



Turkey

Compliance Risk Profile

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Summary

Turkey is the 27th largest exporter and 20th largest importer in the world.¹ Turkey borders 8 countries by land and 8 by sea and borders the Black Sea (controlling its only outlet), Aegean Sea, and the Mediterranean Sea. It is located at the crossroads of the Balkans, Caucasus, Middle East, and the Eastern Mediterranean and is strategically located between Europe and Asia and is very close geographically to Africa. About 1/5 of global wheat exports and a 1/6 of global corn exports pass through the Turkish Straits every year, making the Turkish Straits a critical transit point for the world's food supply.¹

The World Economic Forum's (WEF) Global Competitiveness Report² ranks Turkey 53rd out of 137 countries analyzed for overall economic competitiveness. The top three problematic factors for doing business in Turkey were listed as inadequately educated workforce (1st), access to financing (2nd), and inefficient government bureaucracy (3rd).² The American Chamber of Commerce in Turkey noted in their 2018 Business & Investment Climate Survey 2018 ("Turkey 2018 Report") that 60% believe Turkey to be a priority market for their companies global headquarters.² According to the Turkey 2018 Report the strongest elements of Turkey's business environment are its market potential (73%), advantageous geopolitical position for commercial activities (65%), attractiveness as a hub for regional operations (64%), and its status of being a priority market for company headquarters (60%).²

Over the last 10 years Turkey has regressed in perceptions in the areas of rule of law, government effectiveness, regulatory quality, and bribery and corruption risks. Turkey has made improvements in the area of anti-money laundering frameworks but still needs to improve in AML enforcement. In addition, due to recent targeted EU sanctions and the Syria situation the trade risk area has risen. Multinational companies operating in Turkey should have strong local internal anti-corruption, anti-fraud, and trade & logistics controls in-place as well as periodic monitoring and independent auditing to ensure compliance with Customs, trade regulation, export controls, corporate governance, and anti-corruption laws.

General Country Information

Turkey has a total population of 84.3 million¹ with a demographic composition of 72.5% Turks, 12.7% Kurds, 4% Zaza Kurds, 3.3% Circassians, 2.6% Bosniaks, 1.3% Georgians, 1.2% Albanians, and 2.4% Other¹. Most of the population lives within its cities, with just 27% living in rural areas. Turkey has 6 cities with more than 1,000,000 inhabitants and 76 more cities between 100,000 to 1 million. Istanbul (14.8MM), Ankara (3.5MM), Izmir (2.5MM), and Bursa (1.4MM) being the largest.¹ The official language is the Turkish language; however more than 30 ethnic languages exist in Turkey.¹ Since 2002 Turkey's economy has averaged 5% growth raising the average GDP per capita from \$3,000 USD to over \$9,000 USD.¹ Turkey has a GDP of approx. \$849.5 Billion USD (\$9,346 USD per capita)², and it has an area of almost 800,000 sq. km of land.¹

Governance and Regulatory

Legislation

Corporate governance for limited liability and joint stock companies in Turkey is primarily governed by the Turkish Commercial Code 6102 (TCC)³. Other important governance requirements are found in the Capital Markets Law 6362³, Capital Markets Communiques, and the Corporate Governance Communique serial II, No. 17.1 (including Annex I).

A joint stock company (JSC) can be organized as a public or private company and only needs one shareholder with a minimum capital investment of 50,000 TRY. The minimum capital requirement for an LLC is 10,000 TRY. A JSC is comprised of the general assembly (all shareholders) and a Board of Directors (“Directors”). Directors are responsible for filing incorrect documents regarding company transactions but are not responsible for acts of negligence by the company or the senior management unless they acted with some fault or failed to perform a reasonable level of due diligence. Directors are liable with their personal assets, without limitation, for company debts to the government (Law on Collection Procedure of Public Receivables³).

The Turkish Capital Markets Association (TCMA) and the Turkish Industry and Business Association (TUSIAD) can be leveraged to provide advice to companies on governance matters.³ The Corporate Governance Association of Turkey (TKYD) is a “non-profit organization aiming to develop and promote adherence to corporate governance standards and guidelines in Turkey.”³

Environment

The 2020 World Bank's **Ease of Doing Business**² Report (EDB Report) ranks Turkey overall 33 out of 190 countries analyzed for regulations that are conducive in fostering business activities and those that constrain it.

The World Bank's 2018 Worldwide Governance Indicator (WGI)⁴ for **Regulatory Quality** (RQ), with -2.5 being weak and +2.5 being strong governance performance, gave Turkey a score of -0.05 which resulted in a ranking of 100 out of 209 countries analyzed. This represents a decrease in performance from the 2009 score of 0.28 and a ranking of 85 out of 210 countries that were analyzed. The RQ indicator “*Reflects perceptions of the ability of the government to formulate and implement sound policies and regulations that permit and promote private sector development*”⁴.

The 2018 WGI **Rule of Law** (RL) indicator gave Turkey a score of -0.32 which resulted in a ranking of 121 out of 209 countries analyzed. This represents a decrease in performance from the 2009 score and ranking (2009 score of 0.1 and a ranking of 90 out of 212 countries). The RL indicator “*Reflects perceptions of the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence*”⁴.

The 2018 WGI **Government Effectiveness** (GE) indicator gave Turkey a score of 0.01 which resulted in a ranking of 97 (out of 209 countries analyzed). This represents a decrease in performance from the 2009 score of 0.28 and ranking of 78 out of 210 countries. The GE indicator “*Reflects perceptions of the quality of public services, the quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation, and the credibility of the government's commitment to such policies*”⁴.

Enforcement

There have been no major recent enforcement actions.

GCSG's Compliance Risk Index (CRI) analyzed eight independent factors to score the **governance and regulatory area compliance risk**⁵ level for Turkey as **Moderate**.

Bribery and Corruption

Legislation

The major legislation regulating corruption within Turkey is primarily found within the Criminal Code, the Law on Asset Disclosure, Struggle Against Bribery and Corruption, and the Law on Public Servants.⁶ The prohibition on bribery, extortion, money laundering and abuse of office is found within the Criminal Code. The Law on Public Servants regulates gifts and hospitality. Turkey is a member of the Council of Europe Group of States Against Corruption and has ratified the OECD Anti-Bribery Convention, United Nations Convention against Corruption (UNCAC), the Council of Europe Criminal Law Convention on Corruption (CECLCC), and the Council of Europe Civil Law Convention on Corruption (CLCC).⁶

Public and private bribery (active and passive) are prohibited. However, private bribery only occurs if it is offered to, accepted or mediated by the persons acting on behalf of (i) professional organizations having a public institution character, (ii) companies incorporated with the participation of state institutions and organizations or professional organizations having a

Public institution character, (iii) foundations operating under the supervision of state institutions and organizations or professional organizations having a public institution character, (iv) associations serving public interest, (v) cooperatives, and (vi) publicly traded joint stock companies as per Art. 252/8 of the Turkish Criminal Code.

Active and passive bribery of foreign officials is also prohibited as per Art. 252/9 of the Turkish Criminal Code if it is offered to, accepted or mediated by: (i) public officials elected or appointed in a foreign country, (ii) judges, jury members or other officials acting in international or supranational or foreign state courts, (iii) members of international or supranational parliaments, (iv) persons performing public activities for a foreign country, including public institutions or public corporations, (v) citizens of foreign arbitrators appointed within the scope of arbitration procedures applied to resolve a legal dispute, and (vi) officials or representatives of international or supranational organizations established based on an international agreement.

As a foreigner, you can be prosecuted for bribery if you are: (i) in Turkey; (ii) a public institution in Turkey, (iii) a private law legal per established according to Turkish law, and (iv) a Turkish citizen is a party of a dispute in this respect.

The Turkish Criminal Code does not make any distinction between the benefits offered or accepted under the name of bribery, gifts, acts of hospitality or facilitating payments. Therefore, any gift, acts of hospitality, facilitating payments (such as payments for incentive trips or entertainment organisations) or any kind of enrichment affecting the persons (public officials or the above-mentioned persons) in order for them to perform or not to perform a task with regard to their duty can be deemed as bribery under Turkish law.

Potential penalties are laid out in the Criminal Code and apply to individuals and companies or other legal entities. For individuals' potential penalties include imprisonment up to 12 years and fines.⁶ For company's the potential penalties include seizure of assets and revocation of operating licenses.⁶ The prosecutor's office and police have the authority to investigate bribery and corruption.

Environment

Transparency International's 2019 Corruption Perceptions Index⁸, with zero being the most corrupt and 100 being the least corrupt, gave Turkey a score of 39 which resulted in a ranking of 91 out of 180 countries surveyed. This represents a higher risk than the 2014 score of 45 and ranking of 64 out of 174 countries surveyed.

Trace International's 2019 Bribery Risk Matrix⁸, with 100 being the most corrupt and zero being the least corrupt, gave Turkey a score of 57 which resulted in a ranking of 123 out of 200 countries surveyed. This represents a higher risk than the 2014 score of 51 and ranking of 70 out of 197 countries surveyed.

The 2018 WGI Control of Corruption indicator⁴, with -2.5 being weak and +2.5 being strong governance performance, gave Turkey a score of -0.34 which resulted in a ranking of 118 out of 209 countries. This represents a decrease in performance from the 2009 score and ranking (2009 score of 0.09 and a ranking of 84 out of 210 countries). The WGI Control of Corruption indicator "*Reflects perceptions of the extent to which public power is exercised for private gain, including both petty and grand forms of corruption, as well as "capture" of the state by elites and private interests*"⁴.

There is an elevated risk of encountering corruption in Turkey with construction projects, public procurement activities and other public services. The 2016 WEF Enabling Trade Report¹⁰ (WEF Trade Report) listed corruption at the border as the 7th most problematic factor for importing into Turkey. The SELDI 2016 corruption perception report listed corruption as the 5th most paramount problem in Turkey and the most prominent examples of corruption as "Administrative officials accepting money for tax evasion or tax reduction and giving money to a police officer..."⁸

Enforcement

The OECD has expressed concerns around Turkey's level of bribery enforcement and in the most recent OECD Phase 3 follow-up report noted "as to the offence of foreign bribery since the adoption of the report, currently there is not any prosecution but one investigation case relating to the offence of foreign bribery."⁷

In 2019 Microsoft Corporation agreed to pay more than \$24MM to settle US Securities and Exchange Commission (SEC) charges related to FCPA violations in Turkey and 3 other jurisdictions.⁷ In September 2017 it was determined that a criminal group in the Turkish Standards Institute ("TSI") was accepting bribes in exchange for standardisation documents issued by the TSI and 13 suspects were taken into custody.⁷ In January 2020 three land registry officers were taken into custody due to bribery allegations regarding land registry transactions in Zonguldak.⁷ In March 2020 the Istanbul Prosecution Office issued a bill of indictment against three suspects accused of accepting bribes totalling TRY 40,200 in order to bring forward the surgery dates of patients staying in the Istanbul University Faculty of Medicine.⁷

GCSG's Compliance Risk Index (CRI) analyzed four independent factors to score the **bribery and corruption area compliance risk**⁵ level for Turkey as **Moderate**.

Trade

Legislation

The Turkey export standards are primarily set out in Law No. 5201⁹ and the Control of Private Industrial Enterprises Producing War Weapons, Vehicles, Equipment and Ammunition and Decree No. 95/7623 (12/1995)⁹. All exporters are required to be members of one of 13 exporters unions. The Istanbul Metals and Minerals Exporters Union (IMMIB)⁹ handles the registrations for sensitive goods, technology, and dual-use goods. The Turkey import standards are primarily set out in Custom Law No. 4458 (1999).⁹

The Ministry of Customs and Trade is responsible for all imports and exports and has authority over all the customs districts and offices in Turkey.⁹ The Ministry of Foreign Affairs and Ministry of Industry and Trade primarily regulate exports out of Turkey. Turkey is a member of GATT and the WTO (1995)⁹.

Environment

Facilitation. The WEF Trade Report¹⁰ gave Turkey an overall score of 4.50, with 6.0 being the best and 2.9 being the worst scoring country in the index. This ranks Turkey 59th out of 136 countries that were evaluated for trade facilitation performance. The top 3 most problematic factors for importing, noted in the WEF Trade Report, included burdensome import procedures, tariffs and non-tariff barriers, and the high cost or delays caused by international transportation. Access to imported inputs at competitive prices, identifying potential markets and buyers, and access to trade finance were the top three most problematic factors for exporting from Turkey. The EDB Report² ranks Turkey 44th out of 190 countries for “trading across borders” which includes evaluating the time and cost to export and import.

The U.S. terminated the preferential trade agreement in place with Turkey in May 2019. Turkey and the EU are linked by a Customs Union agreement that came into force in December 1995. In addition, Turkey has signed free trade agreements with EFTA, Albania, North Macedonia, Bosnia-Herzegovina, Montenegro, Serbia, Georgia, Moldova, Faroe Islands, Israel, Tunisia, Morocco, Lebanon, the Palestinian Authority, Egypt, Chile, Malaysia, Singapore, and Mauritius.¹¹ In 2017, Turkey exported \$166B and imported \$214B.¹ Its top export destinations were Germany, UK, Italy, the UAE, and Iraq and its top exports were cars, gold, delivery trucks, vehicle parts, and jewellery.¹ The top import origins of Turkey are China, Germany, Russia, Italy, and the USA and its top imports were gold, refined petroleum, cars, vehicle parts, and scrap iron.¹ Turkey has 8 large and 36 small maritime ports.¹¹

Compliance. While the United States and European Union have sanctions in place against individual persons and organizations throughout the world, neither has comprehensive country-level economic sanctions programs in place against Turkey.¹² The European Union maintains an asset freeze and prohibition against making funds available for drilling operations off the coast of Cyprus. The US imposed targeted sanctions against certain Turkish nationals and ministries related to the situation in Syria on 14 October 2019 and lifted them on 23 October 2019.¹² A U.S. GAO report¹³ did not indicate Turkey as a country to watch as a transshipment hub¹⁴ with a potential for higher risk of illicit transshipment. Turkey is a party to the NPT, Biological Weapons Convention (BWC) and Chemical Weapons Convention (CWC) and is a member of the multi-lateral export control regime Nuclear Suppliers Group (NSG), Wassenaar Arrangement, Australia Group, and Missile Technology Control Regime (MTCR).¹⁵

Enforcement

In February 2019, the U.S. Department of the Treasury, Office of Foreign Assets Control (OFAC) sanctioned a Turkish national who directed a foreign subsidiary of a U.S. company to violate U.S. sanctions against Iran and attempted to conceal those violations.¹² This was the first time OFAC had named an individual as a foreign sanctions evader in relation to a civil enforcement action. In 2019, The US Department of Justice (DOJ), charged Turkish state-owned bank Halkbank with sanctions offenses related to an alleged scheme to evade U.S. sanctions on Iran.¹²

GCSG's Compliance Risk Index (CRI) analyzed five independent factors to score the **trade compliance area risk**⁵ level for Turkey as **Low**.

Financial

Legislation

The main legislation governing money laundering in Turkey includes the Criminal Code¹⁶, Law No. 5549¹⁶ and a 2016 Regulation on Suspension of Suspicious Transactions.¹⁶ The Turkish Ministry of Finance¹⁶ and the Financial Crimes Investigation Board (MASAK)¹⁶, have responsibility for AML regulations and oversight.

Suspicious documents or transactions are required to be submitted to MASAK via suspicious transaction reports (STR). MASAK has the authority to seize assets. Turkey is a member of the Financial Action Task Force (FATF).¹⁷

Environment

Access to Finance. The WEF Trade Report¹⁰ gave Turkey a score of 4.0 (1-7 best) and a ranking of 68 out of 136 economies for access to finance.

Financial Secrecy and Money-Laundering. The latest Financial Secrecy Index (FSI)¹⁸ gave Turkey an overall score of 225.72, with 1,575 being the most secret and 12 being the least secret country in the index. This FSI score indicates a moderate concern for financial secrecy. The 2020 International Narcotics Control Strategy Report¹⁹ (NCSR) lists Turkey as a country of concern for money laundering activities. Turkey has a legislative framework in place. The NCSR report on Turkey said: “Turkey is a hub for licensed and unlicensed money remitters... Turkey’s criminalization of money laundering and its legal authority for asset forfeiture are in line with international standards; however, Turkey continues to have few effective money laundering prosecutions and forfeiture actions. Most forfeiture is focused on a group that poses a political threat to the ruling party.”¹⁹

Enforcement

“Turkey lacks the capacity to effectively identify, investigate, and prosecute large numbers of money laundering allegations.”¹⁹ There were 365 Suspicious Transaction Reports (STRs) filed with MASAK between 2013 and 2017 with only 135 referred to a prosecutor’s office for investigation.¹⁹ None of the 135 involved professional money laundering allegations and only 11 of the 135 resulted in a conviction.¹⁹ Between 2013 and 2018 Turkey had close to 290,000 criminal investigations involving potential money laundering, but for every 1,000 predicate crimes there was less than one investigation and only 12% of those resulted in a conviction.¹⁹ Turkey’s law enforcement agencies have trained and dedicated investigators, however, identifying money laundering activity is “not commensurate with the risk profile.”¹⁹

After the attempted coup in 2016, Presidential Decrees have been promulgated by the Turkish government in order to dilute the acts of the terror organisations under the name of FETÖ/PDY and confiscated the assets of such organisations totalling approximately EUR 10bln.¹⁹

GCSG’s Compliance Risk Index (CRI) analyzed two independent factors to score the **financial area compliance risk**⁵ level for Turkey as **High**.

Data Privacy

Legislation

In 2016 Turkey ratified the Convention 108 of the Council of Europe²⁰ and passed the Law on the Protection of Personal Data (LPPD) No. 6698²⁰, which is primarily based on EU Directive 95/46/EC²⁰. The LPPD was published in the Official Gazette on 7 April 2016. The purpose of the law is to “protect fundamental rights and freedoms of persons, particularly the right to privacy, with respect to processing of personal data...”²⁰ The LPPD is similar to the European Union’s GDPR but there are some differences—including, among others, not allowing for a “compatible purpose” interpretation and prohibiting further processing, requiring consent to be explicit to process non-sensitive and sensitive personal data, the definition of “explicit consent”, and the availability of processing grounds is more limited for personal data.²⁰

Environment

The DLA Piper data protection laws comparison world graphic lists Turkey as “Moderate” for data protection laws and enforcement.²¹ Comparitech’s assessment of privacy protection and the state of surveillance did not assess Turkey.²¹

The Global Cybersecurity Index (GCI) 2018 lists Turkey in Table 1 which indicates a high level of commitment to the five cybersecurity pillars rated in the index with a score of 0.853 and global rank of 20 out of 175 countries analyzed.²¹ This represents a significant improvement in performance from the GCI 2017 with a score of 0.581 and ranking of 43 out of 165 countries.²¹ The National Cyber Security Index (NCSI) gives Turkey a score of 54.55 and a global rank of 46 out of 152 countries. NCSI is “a global index, which measures the preparedness of countries to prevent cyber threats and manage cyber incidents.”²¹

Enforcement

The Turkish Data Protection Authority (KVKK)²² was established with the passage of the LPPD and is responsible for enforcing the data privacy law. As of 1 January 2020, an online “Complaint to the Board” module²² was put into service by the KVKK. The complaint module will enable Turkish citizens to more quickly submit complaints directly to the KVKK.

From June 2017 to the end of 2019, the KVKK fined many companies due to breaches of personal data protection obligations stipulated under the LPPD. On 16 May 2019, the KVKK fined Cathay Pacific Airway Limited TRY 550,000 for not taking necessary technical and organisational measures to ensure data security and not reporting the breach to the KVKK within the

shortest time set forth under the LPPD²³. Similarly, on 18 September 2019 the KVKK imposed an administrative fine of TRY 1.65m on Facebook for the same obligations set forth under the LPPD²⁴.

GCSG's Compliance Risk Index (CRI) does not score **the data privacy compliance risk**⁵ level.

Country Risk Rating

GCSG's Compliance Risk Index (CRI) analyzed 19 independent factors to score the **overall compliance risk**⁵ for Turkey at **6.23** (1-10 Highest). This score assigns an overall **Moderate** compliance risk level for multi-national businesses operating within and/or conducting cross-border trade with entities operating within Turkey.

Note: GCSG's third-party risk ranking tool (which assesses risk at the entity level), and due diligence reports also incorporate GCSG's country Compliance Risk Index (CRI) scoring and can be used to further drill down on potential risks posed by your supply channel and sales channel third parties. Click [here](#) to learn more.

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