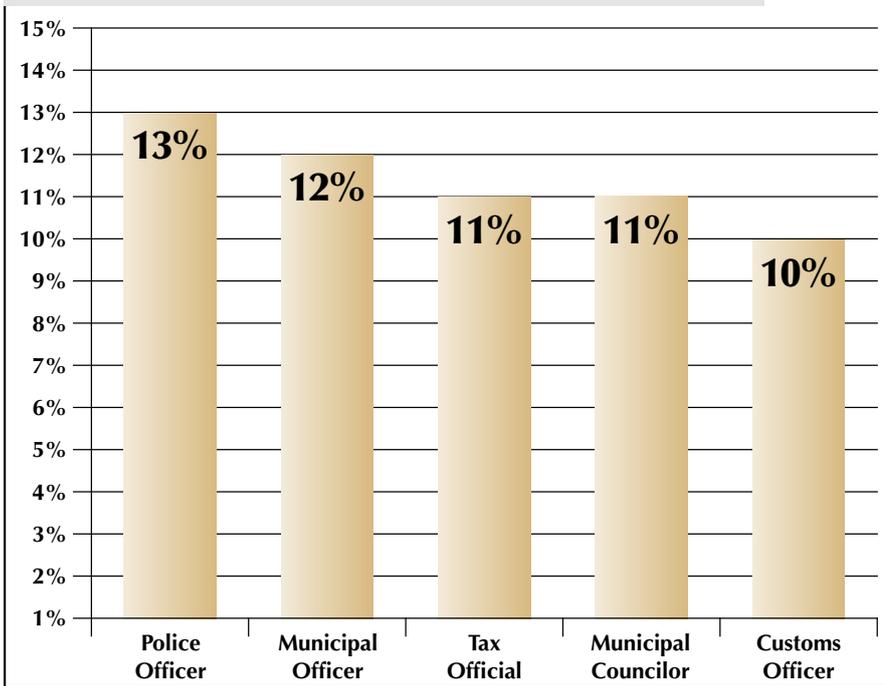
a. Involvement in Corrupt Practices (Actual Corruption)

GRAPH 4: REGARDING PUBLIC SECTOR EMPLOYEES WHOM YOU HAVE ENCOUNTERED AT ANY POINT DURING LAST YEAR, HOW OFTEN HAVE YOU GIVEN THEM MONEY, A GIFT OR DONE THEM A FAVOR?



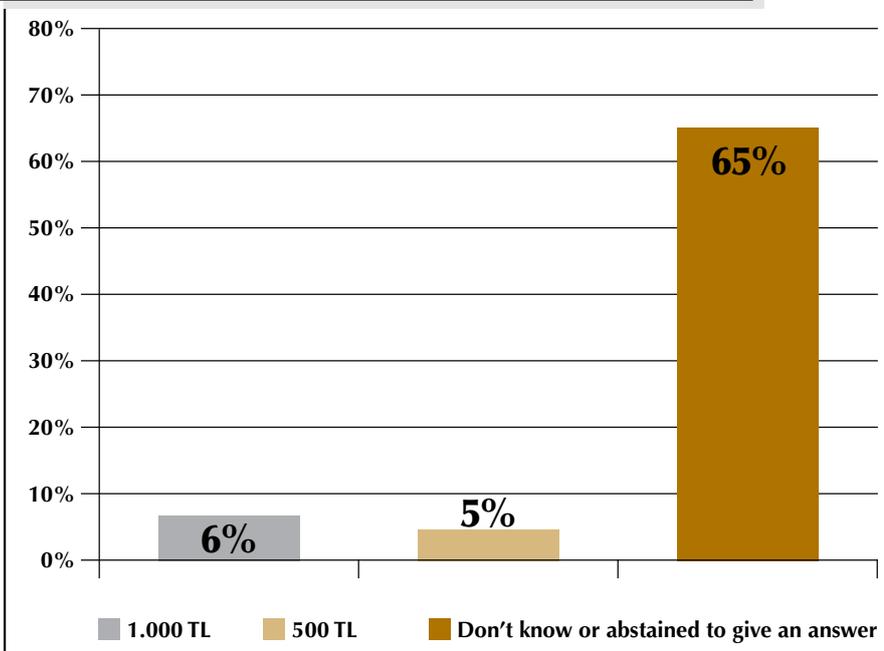
This chart demonstrates that 9% of the participants gave a bribe in their encounters with public sector employees. 47% said that they did not give bribe and 42% had no contact with administration during the last year.

GRAPH 5: WHICH OF THE FOLLOWING OCCUPATIONAL GROUPS HAVE DEMANDED MONEY OR GIFTS IN EXCHANGE FOR SOLVING YOUR PROBLEM WITHIN THE COURSE OF LAST YEAR?



This question aims to examine which group of public officials are thought to be involved in corrupt practices, and asks whether specific groups have requested a sort of remuneration in return for solving their problem. The groups that are stated relatively in higher percentages by the participants are police officers (13%), municipal officers (12%), tax officials (11%), municipal councilors (11%) and customs officers (10%). Other groups receiving less than 10% are not displayed here.

GRAPH 6: IN YOUR OPINION, APPROXIMATELY HOW MUCH TURKISH LIRA (TL) DOES AN AVERAGE CITIZEN OF TURKEY, NEED TO PAY IN BRIBES ANNUALLY?

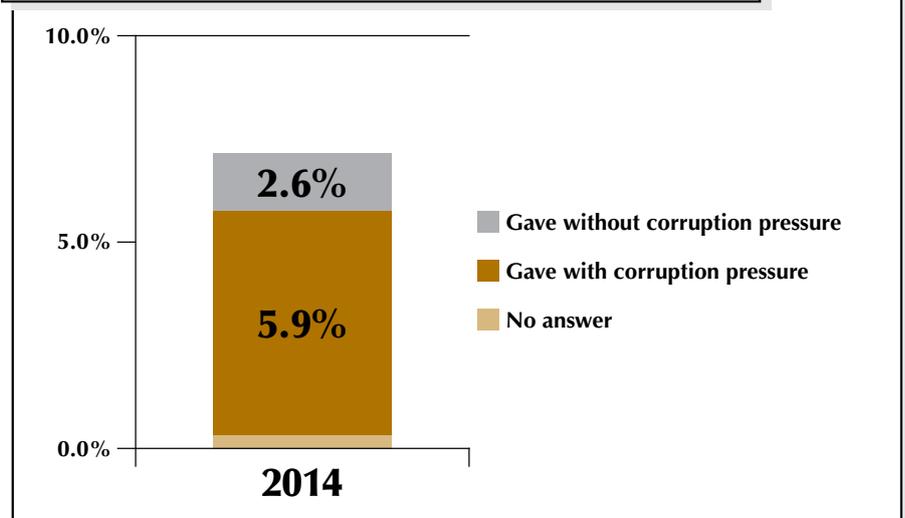


As an answer to the open-ended question, "In your opinion, approximately how much Turkish lira (TL) does an average citizen of Turkey need to pay in bribes annually?" 6% of the participants responded as "1000 TL". Then comes "500 TL" with 5%. However, the majority of the participants (65%) state that they don't know or abstained from giving an answer.

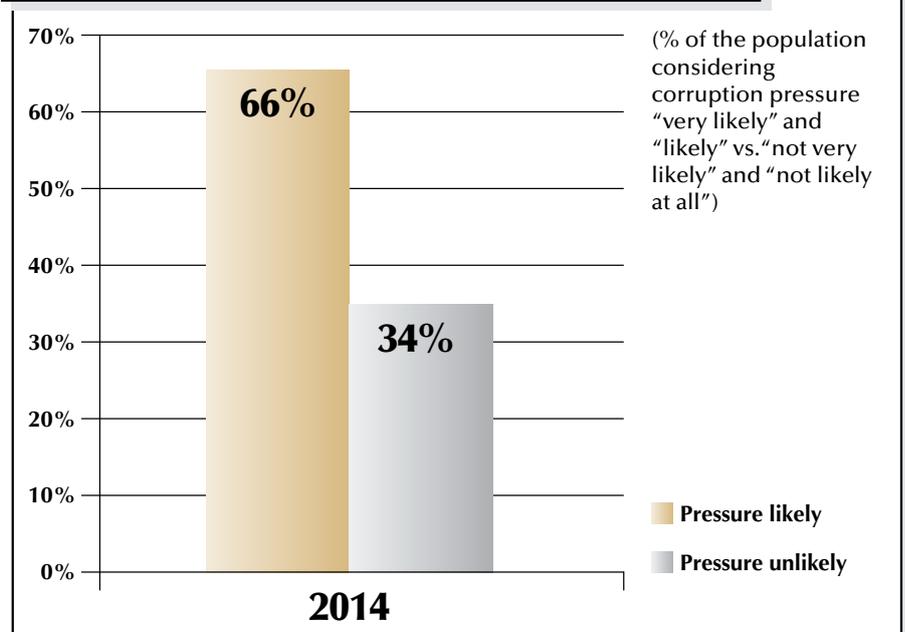
b. Corruption Pressure

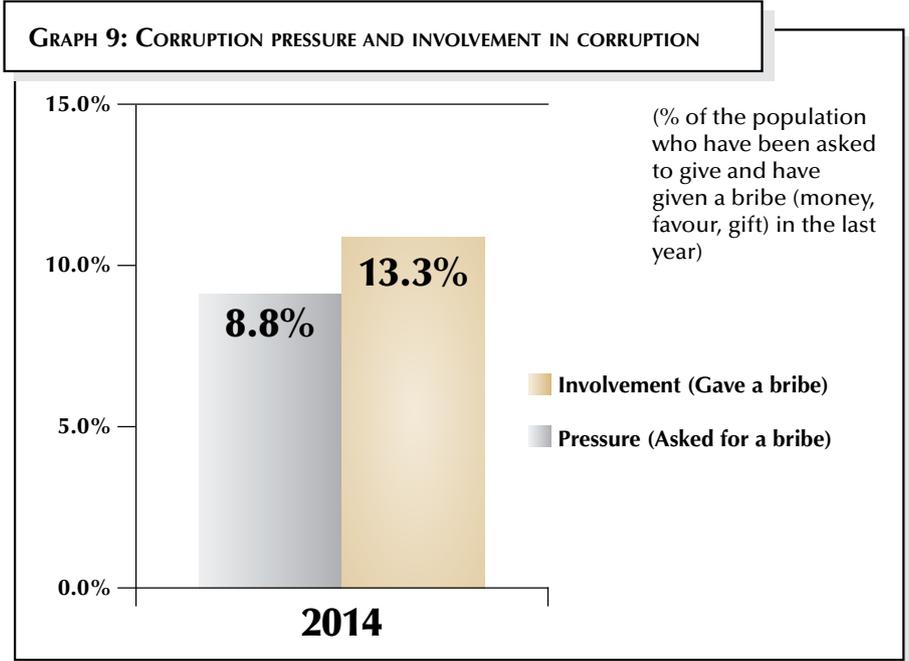
This section discusses the public servants' direct and indirect pressures to receive bribes or gifts from citizens. The evidence described in the bottom panel shows how these pressures increase the propensity to instigate corruption. The results indicate that the majority are goaded into bribery or gift-giving by public servants..

GRAPH 7: INVOLVEMENT IN CORRUPTION WITH OR WITHOUT CORRUPTION PRESSURE

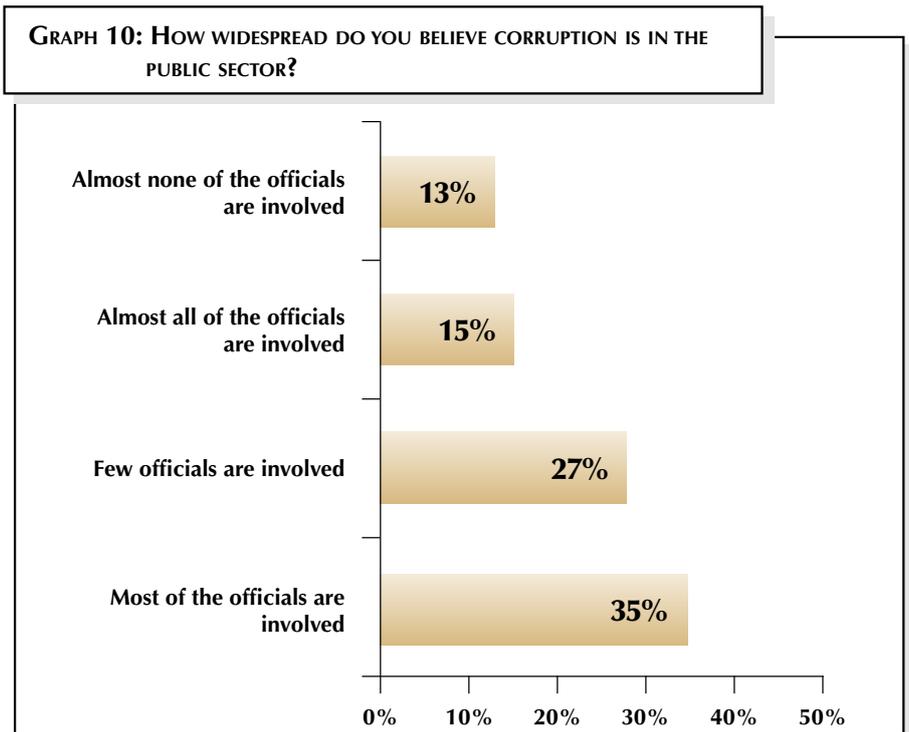


GRAPH 8: PERCEPTIONS OF THE LIKELIHOOD OF CORRUPTION PRESSURE (%)



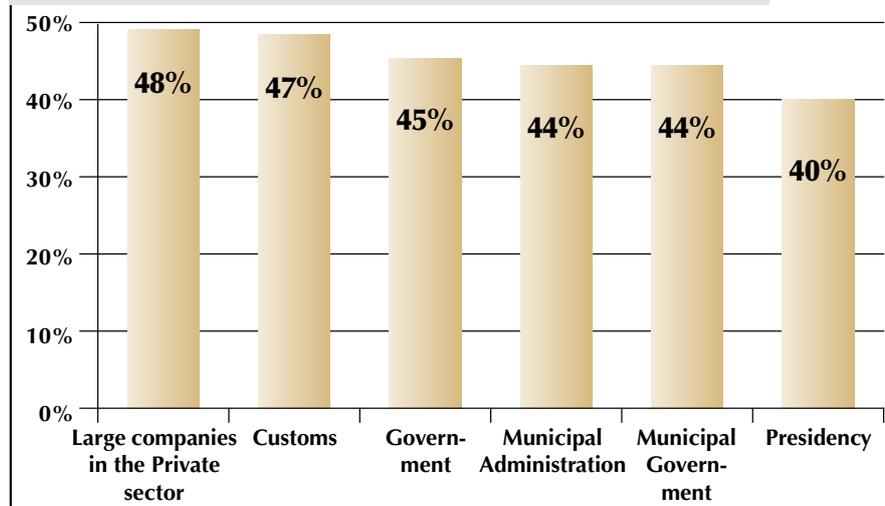


c. Assessment of the Spread of Corruption



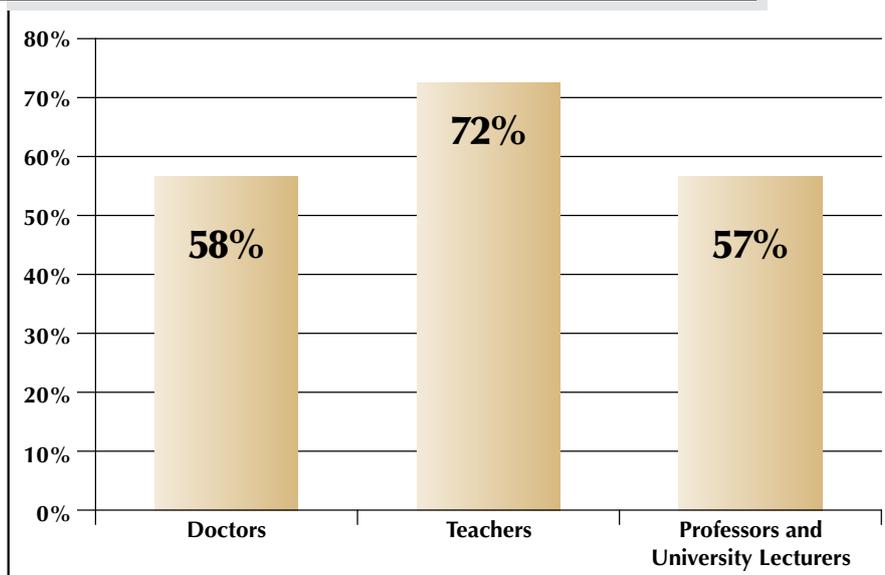
35% of respondents believe that most public officials, 27% believe few officials and 15% believe almost all officials are involved in corruption. This means 50% of respondents believe most or almost all public officials are involved in corrupt activities. On the other hand, only 13% believe none of the officials are involved.

GRAPH 11: ACCORDING TO YOU, WHAT IS THE DEGREE OF CORRUPTION PROLIFERATION IN THE FOLLOWING INSTITUTIONS?



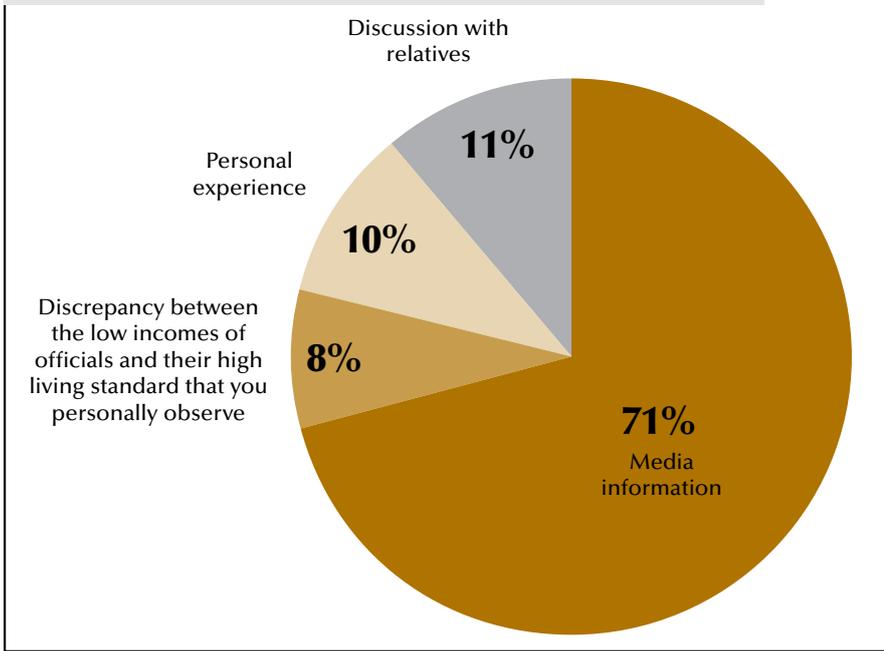
In the question, “According to you, what is the degree of corruption proliferation in the following institutions?” participants are asked to evaluate the degree of corruption on a scale of 1 to 5, where 1 stands for “not proliferated at all”, and 5 for “proliferated to the highest degree”. Considering values 4 and 5 calculated together, “large companies in private sector” received the highest percentage, with 48% of the participants considering there to be a high degree of corruption in these institutions. Second is “customs” with 47%, and third “government” with 45%. Municipalities follow with 44%. The “Presidency” is considered as “not proliferated at all” by 40% of the participants.

GRAPH 12: PERCEPTION OF CORRUPTNESS OF PUBLIC OFFICIALS – LEAST CORRUPT:



On the other hand, teachers, university officials or professors, and doctors are groups that are believed to be less involved in corruption. Considering teachers, 72% of the participants believe that “few are involved” or “barely anyone is involved” in corruption. Similarly, this ratio for doctors is at 58%. University officials or professors are also believed not to be involved or to be rarely involved in corruption by 57% of the participants.

GRAPH 13: ON WHICH OF THE FOLLOWING DO YOU BASE YOUR OPINIONS AND VIEWS OF CORRUPTION IN TURKEY?



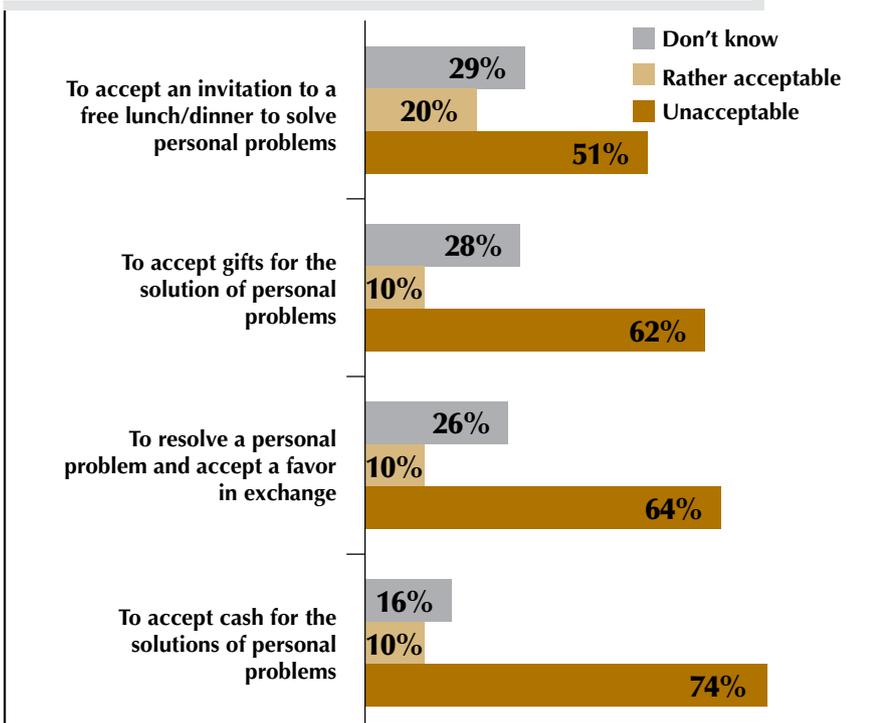
This question looks at the dynamics and factors behind the corruption assessment of the survey participants; 71% of the participants take media information as the basis of their views and only 10% state that their perception is based on personal experience. Obviously, mass media and social media are playing a vital role in people’s perception of corruption, as Twitter, Facebook and even Soundcloud have become very common elements of news and opinion spread in Turkey, especially in the last two years. For future anti-corruption efforts, the significance of media coverage should be taken into consideration.

Attitudes Towards Corruption

This part attempts to reflect the extent to which corrupt practices or corruption are tolerated within the value system of the society.

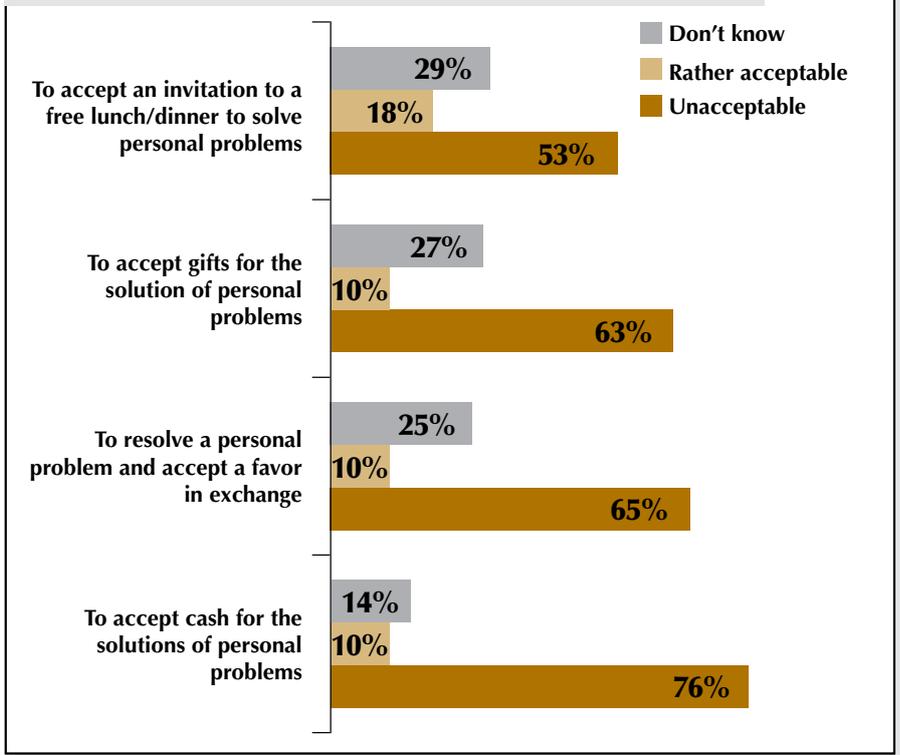
a. Principal Acceptability of Corruption

GRAPH 14: OF THE FOLLOWING ACTIVITIES THAT MEMBERS OF PARLIAMENT DO OR COULD DO, WHICH DO YOU THINK ARE ACCEPTABLE OR UNACCEPTABLE?

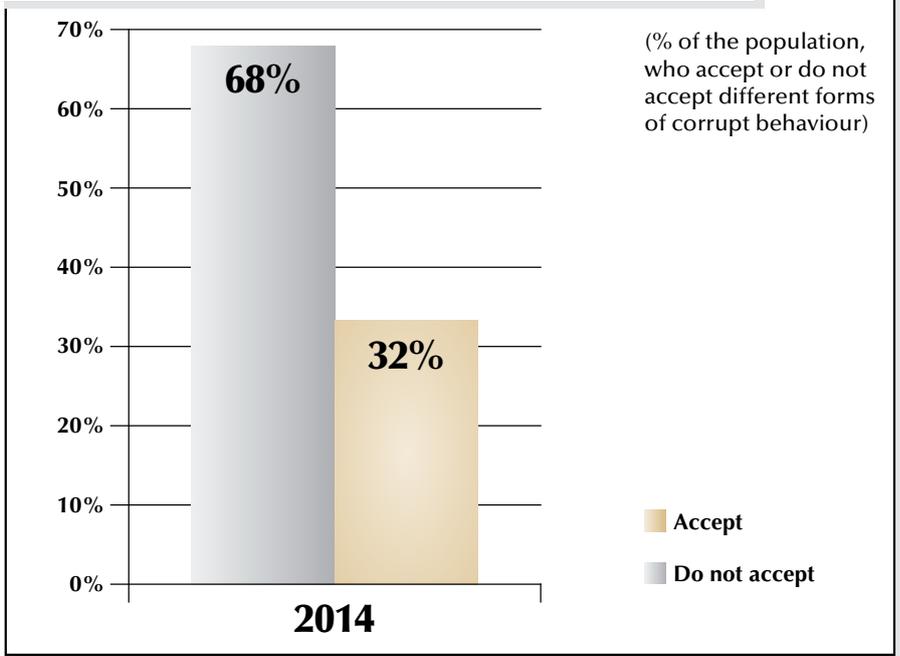


A large majority of respondents believe members of the parliament accepting cash for the solution of their personal problems is unacceptable. There is a softer approach to accepting gifts or a favor in exchange for a certain service. 20% of the respondents believe that accepting a free lunch/dinner invitation is not problematic. We get similar outcomes when this questioning is applied for “officials at ministries, municipalities and mayoralities”. Gift giving for privileged services is especially widespread in Turkey, not only to public officials but to private service providers as well.

GRAPH 15: OF THE FOLLOWING ACTIVITIES THAT A MUNICIPAL OFFICIALS OR EMPLOYEES DO OR COULD DO, WHICH DO YOU THINK ARE ACCEPTABLE OR UNACCEPTABLE?

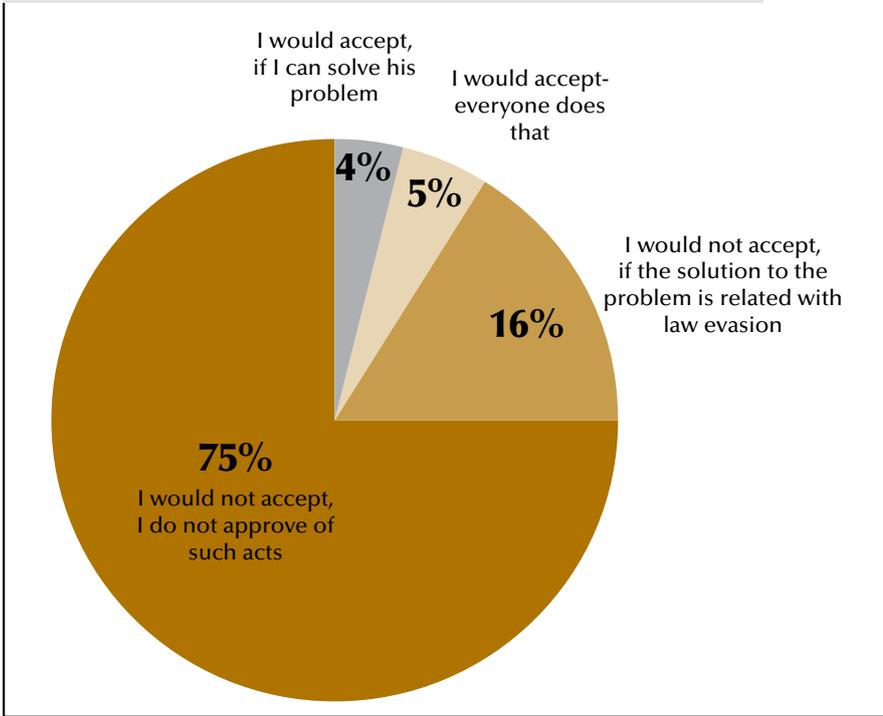


GRAPH 16: ACCEPTABILITY OF CORRUPTION



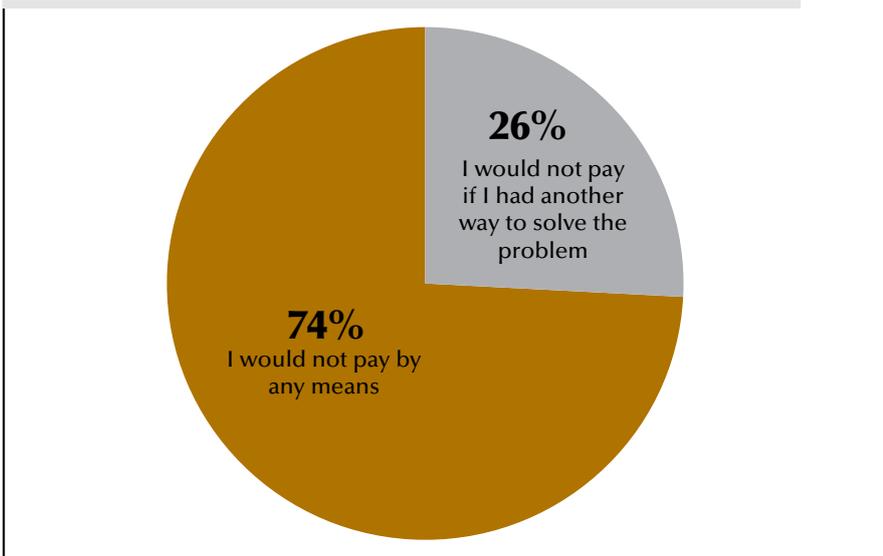
b. Susceptibility to Corruption

GRAPH 17: IMAGINE YOURSELF IN AN OFFICIAL LOW-PAID POSITION AND YOU ARE APPROACHED BY SOMEONE OFFERING CASH, GIFT OR FAVOR TO SOLVE HIS/HER PROBLEM. WHAT WOULD YOU DO?



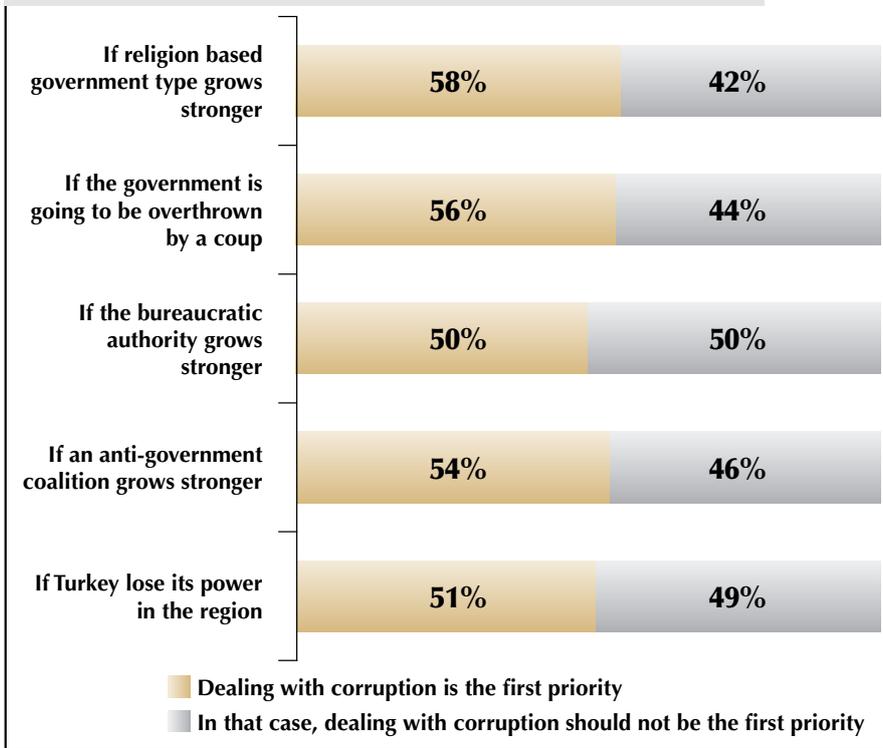
This section aims to measure citizens' inclination to compromise on their values under the pressure of circumstances, i.e. when faced with real life situations, which require making a decision on whether to seek corrupt behavior or not. 75% of respondents state that they do not approve of such acts and they would not accept any cash, gift or favor. This is not a surprising outcome, since this is a normative question, and in terms of a normative approach to common values, values always come up high in Turkey.

GRAPH 18: IF YOU HAVE A MAJOR PROBLEM THAT HAS TO BE SOLVED AND YOU WERE DIRECTLY ASKED FOR MONEY IN ORDER TO RESOLVE IT, WHAT WOULD YOU DO?



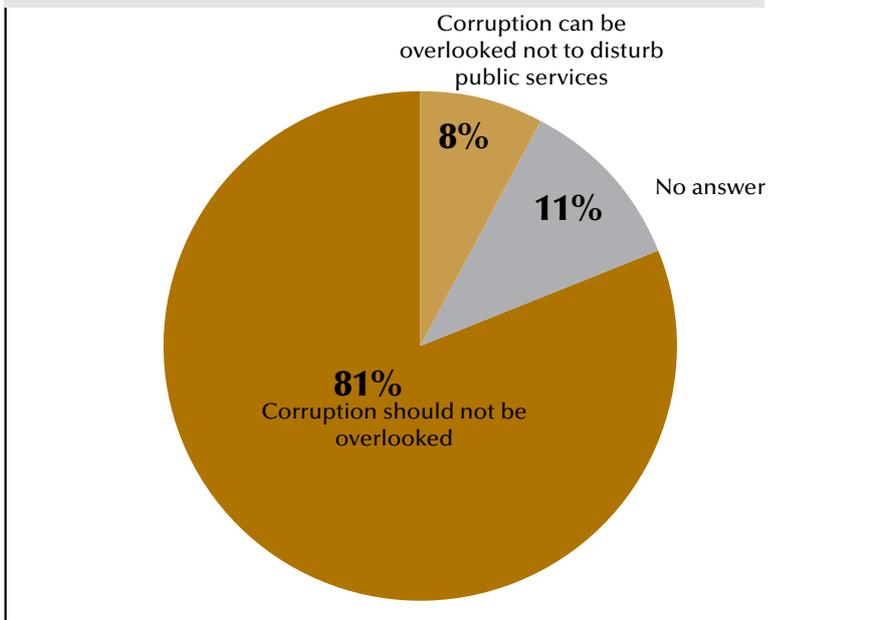
In terms of offering cash/gift, 74% state they would not pay under any circumstances even if they had a major problem to be solved. There is a possibility that a 26% might pay if they had no other way to solve their problems.

GRAPH 19: AMONG THE FOLLOWING SITUATIONS, WHICH ONE DO YOU CONSIDER IS THE FIRST PRIORITY TO DEAL WITH; CORRUPTION OR THESE SITUATIONS?



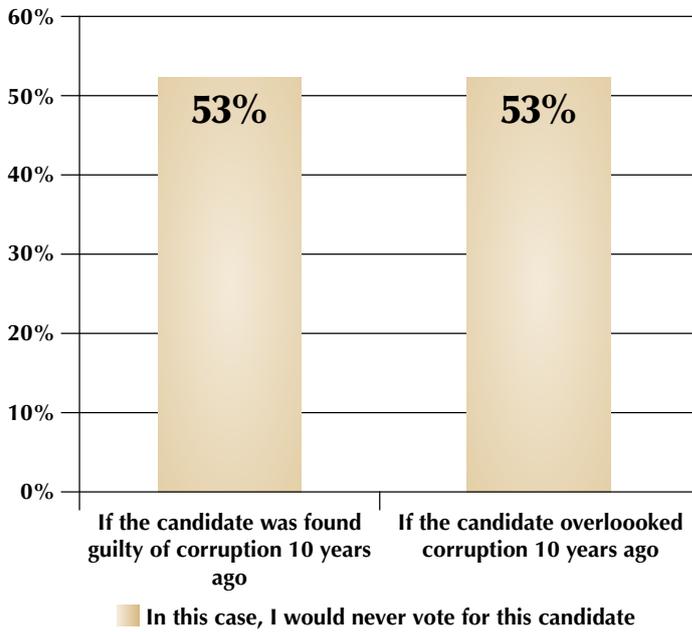
According to survey respondents, fighting corruption seems to be the first priority when measured against possible major threats, historically embedded in the society. This means there should be no leeway in the fight against corruption even if the country is faced with major political threats and/or problems.

GRAPH 20: WHICH OF THE FOLLOWING STATEMENTS REFLECT YOUR THOUGHTS ON THE ISSUE?



The purpose of this question is to understand under which circumstances tolerance to corruption increases. 81% of the respondents believe that corruption should not be overlooked even when it can disturb public services while 8% believe corruption can be overlooked in favor of better public services.

GRAPH 21: HOW WOULD THE FOLLOWING SITUATIONS AFFECT YOUR VOTING TENDENCIES IN THE LOCAL ELECTION?

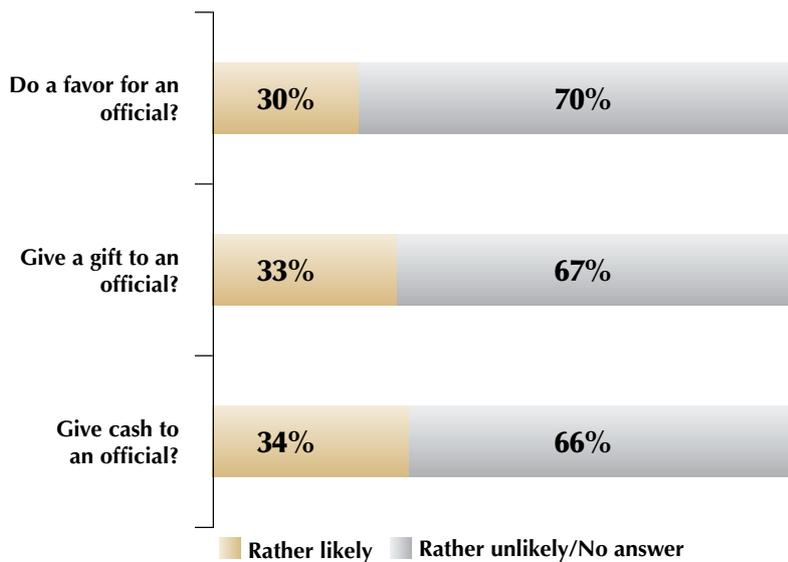


This question was asked in order to evaluate corruptions' impact of voting behavior. 53% of the respondents stated that they would never vote for a candidate who 'was found guilty of corruption 10 years ago'. The percentage of respondents whom indicated that they would never vote for a candidate who overlooked corruption 10 years ago is also 53. In the remaining situations such as; 'If the candidate was accused by corruption by another candidate', 'If you saw news on the television and in newspapers that the candidate is corrupt', 'If someone you trust told you the candidate is corrupt' and 'If the candidate is a suspect in a corruption case' the percentage of respondents

who state that they would never vote for that candidate varied from 35% to 45%.

c. Practical Efficiency of Corrupt Practices

GRAPH 22: IN ORDER TO SUCCESSFULLY SOLVE ONE'S PROBLEM IS IT LIKELY OR IS IT NOT LIKELY HE/SHE TO HAVE TO:

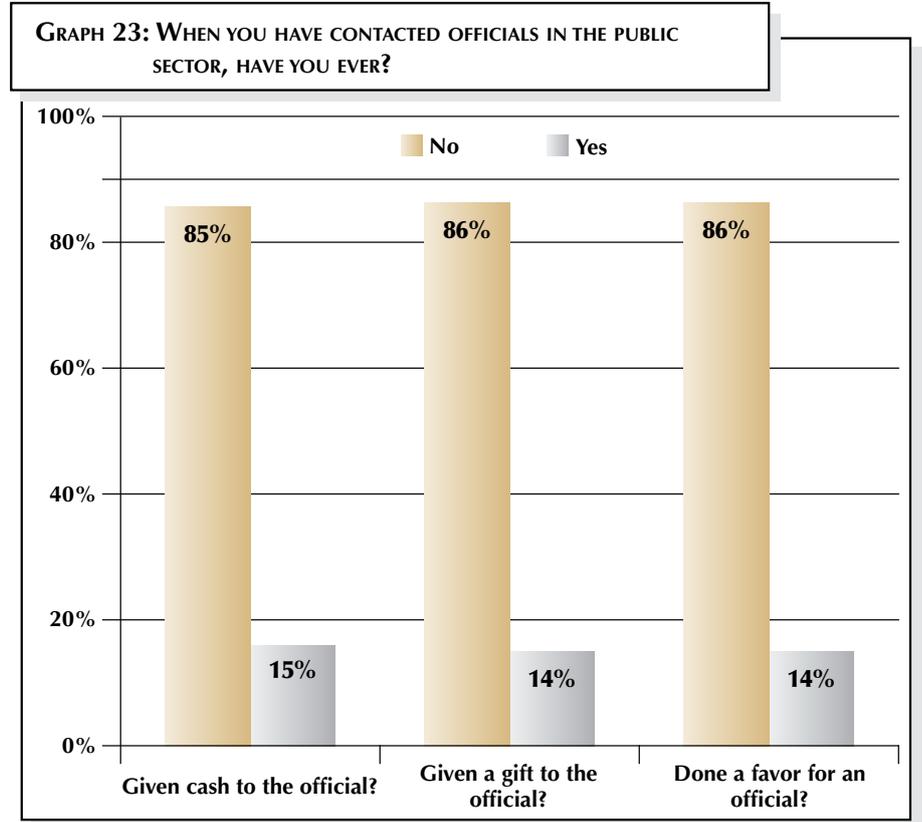


Between 66-70% of the respondents believe that offering a favor/gift/cash to a public official is not likely to successfully solve their problem. This is a promising result as it shows that the majority of the people do not view bribes as an effective tool and will therefore not employ it.

Anti-corruption

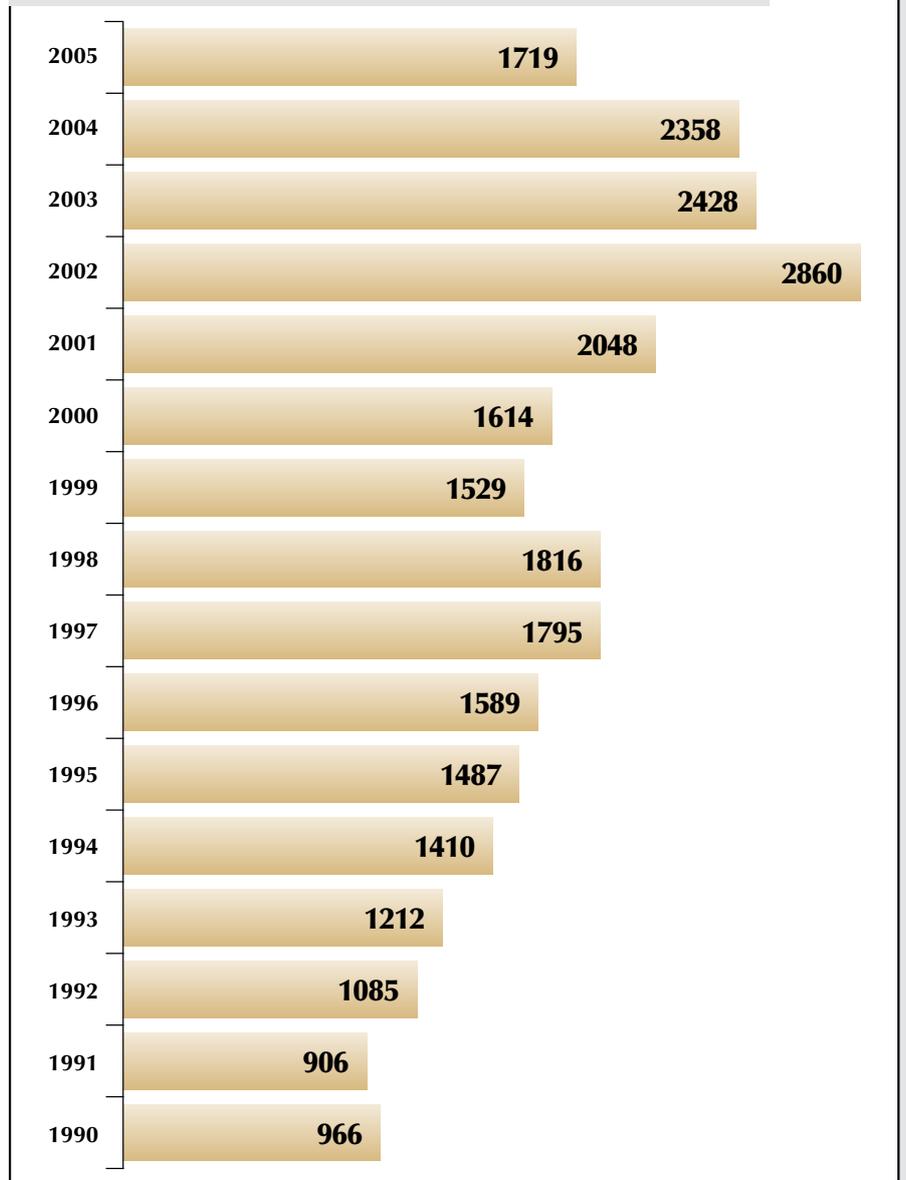
This section attempts to reveal the most urgent necessities of the anti-corruption campaign in Turkey. The data gained from this section is beneficial in presenting the demand-driven roadmap for future anti-corruption policy-making in Turkey.

a. Corruption in State Institutions

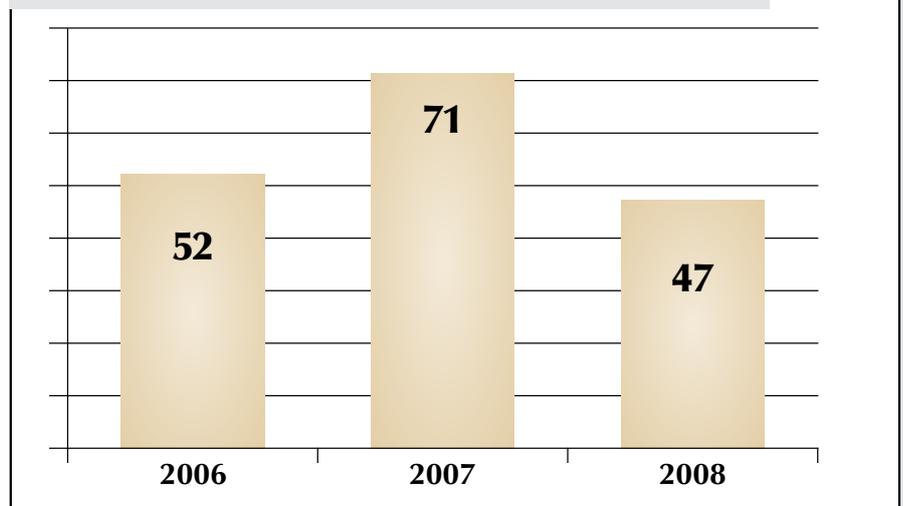


This question aims to measure the personal involvement of respondents in various forms of corrupt practices. For all three options (cash, gift, favor), a significant majority of the participants responded that they did not have to offer something in any case.

**GRAPH 24: NUMBER OF PEOPLE SENTENCED TO BRIBERY, ABUSE OF OFFICE
(BRIBERY DONE BY PUBLIC OFFICER) AND FORGERY.**



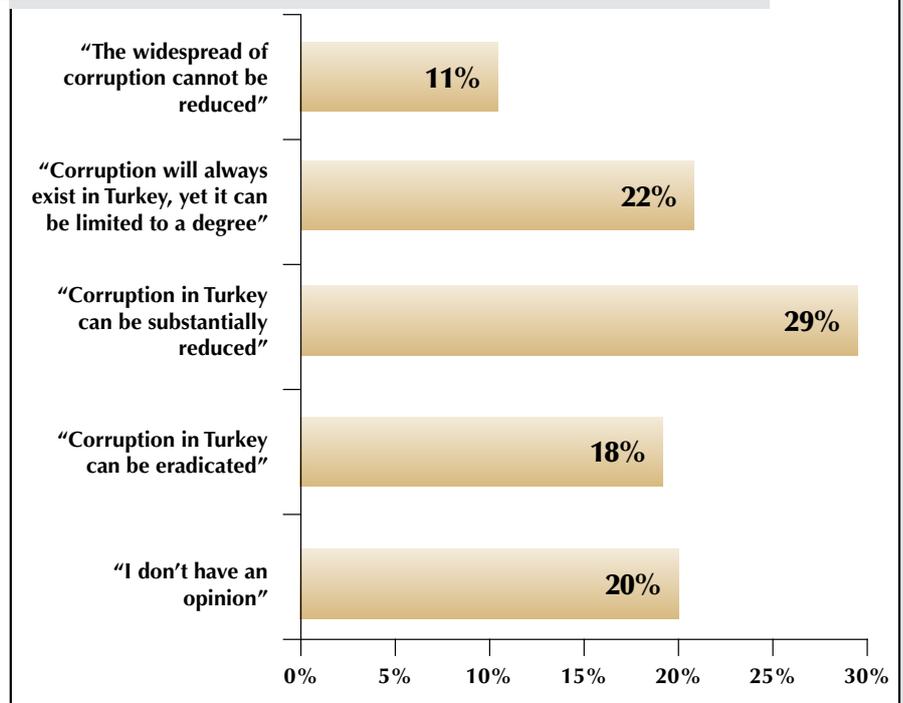
GRAPH 25: NUMBER OF PEOPLE SENTENCED FOR BRIBERY (2006-2012)



Before 2005, the Turkish Statistical Institute grouped bribery along with abuse of office and forgery creating one joint category. Since 2005, abuse of office has not been included in the statistical categories list and forgery and bribery have been considered as two different categories.

b. Corruption Expectations

GRAPH 26: IN VIEW OF CORRUPTION IN TURKEY, WHICH OF THE FOLLOWING OPINIONS IS CLOSER TO YOUR OWN?



47% of respondents believe that corruption in Turkey can be eradicated or substantially reduced whereas only 11% believe that the widespread corruption cannot be reduced.

CHAPTER 2 – ANTI-CORRUPTION POLICIES AND THE REGULATORY ENVIRONMENT

Efforts Towards Enhancing Transparency and Strengthening the Fight Against Corruption in Turkey

Among Turkey's anti-corruption documents, the "Action Plan of Enhancing Transparency and Strengthening the Fight Against Corruption" which was initiated with the 2002 Council Decree and the TBMM Corruption Inspection Commission report has been the most influential.

In the light of these documents, Turkey enacted the most up to date strategy and action plan in 2009. This action plan, named the **National Anti-Corruption Strategy Plan** (2010-2014), was announced in the Official Gazette of the Republic of Turkey annexed with the Council Decision.

The Strategy Plan states that the implementation of policies and reforms to help alleviate the issue of corruption should cover all demographic groups of citizens in civil society. The aim of the Strategy Plan is as follows: "To develop and implement a perception of governance that is just, accountable, transparent, and credible, that would not only continue the reform attempts since 2002, but also bear in mind the multiple factors that feed into lack of transparency and predicament of corruption."

The three main components of the 2010-2014 Strategy Plan are 1) to prevent, 2) to impose sanctions on, and 3) to raise awareness about corruption. Through these objectives, accountability, transparency and trustworthy administrative mentality are aimed to be established alongside raising awareness on the subject matter. The Strategy Plan clearly states that in order to realize these three main goals, it is foreseen that amendments to legislation and also the constitution may need to be made. The Plan has prepared 18 preventive measures under the title of 'Measures to Prevent Corruption'; 3 under the title of 'Measures on Imposing Sanctions'; and 7 under the title of Measures on Raising Awareness'.⁴ The working groups for each measure followed up on their research and reports and presented their work to the Executive Board, who then delivered it to the Council of Ministers. At this period of time, the decisions of the Council Ministers remain unannounced. Even though The Strategy Plan has been practice since 2010, the 2014 EU Progress Report stresses that it lacks transparency and a participatory approach encouraging the role of civil society contribution.

Criminal Law and Procedure for Anti-corruption in Turkey

In the national legislation of the Republic of Turkey, corruption is within the scope of provisions relating to crimes and sanctions. However, the lack of an exact definition of corruption in the legislative framework is certainly a deficiency. There is more than one law that both directly and indirectly addresses corruption and involves any activity done with corrupt

⁴ The Executive Board is led by the Prime Ministry Undersecretariat Vice-President and has delegates from the Ministries of Justice, Internal Affairs, Finance, Turkish Union of Chambers and Commodity Exchange (TOBB), Ministry of Labor and Social Security and representatives from Turkish business.

and fraudulent means and mechanisms.⁵ Although the Council of Ministers introduced an integrated bill 'Fight against Corruption' to the Parliament in 2004, it was later withdrawn from the Parliamentary Commission of Justice.

Enacted in 1990, law numbered 3628, directly addresses anti-corruption. This law titled **"Declaration of Assets and Combating Bribery and Corruption"** is one of the main pillars of legislation targeting anti-corruption in Turkey. The law regulates asset ownership and obligates public officials to declare their assets on a regular basis in order to monitor any increase in income. Public officials include members of the cabinet, mayors, certain high level officials of the Turkish Red Crescent and Turkish Aeronautical Association, notaries, certain senior officials of the public institutions, officers of ministries, municipalities, state economic enterprises, presidents and members of political parties, boards of trustees and executive directors of any charitable foundations, cooperatives, and unions and executive boards, directors and editors-in-chief of newspapers.

The law aims to monitor any increase in the assets of public officials and others (mentioned above) who mainly perform activities that are directly related to the public interest. Any asset, the value of which exceeds the amount of their salary for five months is to be declared. The declaration also needs to specify the means of acquisition of the assets. Asset declaration should be made in five-year intervals; at the beginning and end of the office term. Those who fail to meet this obligation can be punished with imprisonment from three months to a year. On the other hand, incorrect declaration would result with imprisonment from six months to three years. The person who is charged with such an offense, may also be prohibited from working as a public official for the amount of imprisonment they are sentenced to.

Officials who obtain unlawful, inexplicable assets—the sources of which cannot be proven according to laws or public morals or assets that are not compatible/proportional to their revenues—may be prohibited from working in public administration for the rest of their lives. The penalty of imprisonment cannot be converted into monetary fines. The law also states that a public official who receives a gift from a foreign country, entity or individual is obligated to transfer the gift to the public body he/she works for if the value of the gift exceeds the public official's salary of ten months.

The asset declarations are confidential unless a senior level public servant is subject to a criminal investigation. There is no verification mechanism for public servant asset declaration forms. However, the Council of Ethics, Investigation Boards or prosecution have the authority to start an investigation on the declarations in cases of denunciation and complaint. Yet, it should be noted that this is not a sufficient mechanism to maintain a strong monitoring of the asset declarations in the public service. The existing law and the Asset Declaration Regulations do not state any specific procedural information or the measures of which should be taken throughout the procedure. Therefore, internal monitoring needs further instructions on objective analysis, measurement and evaluation of the asset declarations of public servants and

5 Durna, Mustafa. Patoğlu, Ayşe. "Turkey Corruption Report". TUMIKOM: Parliamentarians and Elected Officials.

there needs to be established regulations on this particular procedure. The greatest shortcoming of internal monitoring mechanisms of congruity of asset declarations is that there are no detection based and objective investigation, measurement, identification and evaluation methods that have been set by the laws and regulations.

Furthermore, according to article 18, if any secretaries of state, mayors, federal judges and district governors are accused of the offences listed in article 17, further authorizations are required as stated in Law No: 4483.6 If the authorization is not given to proceed with prosecution, the prosecutor still has the right to file a complaint with the Public Prosecutors. However, in that case Public Prosecutors have the right to withdraw the case and since the State Council First Department and District Administrative Court always verifies the decision of withdrawal, such accusations towards high level officials do not go through an official investigation. This loophole in the law resulted in a verdict of public infringement in both the Hrant Dink case in the European Court of Human Rights and in the incident of the Bayram Hotel in the Constitutional Court of the Republic of Turkey.

In the reports of the European Court of Human Rights, the Constitutional Court of the Republic Turkey, the EU Progress Report, GRECO and in the EU Anti-Corruption Convention, the importance of 'not granting impunity and/or privilege to any public official during corruption investigations' has been further emphasized. Also, the 20 main principles of the European Union's Anti-Corruption document published in 1997 clearly states that: 'in a Democratic society impunities of public officials should be limited in order to facilitate the investigation, evaluation and prosecution of all kinds of corrupt behaviors'. However, the Turkish government has not shown any progress in paving the way for investigations of public officials by lifting immunities and limiting impunities.

Apart from Law No. 3628, **the new Turkish Penal Code No. 5237** was passed on June 1st, 2005. It denotes bribery as "providing benefit to a public official for the performance or omission of an act contrary to the requisites of the duties of the official".⁷ In the past few years, the government has enacted laws that amend the Penal Code, which included certain amendments that directly affect the persecution of bribery and bid rigging in tenders. With the provision of Law No. 6352 enacted in July 2012, the scope of the definition of bribery in the Turkish Penal Code's 252nd Act was expanded, amended and re-regulated. According to the law, if the person taking the bribe is a referee, notary or a certified councillorship, the sentences will be increased by one third.

6 According to the State Personnel Department, the number of public officials who are subjected to the permit system for persecution is 1.911.653. On the other hand, the number of high-ranked public officials such as soldiers, judges and governors who enjoy investigation and jurisdiction benefits are 2.305.251.

7 Ergün-Okuyucu, Güneş. "Anti-Corruption Legislation in Turkish Law". Criminal and Criminal Procedural Law Department of the University of Ankara. <http://www.germanlawjournal.com/article.php?id=859>.

With the new Law No: 5237 of Turkish Penal Code, bribery in the public sector is counted as a crime and the scope of application of rigging crimes has been expanded in order to bring it in compliance with international norms⁸. The definition of the crime and the scope of application of Law No: 5237 matches the international standards. However, in 2013 with Law No: 6459, the changes made in the 235th Act of the Turkish Penal Code and new penal times are not in alliance with legal interests protected by the rigging laws. With the acceptance of **Law No. 6459** by the Turkish Grand National Assembly (TBMM), public servants, who are involved in bid rigging acts, will face 3 to 7 years of imprisonment; the penalty used to be 5 to 12 years. If no public harm is done to a public institution, the penalty is reduced to 1-3 years. This enactment has been strongly criticized in European Commission progress reports.

One of the most important developments made as a part of the anti-corruption agenda is the changes made to the **Criminal Procedure Law No: 5271**. According to it, crimes such as bribery, embezzlement and bid rigging can be “monitored through technical assistance by recording sound and electronic evidence”, “followed by the office” and “claim it seizes ” in order to prevent such crimes.

Also, the following laws criminalize and control corruption in local governments: **Law No. 5216 called Efforts on Fighting Corruption and Improving Governance in Local Government Law on Metropolitan Municipalities, Law No. 5393 on Municipalities, and Law No. 5302 on Provincial Administrations**. These laws aim to ensure efficient and effective local governance, transparent and accountable expenditure management, strong internal controls and external audit, reporting and accounting, and sound legislative oversight.

In regards to procurement of goods and services, the Public Procurement Authority was established with the enactment of the **Public Procurement Law No. 4734** on January 4, 2002. **Article 17** of the Law states the criminalization of corruption and actions regarding rigging that are considered a crime. Rigging as a crime has been defined and referred to in Turkish Criminal Law Articles 235 and 236. According to these articles, the following acts are prohibited in tender proceedings:

a) to conduct or attempt to conduct procurement fraud by means of fraudulent and corrupt acts, promises, threats, unlawful influence, undue interest, agreement, malversation, bribery or other actions,

b) to cause confusion among tenderers, to prevent participation, to offer agreement to tenderers or to encourage tenderers to accept such offers, to conduct actions which may influence competition or tender decisions.⁹ This Law No. 4734, therefore, regulates, supervises and controls all public procurement in Turkey.

8 Ergün-Okuyucu, Güneş. “Anti-Corruption Legislation in Turkish Law”. Ankara Üniversitesi Ceza ve Ceza Usul Hukuku Bölümü. <http://www.germanlawjournal.com/article.php?id=859>.

9 Public Procurement Law No. 4734: http://www1.ihale.gov.tr/english/4734_English.pdf.

In recent years, the number of changes and exceptions in implementation made in the realm of Public Procurement Law shows that there is a divergence from international procurement laws and principles. In fact, the 2013 Progress Report mentioned this divergence by stating: 'Turkey needs to adopt an alignment strategy with a time-bound action plan and further align its legislation, particularly on derogations, utilities, concessions and public-private partnerships'.

This paragraph will briefly outline the **other legal arrangements** made as a part of the anti-corruption agenda from the beginning of the new millennium. In 2002, Banking Law No: 5020 aimed to fasten the process of collecting credits from the bankrupted banks. According to Banking Law No: 5411, a private bank's executive committee can be brought to trial in the case of embezzlement. The Public Finance Management and Control Law are in alliance with the European Union standards in terms of budget and expenses discipline. Capital Market No: 2499 rearranges the insider trading offence. With Law No: 5072, money transfers from public institutions to foundations and unions has been eliminated. The law on Eliminating Money Laundering passed in 2006. In 2012, with the enactment of Law No. 6328, an Ombudsman institution has been established. There were changes to the law on the Prevention of Disorder and Violence in Sports in order to define 'match-fixing' and 'incentive bones' as criminal offences. The Civil Servants Law and Law of Bankruptcy cover the convictions of the anti-corruption campaign. The Right to Information Law and regulations have come into effect but there are still serious shortcomings concerning obtaining information on certain political subjects.

Moreover, in looking at the incrimination of corruption in Turkish Law, **Law No. 5176 Concerning the Establishment of the Public Official Ethical Board and Amending Certain Laws** was enacted in June 8, 2004. It sets forth the ethical rules that the public officials are required to comply with including transparency, impartiality, honesty, accountability, and pursuing public interest only. However, the President of the Republic, members of the Grand National Assembly, members of the Board of Ministers, Turkish Armed Forces, members of the judiciary and universities are exempt from these rules. The Ethical Board investigates any irregularities and unethical conduct of public administration officials. The Board accepts any complaints about public officials who do not comply with the law and conduct unethical transactions. However, it has a purely advisory role. The Ethical Board does not have the power to give sentence to these cases. When the Board was first established, the decisions of the Board were to be published in the official gazette with the names of the public officials. This however, was later prohibited by the Constitutional Court. Therefore, the Ethical Board does not have a deterrent power in this sense. In 2013, the EU Progress Report referred to this by saying 'The Council of Ethics for Public Servants and Ethical Commissions are not able to enforce their decisions with disciplinary measures'.

In Turkey, there is a legislative gap for the protection of whistleblowers. As mentioned above, according to Law. No. 3628 **Concerning the Declaration of Assets and Combating Bribery and Corruption**, public officials who are faced with or witness any corruption or bribery may inform the legal authorities concerning such acts. Even though the law allows these public officials to

keep anonymity, it does not offer any protection for them. In the case where there is groundless or false whistleblowing, the whistleblower's name and credentials may be published publicly. In 2007, **Law No. 5726**, which is **Witness Protection Act**, was enacted. However, for the whistleblower to be fully protected from any prosecution, the crime in question needs to be sentenced with at least ten years of imprisonment or the crime in question has to be part of an organized crime, which is to be sentenced with at least two years of imprisonment. Thus, legislation on whistleblower protection in Turkey is weak and insufficient. Through interviews and the media, it has been seen that whistleblowers, who inform the authorities about corruptive acts by their superiors, have had to forcefully share their denunciation, which subjects these public officials to threats and mobbing. As a result, whistleblowers may be faced with loss of their jobs or relocation of their positions in the public administration.¹⁰

In regards to conflicts of interest, in Turkey, there is *no existent legislation that directly points to the conflict of interest issue*. There is, however, **Article 13 of the Regulations on Principles of Ethical Conduct for Public Officials** which regulates and controls matters on conflict of interest. Also, according to the Civil Servants Law, public officials have a personal responsibility to prevent cases that would lead to conflict of interest; they are responsible for acting cautiously about potential cases and immediately inform the higher authorities in case there is one. The Civil Servants Law also states the disciplinary penalties for such issues. For instance, if a public official personally benefits financially from the property of the state, the amount is to be taken out of his/her salary. Another disciplinary penalty for more serious cases would be to obstruct any future promotion for his/her position in the job hierarchy.

Recommendations

- Although criminalization of corruption is very important, it is believed that the most urgent and significant legislative gaps that need to be addressed are those related to preventive measures.
- Public officials declaring their assets would act as an early alert system of what is going wrong, thus would play a vital role in identifying wrongdoing and preventing corruption in state institutions. Even though there is an existing system of monitoring assets, as long as the declarations are kept unannounced and no investigation can be processed, the system cannot function efficiently. Laws concerning the asset declaration should be rearranged in order to become more relevant and efficient. Also this law should at least require publicly elected officials such as members of the parliament and mayors to declare their assets. Deficiency must be overcome in intern control processes of asset declaration investigations and there should be an efficient control mechanism working on the asset declaration of ministers and secretaries of state. The owners and executives of the local, regional and national radio and television, presidents, executives of the political party headquarters and political party chairmen should be subject to Law No: 3628 and declare their assets regularly.

¹⁰ Özhaçeş, Hande. 2010. "Yolsuzlukla Mücadele Kriterleri: Yargı, Yasama ve Kamu Yönetimi Türkiye İzleme Raporu". Transparency International Turkey. pg: 39-40.

- In the short run, the permission system regarding the persecution of public officials should be restricted. As it is stated by decisions of the European Court of Human Rights (ECHR) and the Constitutional Court of the Republic of Turkey (AYM), this regulation violates the fair trial principle and creates a vicious cycle of impunity. In the long run, the permission system should be lifted completely allowing all corruption cases to be investigated.
- Law No: 3628 Article 17 Sub clauses 2 and 3 should be removed in order to enable Public Prosecutors to start an investigation of ALL public officers accused of bribery including judges and attorneys.
- Immunities and freedoms from arrest, execution, prosecution and detention should be lifted.
- The right to gain information about the persecution of public officials should be ensured. Secrets of State Law should be lifted and access to documents containing trade secrets should be rearranged for easier access.
- The Public Procurement Law should be rearranged in accordance with the EU Progress Report and EU standards as a whole.
- Transparency in public administration should be accomplished through improving accountability of zoning and licensing regulations and simplification of procedures. General Administrative Procedure Law should be enacted as soon as possible. In order to render a transparent environment in the public service, there needs to be an Administrative Procedures Act that regulates licenses and public works.
- Finances of political campaigns should be made as transparent and legal arrangements should pave the way for the establishment of an inspection mechanism of related financial documents.
- The autonomy of The Council of Ethics for the Public Service should be ensured. The scope of application should be enlarged in a way to involve all public officers.
- Laws and regulations are completely insufficient for tackling the conflict of interest equity in any way. There are no laws that directly address this problem. Therefore, in order to raise the awareness of public officers on the subject matter and to prevent cases of conflict of interest, educational tutorials should be provided. Also, laws and regulations tackling this specific subject in depth are very much needed.

CHAPTER 3 – INSTITUTIONAL PRACTICE AND ENFORCEMENT OF THE LAW

Prime Ministry Inspection Board

In Turkey, the main body in the central government level that specializes in anti-corruption is the **Prime Ministry Inspection Board**. The Inspection Board has the mandate to inspect and supervise public institutions and other public bodies in the cases of corruption. Having the power to investigate major corruption cases, the Inspection Board however, has been criticized in the past for lacking transparency.¹¹ In addition to its inspection power, the Board has also been given secretarial duties to oversee the implementation of the **Strategy Plan for Enhancing Transparency and Developing Efficient Public Governance** in Turkey in 2009.

The Council has also undertaken an important role during the Open Government Partnership project. The Presidency Notice number 2006/32 of the Presidency Establishment Law (Başbakanlık Teşkilat Kanunu) appointed the European Anti-Fraud Office (OLAF) addressee organization Automated Fund Control Order System (AFCOS) to maintain international cooperation during Turkey's anti-corruption policy making. Later the duty of AFCOS was added to the 20th article of Law No:3056 of the Presidency Establishment Law.

External assessments of the Prime Minister's Inspection Board and its performance state that there has been very limited progress in the implementation of the Action and Strategy Plan for fighting corruption. The European Commission Progress Report of 2013¹² recognizes the policy suggestions made by the working groups of the Inspection Board, such as conducting annual country-wide corruption perception surveys and establishing comprehensive tracking of data on corruption. There has been no follow up on these policy suggestions.

11 "Overview of Corruption and Anti-corruption in Turkey" Transparency International. January 2012.

12 European Commission Turkey Progress Report 2013. http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/brochures/turkey_2013.pdf

The Role of the Inspection Committees

The role of the Inspection Committees on revealing important corruption incidents is undeniable. The remarkable contributions of the Inspection Committees to the Susurluk, Nesim Malki, Emlak Bank, İmar Bank, Neşter, Paraşüt and Akrep operations have been mentioned by the civil society representatives and journalists on numerous occasions.

The role of the Committees of Inspection in enhancing anti-corruption and good governance initiatives was also emphasized by observing international operations. Recently, these inspection systems which are already performing in European countries, demonstrated an increasing success and value in some Anglo-Saxon countries such as the United Kingdom. The European Commission, the European Union, the United Nations, the Customs Union Council and the IMF all placed a special emphasis on the role of inspection mechanisms in their anti-corruption legislation and resolutions.

Besides preventing corruption, the Inspection Committees are vital for revealing the existing corruption cases and helping the decision making process for enforcement and sanctions of such cases. Preventing corruption is not a problem that can be undertaken solely by the Inspection Committees, it is the problem of the whole system. Nevertheless by concentrating mostly on the regularity controls, the Inspection Committees are neglecting the operational controls that have a greater potential to cause corruption. The main problem is that political intervention on the Inspection Committees and the inadequate evaluation of investigation reports causes these institutions to lack functional independence. Inspection officials lacking job security is another issue that can be evaluated in relation to the lack of functional independence. Committees of Inspection which are the main actors of anti-corruption efforts should be enhanced in the light of up-to-date inspection norms and inspection officials should be ensured job security through functional independence of the committee. In general, the existing problems regarding inspection systems and the inspector's profession should be addressed.

Turkish Grand National Assembly (TBMM)

Currently, there is no standing parliamentary anti-corruption committee within the Turkish government . Also, there is no code of ethics that will stand as a set of internal rules for MPs at the Turkish Parliament. In 2007, the parliament established a sub-committee to execute and implement an Ethics Committee, which would work as an inspection and a ruling committee for the ethical conduct of MPs. This sub-committee however, was not successful in implementing such an internal body in the parliament and the proposal for an Ethics Committee has been on stand-by since 2007.

On the other hand, Law No: 3628 bans MPs from receiving gifts from any foreign (non-Turkish citizen) person or institution. There are no specific regulations regarding lobbying activities in Turkey. MPs are legally not obliged to record or explain any lobbying activity, contact and interaction. Even though there are no legislative processes that regulate it, lobbying

activities are widespread in Turkish politics and because of this loophole, such activities are done without any supervision and inspection.

Moreover, there are no specific regulations for conflict of interest regarding MPs' personal affairs. There are no limitations regarding the professions that a MP can undertake after his/her term ends in the parliament. There is an apparent conflict of interest especially for MPs who start working in the private sector after their term in the parliament. Most countries regulate this with a method called the "cooling period" that limits such conflict of interest by preventing a former MP from taking a job relevant to his/her duties in the parliament for a certain period of time. Turkey, however, does not have a specific regulatory process to eliminate possible conflicts of interest, which is considered a serious weakness.

Activities incompatible with membership to the Turkish Grand National Assembly (TBMM) is regulated by the Constitution Article No: 82. According to this law, MPs cannot hold office in state departments and/or other public corporate bodies, etc.¹³

Also, Article 83 of the Constitution regulates Parliamentary immunity of MPs: "...A deputy who is alleged to have committed an offence before or after election, **cannot be arrested, interrogated, detained or tried unless the Assembly decides otherwise...**"¹⁴ This article poses many problems to the Turkish Parliament, given the number of official requests to remove such immunity of certain MPs due to alleged corruption or infraction of rules.¹⁵

NUMBER OF COURT CASES AGAINST IMMUNITIES - ACCORDING TO POLITICAL PARTIES

24 th term of Turkish Grand Assembly – Number of court cases against MPs immunities	Elected MPs in Total	Number of court cases against MPs' immunity in TOTAL	In percentage
AKP (Justice and Development Party)	327	90	8.17%
CHP (Republican People's Party)	134	115	10.44%
MHP (Nationalist Movement Party)	52	26	2.36%
BDP (Peace and Democracy Party)	29	801	72.75%
DiĞER (Others)	7	69	6.26%
TOPLAM	549	1101	100%

Acquired from TÜMİKOM (Association of Committees Monitoring Parliamentarians and Elected Officials) - MONITORING REPORT OF THE 24th TERM FIRST, SECOND AND THIRD LEGISLATIVE YEAR MPS PERFORMANCES¹⁴

The table above shows the number of court cases and initiated investigations against the 24th term MPs' immunities. In the third legislative year (1 October 2012 – 13 July 2013) specifically, there were 225 court cases against certain MPs' immunities and 15 of them were reviewed and sent back to the Prime Ministry for in-depth analysis. Out of the 1101 court cases against MPs' immunities in total during the 24th term, however, 965 still await to be reviewed.

13 http://www.tepav.org.tr/upload/files/haber/1256628056r4216.Siyasi_Sorumluk_Mekanizmalari_Turkiye_Ornegi.pdf.

14 http://www.tepav.org.tr/upload/files/haber/1256628056r4216.Siyasi_Sorumluk_Mekanizmalari_Turkiye_Ornegi.pdf.

15 http://www.tumikom.org/tr/index.php?option=com_content&view=article&id=117:tumikom-24-donem-1-2-3-yasama-yilari-raporunu-acikladi&catid=1:son-haberler&Itemid=50.

Funding of Political Parties

Funding of political parties in Turkey is provided mainly by treasury aid. Funding political parties is mentioned in the Constitution and details of their funding is determined by the Political Parties Law. Previously, only parties that gained more than 7% of the votes were able to get government funding. With a change made in the law in March 2014, parties that gain more than 3% in the parliamentary elections are eligible to gain government funding. Almost the 90% of the financial resources of the political parties is provided by the National Treasury.

The financial auditing for political parties in Turkey is executed by the Constitutional Court; it audits their finances by looking for their lawfulness. The Chairman of each political party is obligated to hand in a comprehensive annual budget report to the Constitutional Court and Supreme Court of Appeals- Prosecutor's office every year by the end of June. This report also includes a list of all immovable property, moveable property that is worth more than 100.000 Turkish Liras, and stocks and bonds with the means and dates of acquisition.

Political parties in Turkey are not obliged to publish their financial reporting. The auditing report that the Constitutional Court compiles is published in the Official Gazette. This, however, does not include all the information—the public therefore, cannot get access to all the auditing reports of the political parties, which directly obstructs the transparency of political parties in Turkey.

According to the GRECO report on Financing Politics in Turkey, funding and aid are not officially registered as “funding for the political party”; rather, they are mostly registered personally to party members'. This entails that the financial transactions done on behalf of political parties are not transparent at all, which causes lack of accountability in political parties in Turkey.

Election campaigns of political parties in Turkey are also not regulated by any legislation. The annual budget report that is sent to the Constitutional Court must include information on budgeting of electoral campaigns. However, these chapters do not include records of sponsorship to party members or the candidate MPs' expenditures during the campaign. This causes serious problems for politics in Turkey; it obstructs the disclosure of relationships between political parties and certain stakeholders. In addition, there are no laws and regulations regarding the political financing of individual candidates during elections.

The Turkish Court of Accounts (TCA) is the supreme auditing authority covering all public bodies and their financial auditing. Law No. 6085 regulates the TCA and defines its remit. According to it, the TCA shall have functional and institutional independence in carrying out its duties of examination, audit and making final decisions. It informs relevant authorities regarding disciplinary investigations and the Public Prosecutor for criminal investigations if necessary. The initial version of Law No. 6085 came to the parliament in 2012 and expanded the powers of the Court while auditing; it expanded its authority over institutions which it did not have power to audit before (like the private entities of the local government) and made all audit

reports produced by the Court available to the public. On 29 June 2012, last minute legislation resulted in a series of amendments to the new Law on the Court of Accounts.¹⁶ Most of the provisions of this legislation were cancelled by the decision of the Constitutional Court on 27 December, 2012. As a result, the new Law on the Court of Accounts (no. 6085) took force with very limited changes.

Currently, the government is working on new legislation to amend the law. Meanwhile due to the incompatibilities between the TCA Law and Law No 5018 which regulates public finances, the Court was unable to conduct any comprehensive reporting in the years of 2012 and 2013. In December 2013, a decision made by TCA revealed that TCA will not be able to perform any audits in the next three years.¹⁷ This causes a major obstruction to the accountability and transparency of the TCA.¹⁸

The Financial Crimes Investigation Board – MASAK

In monitoring financial corruption, The Ministry of Finance established **The Financial Crimes Investigation Board** in 1996 and the board functions to coordinate investigations on money laundering and collect data on dubious transactions. Established through Law No. 4208 on the Prevention of Money Laundering and Amendments to the Law, the Board aims to develop and regulate policies. It also aims to collect, analyze and evaluate data, which then submits reports to the relevant department to take legal action. MASAK has a crucial role between the financial sector and law enforcement, investigators, and the judiciary.

The Board releases annual reports that review and evaluate statistical data on financial crimes and investigation. Another entity that is relevant to this Board is the **Coordination Board for Combating Financial Crimes**. Under the chairmanship of the undersecretary of the Ministry of Finance, the Committee Board reviews the draft regulations issued by the Council of Ministers and coordinates relevant institutions for implementation. Two major aims of MASAK are the coordination of investigations against money laundering and the implementation and regulation of policies against terrorism financing.

While MASAK's establishment along with Law No 4208 and the amendments to the law were necessary and important for fighting against money laundering in Turkey, it still has shortcomings. The latest report that MASAK released in 2012 includes numerical information on the prosecutions/investigations and whether these investigations have been completed or not. According to the report, in 2012 there were 102 prosecutions and only 31 of these investigations have been completed. This proportion shows MASAK's lack of efficiency. The number of investigations decreased since 2004 (number of cases were more than 500 in the year of 2004) and the level of completion of investigations in 2012 is very low. This is not only because of some deficiencies and loopholes

¹⁶ '2012 Yılı Dış Denetim Genel Değerlendirme Raporu', September 2013, Turkish Court of Accounts.

¹⁷ 'Genel Uygunluk Bildirimi, 2012 Yılı Merkezi Yönetim Bütçesi', September 2013, Turkish Court of Accounts <http://www.sayistay.gov.tr/rapor/uygunluk/2012/2012GenelUygunluk.pdf>.

¹⁸ 'Son Sayıstay Değişikliği Ne Anlama Geliyor?' Ayşe Nur Dil, Ankara Strateji Enstitüsü, December 14, 2013.

in the law, but also due to the lack of technical personnel in the area.¹⁹ Also according to the US Department of State International Narcotics Control Strategy Report²⁰ in 2013, MASAK did not reveal the number of prosecutions and investigations.²¹ On the other hand, Turkey's efforts to eliminate the financing of terrorist groups was recognized by the Financial Action Task Force (FATF) in a January 2014 press release.²²

Public Administration and the Ombudsman Law

The Ombudsman (Public Inspection Institution) is an institution which helps to establish the principle of state of law and to protect individual rights. It aims to form a transparent, just, responsible and accountable public administration.

Independence of Ombudsman

In order to qualify Ombudsman as an independent institution, inspection operation should be different from the other administrative inspection processes. An independent Ombudsman inspection which has a widely trusted inspection capacity can only be achieved through autonomous administration and structuring. Moreover, it is not enough for the ombudsman to have administrative autonomy but the executive committee selecting ombudsmen should be independent and non-related to any political party. A prerequisite of this is to take into consideration the objective and international measures regarding Head Public Inspectors and the selection of ombudsmen.

With the Constitutional amendment in 2010 and the enactment of Law No. 6328, an Ombudsman institution was established in 2012. However the institution still lacks necessary budget and personnel and it also does not have its own building yet. The Ombudsman received 7638 applications during 2012 and 2013. The Ombudsman has responded to 6097 of these applications. Among these 6097 applications, only 67 of them were settled by the institution which constitutes 1% of the total number.

Election procedure of the head public inspector and other public inspectors is arranged in accordance with the preferences and expectations of the ruling party who has the majority of MPs in the Parliament. This harmed the public opinion towards the institution.

Assigning internal auditors instead of the Ombudsman to run the inspection of the administrative duties of the judges (according to the 144th clause of the Constitution) is a weakness. This should taken into consideration in the first Constitutional change.

Council of Ethics

The Council of Ethics for Public Service was established in 2005 to state and define ethical principles that public officials are to comply with. The Council of Ethics operates under and is accountable to the Prime Minister's office. It does not have its own budget or its own separate division, thus the Council is not an independent body. The code of ethics for public officials includes regulations for conflict of interest, receiving gifts, favoritism, cronyism, declaration of assets, and accountability. These principles are stated in a guide book which has been distributed to all public administration bodies. All public administration bodies are obliged to obey these principles.

19 Küçükkuşal, Bahadır; Köse, Yasin. "Money Laundering Problem: A Turkey Perspective." Selçuk Üniversitesi Sosyal Bilimler Enstitüsü Dergisi Sayı 28, 2012.

20 <http://www.state.gov/documents/organization/211396.pdf>.

21 <http://www.fatf-gafi.org/countries/s-t/turkey/documents/public-statement-feb-2014.html#Turkey>.

22 <http://www.fatf-gafi.org/countries/s-t/turkey/documents/public-statement-feb-2014.html#Turkey>.

Moreover, all public officials are obliged to sign an ethical principles agreement upon their appointment to their position. However, the president, MPs, Turkish Armed Forces officials, judiciary officials and universities are exempt from these rules.

The Council of Ethics under the Prime Ministry held educational courses on ethics and behavior. This, however, does not mean that public officials have an understanding of this code of ethics, as problems regarding these principles still continue within the public administration in Turkey. Therefore, the Council should be given necessary implementation powers and authority to impose sanctions.

Department of Police – Division of Anti- Smuggling and Organized Crime of the National Police

As a special unit for investigating corruption crimes, the *Division of Anti-Smuggling and Organized Crime (KOM)* was appointed. KOM deals with offenses like organized crime, drug trafficking, counterfeiting, forgery, illicit trafficking, cybercrime, smuggling of arms, ammunition, and nuclear substances, and financial crimes including money laundering.

Regarding its operations, KOM releases an annual report on its website that provides statistical data on that year. According to the 2012 data, financial crimes have increase to 14,001 in 2012; from 12,308 in 2010. Within KOM, there is a Financial Crimes Branch Directorate to fight against corruption. Article 19 of this Directorate, denotes that KOM has the duty to prevent activities that are considered as corruption such as embezzlement, extortion, rigged bidding, bribery, tax evasion, etc. In addition, the police forces can seize assets of those suspected of corruption and gather information about them.

Separate from the Police Department, there is **the General Command of Gendarmerie**, which functions under the Army. Within the Gendarmerie, there is a unit, Headquarters for the Fight Against Smuggling and Organized Crime, which is similar to KOM. This division and KOM however, are not able to coordinate efficiently. The Gendarmerie operates as the policing unit for the rural areas and the headquarters deals with crimes of corruption.

The Law Enforcement system in Turkey is not executed by a single body; the investigation of corruption cases in certain public administration bodies often are dealt with by the public administration's own "internal police" sub-agency, which is equipped with similar authority and power as ordinary police bodies. As it is mentioned in the second chapter of the report, according to Law No. 3628, any investigation for corruption in a public administration body can not be submitted to prosecution without the prior permission from the head of the body.

Acquiring Statistics and Information on Criminal Justice Process of Corruption Crimes

Statistics on corruption crimes and their criminal justice process are not centrally organized and collected. The *Turkish Statistical Institute (TUIK)* is the main body that collects statistics not only on corruption crimes, but for all other matters about country's statistics and TUIK has been in collaboration with Eurostat since 1993. Besides TUIK, the Ministry of Justice also collects statistics particularly focused on corruption cases, such as prosecutions, indictments and convictions. Statistics on administrative violations and sanctions in the public administration are also collected by Ministry of Interior – Inspection Board that is appointed to inspect and control local governments on the public administration level.

According to **the Right to Information Act** enacted in 2003, all public administrative agencies are bound to provide their information to the citizens, including the statistics collected by TUIK, the Ministry of Justice, and the Ministry of the Interior. For this reason, these public agencies, functioning as information providers to the public, are required to have the physical and technical capability to provide citizens with the freedom to apply for access to public information. Citizens are required to give their correct names, ID numbers and addresses in order to proceed with their application. The public institutions are obligated to provide requested information in no more than 15 days. In case of a rejection to provide information, the applicants may apply to Board of Acquisition and Assessment of Information in 15 days. The Board is also obligated to settle on a decision in 30 days.²³

On the other hand, the Act limits access to classified information such as state secrets, confidential business information and national intelligence information. Requests to acquire classified information, which is not clearly defined in the law, are mostly rejected. According to the Board of Acquisition and Assessment of Information, in 2011 1,423,636 applicant requested information from the government. Among these applications, 1,244,995 (approximately 87.5% of the applicants) of them were accepted and (0.3%) applications were rejected due to requesting classified information. Of the 87,500 rejected applications, only 720 appealed to the courts.²⁴

The common trait of these institutions is their regulatory and supervisory functions in susceptible public sectors such as the capital market, money market, visual and audial communication. The official justification for the establishment of independent managerial authorities refers to the aforementioned functions. However, considering that their sphere of activity is particularly vulnerable to corruption and given their establishment dates, one could argue that the underlying reason for their establishment is to fight corruption in line with the conjectural sensitivities.

The legal foundation for the Independent Supreme Boards was provided by the 167th article of the Constitution. According to this article: “The state shall take measures to ensure and promote the sound, orderly functioning of the money, credit, capital, goods and services markets; and shall prevent the formation, in practice or by agreement, of monopolies and cartels in the markets.”

The attempts of TMSF (The Savings Deposit Insurance Fund of Turkey) at collecting the debts from bankrupted banks; the significant contribution of the Banking Regulation and Supervision Agency to reveal corruption in financial markets and to reorganize this space in order to inspire public confidence; the role of Public Procurement Authority for decreasing corruption in tenders and many other examples underline the importance and necessity of these institutions in the fight against corruption.

23 Özhaçeş, Hande. 2011. “Yolsuzlukla Mücadele Kriterleri: Yargı, Yasama ve Kamu Yönetimi Türkiye İzleme Raporu”, Transparency International Turkey.

24 Bilgi Edinme Hakkının Kullanılması Bakımından 2011 Yılına İlişkin Değerlendirme. <http://www.bedk.gov.tr/genel-raporlar.aspx>.

However, Independent Supreme Boards are widely criticized due to the following irregularities: 1) occasional comments that provoke a misperception that autonomy is absolute sovereignty, 2) Problematic spending policies and methods, 3) inadequacies and loopholes in the accountability managements, 4) the fact that Supreme Board's president, members and staff have more legal privileges than public officials as it is stated in articles 104th and 127th of the Banking Law.

Recommendations

- One of the most important issues regarding anti-corruption in Turkey is to obtain the functional independence of The Prime Ministry Inspection Board. The Prime Ministry Inspection Board should be able to open an investigation without a prior authorization like in the example of OLAF. The Board's official task to coordinate anti-corruption strategies should be organized by the law.
- Immunities of TBMM members should only be limited with legislative immunities. Immunity law should not justify the lack of investigation and prosecution of corruption committed by the MPs. In order to eliminate corruption of the MPs, the immunity principle should be reviewed. There needs to be a code of conduct document specifically for MPs and along with these documents there needs to be an ethics council under the directorate of the Turkish Grand National Assembly (TBMM). In order to prevent conflict of interest, there should be a 'cooling period' for MPs after their term ends in the parliament.
- There is a need for a law for lobbying that will prevent possible conflicts of interest by monitoring, regulating and rendering lobbying activities. Moreover, existing law on political campaign finances must be amended so that annual budgeting of political parties is declared in a comprehensive and transparent manner. All political parties should declare the sources of the donations they receive that are above a certain amount. An audit of election campaign budgets of both political parties and individual candidates should be completed shortly after the elections. The budgeting and finances of the campaigns of individual candidates should also be regulated by law.
- Turkish Court of Accounts Law No: 6085 should be compatible with Law No:5081 Public Financial Management and Control Law. Therefore, the Turkish Court of Accounts (Sayıştay) should start auditing public administration units and share the auditing reports with public.
- As it is stated in Constitution Article No:167, Independent Supreme Boards are independent in their decision-making. Examination criteria of Independent Supreme Boards' spending, accounts and annual reports by the Turkish Grand National Assembly must be amended to the existing law. Thereby, this law should set the standart for accountability, investigation and trial procedures of the Independent Supreme Boards.

CHAPTER 4 – THE JUDICIARY IN ANTI-CORRUPTION

Status of the Magistrates

According to the Constitution and the law²⁵, judges shall be independent in the discharge of their duties; they shall give judgments in accordance with the Constitution, law and their personal conviction; and no organ, authority, or individual may give orders, make suggestions or recommendations to the judges. The law clearly states that judges cannot be discharged or their term terminated with a pension before the age stated in the Constitution except on conditions defined by the law. However, the condition to secure the tenure of magistrates should also include the geographical security, especially in countries like Turkey where geographical discrepancies are high. In Turkey, the magistrates have no such guarantee of tenure.

On the other hand however, there are important barriers in the law against the independence of magistrates and their security of tenure.

The High Council of Judges and Prosecutors (HSYK is the Turkish acronym) is the responsible authority for the appointment, promotion and removal of judges and prosecutors. The independence of this Council from the executive branch is problematic. The president of the Council is the Minister of Justice and the Undersecretary of the Ministry of Justice is the previous office member of the Council. The Minister has powers such as determining the agenda, the appointment of the Secretary General among three candidates selected by the General Assembly and he/she gives the ultimate decision whether or not an investigation proposed by the Council shall be opened or not. Thus, the executive's interference in the judiciary harms the independence of the tenure of magistrates by putting them under political pressure.

The procedure for the selection of national level judges is defined in the law on Judges and Prosecutors; however the legal criteria do not ensure that the process is completely transparent. The number of judges to be recruited is announced by the Ministry of Justice in consultation with the Justice Academy. Once appointed, judges get promoted every two years. The conditions to get promoted are spending two years in the degree, no disciplinary sanction that would hinder promotion and meeting the requirements declared by the High Council. These include objective criteria such as professional knowledge, quantity and quality of work accomplished, judgments examined through appeal and notes given upon the examination, professional works, writings and professional in-service and expertise trainings that they have attended. However, the criteria also include non-objective items such as moral characteristics and loyalty to the profession. Judiciary inspectors are required to provide as much evidence as they can to reason their judgment. To conclude, the selection of judges are not fully based on objective criteria and merit.

The promotion of judges is not solely based on objective criteria either. The appraisal files which play an important role in judges' promotion include

25 Law No. 2802 on Judges and Prosecutors.

sections on moral characteristics. Although the inspectors are required to give their reasoning as much as they can, the practice of the law is not very efficient. With the Access to Information law, the judges now are allowed to see their appraisal files which are normally confidential. The judges have started to appeal against their appraisal files.

The law on Judges and Prosecutors defines in which cases judgeships can be terminated. These include the repetition of sanctioning with disciplinary punishment such as change of location or suspension of degree promotion. Where it is considered that the offence requiring conviction violates the honor and dignity of the profession or the position he/she holds, unless a lesser disciplinary sanction is envisaged by the Law, the Council shall decide on the dismissal of the judge. However the approval of the Minister is necessary to start an investigation. Judges can appeal the decision of the Council.

Corruption Among Magistrates

As stated above, judgeships cannot be terminated or discharged with a pension before the age of 65. Exceptions to this rule have already been mentioned in the previous paragraph.

The High Council of Judges and Prosecutors is the responsible authority for dealing with any investigation and disciplinary measure towards magistrates. As the head of the Council, it is among the powers of the Minister of Justice to decide whether or not an investigation proposed by the Council will be opened or not.

According to the statistics published by HSYK, during 2012, 12 judges were removed from the profession. In 2011 and 2010, this number was 6 and 2. However, there are no separate statistics on the number disciplinary proceedings on corruption grounds.

Code of Ethics

There is no general written code of ethics for the members of the judiciary. The members of the judiciary fall outside of the scope of the Council of Ethics. However, the High Council of Judges and Prosecutors accepted **the United Nations Bangalore Principles of Judicial Conduct** in 2006 and the Ministry of Justice General Directorate of Personnel Affairs announced the principles by a circular to all judges and prosecutors. The Ministry translated the document and disseminated it through publishing the Bangalore rules in the Journal of Justice. The Bangalore Principles are included in the initial and in-service training of judges by the Justice Academy.

Additionally, the disciplinary provisions under the Law on Judges and Prosecutors specify acts or behaviors judges should avoid. These include inappropriate and rude behavior to colleagues, behaviors harming trustworthiness and impartiality, failure to declare assets, engaging with economic activities incompatible with profession, receiving gifts and bribery.

Recommendations

- The precondition of judiciary's effective fight against corruption is the independence of the judiciary and the secure of tenure for the judges. The High Council of Judges and Prosecutors is the responsible authority for the appointment, promotion and removal of judges and prosecutors. The independence of the Board from the executive is problematic, thus this constitutes the biggest challenge. The MoJ is the head of the Council and he/she has powers like setting the agenda, the appointment of the Secretary General, and deciding whether or not an investigation proposed by the Council will be opened or not. In addition, the selection of judges and prosecutors to the profession is done by a Board which is dominated by the Ministry. Therefore it can be concluded that the executive's interference in the judiciary is the most urgent issue that needs to be addressed in order to enhance the judiciary's capacity to enforce anti-corruption legislation. The power of the Minister of Justice should be limited to a minimum within the Council and the decisions related to the selection, appointment, promotion and removal of judges need to be given by this Council free from the Ministry's interference.
- The lack of a written code of ethics and a mechanism to observe and enforce judges' compliance with such rules is also a major problem. Although the Bangalore Principles were introduced in the education system of judges, there are no enforcement mechanisms.
- Another important barrier against an effective enforcement of anti-corruption legislation is the system of immunity. For the members of the parliament, measures are required to reduce the broad scope of parliamentary immunity in corruption cases and there is a need to define objective criteria for the lifting of immunity. Civil servants have constitutional immunity from prosecution; they can only be sued in civil court with the prior authorization of their superiors. Although according to the law, corruption related offenses are an exception to this rule, in practice this rule acts as a form of immunity for public servants. There should be no direct or indirect immunity mechanism for crimes related to corruption. A track record of investigation, indictment and conviction in corruption cases should be established and shared with the public.

CHAPTER 5 – CORRUPTION AND THE ECONOMY

International Assessments of Corruption

There are various international assessments of corruption that helps us determine levels of corruption in the business sector. Even though there is no data on Turkey within the UNODC records, information regarding corruption in Turkey exists in other international agencies indices.

- Within the World Bank's Worldwide Governance indicators²⁶, Turkey's percentile ranking in control of corruption improved from 45.5% in 2000 to 51.7% in 2005. As of 2012, the ranking percentile of the 'control of corruption' stands at 50.8% with a slight deterioration compared to 2005.
- In the Heritage Foundation's Index of Economic Freedom of 2014, Turkey's overall score is 64.9 out of 100. Within the sub-categories of the index, Turkey scored the best in trade freedom and the worst in 'freedom from corruption'. Freedom from corruption fluctuated in the same way as the overall index during the 2000's. In the category of 'free from corruption, Turkey scored 44 (the 2013 score is 42) and is in 58th place among 186 countries.
- The Corruption Perceptions Index ranks countries/territories based on how corrupt a country's public sector is perceived to be. According to this index, Turkey ranks 53rd out of 177 countries in 2013 with almost no improvement compared to 2012.
- The Global Corruption Barometer on the other hand, surveys the experiences of everyday people confronting corruption. According to the Global Corruption Barometer in 2013, which also included Turkey, 54%²⁷ of the respondents believe that corruption increased over the past two years. Among the most corrupt institutions, respondents listed political parties (66%), legislature (55%) and media (54%).
- The Global Integrity Index assesses anti-corruption and good governance mechanisms. The latest country report for Turkey was in 2010. Accordingly, Turkey's overall score for the index was 68, indicating a weak performance.²⁸ While in terms of legal framework Turkey had a moderate performance (75), actual implementation was also assessed as very weak 57.

26 Worldwide Governance Indicators, World Bank <http://data.worldbank.org/data-catalog/worldwide-governance-indicators>.

27 Global Corruption Barometer, Transparency International, <http://www.transparency.org/research/gcb/overview>.

28 Global Integrity Index, Turkey 2010 <https://www.globalintegrity.org/global/the-global-integrity-report-2010/turkey/>.

The Informal Economy and Its Size

In a 2009 World Bank report, the informal economy is measured as 33% of 2004-2005 GDP.²⁹ On a more recent note, Turkey's Minister of Finance Mehmet Simsek noted in an article in Project Syndicate that informal employment in Turkey has declined by 14.5 percentage points since 2002, to 37.6% in April 2013. He also added that the informal economy as a share of GDP declined by six percentage points during this period, to 26.5% in 2013.³⁰ This is almost in line with another study, which estimates the size of the shadow economy in Turkey as 27.7% of GDP as of 2012, compared to OECD average of 19.2%.³¹

Turkey's informal economy is usually related to the *unregistered unemployment* within the SME's and the government's efforts are concentrated in bringing it down. Yet, corruption allegations on government in December 2013 were based on accusations that the informal economy also had roots in other parts of the economy, especially within the trade sector which is more likely to be linked to corruption.

Budget Process³²

The Constitution of the Republic of Turkey and Law 5018, the Public Financial Management and Control Law (PFMC Law), constitute the legal basis for the state budget. Accordingly, the multi-annual budget preparation process begins with the adoption of the Medium Term Program by the Council of Ministers, which includes macro policies, principles, basic economic figures as targets and indicators on a three-year rolling basis.

After publishing the Medium Term Program and the Medium Term Fiscal Plan, in order to guide the preparation process of the budget proposals and investment programs of the public administrations, the Budget Call and its annex and the Budget Preparation Guide were issued by the Ministry of Finance. The Investment Circular and its annex and the Investment Program Preparation Guide were also issued and published by the Ministry of Development before the 15th of September. Also, the investment proposals of public administrations are submitted for evaluation to the Minister of Development within the same period of time.

The Turkish Grand National Assembly, Turkish Court of Accounts (TCA) and the regulatory and supervisory agencies submit their budgets directly to the Turkish Grand National Assembly before the end of September, and send a copy to the Ministry of Finance.

29 *Informality in Turkey: Size, Trends, Determinants and Consequences*, World Bank, 2009, http://siteresources.worldbank.org/TURKEYEXTN/Resources/361711-1277211666558/bpg_SizeTrendsDeterminantsAndConsequences.pdf.

30 Mehmet Şimsek, 'Economic Shadows and Light', January 9, 2014, *Project Syndicate* <http://www.project-syndicate.org/commentary/mehmet--im-ek-the-global-battle-against-the-informal-economy>.

31 Schneider F., 'Shadow Economy in Turkey and in other OECD-Countries: What do we (not) know?', November 2012.

32 This section is prepared from the notes of 'Budget Preparation Calendar' of General Directorate of Budget and Fiscal Control under Ministry of Finance.

The budget draft law, submitted by the Council of Ministers to the Parliament is sent to the Plan and Budget Committee by the Speaker of the Parliament. Upon the completion of the budget negotiations in the plenary session, the entire budget is put to open vote. The draft law adopted by the Parliament is submitted to the approval of the President. The President is not allowed to send the budget law to the parliament to be negotiated again. The Central Government Budget Law approved by the President is published in the Official Gazette before the beginning of the fiscal year and enters into force as of January 1st.

Data Quality of the Budget Figures

The Ministry of Finance publishes data regarding budget expenditures and revenues of public institutions with a varying frequency and timing. Data is available in excel downloadable format for the following budgets:

General government budget: Quarterly data on budget balance, revenues and expenditures exists in economic code. Data in this format is available since 2011. As of the end of April 2014, when this chapter was written, the latest data available was for 3q13.

Central government budget: Monthly data on budget balance, revenues and expenditures exists both in economic and financial code. Data in this format is available since 2006. Between 2000-2005, data is available in annual format. As of the end of April 2014, the latest data was available for March 2014. Within the central government budget, the general budget, regulatory and supervisory institutions' budgets, and special budget institutions are also announced separately.

Local government budget: Quarterly data on budget balance, revenues and expenditures exists only in economic code. Data in this format is available since 2006. As of the end of April 2014, the latest data was for 3q13. Budgets of provincial municipalities, provincial special administrations, and institutions affiliated with municipalities are announced separately.

Social Security Institutions: Quarterly data on budget balance, revenues and expenditures exists in economic code. Data in this format is available since 2011. As of the end of April 2014, when this chapter was written, the latest data was for 3q13.

Fiscal Rules and Changes to the Budget

Turkey had planned to implement a fiscal rule in 2010, which aimed introducing pro-cyclicality to budget performance by making growth and the previous year's budget performance part of the current year's budget performance. After having been proposed and discussed in the Parliamentary commission, the proposed law was withdrawn the night before voting as the Government changed its mind on the necessity of a fiscal rule.

Currently, Turkey's gross budget figures are announced on a three-year rolling basis in accordance with the macroeconomic targets of the Medium-Term Program. As mentioned above, while the following year's budget has to be

discussed and approved in the Parliament, the following two-year budget targets have no binding constraints.

PROPOSED VS. REALIZED BUDGET (BILLION TL)

	Revenues	Expenditures	Balance
2013 Proposed	370	404	-34
2013 Realized	389	408	-18
2012 Proposed	330	351	-21
2012 Realized	332	362	-29
2011 Proposed	279	313	-34
2011 Realized	297	315	-18
2010 Proposed	237	287	-50
2010 Realized	254	294	-40
2009 Proposed	249	259	-10
2009 Realized	215	268	-53
2008 Proposed	205	223	-18
2008 Realized	210	227	-17

Source: Ministry of Finance

Since 2008, a supplementary budget was adopted with Parliament's approval only in 2009 when the economy was in a sharp downturn. After 2008, budget expenditures exceeded the proposed amount every year by non-negligible margins; but the Parliament approval was not sought during the year. The way Parliament approval is circumvented is explained as such³³: The allowances for wage expenditures were released for other purposes and the Ministry of Finance exceeds the target budget expenditures by the end of the year as it had to make wage expenditures. The exceeding expenditures were approved by the Parliament at the end of the year when

conclusive figures for the ending year were submitted. The government's breach of expenditures during the year without Parliament approval is also pointed out in the annual report of Turkish Court of Accounts³⁴.

Subsidies

The share of subsidies and cash transfers from the central government budget increased from 30% of total expenditures in 2013 to 40% as of 2013. While transfers to social security institutions had the biggest share as well as the increase rate within the subsidies from 2008 to 2013, transfers from revenues to local governments are also an important part of the total subsidies and cash transfers. During the last five years, total transfers to households doubled almost to 2% of total expenditures while share of agricultural subsidies decreased.

33 http://www.tepav.org.tr/upload/files/1328783545-9.Mali_Izleme_Raporu_2012_Mali_Yili_Butcesi_ve_Makro_Cerceve.pdf p. 18.

34 <http://www.sayistay.gov.tr/rapor/uygunluk/2012/2012GenelUygunluk.pdf> p.14.

SUBSIDIES AND CASH TRANSFERS AS A SHARE OF TOTAL EXPENDITURES

	2008	2013
b) Treasury Aid	17,1%	19,4%
*Treasury Aid to Social Security Agencies	0,5%	0,5%
*Health, Retirement & Social Aid Expenditures	15,5%	17,6%
*Treasury Aid to Provincial Offices	0,8%	0,6%
*Other Treasury Aid	0,3%	0,7%
c) Transfers to Non-Financial Establishments	0,2%	0,4%
d) Transfers to Household	0,5%	0,9%
e) Agricultural Subsidies	2,6%	2,1%
f) Other Transfers to Households	0,4%	1,0%
g) Social Transfers	0,2%	1,4%
h) Foreign Transfers	0,3%	0,4%
i) Shares from Revenues	8,9%	9,8%
*Shares of Local Government	7,0%	7,9%
*Shares of Funds	1,6%	1,6%
*Other Shares	0,4%	0,2%

Source: Ministry of Finance

Local Government Budgets

As of 2012, revenues of local governments were 69 billion TL, approximately 20% of the central government budget for the same year. Within the local government revenues, 41% were revenues received from other public institutions. Tax revenues directed from the central government budget make up 39% of the total local government revenues.

In the latest External Audit Report of Turkish Court of Accounts (TCA), there are several criticisms regarding the use of budget in the local governments. Municipality revenues, which should be budgeted on an accrual basis according to the related legislation, are accounted on cash basis. Some municipalities borrow exceeding their upper limit that they are allowed by Law 5393 and some municipalities do not follow the legislation on receipt, accrual, accounting and expenditure of park revenues.

Share of Capital Expenditures

Capital expenditures increased from 8.2% of total expenditures in 2008 to 10.7% in 2013. Within the capital expenditures, 'immovable capital produce' increased the most (from 5.9% to 8% of expenditures). Looking at it in more detail, we see that the payments made to consultants and contractors were the reason behind the increase in the overall capital expenditures.

AS A SHARE OF TOTAL EXPENDITURES

	2008	2013
Capital Expenditures	8,2%	10,7%
Product Purchase	0,8%	1,0%
Immovable Purchase and Nationalization	0,8%	0,8%
Immovable Capital Produce	5,9%	8,0%
Payments of Consultants	0,4%	0,9%
Contractors	5,4%	6,9%
Movable Great Repair Expenditures	0,4%	0,5%
Other Capital Expenditures	0,2%	0,3%

Source: Ministry of Finance

Public Procurement and Reports of the Turkish Court of Accounts

With Law 4734 introduced in 2009, a Public Procurement Authority (PPA) was formed. The PPA has an electronic public procurement platform, which publishes all tender notices, including those subject to exemption. Under the law, tenders in energy, water, transportation and communication are exempt from the Law. PPA had the right to provide exemptions to public procurement tenders under 6.6 million TL in 2012 upon requests from the public institutions. With a new law introduced in 2012, Turkish State Railways was taken out of the content of Law 4734 as well as PTT (postal services) in 2013.

Privatization of TEDAŞ

Apart from the misconduct in public procurements, TCA lists various corruption cases in privatization of public assets in its 2012 reports. Below are two recent ones that were covered by the media:

- 1) In the 2012 report on TEDAS, TCA reports that during the privatization of electricity distribution channels, a total of 171 million TL, which was in the cash accounts, was not taken into account during the valuations and eventually left to the new buyers.
- 2) In the same report, it was discovered that three months before privatization electric usage was under-reported; but it was re-adjusted after privatization, causing a transfer of wealth from public to private sector.

1 <http://www.sayistay.gov.tr/rapor/kit/2012/25tedas.pdf> p.22-24.

During 2012, the volume of public procurement increased by 21% compared to the previous year, above the 6.2% consumer price inflation. In 2012, 83% of all public procurement in state economic enterprises was in transportation & communication and energy sectors, most of which were exempt from the Public Procurement Law. Even though the original intent of the Law was to bring procurement in line with EU regulations, the exceptions brought during and after the preparation of the Law, is believed to have increased

the risk of corruption in public procurement. In the latest EU commission report on Turkey, it is noted that exemptions and domestic preferences in public procurement need to be addressed. A report by US State Department notes that there have been complaints by American companies operating in Turkey (and participating in government procurement) about being solicited, with varying degrees of pressure, by municipal or local authorities for “contributions to the community”. The Turkish Court of Accounts (TCA) commented on violations of procurement law, misconduct and privatization mistakes that caused the public sector to lose money in its individual 2012 reports on SEE’s. Yet one of the most important general criticisms by TCA is that internal financial control units are not established at all in some public institutions and not properly established in the **rest, breaking** Law 5018, which aims at aligning public finance governance in Turkey with that of EU. Pre-financial control units do not exist as well. Lack of internal financial control units within the public institutions make them more susceptible to misconduct in public procurement.

Of the more specific findings of the TCA reports, which came to the attention of the media and public, were incidents involving procurement by the electric company TEDAS , writing-down of social security debt of a private company in return for assets , procurement by a Turkish Railway Enterprise and procurement by TOKİ (Housing Development Administration of Turkey).

Notable Cases of Corruption

--- 2012 in court decisions on corruption cases (bribery, embezzlement, extortion and misuse of power), there were 3,902 convictions, 15,265 acquittals and 69 arrests. 2013 figures on corruption cases have not been announced at the time of writing this report; but 2013 and the early months of 2014 saw a sharp rise in corruption allegations.

The most notable and recent case of corruption in 2013 was the mass arrests involving politicians’ relatives, businessmen and public officials. The mass arrests were carried out on December 17, 2013 as part of an inquiry into alleged bribery involving public tenders, which included controversial building projects in Istanbul. The suspects were accused of accepting and facilitating corruption in tenders, money laundering and bribery to secure construction permits for protected areas. Accusations included sale of public land without public bidding, mining license guaranteed against Forestry Ministry permission, unlawful construction in first-degree protected area, rigging in public tenders, bribing of politicians’ relatives in return for permits in the construction sector, and sharing of confidential information regarding a public project tender. As of the end of April 2014, there are 38 suspects and the investigation is being pursued by the state prosecutors. As a result of the investigations, four ministers from the Cabinet resigned, including the Minister of Internal Affairs, the Minister of EU affairs, the Minister of Environment and Urban Planning, and the Minister of Economy. Prosecutors sent the files to the Turkish Parliament in order to seek authorization to revoke their immunity for the judiciary process. The Investigation Committee, which has been established on May 5, 2014 for the purpose of taking the final decision on four ministers, held their first meeting on July 9, 2014. On November 25, 2014 Ankara’s 7th Magistrate Court imposed a media ban on coverage of the parliamentary commission investigating until the final decision is announced. On December 22, 2014, the commission was set to vote on whether or not

to send the four ex-ministers to the Supreme Court. However due to the written objections to reports displaying the growth in their wealth prepared by experts at the Financial Crimes Investigative Board (MASAK), filed by Çağlayan, Bağış and Güler , the voting has been delayed to January 5, 2015.

In November 2014, İstanbul Chief Public Prosecutor's Office announced its decision not to proceed against 53 graft suspects. The only case that has an indictment prepared as part of the 17 December operations of tender rigging and bribery is the case of Fatih Municipality. As a part of this indictment 21 suspects are on trial for "giving and receiving bribes," "destroying or obscuring official documents" and "violating Law No. 2863 on the Protection of Cultural and Natural Assets."

EU Funds Management and Corruption

Allegations on Misuse of EU Funds

The European Commission has launched an investigation into allegations that a Turkish government agency misused EU funds. The probe followed reports in the Turkish media in January 2014 of tender-rigging and illegal recruitment at the Centre for EU Education and Youth Programmes in Ankara. "The audit follows allegations of irregularities relating to a lack of transparency for staff recruitment and a lack of compliance with EU and national rules for procurement by the national agency," stated the Commission's education spokesman Dennis Abbott on March 5, 2014. The findings of such an audit have not been shared with the public.

¹ <http://www.hurriyetdailynews.com/eu-probes-corruption-claims-at-turkish-govt-agency.aspx?pageID=238&nID=63225&NewsCatID=351>.

The main institution that is in charge of EU relations and the spending of EU assistance is the Ministry of EU Affairs. According to the 2012 report of Turkish Court of Accounts, the Ministry did not provide the necessary financial reports and tables for an inspection, violating the related decrees on Law 5018 and 6085. Thus, there was no control by the Turkish authorities on the spending by the Ministry of EU Affairs in 2012.

The domestic institution in charge of coordinating inspections on EU assistance to Turkey is the Prime Ministry Inspection Board. During 2006, the PM Inspection Board was appointed to be in charge of relations with the European Anti-Fraud Office (OLAF) and since 2009; the Board also acts as the Anti-Fraud Coordination Service office (AFCOS). During 2010, the Inspection Board allowed investigations on two cases coming from OLAF and prepared responses on three other cases. Information regarding 2011 onwards does not exist on the Inspection Board's website. The latest annual report of the Inspection Board is as of 2010.

Recommendations

- As shown by the results of the Global Barometer Survey, public perception of corruption has been deteriorating in Turkey recently. Recent corruption incidents which are alleged to involve politicians and businessmen (mentioned above), attempts by the government to change the Law and regulations regulating the Turkish Court of Accounts and claims that reports of TCA are not sent in their original format to the Turkish Parliament are not helping with the public perception regarding corruption in Turkey. A new legislation, which was passed in April 2014, introducing new guarantees to the private sector undertaking big public

projects is likely to raise further question marks on the public finance and anti-corruption efforts of the government if transparency issues regarding the implementation of the regulation are not resolved.

- In light of the allegations that Turkish Parliament has partial access to the report of the Turkish Court of Accounts, the proper operation of this institution should be ensured by increasing its compatibility with international standards.
- At this stage, Turkey will benefit from an independent body permanently tasked with anti- corruption policy development and implementation as suggested in the 2013 EU Commission Report on Turkey. Such an independent body will be useful in overcoming the conviction that Turkey still needed to establish a track record of investigations, indictments and convictions as suggested by the EU commission. Given the recent allegations regarding politicians, operational independence of such institutions must be secured, including an independent Board, staff and a judicial police force. The Prime Ministry Inspection Board, members of which are assigned upon approval of the PM and carry out their duties on behalf of the PM, might not be perceived as objective enough to carry out corruption investigations concerning the members of PM's party.
- Greater involvement of civil society in both the budgetary process and the anti-corruption agenda in Turkey should be encouraged.

CHAPTER 6 – CIVIL SOCIETY IN ANTI-CORRUPTION

Major Works on Corruption by CSOs in Turkey

In Turkey, there are several major civil society organizations that have actively studied corruption and anti-corruption practices in Turkey. This chapter summarizes these major works that civil society has contributed in understanding, analyzing and alleviating certain major problems regarding bribery and corruption.

Anti-corruption has been a concern for NGOs and civil society organizations over the past few decades. Organizations like TESEV (Turkish Economic and Social Studies Foundation), TEPAV (Economic Policy Research Foundation of Turkey), Şeffaflık Derneği (Turkish Division of Transparency International), TÜSIAD (Turkish Industrialists' and Businessmen's Association) and so on, have contributed to the field of anti-corruption with significant social, economic research and analysis.

TESEV conducted a study on anti-corruption that has two components: household perception and business sector perception. The first component consisted of a survey that was conducted in October-November 2000. Having focused on citizens' perception, susceptibility and attitude towards corruption, the first survey was presented in a report in 2001. The second survey, conducted to understand the private business sector's perception and attitude towards corruption, was compiled in another report in February 2003. These surveys and the analyses presented in the reports aimed at highlighting whether the citizens perceive corruption as a significant issue in Turkey's respective context (2000-2003).³⁵ Moreover, in 2012 TESEV conducted an Open Budget Survey which investigated whether the central government shares eight main budget documents with the public or not. This research also analyzed the knowledge shared with the public in terms of scope, usefulness and depth. The Survey utilized the international standards used by OECD and IMF to assess the budget transparency in Turkey. Turkey scored 50 out of 100 which is slightly above the average score of 43. Nonetheless, Turkey's score is worse in comparison to countries in the research group such as Bulgaria, Russia, Slovakia and Ukraine.³⁶

TESEV's Democratization Program completed series of works to increase the transparency of political trials and to increase the questioning of the concept of 'state secret'. Through "Monitoring Human Rights Trials" TESEV published a report titled *Disrupting the Shield of Impunity* which analyzed the legal and administrative dimensions of impunity within the framework of high profile cases such as "Temizöz et al.", "Hrant Dink Murder", "Engin Çeber" and "JITEM".³⁷

35 Adaman, Fikret. Çarkoğlu, Ali. Şenatalar, Burhan. "Hanehalkı Gözünden Türkiye'de Yolsuzluğun Nedenleri ve Önlenmesine İlişkin Öneriler" TESEV Yayınları: İstanbul, 2001. Adaman, Fikret. Çarkoğlu, Ali. Şenatalar, Burhan. "İş Dünyası Gözünden Türkiye'de Yolsuzluğun Nedenleri ve Önlenmesine İlişkin Öneriler" TESEV Yayınları: İstanbul, 2003.

36 TESEV Open Budget Survey 2012 Turkey, International Budget Partnership
<http://www.tesev.org.tr/assets/publications/file/A%C3%A7%C4%B1k%20B%C3%BCt%C3%A7e%20Endeksi%202012%20T%C3%BCrkiye%20Raporu.pdf>.

37 Uçum, M., Perinçek, M., Elçi, T., Pişkin, L., Uras, U., Tanrıkulu, N., Keskin, E. (2013) *Confronting the Past: Impunity and High Profile Cases*: TESEV, April 2013.

Anti-corruption Practices in Turkey

TEPAV has also conducted another study in 2009 that focused on the household perception towards corruption in Turkey. The report “The Public Sector and Corruption: A Household Perspective” pays close attention to the public sector institutions and their involvement in corruption. TESEV’s Survey results point out that 14% of the respondents found corruption as the utmost important issue in 2000. TEPAV’s survey results from 2009 show that this number decreased to 3%; the public gave more importance to other social issues such as inflation, the economic crisis and unemployment.

Moreover, since 2009 TEPAV published numerous reports³⁸ and evaluation reports on corruption. Lastly, the Turkish Division of **Transparency International** presents an annual report on the Perception of Corruption Index.³⁹

Having published many other reports on corruption, TEPAV’s Governance Program held fiscal monitoring studies as one of its major fields of study. The “**Stability Institute**” division of TEPAV monitored budgeting and spending of the government, followed developments in public policy locally and internationally and released monthly reports and articles so as to not only inform the public, but also provide insight and policy suggestions to the local and central government.⁴⁰

The Turkish representative of Transparency International has been one of the most active civil society organizations in Turkey regarding their research and social responsibility activities in Turkey. One of TI-Turkey’s ongoing projects is “**Transparent Agenda**”, which consists of three components—a journal issued monthly that covers major topics on corruption in Turkey, a weekly radio program that focuses on corruption through a theoretical framework, providing recent practical examples or cases, and a series of open-to-public conferences that brings scholars and citizens together and provides an open environment for discussion on certain topics.

Other than its “Transparent Agenda” project, TI-Turkey also initiated the “**Advocacy and Legal Advice Centre for Turkey (ALAC)**” with the financial support of the European Instrument for Democracy and Human Rights (EIDHR) and the EU Turkey Delegation. ALAC functions currently as a call center “to raise the consciousness of individuals about what they can do when they encounter corruption and about the current legal and institutional attitudes towards combating corruption”. According to TI-Turkey’s website, “ALAC’s efforts can be read as incentives to increase the **mutual trust between people and the state institutions** and to make systematic judicial, administrative and institutional amendments in fighting against corruption.”⁴¹ ALAC’s aim is then to enable citizens’ participation in these amendments.

TI-Turkey recently launched a campaign on “**Clean Politics**”. Prior to the local elections in April 2014, TI-Turkey, with this campaign, requested access to the

38 TEPAV (2012) *Mali Yılı Bütçesi ve Makro Çerçeve*, Mali İzleme Raporu, http://www.tepav.org.tr/upload/files/1328783545-9.Mali_Izleme_Raporu_2012_Mali_Yili_Butcesi_ve_Makro_Cerceve.pdf TEPAV (2009) *İhale Kanunu Değişikliklerini Masaya Yatırdı: “AB’ye Uyum Gereksesi Ne Kadar Doğru?”*, September 2009.

39 *Corruption Perceptions Index*, Transparency International, 2011-2013

40 <http://www.tepav.org.tr/en/calismalarimiz/s/343>.

41 http://www.seffalik.org/Detay_en.asp?MenuID=138&GID=107&sayfa=About%20Call%20for%20Transparency%20Centre.

Corruption within Civil Society

declaration of wealth by politicians, senior public officers, media owners and editors-in-chief by setting up an online signature-collecting website (change.org). Until today, the campaign has 22.636 signatures.⁴² Creating a social media campaign, TI-Turkey has achieved so far, to get 29 mayor candidates⁴³ to declare their wealth and also sources of election campaigning funds in order to establish and maintain a transparent, accountable legislation, public administration and local governance system.

Civil society organizations are bound to be monitored closely by the state. The main body that monitors and records procedures on civil society organizations is the “Department of Associations” which is under the Ministry of Interior. The Department of Associations mainly monitors, records and archives the establishment procedures of not only locally established organizations, but also international ones. It also ensures that CSO auditors inspect all administrative offices belonging to associations and unions, any sort of additional buildings as well as their accounts and operations when necessary.⁴⁴ On the other hand, foundations in Turkey are linked to The Presidency Foundation General Directorate. The mission of this institution is to run inspections on behalf of the government in order to make sure that foundations are meeting their objectives.

The legal framework that regulates CSO activities mainly consists of Law No. 5253, “The Law on Associations”. “This Law encompasses provisions which regulate the right to establish an association, the procedure for establishing, operating, and organizing associations, the organs, duties and powers of associations, their supervision and winding up, membership and the rights and duties of members, activities subject to permission and prohibited activities, penalties and other issues related to associations.”⁴⁵

Every foundation, association, civil society organization, etc. is obligated to provide a yearly auditing report which is either prepared by an external auditing company or by the internal auditors’ board of the association. Also, article 45 states that, “All administrative premises, buildings and annexes, all books, accounts and proceedings of associations are subject to **inspection at any time** by the Interior Ministry or the most senior local representative of government”⁴⁶ If the auditors find an unusual or unlawful activity, they are obligated to take the case file to the public prosecution office, where the case will be investigated.

42 <https://www.change.org/tr/kampanyalar/temizsiyaset-i%C3%A7in-ilk-ad%C4%B1m-mal-varl%C4%B1klar%C4%B1-a%C3%A7%C4%B1klans%C4%B1n-tbmmresmi>.

43 http://www.seffalik.org/detay_tr.asp?GID=74&MenuID=75&VeriID=191.

44 <http://www.dernekler.gov.tr/en/Organization/Our-duties.aspx>.

45 Law No. 5253: <http://www.refworld.org/docid/4c446a062.html>.

46 Law No. 5253, Article 45.

CHAPTER 7 – INTERNATIONAL COOPERATION

International Anti-Corruption Conventions

The UN Convention against Corruption

The UN Convention was adopted by the General Assembly of the United Nations and entered into force on 14 December 2005. Turkey ratified this agreement on 11 August 2006. The UN Convention requires taking a number of preventive anti-corruption measures such as to develop and implement or maintain effective, coordinated anti-corruption policies as well as establishing appropriate systems of procurement. Two Turkish laws meet this requirement⁴⁷: Turkish State Tender Law No. 2886, which generally applies to the sale and lease transactions of the state assets; and Public Tender Law No. 4734, which applies to the procurement of goods and services by public entities. In addition, the Turkish Public Tender Authority was established by Public Tender Law No. 4734 in 2003. Anti-Money Laundering Law No. 4208, and the Anti-Money Laundering Regulation of 1997 meets requirements of the UN Convention as well.

OECD Convention on Combating Bribery

Turkey criminalized bribing foreign public officials with the ratification of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions in 2000. After the acceptance of the convention, Law 4782 Amending Certain Laws for the Prevention of Bribing Foreign Public Officials in International Commercial Transactions was accepted in 2003 as well as the enactment of the new Criminal Code in 2005. Prior to the amendment, bribing foreign public officials was not considered a crime under Turkish law. Despite the Laws and amendments that are in place, there are some critiques that enforcement of prosecution of corruption is uneven in Turkey.⁴⁸

The Council of Europe Convention: Criminal Law Convention on Corruption

Turkey signed the Criminal Law Convention on 27 September 2001 and ratified it on 14 January 2004. The Convention covers the bribery of domestic and foreign public officials; bribery in the private sector and money-laundering of proceeds from corruption. The Convention requires the signatories to provide for effective and dissuasive sanctions and measures, including the penalty of imprisonment.

47 'Anti-Corruption Legislation In Turkish Law', Güneş Okuyucu-Ergün, German Law Journal, vol. 08, no. 09.

48 <http://www.state.gov/e/eb/rls/othr/ics/2010/138159.htm>.

The Council of Europe Convention: Civil Law Convention on Corruption

Turkey approved the Civil Law Convention on Corruption on 17 April 2003. The Convention mainly covers the measures to be taken at national and international levels, and deals with issues of compensation for damage, liability, validity of contracts, protection of employees who report corruption, and the clarity and accuracy of accounts and audits.

The Council of Europe Convention: The Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism

Turkey signed the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime on 27 September 2001 and approved it on 16 June 2004.⁴⁹

Group of States against Corruption (GRECO)

Turkey has been a member of GRECO since January 1, 2004 and it submitted the Situation Report required under the GRECO compliance procedure on 1 October 2007. GRECO adopted the Joint First and Second Round Compliance Report (RC Report) on Turkey in 2008. Upon the request of additional information on the implementation of recommendations, an updated report was published in 2010.⁵⁰ In its reports, some of GRECO's recommendations were⁵¹:

- a) Forming an independent body overseeing the implementation of national anti-corruption strategies
- b) Establishing a specialized unit with investigative powers over cases of corruption
- c) Reconsidering the system of immunities of members of Parliament,
- d) Developing training the new Code of Ethics and anti-corruption policies,
- e) Strengthening the independence of the Board of Review of Access to Information,
- f) Enhancing the independence of judges vis-à-vis the Ministry of Justice, concerning their supervision and appointment
- g) Reforming the system of Inspection Boards
- h) Giving high priority to the establishment of an Ombudsman institution

49 Money Laundering and Financial Crimes Country Database, United States Department of State Bureau for International Narcotics and Law Enforcement Affairs, June 2013.

50 Addendum to the Compliance Report on Turkey, GRECO, June 2010 [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoRC1&2\(2008\)2_Add_Turkey_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoRC1&2(2008)2_Add_Turkey_EN.pdf).

51 [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoRC1&2\(2008\)2_Add_Turkey_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoRC1&2(2008)2_Add_Turkey_EN.pdf).

- i) Protecting whistleblowers
- j) Complying with the standards of the Criminal Law Convention on Corruption (ETS173) concerning the liability of legal persons

Accordingly, recommendations a, f, and g were partially implemented; d, e, h, i, and j were satisfactorily implemented and c and b were not implemented at all.

Financial Action Task Force (FATF)

The Financial Action Task Force (FATF) is an inter-governmental body with an objective to combat money laundering, terrorist financing and other related threats to the integrity of the international financial system. Turkey joined FATF in September 1991. In October 2012, the Financial Action Task Force (FATF) criticized Turkey for its continuing lack of adequate terrorist financing legislation and a legal framework within which to freeze terrorist assets. The FATF also announced it would take the countermeasure of suspending Turkey's FATF membership if appropriate actions were not taken by Turkey. In its latest report in February 2013, the FATF welcomed Turkey's progress in largely complying with the FATF standard on criminalization of terrorist financing; but it added that certain concerns persisted regarding Turkey's framework for identifying and freezing terrorist assets.⁵²

Currently, Turkey is in the list of 9 countries, that have deficiencies in strategic anti-money laundering and combating the financing of terrorism or that have not committed to an action plan developed with the FATF to address these deficiencies.

Anti-Fraud Coordination Office (AFCOS)

During 2006, the Prime Ministry Inspection Board was shown as the designated respondent to requests from the European Anti-Fraud Office (OLAF); but in the 2007 Progress Report, the lack of an Anti-Fraud Coordination Office (AFCOS) within Turkey was criticized. As a response, the PM Inspection Board was appointed to act as AFCOS in 2009.

As a candidate country since 2004, Turkey receives anti-corruption policy recommendations from the EU Commission through Progress Reports. Some critical points from the 2013 Progress Report is as follows:⁵³

- In line with the 2010-14 National Anti-Corruption Strategy and Action Plan, working groups on corruption-related issues suggested conducting annual country-wide corruption perception surveys and establishing comprehensive tracking of data on corruption. These have not yet been achieved.

The EU and Anti-Corruption

⁵² FATF Public Statement, FATF, 14 February 2014

<http://www.fatf-gafi.org/countries/s-t/turkey/documents/public-statement-feb-2014.html>.

⁵³ Turkey 2013 Progress Report, p.47-48.

- The anti-corruption agenda would benefit from greater civil society involvement in updating the Strategy and monitoring its implementation.
- The legal mandate of the Prime Ministry Inspection Board in the area of anti-corruption needs to be strengthened. The operational independence of the Board and adequate human resources, including full-time staff, need to be ensured.
- No further progress can be reported on the alignment with the recommendations of the Group of States against Corruption (GRECO). (Greco's 2010 recommendations for Turkey were listed in the previous section).
- Of specific importance, Progress Report 2013 underlines legal loopholes related to the financing of politics as a source of concern. Progress Reports of both 2012⁵⁴ and 2013 mention that the auditing of political parties remained weak and there was no legal framework for auditing election campaigns or the financing of individual candidates other than in the case of presidential elections. There were not enough checks on assets declared by political figures and public officials. No progress was made on limiting the immunity of Members of Parliament and senior public officials in corruption-related offences.
- Efforts are needed to develop a thorough track record of investigation, indictment and conviction.

Besides what is stated above, the 2014 Progress Report strongly calls upon the Turkish government to ensure a well-functioning Court of Auditors that is managed in compliance with international standards. Accordingly, citizens should be able to have a full access to all auditing reports including the ones on the security forces. The 2014 Progress Report further stresses the need for a juridical police force which will be operated solely by the judiciary.

USA Human Rights Report 2013⁵⁵

This Report's main criticisms are:

- Even though Turkish law defines corruption as a crime, the government did not implement the law on criminalizing corruption effectively and some public officials engaged in corrupt practices with impunity.
- Authorities have not established well-functioning operating systems for investigating, indicting, and convicting individuals accused of corruption, and there were concerns about the impartiality of the judiciary in the handling of anti-corruption cases
- There is no whistle-blower law to provide protection to public and private employees.

⁵⁴ Turkey 2012 Progress Report, p. 71, 72.

⁵⁵ Section 4 Corruption and Lack of Transparency in Government, Turkey Human Rights Report 2013, p. 34-36.

- There was no coordination with civil society on oversight of financial disclosure in politics.
- Under the Right to Gain Knowledge law, the government provides its citizens with a right to gain information on governmental issues. However, in some case, government rejects such requests by stating that such information falls into the category of a 'state secret'.

US Department of State⁵⁶

The US Department of State mentions money laundering in Turkey in its report. It argues that the large scale cross-border smuggling of currency; bank transfers into and out of the country; trade fraud; and the purchase of high-value items such as real estate, gold, and luxury automobiles are used for money laundering in Turkey. The report is also a reminder of FATF's Public Statement for Turkey's continuing lack of adequate terrorist financing legislation and a legal framework within which to freeze terrorist assets.

Rankings in Transparency International

Turkey performed below average in Transparency International's 2011 Corruption Perceptions Index⁵⁷, with a score of 4,2 on a 0 (highly corrupt) to 10 (highly clean) scales, indicating relatively high levels of public sector corruption⁵⁸. Turkey's performance improved mildly in 2012 and 2013. It must be noted here that Turkey's rankings have been fluctuating within the band of 30-34% since 2008 after having improved significantly between 2000 and 2007.

Turkey's performance improved between 2000 and 2007 probably as a result of new laws and regulations introduced that enhanced the compatibility with the international conventions; but because there has been no significant improvement in actual implementation since 2008, Turkey's ranking in the overall index did not improve significantly over the past five years. In 2014, Turkey scored 45 by losing 5 points. Ranking 64 out of 175 countries, Turkey became the country with the sharpest fall in score.

56 Money Laundering and Financial Crimes Country Database, United States Department of State Bureau for International Narcotics and Law Enforcement Affairs, June 2013, p. 401.

57 Corruption Perceptions Index, Transparency International, <http://cpi.transparency.org/cpi2013/>.

58 Transparency International, 2011 <http://www.transparency.org/cpi2011/results>.

**TRANSPARENCY INTERNATIONAL'S CORRUPTION PERCEPTION INDEX:
TURKEY'S SCORE**

	Score	Number of Countries in the Index	Turkey's Ranking	% Ranking
2011	4.2	182	61	34%
2012	49	176	54	31%
2013	50	177	53	30%
2014	45	175	64	-

Source: Transparency International

Recommendations:

- Turkey has been a part of international anti-corruption initiatives since the beginning of 2000's. Yet, as some observers note, these positive steps alone are not sufficient to combat corruption in an efficient manner⁵⁹. The performance gap between building the legal framework and actual implementation of anti-corruption measures (as can be observed from the sub-indicators of Global Integrity index mentioned in the 'Economy Section') must be interrogated. In this regard, civil society in Turkey can play a crucial role in identifying the efforts to circumvent the legal framework as well as in explaining how and why actual implementation of anti-corruption measures is weak in Turkey.

⁵⁹ 'Anti-Corruption Legislation In Turkish Law', Güneş Okuyucu-Ergün, German Law Journal, vol. 08, no. 09, p. 914.

TESEV's Good Governance Program

The principle of good governance is a widely-acknowledged administrative decision-making process which centers on accountability, transparency and a human-centered governance. It abolishes the ruler-ruled distinction and replaces it with an understanding where the ruled is considered as a stakeholder in public affairs. In this human-centered approach to public administration, citizens take active part in the decision and policy making processes. Being interactive, service provision to all citizens without discrimination, being accountable to even the most sensitive segments of society are all aspects of this new type of governance. To attain this objective, communication channels between citizens and the state should be established during promulgation of laws and transparency should be secured in service provision. This necessitates a more active role for civil society in creating the necessary bridges between citizens and the policy makers. In 2004, TESEV established the Good Governance Program to contribute to current administrative reform by designing projects that bring good governance principles to reality by strengthening linkages between civil society and public administration and create joint initiatives on issues fundamental to social life and to inform the public. As a part of this effort, TESEV's Good Governance Program undertakes studies regarding local governance, social policy, anti-corruption and transparency. The main purpose of the SELDI initiative is to create a platform to encourage collaboration in anti-corruption efforts between the Southeast European states that aspire to join the European Union. Through this collaboration, member countries are able to adopt a more comprehensive and applicable anti-corruption action plan.



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