

## **TURKISH CRIMINAL CODE NUMBERED 5237**

### **Bribery**

#### **Article 252**

(Amended: 2/7/2012-Law No. 6352/Art. 87)

(1) 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 duty shall be sentenced to a penalty of imprisonment for a term of four years to twelve years.

(2) Any public official who secures, directly or through other persons, an undue advantage to himself or another person indicated by the public official to perform or not to perform a task with regard to his duty shall be sentenced to the same penalty stipulated by the paragraph 1.

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

(4) In the case where the public official requests a bribe but it is not accepted by the person, or the person offers or promises an undue advantage to the public official but it is not accepted by the public official, the penalty to be imposed on the perpetrator according to the provisions of paragraphs 1 and 2 shall be reduced by half.

(5) Any person who mediates the offer or conveys the request to the other party, closing the bribery agreement or providing the bribe shall be punished as accomplice, irrespective of being a public official.

(6) Any third person who is provided with the benefit or authorised person of a legal person who accepts the benefit shall be punished as accomplice, irrespective of being a public official.

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

(8) The provisions of the present article shall also apply where, irrespective of being a public official, an undue advantage is obtained by, offered or promised directly or through intermediaries to the persons acting on behalf of:

- a) occupational organisation in the character of public entity,
- b) corporations established in association of public institutions or organisations or occupational organisations in the character of public entity,
- c) foundations acting within the body of public institutions or organisations or occupational organisations in the character of public entity,
- d) public benefit associations,

e) cooperatives,

f) open joint stock companies,

to perform or not to perform a task with regard to their duties; an undue advantage is requested or accepted by these persons; these acts are mediated; an undue advantage is provided for another through this relation.

(9) The provisions of the present article shall also apply where an undue advantage is obtained by, offered or promised directly or through intermediaries to;

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

b) judges, jury members or other officials acting in international or supranational or foreign state courts,

c) members of international or supranational parliament,

d) persons performing public activities for a foreign country, including public institutions or public corporations,

e) citizens or foreign arbitrators appointed within the framework of arbitration procedure applied for solution of a legal dispute,

f) officials or representatives of international or supranational organisations established based on an international agreement,

to perform or not to perform a task with regard to their duties or to obtain or preserve a work or an unjust benefit due to international commercial transactions, or where an undue advantage requested or accepted by these persons.

(10) Where the offence of bribery that falls within the scope of paragraph 9 is committed, although by an alien abroad, with regard to a dispute to which;

a) Turkey,

b) a public institution in Turkey,

c) a private law legal person established according to Turkish laws,

d) a Turkish citizen,

is a party, or to perform or not to perform a transaction concerning these institutions or persons, ex officio investigation and prosecution are initiated against the persons who receive, request, accept the offer or promise of a bribe, mediate these, obtain an undue advantage for himself in connection with bribery relationship, if they are present in Turkey.

## **Implementation of Security Measure on Legal Entities**

### **Article 253**

(1) Where a legal entity secures an unjust benefit through the offense of bribery, security measures specific to legal entities shall apply.

### **Effective Remorse**

#### **Article 254**

(1) (Amended: 2/7/2012-Law No. 6352/Art. 88) Where, before the public authorities learn about the situation, the person in receipt of the bribe presents the consideration of such, in its original state, to the authorities, no penalty shall be imposed for the offence of bribery. Where, before the public authorities learn about the situation, a public officer who, after having agreed to receive a bribe, informs the authorities of such, no penalty shall be imposed for this offence.

(2) (Amended: 2/7/2012-Law No. 6352/Art. 88) Where, before the public authorities learn about the situation, a person who gave or reached to an agreement to give a bribe to a public officer informs the authorities responsible for investigation of such in remorse, no penalty shall be imposed for the offence of bribery.

(3) (Amended: 2/7/2012-Law No. 6352/Art. 88) Where, before the public authorities learn about the situation, any other person who participates in the offence of bribery by demonstrating remorse informs the authorities responsible for investigation of such, no penalty shall be imposed upon such person for this offence.

(4) (Added: 26/06/2009-Law No. 5918/ Art. 4) Provisions of this article shall not be applied to persons who bribes foreign public officials.

## **Security Measures Specific to Legal Entities**

### **Article 60**

(1) Where there has been a conviction in relation to an intentional offense 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, this license shall be cancelled.

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

(3) Where the application of the provisions in the above paragraphs would lead to more serious consequences than the offense itself, the judge may not impose such measures.

(4) The provisions of this article shall only be applied where specifically stated in the law.

## **MISDEMEANOUR LAW**

### **Liability of Legal Persons**

#### **Article 43/A**

(1) Where the act does not constitute a misdemeanour which requires more severe administrative fines; in the case where 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 following offences to the benefit of that legal person, the legal person shall also be penalized with an administrative fine of 10,000 (ten thousand) Turkish Lira to 2,000,000 (two million) Turkish Lira:

a) Following offences stated in the Turkish Criminal Code numbered 5237:

1) Fraud defined in Articles 157 and 158,

2) Rigging a bid defined in Article 235,

3) Rigging the performance of fulfilment defined in Article 236,

4) Bribery defined in Article 252,

5) Money laundering defined in Article 282.

b) Offence of embezzlement defined in Article 160 of the Banking Code, dated 19/10/2005 and numbered 5411,

c) Offences of smuggling defined in the Code on the Fight against Illegal Smuggling, dated 21/3/2007 and numbered 5607,

ç) Offence defined in Appendix article 5 of the Oil Market Law, dated 4/12/2003 and numbered 5015,

d) Offence of financing terrorism defined in Article 8 of the Code on the Fight against Terrorism, dated 12/14/1991 and numbered 3713.

(2) 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.