



TURKEY: FOLLOW-UP TO THE PHASE 3 REPORT & RECOMMENDATIONS

May 2017

This report, submitted by Turkey, provides information on the progress made by Turkey in implementing the recommendations of its Phase 3 report. The OECD Working Group on Bribery's summary of and conclusions to the report were adopted on 31 May 2017.

The Phase 3 report evaluated Turkey's implementation of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 2009 Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions.

This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

TABLE OF CONTENTS

SUMMARY AND CONCLUSIONS BY THE WORKING GROUP ON BRIBERY	4
Summary of findings.....	4
Conclusions of the Working Group on Bribery	6
PHASE 3 EVALUATION OF TURKEY: WRITTEN FOLLOW-UP REPORT	7
1. Recommendations of the Working Group	7
2. Follow-up by the Working Group.....	57

SUMMARY AND CONCLUSIONS BY THE WORKING GROUP ON BRIBERY

Summary of findings

1. In October 2016, Turkey presented its written follow-up report to the OECD Working Group on Bribery in International Business Transactions (Working Group), outlining its responses to the recommendations and follow-up issues identified during the Phase 3 evaluation concluded in October 2014.¹ Turkey has made limited progress towards implementing the Working Group's Phase 3 recommendations, with only 3 out of 27 recommendations fully implemented, 12 partially implemented and 12 not implemented.

2. The Phase 3 report raised serious concerns about Turkey's lack of active enforcement. Unfortunately, Turkey's written follow-up report demonstrates very limited progress in this regard. Of the two investigations that had been underway at the time of Phase 3, one has not progressed and the other appears to have been closed². Turkey also appears to have made very limited investigative progress with regard to four other allegations that were known to Turkey at the time of Phase 3.³ One additional allegation has been brought to light since Phase 3, in connection with allegations regarding Unaoil. In this latest case, Turkey's law enforcement authorities have taken no proactive steps other than to seek some international cooperation through the Ministry of Foreign Affairs. However, it should be noted that this allegation is quite recent, having only been reported in the media in March 2016, which may explain the limited progress.

3. Phase 3 recommendations 3a-d specifically target Turkey's lack of enforcement. These recommendations call on Turkey to review its overall approach to enforcement, provide sufficient resources and expertise to prosecutors and police, take a more proactive approach to detection, and ensure that investigation and prosecution of foreign bribery is not influenced by the factors prohibited under Article 5 of the Anti-Bribery Convention. Turkey's efforts to implement these recommendations include meetings of an inter-agency working group led by the Ministry of Justice to assess these and other recommendations; the provision of training to judges, prosecutors and inspectors; a reported increase in the total number of prosecutors; and efforts by Turkish officials posted abroad to follow local media reports in an effort to detect foreign bribery allegations. Turkey also issued a legally binding direction to prosecutors and investigators about international corruption cases, titled Circular No. 157.

4. Overall, the Working Group considers these measures represent only modest implementation of the recommendations and have done little to address the enforcement issue. The prohibited factors of Article 5 of the Convention are cited in the preface of Circular 157, but the operative paragraphs only mention Article 5 in relation to seeking international cooperation (paragraph 3 of the Circular). Another issue of concern is that operative paragraph 2 of the Circular seems to define foreign bribery as bribery of Turkish public officials by foreign companies (thus focusing on the bribe recipients), rather than bribery of foreign public officials by Turkish natural or legal persons, as defined under the Anti-Bribery Convention (which focuses on the bribe payers). With respect to the large-scale suspensions and reassignments of judicial and law enforcement officers following the failed coup attempt in July 2015, Turkey reports that these are intended for the purpose of preserving independence and impartiality, and have been carried out

¹ [Phase 3 Report on Implementing the OECD Anti-Bribery Convention in Turkey](#) (October 2014).

² See *Case #2 Real Estate Case* and *Case #3 Construction Case*, [Phase 3 Report](#), paras. 16-17.

³ See *Allegation #1 Telecommunications Case*, *Allegation #2 Automotive Case*, *Allegation #3 Airport Case* and *Allegation #4 Power Station Case*, [Phase 3 Report](#), paras. 21-24.

within the framework of Decree Laws in State of Emergency issued in accordance with the Constitution of the Republic of Turkey. The Working Group considers that these suspensions and reassignments raise doubts about the long-term effect of the training provided, and may also be perceived as attempts to exercise political influence over investigative and prosecutorial decisions, including possibly in foreign bribery cases. On this basis, Turkey has only partially implemented recommendations 3a, 3b, 3c, and not implemented recommendation 3d.

5. The Working Group is further concerned that Turkey has not addressed very important Phase 3 recommendations concerning the liability of legal persons. In particular, Turkey has not amended its law or taken other appropriate measures to clarify that all Turkish legal persons, including state-owned enterprises, can be held liable for foreign bribery or that legal persons can be held liable without prior prosecution or conviction of a natural person (recommendations 1a and 1b). Further, Turkey has not increased the level of sanctions applicable to legal persons, nor has it ensured confiscation of bribe proceeds (recommendation 1c). However, the Working Group is encouraged that Turkey is considering a legislative amendment to increase sanctions for legal persons. Turkey has also provided some training to law enforcement authorities on the corporate liability provisions in foreign bribery cases and encouraged the use of such provisions through Circular 157 (recommendation 1d).

6. The Working Group encourages Turkey to continue its consideration of making fines as well as imprisonment available as sanctions for natural persons who commit foreign bribery (recommendation 2a). Turkey maintains aggregated data on domestic bribery offences, but this could be improved to ensure that the data includes important details such as the specific sanction imposed, the amount of the bribe, or the value of the advantaged received from the bribe (recommendation 2b). Turkey has also provided some training on confiscation to law enforcement authorities, although the extent to which the training focused on confiscating the proceeds of bribery is unclear (recommendation 2c).

7. In terms of detection, Turkey has taken steps to improve its capacity to detect foreign bribery through money laundering cases, but more action is needed. Turkey's efforts include awareness raising and training among reporting entities, Turkey's financial intelligence unit (MASAK), and law enforcement authorities (recommendations 4a-c). However, Turkey has not addressed the issue of politically exposed persons in its anti-money laundering legislation (recommendation 4d).

8. Regarding accounting, auditing and taxation measures to prevent and detect foreign bribery, Turkey has not ensured that natural and legal persons can be held liable for the full range of conduct described in Article 8(1) of the Convention or that sanctions for this conduct are adequate (recommendation 5a). Turkey has provided relevant training to tax inspectors and Capital Markets Board officials to raise awareness that foreign bribery is a type of fraud, but not for accountants and auditors in the private sector (recommendation 5b). Turkey has also broadened the scope of private companies subject to external audit such that non-listed companies operating abroad would be included in audit scope (recommendation 5c). However, Turkey has not taken steps to improve information sharing between tax authorities and law enforcement officials (recommendations 6a-6b).

9. Regarding reporting of foreign bribery, while Turkey has not yet amended its legislation on the protection of whistleblowers, the Working Group acknowledges and encourages Turkey's efforts in this respect as foreseen in Circular 2016-10 (recommendation 7b). Turkey has also raised awareness among the Ministry of Foreign Affairs and Ministry of Economy of the need to detect and report allegations of foreign bribery, but does not appear to have reviewed the adequacy of its existing reporting channels in this regard (recommendation 7a). In terms of raising awareness of foreign bribery risks and prevention measures for the private sector, Turkey has undertaken modest efforts but little if any targeting of small to medium sized enterprises (recommendation 8).

10. Finally, regarding public advantages, Turkey's export credit agency has provided training to its staff on detecting foreign bribery and conducting due diligence, and, in deciding whether to award export credit support, takes into consideration applicant companies' internal controls, ethics and compliance measures to prevent and detect foreign bribery (recommendations 9a and 9c). However, in terms of public procurement and official development assistance contracts, the authorities do not take into consideration applicants' internal controls (recommendation 9a). Further, these authorities do not routinely check the debarment lists of international financial institutions (recommendations 9b and 9d). However, the Working Group is encouraged that Turkey is updating its Electronic Public Procurement Platform to take into account international debarment lists and that Turkey is putting in place measures to enable routine checks of applicants for official development assistance.

Conclusions of the Working Group on Bribery

11. Based on these findings, the Working Group concludes that *recommendations 4b, 5c and 9c* have been fully implemented, *recommendations 1d, 2b, 2c, 3a, 3b, 3c, 4a, 4c, 5b, 7a, 8 and 9a* have been partially implemented, and *recommendations 1a, 1b, 1c, 2a, 3d, 4d, 5a, 6a, 6b, 7b, 9b and 9d* have not been implemented. The Working Group also agreed to continue to monitor follow-up issues 10a-g as case law and practice develops, and to follow up on the level of awareness within MASAK of foreign bribery as a predicate offence to money laundering (recommendation 4b). Overall, the Working Group notes some progress made by Turkey since Phase 3 but remains seriously concerned about the lack of enforcement activity and slow progress with regard to many recommendations. Turkey is invited to report to the Working Group in writing in one year on enforcement action and efforts to further implement recommendations 1a-c, 3d, 4d and 7b.

PHASE 3 EVALUATION OF TURKEY: WRITTEN FOLLOW-UP REPORT

Instructions

This document seeks to obtain information on the progress Turkey has made in implementing certain recommendations of its Phase 3 evaluation report. Turkey is asked to respond to the recommendations as completely as possible.

Responses to the question about “action taken” should reflect the current situation in your country, not any future or desired situation or a situation based on conditions which have not yet been met. For each recommendation, separate space has been allocated for describing future situations or policy intentions.

Please submit completed answers to the Secretariat by Friday 26 August 2016.

Name of country: TURKEY

Date of approval of Phase 3 evaluation report: October 2014

Date of information: Friday 26 August 2016

1. Recommendations of the Working Group

Text of recommendation 1(a):

1. Regarding the liability of legal persons, the Working Group recommends that Turkey:

(a) Amend its law or otherwise expressly clarify that all Turkish legal persons, including state-owned and state-controlled enterprises, can be held liable for foreign bribery [Convention, Article 2]

Action taken as of the date of the follow-up report to implement this recommendation:

With a view to implementing the recommendation, the Ministry of Justice Directorate General (DG) for Legislations, DG for Penal Affairs and DG for International Law and Foreign Relations (UHDİGM) have established a working group. The DG for International Law and Foreign Relations, being the coordinating authority responsible for the country implementation of OECD Convention Against Foreign Bribery organized various meetings with the WG and relevant public institutions and organizations on 12 and 14 May 2015, 21-23-25 December 2015 and 06-08-12-14 January 2016 for the purpose of "*reviewing the general approach in implementation in order to combat foreign bribery effectively*". In these meetings, the working group has examined reports on evaluation phases of the states party to OECD Anti Bribery Convention, and their comparative legal practices concerning the recommendation have been considered. Moreover, judgments of the Court of Cassation concerning the scope of liability of legal persons in the Turkish law have been examined.

As a result of the examination, it has been identified that there is a judgment of the Court of Cassation Civil General Assembly ruling that in the Turkish law, state controlled and state owned enterprises

called as State Economic Enterprises (SEEs) are subject to the rules of private law since they engage in commercial activities. The Turkish Judicial Authorities shall take into consideration the judgments of the Court of Cassation Civil General Assembly. According to the Turkish Law, if there is an existing judgment of the Court of Cassation Civil General Assembly on the subject, unless a decision to the contrary is taken, it shall remain in force and shall be binding for all. In other words, in case of a dispute, the subject is referred to the General Assembly and the issue shall be settled by a case-law of the Supreme Court. For this reason, the judgment of the Court of Cassation Civil General Assembly is still valid and binding.

The case law of the Court of Cassation Civil General Assembly dated 22/03/2006 and numbered 2006/412 - 2016/95 stipulates that "State Economic Enterprises (SEEs) are traders for they establish and run commercial enterprises. The fact that its capital is owned by the state and some managerial organs have special appointment procedures does not give such enterprises the status of public law; they are private law legal persons and thus provision of private law shall apply to them". Within this framework, it is explicitly stated in the Turkish law that SEEs are private law legal persons and subject to provision of private law.

On the other hand, Paragraph 1, Article 4 of the Statutory Law no 233 on SEEs regulates that SEEs are legal persons, and pursuant to Paragraph 2 of the same Article, they shall be subject to provisions of private law entities.

As it is known, in the reply to Article 1.1.3(d) of the Questionnaire produced for Turkey's 3rd round of evaluations, it is stated that Article 43/A of the Code of Misdemeanours shall not apply to companies subject to audit of the Court of Accounts. Pursuant to Article 4 of the Decree No 233 Having the Force of Law, SEEs are not subject to provisions of the General Accounting Law or Public Procurement Law or audit of the Court of Accounts. Thus, SEEs fall under the scope of Article 43/A of the Code of Misdemeanours for being private law legal entities by the case law of the Court of Cassation and being subject to provisions of private law.

In light of the above, if the offence of bribery of a foreign public official is committed for the benefit of SEEs, then administrative fine shall be imposed on the SEE in question since SEEs are within the scope of "private law legal persons" in Article 43/A of the Code of Misdemeanours.

On the other hand, the liability of legal persons in terms of the abovementioned Code of Misdemeanours is also regulated under the Tax Procedure Law. Article 333 titled "Liability of Legal Persons" of the Tax Procedure Law No 213 stipulates that, in the administration and liquidation of legal persons, tax penalties to be imposed on those who act against the Tax Law shall be imposed "in the name of legal persons". Thus, liability of legal persons is accepted in our legal system without making any distinction in terms of tax and administrative fines.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 1(b):

1. Regarding the liability of legal persons, the Working Group recommends that Turkey:

(b) Amend its law or otherwise expressly clarify that legal persons may be held liable for foreign bribery without prior prosecution or conviction of a natural person [Convention, Article 2; 2009 Recommendation, Annex I.B];

Action taken as of the date of the follow-up report to implement this recommendation:

In accordance with Article 43/A titled "liability of legal persons" added on 26/06/2009 with the Law No 5918 to the Code of Misdemeanours No 5326, in case in the case that an organ or a representative of a private law legal person; or; a person, who is not the organ or representative but undertakes a duty within the scope of that legal person's operational framework commits the following offences to the benefit of that legal person, the legal person shall also be penalized with an administrative fine.

The working group under the Ministry of Justice and mentioned in the explanations of recommendation 1(a), has reached the following information and conclusions as a result of examining the justification of the said Article and the minutes of the Parliamentary Justice Committee:

The justification of submitting the draft of Article 43/A of the Code of Misdemeanours before the Parliament is as follows:

"The legal conclusions which are directly or indirectly connected with each other such as the acts of corruption committed through individual or organized criminal organizations, laundering of assets derived from offence, bribery, corruption in private and public sector and liability of legal persons and accession negotiations with the European Union (EU) and the liabilities required to be fulfilled under the scope of international organizations such as the Council of Europe (CoE) and the Organization for Economic Cooperation and Development (OECD), to which we are parties, are overlapping. Furthermore, during the process of EU negotiations, the subject of combating corruption has been addressed in more than one chapters such as "freedom, security and justice", "free movement of capital" and "financial control" and various amendments have been made to the Turkish Criminal Code, Criminal Procedure Code, Code of Misdemeanours and The Law on Adoption after Amendment of the Decree with the Force of Law on the Establishment of Prime Ministry.'

Firstly, in line with Turkey's fulfillment of its obligations arising from the OECD; *Article 43/A of the Code of Misdemeanors stipulates in particular that the offences are committed to the benefit of a legal person, and with that wording, it is emphasized that in order for a legal person to be imposed an administrative fine, commission of an offence to the benefit of that legal person is sufficient.* Thus, it is clarified in the above mentioned article that administrative fines can be imposed on legal persons without prior prosecution or conviction of a natural person.

On the other hand, second paragraph of the same Article stipulates that; *"The court which is commissioned to try the offences stated in paragraph 1, has the jurisdiction over verdicts on administrative fines in accordance with this Article."* This statement is important for the fact that in the text proposed by the government, it is stated that the court which is authorized to impose administrative fines on legal persons is the court which rules on conviction on natural persons; however in the enactment process of the said article, the wording has been amended to "the court commissioned to try offences has the jurisdiction" and enacted that way. The main reason for the

Parliamentary Justice Committee to adopt that opinion is to ensure compliance between the wording and general justification of Article 43/A of the Code of Misdemeanors and our Country's fulfillment of its obligations arising from the OECD.

Parliamentary Justice Committee has amended the term "the court which rules on conviction" during the enactment process for the following reason:

“In the article, the wording of "rules on conviction" requires that in order for a legal person to be penalized with an administrative fine, trial must be finalized with a verdict after the completion of prosecution. This situation reveals that although it has been identified that one of the offences listed in the article has been committed and as a result, there is a benefit to the legal person; in cases where prosecution has not been initiated for any reason or where a prosecution does not lead to a conviction, then a legal person could not be penalized with an administrative fine. The paragraph has been amended in order to prevent that situation from happening.” As it can be seen, the aim of the law makers is to make an arrangement that ensures "holding legal persons responsible for foreign bribery without a need for prosecution or conviction". The justification of the law explicitly confirms this aim.

For this reason, within the scope of the aforementioned explanation by Parliamentary Justice Committee, by establishing in Article 43/A of the Code of Misdemeanors that the court which is authorized to impose administrative fines on legal persons is not the court which "rules on conviction" but the court which is "commissioned to try the offences" and administrative fines can be imposed on legal persons without without prior prosecution or conviction of a natural person.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 1(c):

1. Regarding the liability of legal persons, the Working Group recommends that Turkey:

(c) (i) Increase the level of sanctions applicable to legal persons for foreign bribery to ensure they are effective, proportionate and dissuasive; and (ii) take all necessary measures to ensure that confiscation of the bribe and proceeds of bribery (or monetary sanctions of comparable effect) may be imposed on legal persons without prior conviction of a natural person [Convention, Articles 2 and 3; 2009 Recommendation Annex I.B]; and

Action taken as of the date of the follow-up report to implement this recommendation:

In terms of c (i), the recommendation in question has been addressed by the above mentioned working group and the practices of countries included in other OECD country reports have also been examined. Moreover, information on amounts of administrative fines imposed on legal persons by various WGB member countries has been provided after contacting the WGB Secretariat on the

subject.

As a result of the examination, our WG has reached a favorable opinion on increasing the amount of administrative fine to be imposed on legal persons for foreign bribery. Works on the subject are ongoing.

The following explanations can be made in terms of recommendation 1 (c) (ii):

According to the Turkish legislation, it is possible to confiscate the bribe or proceeds of bribery without prior conviction of a natural person.

According to Paragraph 2 of Article 20 of the Turkish Criminal Code No 5237; *"Penalties shall not be imposed on legal entities. However, security measures prescribed by law to be applied to such in respect of a criminal offence shall be reserved."*

Security measures to be applied to legal persons are regulated under Article 60 of TCC.

According to Article 60 of the Turkish Criminal Code:

Security measures specific to legal entities

"Article 60- (1) *Where there has been a conviction in relation to an intentional offence committed for the benefit of a legal entity, which is subject to civil law and operating under the license granted by a public institution, by misusing the permission conferred by such license and through the participation of the organs or representatives of the legal entity it shall cancel this license.*

(2) *The provisions relating to confiscation shall also be applicable to civil legal entities in relation to offences committed for the benefit of such entities..."*

The first security measure set forth in the Article is "cancellation of operation licence". In order to implement this security measure, conviction is sought for deliberate offences committed to the benefit of legal persons as stated explicitly in the first paragraph.

However; in the second paragraph, it is stated that in order to rule on the security measure of confiscation against legal persons, different from the first paragraph, conviction is not sought. Justification of the said article states that *"...in respect of an offence committed to the benefit of a legal person, if the conditions stated in the confiscation provision are satisfied, then goods and financial interests linked to the offence shall be confiscated"*. Conditions required to rule on confiscation are regulated under Articles 54 and 55 of the Turkish Criminal Code and conviction is not sought in order to effect confiscation within the scope of the said articles.

The justification of Article 54 of the Turkish Criminal Code explicitly states that situation as:

"The main amendment introduced with the new arrangement is the acceptance of the legal nature of confiscation as a security measure. For that reason, in order to rule on confiscation, the offence must have been committed but there is no requirement of conviction of an individual for that offence."

In light of the explanations above, “confiscation of the bribe or the proceeds of bribery owned by legal persons without seeking prosecution or conviction of a real person” is possible in the following way:

The bribe money is initially secured and seized by the Public Prosecutor as it constitutes the subject of confiscation of materials pursuant to Article 123 entitled “*Securing and seizure of materials or gains*” of the Criminal Procedure Code. Even if the real person is not convicted because he died or became a fugitive or because the case has been time barred, the bribe money, previously secured by the public prosecutor, shall be confiscated in line with Article 54 of the Turkish Criminal Code.

The proceeds from bribery, in other words all immovables, rights and receivables derived from the offence of bribery, shall be confiscated by a court decision pursuant to Article 128 of the Criminal Procedure Code at the investigation or prosecution stage. **If the real person is not convicted because he died or became a fugitive or because the case has been time barred, and if there is sufficient evidence that the offence has been committed, the bribe money, previously secured by the public prosecutor, shall be confiscated in line with Article 55 of the Turkish Criminal Code.**

As can be understood from the explanations above, the regulations required by the Recommendation are included in the Turkish legislation on criminal matters. Within this framework, the following Circular with the newest date has been issued to ensure the efficient implementation of the legal regulations.

The Ministry of Justice, DG for Penal Affairs issued a Circular titled "Investigations and Prosecutions concerning International Corruption" dated 20/02/2015 and numbered 157. Paragraph 5 of page three of the same Circular stipulates that in terms of bribery of foreign public officials under the scope of Article 252 of the Turkish Criminal Code and other persons listed in the same article, in case of goods or gains required to be seized or confiscated, provisions of Turkish Criminal Code No 5237, Criminal Procedure Code No 5271, Code of Misdemeanours No 5326 and Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and other legal arrangements shall be taken into account and necessary legal action shall be taken with due diligence.

Apart from the possibility of confiscating the bribe money or the proceeds of bribery owned by legal persons without seeking the conviction of a real person, administrative fines may also be imposed as a form of monetary sanctions.

Pursuant to Article 43/A of the Code of Misdemeanours, the monetary sanctions prescribed in the Recommendation can be imposed on legal persons without prior prosecution or conviction of a natural person. For more detailed explanations on the matter, please see Recommendation 1 (b).

For explanations concerning Article 333 entitled “Liability of Legal Persons” of the Tax Procedure Code no. 213, please see the last paragraph of the explanations on Paragraph (a) of Recommendation 1.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 1(d):

1. Regarding the liability of legal persons, the Working Group recommends that Turkey:

(d) Enhance the usage of, and train law enforcement authorities on, the corporate liability provisions in foreign bribery cases [Convention, Articles 2 and 5; Commentary 27; 2009 Recommendation Annex I.D].

Action taken as of the date of the follow-up report to implement this recommendation:

The Ministry of Justice, DG for Penal Affairs issued a Circular titled "Investigations and Prosecutions concerning International Corruption Offences" dated 20/02/2015 and numbered 157. Paragraph 2, Page 2 of the same Circular stipulates that; in terms of bribery of foreign public officials under the scope of Article 252 of the Turkish Criminal Code and other persons listed in the same article, it is clearly emphasized that there is also a need for initiation of investigation against legal persons.

Training (In-service Training) Activities of The Justice Academy of Turkey for Judges and Prosecutors:**➤ In-service Training Activities:**

- Within the scope of the third component aiming to contribute to the strengthening of international judicial cooperation of the "Project on Improving the Efficiency of Turkish Criminal Justice System", the Ministry of Justice, DG for International Law and Foreign Relations (UHDİGM) and the Council of Europe Project Office held a Judicial Cooperation Training Seminar in Antalya on 17-18, 20-21 November 2014 with the participation of judges, public prosecutors and chief clerks of courthouses. Around 170 persons participated in the above mentioned seminar and for the purpose of raising awareness; a presentation on "OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and Liability of Legal Persons in Foreign Bribery" was delivered.
- Within the scope of Turkish Justice Academy's Training Programme for 2015, on 27-29 November 2015 in Adana, 84 judges and public prosecutors of criminal courts were given a training seminar on "Offences against the Security and Functioning of Public Administration (Embezzlement, Bribery, Extortion, Bid Rigging and Money Laundering)."

➤ Planned In-service Training Activities:**Confirmed vocational training programmes for 2016,**

- On 16-18 December 2016 in Antalya, 100 judges and public prosecutors of criminal courts will be given a training seminar on "Offences against the Security and Functioning of Public Administration (Embezzlement, Bribery, Extortion, Bid Rigging and Money Laundering)."

2017 Planned vocational training programmes for 2017,

- On 06-08 October 2016 in Afyon, 90 judges and public prosecutors of criminal courts (including appellate courts) will be given a training seminar on "Offences against the Security and Functioning of Public Administration (Embezzlement, Bribery, Extortion, Bid Rigging and Money Laundering)."

Our Ministry is planning to include the "OECD Anti-bribery Convention and the Liability of Legal Persons" under a separate title into these training activities.

(Pre-vocational) Training Activities of the Turkish Justice Academy for Candidate Judges and Prosecutors:

The Turkish Justice Academy Pre-vocational Training Department added in the curriculum of new candidate judges and prosecutors 4 hours of lessons on the “OECD Anti-bribery Convention and the Liability of Legal Persons Concerning Foreign Bribery.” **Our Ministry’s training activities on the same subject are as follows:**

- On 18 September 2015 between 09:30 - 12:30, expert judges from UHDİGM gave 48 candidate judges and public prosecutors training on the subject;
- On 15 October 2015 between 09:30 - 12:30, expert judges from UHDİGM gave 49 candidate judges and public prosecutors training on the subject;
- On 30 September 2015 between 09:30 - 12:30, expert judges from UHDİGM gave 49 candidate judges and public prosecutors training on the subject;
- On 9 October 2015 between 09:30 - 12:30, expert judges from UHDİGM gave candidate judges and public prosecutors training on the subject;
- On 3 November 2015 between 09:30 - 12:30, expert judges from UHDİGM gave 49 candidate judges and public prosecutors training on the subject;

Attention: An example of UHDİGM's presentation slides used in the trainings for both law enforcement authorities and the other public institutions, as well as the private sector, is provided in **Annex 1**. However, the presentation in Annex 1 only shows the principle titles of the presentation. Additions are introduced to the presentation depending on the competence and responsibilities of the trainee group. Therefore, besides the principle subjects included in Annex 1, the presentations focus on a variety of other subjects based on the characteristics of the trainee groups.

Other Training Activities on the Subject:

- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 49 Candidate Judges and Public Prosecutors on 10 April 2015 between 09.30 and 12.15 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 49 Candidate Judges and Public Prosecutors on 17 April 2015 between 09.30 and 12.15 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 49 Candidate Judges and Public Prosecutors on 19 March 2015 between 13:45 - 16:30 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 49 Candidate Judges and Public Prosecutors on 25 March 2015 between 09:30 - 12:30 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 49 Candidate Judges and Public Prosecutors on 31 March 2015 between 09:30 - 12:30 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 49 Candidate Judges and Public Prosecutors on 27 February 2015 between 09:30 - 12:15 by the members and rapporteur judges of the 5th

Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;

- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 49 Candidate Judges and Public Prosecutors on 6 March 2015 between 13:45 - 16:30 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 49 Candidate Judges and Public Prosecutors on 13 March 2015 between 13:45 - 16:30 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 49 Candidate Judges and Public Prosecutors on 10 March 2015 between 09:30 - 12:15 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 49 Candidate Judges and Public Prosecutors on 17 March 2015 between 09:30 - 12:15 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 49 Candidate Judges and Public Prosecutors on 24 March 2015 between 09:30 - 12:15 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 49 Candidate Judges and Public Prosecutors on 9 January 2015 between 09:30 - 12:15 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 49 Candidate Judges and Public Prosecutors on 16 January 2015 between 09:30 - 12:15 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 49 Candidate Judges and Public Prosecutors on 23 January 2015 between 09:30 - 12:15 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 49 Candidate Judges and Public Prosecutors on 27 March 2015 between 09:30 - 12:15 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 49 Candidate Judges and Public Prosecutors on 3 April 2015 between 09:30 - 12:15 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 49 Candidate Judges and Public Prosecutors on 13 January 2015 between 09:30 - 12:15 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;

- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 49 Candidate Judges and Public Prosecutors on 20 January 2015 between 09:30 - 12:15 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 49 Candidate Judges and Public Prosecutors on 27 January 2015 between 09:30 - 12:15 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 49 Candidate Judges and Public Prosecutors on 20 March 2015 between 09:30 - 12:15 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 49 Candidate Judges and Public Prosecutors on 2 February 2016 between 13:45 - 16:30 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 49 Candidate Judges and Public Prosecutors on 9 February 2016 between 13:45 - 16:30 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 49 Candidate Judges and Public Prosecutors on 16 February 2016 between 13:45 - 16:30 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 49 Candidate Judges and Public Prosecutors on 15 December 2015 between 13:45 - 16:30 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 49 Candidate Judges and Public Prosecutors on 22 December 2015 between 13:45 - 16:30 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 49 Candidate Judges and Public Prosecutors on 29 December 2015 between 13:45 - 16:30 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 49 Candidate Judges and Public Prosecutors on 19 February 2016 between 9:30 - 12:30 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse

of Duty and Bid Rigging was delivered to 49 Candidate Judges and Public Prosecutors on 26 February 2016 between 9:30 - 12:30 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;

- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 41 Candidate Judges and Public Prosecutors on 4 March 2016 between 9:30 - 12:30 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 47 Candidate Judges and Public Prosecutors on 29 December 2015 between 13:45 - 16:45 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 47 Candidate Judges and Public Prosecutors on 5 January 2016 between 13:45 - 16:45 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 26 Candidate Judges and Public Prosecutors on 1 March 2016 between 9:30 - 12:30 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 26 Candidate Judges and Public Prosecutors on 8 March 2016 between 9:30 - 12:30 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 26 Candidate Judges and Public Prosecutors on 11 March 2016 between 9:30 - 12:30 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 33 Candidate Judges and Public Prosecutors on 13 January 2016 between 9:30 - 12:30 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 33 Candidate Judges and Public Prosecutors on 20 January 2016 between 9:30 - 12:30 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences;
- A course on Offences and Implementations on Embezzlement, Bribery, Extortion and Misuse of Duty and Bid Rigging was delivered to 33 Candidate Judges and Public Prosecutors on 1 March 2016 between 9:30 - 12:30 by the members and rapporteur judges of the 5th Chamber of the Court of Cassation, who are tasked with handling the above mentioned offences.

The Ministry of Justice and Presidency of Justice Academy have planned to continue the training activities in 2016 and 2017 with a view to raising awareness of law enforcement officials.

As for the awareness raising and training activities for judges, prosecutors and staff of the courthouses, other institutions have also carried out activities for combating foreign bribery.

Within this scope:

- **Training Activities of the Financial Crimes Investigation Board (MASAK)**

For training activities under the Financial Crimes Investigation Board, please see the explanations on recommendation on 4b.

- **Training Activities of the Ministry of Interior Turkish National Police (TNP)**

For training activities under the Ministry of Interior Turkish National Police, please see the explanations on recommendation 3b-ii.

- **Training Activities of the Public Oversight - Accounting and Auditing Standards Authority**

It has been decided by the Public Oversight - Accounting and Auditing Standards Authority to include the "OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, Liability of Legal Persons to the training programs planned for the staff of the said Authority. Within this scope, a training activity on the said title was organized on 02 September 2015 for 29 experts and assistant expert and similar activities would be continued periodically. Similar activities have been continued. A training on the same subject was delivered on 24/05/2016 at the Building of the Public Oversight - Accounting and Auditing Standards Authority. 75 service staff comprising of experts and assistant experts of the said authority participated in this training.

- **Training Activities of the Union of Chambers of Certified Public Accountants and Sworn-in Certified Public Accountants of Turkey**

Union of Chambers of Certified Public Accountants and Sworn-in Certified Public Accountants of Turkey (TÜRMOB) has voiced a favourable opinion concerning drawing up a separate training programme aimed at its members on "OECD - Combating foreign bribery, the Liability of Legal Persons and the Protection of Whistleblowers in Turkish Law" and providing this training periodically. The works on the preparation of a training program for the future have already been ongoing.

- **Best Practices**

- **Circular of the Prime Ministry Privatization Administration**

The Prime Ministry Privatization Administration's Circular dated 17 June 2008, which is still in effect, is an example of a best practice concerning effective implementation of liability of legal persons in foreign bribery. By the said Circular, having regard to the privatization tenders of institutions within the scope and program of privatization, in the article titled "Ineligible Bidders" of tender specifications, it has been stated that within the scope of the of the "OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions", those convicted of bribery of foreign public officials cannot participate in the tender and there is also a requirement for all investors that bid on such tenders to submit an undertaking that they have not been convicted for such offence.

- **Regulation No 4046 on Privatization Practices**

On the other hand, as regards privatization, tenders concerning the procurement of consultancy services are made within the framework of the provisions of "The Regulation on Rules and Procedures to be Applied in Tenders concerning the Procurement of Consultancy Services within the Scope of the Law No 4046" and within the framework of Articles 4 (m) and 18 C (g) of the Law No 4046. According to Article 4 of the said Regulation, The Prime Ministry Privatization Administration (PPA) is subject to the Law No 4734 on Public Procurement Authority concerning punishment and

prohibition from tenders regarding procurement of consultancy services for privatization.

➤ **Public Procurement Law No 4734**

Paragraph (a) of amended Article 11 of the Law No 4734 on PPA stipulates that "those who have been convicted of bribery of a foreign public official in their own country or a foreign country" cannot participate in a tender. PPA is applicable to the tenders for procurement of consultancy services of privatization authority and thus that article is included as same in all tender specifications. In addition, with a view to raising awareness on that subject, a link to www.uhdigm.adalet.gov.tr/oecd of the Ministry of Justice is published on the webpage of the Prime Ministry Privatization Administration.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 2(a):

2. Regarding sanctions and confiscation, the Working Group recommends that Turkey:

(a) Consider making fines as well as imprisonment available as sanctions for natural persons in foreign bribery cases [Convention, Article 3; 2009 Recommendation V];

Action taken as of the date of the follow-up report to implement this recommendation:

The recommendation of the Working Group as well as the country-specific practices included in other OECD country reports have been assessed. Consequently, our working group has reached the conclusion that a regulation similar to the offence of fraud could be rendered effective for the offence of foreign bribery within the scope of the Turkish Criminal Code, as the former stipulates both imprisonment and judicial fine. Our works on the matter are still ongoing.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 2(b):

2. Regarding sanctions and confiscation, the Working Group recommends that Turkey:

(b) Maintain detailed statistics on sanctions imposed in foreign bribery cases as they arise

[Convention, Article 3]; and

Action taken as of the date of the follow-up report to implement this recommendation:

YEAR	LAW NO	ARTICLE OF LAW	DECISION RENDERED	NUMBER OF FILES	NUMBER OF OFFENCES	NUMBER OF PERSONS
2010	5237	204/1	Conviction	91	111	102
	5237	252/1	Conviction	1	1	1
2011	5237	204/1	Conviction	105	143	123
	5237	204/2	Conviction	2	2	2
2012	5237	204/1	Conviction	96	115	104
	5237	252/1	Conviction	2	23	11
2013	5237	204/1	Conviction	85	128	110
	5237	204/2	Conviction	2	3	3
	5237	252/1	Conviction	1	1	1
2014	5237	204/1	Conviction	78	88	86
	5237	204/2	Conviction	4	20	16
	5237	252/1	Conviction	5	7	7
2015	5237	204/1	Conviction	154	188	178
	5237	204/2	Conviction	4	5	5
	5237	252/1	Conviction	2	3	3
2016	5237	204/1	Conviction	90	103	99
	5237	252/1	Conviction	1	1	1
	5237	282/1	Conviction	2	2	2

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 2(c):

2. Regarding sanctions and confiscation, the Working Group recommends that Turkey:

(c) Take further steps, such as through providing guidance and training, to ensure that law enforcement authorities routinely consider confiscation in foreign bribery cases [Convention, Articles 3 and 5; 2009 Recommendation III.ii].

Action taken as of the date of the follow-up report to implement this recommendation:

In-service and pre-vocational trainings, as well as planned trainings, for judges and prosecutors are explained in detail under Recommendation 1(d). Apart from other matters, these trainings emphasize the importance of routine assessment and implementation of confiscation measures for foreign bribery offences. Regarding confiscation measures, the trainings also refer to the relevant parts of the liabilities stipulated by the OECD Anti-bribery Convention, as well as of the Turkey Phase 3 Final Report.

Ministry of Interior, Turkish National Police, Department of Anti-Smuggling and Organized Crime (KOM), MASAK, Tax Inspection Board, Social Security Institution, Capital Markets Board and Undersecretary of Treasury DG for State Support have been organizing several training activities after the adoption of the Phase 3 Report. For detailed information about these activities, please see Recommendations 3 (b), 3 c (ii), 4 (b). Apart from other matters, these trainings emphasize the importance of routine assessment and implementation of confiscation measures for foreign bribery offences. Regarding confiscation measures, the trainings also refer to the relevant parts of the liabilities stipulated by the OECD Anti-bribery Convention, as well as of the Turkey Phase 3 Final Report.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 3(a):

3. Regarding investigation and prosecution of foreign bribery, the Working Group recommends that Turkey:

(a) Review its overall approach to enforcement in order to effectively combat foreign bribery [Convention, Article 5; Commentary 27; 2009 Recommendation V. and Annex I.D.];

Action taken as of the date of the follow-up report to implement this recommendation:

Directorate-General for International Law and Foreign Relations (UHDIGM), being the coordinating authority responsible for implementation of the "OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions", organized meetings on 12 and 14 May, on 21-23-15 December 2015 and on 08-12-14 January 2016 for the purpose of "*reviewing the general approach to the practices of combating foreign bribery effectively*" with the participation of relevant

public institutions and organizations.

High level representatives of the Ministry of Economy, Ministry of Labour and Social Security, Ministry of Foreign Affairs, Ministry of Interior, Public Oversight - Accounting and Auditing Standards, Turk Eximbank, Ministry of Economy, Ministry of Finance-Tax Inspection Board, MASAK and Revenue Administration, Ministry of Customs and Trade, Capital Markets Board, Union of Chambers of Certified Public Accountants and Sworn-in Certified Public Accountants of Turkey and Small and Medium-sized Enterprises Development Organisation (KOSGEB) participated in these meetings.

Apart from the above mentioned institutions and organizations, representatives from UHDIGM got together with their colleagues from the other relevant units of the Ministry of Justice such as DG for Legislations, DG for Penal Affairs, DG for Judicial Records and Statistics, IT Department, Turkish Justice Academy and the High Council of Judges and Prosecutors (HCJP).

It has been agreed after these meetings that training activities and joint workshops be organized with relevant institutions in combating foreign bribery and exchange of information and inter-coordination among institutions be strengthened. It has been decided that the institutions act in common with one another. Furthermore, it has been agreed that training activities for law enforcement officers organized with regular intervals with a view to raising awareness in detecting, investigating and prosecuting bribery offences more effectively.

Within the scope of the above-mentioned recommendation, the Project on “*Strengthening the Coordination of Anti-Corruption Policies and Practices in Turkey*” was implemented with the aim of reviewing the general approach to the combat against corruption, including foreign bribery.

The Project on “*Strengthening the Coordination of Anti-Corruption Policies and Practices in Turkey*” (TYSAP) is co-financed by the European Union/Council of Europe. Its main beneficiary is the Prime Ministry Inspection Board. The project achieved wide-ranging participation from representatives of public institutions, supreme boards, NGOs and universities. The project ran for two years and was finalised in May 2015. During the course of its activities, it reached out to 600 participants and provided trainings for 200 persons.

Among the expected outcomes and relevant activities of the project is the alignment of the domestic legislation with the OECD Anti-bribery Convention, Council of Europe Criminal and Civil Law Conventions on Corruption and the UN Anti-corruption Convention (UNCAC). Within this framework, trainings were provided for ensuring coordination among inspectors, experts, auditors and law enforcement officials. The participants were also informed about modern investigation and reporting techniques to be used in corruption investigations. Law enforcement authorities, as well as inspectors, experts, auditors from the following institutions benefited from the outputs of the project: Prime Ministry Inspection Board, Ministry of Finance Tax Inspection Board, Ministry of Justice, Undersecretary of Treasury Board of Treasury Controllers, Banking Regulation and Supervision Agency Department of Supervision, Ministry of Interior Civil Inspection Board, Ministry of Labour and Social Security Labour Inspection Board.

Within the framework of this Project, various meetings were held. One of them, the Working Group meeting held on 29 April 2014, gathered together representatives from public institutions and specifically focused on national legislation, OECD Anti-bribery Convention and UNCAC.

Additionally, the Prime Ministry Inspection Board, as well as the inspection and supervision units of

the above-mentioned Ministries attended the seminar on 8 April 2015 where the OECD Anti-bribery Convention and UNCAC were examined in detail. Approximately 100 experts participated in the seminar.

Within the scope of reviewing the general approach to practice of effectively combating foreign bribery, the Prime Ministry DG for Personnel and Principles issued a Circular on “Increasing Transparency and Strengthening the Combat against Corruption” on 29 April 2016 in line with the decision to prepare an “Action Plan on Increasing Transparency and Strengthening the Combat against Corruption” for the 2016-2019 as a manifestation of our resolve to increase transparency and strengthen the combat against corruption. Please find the relevant Circular and Action Plan in **Annex 2**.

A Commission on “Increasing Transparency and Strengthening the Combat against Corruption in Turkey” was assigned with the task of approving the action plans to be prepared, to inform the general public when necessary, to ensure efficiency and coordination in reaching the goals of the action plan and to convene at least twice a year. The Board on “Increasing Transparency and Strengthening the Combat against Corruption in Turkey” was established with a view to implement the decisions taken by the Commission, to carry out the necessary works for the realisation of the action plan, to supervise practice, to ensure coordination and to convene at least four times a year. The Board is presided by the Deputy Undersecretary of the Prime Ministry and is comprised of the deputy undersecretaries of the Ministries of Justice, Labour and Social Security, Trade and Customs, Interior and Finance. Prime Ministry Inspection Board was tasked with providing secretarial services to the Commission and the Executive Board, enabling these bodies to fulfill their duties and to duly implement the approved plans and reports.

Furthermore, a Monitoring Group on “Transparency and Strengthening the Combat against Corruption” was established to monitor the works on implementing the action plan, to draw up and submit a monitoring report to the Commission and to convene twice a year. The Group is presided by an academic and comprised of one member each from the Court of Accounts and from workers and employers organisations.

The Circular in question indicates that the Commission, the Executive Board and the monitoring Group will be provided all the necessary support and assistance by every public institution within the scope of its works to develop a just, accountable, transparent and trustworthy management approach, as well as to increase public awareness on combating corruption and prevent involvement trends in corruption offences.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 3(b):

3. Regarding investigation and prosecution of foreign bribery, the Working Group recommends that Turkey:

(b) Ensure that sufficient resources and expertise to more effectively detect, investigate and prosecute foreign bribery are made available to (i) Public Prosecutor’s Offices, in particular in the specialised

Public Prosecutor's Offices responsible for financial and economic crime; and (ii) the police [Convention, Article 5; 2009 Recommendation III.i and Annex I.D.];

Action taken as of the date of the follow-up report to implement this recommendation:

Special investigation bureaus have been established to ensure more efficient and effective investigation of bribery and corruption offences, including foreign bribery. A total of 132 public prosecutors are assigned at these special investigation bureaus, which are found in central districts of provinces. In other districts where these special investigation bureaus have not been established, public prosecutors lead the investigations on such offences within the framework of their general investigative competence.

Please see the explanations above under recommendation 1 (d) for the activities carried out by the Justice Academy of Turkey's Department of Vocational and In-Service Training and the Department of Pre-vocational Training in order to implement the recommendation "(b) (i)". With these activities, providing expertise to judges and prosecutors has been targeted for the purpose of detecting, investigating and prosecuting bribery offences more effectively.

On the other hand, within the scope of the Project on Improving the Efficiency of Turkish Criminal Justice System; Efficient Investigation Module, Corruption Offences Training Module, Measure of Arrest and Custody Training Module, Measure of Search and Seizure Training Module, Measure of Interception of Communication Module, Measure of Technical Surveillance and Covert Investigator Training Module, Measure of Detention and Judicial Control Training Module and Organized Crimes Training Modules have been designed and used in trainings of candidate judges and prosecutors at the Justice Academy of Turkey and distributed to them as well. Moreover, for in-service training, these modules have been distributed to judges and prosecutors who receive training.

Within the scope of the third component aiming to contribute to the strengthening of international judicial cooperation of the "Project on Improving the Efficiency of Turkish Criminal Justice System", UHDİGM and the Council of Europe, Project Office held a Judicial Cooperation Training Seminars in Antalya on 17-18, 20-21 November 2014 with the participation of judges, public prosecutors and chief clerks of courthouses.

Around 170 persons participated in the above mentioned seminar and for the purpose of raising awareness; an informative presentation on OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and Liability of Legal Persons in Foreign Bribery was delivered.

The recommendation in question has been submitted to the attention of HCJP. Paragraph five of the amended Article 9 of the Law No 5235 on "Establishment, Duties and Capacities of the First Instance Courts and Regional Courts of Appeal" stipulates that "*In locations where the workload necessitates, more than one chamber may be established in criminal courts. These chambers are given numbers. In cases where special laws do not contain any other provision, work distribution among chambers may be determined by the High Council of Judges and Prosecutors with a view to ensuring specialization by taking the workload and quality into account. These decisions are published in the Official Gazette. Chambers are obliged to handle the cases allocated to them. In cases going on as of the date of work distribution by the High Council of Judges and Prosecutors, chambers cannot refer their files to other chambers due to work distribution*". In terms of compliance with the provisions introduced by OECD Anti-Bribery Convention and in terms of implementing these provisions efficiently, it has been planned to bring to the agenda of HCJP and to evaluate the subject of assignment of specialized courts

for prosecution of such crimes.

On the other hand, pursuant to Article 18 of the Law No 5235 on the “Establishment, Duties and Capacities of the First Instance Courts and Regional Courts of Appeal” lists the duties of the Chief Public Prosecutor and among these;

- a) to ensure in terms of specialization that, files shall be transferred to the public prosecutors assigned with the investigation of such offences,
- b) to take the necessary measures in order to secure that the public prosecutor who has been originally assigned to deal with the case,

The Ministry of Justice, DG for Penal Affairs issued a Circular titled "Investigations and Prosecutions concerning International Corruption" dated 20/02/2015 and numbered 157. By the said Circular, raising awareness of judicial authorities in order to ensure that they are efficient and sufficient in their investigations and prosecutions regarding foreign bribery has been targeted.

Paragraph 5 of page three of the same Circular stipulates that in terms of bribery of foreign public officials under the scope of paragraph 9, Article 252 of the Turkish Criminal Code and other persons listed in the same paragraph, provisions of Turkish Criminal Code No 5237, Criminal Procedure Code No 527, Code of Misdemeanours No 5326 and Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and other legal arrangements shall be taken into account and necessary legal action shall be taken with due diligence.

It is possible to provide the following information in order to implement the recommendation in terms of “(b) (ii)”:

Ministry of Interior, Turkish National Police, Department of Anti-Smuggling and Organized Crime (KOM) has been organizing regular joint training activities on effective investigation of financial crimes including domestic and foreign bribery with institutions such as MASAK, Tax Inspection Board, Social Security Institution, Capital Markets Board and Undersecretary of Treasury DG for State Support. In February 2015, with a view to providing specialization to the staff of KOM in combating financial crimes, a total of 56 staff members received training with the participation of 11 trainers from 10 different institutions. For detailed information please see Recommendation 3 c (ii) below.

Furthermore, within the scope of the training program on 12 August 2015 organized by The Ministry of Interior, Turkish National Police, an informative presentation on the “OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and liability of legal persons in Turkey in terms of foreign bribery” was delivered to 20 members of the Turkish National Police.

As regards the offence of “laundering of the proceeds of crime”, MASAK has the necessary resources and expertise in combating laundering of assets acquired from predicate offences, including bribery of foreign public officials, and conducts its works in an efficient way in cooperation with law enforcement units and investigation authorities. On 09.07.2015, an awareness-raising training workshop on “combating bribery of foreign public officials in international business transactions and the liability of legal persons in respect of the offence of laundering” was organized by MASAK. 54 experts and assistant experts working on combating laundering and terrorist financing attended this workshop.

If no action has been taken to implement this recommendation, please specify in the space below

the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 3(c):

3. Regarding investigation and prosecution of foreign bribery, the Working Group recommends that Turkey:

(c) Take a more proactive approach to the detection of foreign bribery, including by (i) promptly reviewing and improving existing mechanisms for gathering information reported in the media; and (ii) ensuring law enforcement officials engage with other investigative authorities, such as those involved in anti-money laundering, tax audits, accounting and auditing [Convention, Article 5; Commentary 27; 2009 Recommendation V. and Annex I.D.]; and

Action taken as of the date of the follow-up report to implement this recommendation:

(i) promptly reviewing and improving existing mechanisms for gathering information reported in the media; and

Regarding the aforementioned recommendation, as discussed during the meetings of May 12 and 14, and as instructed by the letters dated 03.07.2015 of UHDİGM, we have requested that the staff in Turkey's foreign missions (as regards the Ministry of Foreign Affairs) and the experts and attachés assigned abroad (as regards the Ministries of Finance, Economy and Interior) closely follow the national press of their respective countries and strengthen their mechanisms for informing Turkey's relevant authorities about any news appearing on the media regarding foreign bribery.

Concerning the regular practice in general terms, Articles 21, 22 and 23 of the Prime Ministry Regulation on the Staff to Be Permanently Assigned Abroad oblige all public institution personnel to be assigned abroad to report to the relevant Turkish authorities all kinds of news and information, including those regarding foreign bribery, appearing on the media of the country they are assigned to.

Within this framework, experts, attachés of the Ministries of Finance, Economy and Interior, who have been assigned to work abroad, received training to raise their awareness about collecting information from the media and reporting to the relevant authorities in Turkey.

This awareness-raising training, targeting the staff to be assigned abroad to take part in the combat against foreign bribery, particularly focused on following the press and reporting any news concerning foreign bribery to the relevant authorities in Turkey. The trainings will be held periodically.

The Ministry of Foreign Affairs organised the following training workshops to raise awareness concerning the liabilities introduced by the OECD Anti-bribery Convention and to gather information reported in the media to be submitted to the competent authorities:

- On 17.09.2014, staff from other institutions who were assigned to work abroad received training. 35 officials (21 from the Ministry of Labour and Social Security, 14 from the

Ministry of Culture and Tourism) attended the training workshop.

- On 26.08.2014, staff assigned as deputy attachés pursuant to the 2014 Decree on Appointments received training. 27 officials attended the training workshop.
- On 18.03.2015, staff from other institutions such as Ministry of Interior-Turkish National Police and Central Bank, who were assigned to work abroad, received training. 16 officials attended this training on the OECD Anti-bribery Convention.
- On 14.05.2015, staff assigned abroad permanently as career employees as well as consular and expertise officials pursuant to the 2015 Decree on Appointments received training. 66 officials attended the training workshop.
- On 09.07.2015, staff assigned as deputy attachés pursuant to the 2015 Decree on Appointments received training. 31 officials attended this training on the OECD Anti-bribery Convention.
- On 23.12.2015, the Ministry of Foreign Affairs Diplomacy Academy held a training seminar within the framework of the 2015 Fall Term Orientation Course for Foreign Assignments between 15:15 and 16:30 on the “OECD Anti-bribery Convention” for the personnel to be assigned abroad permanently by public institutions. The training covered topics such as reviewing mechanisms such as the liability of legal persons, protection of whistleblowers, detecting and reporting crimes, as well as the efficient use of the media and other tools in detecting foreign bribery. 19 officials (from the Ministry of Labour and Social Security, Turkish National Police, the Central Bank and the Ministry of Culture and Tourism) attended this training.
- On Wednesday 23.06.2016, the Ministry of Foreign Affairs Diplomacy Academy held a training seminar within the framework of the 2016 Summer Term Orientation Course for Foreign Assignments between 15:15 and 16:30 on the “OECD Anti-bribery Convention” for the personnel to be assigned abroad permanently by public institutions. 46 officials (from the Ministry of Economy, the Ministry of the European Union, the Central Bank, the Ministry of Labour and Social Security, the Ministry of National Education and the Ministry of Food, Agriculture and Livestock) attended this training. The training covered topics such as reviewing mechanisms such as the liability of legal persons, protection of whistleblowers, detecting and reporting crimes, as well as the efficient use of the media and other tools in detecting foreign bribery.

Regarding the OECD Anti-bribery Convention, the Ministry of Foreign Affairs issued two circulars on 2006 and 2008 targeted at the staff working at our foreign missions. Taking into consideration the recently amended legal provisions, these circulars dated 2006 and 2008 were updated and a new circular dated 24/02/2016 was issued. Please find in **Annex 3** the letter from Ministry of Foreign Affairs dated 25 February 2016 which includes the text of this revised Circular.

This Circular provides information on the provisions of our domestic law regarding bribery of foreign public officials and indicates that Ministry or foreign mission officials, especially the consular officials who get in touch directly with Turkish nationals as required by their work, are liable under the law to notify the relevant Turkish authorities as soon as they are informed of a foreign bribery case pursuant to Articles 252, 278 and 279 of the Turkish Criminal Code. The Circular also cites the Law no. 3628 on the Declaration of Property and Combat Against Bribery and Corruption, as well as the Law no. 5549 on the Prevention of Laundering of Proceeds of Crime as sources of the liability to report foreign bribery. The Circular further indicates that pursuant to Article 158 of the Criminal Procedure Code no. 5271, complaints and reports of foreign bribery shall be made to the public prosecutor or law enforcement officials; and in case the offence has been committed abroad, they shall be made to Turkish Embassies and Chief Consulates. On the other hand, another important provision introduced by the Circular requires foreign missions to follow the news concerning the

bribery of foreign public officials and to upload noteworthy ones under the “OECD Anti-bribery database” module of the “Medyaarşiv” title under the Ministry of Foreign Affairs’ it system called "Dışnet".

The awareness-raising activities of institutions other than the Ministry of Foreign Affairs on following the press and reporting to the relevant authorities for the staff assigned abroad are explained as follows:

Ministry of Economy

The Ministry of Economy provides information to the counsellors of the Ministry assigned abroad on the OECD Anti-bribery Convention under a separate section on the “Informative Web-Page for Counsellors”, only accessible by the counsellors, in order to raise awareness about foreign bribery and to ensure that they follow the foreign press and carry out their reporting duties. The general website of the Ministry, which is accessible by the public, also features information on the matter under the “OECD - Combat Against Foreign Bribery” heading.

- On 06.08.2015, the Ministry of Economy organised an in-service training for the staff assigned abroad in 2015. A presentation was made to the 30 participants of the training on the OECD Anti-bribery Convention and its implementation in Turkey.
- On 15.02.2016, within the scope of the Ministry of Economy’s in-service trainings for newly appointed Deputy Foreign Trade Experts, officials from the Ministry of Justice DG for International Law and Foreign Relations made a presentation on “preventing bribery of foreign public officials in international business transactions”. The training covered topics such as reviewing mechanisms such as the liability of legal persons, protection of whistleblowers, detecting and reporting crimes, as well as the efficient use of the media and other tools in detecting foreign bribery. A total of 40 deputy foreign trade experts attended this training.
- On 03.06.2016, within the scope of the Ministry of Economy’s in-service trainings for newly appointed Deputy Foreign Trade Experts, officials from the Ministry of Justice DG for International Law and Foreign Relations made a presentation on “preventing bribery of foreign public officials in international business transactions.”. The training covered topics such as reviewing mechanisms such as the liability of legal persons, protection of whistleblowers, detecting and reporting crimes, as well as the efficient use of the media and other tools in detecting foreign bribery. A total of 25 deputy foreign trade experts attended this training.

Ministry of Interior

KOM also assigns staff abroad as counsellors and attachés. Concerning their liability to detect crime, the Regulation on the Staff to be Permanently Assigned Abroad by the Turkish National Police was published in the Official Gazette no. 26913, dated 21/06/2008. Pursuant to Subparagraph (c), Paragraph 2, Article 7 entitled Duties, Powers and Responsibilities of Security Counsellors, “to follow-up on, assess and to take precautionary initiatives about the issues which concern Turkey and fall within the scope of the work of the Turkish National Police, as well as to report the acquired information to the relevant Department” are listed among their duties.

Eximbank

The recommendation above proves significant for Eximbank concerning the loans issued to other

countries as part of the International Loan Programme. In order to detect foreign bribery via the press, the daily circulated internal “News Bulletin” allows Eximbank officials to follow all domestic and international news concerning the Bank’s activities. When making country and company analyses as part of the loaning process, the Bank staff run a scan online for any news for the purpose of detecting foreign or domestic bribery. If the staff come across any bribery-related news about either the country to be issued a loan or the Turkish company to benefit from the loan, further inquiries are made and precautions, as well as sanctions, are applied as per Eximbank’s “Code of Practice in Combating Bribery.”

Public Oversight Accounting and Auditing Standards Authority

On 24.05.2016, within the scope of the Public Oversight Accounting and Auditing Standards Authority’s in-service trainings, officials from the Ministry of Justice DG for International Law and Foreign Relations made a presentation on “preventing bribery of foreign public officials in international business transactions.”. The training covered topics such as reviewing mechanisms such as the liability of legal persons, protection of whistleblowers, detecting and reporting crimes, as well as the efficient use of the media and other tools in detecting foreign bribery. A total of 75 officials (27 experts and 48 deputy experts) attended this training.

(ii) ensuring law enforcement officials engage with other investigative authorities, such as those involved in anti-money laundering, tax audits, accounting and auditing [Convention, Article 5; Commentary 27; 2009 Recommendation V. and Annex I.D.]; and

Bribery investigations are conducted in line with the relevant articles of the Criminal Procedure Code (CPC). Pursuant to Article 160 of the CPC, 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/she shall immediately investigate the factual truth, in order to make a decision on whether to file public charges or not. Within this context, the investigation starts upon the provision of information on the offence. On the other hand, the Article also stipulates that “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 favour and in disfavour of the suspect, and to protect the rights of the suspect.”

In order for the law enforcement officials to collect evidence in an efficient manner, it is of particular importance to clarify the roles and positions of suspects in the commission of the offence. For this reason, steps are taken to conduct a multilateral investigation in cooperation with the relevant institutions and organisations.

When a finding is detected by an official working in the field of preventing money laundering, tax audit, accounting or auditing that an offence has been committed, it is reported in a cooperative manner to the relevant Public Prosecutor’s Office.

An example to this practice is provided below:

İŞKUR

Turkish Labour Agency (İŞKUR) has brought certain obligations to the İŞKUR staff and to the beneficiary persons, institutions and organisations of the services of the Agency conducted within the scope of active labour market, in order to ensure the impartiality of public administration regarding various activities conducted by active labour market programmes, to increase trust in the administration and to provide equal service to everyone. One of these obligations is to prevent the beneficiary persons, institutions and organisations of the services of İŞKUR from attempting through

various ways to undermine the impartiality of the administration. In cases where the contractor resorts to bribery, fraud, threat, abuse of influence and gain of advantage or where it has been detected that the contractor attempted to do so, within the context of the convention or protocol, various financial and administrative sanctions, such as abolishing the convention/protocol, shall be applied in accordance with Article 27, Paragraph 5 of the Regulation on Active Labour Force Services. Along with the various financial and administrative sanctions, İŞKUR, in cooperation with law enforcement bodies, ensures that criminal proceedings are initiated against these persons.

Ministry of Interior

Regular training workshops aimed at officials working in law enforcement units for conducting cooperative and efficient investigation of financial crimes, including domestic and foreign bribery, are organised by KOM together with MASAK, Tax Inspection Board, Social Security Institution, Capital Markets Board and Undersecretary of Treasury-Directorate-General for State Support, etc.

Ministry of Finance

Tax Inspection Board

The tax inspectors under the Tax Inspection Board expeditiously report the tax crimes or bribery cases they detected during their inspections or examinations to the Chief Public Prosecutor's Offices. Within the scope of the investigation or prosecution to be conducted on these crimes, they also cooperate in providing all the information and documents requested by the competent judicial authorities, in line with Paragraphs 1 and 4 of Article 161 of the Criminal Procedure Code (Please see the relevant Article in **Annex 4**).

Within this framework; the Ministry of Finance Tax Inspection Board provides technical trainings to tax inspectors on the "provisions of the OECD Anti-bribery Convention", "the liabilities imposed on Turkey" and "detecting corruption, as well as domestic and foreign bribery". The purpose of these trainings is to make sure that tax inspectors act in cooperation with the Public Prosecutor's Office at the initiation and throughout the course of the investigation. The trainings also aim to raise awareness and ensure that the offences are detected and the necessary criminal proceedings are initiated at the Public Prosecutor's Office.

The Tax Inspection Board organised the following meetings for its inspectors using the "Guidebook of Tax Auditing Officials on Combating Bribery and Corruption," which is available on the Board's official website:

- Between 20.04.2015 and 30.04.2015, the workshop on "Anti-corruption Training-Code of Ethics" was held. 500 tax inspectors were trained for 8 days in 10 different classes.
- Between 04.05.2015 and 13.05.2015, the workshop on "Anti-corruption Training-Code of Ethics" was held. 500 tax inspectors were trained for 8 days in 10 different classes.
- Between 20.05.2015 and 29.05.2015, the workshop on "Anti-corruption Training-Code of Ethics" was held. 600 tax inspectors were trained for 8 days in 11 different classes.

These awareness-raising activities explained in a detailed manner what is expected of tax inspection officials and what the inspectors need to take into account while conducting the inspection within the framework of the OECD Anti-bribery Convention and the recommendations of the Working Group.

MASAK

As regards the offence of "laundering of the proceeds of crime," MASAK has the necessary resources and expertise in combating laundering of assets acquired from predicate offences, including bribery of

foreign public officials, and conducts its works in an efficient way in cooperation with law enforcement units and investigation authorities. As per Article 19, Subparagraph (f) of the Law no. 5549 on the Prevention of Laundering of Proceeds of Crime, when necessary, MASAK may request examinations and inquiries from law enforcement and other relevant units in their fields. As a result of the examinations and inquiries, it may initiate criminal proceedings in a cooperative manner to the Chief Public Prosecutor's Office in order for them to take the necessary legal actions in accordance with the Criminal Procedure Code, if serious findings indicate that the offence has been committed. Within the same cooperative framework, MASAK may be consulted about certain issues by the Public Prosecutor's Office. MASAK then makes the necessary inquiries and if it is found that the offence of money laundering has been committed, the requests of the Public Prosecutor's Office are carried out.

As a result of MASAK's analyses, assessments and examinations, a criminal complaint was issued to Chief Public Prosecutor's Offices concerning 4 cases (2 from the year 2013 and 1 from the year 2014) on the offence of laundering in connection to bribery.

The decision of non-prosecution, given upon the investigation initiated upon MASAK's criminal complaint, the drafted indictment or the conviction rendered, and a copy of the seizure decision given in line with Article 17 of this Law, are sent to MASAK by the Chief Public Prosecutor's Offices and courts until the end of the following month in accordance with Article 18 of the Law no. 5549.

Public Procurement Authority

The Public Procurement Authority also acts in cooperation with the relevant Public Prosecutor's Office. One of its main duties is to supervise that the administrative proceedings at the procurement stage are lawfully carried out as obligatory steps to be fulfilled before issuing a complaint. If it is found that any one of the acts defined as an offence under the Turkish Criminal Code has been committed, the competent Public Prosecutor's Office is notified of it in order for criminal proceedings to be initiated.

Capital Markets Board

The Capital Markets Board (SPK) conducts its activities particularly in cooperation with MASAK and the investigation authorities. Suspicious transaction and acts which might be considered within the framework of the Law no. 5549 on the Prevention of Laundering of Proceeds of Crime and Article 282 entitled "Laundering of crime proceeds" of the Turkish Criminal Code no. 5237 are reported to the relevant law enforcement units, if any of the following are detected during SPK's inspections of publicly held companies and capital market institutions: cash or capital flows of unidentified sources; investors engaging in transactions at stock-exchanges monitored and audited by SPK or at other established markets, using money of unidentified sources disproportionate with their financial status; and suspicious cash flows from foreign investment funds based abroad into personal or institutional accounts in Turkey. SPK forwards suspicious transaction information to MASAK so that these can be assessed for whether they were intended for covering up domestic or foreign bribery offences or for the commission of these very offences.

Furthermore, during its audits, SPK exchanges information with capital market institutions, publicly held joint stock companies and other public institutions, as well as with SPK's equivalent institutions abroad via the Multilateral Memorandum of Understanding issued by the International Organization of Securities Commissions, to which SPK is a member.

In addition, Turkish Capital Markets Association (TSPB) has set ethical principles and awareness-raising regulations related to this matter. Article 12 entitled "Fighting with money laundering" of the Professional Rules Which Members Shall Comply with While Performing Their Capital Market Activities, issued by TSPB, stipulates the following: "Members shall take measures to identify suspicious transactions and take measures for performing the necessary action under the legislation concerning fighting with money laundering, corruption and similar offenses as per the provisions of international and national legislation to perform capital market activities in confidence and clarity and **cooperate with related organizations and institutions** to take respective measures internally for that purpose and organize training programs for their employees with that respect." Therefore, TSPB regulates that it shall fight against all kinds of corruption, including foreign bribery, cooperate with all related institutions and organizations and take all necessary internal measures, as well as train its staff on the matter for this purpose.

In the aforementioned examples for best practices, after the relevant authorities report that the offence has been constituted, they continue to be in touch with the judicial authorities in the investigation and prosecution stages. When necessary, these authorities may be asked to offer their expertise.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 3(d):

3. Regarding investigation and prosecution of foreign bribery, the Working Group recommends that Turkey:

(d) Ensure that investigation and prosecution of foreign bribery is not influenced by considerations of national economic interest, the potential effect upon relations with another State or the identity of the natural or legal person involved, and take all necessary steps to ensure that any reassignment of police, prosecutors or magistrates does not adversely affect foreign bribery investigations and prosecutions [Convention, Article 5; Commentary 27].

Action taken as of the date of the follow-up report to implement this recommendation:

The Ministry of Justice DG for Criminal Matters issued the Circular no. 157, dated 20.02.2015, entitled "Investigations and Prosecutions Concerning International Corruption Cases." On page 2 of the Circular, Article 5 entitled "Implementation of the OECD Anti-bribery Convention" is explicitly emphasized. In line with this article, the following provisions have been made:

Paragraph (1), page 2 of the Circular stipulates that concerning bribery of foreign public officials and other persons listed under Paragraph 9, Article 252 of the Turkish Criminal Code, the investigation shall not be handled by the law enforcement officials, but by public prosecutors, who shall put their utmost efforts in conducting the investigations with care and without delay. Furthermore, UHDİGM shall be regularly informed of the initiation, course and result of the investigations.

This regulation seeks to ensure effective and efficient investigation of the offence of foreign bribery. It also aims to make sure that the investigation is concluded without being subject to any outside influence and that UHDÍGM, the coordinating authority for the implementation of the Convention, is regularly informed, as required by the nature of the offence.

Paragraph (3) of the Circular indicates that an international mutual legal assistance request may be drafted to be sent to the relevant country, taking into account that a large part of the evidence related to the offence would be found in the country where the offence was committed. The Paragraph also points out that the requests drafted by the judicial authorities of other countries for the same purpose need to be fulfilled efficiently, expeditiously and by taking into consideration Article 5 of the Convention.

Paragraph (4) of the Circular emphasises that the requests pertaining to investigations, prosecutions and extradition of suspects and accused persons, as well as similar requests of the foreign judicial authorities, shall be carried out. These requests shall be fulfilled in accordance with the provisions of bilateral agreements signed with the relevant state or of multilateral conventions. If none exists, they shall be fulfilled with care and attention within the framework of international precedents and the principle of reciprocity.

This provision allows our public prosecutors to fulfil mutual legal assistance requests concerning the investigation of foreign bribery, regardless of national economic interests or relations with another State, based on bilateral or multilateral agreements, and if none exists within the framework of international precedents and the principle of reciprocity.

In order to implement the recommendation above, the Ministry of Justice submitted the text of the said recommendation to the attention of the General Secretariat of the HCJP by its letter dated 24/04/2015.

Within the scope of this letter, the HCJP General Secretariat forwarded the text of the recommendation to the First Deputy Secretary General, responsible for the secretariat of the First Chamber, the competent authority for appointing judges and prosecutors. Consequently, the First Chamber shall exercise due caution in drafting the decrees on reappointments of judges and prosecutors in order not to include to the extent possible the judges and public prosecutors conducting investigations and prosecutions on foreign bribery.

Pursuant to Article 18 of the Law No 5235 on the "Establishment, Duties and Capacities of the First Instance Courts and Regional Courts of Appeal," the chief public prosecutor is responsible for drawing up the division of work and ensuring efficient, coherent and orderly functioning of the Chief Public Prosecutor's Office. Therefore, the chief public prosecutor takes the necessary measures to make sure the public prosecutors, first assigned to look into specific files, remain responsible for these files. Consequently, the public prosecutor, who initiated the investigation on foreign bribery offences, shall be able to remain assigned at that investigation and finalise it.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 4(a):

4. Regarding money laundering, the Working Group recommends that Turkey increase its capacity to detect foreign bribery through money laundering cases, including:

(a) Raise awareness among reporting entities of foreign bribery as a predicate offence to money laundering [Convention, Article 7; 2009 Recommendation III.i];

Action taken as of the date of the follow-up report to implement this recommendation:

- **Legislation, in general, on reporting obligation of money laundering and its predicate offences**

In accordance with article 4 of Law No.5549 on Prevention of Laundering Proceeds of Crime heading “Suspicious Transaction Reporting”; in case that there is any information, suspicion or reasonable ground to suspect that the asset, which is subject to the transactions carried out or attempted to be carried out within or through the obliged parties, is acquired through illegal ways or used for illegal purposes, these transactions shall be reported to MASAK by the obliged parties.

Also, it is stated in paragraph four of article 28 of Regulation on Measures regarding Prevention of Laundering Proceeds of Crime and Financing of Terrorism that; The Ministry of Finance is authorized to determine, separately for each obliged party, principles and procedures of filling Suspicious Transaction Reporting Forms, making it obligatory to report by using electronic and IT means, and using electronic signature in suspicious transaction reports.

The following steps have been taken for increasing awareness in terms of reporting obligation of predicate offence of money laundering and so foreign bribery offence. Among these steps, especially suspicious transaction reports act in one hand as a guidance on the procedures and principles of reporting predicate offence and function for raising awareness on the other hand.

- **Suspicious Transaction Reporting Guidelines**

i.In general:

In paragraph one of article 6 of MASAK General Communique No:13, it is stated that; "MASAK may issue general or sectoral guidelines of suspicious transaction reporting for the obliged parties for the purpose of determination of principles and procedures of suspicious transaction reporting electronically or on paper." In the second paragraph of the article, it is stated that; “Guidelines shall be announced through official website of MASAK and/or MASAK.ONLINE. Reporting process shall be carried out by the obliged parties pursuant to the principles and procedures stated in the guidelines.”.

Within this scope, different suspicious transaction reporting guidelines have been issued in order to determine the procedures and principles for suspicious transaction reporting for the obliged parties stated below;

- Banks (November, 2014)
- Insurance and Pension Companies (November, 2014)
- Capital Market Board Intermediary Institutions (November, 2014)
- Factoring, Financing and Leasing Companies (February, 2015) and

- Other Obligated Parties (November, 2014)

The mentioned suspicious transaction reporting guidelines are also published on MASAK website in the link <http://www.masak.gov.tr/tr/content/sektorel-supheli-islem-bildirim-rehberleri/2358>.

ii. Suspicion Category relating to Offence Subject to Suspicious Transaction and Bribery:

In case of having any information, finding or suspicion that there are or there can be illegal elements in obtaining financial gains subject to suspicious transaction reporting and in the activities of persons relating to suspicious transaction directly or indirectly, the related illegal activities shall be reported by the obliged party.

There are suspicion categories relating to the offence in table 5.2. of Suspicious Transaction Reporting Guideline and the offence category with Code No. SK-13 indicates the corruption offences such as “Bribery, extortion, embezzlement, obtaining unjustified assets by the public official”. In the Guideline, explanatory information is taken place for determination of suspicion category (regarding in which situation, which category shall be selected?) concerning the related offence in the “Suspicion Categories Reference Table” No.7.

According to this, it is necessary to send “the suspicious transaction reports relating to any person who secures, directly or through other persons, an undue advantage to a public official or another person indicated by the public official to perform or not to perform a task with regard to his/her duty” with the Code No. SK-13. The mentioned statement also make references to articles 247, 250 and 252 of Turkish Penal Code No.5237. As is known, article 252 of TPC establishes the provisions relating to bribery offence including “foreign bribery”.

As a result, in obtaining financial gains subject to suspicious transaction reporting and in the activities of persons relating to suspicious transaction directly or indirectly; if there is information, finding or suspicion indicating or may indicate illegal elements relating to bribery offence including foreign bribery, the obliged parties shall report the illegal activities to MASAK.

The abovementioned guidelines not only provide an increase in awareness of obliged parties in reporting obligations but also ensure guidance to the obliged parties regarding the procedure on this obligation.

- ***Workings to Increase Awareness of Obligated Parties***

The “information note” (**Annex 5**) prepared by MASAK in order to increase awareness of the obliged parties⁴ in this issue was sent to compliance officers⁵ in July 2015 for informing the relevant personnel.

In addition, The Banks Association of Turkey (please see the letter in **Annex 6**) and Participation Banks Association (please see the letter in **Annex 7**) of Turkey have been requested to organize workings for the relevant personnel in order to increase awareness and plans with regard to the request

⁴ The obliged parties are listed in article 4 of The Regulation on Measures Regarding Prevention of Laundering Proceeds of Crime and Financing of Terrorism. **The text of the mentioned article would be found in ANNEX 8.**

⁵ “Compliance officers” are established in articles 4 and 29 of The Regulation on Program of Compliance with Obligations of Anti-Money Laundering and Combating the Financing of Terrorism. **The text of the mentioned articles would be found in ANNEX 8.**

are made.

In training activities, a booklet prepared by The Ministry of Justice Directorate General for International Law and Foreign Relations titled “OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and Implementation in Turkey” has been sent. A copy of the aforementioned booklet has been sent to The Banks Association of Turkey and Participation Banks Association of Turkey in the annex of the documents.

It is also planned to address the issues mentioned in the booklet titled “OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and Implementation in Turkey” in the workshops and contact meetings to be held with obliged parties in 2016 and 2017.

- **Scrutinizing Awareness of Obligated Parties within Statistics relating to Suspicious Transaction Reports and Denunciations Sent to MASAK regarding Bribery and Foreign Bribery**

There was no criterion relating to predicate offence subject to suspicion in the suspicious transaction reporting forms prepared by MASAK and used by obliged parties prior to 2014. In the suspicious transaction reporting forms used in 2014 and after then, there is a common criterion for bribery, extortion, embezzlement, obtaining unjustified assets by the public official as stated above. In other words, as there is no criterion used only as bribery for predicate offence subject to suspicion before 2014, there are no specific suspicious transaction reporting statistics relating only to this.

In this scope, as a result of the research on MASAK database on suspicious transaction reports pertaining to bribery, it is found that total 775 suspicious transaction reports (16 in 2011, 39 in 2012, 123 in 2013, 111 in 2014, 388 in 2015 and 98 in 2016 as of 28 June 2016) were submitted to MASAK between 2011-2016 (28 June 2016). This situation can be considered that the obliged parties have awareness of bribery as a predicate offence of laundering offence at present.

Besides suspicious transaction reports, 28 referral including the phrase ‘bribery’ were sent to MASAK in 2015. Furthermore, 23 referral were sent to MASAK in 2016 in relation to bribery, embezzlement, malversation, misconduct and other corruption types.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 4(b):

4. Regarding money laundering, the Working Group recommends that Turkey increase its capacity to detect foreign bribery through money laundering cases, including:

(b) Increase awareness in MASAK on foreign bribery as a predicate offence to money laundering [Convention, Article 7; 2009 Recommendation III.i];

Action taken as of the date of the follow-up report to implement this recommendation:

An informative training meeting on “Combating Bribery of Foreign Public Officials in International Business Transactions in Connection with the Laundering Offence” was held in MASAK on 09.07.2015. An official from the Ministry of Justice Directorate General of International Law and Foreign Relations and 54 finance experts and assistant finance experts from MASAK attended to the meeting. The subject matters of foreign bribery as a predicate offence of laundering offence, importance of cooperation between MASAK and law enforcement agencies in detecting, reporting and investigating foreign bribery were discussed in the meeting. Furthermore, besides general information about the Convention, the participants were informed of general recommendations including responsibility of legal persons for foreign bribery act and their implication methods.

Also, on 26 July 2016, an informative training meeting on “Combating Bribery of Foreign Public Officials in International Business Transactions in Connection with the Laundering Offence” was held by MASAK. An official from the Ministry of Justice Directorate General of International Law and Foreign Relations made a presentation to 46 finance experts and assistant finance experts from MASAK attended to the meeting. The meeting focused on the following subjects:

- Phase 3 Evaluation Process of Turkey with regard to OECD Anti-bribery Convention and steps taken,
- Criticisms and recommendations directed to Turkey within the context of the Evaluation,
- Relationship between money laundering and corruption offences,
- Contributions of the efforts of MASAK to anti-corruption,
- Obligation for suspicious transaction reporting of the obliged parties, in case of the suspicion for bribery, including foreign bribery,
- Analyse and assess the proceeds from foreign bribery, within the scope of money laundering offence,
- Share the analysis, assessments and results of the evaluations with the relevant and competent public authorities when it is necessary,
- Whistleblower protection,
- Confiscation.

Furthermore, on July 2016, it was decided by MASAK to insert a training module on “Combating Bribery of Foreign Public Officials in International Business Transactions in Connection with the Laundering Offence” into routine orientation programs of new assistant experts in MASAK. In this context, the first training activity will be held on 5 October 2016.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 4(c):

4. Regarding money laundering, the Working Group recommends that Turkey increase its capacity to detect foreign bribery through money laundering cases, including:

(c) Encourage law enforcement to more actively use MASAK as a resource in foreign bribery

investigations [Convention, Articles 5 and 7; 2009 Recommendation III.i]; and

Action taken as of the date of the follow-up report to implement this recommendation:

It is projected that particular training meetings will be organized in collaboration with MASAK, Ministry of Justice, Justice Academy of Turkey and General Directorate of Security in years of 2016 and 2017.

Furthermore, law enforcement agencies were encouraged to use MASAK in foreign bribery investigations in the training meetings detailed in recommendation 1 (d) organized for law enforcement agencies.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 4(d):

4. Regarding money laundering, the Working Group recommends that Turkey increase its capacity to detect foreign bribery through money laundering cases, including:

(d) Address the issue of politically exposed persons (PEPs) in its anti-money laundering legislation [Convention, Article 7; 2009 Recommendation III.i].

Action taken as of the date of the follow-up report to implement this recommendation:

Under the Regulation on Program of Compliance with Obligations of Anti-Money Laundering and Combating the Financing of Terrorism (Regulation on Compliance), banks develop an institutional policy including risk management considering their business size, business volume and nature of the transactions they conduct. Activities related to risk management cover at least developing risk defining, rating, classifying and assessing methods based on customer risk, service risk and country risk, monitoring and controlling risky customers, pursuing national and international legislation and reporting.

Customer risk⁶ is defined in article 3 of the Regulation on Compliance. However, there is a provision in article 13 that upon the result of risk rating, obliged parties take for the groups defined to be high risk some of the measures in accordance with the level of the detected risk in order to ensure minimizing the risk to be undertaken. The least monitoring and controlling activities are listed in the subparagraphs (a), (b), (c), (ç) and (f) of article 15.

⁶ "Customer risk means the risk for obliged parties to be abused due to the business field of the customer allowing intensive cash flow, purchasing of valuable goods or international fund transfers to be carried out easily; and due to the acts of customer or those acting on behalf or for the benefit of the customer for money laundering or terrorist financing purposes."

Considering the abovementioned articles of the Regulation on Compliance, although it seems that there is no provision addressed to PEPs directly, customer risk is defined in the Regulation. Any customer holding the requirements in the definition poses a risk. In this regard, primarily a PEP should hold the requirements in the definition namely he/she should be a risky customer. If a customer PEP is deemed risky by the obliged party for holding the requirements sought, the measures listed in the Regulation might be applied. However, activities of customer PEP will be controlled by monitoring in accordance with various criteria within article 15.

Regulation on Measures Regarding Prevention of Laundering Proceeds of Crime and Financing of Terrorism (Regulation of Measures) set up activities necessitating special attention and the measures required to be applied by the obliged parties.

Under article 18 of the Regulation, the obliged parties must pay special attention to complex and unusual large transactions and the ones which have no apparent reasonable legitimate and economic purpose. The obliged parties must follow up permanently the transactions conducted by their customers whether they are in compliance with the information regarding the customer's profession, commercial activities, business history, financial status, risk profile and sources of funds within the scope of permanent business relationships and keep up-to-date information, documents and records regarding the customer in accordance with article 19.

Financial institutions shall also take the necessary measures in order to follow up the transactions conducted out of permanent business relationship in risk-based approach. Financial institutions shall establish, with this purpose, appropriate risk-management systems. Under article 26, financial institutions must apply, in proportion to the identified risk, one or more or all of the measures in the article⁷ for transactions necessitating special attention, transactions with the customers located in risky countries, for technological risks and for high risk situations they identify in the framework of risk based approach.

Although there is no explicit arrangement on PEPs in the Regulation, it can be stated that the obliged parties have already applied measures indirectly in the scope of abovementioned articles to PEPs within risky customers and the transactions necessitating special attention.

⁷ Regulation of Measures, Article 26/A Enhanced measures (1) Financial institutions shall apply, in proportion to the identified risk, one or more or all of the following enhanced measures for transactions within the scope of articles 18, 20 and 25 and for high risk situations they identify in the framework of risk based approach:

- a) Obtaining additional information on the customer and updating more regularly the identification data of customer and beneficial owner,
- b) Obtaining additional information on the intended nature of the business relationship,
- c) Obtaining information, to the extent possible, on the source of the asset subject to transaction and source of funds of the customer,
- ç) Obtaining information on the reasons for the transaction,
- d) Obtaining approval of senior manager to commence or continue business relationship or carry out transaction,
- e) Conducting enhanced monitoring of the business relationship by increasing the number and frequency of the controls applied and by selecting the patterns of transactions that need further examination,
- f) Requiring that in the establishment of permanent relationship the first financial transaction is carried out through another financial institution subject to customer due diligence principles.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 5(a):

5. Regarding accounting, auditing, and internal controls, ethics and compliance, the Working Group recommends that Turkey:

(a) Ensure that both natural and legal persons can be held liable for the full range of conduct described in Article 8(1) of the Convention and ensure that sanctions for this conduct for legal persons are effective, proportionate and dissuasive [Convention, Article 8];

Action taken as of the date of the follow-up report to implement this recommendation:

- Public Oversight Accounting and Auditing Standards Authority (KGK)

The regulations concerning the detection and prevention of bribery and other irregularities during independent auditing have been integrated into the legislation for the Law on Public Oversight Accounting and Auditing Standards Authority. The “Independent Auditing Regulation” (The Regulation), published in the Official Gazette no. 28509 of 26.12.2012_(please see the Regulation in Annex 9), sets the rules and principles governing independent auditing and independent auditors. The Regulation enables institutions to impose sanctions if the institutional rules, including the Turkish Auditing Standards and independence provisions, are breached. Furthermore, independent auditors and independent auditing firms who are established to have breached the auditing provisions contained in the Turkish Commercial Code no. 6102 and the institutional rules shall be sanctioned as stipulated in our domestic legislation in accordance with the Decree Law no. 660 on the Organisation and Duties of the Public Oversight Accounting and Auditing Standards Authority.

In terms of Turkish Auditing Standards, “Code of Ethics Standard for Independent Auditors” entered into force upon publication in the Official Gazette (see: <http://www.kgk.gov.tr/contents/files/Pdf/20150521-10-1-BağımsızDenetçilericinEtikKurallar.pdf>). This Standard has brought regulations concerning several important principles such as integrity, impartiality, professional competence and diligence, keeping secrets and acting in conformity with the profession.

- Capital Markets Board

The “Institutional Management Communiqué” no. II-17.1 contains in its Annex no. 1 the Institutional Management Rules, applicable to partnerships subject to the capital markets legislation (<http://www.resmigazete.gov.tr/eskiler/2014/01/20140103-3.htm?submenuheader =null>) (please see the relevant part of the Communiqué in Annex 10). In line with Rule 3.5.2, “the company shall support and respect internationally applicable human rights, as well as combat all types of corruption including extortion and bribery.” Therefore, there are regulations aimed at raising awareness against all types of corruption, including bribery, at the level of partnerships which fall within the Capital Markets Board’s scope of competence.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 5(b):

5. Regarding accounting, auditing, and internal controls, ethics and compliance, the Working Group recommends that Turkey:

(b) (i) Raise awareness among auditors that foreign bribery is a type of fraud; and (ii) promptly train and raise awareness among accounting and auditing professionals (particularly those providing services to non-listed companies) on foreign bribery, including red flags to detect foreign bribery and reporting obligations [Convention, Article 8; 2009 Recommendation III.i and III.v]; and

Action taken as of the date of the follow-up report to implement this recommendation:

In line with Paragraph 4, Article 397 of the Turkish Commercial Code no. 6102 (for the text of the Article please see **Annex 11**), the auditing of the financial tables and activity reports of the executive boards of companies, determined in accordance with a Cabinet decision, in terms of inventory, accounting and as stipulated by the Turkish Auditing Standards shall be undertaken, as per Article 400 of the same Code, by those having the title of sworn-in accountant or freelance accountant under the Law no. 3568 and by “Independent Auditors” and “Independent Auditing Firms,” who have been granted authorisation as independent auditor by the KGK within the framework of the Decree Law no. 660. The firms and auditors authorised by the institution are registered to the Official Registry of Independent Auditors, which is kept by the institution. The independent auditors authorised by the KGK are sworn-in or freelance accountants and therefore, they are also members of the Union of Chambers of Certified Public Accountants Turkey (TÜRMOB).

Under Article 210 of the Turkish Commercial Code no. 6102(for the text of the Article, please see **Annex 11**) , the Guidance and Inspection Department of the Ministry of Customs and Trade is responsible for supervising whether the trade legislation is being applied in an accurate manner. The inspectors under this Department (commercial inspectors) will be given training on “raising awareness among inspectors on the fact that foreign bribery is indeed a form of smuggling” and a debriefing concerning the Anti-bribery Convention.

Trainings and awareness-raising activities will be provided for the auditors of the KGK on the fact that foreign bribery is a form of fraud, and for accountants and auditors (especially those working at companies which are not publicly held) on the phenomenon of foreign bribery as a whole and particularly about the warning signs in detecting it, as well as reporting liabilities. In order to achieve this promptly, KGK will hold and attend seminars and conferences where independent auditors and auditing firms will be provided debriefing sessions on the fact that foreign bribery is a serious crime, as well as awareness-raising activities, underlining ethical principles, concerning the auditors’ responsibilities against fraud.

The KGK decided to integrate “OECD Anti-bribery Convention” and “liability of legal persons” into its vocational training programmes for the staff. Within this framework, a first training session was

held for 29 experts and deputy experts on 02.09.2015 and similar trainings followed with regular intervals. On 24.05.2016, the same session was again held in the Service Building of the institution. This training was attended by 75 experts and deputy experts from the institution.

The awareness-raising trainings continue. All the principle institutions, such as the Capital Markets Board, Banking Regulation and Supervision Agency, Ministry of Customs and Trade, and Ministry of Finance, reached a consensus that awareness-raising trainings should be held. Therefore, the Capital Markets Board held a training session on 29.06.2016, attended by 34 experts. Similar trainings will follow.

The trainings of the inspectors in the Tax Inspection Board, the most relevant inspection unit in the public sector, also continue. In 2016, until the end of May, 647 inspectors have been trained. For the second half of the year, it is planned that 1487 inspectors will be informed on the subject and that the training sessions will continue.

Together with MASAK and other relevant institutions, TÜRMOB organises workshops, meetings and trainings on the prevention of bribery and money laundering. Therefore, as of now, those who are in the profession have the necessary awareness on the subject. For instance, an awareness-raising meeting was co-organised by MASAK and TÜRMOB on 06.05.2014 at TÜRMOB Conference Hall for all members of the profession to inform them of the liabilities regulated by the Regulation on the Applicable Measures to Prevent Laundering of Crime Proceeds.

As for codes of ethic, our activities have not been limited to drawing up a written code of ethics. The 6th Ethics Congress and the 1st International Business Ethics Conference were organised by TÜRMOB in 2015. Lastly in Ankara, TÜRMOB held the 7th Accounting Ethics Congress of Turkey, attended by 2000 members of the profession. Among the topics of discussion and review at the Turkish Ethics Congress, which is held every year since 2009, are the need for a code of ethics in the accounting profession and life, perceptions and realities, modern approaches to ethics training in accounting, TÜRMOB's strategic roadmap concerning ethics in accounting, and basic principles of accounting training. One of the most important findings of the Congress is the fact that the individual can be ensured to fulfill his/her responsibilities through training. This finding is totally in conformity with the approach that training should be at the basis of the activities conducted for the advancement of the profession and members of the profession. TÜRMOB initiated the ethics training project based on this exact approach. The "*Communiqué on Ethics Training of the Members of the Accounting Profession and Concluding an Ethics Contract*," published in the Official Gazette of 27.03.2014, provided legal basis for these trainings. The aim of the Communiqué is to create willingness for providing ethics training in conformity with international norms of vocational law, and to ensure the advancement of ethics training, as well as ethical conduct. In this way, the Communiqué sets the principles and procedures for the ethics contract to be signed between accounting professionals and the professional chamber they are part of, and for the ethics training these professionals will be subject to prior to the signing of the ethics contract.

After the publication of the Communiqué in the Official Gazette, TÜRMOB organised awareness-raising seminars all around Turkey. The members of the profession were briefed about the need for ethics training, policies and practices for the prevention of unfair competition, bribery, as well as the OECD Anti-bribery Convention. TÜRMOB's ethics training sessions commenced in 2015 and have been completed as of now in 48 provinces. TÜRMOB's "Ethics Training Project" provided 16 hours of distance training and 6 hours of face-to-face training to 3.300 members of the profession who qualified for an "Ethics Commitment." The training sessions focused on case analyses. The active participation of the members of the profession, and the voicing of opinions and suggestions during discussions

contributed to the success of the trainings. TÜRMOB stated that from now on the ethics training sessions will be held at least twice a year.

Please see in **Annex 12**, the " Handbook of the Code of Ethics for Professional Accountants-Edition 2014" which was introduced during the awareness raising activities organized by TÜRMOB.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 5(c):

5. Regarding accounting, auditing, and internal controls, ethics and compliance, the Working Group recommends that Turkey:

(c) Consider broadening the scope of private companies subject to external audit to include non-listed companies operating abroad [Convention, Article 8; 2009 Recommendation X.B; Turkey Phase 2 recommendation 5(b)].

Action taken as of the date of the follow-up report to implement this recommendation:

One of the new provisions introduced by the Turkish Commercial Code no. 6102 is to subject the companies to independent auditing and to grant to the Cabinet the authority to select which companies are to be audited. Every year, the Cabinet identifies the companies to undergo independent auditing. The preparatory works of the Cabinet decision are handled by the KGK and then are submitted to the Cabinet. In conformity with the EU *acquis*, the scope of independent auditing was extended gradually.

The Cabinet decision, published in the Official Gazette of 19 March 2016, extended the scope of independent auditing for 2016 by lowering the criteria of being subject to independent auditing. The EU directive on auditing sets three criteria, namely "**total assets, net sales revenue, and number of employees.**" The companies meeting two out of these three criteria within two years are subjected to independent auditing. The criteria for 2016 set by the Cabinet decision are the following:

- total assets: 40 million TL and above
- net sales revenue: 80 million TL and above, and
- number of employees: more than 200 persons.

Therefore, companies meeting two out of the three criteria in 2014 and 2015 shall be subjected to independent auditing in 2016. The independent auditing is conducted in accordance with the Turkish Auditing Standards, which have been established by KGK in accordance with international standards and entered into force upon publication in the Official Gazette. The independent auditing is conducted by the "independent auditors" and "independent auditing firms" authorised by KGK. Until today, 196 independent auditing firms and 13.280 independent auditors have been registered to the Official Registry of Independent Auditor, which is open to the public and can be accessed at www.kgk.gov.tr.

As mentioned above, being subjected to independent auditing is a matter decided by the Cabinet under Article 397 of the Turkish Commercial Code no. 6102 and the secretarial duties are assumed by KGK. The first decision on who is to be audited was rendered in 2013 and was later updated in 2014, 2015

and 2016.

As for the independent auditing of companies which are operating abroad and which are not publicly held, they are also annually identified by the Cabinet in line with Paragraph 4, Article 397 of the Turkish Commercial Code. In conformity with international practices, every year the scope of compulsory independent auditing is being gradually extended.

Upon the Cabinet's decision, approximately 2.500 companies in 2013, 3.500 in 2014 and 5.000 in 2015 were subjected to compulsory independent auditing. It is planned that as the scope of compulsory independent auditing is extended, a considerable number of companies which are operating abroad and which are not publicly held will be included within the scope of independent auditing in the coming years.

All publicly held companies are subject to external auditing. The auditing of publicly held companies in the capital market sense is conducted by the Capital Markets Board, whereas their external independent auditing is made by KGK through independent auditors in line with international standards. However, since the majority of the companies, which are operating abroad and which are not publicly held, meet at least two of the three criteria listed above, they are already subjected external auditing. The companies that do not meet these criteria are not excluded from auditing either. They are subject to the general auditing, which is conducted for companies in Turkey, in accordance with Article 210 of the Turkish Commercial Code.

Under Article 14 (and its sub-provisions) of the Capital Markets Law, the companies that are subject to the Capital Markets Law are obliged to prepare their financial tables in accordance with the Turkish Accounting/Financial Reporting Standards (the official translation of International Accounting/Financial Reporting Standards) and to submit them for independent auditing in accordance with the Turkish Auditing Standards (the official translation of International Auditing Standards). Furthermore, these companies and independent auditing firms are regularly supervised by the Capital Markets Board within the framework of risk analyses. In case of irregularities with the legislation, they are subjected to administrative sanctions in line with the relevant provisions. Therefore, publicly held limited companies' affiliates operating abroad, subsidiaries and affiliates consolidated as required by independent auditing (including those which are not publicly held) are also indirectly audited.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 6(a):

6. With respect to tax-related measures, the Working Group recommends that Turkey

(a) Ensure that law enforcement authorities routinely share information on foreign bribery-related enforcement actions with the tax administration [2009 Recommendation VIII.i; 2009 Tax Recommendation];

Action taken as of the date of the follow-up report to implement this recommendation:

In order to implement the mentioned recommendation, a working group was established from the delegations of Tax Inspection Board of the Ministry of Finance, Revenue Administration of the Ministry of Finance, [Union Of Chambers Of Certified Public Accountants Turkey \(TÜRMOB\)](#), the [Ministry of Economy, Small and Medium Enterprises Development Organization \(KOSGEB\)](#), Public Oversight Authority, Capital Markets Board and the UHDIGM, and the meeting of this working group

was held on January 6, 2016. In this meeting, having touched upon the recommendation, the working group focused on the sharing of practices with regard to foreign bribery between the law enforcement authorities and tax administrations within the scope of the Turkish law and our system. The working group assessed the following:

Article 359 of the Tax Procedure Code of 213, governs "Offences of Smuggling and Sentences" and article 367, paragraphs 1, 2, and 3 of the mentioned Code govern the issue of "Procedure on Sentencing Some of the Offences of Smuggling".

Please see the relevant paragraphs of Articles 359 and 367 in **Annex 13**.

The tax offence report which is mentioned under article 367 of Tax Procedure Code, is a document drafted as a result of the tax audit. Tax audit is conducted by the officials who are trained on revision and accounting and with knowledge and competence in this issues. The tax offence report is based on the examination and audit in compliance with the technique concerning the subject matter, and it is a document which determines the tax offence and includes the observation of the official who has the competence to audit on this issue. On the other hand, within the context of the Turkish Criminal Procedure Code, this document serves as an observation by an expert and competent official.

It is compulsory to inform the authorized Public Prosecutor's Office about the detected tax offence as a result of the conducted audit (Article 367 of Tax Procedure Code). In addition, as it is stated in accordance with paragraph 2 of the mentioned article, in the event that the offences enumerated under article 359 are learnt by the Chief Public Prosecutor's Office, the Chief Public Prosecutor's Office immediately informs the related tax office and requests the tax audit to be performed. The Chief Public Prosecutor's Office may not only find out about the offence ex officio and through the denunciation of a citizen, from the press or while performing its duties, but also upon being informed by the law enforcement. Where the police, the law enforcement officials detect the traces of the offence, they are informed about the offence or come across with the offence somehow, they have to inform the Chief Public Prosecutor's Office immediately (Article 161/2 of Criminal Procedure Code).

In the event that it is suspected through the mentioned ways that the tax offence has been committed, it is compulsory to conduct the tax audit by the tax inspectors, assistant inspectors and the officials authorized for tax audit (Article 367/1, 2 of Tax Procedure Code). The tax audit intended for the detection of the tax offence is the most important part of the investigation. Through the tax audit, the incidents (acts) which constitute the offence are detected (Article 367 of Tax Procedure Code). The Public Prosecutor's Office which has received the tax offence report conducts the required examination. The prosecutor may act in three ways. The prosecutor may consider the tax offence report sufficient for the investigation and bring a public lawsuit before court enclosing the report to the "indictment" in general. The prosecutor may not consider the report sufficient for the investigation. In this case, the required investigations are carried out and then he decides on whether to bring the lawsuit before the court or not. If the prosecutor would not bring the lawsuit before the court, then s/he orders the non-prosecution. After this order, the Representative of the Fortune (the attorney of the Ministry of Finance) who represents the injured party in the investigation may object to the Office of Criminal Justice of Peace within 15 days. If the objection is accepted, then the lawsuit is brought before the court.

The abovementioned observation (tax offence report) is a "prerequisite for initiating criminal investigation". The absence of this prerequisite is an obstacle to the initiation of the investigation. If the investigation has been initiated without a tax offence report, when this absence is realized, the investigation is suspended and the prosecutor requests for tax examination. The investigation is

continued after the tax offence report is drafted as a result of the audit. If the lawsuit is initiated without fulfilling this requirement, when it is realized, the court renders "the interim decision" (Article 223/8 of Criminal Procedure Code) and then the result of the audit is waited for. In this practice, it is aimed that the competent and expert authorities enlighten the judiciary on this issue. It is a reversal reason to render a judgment without a tax offence report and, if required, the consideration. In this regard, under criminal tax law, tax offence report (consideration) is considered as "prerequisite for initiating criminal investigation" requirement as accepted by the Court of Cassation consistently.

During the prosecution process, the tax offence report is among the documents to be read in the trial. If explanation is needed after reading these reports, then the oral and written considerations (opinions) of the official who has drafted the tax offence report. In addition, the attorney of the Fortune represents the Ministry of Finance in the capacity of the representative during the court process and he has the right to appeal the judgment rendered by the court within 7 days. A judgment which has been rendered without a tax offence report is reversed on procedural grounds, if appealed. Also, as the Ministry of Finance is represented before the tax courts in the capacity of the injured party, the court notifies the summons to the authorized fortune representatives working at the Ministry of Finance indicating that the case has been brought before. If these attorneys request to intervene in the lawsuit, then these requests are accepted and therefore the lawsuit is concluded. Otherwise the Court of Cassation would reverse the judgment which has been rendered without the summons and intervention of the representative of the Fortune stating that the equality of the parties.

In this regard, as it is explained above, in the event that the tax offences are learnt by the law enforcement, they inform the Chief Public Prosecutor's Office and Public Prosecutors initiate the process *ex officio* or upon the detection of the tax audit officials during the tax audits and continue after the tax offence report is drafted. Then this process is concluded by the investigation and prosecution by the exchange of information among the law enforcement bodies, including the Public Prosecutors, and the Tax Audit Agency.

In this framework, the substructure of the system required for keeping the statistics concerning the tax offence reports has been established and as of 15.05.2016, the information concerning the tax offence reports prepared by Tax Inspectors assigned at 44 Group Presidencies in 29 provinces is recorded.

In addition, efforts have been provided in order to record the information to the system concerning the tax offence reports drafted since February 2012 and until today, the information about nearly 44.000 reports drafted about 58.000 taxpayers has been recorded to the system.

Moreover, "*the Bill on Approval of Ratification of the Convention on Mutual Administrative Assistance in Tax Matters*" was sent to the Grand National Assembly of Turkey by the Directorate General for Laws and Decisions of the Prime Ministry on 05/04/2016. The grounds of the mentioned Bill as follows:

"Even though the international movement of the persons, capitals, goods and services has brought about numerous benefits, it has caused the results such as evasion of tax. Not only to prevent these negative results, but also to observe the rights of the taxpayers, the efforts for interstate coordination are needed for developing the any kind of administrative assistance management.

As a result of this, Convention on Mutual Administrative Assistance in Tax Matters which is a multilateral convention and drafted by the Organization for Economic Cooperation and Development (OECD) and the European Council and signed by many countries has been concluded. Among the comprehensive cooperation methods provided for among the State Parties of the Convention in order

to cope with the tax evasion are information exchange, simultaneous tax audits, abroad tax audits, assistance in recovery and service of the documents. Other than these, the administrative assistance is not limited with the residents and nationals of the state parties and the residents and nationals of the third countries are covered in the Convention..."

Therefore the ratification of the mentioned Convention will enable the observance of the rights of the tax payers and the protection of information confidentiality. It will also achieve comprehensive cooperation with regard to the fight against tax evasion among the state parties within the framework of the defined scope and procedures. Consequently, significant progress will be made in this regard.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 6(b):

6. With respect to tax-related measures, the Working Group recommends that Turkey

(b) Improve sharing of information and coordination between the Tax Inspection Board and the law enforcement authorities to enhance detection and investigation of foreign bribery [2009 Recommendation VIII.i; 2009 Tax Recommendation].

Action taken as of the date of the follow-up report to implement this recommendation:

The Ministry of Justice plans to organize a conference with a wide range of participation of the judges, Public Prosecutors and competent law enforcement forces in 2016 or 2017 in order to raise the awareness concerning the sharing of information and coordination among the Tax Inspection Board and law enforcement authorities to enhance detection and investigation of foreign bribery.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 7(a):

7. Regarding reporting of foreign bribery, the Working Group recommends that Turkey:

(a) Review existing policies and procedures on detection and reporting of foreign bribery for the Ministry of Foreign Affairs, Ministry of Economy and other public agencies involved with Turkish

companies operating abroad, and develop and promote more effective reporting policies and procedures [2009 Recommendation III.iv and IX.i-ii]; and

Action taken as of the date of the follow-up report to implement this recommendation:

a) **Review existing policies and procedures on detection and reporting of foreign bribery for the Ministry of Foreign Affairs, Ministry of Economy and other public agencies involved with companies operating abroad, and develop and promote more effective reporting policies and procedures [2009 Recommendation III.iv and IX.i-ii]; and**

i. Trainings on the Subject

A number of training activities was organized for the staff of the Ministries and other public institutions, who will be assigned abroad.

In these training activities, effective use of media and all resources in detecting foreign bribery, and the need for adopting more efficient reporting policies and procedures to detect and report foreign bribery were among the topics.

Since October 2014, when the 3rd Round recommendations to be implemented by our country were determined, trainings organized by the Ministry of Foreign Affairs and Ministry of Economy were as follows:

Trainings organized by the Ministry of Foreign Affairs:

As explained in detail under Recommendation 3 (c)(i), on the dates 17 September 2014, 26 August 2014, 18 March 2015, 14 May 2015, 9 July 2015, 23 December 2015 and 23 June 2016, the Ministry of Foreign Affairs held trainings and courses for both the attachés and staff of the Ministry of Foreign Affairs and other Ministries who will be assigned abroad. In these trainings, where the authorities of the Ministry of Justice participated as trainers, the importance and need of reviewing existing policies and procedures on detection and reporting of foreign bribery were emphasized. In addition to information on the Convention and evaluation processes of Turkey as presented during the training and courses, reviewing and developing existing mechanisms for liability of legal persons, whistleblower protection, detection and reporting of the offence and effective use of media and other tools were addressed.

Trainings organized by the Ministry of Economy:

As explained in detail, together with the number of participants, under Recommendation 3 (c)(i), on the dates 6 August 2015, 15 February 2016 and 3 June 2016, in-service training programs were organized for commercial counselors and attachés assigned abroad, and for newly employed foreign trade assistant experts. In addition to information on the Convention and evaluation processes of Turkey as presented during the training and courses, reviewing and developing existing mechanisms for liability of legal persons, whistleblower protection, detection and reporting of the offence and effective use of media and other tools were addressed.

ii. Circulars and Instructions on the Subject Sent by the Ministry of Foreign Affairs and the Ministry of Economy:

Ministry of Foreign Affairs:

The circular dated 24 February 2016 sent to domestic and foreign offices of the Ministry of Foreign Affairs has been explained in section 3 (c) (i) of the Questionnaire. In the circular of the Ministry of

Foreign Affairs which is attached in **Annex 3**, taking necessary steps for detecting and reporting bribery in domestic and foreign offices of the Ministry effectively and improving existing steps have been foreseen. Furthermore, innovations foreseen to use media actively have also been included.

Ministry of Economy:

In the letters dated 29/05/2014 and 27/01/2016, with the instructions sent by the Ministry of Economy to the office of commercial counselors and attachés, among other things, following of the media in offence of foreign bribery, reviewing of detection and reporting mechanisms of foreign bribery and informing promptly the central organization of the Ministry of suspicions on foreign bribery offence have been requested.

In the letter dated 29/05/2014, Offices of Commercial Counselors and Attachés were requested to attach special importance to the following:

""In the deliberations of companies or enterprises of Turkish origin concerning various public procurements in the relevant country or any kind of business opportunities, in which the preference/approval of public authorities play a role, Commercial Counselors and Attachés should provide our companies or enterprises with the necessary information on domestic legislation concerning bribery, and the attitude to be taken when faced with probable bribery/corruption cases or claims,

- In the event that Commercial Counselors and Attachés receive serious and credible information through the competent official bodies of the relevant country or they witness any involvement by a company or entrepreneur from our Country in the offence of bribery, they should promptly report it to our Ministry⁸ and other relevant authorities,,

- Commercial Counselors and Attachés should report on a regular basis to our Ministry bribery/corruption claims towards domestic public authorities or foreign companies in the form of news or other information, which may be published in the media of the relevant country or which may come from other channels, on procurements or business opportunities related to foreign trade, investment or foreign economic relations,

- Commercial Counselors and Attachés should follow up and report with diligence the claims against businessmen and investors from countries party to the OECD Convention,

- Commercial Counselors and Attachés should provide information on the attitude of our country towards bribery and corruption in bribery and corruption cases of other countries when brought to the agenda during bilateral meetings with official authorities of relevant countries or other foreign missions,

- Commercial Counselors and Attachés should review the information in the websites of our Ministry and the Ministry of Justice, and especially the booklet on "OECD Convention on Combating Bribery of

⁸ Ministry of Economy.

Foreign Public Officials in International Business Transactions and Its Practice in Turkey"

In the letter dated 27/01/2016, reference was made to the abovementioned letter and the last evaluation phase within the framework of OECD Anti Bribery Convention was mentioned. In the letter, foreign office of the Ministry of Economy was reminded of the instructions sent to the commercial counselors and attaches of the Ministry by the letter dated 29/05/2014.

It has been requested in the letter that the central office of the Ministry of Economy be regularly informed of information related to bribery/corruption claims towards domestic public authorities or foreign companies in the form of news or other information, which are published in the media of the relevant country or which may come from other channels, on procurements or business opportunities related to foreign trade, investment or foreign economic relations.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 7(b):

7. Regarding reporting of foreign bribery, the Working Group recommends that Turkey:

(b) Ensure that appropriate measures are in place to protect from discriminatory or disciplinary action both public and private sector employees who report in good faith and on reasonable grounds to the competent authorities suspected acts of foreign bribery, and take steps to raise awareness of these mechanisms [2009 Recommendation IX.iii].

Action taken as of the date of the follow-up report to implement this recommendation:

- You may find general information on the Prime Ministry's Circular dated 29/04/2016 and numbered 2016/10 on Increasing Transparency and Enhancing the Fight Against Corruption and its annexed Action Plan for 2016-2019 on Increasing Transparency and Enhancing the Fight Against Corruption (please see the Circular and Action Plan in **Annex 2**) at the section concerning responses to Recommendation No 3 (c)(i).

The action plan in question has included an article on "making arrangements for protecting those who report corruption cases in public institutions and private sector and nongovernmental organizations to the authorities". The aim of the article is to protect those who report and issue a complaint. A period of 24 months from the entry into force of the Circular is foreseen for enforcing this article and thus making an amendment in legislation.

- Paragraph 2, Article 18 entitled "Justification of termination with a valid reason" of the Labour Law no. 4857 contains the provisions which allow employees to issue an administrative or judicial complaint against their employer or to become a party to a case on the same matter, etc. so as to secure their rights. In order for Turkey to carry out its **liabilities** on "***protecting public and private sector officials who report suspicious acts of foreign bribery to the***

competent authorities,” under the OECD Anti-bribery Convention Article 18, Subparagraph (c) of the Labour Law no. 4857 has been amended **solely for this purpose** by Article 32 of the Law no. 5838, dated 18/02/2009. The expression **“or to carry out their liabilities”** was added after the expression **“in order to secure their rights granted by the law or the convention”** in the aforementioned paragraph.

The justification *for the amendment introduced by Article 32 of the Law no. 5838, dated 18/02/2009 is as follows:*

Paragraph 2 of the Article entitled “Justification of termination with a valid reason”, contains the provisions which allow employees to issue an administrative or judicial complaint against their employer or to become a party to a case on the same matter, etc. in order to secure their rights.

According to Recommendation 2009 IX iii, concerning Article 3 of the OECD Anti-bribery Convention, one of the international responsibilities imposed on Turkey is to prevent the offence of foreign bribery and to investigate and prosecute the offence, once it has been committed, and to apply the regulations pertaining to the protection of the whistleblower in an efficient manner in both the public and private sector.

For this reason, in order to ensure coherence in our national legislation and to carry out our international responsibilities, as well as to protect the employee who has carried out his/her legal responsibility to report the offence in good faith, the introduction of this amendment, which is in compliance with Article 22 of the Law no. 4857, was found to be essential.

- **In order to take steps to raise awareness of the mechanisms regarding the protection of whistleblowers in Turkish Law, several training activities were held by the relevant institutions stated in below:**

-Justice Academy of Turkey

Within the framework of the trainings mentioned in our replies to Recommendation 1(d), information on the legislation and mechanisms concerning protection of whistleblowers who report the foreign bribery offence was provided.

-Ministry of Finance

Within the framework of the trainings mentioned in our replies to Recommendation 4 (b), information on the legislation and mechanisms concerning protection of whistleblowers who report the foreign bribery offence was provided.

-Ministry of Interior

The Ministry of Interior, Turkish National Police organized a training program on 12 August 2015, and an informative presentation on the “OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, Liability of Legal Persons in Turkey in terms of Foreign Bribery and the Protection of Whistleblowers in Turkish Law” was delivered to a team of 20 participants having expertise in investigation and identification of financial crimes.

- **The Public Oversight - Accounting and Auditing Standards Authority**

It has been decided by the Public Oversight - Accounting and Auditing Standards Authority to include the "OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, Liability of Legal Persons and the Protection of Whistleblowers in Turkish Law" to the training programs planned for the staff of the said

Authority. Within this scope, a training activity on the said title was organized on 02 September 2015 for 29 experts and assistant expert and similar activities would be continued periodically.

A training activity for 75 in-service staff comprising of experts and assistant experts of The Public Oversight - Accounting and Auditing Standards Authority was organized on 24/05/2016.

In both trainings, information on whistleblower protection within the scope of combating foreign bribery and the relevant legislation was provided.

- ***Union of Chambers of Certified Public Accountants and Sworn-in Certified Public Accountants of Turkey***

Union of Chambers of Certified Public Accountants and Sworn-in Certified Public Accountants of Turkey (TÜRMOB) has voiced a favourable opinion concerning drawing up a separate training programme aimed at its members on “OECD - Combating foreign bribery, the Liability of Legal Persons and the Protection of Whistleblowers in Turkish Law” and providing this training periodically. The works on the preparation of the training programme are ongoing. Information on the awareness-raising trainings planned for 2015 and 2016 will be provided later on.

-Foreign Economic Relations Board (DEİK)

In the training given by the Ministry of Justice on 1 March 2016 in DEİK whistleblower protection was addressed separately. Within the framework of whistleblower protection, information on whistleblower protection inside the company was provided relation to the chapters on Good Practice Guidance on Internal Controls, Ethics and Compliance annexed to OECD 2009 Recommendations. Presentations of the representatives of UHDİGM were sent through e-mail to more than 1000 companies which are member to DEİK.

-Capital Markets Board (SPK)

The training held on 29 June 2016 was explained in detail under Recommendation 5 (b). In these trainings, among other things, information on whistleblower protection and the relevant legislation within the framework combating foreign bribery was provided.

-Ministry of Foreign Affairs

In the trainings explained in detail under Recommendations 3 (c)(i) and 7(a), importance of taking appropriate measures protecting whistleblower, who reported the offence of foreign bribery, from any kind of discrimination or disciplinary procedures was underlined.

-Ministry of Economy

In the in-service training programs on 6 August 2015, 15 February 2016 and 3 June 2016, the details and number of participants of which have been explained under Recommendation 3 (c)(i) and 7(a), importance of taking appropriate measures protecting whistleblower, who reported the offence of foreign bribery, from any kind of discrimination or disciplinary procedures was underlined.

- In addition to the above-mentioned training activities, the booklet on foreign bribery, which was published by the Turkish Ministry of Justice, available on its web page, has been updated. Detailed information on the protection of whistleblowers was also added to the mentioned booklet. Within the scope of the update, this booklet includes the relevant provisions of the Turkish legislation on the protection of whistleblower as well.
- In order to raise awareness in the private sector, Small and Medium-sized Enterprises Development Organization (KOSGEB) has provided a link to the relevant section of the Ministry of Justice’s official website, where the updated booklet, including information on

provisions of the Turkish legislation on the protection of whistleblowers, was published.

- Ministry of Justice’s website also features a hotline number for reporting foreign bribery and provides information on legal measures protecting public and private sector employees from discrimination and disciplinary procedures. The aim here is to raise awareness about legal provisions on the protection of the whistleblower.
- A link has also been provided on the website of the Ministry of Economy, Ministry of Foreign Affairs, The Prime Ministry Privatization Administration, TÜRMOB, Ministry of Labour and Social Security and Turkish Confederation of Employer Associations to the “OECD - Combat Against Foreign Bribery” section of the Ministry of Justice’s website, which contains information on the protection of the whistleblower.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 8:

8. Regarding awareness-raising, the Working Group recommends that Turkey increase awareness-raising efforts in the private sector to (i) specifically target companies, including SMEs, that conduct business in higher-risk corruption locations and sectors abroad; and (ii) highlight the importance of developing and implementing anti-bribery internal controls and corporate compliance programmes, including promoting the 2009 Good Practice Guidance, and consider targeting non-listed Turkish companies (e.g., SMEs) operating abroad [2009 Recommendation III.i and III.v].

Action taken as of the date of the follow-up report to implement this recommendation:

Within the scope of this recommendation, the following awareness-raising activities have been conducted in the private sector.

Foreign Economic Relations Board (DEİK)

On 01.03.2016, with the participation of officials from our UHDİGM, DEİK held an awareness-raising meeting on “OECD Anti-bribery Convention.” Apart from explaining the works of the Working Group within the scope of the Convention, the recommendations addressed to Turkey as a result of the Third Round Evaluations, and the steps taken and to be taken towards implementing these recommendations were discussed. In order to raise awareness in the private sector, the presentations made by our officials were e-mailed by DEİK to over 1000 member companies.

Turkish Industry and Business Association (TÜSİAD)

TÜSİAD conducted the following activities in 2015 to raise awareness in the private sector within the scope of the private sector’s role and responsibility in the fight against corruption.

Within the framework of Transparency International’s “Multi-Stakeholder Approach for Transparency in Corporate Reporting Project,” supported by the British Embassy and the Dutch Embassy, the information disclosed by companies in the BIST 100 Index were examined in order to determine the level of transparency. On 19.03.2015, the conclusions reached in this project were shared with the general public at a meeting attended by all organisations supporting the project.

The Union of Chambers and Commodity Exchanges of Turkey (TOBB)

International Chamber of Commerce's (ICC) Turkish National Committee, which operated under the umbrella of TOBB, had "ICC Rules on Combating Corruption" translated into Turkish. These rules were then published on the Committee's website and made accessible for all private sector companies in order to raise awareness.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 9(a):

9. Regarding public advantages, the Working Group recommends that Turkey:

(a) In the awarding of public advantages, including public procurement and ODA funded contracts, and officially supported export credits, take into consideration, where international business transactions are concerned, and as appropriate, applicants' internal controls, ethics and compliance programmes or measures [2009 Recommendation X.C.vi];

Action taken as of the date of the follow-up report to implement this recommendation:

In order for the aforementioned recommendation to be implemented; Türk Eximbank, Public Procurement Authority, KOSGEB, Prime Ministry Privatisation Administration and UHDIĞM formed a working group and held a meeting on 14 January 2016 to discuss the recommendation and reached the following conclusions as a result of their assessment and analyses:

"EXIMBANK, Turkey's only official export credit agency, attaches great importance to the recommendation by receiving letters of undertaking, the scope of which is continuously updated and expanded, from applicants, and examining their financial charts and internal control mechanisms."

Türk Eximbank requires a letter of undertaking at the application stage stating that the firm wishing to benefit from the Bank's credit and insurance programs has not been and will not be involved in bribery regarding the transaction involved in the application. This letter also includes a provision that states the applicants will establish and implement an internal control mechanism. Therefore, by means of this document, the applicant firms are directed, encouraged and obliged to establish and implement an internal administrative control system to fight bribery.

Türk Eximbank also conducts rigorous screenings for each and every credit application process. The Bank obtains fiscal reports prepared by external auditors for every program involving exporters directly. These financial reports are later analyzed diligently with special attention to seemingly abnormal transactions. Furthermore, the financing of projects that can be categorized as official export credit are subjected to further scrutiny as project costs are reviewed closely, every cost item are questioned and finally those that are perceived higher than normal are investigated thoroughly.

“Internal control mechanism” essentially has a broad meaning, however, during the drafting of its internal regulation (aka Directives on Combating Bribery of Foreign Public Officials in International Business Transactions) Turk Eximbank has interpreted “internal control mechanism”, especially with consideration to the small-scale firms, (the expression is “management control system” as stated in the advisory jurisdiction) as careful consideration of certain matters as to whether the firm had discharged its employees involved in bribery or whether external auditors found any inexplicable items in their financial reports.

Within this framework, if the the applicant firm states that it is unable to satisfy the conditions stated in the letter of undertaking, then the Bank’s policy, as stated in the Directives in question, mandates that the application can only be reviewed if and when the personnel involved in bribery is discharged, an independent audit report is submitted and finally all additional conditions of Turk Eximbank are met. In other words, the applications of firms without administrative control mechanisms are not reviewed in accordance with the aforementioned OECD Recommendation.

Recent adjustments were also made in Turk Eximbank’s practices on fighting bribery. With an addition of an article to the letter of undertaking mentioned above, the Bank now requires not only the firms as legal entities but also their real person representatives as well as the parties acting on behalf of them are to be held responsible. In other words, the scope of undertaking has been extended.

Besides, also in accordance with respective OECD regulations, our domestic legal regulations regarding the bribery of a foreign public officials are reflected in more detail in the letter of undertaking. Further steps are taken to inform the firms about the definition of this crime and its legal consequences. The aforementioned domestic legal ordinances are the 1st paragraph of the 252nd article of the Turkish Criminal Code no 5237, which regulates the crime of bribery, the 9th paragraph of the same Code, which regulates the bribery of foreign public officials, and finally the 253rd article of the same Code that regulates security measures imposed on legal entities.

In addition, preparatory work for a new procurement law has been already commenced by Public Procurement Authority by thoroughly revising Public Procurement Law numbered 4734. It is envisaged that the mentioned recommendation will be considered as far as possible during the preparatory work in question and subsequent secondary legislation studies.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 9(b):

9. Regarding public advantages, the Working Group recommends that Turkey:

(b) With respect to public procurement, routinely check the publicly available debarment lists of international financial institutions [Convention, Article 3; 2009 Recommendation XI.i-ii; DAC Recommendation];

Action taken as of the date of the follow-up report to implement this recommendation:

In accordance with PPA records, civil lawsuits are filed against 4.315 records out of 8.401 active records in the debarment list by 31/12/2015. 58,64% of Active Debarments are performed in accordance with Public Procurement Law, 26,31% in accordance with Public Procurement Contracts Law, 3,76% in accordance with Turkish Criminal Code and 11,18% in accordance with State Procurement Law numbered 2886.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 9(c):

9. Regarding public advantages, the Working Group recommends that Turkey:

(c) With respect to export credits, provide training to Turk Eximbank staff on detecting foreign bribery, including through conducting adequate due diligence [2009 Recommendation XII.i; 2006 Export Credit Recommendation]; and

Action taken as of the date of the follow-up report to implement this recommendation:

Concerning this recommendation, Türk Eximbank has been delivering awareness-raising trainings to its entire staff and those who are new at the institution on the nature of bribery, its legal consequences, as well as the relevant policies and practices of state institutions. In December 2013, 22 officials from all relevant units (Credits Department, International Loan Department and Export Credit Insurance Division); in January 2014, 23 newly employed deputy experts; and in March 2016, 34 officials from all relevant units received training on the offence of bribery.

Please find in **Annex 14** a presentation used in awareness-raising trainings by Türk Eximbank.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 9(d):

9. Regarding public advantages, the Working Group recommends that Turkey:

(d) With respect to official development assistance (ODA), take steps to ensure that due diligence is carried out prior to the granting of ODA contracts, including by routinely checking international debarment lists [Convention, Article 3; 2009 Recommendation XI.ii].

Action taken as of the date of the follow-up report to implement this recommendation:

Before participating to Official Development Assistance (ODA) tenders, whether the applicant companies are prohibited or not is examined. In order to enable the routine control of this status of being prohibited from the list of internationally prohibited companies regularly, the preparation of informatics has been started and the preparation still continues. On the other hand, in the public procurements made throughout the country, there is an Electronic Public Procurement Platform (EKAP) directed by Public Procurement Authority (KİK). This is a tender follow-up system which enables to access the announced and unannounced tender notices and specifications published in virtual platforms by the Public Procurement Authority (KİK) and other institutions and organizations (the website of Electronic Public Procurement Platform "EKAP" and the websites of other institutions). With an update to be made in this system, it is also planned to control the list of internationally prohibited companies.

If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

2. Follow-up by the Working Group

10. The Working Group will follow up the issues below as case law and practice develops:

Text of follow-up item 10(a):

10 (a) The application of articles 252(4) and 252(9) of the Criminal Code to bribes offered or promised to foreign public officials [Convention, Articles 1 and 3];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

As there is no public lawsuit filed in terms of the offence of foreign bribery since the adoption of the report, it is not possible to make any explanation about this issue.

Text of follow-up item 10(b):

10 (b) The application of the phrase "to be indicated" in article 252(1) of the Criminal Code in relation to bribes provided to a third party beneficiary, such as a family member of an official, a political party, or a charity [Convention, Article 1];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

As there is no public lawsuit filed in terms of the offence of foreign bribery since the adoption of the

report, it is not possible to make any explanation about this issue.

Text of follow-up item 10(c):

10 (c) The application of article 43/A of the Code of Misdemeanours, in particular to ensure that (i) the level of authority of the natural person whose conduct triggers the liability of the legal person is sufficiently flexible to reflect the wide variety of corporate decision-making systems; and (ii) legal persons cannot avoid responsibility by using intermediaries, including related legal persons [Convention, Article 2; 2009 Follow-up item Annex I.B];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

As it is known, it is stated in the Article 43/A of Law of Misdemeanors as follows: "Where the act does not constitute a misdemeanor which requires more severe administrative fines; in the case that an organ or a representative of a civil legal person; or; a person, who is not the organ or representative, but undertakes a duty within the scope of that legal person's operational framework commits the offence bribery defined in Article 252 to the benefit of that legal person, the legal person shall also be penalized with an administrative fine".

As it is understood from the provisions of the article, the level of authority of the natural person does not affect the liability of the legal person in terms of the offence of bribery. In other words, there is not any criteria determined for the level of authority of the natural person in order to punish the legal person who has a liability.

For this reason, although there is no court decision related with this issue, by taking the provisions of the article into attention, it would be considered for this sub-paragraph to not to be followed-up.

Text of follow-up item 10(d):

10 (d) The application of sanctions in foreign bribery cases to ensure that they are effective, proportionate and dissuasive, and the imposition of measures to confiscate the bribe and proceeds of bribery [Convention, Article 3];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

As there is no court decision related with the offence of foreign bribery since the adoption of the report, it is not possible to make any explanation about this follow up issue.

Text of follow-up item 10(e):

10 (e) Whether Law 6526, which imposes stricter conditions for the use of certain investigative measures, hinders the investigation of foreign bribery cases [Convention, Article 5; 2009 Follow-up item V and Annex 1.D];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

As it would be understood from the explanations regarding the investigations and allegations included in the Matrix of Turkey, the Law numbered 6526 does not have any negative effect on the continuing of the investigations with regard to foreign bribery. The investigations mostly pending due to the proceedings of MLA have not been completed yet.

Text of follow-up item 10(f):

10 (f) The application of the non-tax-deductibility of bribes in practice, particularly to see whether any of the ongoing foreign bribery investigations and any new investigations lead to the reopening of tax returns [2009 Follow-up item VIII.i; 2009 Tax Follow-up item I.i and ii]; and

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Pursuant to Article 138 of the Tax Procedure Code (VUK), the fact that an investigation of a tax payer has been conducted does not prevent a new investigation of this taxpayer from being launched.

Therefore, in case expenditure for bribery is detected as a result of a questioning or reasoning, “even if the taxpayer has previously been investigated, the expenditure, made by the tax payer may be re-examined and rejected”.

In accordance with the above provision, the process works as follows:

In case the court rules that a taxpayer has committed the offence of bribery and requests the Tax Inspection Board to investigate whether this bribe has been deducted as an expense from the tax, an investigation into the taxpayer is started immediately, (pursuant to VUK, art.138, even if that taxpayer had been previously investigated) and a Tax Examination Report is issued on the rejection of the amount, detected to have been deducted from the tax.

If this finding (the offence of bribery) is made by a Tax Investigation Officer before the trial, the Tax Inspector communicates the situation through a Report directly to the Prosecutor’s Office.

On the other hand, if the Tax Inspector finds out that this amount has been deducted from the tax basis, s/he will reject the expenditure.

Furthermore, even if the investigation regarding the offence of bribery has been started before, Tax Inspection Board would start tax examination about the taxpayer if the public prosecution office requests.

Text of follow-up item 10(g):

10 (g) The enforcement actions taken by Turkish authorities in foreign bribery cases where Turkey refuses a request from another country for extradition [Convention, Article 10].

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Turkey has not been requested to extradite in a foreign bribery matter since the adoption of this report.