

## Inter-agency task forces in anti-corruption investigations

Hello. My name is X. I work for the Turkish National Police, Anti-Smuggling and Organized Crime Department. Taking into consideration the time limit and the main topic under discussion here, I will first make a very brief introduction about the legislative and institutional framework for investigating corruption and corruption related crimes in Turkey, then continue with the core of this presentation: "Inter-agency task forces in anti-corruption investigations" as a best practice model in the fight against corruption.

As you can see from the following table, all acts recommended to be criminalized by the United Nations Convention against Corruption (UNCAC), are already classified as crimes by the Turkish legislation:

UN Convention Against Corruption	Turkish Legislation
Article 15 Bribery of national public officials	Criminal Code (5237) Article 252/1,2,3,4
Article 16 Bribery of foreign public officials and officials of public international organizations	Criminal Code (5237) Article 252/5
Article 17 Embezzlement, misappropriation or other diversion of property by a public official	Criminal Code (5237) Article 247/1
Article 18 Trading in Influence	Criminal Code (5237) Article 158/2 Criminal Code (5237) Article 250/1,2 Criminal Code (5237) Article 255
Article 19 Abuse of functions	Criminal Code (5237) Article 250/1,2 Criminal Code (5237) Article 257/1,2
Article 20 Illicit enrichment	Law on Declaration of Assets, Combating with Bribery and Corruption (3628) Articles 4, 10, 12, 13, 14, 15, 16
Article 21 Bribery in private sector	Criminal Code (5237) Article 252/4 Criminal Code (5237) Article 155
Article 22 Embezzlement of property in the private sector	Criminal Code (5237) Article 157 Criminal Code (5237) Article 158/1 Law on Banking (5411) Article 160

In addition to these offences, there are direct or indirect anti-corruption reference and/or provisions in some Turkish legislative pieces outside the criminal law sphere. To name a few: "The Law on jobs that retired public officials can not undertake (2531)", "The law on professions that are incompatible with Turkish Grand National Assembly membership (3609)", "The law on public procurement (4734)", "The Law on Access to information (4982)", "The law on prevention of laundering proceeds of crime", "The Law on tax procedure (213)".

As you know, Article 36 of the United Nations Convention against Corruption (UNCAC) requests states to ensure the existence of a body or bodies specialized in combating corruption through law enforcement.

In the Turkish case, this "specialized law enforcement authority" requirement is met by the Anti-Smuggling and Organized Crime Department (KOM), the name of which was mentioned at the beginning of the presentation. KOM is tasked with preventing, detecting and investigating all sorts of organized criminality, including drug trafficking, financial crimes, mafia-type organized crimes and high-tech crimes. With around 500 personnel in its Headquarters and 4500 personnel at its 81 provincial units, the KOM Department is a subdivision of the Turkish National Police (TNP). TNP, along with the Gendarmerie Command, which is responsible for enforcing the law in rural areas, and Customs Directorate,

which is responsible for enforcing the anti-smuggling legislation in Customs areas, is one of the three law enforcement bodies in Turkey, the largest, and its jurisdiction is urban areas.

According to the “Ministry of Interior Regulation on the Establishment, Duties and Work of the Anti-Smuggling and Organized Crimes Department” (2006), the following corruption and corruption-related crimes are under the department’s mandate:

“Bribery, embezzlement, trading in influence, fraud, counterfeiting, public tender/contract rigging, laundering proceeds of crime, crimes committed by organizations established for the purpose of committing crimes”.

According to Turkish Criminal Procedure Law (5271), all criminal investigations, including corruption investigations are headed by Public Prosecutors. In low-level corruption cases, such as bribery of a public official to make him speed up a procedure, law enforcement officers within the knowledge and under the coordination of a prosecutor, can seize the evidence and detain the relevant parties following a simple physical surveillance operation. Then, with evidence at hand, along with the statements of the suspects; the public prosecutor can prepare the indictment, and the prosecution phase can begin. However, in complex cases, such as corruption in big scale public contracts, in which multiple firms and governmental agencies, and their owners and employees are involved, huge piles of documents and computerized data and financial transactions should be scrutinized and obtaining evidence is difficult, the public prosecutor and law enforcement agency may realize that they do not have sufficient human and material resources to investigate the case properly. This is where an Inter-Agency Task Force (ITF) should kick in.

Article 38 of the UNCAC says:

“Each state party shall take such measures as may be necessary to encourage, in accordance with its domestic law, cooperation between, on the one hand, its public authorities, as well as its public officials, and, on the other hand, its authorities responsible for investigating and prosecuting criminal offences”.

An ITF is a perfect embodiment of the national cooperation framework, the shape of which is set by the UNCAC.

From this point on, I will focus on the ITF concept, its organizational and operational procedures. Then, I will illustrate how it works in corruption investigations with a real-life case study, and finish my presentation with advantages and disadvantages of ITFs, as we identified them during the investigations.

Simply put, the aim of establishing an ITF is getting representatives of judicial investigative bodies and regulatory/supervisory administrative authorities together in order to benefit from their expertise, experience and powers in complex anticorruption investigations. I am aware of the fact that member states have different administrative structures and different names for governmental bodies and titles for their personnel. In this respect, I will use the following common names and associated acronyms for identifying who is who in an ITF:

- a) Public Prosecutor (PP): Chief of the investigation and the ITF
- b) Investigator (I): Member of the law enforcement agency
- c) Administrative Authority Representative (AAR): Member of a regulatory or supervisory public institution

For clarification purposes, I will divide an anti corruption investigation into phases and then explain operating procedure of an ITF and the roles of its actors.

### **Phase 1 Information gathering, assessment and opening an investigation**

If open/secret intelligence data, information passed by public/private persons and foreign authorities, and investigative findings point to the probable existence of a corrupt act, PP and I makes a preliminary assessment, and based on the background information on the suspected, seriousness of allegations/findings, likelihood of evidence collection/successful prosecution, PP decides to open a formal investigation or not.

### **Phase 2 Gathering the ITF and Collecting Evidence**

PP and I identify the expertise requirements of the investigation based on the specifics of the case. Institutions whose assistance are considered vital for the investigation are formally invited to dispatch personnel to PP's office and an initial meeting is held between the PP, I and AARs to discuss the case, see what kind of support the AARs can provide, or if additional expertise is needed. A second meeting is held with final version of AARs (If new AARs are invited), and during this step, the ITF is organized and duties of task force members are identified. If special investigation techniques such as communications interception and recording, surveillance by technical devices and using undercover agents, are going to be used for evidence collection purposes, court decisions are taken and I starts its work. By using their administrative authority and expertise, AARs start looking into the past and present public relationships and transactions of the suspected private/public persons, firms/public institutions trying to find traces of abuses of authority and office. Findings of the I and AARs are shared in orderly gatherings, or in urgent cases any ITF member can call a meeting to share his/her findings with other team members. When PP decides that enough evidence is collected, he gets the ITF together and suspects to be arrested, places to be searched, documents/material to be seized and funds to be frozen are identified.

### **Phase 3 Search and seizure**

PP gets the search and seizure decisions from the relevant court. Interview and interrogation questions are prepared by the ITF team. Then, (I) executes the court orders. ITF members go through the seized evidence and according to their findings questions might be reshaped. Then, (I) questions the suspects and witnesses while the answers are assessed by MTF members to outline the direction of new questions, if necessary.

### **Phase 4 Indictment and prosecution**

Under the light of the witness/suspect statements and evidence collected during phase 2 and Phase 3, PP prepares his indictment and the prosecution phase begins.

## **Case study:**

In an attempt to illustrate how this conceptual framework works in real life I would like to continue my presentation with a case study.

### **Phase 1 Information gathering, assessment and opening an investigation**

Information concerning the formation of an illegal monopoly among some medical companies, provision of medical supplies by these firms to state-owned hospitals with inflated prices, illegal payments by them in various forms to medical doctors who sit on contract awarding commissions of these hospitals reached the Ankara PP Office.

At the end of an initial assessment, it was decided that there was probable cause to believe that owners and employees of some medical firms had built an organized crime formation by intimidating and threatening other firms who wanted to join the market, had created a virtual cartel in violation of fair competition rules, and had been involved in paying bribes, committing fraud and contract-rigging.

### **Phase 2 Gathering the ITF and Collecting Evidence**

Subsequent to consultations between PP and (I), the following AAR representatives were invited to form an ITF and were tasked with looking into:

**Customs Inspectorate:** Import methods, quantities and prices of the medical supplies in question

**Ministry of Labor and Social Security and Ministry of Finance Inspectorates:** Appropriation methods of public institutions of these medical supplies, quantities bought and prices paid on a year to year basis

**Ministry of Finance Inspectorate:** Business and financial situation reports of the medical firms in question

**Banking Regulation and Supervision Agency:** Financial transactions of the suspects in question

**State-owned hospitals:** Medical assessments on the bought and used medical supplies in question

**National Police, Anti-Smuggling and Organized Crime Department (KOM)** was tasked with collecting evidence about the criminal activities of the suspects by using the following investigation methods regulated by the Criminal Procedure Law (On PP's request and Judge's approval):

- Detection, interception and recording of communications
- Monitoring by technical devices
- Search of computers and computer programs and archives, copying and provisional seizure (Following the operation)

In line with the provisions of UNCAC Article 43, which encourages international cooperation in corruption investigations, KOM also requested information from four countries through Police Liaison Officers, concerning the relationship between the Turkish medical firms under suspicion and international companies which they imported the medical supplies.

### **Phase 3 Search and seizure**

After 10 months, PP was satisfied with the current state of evidence and brought an end to the examination of AARs and to the use of special investigation techniques. Raids were conducted in 5 cities, and in 3 phases 59 suspects in total including medical company owners and employees, medical doctors, hospital managers, employees of social security administration were detained; their offices, cars and homes were searched and all pre-identified documents, materials and computers were seized for examination.

### **Phase 4 Indictment and prosecution**

AAR reports, intercepted communications, documents that were seized, information extracted from the computers, and suspect/witness statements were assessed by the ITF team, and PP wrote his final indictment. Accusations included: Forming an organization to commit crimes, forming an illegal cartel, aiding and abetting a criminal organization, giving and accepting bribes, fraud, abusing public office. 41 of the accused were sentenced.

### **Advantages and Disadvantages of ITFs**

ITFs have some obvious advantages over classical Prosecutor/Police working schemes in complex anticorruption investigations. Simply put, ITF means extra personnel in numbers, and qualitatively speaking; additional expertise and experience. When it works, it enormously accelerates the investigation process and helps moving it to the right direction. It reduces the inter-agency paper work and with expertise coming in a timely fashion during the evidence collection and analysis phase, it ensures investigating/prosecuting the right people for the right reasons.

However, it should be kept in mind that depending on the legal and administrative specifics of governments, different problems might arise during recruitment and operational phases. For instance, investigating corruption or any other criminal activity might not be a priority for external agencies. Their power and resource bases might be limited and providing personnel to prosecutor's office might conflict with their business schedule. And on a personal level, if the provided personnel remains stifled in a heavy workload at his original office and is expected to work for prosecutor's office in his spare times, it would be unwise to expect them to be productive, without extra incentives.

Furthermore, ITFs operate on a simple premise that agencies will work together in harmony. As we all know, this is not always the case. It is a fact that relations between agencies are influenced by a variety of institutional, historical and individual factors and these factors might very well affect the relationship between their personnel. Being in charge of the investigation, PPs should be able to identify and solve potential problems of co-ordination that might arise during the operational phase.

It is possible to extend the list of problems associated with inter-agency working relations. However, this would take a lot of time and we might move away from the point. To sum it up, ITFs might serve very well in complex anti-corruption investigations, but for them to be successful, potential problems should be identified beforehand and addressed properly.

Thank you very much for your attention and patience!