

## QUESTIONNAIRE

### Country self-assessment report on implementation and enforcement of G20 commitments on foreign bribery

*G20 countries are invited to complete the questionnaire, below, on the implementation and enforcement of G20 commitments on foreign bribery.*

*Part I questions are drafted directly from the principles outlined in the G20 Guiding Principles on Enforcement of the Foreign Bribery Offence endorsed by G20 Leaders in St. Petersburg, and its background note on Enforcement of Foreign Bribery Offences. Part II questions are drafted from the G20 Anti-Corruption Action Plan and the St. Petersburg Leaders' Declaration.*

*Responses to this questionnaire could be compiled into a summary on the "state of play" in G20 countries on steps taken to date to implement the aforementioned commitments, as well as plans for future actions in this area.*

#### **I. Implementation of the Guiding Principles on Enforcement of the Foreign Bribery Offence in G20 Countries**

*Note 1: This section of the questionnaire is drafted from the principles outlined in the G20 Guiding Principles on Enforcement of the Foreign Bribery Offence and the background note on Enforcement of Foreign Bribery Offences.*

##### **A. A robust legislative framework**

*In your jurisdiction:*

**1. Is there a clear and explicit foreign bribery offence that covers the key elements of the internationally agreed definition for foreign bribery, including offering, promising or giving of a bribe, bribery through intermediaries, and bribes paid to third party beneficiaries?**

- *If your jurisdiction criminalises foreign bribery, please provide references to the relevant provisions and/or the full text, if possible.*
- *If your jurisdiction does not have a foreign bribery offence:*
  - Please note whether an offence has been "drafted", "submitted for government review", or "adopted but not yet entered into force".
  - Please provide a timeline for the entry into force of draft legislation, where applicable.

**Response:**

Article 252 of the TPC regulating the bribery has undergone to a radical change during the process of preparation of the Third Evaluation Round Compliance Report on Turkey that differs from the draft regulation that had been presented to the GRECO Secretariat and formed basis to the Compliance Report.

By the amendments to article 252 of the TPC, the condition of reaching to an agreement by the parties for the offence of bribery to occur has been lifted; promises, offers and requests for bribe have been regulated as separate offences. Furthermore, securing an advantage by the public official from other persons to act in the exercise of his/her duty has also been included within the scope of the offence of bribery, and elements of the offence of bribery in terms of

national public officials and foreign/international public officials have been made formal. With the new regulation introduced, comprehensive, consistent and clear definition of the offence of bribery have been provided, and provisions on the offence of bribery have been accorded to the Criminal Law Convention on Corruption (hereinafter referred to as “Convention”).

In its renewed version of article 252 of the TPC, paragraph 1 regulated furnishing bribe, paragraph 2 regulates receiving bribe, paragraph 4 regulates acts of requesting, promising and offering bribe, paragraphs 5 and 6 regulate commission of the offence of bribery through intermediaries and indirectly, paragraph 8 regulates bribery in the private sector, and paragraph 9 regulates offences of bribery committed by foreign/international officials.

The provision regarding the definition of the offence that was under former paragraph 3 of article 252 of the TPC prior to amendment by the Law No. 6352 and stipulating the condition of agreement for occurrence of the bribery offence has been lifted, instead, elements of the offence for each bribery act above have been stated in separate paragraphs.

Accordingly, active bribery of domestic public officials is regulated under paragraph 1 of article 252 as, “Any person providing of any undue advantage directly or through intermediaries to any public official or anyone else directed by the public official in order to act or refrain from acting in the exercise of his or her functions shall be sentenced to a penalty of imprisonment of four to twelve years.” and passive bribery of domestic public officials is regulated under paragraph 2 as, “Any public official providing of any undue advantage directly or through intermediaries for himself or herself or for anyone else directed by him or her in order to act or refrain from acting in the exercise of his or her functions shall be sentenced to the same penalty issued in the first paragraph.”

In the definition of the offence under the former paragraph 3 of article 252 of the TPC, the term for the public official to reach to an agreement with the person was stipulated for the occurrence of the bribery offence. With the new regulation, the term for the parties to reach to an agreement for actualisation of the bribery offence has been lifted. According to this, “**even if a prior agreement for bribe does not exist**” between the public official and a person, act of furnishing a public official with a bribe or receiving a bribe by the public official will constitute the bribery offence.

Furthermore, the statement “*Where the parties agree upon a bribe, they shall be sentenced as if the offence were completed*” in the text prior to the amendment has also been kept in paragraph 3 of article 252. Hence, even if an advantage subject to the bribery is not obtained despite the agreement on a bribe, a sentence will be rendered as if the offence were completed.

In the draft text which formed basis to the Compliance Report, paragraph 2 of article 252 was regulated as, “*If the public official requests a bribe but it is not accepted by the other person, or if the other person offers or promises any undue advantage to the public official but the offer or promise is not accepted by the public official, the penalty to be imposed in accordance with the provisions on attempt shall not be less than two years.*”

By the amendment, the provision “*In the cases that any public official requests a bribe but it is not accepted by the person or any person offers or promises any undue advantage to any public official but this is not accepted by the public official, the penalty imposed in accordance with the provisions of first and second paragraphs shall be decreased by one half.*” of paragraph 4 of article 252 has been introduced. Hence the referral to attempt provisions in penalisation of the bribery acts like requesting, offering and promising a bribe have been removed and these acts have been introduced as separate offences. Acts of promising and offering a bribe to a public official under article 2 and acts of requesting a bribe by the public official under article 3 of the Convention have been explicitly covered by the bribery offence.

In terms of requests, offers or promises of a bribe regulated under paragraph 4 of article 252 of the TPC, a penalty of imprisonment for a term of 2 to 6 years might be rendered. Penalties stipulated for the acts in question are both effective, deterrent and proportionate as stated in article 19 of the Convention and meet the condition for extraditability.

On the other hand, according to the text of the TPC prior to the amendment by the Law No. 6352, in order for the bribery offence to occur, it was necessary for the public official to secure a benefit to act or refrain from acting “in breach of the requirements of his/her duty” (art. 252/3). The public official who secured an advantage for himself/herself or for another from other people to act in the exercise of his/her duty or for that purpose was penalised

within the scope of “misuse of duty” (art. 257/3).

In the new regulation, the condition for the public official to act or refrain from acting “in breach of the requirements of his/her duty” in terms of occurrence of the bribery offence has been replaced with the condition for the public official to act or refrain from acting “in the exercise of his/her duty” to secure an undue advantage. Hence, circumstances where the public official secures an undue advantage from other people to act in the exercise of his/her duties have been included in the scope of the bribery offence. As an inevitable result of this regulation, the provision of paragraph 3 of article 257 of the TPC regulating securing a benefit to act in the exercise of one’s duty as misuse of duty was abolished.

Pursuant to the new definition of bribery, bribery offence occurs in the case where the public official secures an undue advantage to act or refrain from acting in breach of the requirements of his/her duties. In this way, in terms of the definition of the bribery offence, a regulation parallel to the provisions of the Convention has been introduced.

Please find attached relevant provisions of Turkish Criminal Code.

#### **TURKISH CRIMINAL CODE**

##### **Bribery**

##### **Article 252 (Amend. 2/7/2012 – Art. 6352/87)**

(1) Any person providing of any undue advantage directly or through intermediaries to any public official or anyone else directed by the public official in order to act or refrain from acting in the exercise of his or her functions shall be sentenced to a penalty of imprisonment for a term of four to twelve years.

(2) Any public official providing of any undue advantage directly or through intermediaries for himself or herself or for anyone else directed by him or her in order to act or refrain from acting in the exercise of his or her functions shall be sentenced to the same penalty issued in the first paragraph.

(3) Where the parties agree upon a bribe, they shall be sentenced as if the offence were completed.

(4) In the cases that any public official requests a bribe but it is not accepted by the person or any person offers or promises any undue advantage to any public official but this is not accepted by the public official, the penalty imposed in accordance with the provisions of first and second paragraphs shall be decreased by one half.

(5) Any person acting as an intermediary for transferring the offer or the request for bribe to the other party, agreeing on bribery and providing the bribe to the other party shall be sentenced as a principal offender, irrespective of being a public official.

(6) Any third person who has been provided any undue advantage indirectly within the bribery relation or the representative of the legal entity accepting the undue advantage shall be sentenced as a principal offender, irrespective of being a public official.

(7) Where the person who receives or requests a bribe or agrees to such is a person in a judicial capacity, an arbitrator, an expert witness, a public notary or a professional financial auditor, the penalty to be imposed shall be increased by between one third and one half.

(8) The provisions of this Article shall also apply in the case of providing, offering or promising of any undue advantage, directly or through intermediaries, for persons who act on behalf of the legal entities enumerated below; requesting or accepting bribe by such persons; intermediating to these activities; providing any undue advantage to another person through this relation, in order to act or refrain from acting in the exercise of their functions, irrespective of whether they are public officials or not:

a)Public professional organisations,

b)Companies incorporated by the participation of public institutions or public organisations or public professional organisations,

c)Foundations acting under the auspices of public institutions or public organisations or public professional organisations,

d)Associations working in the interest of public,

e) Cooperatives

f) Public joint stock companies.

(9) The provisions of this Article shall be applied in the event that the persons enumerated below, directly or through intermediaries, are provided, offered or promised any undue advantage or requests or accepts in order to act or refrain from acting in the exercise of their functions or to provide or preserve a business activity or any undue advantage due to international transactions:

a) The elected or the appointed public officials in a foreign country,

b) The judges, jurors or other officials working for international or supranational courts or foreign courts,

c) International or supranational parliamentarians,

d) The persons carrying out a public activity for a foreign country including public institutions and public enterprises,

e) The citizens or foreign arbitrators assigned within the framework of the arbitration procedure applied for the settlement of a legal dispute,

f) The officials or representatives of international or supranational public organizations established based on an international agreement.

(10) In the event that the bribery offence within the scope of paragraph nine is committed by a foreign abroad and for acting or refraining from acting in a transaction or a dispute relating to:

a) Turkey,

b) A public institution in Turkey,

c) Any legal entity of private law established in accordance with Turkish legislation,

d) A Turkish citizen,

the investigation and prosecution, *sua sponte*, is conducted, if they are present in Turkey, against bribers and bribees, the persons who offer, promise, request of a bribe; accept the offer or promise of a bribe; intermediate such; provide himself or herself any undue advantage through bribery relation.

#### Effective regret

**Article 254 (Amend. 2/7/2012 – Art. 6352/88) (1)** Where, before the act is learnt by official authorities, the person in receipt of the bribe presents the consideration of such to the authorities, no penalty shall be imposed for the offence of bribery. Where, before the act is learnt by official authorities, a public official who, after having agreed to receive a bribe, informs the authorities of such, no penalty shall be imposed.

(2) (Amend. 2/7/2012 – Art. 6352/88) Where, before the act is learnt by official authorities, a person who gives a bribe to a public official or agrees on bribe, demonstrating regret, informs the competent authorities of such, no penalty shall be imposed for the offence of bribery.

(3) (Amend. 2/7/2012 – Art. 6352/88) Where, before the act is learnt by official authorities, any other person who participates in the offence of bribery informs the relevant authorities by demonstrating regret, no penalty shall be imposed upon such person.

(4) (Add: 26/6/2009 – Art. 5918/4) The provisions of this Article shall not apply to the persons who give bribe to the foreign public officials.

#### Trading in influence

**Article 255 (Amend. 2/7/2012 – Art. 6352/89)**

(1) Where the Nüfuz Sahibi over a public official provides any undue advantage for himself or herself or for anyone else, in order to take the

initiative for the purpose of having an improper business done, he or she shall be sentenced to a penalty of imprisonment of two years to five years and a judicial fine up to five thousand days. In the case that the offender is public official, the penalty shall be increased by a half. As for the person providing undue advantage in exchange for performing his or her business or in the expectation of performing his or her business, they shall be sentenced to a penalty of imprisonment of one year to three years.

(2) Even in the case of agreeing on providing any undue advantage, the penalty shall be imposed as if the offence is completed.

(3) In the event that in line with the purpose stated under paragraph 1, any undue advantage is requested but it is not accepted or any undue advantage is offered or promised but it is not accepted, the sentence to be given in accordance with the paragraph 1 shall be decreased one half.

(4) The person who intermediates the offence of the offence of trading in influence shall be sentenced as principal offender with the penalty laid down in paragraph 1.

(5) Any third real person who has been provided any undue advantage indirectly within the trading in influence relation or the representative of the legal entity accepting the undue advantage shall be sentenced as a principal offender with the penalty laid down in paragraph 1.

(6) Where taking the initiative for the purpose of performing a business constitutes a distinct offence, the persons shall also be sentenced owing to this offence.

(7) The provisions of this article shall be applied in the event that influence is traded over the persons enumerated in article 252 paragraph nine. With regard to those persons, if they are present in Turkey, the investigation and prosecution is conducted, *sua sponte*, irrespective that they are national or foreign.

#### Misuse of Public Duty

**Article 257 - (1)** Excluding any situation defined elsewhere as a separate offence in law, any public official who causes any loss to the public or an individual or provides any undue advantage for another by acting contrary to the requirements of his duty shall be sentenced to a penalty of imprisonment for a term of six months to two years.

(2) Excluding any situation defined elsewhere as a separate offence in law, any public official who causes any loss to the public or any individual or provides any undue advantage for another by failing to exercise the requirements of his duty, by omission or delay, shall be sentenced to a penalty of imprisonment for term of three months to one year.

(3) (Abrogated: 2/7/2012 – Art. 6352/89)

*Note 2: For questions 2 through 11, jurisdictions without a foreign bribery offence should include updates on plans to address the following issues in efforts to establish the criminalisation of foreign bribery and a framework for enforcing this offence.*

**2. What is the statute of limitations for investigating and prosecuting foreign bribery?** Please indicate the criteria for suspension, interruption or extension of the statute of limitations?

Start, suspension, interruption and restart of the statute of limitations under Turkish Criminal Code, are as follows:

**Start of the statute of limitations:** Article 66/6 of Turkish Criminal Code envisages that “for complete offences, the statute of limitations shall begin on the day the offence was committed; for attempted offences, on the day when the last act was conducted; for continuous offences, on the day when the continuing act ended; for successive offences, on the commission date of the last offence and for crimes committed against children by their direct-ascendant or persons who have influence upon them, the limitation period shall begin on the day when the child turns eighteen years of age.”

**Suspension of the statute of limitations:** Article 67/1 of Turkish Criminal Code envisages that “Where, in order to

conduct an investigation or prosecution, the permission, or decision, of another authority is required or an issue needs to be resolved by another authority, the time for the purposes of calculating the statute of limitations shall be suspended until the permission, or decision, is obtained, or until such issue is resolved. And where a Court decides that a person is a fugitive then the statute of shall be suspended until the Court revokes such decision.”

**Interruption of the statute of limitations:** Under Article 67/2 of the Turkish Criminal Code, “the statute of limitations in connection with a crime is interrupted;

- a) if one of the suspects or accused persons provides a testimony or is interrogated before a prosecutor,
- b) if an arrest decision against one of the suspects or accused persons is issued,
- c) if an indictment is issued in connection with the offence,
- d) if at least one of the accused is convicted.

(3) After an interruption of the statute of limitations, the period for the statute of limitations restarts. Where more than one event which interrupt the statute of limitations, the period for the statute of limitations restarts from the date of the final interrupting event.

(4) In the case of interruption of the statute of limitations, the limit as stated in the law corresponding to a specific offence, may be extended by, at most, one half of such period.”

The information stated above is valid for the start, suspension, interruption and restart of the statute of limitations with regard to the offence of bribery of foreign officials. In more concrete terms, the statute of limitations applicable to the offence of bribery of foreign officials is 15 years in line with Article 66/1-d and with Article 252/1 of the Turkish Criminal Code by referral of Article 252/9 of the Turkish Criminal Code. Under Article 67 of the Turkish Criminal Code, in the event of interruption of the statute of limitations, the case may be extended up to 22,5 years.

Article 66, 1/d, entitled ‘Statute of limitations’ stipulates “fifteen years for offences requiring a penalty of imprisonment of more than five years and less than twenty years,” while Paragraph 4, Article 67 of the same code governs that “in the case of interruption of the statute of limitations, the limit as stated in the law corresponding to a specific offence, may be extended by, at most, one half of such period.”

**3. Please describe the form of jurisdiction available over the foreign bribery offence (i.e. territorial or nationality jurisdiction).**

Response:

The Turkish jurisdiction in terms of the bribery offences committed abroad is regulated in Paragraph 10 of Article 252 of the TPC as follows:

“Where the bribery offence that falls within the scope of paragraph 9 is committed, although by a foreigner abroad, with regard to a dispute to which:

- a) Turkey,
- b) a public institution in Turkey,

c) a private legal person established in accordance with Turkish legislation,

d) a Turkish citizen

is a party, or to perform or not to perform a transaction concerning these institutions or persons, ex-officio investigation and prosecution shall be initiated against the persons who give, offer or promise a bribe; who receive, request, accept the offer or promise of a bribe; who intermediate these; who are provided with any undue advantage due to bribery relation, if they are present in Turkey.”

With this regulation, the condition that the prosecution of acts of corruption committed abroad by non-citizens, but involving Turkish public officials or members of Turkish public assemblies, who are at the same time Turkish citizens, must be preceded by a request of the Minister of Justice has been abolished. With the provision of paragraph 10 of Article 252, a special jurisdiction rule in terms of certain bribery acts has been introduced and it has been stated that in the case of commission of the bribery offence enumerated in paragraph 9 by foreigners abroad, *ex-officio* investigation and prosecution will be initiated. In this way, investigation and prosecution of such corrupt acts committed by non-Turkish citizens have been removed from the scope of application of paragraph 1 of Article 12 of the TPC.

Paragraph 10 of Article 252 mentions “Where the bribery offence that falls within the scope of paragraph 9 is committed, although by a foreigner abroad”. Under paragraph 9, it has been stated that the provisions of Article 252 will apply to the active and passive bribery of officials of international organisations, international parliamentarians and judges and other officials working for international courts, as well as other officials enumerated under this paragraph. Accordingly, with the regulation in paragraph 10, jurisdiction has been explicitly established over corrupt acts committed abroad by non-citizens but involving officials of international organisations, international parliamentarians and judges and prosecutors working for international courts who are, at the same time, Turkish citizens.

It is to be noted that the jurisdiction rule in paragraph 10 of Article 252 of the TPC will apply not only in terms of bribery offences of foreign and international officials but also to acts of the Turkish citizens who participate in the offences stated in paragraph 9 and who carry out a duty in foreign states/international institutions.

For example, in the case where a foreigner bribes abroad an official of an international organisation who is a Turkish citizen related to a dispute to which Turkey is a party, the act of the foreigner will constitute the offence regulated under Article 252/9-f of the TPC and it will be possible to prosecute such a person in Turkey pursuant to Article 252/10 of the TPC. The act of the Turkish citizen working in the international organisation will be considered within the scope of Article 252/9-f of the TPC and Turkish jurisdiction will apply in accordance with Article 252/10 of the TPC.

**4. Please indicate whether your jurisdiction has a corporate liability regime for the offence of foreign bribery.**

*If your jurisdiction does not have a corporate liability regime for the offence of foreign bribery, please provide a timeline for implementation of corporate liability.*

Response:

Pursuant to Article 20/2 of the Turkish Criminal Code, “no punitive sanctions may be imposed for

the legal persons. However, the sanctions in the form of security precautions stipulated in the law for the offenses are reserved”.

As a result of the continental law system, criminal liability of legal persons is not accepted in the Turkish Criminal Law.

However, as defined in Article 3/2 of the Convention,

*“In the event that, under the legal system of a Party, criminal responsibility is not applicable to legal persons, that Party shall ensure that legal persons shall be subject to effective, proportionate and dissuasive non-criminal sanctions, including monetary sanctions, for bribery of foreign public officials.”*

Turkey has accepted the system that is effective and deterrent administrative judicial fines (Article 43/A of the Law on Misdemeanours) and security precautions (Articles 60 and 253 of the Turkish Criminal Code).

In Article 60 titled “Security Measures Specific to Legal Entities” of the Turkish Criminal Code numbered 5237, it is regulated how security precautions could be applied in respect of legal persons. According to this, in the case of commission of an intentional offence in participation of the organ or representative of the legal person and such offence being for the benefit of the legal person, measures like cancellation of license, confiscation of articles, confiscation of earning could be applied.

In accordance with Article 60/1 of the Turkish Criminal Code, in the case of conviction of a crime through participation of the organs or representatives of a private-law legal person operating under the license granted by a public institution or misuse of authorization conferred upon by this license, decision on cancellation of this license is rendered. It is stated in the second paragraph of this Article that the provisions relating to confiscation are applied also to the private-law legal persons for offences committed on their behalf.

That is said, it is indicated in the third paragraph of this Article that in cases where cancellation of the license of the legal person or confiscation provisions to be applied is likely to create heavier consequences than the committed act, the judge may refrain from imposition of such measures. On the other hand, the provisions of Article 60 are applicable to the cases specifically defined by the law.

In the event that the real persons commit crimes intentionally in favor of legal persons, the real persons are imposed criminal sanctions in line with the provisions provided for their offences, where as security measures enshrined in Article 60 of the Turkish Criminal Code are decided on the concerned legal persons according to conditions.

In the case where unfair advantage is provided to the legal person through the commission of offences of “Theft”, “Abuse of Trust” and “Theft by deception” security measures under article 169 of the Turkish Criminal Code, “Fraud



During a Tender”, Fraud During Discharge of Contractual Obligations”, “Manipulation of the Price”, “Causing Shortage of the Items Required by the Public”, “Disclosure of Confidential Documents or Information Relating to Commerce, Banking or Private Customers”, “Avoidance of Supply of Goods and Services” and “Usury” measures under article 242 of the Turkish Criminal Code, “Accessing a Data Processing System”, “Preventing the Functioning of a System and Deletion, Alteration or Corruption of Data”, “Misuse of Banks and Credit Cards” measures under article 246 of the Turkish Criminal Code, “Bribery” measure under article 253, application of security measures under article 60 of the said Code is regulated as mandatory provision.

On the other hand, Article 43/A was added to the Code of Misdemeanours with the amendment dated 26 June 2009, in line with the “Convention on Combating Bribery of Foreign Public Officials in International Business Transactions”. According to this provision, where a body or representative of a legal person or, not being any of them, a person who undertakes a task within the scope of that legal person’s activity commits the bribery offence and other listed offences, for the benefit of that legal person, a further administrative fine of ten thousand Turkish Liras to two million Turkish Liras can be imposed on that legal person, unless it constitutes a misdemeanor which requires heavier administrative fine. These fines are increased at a certain rate each year. Fine stipulated in article 43/A of the Code of Misdemeanours for 2014 is from 13.827 TL to 2.765.440 TL. In accordance with second paragraph of the article, the administrative fine in question may be imposed by the high criminal courts assigned to handle bribery offence. According to this provision in the Code of Misdemeanours, a further administrative fine could also be imposed apart from the security measures to be applied in respect of the legal persons within the scope of the Turkish Criminal Code.

Apart from these provisions, a real person having committed the offence of bribery in favour of a legal person could be sentenced to imprisonment from 4 to 12 years as per Article 252 of the Turkish Criminal Code, which sets out the offence of bribery.

**5(a) Please describe the sanctions and confiscation measures available for natural and legal persons for the crime of foreign bribery.**

**5(b) Please provide the number of criminal, administrative, and civil cases of foreign bribery that have resulted in a final disposition, and indicate(i) how many of these cases have resulted in a criminal conviction or acquittal, or similar findings under an administrative or civil procedure, and (ii) the number of natural and legal persons who have been convicted or otherwise sanctioned.**

- *Where possible, please provide references to the relevant provisions and/or the full text, if possible.*

**Response: (a) Please describe the sanctions and confiscation measures available for natural and legal persons for the crime of foreign bribery.**

A- Criminal sanctions and confiscation:

Pursuant to the amended Article 252 of the Turkish Criminal Code, no change was made in sanctions. In accordance with Article 252, the public official who receives bribe shall be sentenced to a penalty of imprisonment for a term of four years to twelve years. The person who gives the bribe shall be sentenced as if he were a public official.

Pursuant to Paragraph 4 of Article 254 of the Turkish Criminal Code, provisions of effective remorse shall not be applied to persons who give bribe to foreign public officials.

According to Article 51 of the Turkish Criminal Code, suspension is not possible.

The person shall be deprived of his/her rights prescribed by Article 53/1 of the Turkish Criminal Code as a consequence of his/her conviction of the offence of bribery. He/she cannot exercise these rights until the completion of the execution of the imprisonment he/she was given on account of the crime he/she committed.

Accordingly, pursuant to Article 252 of the Turkish Criminal Code, a person who commits the offence of bribery is deprived of the followings:

- Undertaking a permanent, periodic or temporary public task; in this context, being a member of the Turkish National Grand Assembly and being employed at all kinds of official duties or services which are subject to appointment or election and which are the institutions and organizations under control and supervision of the State, the Province, the Municipality or the Village,
- The capacity to vote and to stand for election and using other political rights,
- The parental authority right; undertaking a service in the capacity of guardianship or curatorship,
- Being the administrator or auditor of foundations, associations, unions, companies, cooperatives and political legal persons,
- Practicing under his/her own responsibility as a freelancer or a merchant a profession or an art subject to the authorization of a public institution or an occupational entity with the status of a public institution.

As the lower limit of the sentence prescribed is four years' imprisonment and pursuant to Article 49/2 of the Turkish Criminal Code, this period is not considered as a short-term period, in accordance with Article 50 of the Turkish Criminal Code, the conversion of the sentence to judicial fine is not possible.

Article 54 of the Turkish Criminal Code regulates confiscation of property, and Article 55 regulates confiscation of gains. Article 54 of the Turkish Criminal Code stipulates, on condition that the property does not belong to any third party acting in good faith, property that is used for committing an intentional offence or is allocated for the purpose of committing an offence, or property that has emerged as a result of an offence shall be confiscated. Within this

scope, anything living or non-living, movable or immovable can be the subject of confiscation. On the other hand, despite the emergence of the conditions of confiscation, the property to be confiscated may be sold out, disposed of or removed. In such cases, the court shall decide on confiscation of the amount of money equal to the value of this particular property (Turkish Criminal Code, Article 54/2).

According to Article 55 of the Turkish Criminal Code which regulates confiscation of gains; material gain obtained through the commission of an offence, or forming the subject of an offence or obtained for the commission of an offence, and the economic earnings obtained as a result of its investment or conversion, shall be confiscated. This type of confiscation relates to “economic earnings/material gain” concerning an offence, but does not relate to property. According to the reasoning of the article, the main objective is to prevent earning of gain through commission of crime. Thus, confiscation of gain has been regulated comprehensively in Article 55, and confiscation of economic gains due to commission of a crime or as a result of commission of a crime has become possible. Hence, confiscation of gains is in the character of an effective deterrent sanction against offences such as **corruption**, **bribery**, money laundering and bid rigging, all of which are committed with the aim of acquiring economic gains.

Identification of assets, illegal acquisition of which could not be proven during the investigation;

Would form a basis to the decision on confiscation of replacement value to be given by the relevant court at the prosecution phase,

Would facilitate the proof of sham transactions directed to smuggling during prosecution phase,

Thus, from the values of assets registered on behalf of the individual or individuals who are the subject of investigation, those which cannot be identified as clearly related to the offence, are also included in the investigation document.

B- Administrative and civil sanctions:

a) The following Articles of the Banking Law No. 5411 sets out that in order for the below-mentioned persons/entities to be entitled to their capacities as such, they need to be not sentenced for the offence of bribery or for complicity in that offence:

- Pursuant to Subparagraph (d) of Paragraph 1 of Article 8 the founders of banks,

- Pursuant to Paragraph 2 of Article 8 the natural person shareholders of the legal person founders of banks who directly or indirectly have qualified shares, and pursuant to Article 18 the shareholders with qualified shares,

- Pursuant to Article 23 the members of the board of directors of the bank,

- Pursuant to Article 26 the bank's general manager, deputy general managers or persons who are in a position wherein they have signing authority,

- Pursuant to Paragraph 5 of Article 7 the stakeholder who acquires share in share transfers subject to permission

within the context of this Article,

- Pursuant to Article 8 the members of the board of directors of the asset management companies,
- Pursuant to Article 9 the general managers of the asset management companies,
- Pursuant to Article 84 the members of the Banking Regulation and Supervision Agency,
- Deputy Chairpersons of the Banking Regulation and Supervision Agency and the personnel of the Agency,
- The members of the Saving Deposit Insurance Fund (Fund) Board, Deputy Chairpersons of the Fund and the personnel of the Fund.

The requirement of being not sentenced for the offence of bribery or complicity in that offence is also included in the Regulations which were derived from this Law. For example, the same requirement applies to the followings:

- Pursuant to Article 15 of the Regulation on Authorization and Activities of Institutions to Perform Independently Auditing at Banks, the stakeholders of the institution to be appointed and its independent auditors,
- Pursuant to Article 9 of the Regulation on the Appointment and Activities of Institutions Providing Valuation Services to Banks, the stakeholders of the institution providing valuation services to banks and the member of the board of directors who is in charge of the quality assurance system and the valuation expert,
- Pursuant to Article 5 of the Regulation on the Financial Holding Companies, natural and legal persons with qualified share in the capital of the financial holding companies, and members of the board, general managers, deputy general managers and persons who are in a position wherein they have signing authority,
- Pursuant to Article 14 of the Regulation on the Appointment and Activities of Rating Agencies, stakeholders of the rating agency to be appointed, members of the board of directors in charge of the quality assurance system, members of the rating committee and rating experts,
- Pursuant to Article 6 of the Regulation on Support Services Procured by Banks, shareholders with qualified share of the institutions providing support services to banks.

On the other hand, the same requirement has been included in the Law No. 6361 on Financial Leasing, Factoring and Financing Companies. According to this Law:

- Pursuant to Article 6 the partners of the company having ten percent or more shares in the capital of legal person founding partners or the natural persons and legal entities having the control,
- Pursuant to Article 11 persons acquiring shares in the share transfers which are subject to permission and in

accordance with Article 13 members of the board of directors, general managers and deputy general managers shall not be sentenced for the offence of bribery or for complicity in that offence in order to be entitled to their capacities as such.

Additionally;

- Pursuant to Article 4 of the Law No. 5464 on Bank Cards and Credit Cards Law the founders of institutions intending to establish a card system, issue cards, enter into agreements with merchants, exchange information, and engage in clearing and settlement activities,

-In accordance with Articles 5, 14, 18 and 25 of the Law No. 6493 on the Payment and Security Consensus Systems, Payment Services and Electronic Money Institutions, in order to be entitled to their capacities as such the bank founders of persons having the control who have ten percent or more share in the capital of system administrators, paying agencies and institutions which export electronic money and who acquire shares in share transfers that are subject to permission shall not be sentenced for the offence of bribery or for complicity in that offence.

In this respect, the entitlement of the above-mentioned capacities of persons, who were sentenced pursuant to Turkish Criminal Code (Law No. 5237) or other laws for the offence of bribery or for complicity in that offence, is prohibited within the framework of the provisions of regulations concerning the Law No. 5411, the Law No. 6361, the Law No. 5464 and the Law No. 6493.

Furthermore Articles 27, 86 and 115 prescribes that banks' members of the boards of directors and the chairperson and members of the board of managers as well as general managers and deputy general managers and among persons who are in a position wherein they have signing authority, regional managers, branch managers and administrators of units who act under equivalent names, the chairperson and members of the Banking Regulation and Supervision Agency, the chairperson and members of the Savings Deposit Insurance Fund are subject to the provisions of the Act No. 3628 on "Declaration of Property and Fight Against Bribery and Corruption".

b) The Capital Markets Board

Pursuant to Articles 44 and 45/2 of the Law No. 6362 on the Capital Markets Board, founders, legal person stakeholders and significantly influential stakeholders and the administrators of intermediary firms shall not be sentenced for the offence of bribery even though the periods mentioned in Article 53 of the Turkish Criminal Code (Law No. 5237) have expired.

In accordance with the Communiqué on Stakes no. VII-128.1 which was prepared by the Capital Markets Board and which came into force by being promulgated on 22 September 2013 in the Official Gazette, for the Board to confirm the registration statement obtained from members of the board of directors or personnel with administrative

power in cases where the shares of the stakeholders of non-public companies are publicly offered by way of increasing capital, a written statement should be submitted which indicate that no criminal prosecution has been conducted in respect of the relevant persons or that they have not been sentenced for the offence of bribery.

A similar provision is included in the Bonds and Bills Communiqué no. II-31.İ which came into force by being promulgated on 07 June 2013 in the Official Gazette. According to this provision, during the Board's confirmation process of the registration statement concerning the public offering of bonds and bills, a statement having the same content shall be submitted by members of the director of boards and personnel with administrative power who will export bonds and bills.

c) The Prime Ministry Privatization Administration has started to apply the procedure of obtaining a recognizance from all investors bidding in privatization tenders which includes an undertaking that they have not been sentenced for the offence of giving bribe to foreign public officials under "the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions". The application of the procedure in question is still ongoing.

d) Article 11 titled "Ineligible Bidders" of the Public Procurement Law No. 4734 clearly sets out that persons who are sentenced for the offence of giving bribe to public officials in their own countries or a foreign country cannot participate in any procurement, directly or indirectly or as a sub-contractor, either on their own account or on behalf of others. Pursuant to the last paragraph of this Article, the tenderers who participate in the procurement proceedings despite these prohibitions shall be disqualified, and their tender securities shall be registered as revenue.

To conduct or attempt to conduct procurement fraud by means of bribery or other actions are listed as prohibited acts and conducts in the Subparagraph (a) of Paragraph 1 of Article 17 of the Law No. 4734. According to the Subparagraph (e) of the same Article, to participate in procurement proceedings although prohibited pursuant to Article 11 is also among the prohibited acts and conducts.

Article 58 of the Law No. 4734 includes the provision that those who are established to be involved in acts and conducts set forth in Article 17 shall be prohibited from participation in any tender carried out by all public institutions and entities for at least one year and up to two years depending on the nature of the said acts and conducts. According to the mentioned Article in case legal persons who are subject to prohibition are sole proprietorships, the prohibition decisions shall apply to all of the partners, and in case of companies with shared capital, the prohibition decisions shall apply for partners that are natural or legal persons who own more than half of the capital.

Depending on their being natural or legal persons, in cases where those who are subject to a prohibition decision are partners to a sole proprietorship, the sole proprietorship shall also be subject to the prohibition decision; and in

cases where those who are subject to a prohibition decision are partners to a company with shared capital, the company with shared capital shall also be subject to the prohibition decision provided that they own more than half of the capital.

Prohibition decisions shall be taken by the Ministry implementing the contract or by the Ministry which the contracting authority is subordinate to or associated with, by contracting officers of contracting authorities which are not considered as subordinate to or associated with any Ministry, and by the Ministry of Interior in special provincial administrations and in municipalities and in their affiliated associations, institutions and undertakings.

In the tenders made within the Law No. 4734 on Public Procurement, the successful tenderer should submit his criminal records before the signature of the contract. Whether or not the tenderer is convicted for the offence of offering bribe to a foreign public official, and whether there is a hindrance defined in Article 11 of the law in respect of them, are researched by way of the examination of relevant documents.

In this respect, the Public Procurement Law clearly regulates that the persons convicted for the offence of offering bribe to a foreign public official cannot participate in public procurements in accordance with Article 3/4 of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions stating that *"Each Party shall consider the imposition of additional civil or administrative sanctions upon a person subject to sanctions for the bribery of a foreign public official"*, and an effective mechanism has been set up.

e) Even though Türk Eximbank is public bank, her banking activities with the clients are subject to private law. Therefore her sanctions for combating foreign bribery are of administrative manner. Türk Eximbank "Directives on Combating Bribery Foreign Public Officials in International Business Transactions" has been effective and in full force since February 5, 2007. In this respect the companies that benefit from the credit and insurance programs of the Bank, have to submit a stand-alone document (Anti-Bribery Undertaking) during their application. This information and the document titled "Anti-Bribery Undertaking" are published on the official website of the Eximbank in order to raise awareness.

**(b) Please provide the number of criminal, administrative, and civil cases of foreign bribery that have resulted in a final disposition, and indicate (i) how many of these cases have resulted in a criminal conviction or acquittal, or similar findings under an administrative or civil procedure, and (ii) the number of natural and legal persons who have been convicted or otherwise sanctioned.**

**(i) the total number of criminal investigations commenced each year:**

**2009:** 2 Investigations.

**2010:** None.

**2011:** 3 Investigations.

**2012:** 2 Investigations.

**2013:** 1 Investigation.

(ii) the number of on-going investigations: 2 Investigations.

(iii) the number of investigations in which there has been a pre-trial seizure or freezing of assets: None.

(iv) the number of discontinued investigations without sanctions: 3 Investigations.

(v) the number of discontinued or deferred investigations where persons were sanctioned as a result of settlement, mediation, or the like: None.

(vi) the total number of administrative or civil proceedings

In the records of the Public Procurement Authority, there is no statistical information on the bidders who are disqualified from tender due to bribery of foreign public officials.

As to Turk Eximbank, within the credit and insurance programs of Turk Eximbank no suspicious situation on foreign bribery has been experienced, as a result of this no administrative sanction has been imposed against the

## B. Effective detection and domestic coordination

*In your jurisdiction:*

**6. What steps have been taken to engage with relevant agencies, such as overseas missions, broader tax administrations, trade promotion, public procurement and export credit agencies, as well as with the private sector, on issues related to implementation and enforcement of the foreign bribery offence? Where possible, please cite specific examples.**

Response:

1) *Informative Seminar Intended for Judges and Prosecutors*

A team of experts was established on OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and Practice of Turkey by the Directorate General for International Law and Foreign Relations of the Ministry of Justice. Also metropolitans where international commercial activities are intense and the court houses in Turkey where the investigations and prosecutions are carried out concerning the OECD Offence Index were located and informative seminars were organized for the judges and prosecutors in these court houses.

The following seminars were conducted by the team of experts within the scope of this project:

- On 15 May 2013, Gaziantep,
- On 16 May 2013, Adana,
- On 17 May 2013, Mersin,
- On 20 May 2013, İzmir,
- On 21 May 2013, Istanbul,
- On 22 May 2013, Bursa.



During the seminars, three main titles explained below are focused.

- International combat against corruption for the purpose of the Convention, aim of the Convention, its main elements and content.
- Compliance mechanism of the State Parties of the Convention within the scope of OECD Working Group on Bribery and its reflection to Turkey, examination processes of State Parties, the process applied in the event of not implementing the recommendations, briefing about the meetings of Working Group and examination processes of Turkey,
- Sanctions and sentences in Turkish legislation and other related legislations for the offence of bribery of foreign public officials, liability of legal persons, confiscation and seizure and the offence of money laundering predicated by bribery of foreign public officials.

In the mentioned seminars;

- From Gaziantep Court House, 27 Public Prosecutors and 35 judges,
- From Adana Court House, 63 Public Prosecutors and 87 judges,
- From Mersin Court House, 30 Public Prosecutors and 25 judges,
- From İzmir Court House, 40 Public Prosecutors and 50 judges,
- From Istanbul Court House, 40 Public Prosecutors and 50 judges,
- From Bursa Court House, 54 Public Prosecutors and 67 judges,

and a total of 568 judges and prosecutors participated.

Apart from the abovementioned seminars, also the seminar titled “Combating Offences Originating From Corruption” was organized on 13 – 16 May 2013 in Ankara by the cooperation of High Council of Judges and Prosecutors (HCJP) and Turkish Justice Academy.

A group consisting of 65 persons including judges of high criminal courts, Public Prosecutors and 6 auditors from Court of Accounts participated in this seminar. In this seminar, a presentation on “OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions” was performed by the Ministry of Justice.

Moreover, a training seminar on 21 – 22 November 2013 was organized by HCJP on “Forgery and Fraud” with the participation of 60 Public Prosecutors.

In addition to these seminars, meetings on “Fraud during a Tender, Embezzlement, Bribery, Extortion and Misuse of Public Duty” were organized in spring and autumn periods by HCJP for the purpose of “Legal Negotiation Meetings”. 80 judges and prosecutors participated in these meetings.

Judges and prosecutors assigned with handling the files concerning the offence of bribery of foreign public officials attended to all of the mentioned seminars and meetings.

## 2) *Seminars to Tax Authorities*

In order to conduct sound and effective tax audit, the Tax Inspection Board was established with the regulation that

entered into force on 10 July 2011, and all the tax examiners on duty at the Ministry of Finance started operating under this Board.

Within the scope of in-service trainings organized in 2013, 855 tax inspectors working for the Tax Inspection Board participated in awareness raising seminars on practices prohibiting deduction of the bribe given to the foreign public officials from tax and procedures on detection of national and foreign bribery offences in tax inspections.

Furthermore, the “OECD Guide for Tax Examiners in Combating Bribery” which was drawn up by the Revenue Administration and which can be accessed through internet site ([www.gib.gov.tr/fileadmin/beyannamerehberi/rusvet\\_kitap.pdf](http://www.gib.gov.tr/fileadmin/beyannamerehberi/rusvet_kitap.pdf)) has been put in use by the tax examiners. In the guide in question, it is emphasized that particularly the bribe given to the foreign public officials is defined as an offence in the Turkish Criminal Code and in the case of detection of such offence, it must be reported to the competent authorities.

In addition, certain steps have been taken to strengthen roles of the tax inspectors of the Tax Inspection Board in combating bribery including the ones given to the foreign public officials and corruption and to ensure training of tax inspectors by following international practices closely.

To that aim, the “Guide for Tax Inspectors in Combating Bribery and Corruption” was drawn up based on the “Bribery and Corruption Awareness Handbook for Tax Examiners and Tax Auditors” published by the OECD in 2013 and “OECD Bribery Awareness Handbook for Tax Examiners” published in 2009 and “OECD Guide for Tax Examiners in Combating Bribery” published by the Revenue Administration in 2006, and after being updated, this Guide was put in use by the tax inspectors working for the Tax Inspection Board in January 2014.

### 3) *Inter-institutional Meetings*

Various inter-institutional meetings were organized on 19 March 2013, 30 April 2013, 11 November 2013, 19 November 2013 and 5 March 2014 in Ankara by the Ministry of Justice in order to exchange opinion on the following issues and to ensure the coordination between institutions with the participation of public institutions and representatives from private sector:

- The issues to be dealt with for the purpose of “OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions” and Turkey Phase III Examination,
- The developments achieved since the Phase II Examination,
- Preparations for Phase III.

Representatives from the related units of Office of the Prime Ministry, the Ministry of Finance, the Ministry of Foreign Affairs, the Ministry of Economy, the Ministry of Customs and Trade, the Ministry of Labor and Social Security, the Ministry of Interior and also representatives from Public Procurement Agency, Eximbank, Capital Markets Boards, Banking Regulation and Supervision Agency, Small and Medium Enterprises Development Organization, the Union of Chambers and Commodity Exchanges of Turkey participated in these meetings for representation of the public institutions.

Moreover, the representatives from Ethics and Reputation Society (TEİD), Turkish Industry and Business Association (TÜSİAD), Turkish Contractor’s Association, Confederation of Turkish Commercial Unions (TÜRKİŞ), the Union of Chambers of Certified Public Accountants and Sworn-in Certified Public Accountants of Turkey (TÜRMOB),

Turkish Cooperation and Coordination Agency (TİKA), the Court of Accounts, Foreign Economic Relations Board (DEİK), Turkish Confederation of Businessmen and Industrialists (TUSKON) and Independent Industrialists and Businessmen's Association (MÜSİAD) participated in the meeting on 19 November 2013.

Within the scope of "In-service Training" organized in 2013 by the Ministry of Economy intended for the personnel assigned to the Organizations Abroad, a briefing presentation on "Convention on Combating Bribery of Foreign Public Officials in International Business Transactions" was made on 7 June 2013 to 18 personnel assigned to organizations abroad with the participation of the authorities from the Ministry of Justice.

The participants participated in the meeting actively with their questions and in the presentation, aims and content of "OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions", compliance mechanisms of the State Parties to the Convention, three-phased country examinations carried out for the purpose of the Convention, Working Group meetings, the situation of Turkey during the examination phases and the recommendations directed at our country were dealt with.

Moreover, a informative meeting was carried out on 29 May 2013 in the Ministry of Economy intended for 49 assistant experts under pre-service training in the Ministry of Economy by the Ministry of Justice. The meeting was on OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and its implementation and it was organized in order to raise the awareness concerning the Convention.

In the meeting, the participants were informed about "OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions". The issues of the presentation made in the meeting included compliance of our legislation with the mentioned Convention, first and second examination phases conducted by OECD Working Group on Bribery with regard to Turkey's implementation of the Convention, content of the reports issued by OECD Secretariat as a result of these examinations, the duties and responsibilities of public and private sector institutions so as to implement the Convention efficiently. At the end of the meeting, the questions of the participants were answered.

Additionally, within the scope of "Training Program" organized for 45 assistant experts who would enter Expertise Exam in 2014, a informative presentation on "OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions" and its implementations was performed on 26/02/2014 by the Ministry of Justice.

Apart from the meetings listed above, the following meetings were organized, with regard to the implementation of the Convention efficiently, by the Ministry of Justice in order to define the works to be carried out in cooperation with major non-governmental organization and private sector:

- The meeting organized on 26 April 2013 with the participation of the Union of Chambers and Commodity Exchanges of Turkey (TOBB),
- The meeting organized on 30 April 2013 with the participation of representatives from Presidency of Tax Inspection Board and Revenue Administration of the Ministry of Finance,
- The meeting organized on 6 May 2013 with the participation of representatives from Turkish Industry and Business Association (TÜSİAD – performing 80% of Turkish foreign trade excluding the energy import) and Turkish Confederation of Businessmen and Industrialists (TUSKON) (morning session),
- The meeting organized on 6 May 2013 with the participation of representatives from Confederation of Turkish Real Trade Unions (Hak-İş), Confederation of Employers of Turkey and Confederation of Turkish Commercial Unions

(afternoon session),

- The meeting organized on 27 May 2013 with the participation of representatives from Confederation of Turkish Real Trade Unions (Hak-İş) and Confederation of Employers of Turkey (morning session),

- The meeting organized on 27 May 2013 with the participation of representatives from Turkish Industry and Business Association (TÜSİAD) and Turkish Confederation of Businessmen and Industrialists (TUSKON) (afternoon session),

- The panel on “Combating Corruption in Turkey and Compliance Efforts of Companies” was organized on 16 January 2014 in Istanbul, within the scope of “OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions”, by the USA Bar Associations and in cooperation with ELIG Law Firm. A rapporteur judge from the Ministry of Justice made a presentation in this panel.

Detailed information was given to the participants in this panel concerning the mentioned OECD Convention, the regulations in Turkish legislation on this issue and examinations on Turkey with regard to the Convention. The USA Bar Associations participated in this panel through live connection on the internet. Also senior law consultants of 25 Turkish companies performing international commercial transactions participated in the mentioned panel.

#### **4) Steps taken to engage companies, business associations, professional organisations, trade unions, non-governmental organisations, universities and business schools, and the media, as well as the general public.**

In the Executive Meeting of Confederation of Employers of Turkey (TİSK) on 2 July 2013, a informative presentation concerning “OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions” was made by the Ministry of Justice to the Board of Directors of TİSK consisting of 25 persons.

The Ministry of Justice participated in the meeting on “Business Integration of Eastern Europe and Central Asia” organized on 25 October by the Secretariat of Anti-Corruption Network for Eastern Europe and Central Asia (ACN) with cooperation of Ethics and Reputation Society.

The items for “Measures Intended for Raising Public Awareness” were defined by the Prime Ministry Inspection Board in the framework of “Action Plan on Increasing Transparency and Strengthening Anti-Corruption in Turkey”. Working groups for first and second periods were established concerning these items.

In this scope, the items “Measures Intended for Raising Public Awareness” are as follows:

- Informing the citizens about the right which they can enjoy and the authorities to which they can apply in the event that they face an unjust practice,
- Conducting corruption perception survey on a regular basis,
- Including integrity in the curriculum of the National Education,
- Supporting social activities consisting the subject of anti-corruption and clean society,
- Including integrity subjects in the television and radio broadcasts by the Supreme Board of Radio and Television,

- Strengthening the roles of media in combating corruption,
- Organizing seminars, workshops and conferences in order to ensure the adoption of the basic principles and methods established in line with the strategy by the non-governmental organizations and public officials.

One of the activities to be carried out in the framework of “the Project on Strengthening Anti-Corruption Policies and Practices in Turkey” conducted under the leadership of Prime Ministry Inspection Board is to include the private sector organizations and non-governmental organizations into the process.

Therefore one of the activity targets titled “Expected Results 2” of the related project is “Preparing the maps of the areas vulnerable to corruption and preparing the appropriate strategies for dealing with these risky areas through working group consisting of the representatives from public institutions, private sector institutions and non-governmental organizations”.

Another goal of the mentioned project is raising the awareness of public officials concerning the implementation of OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and providing the training on this Convention. Thus it is planned to carry out the following activities within the scope of expected results 2 and 3 of the project:

- Providing training to 20 inspectors, in an EU institution, on collecting and analyzing the data concerning corruption and ensuring that these trained inspectors convey their training to 200 inspectors,
- Providing training to 10 inspectors, in an EU institution / institution of EU member state, on defining anti-corruption strategies and implementation and of this strategies efficiently and monitoring the strategies,
- Preparing a Guideline on anti-corruption strategies by the trained inspectors with the support of international experts and its application,
- Providing training to 10 Prime Ministry Inspectors on coordination of corruption investigations, modern techniques of investigation and reporting and further cooperation and information exchange with EU institutions combating corruption.

Informative announcement was distributed to the exporting companies by the Exporter’s Association so as to increase the awareness concerning the offence of bribery of a foreign public official and the works carried out on this issue by OECD WGB. Also the link <http://www.uhdigm.adalet.gov.tr/english/oecd/index.html> of the Ministry of Justice is inserted in the web site of the Exporters’ Association in Turkey.

The Ministry of Justice made a presentation on 2 July 2013 at the meeting hall of Turkish Employers' Association of Metal Industries (MESS) in order to raise awareness related to the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. This presentation was intended for the Chairman of Board of Directors and members of Confederation of Employers of Turkey (TISK) which includes 22 separate business lines such as tourism, education, timber, local management, marine shipping, glass, cement, leather, food, medicine, construction, public, chemistry, metal, health industry, petroleum industry, paper industry, sugar, textile and soil.

In the presentation, the following issues were mentioned;

- Following the ratification of “Convention on Combating Bribery of Foreign Public Officials in International Business Transactions” by the Law numbered 4518, “the offence of bribery of foreign public officials” was included for the first time in our legislation by the Law dated 02/01/2003 and numbered 482 in order to

comply with the OECD arrangements,

- The subject was dealt with in the Turkish Criminal Code numbered 5237 and it was updated in line with OECD arrangements by the Law dated 02/07/2012 and numbered 6352,
- Article 252 and following articles of Turkish Criminal Code govern the offence of bribery,
- “Bribery of foreign public officials” is governed in detail under paragraph 9 of the article by allowing the implementation of the Convention,
- The compliance of the national legislation with the “OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions” has been ensured, implementation area regarding legal persons which is regulated in Article 43/A of the Law of Misdemeanors and the sanctions envisaged in accordance with this article.

The following 10 members of the Board of Directors attended the meeting:

On behalf of the Board of Directors of the Confederation of Employers of Turkey (TİSK);

1- Chairs of Board of Directors chairing the following positions:

- MESS Chairman of Board of Directors,
- Social Relations Committee of TÜSİAD and Membership of Board of Trustees of Boğaziçi University,
- Membership of Board of Directors of Economic Development Foundation (İKV),
- Membership of Board of Directors of BUSINESSEUROPE,
- Turkey/European Union Joint Advisory Committee,
- Deputy Chairmanship of Europe of CEEMET (Council of European Employers of the Metal, Engineering and Technology-Based Industries),
- Chairmanship of Board of Trustees of Turkey Family Health and Planning Foundation,

2- Deputy Chair of Board of Directors chairing the following positions:

- Chairmanship of TOBB Turkey Leather and Leather Products Industry Council,
- Chairmanship of Turkish Leather Goods Foundation,
- Deputy Chairmanship of The Leather Industry Employers Association of Turkey,
- Deputy Chairmanship of Association of Rumelian Managers and Businessmen,
- Membership of Committee of Istanbul Chamber of Industry (İSO).

3- Another Acting Chair of Board of Directors and Deputy Chair of Turkish Pharmaceutical Exporters (İEİS),

4- Chair of Board of Directors of Turkey Chemical, Petroleum, Rubber and Plastics Industry Employers` Association

(KİPLAS),

5- Member of Board of Directors who is senior manager in the fields of woods industry, petroleum and tourism and also Mexico Honorary Consular General .

6- Member of Board of Directors chairing the following positions:

- Chairmanship of Turkish Food and Beverage Industry Employers Association
- Membership of Board of Directors of Sugar Products Manufacturers Association,
- Membership of Board of Directors of National Council of Hazelnut,
- Membership of Committee of Istanbul Chamber of Industry (İSO),
- Membership of TOBB Turkey Food Industry Council,
- Membership Foundation for the Development of the Technological Education and Training (TEGEV),
- Membership of Economic Research Foundation (İAV),
- Membership of Quality Association of Turkey (Kal-der),

7- Member of Board of Directors and General Secretary of Local Administration Public Employers' Association (MİKSEN),

8- Chair of Board of Directors of Sugar Products Manufacturers Association of Turkey and Chair of Board of National Sugar Institute,

9- Member of Board of Senior Consultants of Bursa Industry and Business Association (BUSİAD) and Chair of Board of Regional Representatives of Bursa of Turkish Employers' Association of Metal Industries (MESS),

10- General Secretary of Public Enterprises Employers' Association (KAMU-İŞ).

Apart from these, Chair of Board of Auditors, General Secretary and Legal Consultant of the Confederation of Employers of Turkey (TİSK) were present during the meeting.

Also, the Members of the Board of Directors decided to have the booklet prepared by the Ministry of Justice explaining the mentioned Convention with examples as the Supplement of "Employer's Magazine". As the supplement of the volume July – August 2013 of the mentioned Magazine, 5000 booklets, each of which consists of 16 pages, were published and sent to the merchants who are members of TİSK.

In the cooperation of the Union of Chambers and Commodity Exchanges of Turkey (TOBB) and the Union of Chambers of Certified Public Accountants and Sworn-in Certified Public Accountants of Turkey (TÜRMOB), the I. International Work Ethics Congress was organized on 21-22 September 2012 in order to underline the importance of ethical values and to raise the social awareness in the scope of "OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions".

More than 20 national and foreign experts participated in the Congress and they shared their experiences with more than 1000 participants. Also, the OECD section of the Ministry of Justice website was hyperlinked on [www.tobb.org.tr](http://www.tobb.org.tr) and a banner was prepared. This banner has been notified to all of the chambers and stock exchanges

affiliated to TOBB and to the Board of Women and Young Entrepreneurs. Thus they have been informed about “OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions”.

Turkish Industry and Business Association (TÜSİAD), on its press conference on 26 February 2013, declared that they would conduct the Project on Combating Bribery and Corruption in the scope of their activities in 2013 – 2014. With this respect, it was decided to present the solution suggestions for preventing bribery and corruption in the report to be prepared by the expert scholars.

Furthermore, “Platform for Recommendations on Transparency and Openness in Public Institutions,” conducted by the Turkish Industry and Business Association (TÜSİAD), developed various websites such as [www.transparency.gov.tr](http://www.transparency.gov.tr), [www.spending.gov.tr](http://www.spending.gov.tr) and [www.regulation.gov.tr](http://www.regulation.gov.tr). These websites aim at enhancing the participation of the business world and NGOs in the anti-corruption process.

Three meetings were held in 2013 through the cooperation of the Ministry of Justice and the Confederation of Turkish Commercial Unions (TÜRK-İŞ). These meetings provided information on the “OECD Convention on Combating Bribery of Foreign Public Officials” and detailed briefing on the prevention of unfair competition in global trade and ways of combating bribery on international scale to ensure transparency.

These meetings also focused on the developments taken place since the Phase 2 Examination of Turkey and provided information on the changes in the relevant domestic legislation and relevant public structures.

The website of Small and Medium Enterprises Development Organisation (KOSGEB) (URL: <http://kosgeb.gov.tr/Pages/UI/Projeler.aspx?refContent=36>) provides briefings to inform small and medium sized enterprises (SMEs) on the “OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.” Also the link to the abovementioned booklet is inserted in the KOSGEB website.

In addition, briefings on the issue through the e-magazine, monthly delivered to the businesses in the KOSGEB database, and awareness-raising meetings aiming at both SMEs and KOSGEB experts have been planned.

Ensuring conformity with the ethical values within the scope of the combat against bribery and corruption, Turkish Confederation of Businessmen and Industrialists (TUSKON) imposes this issue as a requirement for membership.

The meetings held on 06/05/2013 and on 27/05/2013 through the cooperation of the Confederation of Turkish Real Trade Unions (HAK-İŞ) and the Ministry of Justice, provided information on the “OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions” and on the Examinations of Turkey.

Additionally, it was decided to continue awareness-raising activities such as presentations on the issue by experts and distribution of printed materials within HAK-İŞ. Also, a link to the website of the Ministry of Justice was provided on the HAK-İŞ homepage.

Council of Ethics for Public Service of the Prime Ministry carries out activities on the following issues:

- It was decided that an “Ethics Platform,” comprised of representatives from the public sector, Ministry of National Education, Turkish National Police, Directorate-General for Land Registry and Cadastre, private sector and universities shall be established and that this Platform shall undertake training activities on ethical values regarding bribery and corruption issues.
- The Project on “Fostering Cooperation among NGOs, Public and Private Sectors for Ethics” was drawn up. Its ratification process is still ongoing.



This Project aims to increase the quality of public services and to improve the investment climate through the prevention of unethical practices. Among the planned activities of the project are; holding various events with the public and private sector, universities and NGOs; supporting the activities of professional and private sector organisations on the improvement of the principles of professional and business ethics; and organising awareness raising activities on code of ethics and corruption.

- The Project on “Consolidating Ethics in the Public Sector” aims to meet international anti-corruption standards and to ensure contributions through Ethical Commissions to the improvement of an ethical culture in public institutions in this field.
- The Project on “Code of Ethics for the Prevention of Corruption” provided training sessions to NGOs on the preparation and implementations of awareness-raising campaigns on combat against corruption.

For detailed information on the projects conducted by the Council of Ethics for Public Service of the Prime Ministry, you may visit [www.etik.gov.tr](http://www.etik.gov.tr). Furthermore, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions is accessible on the Council’s website (URL: <http://www.etik.gov.tr/Mevzuat.aspx?id=5>).

Turkish Contractors Associations (TMB) provides information to contracting firms, which are members of the TMB, on Turkish legislation and practices related to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

- Informative announcements on the offence of foreign bribery and its legal grounds have been made to TMB member firms.
- In order to raise awareness among TMB member firms on the issues of ethical principles, anti-corruption, social responsibility, etc., TMB signed the UN Global Compact in 2012. There are more than 3000 signatory public and non-governmental organisations that pledge to operate in conformity with the aforementioned Compact.
- TMB encourages its member firms to sign the UN Global Compact. To that end, it has engaged in cooperation with the Global Compact Turkey.

International Investors Association (YASED) sent out an informative letter to its existing 224 members in order to ensure that they are informed about the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions while conducting their business transactions.

This letter provided links to the Turkish and English OECD section on the website of the Ministry of Justice Directorate-General for International Law and Foreign Relations.

The informative letter also touched upon the fact that legal persons who gain advantage from the offence of bribery shall be liable to an administrative fine in line with Article 43/A of the Law of Misdemeanors, following the entry into force of the law published in the Official Gazette, dated 9 July 2009.

##### **5 ) Awareness-raising activities and training programmes provided to government officials**

Within the body of the Ministry of Justice Directorate-General for International Law and Foreign Relations, a team of experts on the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and its application in Turkey, gave an informative seminar to raise awareness on the Convention on 29

May 2013 to 49 deputy experts, who are currently receiving expert training at the Ministry of Economy.

During an informative meeting which took place on 30 May 2013, the Ministry of Justice gave a presentation on the “Prevention of Bribery of Foreign Public Officials in International Business Transactions” to approximately 18 officials, who have been assigned to work abroad, of the Foreign Economic Relations Board (DEİK), responsible for conducting foreign economic relations of the Turkish private sector.

Within the scope of the Project on “Consolidating Ethics in the Public Sector,” of the Council of Ethics of the Prime Ministry and the European Union-Council of Europe Joint Programme, an “Ethical Training Programme” was organised in Ankara on 3-7 June 2013. As part of this Programme, on 6 June 2013, the Ministry of Justice Directorate-General for International Law and Foreign Relations made an informative presentation on the “Prevention of Bribery of Foreign Public Officials in International Business Transactions” to a group of 50 persons, comprised of trainers and experts of the Ministry of Interior and the Ministry of National Education.

As part of the “In-Service Training Programme”, developed for the personnel assigned by the Ministry of Economy to work abroad in 2013, the Ministry of Justice Directorate-General for International Law and Foreign Relations made an informative presentation on the “Prevention of Bribery of Foreign Public Officials in International Business Transactions” on 7 June 2013 to approximately 20 officials.

Trainings including the “OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions” and the relevant criminal legislation have been part of the pre-vocational curriculum of the Turkish Justice Academy’s Training Center Directorate since 2010 and classes relevant to the issue are being taught by the competent officials of the Ministry of Justice Directorate-General for International Law and Foreign Relations.

Türk Eximbank carries on activities to raise awareness on combating foreign bribery. In this respect an internal seminar was organized on December 17, 2013 for the employees.

Additionally, Türk Eximbank’s website (URL: <http://www.eximbank.gov.tr/TR/belge/1-578/rusvetle-mucadele.html>) includes information on the OECD Convention under the heading of “Combat against Bribery” and, provides a link to the OECD section on the website of the Ministry of Justice Directorate-General for International Law and Foreign Relations for detailed information and documentation.

Türk Eximbank requires the “Anti-Bribery Undertaking” at the application stage which is prepared in accordance with “The Convention on Combating Bribery of Foreign Public Officials in International Business Transactions” and the related Turkish Criminal Code. The document entitled “Anti-Bribery Undertaking” may be reached at Türk Eximbank’s website (URL: <http://www.eximbank.gov.tr/TR/belge/1-845/kredi.html>).

Moreover, Public Procurement Authority provides various training programmes in the field of public tenders to the administrations and tenderers:

- Trainings provided by the Authority include a basic training on “Illegal Practices and Actions in Participation in a Tender,” including national and foreign bribery offences. In this context, 285 persons in total from 9 different institutions were trained under 9 training programmes given in the years 2010, 2011, 2012 and 2013.
- Within the scope of the Project on “Western Balkans and Training on Tenders in Turkey,” financed by the EU, 6 officials in 2011 and 25 officials in 2012 from the Public Procurement Authority participated in the training of trainers. The OECD Convention on Combating Bribery of Foreign Public Officials in International

Business Transactions was also part of the aforementioned programme. The trained personnel of the Authority provided trainings to 191 persons in total from different public institutions.

Moreover, the awareness-raising activities of the Association of Capital Market Intermediary Institutions of Turkey on the combat against corruption and bribery are as follows:

Article 11 of the “Professional Rules Which Members Shall Comply with While Performing Their Capital Market Activities,” issued by the aforementioned Association, stipulates cooperation between relevant organisations and institutions, and combat against all kinds of corruption, as well as domestic measures to that end and training of officials.

In addition, the aforementioned provision entitled ‘*Combat Against Money Laundering*’ states the following: “Regarding the issue of combat against money laundering, corruption and similar offences within the framework of the provisions of international and national legislation, members shall take measures to identify suspicious transactions and to ensure that transactions are carried out in line with the legislation in order to provide for a trustworthy and open performance of capital market activities. They shall also cooperate with related organizations and institutions, as well as take respective precautions internally and organize training programmes for their employees.”

In a similar manner, Article 3.5.2 under the section entitled “*Ethical Rules and Social Responsibility*” of the principles annexed to the “Communiqué on Institutional Management, numbered II.17.1,” issued by the Capital Markets Board (SPK) foresees that the company “*shall combat against all kinds of corruption, including extortion and bribery.*”

Furthermore, the same Communiqué stipulates that, according to the principles of institutional management, companies should be sensitive with regard to social responsibilities and combat against all kinds of corruption, including extortion and bribery.

Additionally, Section 7 entitled “*taking into account the legislation to which independently audited transactions are subject to*” of the “Communiqué Serial: X No: 22 on the Principles Regarding Independent Auditing Standards in the Capital Markets,” issued by the SPK governs that the independent external auditor is liable to inform the management of the company, the committee responsible for audits and the executive board, of the breach in the legislation as quickly as possible and in the event of suspicion regarding whether the persons in question are party to the breach, to notify the Board and the relevant competent authority.

Within the framework of awareness-raising activities on the combat against bribery, conducted by the Ministry of Customs and Trade, “Training on Ethical Principles” is included as a standard class in the trainings for public official candidates for those who are new in the profession, as well as in the in-service training programmes given to those who are already working in the institution. In addition, all personnel who attend these trainings are given the “*Booklet on Vocational Ethics for Customs Staff,*” which was drawn up in compliance with international standards.

“By-law on the Department of Auditing Services of Ministry of Economy” which entered into force by publication in the Official Gazette No:28510, dated 27/12/2012 was prepared as a product of studies of restructuring the Department of Auditing Services in accordance with modern auditing techniques which have a wide range of applications in the international arena. Through Article 18 of the relevant by-law, the obligation of complying with the provisions of “By-law on professional ethics and behaviour principles for auditing staff” and “By-law on professional ethics and behavior principles that auditing staff must comply with the liability for rules of conduct and maintenance of requirements of their profession and obligation of fulfilling their duties cautiously and fairly

imposed for specialists” commissioned at the Department of Auditing Services.

- Within the scope of VIII, IX and X period of training programs of Department of Auditing Services of Ministry of Economy (21 June-15 July 2011, 6 August-21 September 2012 and 11 February-29 March 2013, respectively), training programs include lectures on:

- Auditing Profession and auditing ethics,
- Crimes against public administrative reliability (embezzlement, corruption, bribery, neglect of audit mandate, misconduct),
- Law No. 3628 on Property Declaration, Combat against Bribery and Corruption.

- Within the scope of the training offered to Foreign Trade Specialists appointed to missions abroad, the program on 7 June 2013 included the OECD Convention on Bribery.

- Within the scope of the training offered to Assistant Foreign Trade Specialists before their proficiency exam, the program on 29 May 2013 included the OECD Convention on Bribery.

The Ministry of Economy also issued a circular in 2008 to provide Ministry staff and diplomatic personnel assigned to Turkish missions (Embassies, Permanent Delegations to international organisations, and Consulates) with information about the OECD Convention and the new articles in the Turkish Criminal Code related to combating foreign bribery. The circular informed the staff *inter alia* of their duty to report foreign bribery, and included penalties in cases of failure to report.

Article 3 of the “Circular no. 2008/1 on the Practices of Public Personnel,” issued by the State Personnel Administration of the Prime Ministry, published in the Official Gazette no. 27066, dated 26/11/2008, rules that trainings shall be given by the institutions to their personnel on the issues of professional ethics and anti-corruption with the aim of ensuring compliance by the personnel with the principles of justice, integrity, transparency, impartiality and trustworthiness and increasing the quality in the performance of their duties.

Turkish National Police, operating under the Ministry of Interior, held workshops on “Combat against Offences of Bribery and Fraud in Public Institutions” in Konya on 09-10 May 2013 and in Afyon on 04-08 November 2013.

63 employees from 26 provinces participated in the aforementioned workshops where they were briefed on the “OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions” and on the offence of bribery. Detailed information on how the offence is handled by our legislation, investigation techniques and what needs to be accomplished in order to conduct an efficient investigation was provided to the participants.

Union of Chambers of Certified Public Accountants and Sworn-in Certified Public Accountants of Turkey (TÜRMOB) conducts independent external auditing practices with its more than 90.000 members. Since its foundation, TÜRMOB has adopted reference points with regard to transparency, institutional management, international financial reporting standards, international auditing standards, code of ethics and vocational training activities and has put into place numerous projects and activities in the field.

Taking into consideration the “OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions,” the activities contributing to the companies’ commitment to a certain sense of transparency

and institutional management, as well as conformity with ethical values are listed below:

1. Training of independent external auditors under the new Turkish Commercial Code,
2. Distribution of booklets containing the translated 2013 versions of International Auditing and Assurance Standards to the members of profession,
3. Distribution of the translated version of the Code of Ethics Booklet of the Ethics Standards Board for International Accountants to the members of profession,
4. Workshops on the Ethics of Accountancy and Conferences on Ethics
5. Distribution of the translated version of the 2013 Booklet of International Training Communiqués on Education (International Education Standards and International Education Practices Declarations) to the members of profession,

In order to raise awareness on the “OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions,” the Ministry of Foreign Affairs provides information on the implementation of the Convention to the personnel assigned to foreign missions from different public institutions in the “Foreign Mission Orientation Courses” which are held four times a year. Additionally, it is envisaged that the Ministry personnel assigned to work abroad are also distributed an introductory booklet, prepared by the Ministry of Justice, on the OECD Convention and its implementation. Furthermore, the Ministry has provided a link to redirect its visitors the OECD Convention on the Ministry’s institutional website.

Tax Inspection Board provided seminars to 855 tax inspectors, still in service within the scope of the in-service training held in 2013, in order to raise awareness on the “OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.”

Moreover, Tax Inspection Board prepared the “Guidebook for Tax Inspections on Combating Bribery and Corruption” based on the “Bribery and Corruption Awareness Handbook for Tax Examiners and Tax Auditors,” published by the OECD in 2013, the “OECD Bribery Awareness Handbook for Tax Examiners,” again published by the OECD in 2009 and the “Anti-Corruption Guidebook for Tax Examiners (OECD),” published by the Revenue Administration in 2006. The Board presented the guidebook for the use of tax inspectors in January 2014.

The website of Small and Medium Enterprises Development Organisation (KOSGEB) (URL: <http://kosgeb.gov.tr/Pages/UI/Baskanligimiz.aspx?ref=99web>) provides briefings to inform small and medium sized enterprises (SMEs) on the “OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.”

In addition, briefings on the issue through the e-magazine, monthly delivered to the enterprises in the KOSGEB database, and awareness-raising meetings aiming at both SMEs and KOSGEB experts are planned.

Council of Ethics for Public Service of the Prime Ministry carries out the following activities on the following issues:

- In all public organisations and institutions, “Ethical Commissions” comprising of senior representatives of the relevant institutions were founded. These commissions work on establishing an ethical culture, providing recommendation and orientation to the personnel concerning their problems and assessing ethical practices in their institutions.

- Ethics training material in conformity with international standards was prepared within the scope of the Project on Ethics for the Prevention of Corruption in Turkey, jointly conducted by the Council of Europe and Turkey.
- Through the development of e-learning materials, an important step was taken to extend ethics training and awareness to the whole public sphere.
- 2-day ethics leadership seminars were held with the participation of senior administrators of the governor's office, municipality and special provincial administrations of 81 provinces, as well as Provincial Administrations of National Education, Health and Police. In this way, a sense of ownership of the highest degree towards ethical sensitivity was created at rural and central levels.
- Meetings on information exchange were held with representatives from the media.
- 350 ethics trainers in total were trained. 240 of these trainers received training within the scope of the Projects on "Ethics for the Prevention of Corruption in Turkey" and "Consolidating Ethics in the Public Sector," while 110 were trained within the framework of the institution's own means. The trainers were selected among public officials working in the Ministry of Finance, Directorate-General for Land Registry and Cadastre, Ministry of Interior, governor's offices, municipalities and all other public institutions and they are currently carrying out activities throughout the country.
- Furthermore, 30.000 public officials received ethics training. If ethical awareness trainings provided by other public institutions and distance learning activities are counted as well, public officials who received training on ethical awareness amount up to 100 thousands.
- One of the training subjects is "OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions". Officials of the Ministry of Foreign Affairs are also among the trainees.
- The Council website (URL: <http://www.etik.gov.tr/Baglanti.aspx>) provides links to Transparency International Turkey, Association of Social Ethics, Foundation of Turkish Ethical Values Center, Anti-Corruption Association, Ethics Association, OECD Sigma (Support for Improvement in Governance and Management), OECD "Ethics and Corruption in Public Sector", The Netherlands National Integrity Office, National Public Service Ethics Board of Japan, Corruption Prevention and Combating Bureau of Latvia, United States Office of Government Ethics, Committee on Standards in Public Life of United Kingdom, Independent Commission Against Corruption (ICAC), Independent Commission Against Corruption of Australia, Anti-Corruption Commission of Bhutan, Project on Ethics for the Prevention of Corruption in Turkey, Transparency International, Global Integrity, Ethical Turkey Platform and OECD section of the Ministry of Justice website.
- The Council provided a class on the "OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions" in the training programme given to the ethics trainers in recent years, ensuring that the trained trainers attach importance to this issue and include it in the awareness raising programmes they attend. Additionally, within the scope of the relevant training of trainers programmes, the Ministry of Justice provided information to trainer candidates on the issue.

Office of the Prime Ministry, Privatization Administration provides a link to the OECD section of the Ministry of

Justice Website.

In order to support the implementation of the “OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions” in the area of publicly funded development cooperation (official development assistance), the Turkish Cooperation and Development Agency (TIKA) will employ the following processes:

- TIKA will continue to contribute to raising the level of awareness among TIKA personnel, as well as, among human resources of partner institutions with regard to the fight against bribery and corruption by way of;
  - Including the subject in the training programs for newly recruited TIKA personnel,
  - Organizing seminars for TIKA personnel at headquarters and overseas offices,
  - Sharing information on the Convention with institutions in partner countries, as well as, national partners (other public institutions, NGOs, universities, municipalities, etc.)
  - Supporting the dissemination of handbooks/booklets/brochures on prevention of corruption and bribery, prepared by relevant Turkish institutions,
  - Providing a link on TIKA web site to the website of th Ministry of Justice on the Convention.
- TIKA is planning to incorporate on a regular basis, a clause an anti-corruption to agreements and memoranda of understanding, etc, signed with institutions of partner countries, international organizations and other bilateral donor agencies.
- In addition, TIKA is considering including reference to prevention of corruption and bribery within the framework of ODA-funded activities, in the law and strategy paper for Turkey’s development cooperation, which are in the process of preparation.

As a public institution TIKA is bound by Turkish laws and regulations on public procurement and is subject to regular audit by the Turkish Court of Accounts.

Combat against the offence of bribery is conducted under the coordination of the Department of Anti-Smuggling and Organized Crime (KOM) of the Turkish National Police.

**7(a) Are appropriate reporting channels available for whistleblowers in both the private and public sectors?**

**7(b) Are appropriate protections available for whistleblowers in both the private and public sectors?**

*Where possible, specific reference should be made to implementation of the G20 Study on Whistleblower Protection Frameworks, Compendium of Best Practices and Guiding Principles for Legislation.<sup>1</sup>*

**Response: 7 (a) Are appropriate reporting channels available for whistleblowers in both the private and public sectors?**

In the case that any event related with our country is identified within the matrix prepared by the OECD WGB or through the news in the media, the public prosecutor initiates an investigation ex-officio.

Furthermore, in the event that Turkish authorities (foreign missions, Ministries, etc.) are made aware of this issue in other way, they ensure the initiation of an investigation by informing the competent public prosecutor of the situation.

Commercial Counsels who work abroad report the offence of bribery committed abroad to the Ministry of Economy and to the Ministry of Justice. The Ministry of Economy has issued instructions on this matter to foreign missions.

In whichever way the investigation may be initiated, the public prosecutor deepens the investigation in question and collects the relevant information and documents to eventually bring a criminal case.

When information and documents, which constitute sufficient evidence for a criminal case to be brought, the public prosecutor finalizes the investigation and brings a criminal case against the suspect(s) in Turkey through an indictment.

The liability of non-public officials to report the offence is governed under Article 278 of the Turkish Criminal Code. In line with Article 158 of the Code of Criminal Procedures, reporting and complaint relevant to the offence may be made to the public prosecutor's office or to the other law enforcement authorities.

Reports related to the offence of "bribery of foreign public officials" may be submitted to the complaints webpage of the Ministry of Justice website. A "hotline" was set up for complaints and provides information for those who wish to lodge a complaint on the issue, therefore ensuring simple and smooth means of reporting. Thus, a mechanism was set up to initiate judicial and administrative action upon such complaint. This matter was also touched upon in part "3.1.e.i" of the Questionnaire.

In this way, our judicial authorities receive denunciation regarding the offence of bribery of foreign public officials and initiate the relevant investigation ex-officio. Additionally, real or legal persons, whether they are Turkish or non-Turkish citizens, may report relevant occurrences from abroad or from Turkey to BİMER.

BİMER is a public relations service realized by the Office of the Prime Ministry by using IT and communications technology. BİMER acts as a bridge ensuring communication between citizens and the state. BİMER is accessible through telephone, form and e-mail on the website. BİMER's hotline is "150". Furthermore, all the official websites of the Ministries have a link to BİMER.

When a citizen from any region of Turkey calls the "Hotline 150", a public relations officer located in the Governor's Office of the relevant city takes the call and registers the personal details as well as the subject of the application to the BİMER's page.

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<sup>1</sup> Available online here: <http://www.oecd.org/corruption/48972967.pdf>



Through BİMER, a Turkish or a foreign citizen can bring any criminal complaint or denunciation to the attention of the relevant authorities. Furthermore, all applicants receive information about their application within 30 days. The results of applications are also accessible from the BİMER page.

The number of applications received by BİMER established in order to ensure equality in accessing the administration among the citizens and increase the participation. The number of applications in 2009 which was 384.852 has increased to 1.168.853 in 2013.

In addition to aforementioned issues, pursuant to the following;

The decision of the Cabinet dated 22.02.2010 and numbered 2010/56 “Increasing Transparency and Strengthening Anti-Corruption Strategy”,

The decision of the Commission dated 19.08.2011 and numbered 2011/1 to Increase Transparency and Strengthen Anti-Corruption in Turkey,

The “Measures to Raise Public Awareness” within the scope of the Measure 03/01 of the Action Plan;

- Publicising BİMER as a means of application,
- Taking necessary measures to announce and display BİMER in billboards and corporate websites to be realized easily by individuals in relevant ministries, public institutions and central and provincial units have been ensured.

All information on the rights of individuals concerning their transactions in public institutions, laws and administrative regulations has been collected and compiled in a booklet and publication of such information on websites and in the departments in the format of brochures has been carried out under the coordination of the Office of the Prime Ministry, Department of Public Relations.

Some of the other Circulars of the Prime Ministry published so as to prevent the inequity in the competition environment have contributed to the combat against bribery of foreign public officials. The Circular on Combating Strategy of Shadow Economy and Circular on Prevention of Unrecorded Employment may be showed as examples of these.

Furthermore, Article 74 titled Right of Petition, Right to Information and Appeal to the Ombudsman, of the 1982 Constitution of the Republic of Turkey, regulates the right of petition and right to information in general. According to this article;

“Citizens and foreigners resident in Turkey, with the condition of observing the principle of reciprocity, have the right to apply in writing to the competent authorities and to the Grand National Assembly of Turkey with regard to the requests and complaints concerning themselves or the public. The result of the application concerning himself/herself shall be made known to the petitioner in writing without delay.

Everyone has the right to obtain information and appeal to the Ombudsman. The Institution of the Ombudsman established under the Grand National Assembly of Turkey examines complaints on the functioning of the administration.”

More detailed arrangements on the right of petition, complaint and right to information are contained in the Law

dated 01/11/1984 and numbered 3071 on the Use of the Right of Petition and the Law dated 09/10/2003 and numbered 4982 on Right to Information.

The aim of the Law dated 01/11/1984 and numbered 3071 on the Use of the Right of Petition is to regulate the rules governing the right to apply in writing of the citizens and foreigners resident in Turkey to the competent authorities and to the Turkish Grand National Assembly with regard to the requests and complaints concerning themselves or the public.

According to Article 7 of the said law, citizens and foreigners resident in Turkey shall be informed of the result or the status of their application or complaint with relevant reasons within 30 days at the latest.

The aim of the Law dated 09/10/2003 and numbered 4982 on Right to Information is to regulate the rules governing procedures of the right to information in compliance with the principles of equality, impartiality and openness as required by the democratic and transparent administration.

Under Article 5/1 of the said law, institutions and organizations are required to apply administrative and technical measures to provide every kind of information and document, with the exceptions set out in this law, to provide the information for applicants; and to review and decide on the applications for access information promptly, effectively and correctly.

Article 3 of the Law defines “information” and “document”. According to this, information covers every kind of data that is within the scope of this law and is included in the records of the institutions; and document covers any written, printed or copied file, document, book, journal, brochure, etude, letter, software, instruction, sketch, plan, film, photograph, tape and video cassette, map of the institutions and the information, news and other data that are recorded and saved in electronic format that are within the scope of this law.

The following decisions have been taken under the project on Strengthening the Coordination of Anti-Corruption Policies and Practices in Turkey (TYSAP) under the leadership of the Office of the Prime Ministry;

- To analyse national legal and institutional infrastructure governing coordination of administrative and legal investigations with the law enforcement authorities and information sharing and intelligence issues, and to prepare reports and suggestions by the working groups comprising of academics, public officials and other experts, and to discuss the results of reports,
- To examine international standards and regulations, in particular the EU standards and regulation in the fields of corruption investigations, coordination/cooperation and information sharing and to prepare a report by a team of experts,
- To analyse the compliance of the domestic legislation with the Conventions of the Council of Europe on Criminal and Civil Law, OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and UN Convention Against Corruption and to make an analysis by a team of national / international experts,
- To prepare policy reports, based on the results of compliance reports, by the working groups comprising of representatives from relevant institutions by referring to possible measures to be taken to fulfill the obligations under international regulations,
- To prepare an investigation guideline with a view to preventing the use of different methods and to distribute it to all inspectors, auditors and controllers,
- To prepare reporting standards by a working group and to distribute them via a conference to all inspectors, auditors and controllers.

Moreover, the Tax Communication Center (444 0 189 - VİMER), in cooperation with the citizens, receives

denunciations in order to prevent tax evasion.

The denunciations received by ViMER are directed to the relevant authorities for inspection as soon as possible and their finalization has been ensured. When the person making the denunciation calls ViMER after thirty (30) days, he/she can receive information on the action taken upon denunciation.

ViMER is accessible from 444 0 189 on weekdays between 09:00-19:00 and this is announced in the website of the Revenue Administration.

Moreover, certain Directorates of Tax Administration have dedicated hotlines and e-mail addresses for denunciations and complaints, and these communication channels are shared with the public via various means. Denunciations can also be made in writing.

Informing the administration of the cases resulting in tax loss has been promoted via denunciation premiums.

The legal basis of the said law is “The Law on the Premium to be Paid to Those Who Inform the Ones Doing Irregularities in Movable and Immovable Assets and Their Right of Usufruct and Permanent Tax” dated 26.12.1931 and numbered 1905.

If the bribery offences, including bribery of foreign public officials result in a tax loss, those denouncing the offence may benefit from such premium.

#### **7 (b) Are appropriate protections available for whistleblowers in both the private and public sectors?**

Public officials or private sector employees having reported “the offences of bribery of foreign public officials” are protected under the “Law no. 5726 on Witness Protection” in the event that the alleged offence is committed within the scope of the activities of an organization.

In accordance with Article 18 of the Law on Declaration of Assets and Combating Bribery and Corruption no. 3628, the identities of denunciators shall not be disclosed without their consent.

With regard to this issue, in Article 14 titled “Duties of the Superiors” of the Regulation on Complaints and Appeals of Public Officials, it is stated that one of the disciplinary penalties envisaged in the amended Article 125 of the Law no. 657 on Public Officials is imposed on the superiors, who do not duly perform their duties on the complaints and appeals having been lodged pursuant to the procedure and principles laid down in the Regulation, depending on the nature and gravity of the situation. It is also indicated that the public officials who have performed their duty to report a crime should not be subjected to any penalty or sanctions which may directly or indirectly aggravate or change their conditions.

The bribery is set out as an offence in Article 252 of the Turkish Criminal Code in the section titled “Offences Against The Reliability And Functioning Of The Public Administration”. It is indicated that those taking bribes are punished in the same way as those offering bribes, and offences of bribery of foreign public officials are laid down in this article.

In Article 278 of the Code, it is stated that “Any person who fails to report, to the relevant authority, an offence which is in progress shall be sentenced to a penalty of imprisonment for a term of up to one year. Any person who fails to notify the relevant authority of any offence, which has been committed but where it is still possible to limit

its consequences, shall be sentenced according to the provisions of the aforementioned section.” With this provision, it is admitted that the person who fails to notify the offence shall also be punished.

In the light of the relevant provisions of the Labor Law, the fact that the employee reported the offence of bribery does not contradict with his duty of loyalty to his employer. The employee is under the liability of keeping secrets as a matter of this duty; however, his acting in line with the provisions of the law does not prejudice his duty of loyalty, even if this would cause a loss for his employer.

In the event that the employer terminates the contract, the employee who is subject to the labor guarantees enjoys the following provisions of the Labor Act.

“The employer, who terminates the contract of an employee engaged for an indefinite period, who is employed in an establishment with thirty or more workers and who meets a minimum seniority of six months, must depend on a valid reason for such termination connected with the capacity or conduct of the employee or based on the operational requirements of the establishment or service.” (Article 18 of the Labour Act)

“The employee who alleges that no reason was given for the termination of his employment contract or who considers that the reasons shown were not valid to justify the termination shall be entitled to lodge an appeal against that termination with the labour court within one month of receiving the notice of termination.” (Article 20 of the Labour Act)

“If the court or the arbitrator concludes that the termination is unjustified because no valid reason has been given or the alleged reason is invalid, the employer must re-engage the employee in work within one month. If, upon the application of the employee, the employer does not re-engage him in work, compensation to be not less than the employee’s four months’ wages and not more than his eight months’ wages shall be paid to him by the employer.” (Article 21/1 of the Labour Act)

“The employee shall be paid up to four months’ total of his wages and other entitlements for the time he is not re-engaged in work until the finalization of the court’s verdict.” (Article 21/3 of the Labour Act)

“The provisions of subsections 1, 2 and 3 of this Article shall not be altered by any agreement whatsoever; any agreement provisions to the contrary shall be deemed null and void.” (Article 21 of the Labour Act)

The employee who is subject to the labor guarantees is able to bring a re-employment action, alleging that the employment contract has not been terminated with a reasonable ground, as well as to claim notice pay and severance pay in line with the requirements for termination.

In cases where the employer resorts to mobbing instead of terminating the contract of the employee who reported the offence of foreign bribery, he\she shall pay compensation to the employee. In order for an act to be within the scope of mobbing;

- It should be committed in the work place,
- It should be committed in a systematic way,

- It should be repeated consistently,
- It should be committed intentionally,
- It should have the purpose of intimidating, passivization and keeping away from work,
- It should damage the victim's personality, professional status or health,
- Negative treatment or conduct against the person may be disclosed or undisclosed.

The employee, who was subjected to mobbing by his employer, could rightfully break his contract without undue delay and request compensation for discrimination. An action for compensation of immaterial damage could be brought against the employer.

Right to compensation of the employee is also reserved under the Code of Obligations. Indeed, physical integrity as well as mental health of the employee is guaranteed under Article 417 of the Code of Obligations no. 6098. Liability of the employer to protect his employee is not only physical.

“An employer is responsible for protecting and respecting the personality of the employee within the employment relationship, keeping order in the workplace in accordance with the principles of honesty, and taking measures to guarantee that employees do not encounter sexual or emotional abuse and protecting those who have encountered such abuse from further suffering.”

Even if the acts of the employer are not directly within the scope of mobbing, he may conduct in a way to intimidate the employee. For example, even if the employer does not terminate the contract, he may commit some acts within the employment relationship contrary to rules of ethics and good faith due to the fact that the employee reported the offence of bribery.

The employer's making statements in a way to harm honour and reputation of the employee or his family members, disturbing him or his family members or threatening him or making a serious and groundless imputation or accusation against the employee by giving harm to his honour and reputation, could be considered as the acts of intimidating the employer.

The fact that the wages are not accounted or paid in conformity with the provisions of the Act and the terms of the contract is regarded as an example of these acts in the Labour Act no. 4857. The employee may break the contract, whether for a definite or indefinite period, before its expiry or without having to comply with the prescribed notice periods, and he is entitled to receive a severance pay (Article 24/11 of the Labour Act).

The employer may change the working conditions. For example, he may transfer the employee to another work place within the scope of the nature and requirements of the work. However, in the event that changing the work place aims at preventing a right to be enjoyed and punishing, and if the employee is transferred to another province by way of

being separated from his permanent settlement such as exile, without regard being had to the objective reasons, it could be said that the employer has abused this right.

The employer may change the characteristics of the work of the employee. The employment contracts have some indications as to the fact that the employee may be assigned in the works that are appropriate to the characteristics of him and that are appropriate to be performed. The examples such as making a driver work as a garbage collector or making a service manager clean the bathroom show that this right is abused. For this reason, the employer's power to make radical changes in the working conditions should be interpreted narrowly within the meaning of protection of the employee.

The Ministry of Labour and Social Security publishes handbooks and brochures relating to working life and its present problems with a view to announcing the above-mentioned measures.

Furthermore, approximately 85% of the inspections of working places are performed as project inspection, in line with the new understanding of inspection and preventive inspection.

In addition, "the hotline 170" communication center was founded with a view to effectively and promptly settling the problems, complaints and reports concerning the working life and social security, and all kinds of informative facilities as to the services of the Ministry of Labour and Social Security are carried out through this center.

### C. Effective investigation and prosecution

*In your jurisdiction:*

**8(a) Please describe the investigative powers granted to law enforcement authorities to proactively and effectively investigate and prosecute foreign bribery.**

**8(b) Please describe the specialized training on detecting, investigating and prosecuting foreign bribery provided and/or planned to be provided to law enforcement authorities.**

**Response: 8 (a) Please describe the investigative powers granted to law enforcement authorities to proactively and effectively investigate and prosecute foreign bribery.**

Duty and responsibility areas of law enforcement authorities have been designated with legal regulations. It is seen on Turkish National Police, Department of Anti-smuggling and Organized Crime, Central and Provincial Organizations, Duty and Employment Regulation that organized bribery offense is listed among the offenses which Department of Anti-smuggling and Organized Crime units shall combat.

In our country investigations are conducted pursuant to concerning articles of the Criminal Procedure Code.

Duties and responsibilities of the public prosecutor and law enforcement officials in investigation are given in the articles under the title “investigation procedures”.

According to article 160 of the Code in question: “As soon as the public prosecutor is informed of a fact that creates an impression that a crime has been committed, either through a report of crime or any other way, he shall immediately investigate the factual truth, in order to make a decision on whether to file a criminal case or not. In order to investigate the factual truth and to secure a fair trial, the public prosecutor is obliged, through the judicial security forces, who are under his command, to collect and secure evidence in favor of and against the suspect, and to protect the rights of the suspect.”

Furthermore, according to 161<sup>st</sup> article: “The public prosecutor may conduct any kind of inquiry either directly or through the judicial police under his command.”

And according to the article 161/2: “The members of the judicial police are obliged to notify immediately the incidences they have started to handle, the individuals who have been arrested without a warrant, and the applied measures to the public prosecutor under whose command they perform their duties, and are obliged to execute all orders of this public prosecutor related to the administration of justice without any delay.”

It is seen within the scope of the stated Code articles that judicial police are under the command of the public prosecutor during the investigation phase.

Investigations concerning the bribery offense are executed by the relevant judicial police in accordance with the directives of the chief public prosecutor’s office.

The following is given in article of the Circular No. 7 of 18/10/2011 of the High Council of Judges and Prosecutors on ‘Duty, authority and responsibilities of judicial police: “*In conduction of the investigations by public prosecutors; giving consideration to the division of labor and specialization in the judicial police, assignment of departments such as anti-smuggling and organized crimes, anti-terror and security which are structured for a certain purpose, for the illumination of the offense within this scope*”.

The authorization for determining which department shall be assigned with the investigations pursuant to the Criminal Procedure Code in having the force of a general law, belongs to the public prosecutor who conducts the investigation. Therefore, public prosecutor holds the authority to take another decision other than division of labor, sub regulative procedures or precedents. However, in practice this discrepancy is set quite clearly. In case the offense of bribery is committed in an organized way or by a criminal organization, legal proceedings which are executed within the scope of the investigation conducted by the public prosecutors are fulfilled by the Department of Anti-smuggling and Organized Crime, and in individual bribery offenses by Public Order Units.

When the works conducted within the scope of combating bribery; it is seen that the investigations on this area were mostly initiated in accordance with the directive of the public prosecutor which was taken following the transmittance of the information obtained as a result of **denunciation, complaint, informant statement and other sources of information**.

Investigation techniques mentioned in the Criminal Procedure Code are used in determination and disclosure of the offense and suspect in criminal investigations into bribery.

Following investigation techniques are applied in criminal investigations committed in an organized way;

- Criminal Procedure Code Article 135: Identification, interception and recording of communication
- Criminal Procedure Code Article 139: Appointment of undercover investigator,
- Criminal Procedure Code Article 140: Surveillance with technical means.

Also apprehension (article 90), taking under detention (91), judicial search (116), seizure (127) and taking statement (147) are other procedures resorted during the investigation phase.

Investigations are conducted by judicial police under the surveillance, supervision and monitoring of public prosecutors.

All procedures; court decisions, directive letters, procedure warrants, communications between the judicial police and the public prosecutor's offices, communications between the prosecutor's office and concerning real-legal persons, all obtained physical evidence, expertise reports, expert minutes, statements, other documents having evidential value and visual-printed materials are collected under prosecutor's office.

As all procedures of the judicial police are conducted under surveillance, supervision and monitoring of public prosecutors, result of all procedures made by judicial police during the investigation phase, all unconfirmed rumors received, information document and incidents encountered, conditions and results are immediately shared with the public prosecutor/s within the scope of the investigation. Therefore, there is very close communication and relation between judicial police and public prosecutors within the scope of investigation.

Evidencing activities and all other conducted procedures are attached to a summary of proceedings and transmitted to the prosecutor's office.

The following is given in article 5 of the Circular of 18/10/2011 numbered 14 of the High Council of Judges and Prosecutors on 'Investigations and prosecutions concerning corruption incidents': "*Concerning the offense of bribery of foreign public officials; to provide regular information to the Ministry of Justice, Directorate General for International Law and Foreign Affairs regarding the beginning, phases and result of the investigation by spreading maximum effort on meticulous and immediate conduction of investigation by public prosecutors without leaving them to judicial police,*"; and judicial and administrative methods are referred.

**8 (b) Please describe the specialized training on detecting, investigating and prosecuting foreign bribery provided and/or planned to be provided to law enforcement authorities.**

- (i) In order to conduct sound and effective tax audit, the Tax Inspection Board was established with the regulation that entered into force on 10 July 2011, and all the tax examiners on duty at the Ministry of Finance started operating under this Board.

Within the scope of in-service trainings organized in 2013, 855 tax inspectors working for the Tax Inspection Board participated in awareness raising seminars on practices prohibiting deduction of the bribe given to the foreign public officials from tax and procedures on detection of national and foreign bribery offences in tax inspections.

Furthermore, the "OECD Guide for Tax Examiners in Combating Bribery" which was drawn up by the Revenue Administration and which can be accessed through internet site ([www.gib.gov.tr/fileadmin/beyannamerehberi/rusvet\\_kitap.pdf](http://www.gib.gov.tr/fileadmin/beyannamerehberi/rusvet_kitap.pdf)) has been put in use by the tax examiners. In the guide in question, it is emphasized that particularly the bribe given to the foreign public officials is defined as an offence in the Turkish Criminal Code and in the case of detection of such offence, it must be reported to the competent authorities.

In addition, certain steps have been taken to strengthen roles of the tax inspectors of the Tax Inspection Board in combating bribery including the ones given to the foreign public officials and corruption and to ensure training of tax inspectors by following international practices closely.



To that aim, the “Guide for Tax Inspectors in Combating Bribery and Corruption” was drawn up based on the “Bribery and Corruption Awareness Handbook for Tax Examiners and Tax Auditors” published by the OECD in 2013 and “OECD Bribery Awareness Handbook for Tax Examiners” published in 2009 and “OECD Guide for Tax Examiners in Combating Bribery” published by the Revenue Administration in 2006, and after being updated, this Guide was put in use by the tax inspectors working for the Tax Inspection Board in January 2014.

Council of Ethics for Public Service of the Prime Ministry carries out activities on the following issues:

- It was decided that an “Ethics Platform,” comprised of representatives from the public sector, Ministry of National Education, Turkish National Police, Directorate-General for Land Registry and Cadastre, private sector and universities shall be established and that this Platform shall undertake training activities on ethical values regarding bribery and corruption issues.
- The Project on “Fostering Cooperation among NGOs, Public and Private Sectors for Ethics” was drawn up. Its ratification process is still ongoing.

This Project aims to increase the quality of public services and to improve the investment climate through the prevention of unethical practices. Among the planned activities of the project are; holding various events with the public and private sector, universities and NGOs; supporting the activities of professional and private sector organisations on the improvement of the principles of professional and business ethics; and organising awareness raising activities on code of ethics and corruption.

- The Project on “Consolidating Ethics in the Public Sector” aims to meet international anti-corruption standards and to ensure contributions through Ethical Commissions to the improvement of an ethical culture in public institutions in this field.
- The Project on “Code of Ethics for the Prevention of Corruption” provided training sessions to NGOs on the preparation and implementations of awareness-raising campaigns on combat against corruption.

For detailed information on the projects conducted by the Council of Ethics for Public Service of the Prime Ministry, you may visit [www.etik.gov.tr](http://www.etik.gov.tr). Furthermore, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions is accessible on the Council’s website (URL: <http://www.etik.gov.tr/Mevzuat.aspx?id=5>).

#### **(ii) Awareness-raising activities and training programmes provided to government officials**

Within the body of the Ministry of Justice Directorate-General for International Law and Foreign Relations, a team of experts on the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and its application in Turkey, gave an informative seminar to raise awareness on the Convention on 29 May 2013 to 49 deputy experts, who are currently receiving expert training at the Ministry of Economy.

During an informative meeting which took place on 30 May 2013, the Ministry of Justice gave a presentation on the “Prevention of Bribery of Foreign Public Officials in International Business Transactions” to approximately 18 officials, who have been assigned to work abroad, of the Foreign Economic Relations Board (DEİK), responsible for conducting foreign economic relations of the Turkish private sector.

Within the scope of the Project on “Consolidating Ethics in the Public Sector,” of the Council of Ethics of the Prime Ministry and the European Union-Council of Europe Joint Programme, an “Ethical Training Programme” was

organised in Ankara on 3-7 June 2013. As part of this Programme, on 6 June 2013, the Ministry of Justice Directorate-General for International Law and Foreign Relations made an informative presentation on the “Prevention of Bribery of Foreign Public Officials in International Business Transactions” to a group of 50 persons, comprised of trainers and experts of the Ministry of Interior and the Ministry of National Education.

As part of the “In-Service Training Programme”, developed for the personnel assigned by the Ministry of Economy to work abroad in 2013, the Ministry of Justice Directorate-General for International Law and Foreign Relations made an informative presentation on the “Prevention of Bribery of Foreign Public Officials in International Business Transactions” on 7 June 2013 to approximately 20 officials.

Trainings including the “OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions” and the relevant criminal legislation have been part of the pre-vocational curriculum of the Turkish Justice Academy’s Training Center Directorate since 2010 and classes relevant to the issue are being taught by the competent officials of the Ministry of Justice Directorate-General for International Law and Foreign Relations.

Türk Eximbank carries on activities to raise awareness on combating foreign bribery. In this respect an internal seminar was organized on December 17, 2013 for the employees.

Additionally, Türk Eximbank’s website (URL: <http://www.eximbank.gov.tr/TR/belge/1-578/rusvetle-mucadele.html>) includes information on the OECD Convention under the heading of “Combat against Bribery” and, provides a link to the OECD section on the website of the Ministry of Justice Directorate-General for International Law and Foreign Relations for detailed information and documentation.

Türk Eximbank requires the “Anti-Bribery Undertaking” at the application stage which is prepared in accordance with “The Convention on Combating Bribery of Foreign Public Officials in International Business Transactions” and the related Turkish Criminal Code. The document entitled “Anti-Bribery Undertaking” may be reached at Türk Eximbank’s website (URL: <http://www.eximbank.gov.tr/TR/belge/1-845/kredi.html>).

Moreover, Public Procurement Authority provides various training programmes in the field of public tenders to the administrations and tenderers:

- Trainings provided by the Authority include a basic training on “Illegal Practices and Actions in Participation in a Tender,” including national and foreign bribery offences. In this context, 285 persons in total from 9 different institutions were trained under 9 training programmes given in the years 2010, 2011, 2012 and 2013.
- Within the scope of the Project on “Western Balkans and Training on Tenders in Turkey,” financed by the EU, 6 officials in 2011 and 25 officials in 2012 from the Public Procurement Authority participated in the training of trainers. The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions was also part of the aforementioned programme. The trained personnel of the Authority provided trainings to 191 persons in total from different public institutions.

Moreover, the awareness-raising activities of the Association of Capital Market Intermediary Institutions of Turkey on the combat against corruption and bribery are as follows:

Article 11 of the “Professional Rules Which Members Shall Comply with While Performing Their Capital Market Activities,” issued by the aforementioned Association, stipulates cooperation between relevant organisations and institutions, and combat against all kinds of corruption, as well as domestic measures to that end and training of

officials.

In addition, the aforementioned provision entitled '*Combat Against Money Laundering*' states the following: "Regarding the issue of combat against money laundering, corruption and similar offences within the framework of the provisions of international and national legislation, members shall take measures to identify suspicious transactions and to ensure that transactions are carried out in line with the legislation in order to provide for a trustworthy and open performance of capital market activities. They shall also cooperate with related organizations and institutions, as well as take respective precautions internally and organize training programmes for their employees."

In a similar manner, Article 3.5.2 under the section entitled "*Ethical Rules and Social Responsibility*" of the principles annexed to the "Communiqué on Institutional Management, numbered II.17.1," issued by the Capital Markets Board (SPK) foresees that the company "*shall combat against all kinds of corruption, including extortion and bribery.*"

Furthermore, the same Communiqué stipulates that, according to the principles of institutional management, companies should be sensitive with regard to social responsibilities and combat against all kinds of corruption, including extortion and bribery.

Additionally, Section 7 entitled "*taking into account the legislation to which independently audited transactions are subject to*" of the "Communiqué Serial: X No: 22 on the Principles Regarding Independent Auditing Standards in the Capital Markets," issued by the SPK governs that the independent external auditor is liable to inform the management of the company, the committee responsible for audits and the executive board, of the breach in the legislation as quickly as possible and in the event of suspicion regarding whether the persons in question are party to the breach, to notify the Board and the relevant competent authority.

Within the framework of awareness-raising activities on the combat against bribery, conducted by the Ministry of Customs and Trade, "Training on Ethical Principles" is included as a standard class in the trainings for public official candidates for those who are new in the profession, as well as in the in-service training programmes given to those who are already working in the institution. In addition, all personnel who attend these trainings are given the "*Booklet on Vocational Ethics for Customs Staff,*" which was drawn up in compliance with international standards.

"By-law on the Department of Auditing Services of Ministry of Economy" which entered into force by publication in the Official Gazette No:28510, dated 27/12/2012 was prepared as a product of studies of restructuring the Department of Auditing Services in accordance with modern auditing techniques which have a wide range of applications in the international arena. Through Article 18 of the relevant by-law, the obligation of complying with the provisions of "By-law on professional ethics and behaviour principles for auditing staff" and "By-law on professional ethics and behavior principles that auditing staff must comply with the liability for rules of conduct and maintenance of requirements of their profession and obligation of fulfilling their duties cautiously and fairly imposed for specialists" commissioned at the Department of Auditing Services.

- Within the scope of VIII, IX and X period of training programs of Department of Auditing Services of Ministry of Economy (21 June-15 July 2011, 6 August-21 September 2012 and 11 February-29 March 2013, respectively), training programs include lectures on:

- Auditing Profession and auditing ethics,
- Crimes against public administrative reliability (embezzlement, corruption, bribery, neglect of

audit mandate, misconduct),

- Law No. 3628 on Property Declaration, Combat against Bribery and Corruption.

- Within the scope of the training offered to Foreign Trade Specialists appointed to missions abroad, the program on 7 June 2013 included the OECD Convention on Bribery.

- Within the scope of the training offered to Assistant Foreign Trade Specialists before their proficiency exam, the program on 29 May 2013 included the OECD Convention on Bribery.

The Ministry of Economy also issued a circular in 2008 to provide Ministry staff and diplomatic personnel assigned to Turkish missions (Embassies, Permanent Delegations to international organisations, and Consulates) with information about the OECD Convention and the new articles in the Turkish Criminal Code related to combating foreign bribery. The circular informed the staff *inter alia* of their duty to report foreign bribery, and included penalties in cases of failure to report.

Article 3 of the “Circular no. 2008/1 on the Practices of Public Personnel,” issued by the State Personnel Administration of the Prime Ministry, published in the Official Gazette no. 27066, dated 26/11/2008, rules that trainings shall be given by the institutions to their personnel on the issues of professional ethics and anti-corruption with the aim of ensuring compliance by the personnel with the principles of justice, integrity, transparency, impartiality and trustworthiness and increasing the quality in the performance of their duties.

Turkish National Police, operating under the Ministry of Interior, held workshops on “Combat against Offences of Bribery and Fraud in Public Institutions” in Konya on 09-10 May 2013 and in Afyon on 04-08 November 2013.

63 employees from 26 provinces participated in the aforementioned workshops where they were briefed on the “OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions” and on the offence of bribery. Detailed information on how the offence is handled by our legislation, investigation techniques and what needs to be accomplished in order to conduct an efficient investigation was provided to the participants.

Union of Chambers of Certified Public Accountants and Sworn-in Certified Public Accountants of Turkey (TÜRMOB) conducts independent external auditing practices with its more than 90.000 members. Since its foundation, TÜRMOB has adopted reference points with regard to transparency, institutional management, international financial reporting standards, international auditing standards, code of ethics and vocational training activities and has put into place numerous projects and activities in the field.

Taking into consideration the “OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions,” the activities contributing to the companies’ commitment to a certain sense of transparency and institutional management, as well as conformity with ethical values are listed below:

1. Training of independent external auditors under the new Turkish Commercial Code,
2. Distribution of booklets containing the translated 2013 versions of International Auditing and Assurance Standards to the members of profession,
3. Distribution of the translated version of the Code of Ethics Booklet of the Ethics Standards Board for International Accountants to the members of profession,

#### 4. Workshops on the Ethics of Accountancy and Conferences on Ethics

5. Distribution of the translated version of the 2013 Booklet of International Training Communiqués on Education (International Education Standards and International Education Practices Declarations) to the members of profession,

In order to raise awareness on the “OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions,” the Ministry of Foreign Affairs provides information on the implementation of the Convention to the personnel assigned to foreign missions from different public institutions in the “Foreign Mission Orientation Courses” which are held four times a year. Additionally, it is envisaged that the Ministry personnel assigned to work abroad are also distributed an introductory booklet, prepared by the Ministry of Justice, on the OECD Convention and its implementation. Furthermore, the Ministry has provided a link to redirect its visitors the OECD Convention on the Ministry’s institutional website. Part “11.1” of the Questionnaire provides further information on the issue.

Tax Inspection Board provided seminars to 855 tax inspectors, still in service within the scope of the in-service training held in 2013, in order to raise awareness on the “OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.”

Moreover, Tax Inspection Board prepared the “Guidebook for Tax Inspections on Combating Bribery and Corruption” based on the “Bribery and Corruption Awareness Handbook for Tax Examiners and Tax Auditors,” published by the OECD in 2013, the “OECD Bribery Awareness Handbook for Tax Examiners,” again published by the OECD in 2009 and the “Anti-Corruption Guidebook for Tax Examiners (OECD),” published by the Revenue Administration in 2006. The Board presented the guidebook for the use of tax inspectors in January 2014.

The website of Small and Medium Enterprises Development Organisation (KOSGEB) (URL: <http://kosgeb.gov.tr/Pages/UI/Baskanligimiz.aspx?ref=99web>) provides briefings to inform small and medium sized enterprises (SMEs) on the “OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.”

In addition, briefings on the issue through the e-magazine, monthly delivered to the enterprises in the KOSGEB database, and awareness-raising meetings aiming at both SMEs and KOSGEB experts are planned.

**Council of Ethics for Public Service of the Prime Ministry** carries out the following activities on the following issues:

- In all public organisations and institutions, “Ethical Commissions” comprising of senior representatives of the relevant institutions were founded. These commissions work on establishing an ethical culture, providing recommendation and orientation to the personnel concerning their problems and assessing ethical practices in their institutions.
- Ethics training material in conformity with international standards was prepared within the scope of the Project on Ethics for the Prevention of Corruption in Turkey, jointly conducted by the Council of Europe and Turkey.
- Through the development of e-learning materials, an important step was taken to extend ethics training and awareness to the whole public sphere.

- 2-day ethics leadership seminars were held with the participation of senior administrators of the governor's office, municipality and special provincial administrations of 81 provinces, as well as Provincial Administrations of National Education, Health and Police. In this way, a sense of ownership of the highest degree towards ethical sensitivity was created at rural and central levels.
- Meetings on information exchange were held with representatives from the media.
- 350 ethics trainers in total were trained. 240 of these trainers received training within the scope of the Projects on "Ethics for the Prevention of Corruption in Turkey" and "Consolidating Ethics in the Public Sector," while 110 were trained within the framework of the institution's own means. The trainers were selected among public officials working in the Ministry of Finance, Directorate-General for Land Registry and Cadastre, Ministry of Interior, governor's offices, municipalities and all other public institutions and they are currently carrying out activities throughout the country.
- Furthermore, 30.000 public officials received ethics training. If ethical awareness trainings provided by other public institutions and distance learning activities are counted as well, public officials who received training on ethical awareness amount up to 100 thousands.
- One of the training subjects is "OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions". Officials of the Ministry of Foreign Affairs are also among the trainees.
- The Council website (URL: <http://www.etik.gov.tr/Baglanti.aspx>) provides links to Transparency International Turkey, Association of Social Ethics, Foundation of Turkish Ethical Values Center, Anti-Corruption Association, Ethics Association, OECD Sigma (Support for Improvement in Governance and Management), OECD "Ethics and Corruption in Public Sector", The Netherlands National Integrity Office, National Public Service Ethics Board of Japan, Corruption Prevention and Combating Bureau of Latvia, United States Office of Government Ethics, Committee on Standards in Public Life of United Kingdom, Independent Commission Against Corruption (ICAC), Independent Commission Against Corruption of Australia, Anti-Corruption Commission of Bhutan, Project on Ethics for the Prevention of Corruption in Turkey, Transparency International, Global Integrity, Ethical Turkey Platform and OECD section of the Ministry of Justice website.
- The Council provided a class on the "OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions" in the training programme given to the ethics trainers in recent years, ensuring that the trained trainers attach importance to this issue and include it in the awareness raising programmes they attend. Additionally, within the scope of the relevant training of trainers programmes, the Ministry of Justice provided information to trainer candidates on the issue.

Office of the Prime Ministry, Privatization Administration provides a link to the OECD section of the Ministry of Justice Website.

In order to support the implementation of the "OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions" in the area of publicly funded development cooperation (official development assistance), the Turkish Cooperation and Development Agency (TIKA) will employ the following processes:

- TIKA will continue to contribute to raising the level of awareness among TIKA personnel, as well as, among

human resources of partner institutions with regard to the fight against bribery and corruption by way of;

- Including the subject in the training programs for newly recruited TIKa personnel,
  - Organizing seminars for TIKa personnel at headquarters and overseas offices,
  - Sharing information on the Convention with institutions in partner countries, as well as, national partners (other public institutions, NGOs, universities, municipalities, etc.)
  - Supporting the dissemination of handbooks/booklets/brochures on prevention of corruption and bribery, prepared by relevant Turkish institutions,
  - Providing a link on TIKa web site to the website of the Ministry of Justice on the Convention.
- TIKa is planning to incorporate on a regular basis, a clause on anti-corruption to agreements and memoranda of understanding, etc, signed with institutions of partner countries, international organizations and other bilateral donor agencies.
  - In addition, TIKa is considering including reference to prevention of corruption and bribery within the framework of ODA-funded activities, in the law and strategy paper for Turkey's development cooperation, which are in the process of preparation.

As a public institution TIKa is bound by Turkish laws and regulations on public procurement and is subject to regular audit by the Turkish Court of Accounts.

Combat against the offence of bribery is conducted under the coordination of the Department of Anti-Smuggling and Organized Crime (KOM) of the Turkish National Police.

**9(a) Please describe the procedures in place for ensuring prompt and effective handling of outgoing and incoming mutual legal assistance requests in relation to foreign bribery cases.**

**9(b) Please describe how informal assistance is encouraged, in conformity with your jurisdiction's legal system.**

*Where possible, specific reference should be made to implementation of the G20 High-Level Principles on Mutual Legal Assistance.<sup>2</sup>*

**Response: 9 (a) Please describe the procedures in place for ensuring prompt and effective handling of outgoing and incoming mutual legal assistance requests in relation to foreign bribery cases.**

Dual criminality or principle of reciprocity is not sought for execution of MLAs containing requests for obtaining statements of the concerned persons and for providing informatory documents.

With regard to the requests in question, the widest possible assistance is provided. However, in MLAs related to

<sup>2</sup> Available online here: <http://www.oecd.org/g20/topics/anti-corruption/High-Level-Principles-on-Mutual-Legal-Assistance.pdf>

seizure or confiscation, the condition that the offence subject to request is one of the extraditable offences, in other words condition of dual criminality, is sought.

In “European Convention on Mutual Assistance in Criminal Matters” and other judicial assistance conventions, to which Turkey is a party, dual criminality is not required (except in the case of Article 5 regulating MLAs related to seizure or confiscation) in order to execute the MLAs.

In Article 2 of the European Convention on Extradition regulating extradition and other bilateral agreements, the condition of dual criminality of the offence subject to request is sought for extradition.

If the content of the MLA requests received by our country is full and complete, they are executed within approximately 3-4 months at the latest.

Regardless of the nature of the offence, MLA requests transmitted to our country are forwarded to the relevant Chief Public Prosecutor’s Office for execution, if the conditions required in the relevant multilateral convention or bilateral agreements are fulfilled.

In terms of such requests, before transmission of the request to the relevant Chief Public Prosecutor’s Office, the MLA is subjected to an evaluation by the central authority with regard to conformity to the relevant conventions and practices. This period corresponds to 2 weeks at most.

After such evaluation, the MLA is submitted to the relevant Chief Public Prosecutor’s Office and the request which is executed within approximately 1-1.5 months is transmitted to the MoJ which is the central authority. The request in question is forwarded by the MoJ to the central authority of the Requesting Country without delay.

The range of legal assistance provided regarding foreign bribery is the same as that provided for other offences. Furthermore, since Turkey is party to the OECD Convention, we give high priority to the MLA requests concerning foreign bribery.

**9 (b) ) Please describe how informal assistance is encouraged, in conformity with your jurisdiction’s legal system.**

On judicial cooperation in criminal matters, legal advisors have been assigned to the Turkish missions in several EU countries and international organisations, including the EU. 15 judges have been assigned in line with a new practice of mutually designating liaison contact points. Also, Turkish judges and prosecutors usually participate EUROJUST coordination and tactical meetings in case of invitation from that body.

Besides that, Turkey has signed a lot of minutes with other countries to appoint contact points for enhancing judicial cooperation. With the help of these contact points, it is easy to share any information regarding mutual legal assistance requests.

**II. Implementation of Foreign Bribery Provisions in the 2012-2013 G20 Anti-Corruption Action and the St Petersburg Declaration**

*Note 3: This section of the questionnaire is drafted from the 2012-2013 G20 Anti-Corruption Action Plan and the St. Petersburg Leaders’ Declaration. It also seeks updates from G20 countries on next steps for fighting foreign bribery.*



**10. Please specify next steps for continuing “efforts to adopt and enforce laws and other measures against foreign bribery”.<sup>3</sup>**

Response:

**National policy on combating the bribery of foreign public officials**

“Strategy for Increasing Transparency and Strengthening of the Combat against Corruption in Turkey (2010 – 2014)” which was prepared by the government for the improvement of more fair, accountable, transparent and reliable management understanding by removing factors which prevent transparency within the public and cause corruption in our country within the scope of combat against corruption and bribery, was enforced through the Council of Ministers’ Decision no. 2010/56, dated 01.02.2010. Currently a Commission composed of the Minister of Justice, Minister of Interior, Minister of Finance, Minister of Labor and Social Security, Minister of Customs and Trade was established under the presidency of Deputy Prime Minister through the Prime Ministry Circular no. 2009/9, published on the Official Gazette no. 27423, dated 05/12/2009, within the scope of the strategy and action plan conducted by the Prime Ministry Inspection Board.

The strategy in question was prepared for the development of institutional capacity and the increase of transparency against corruption, which negatively influences economic and social life, corrodes moral values and deeply harms the confidence of citizens towards public institutions. It is aimed at increasing the systematic efficiency of the system by improving the fair, accountable, transparent and reliable management understanding and preventing the tendencies towards corruption offences by raising awareness against corruption with the application of measures in the strategy.

An “Executive Board for Increasing Transparency and Strengthening of the Combat against Corruption in Turkey”, comprised of the representatives of the deputy undersecretaries of the Ministry of Justice, Finance, Labor and Social Security, as well as Turkish Union of Chambers and Exchange Commodities and the labor union which has the highest number of members, was founded under the presidency of Deputy Undersecretary of the Prime Ministry in order to prepare strategy plans towards increasing transparency and strengthening the combat against corruption, to make necessary examinations for its enforcement, to monitor its practice, to coordinate, to audit the practices by determining the measures to be taken, to make the coordination between public agencies and institutions and NGOs, to present the progress reports to the approval of the commission, to make amendments in the plan according to the day-to-day developments on these issues and to fulfill the duties to be charged within this scope.

Presidency of Prime Ministry Inspection Board was assigned for the execution of the following objectives: giving secretarial service to the Commission and Board for the fulfillment of duties, chairing or to have chaired the working groups which were established for the purpose of increasing the transparency and strengthening the combat against corruption, developing strategy and presenting it to the commission and to the board, fulfilling the actions required by the approved strategy, plan, program and reports, as well as ensuring the cooperation and coordination between all public institutions and non-governmental organizations concerned.

Increasing Transparency and Strengthening the Combat against Corruption Action Plan was approved by the Commission Decision no. 2010/1, dated 12/04/2010. Within the framework of the action plan, basic components of

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<sup>3</sup>G20 Anti-Corruption Action Plan 2013 – 2014, Point 2.

the strategy are 28 measure articles in total determined under the following 3 titles: Measures for Prevention (18 Prevention Articles), Measures for the Practice of Measures (3 Measure Articles) and Measures for Increasing Social Awareness (7 Measure Articles)

Relevant institutions responsible for the measure articles in question were assigned and the reports drafted by the working groups were presented to the approval of Executive Board. 242 persons in total were charged in working groups. Except the temporarily invited NGO representatives, 43 NGO and private sector representatives were continuously charged in groups. The reports prepared by 2<sup>nd</sup> term working groups which were formed regarding the suggestions of the measure articles that passed from the approval of the Executive Board and the Commission of Ministers, have been presented to the approval of the Executive Board and it has been decided that decisions taken be submitted to the commission until the end of 2013. The final results towards the practice on Strategy and Action Plan, which is to be implemented between the years 2010 – 2014, are envisaged to emerge beginning from the year 2014. Among the examples for outputs of the strategy are the two following laws, which have been finalized and entered into force: legal regulation on the completion of enactment process of the Court of Accounts Legislative Proposal and of the establishment of Ombudsman. These two laws currently in force have been derived from measure articles.

Additionally, besides determining the risk areas benefiting from the database which is formed regarding public officials subjected to disciplinary punishment in State Personnel Presidency, concerning the second term working group report which is prepared under Measure Article 14 entitled “Determination of Risk Areas Open to Corruption as seen from Audit Reports” under the title of “Measures for Prevention” in the Action Plan; the following issues have been examined in light of data belonging to the years 2010, 2011 and 2012 (until November): from which channels complaints and notices including the offense of corruption in our country reach our institutions, in which public institutions these notices and complaints intensified, the percentage of criminal charges filed to chief public prosecution offices concerning these notices and complaints which have been examined and investigated by Inspection and Auditing bodies, to which offenses corruption acts determined in the reports sent to the chief public prosecution offices corresponded more to and in which sectors it intensified. The data obtained totally from 18 ministries and 63 subsidiaries, affiliates and related institutions, as well as the report prepared as a result of the analysis of such data was examined by the Executive Board. The decisions taken shall be presented to the Commission.

On the other hand, another important work executed by Prime Ministry Inspection Board within the framework of strategy followed against corruption is the project entitled “Strengthening of the Politics and the Coordination of the Practices on Combating against Corruption in Turkey”. The general aim of the project is to contribute to the formation of an effective structure in the combat against corruption in Turkey. The project shall last 24 months (28/12/2012-27/12/2014) and its total cost is 1,400,000 EUR. The European Union shall cover 85% of this amount while Turkish authorities undertake 10% and the Council of Europe assumes 5%.

Aims of the project are defined as follows:

- Increasing the expertise of the inspectors, auditors and controllers from various institutions on techniques of modern investigation and reporting, cooperation, data collecting and analysis, information exchange and developing policies on sector oriented anti-corruption,
- Coordination of corruption investigations carried out by the Inspectors of the Prime Ministry, implementation of anti-corruption policies among various institutions and increasing the expertise on implementation of Anti-Corruption Strategy.

The following results are expected at the end of the project:

1. Analyzing the available legal substructure covering strategies of investigation, information exchange and anti-corruption and coordination of the investigations and comparing these with the terms envisaged by the international conventions, developing investigation guides and reporting standards based on the obtained results,
2. Collecting and analyzing the data on investigation of corruption cases and preparing a corruption map of the risky areas,
3. Training the inspectors on developing strategies on sector oriented anti-corruption, coordination of corruption investigations, techniques of modern investigation and reporting and information exchange.

#### **The Project on Strengthening the Coordination of Anti-Corruption Policies and Practices**

Studies and activities within the scope of the European Union Project on the subject of "Strengthening the Coordination of Anti-Corruption Policies and Practices" have been initiated on 12 June 2013 with the opening conference which was held at Ankara with the participation of senior authorities of the public institutions and entities and non-governmental organizations as well as representatives of the written and visual media organs. The purpose of the Project is to contribute to the establishment of an effective and efficient structure as regards the fight against corruption, training auditors from different institutions on modern auditing practices, developing reporting techniques, enhancing the coordination and information exchange between public institutions and entities and non-governmental organizations, improving the ability to analysis and making contributions to developing policies on the fight against sector-based corruption. The main beneficiary of the Project is the Prime Ministry Inspection Board.

In the context of the activities and practices envisaged in the Project, firstly the activities titled "Reporting Standards" (No. 6) and "Mapping of Risky Fields Which are Vulnerable to Corruption and Developing the Fight against Corruption Strategy" (No. 8) have been started to be put into practice. Accordingly, various activities have been carried out by working groups which included representatives of public institutions and entities and auditor units as well as national or international academicians. The studies pertaining to the activities in question are ongoing.

On the other hand, the required working groups for activities planned to be carried out within the context of the following activities have been formed: "Analysis of the Legal and Institutional Infrastructure Directed towards Securing Information Sharing and Coordination in Administrative and Judicial Investigations" (No. 1), "Examination of International Standards and Regulations in the Spheres of Investigations into Corruption, Coordination and Cooperation" (No. 2), "Analysis of the Conformity of the Domestic Law with the Provisions of the Council of Europe Conventions on Criminal Law and Civil Law, the United Nations Convention on Anti-Corruption and the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions" (No. 3), and "Preparation of

Investigation Guide for Inspectors/Auditors/Controllers to Prevent Different Practices” (No. 5). Upon the completion of the activities carried out by the working groups on the activities in question, domestic and foreign training activities shall be initiated.

**11. Please specify next steps for engagement with the OECD Working Group on Bribery with a view to explore possible adherence to the OECD Anti-bribery Convention as appropriate.**

**Specifically and where applicable, please indicate any plans to:**

- Attend meetings of the WGB in 2014;
- Co-organize or attend meetings on foreign bribery; and/or
- Engage in technical assistance activities on the issue of implementation and enforcement of the foreign bribery offence;
- Open discussion for Membership in the WGB, with a view to acceding to the OECD Anti-Bribery Convention.

**Response:**

As a part of OECD Anti-Bribery Convention, Turkey regularly participates OECD WGB meetings. Turkey is eager to organize meetings with private sectors to raise awareness on bribery of foreign public officials.