

ACT ON DECLARATION OF PROPERTY AND FIGHT WITH BRIBE AND CORRUPTION

Act No : 3628
Adopted on : 19.4.1990
O. Gazette : Date: 4.5.1990 Issue: 20508

SECTION ONE General Provisions

Purpose

Article 1 – The purpose of this Act is, for fight with bribe and corruption; to regulate declaration of property by those listed in this Act, renewal of declarations, supervision of acquisition of property, provisions applicable in case of unjust acquisition of property and false declaration, and follow up and trial procedure for public officials and accomplices due to crimes specified in this Act and some crimes.

Those who must declare their properties

Article 2 - a) Public officials taking up duty with all kinds of elections and members of the Council of Ministers who are appointed from outside the Parliament, (Excluding *muhtars* and members of the council of elders)

b) Notaries,

c) General directorate and central inspection board members of Turkish Aeronautical Association and those serving in the general directorate organisation and Türk Kuşu General Directorate, central boards and General Directorate organisation of Turkish Red Crescent Society and branch directors thereof,

d) Civil servants in public service who are being paid salary, wage and allowance at general and added budgeted departments, provincial special administrations, municipalities and affiliated organisations and subsidiary organisations thereof, public economic enterprises (state economic agencies and public economic organisations) and affiliated establishments, subsidiaries and businesses, public service institutions and organisations established by special laws or power granted by special laws and subsidiary organisations or commissions thereof, other public officials which are not workers and members of boards of directors and auditors,

e) **(Repealed:24/6/1995 – Decree Law -557/Art. 21)**

f) Political parties' chairmen, those serving in administrative organs of foundations, chairmen of cooperatives and unions thereof, members of boards of directors and general directors, certified public accountants, public welfare associations' executives and auditors,

g) Newspaper-owner real persons and members of the boards of directors and auditors of newspaper-owner companies, responsible managers, editorial writers and columnists,

must declare their properties.

Those who must declare their properties pursuant to Special Laws are also subject to the provisions of this Act.

Gifts

Article 3 – Public officials listed in the article above must return gifts or items in nature of grants worth more than the total of ten months' minimum wage as at the date of receipt, received pursuant to international protocol, competition or courtesy rules or for any other reason whatsoever, from foreign countries, international organisations, other international legal entities, any private or legal person or organisation which is not a national of Turkey, within one month as of the date of receipt, to their institutions. However, the frames of signed souvenir photos given by foreign statesmen and international organisations' representatives are not covered by the provisions of this article.

The values of gifts shall be determined by the Ministry of Finance and Customs pursuant to a regulation to be adopted.

Unjust acquisition of property

Article 4 – Goods which cannot be proved to have been provided in accordance with law and public morale or increases revealed as expenses which cannot be considered commensurate with the income of the concerned in terms of the social life of the concerned are considered unjust acquisition of property within the context of the implementation of this Act.

SECTION TWO Property Declarations

Subject matter of declarations

Article 5 – The subject matter of declaration of property is the immovable property of officials within the scope of this Act, their spouses and children under their guardianship, and separately for each of more than five times the amount of the monthly net payment made to the official, or in case of officials not paid, more than five times the amount of monthly net payment made to Public Servants of the 1st degree, money, shares ve debentures and gold, jewellery and other movable property, rights, receivables and incomes and resources, debts and reasons thereof.

Time of declaration

Article 6 – Declarations of property must be made;

a) With documents required for inauguration in appointments within the scope of this Act,

b) Within one month following appointment in appointments to Council of Ministers membership,

c) Within two months following finalisation of the election in elected posts,

- d) Within one month in case of substantial change in property,
- e) Within one month following the date of taking up appointment in memberships of boards of directors and auditors and elections of and appointments to commission memberships,
- f) Within one month following the date of leaving the post in case of termination of the post,
- g) Within one month of the date of starting of activities in case of newspaper-owner real persons and members of boards of directors and auditors of newspaper-owner companies; and within one month following the date of taking up of the job or the post in case of responsible managers, editorial writers and columnists.

Appointment shall not be made until the declaration stipulated in Paragraph (a) is made.

Renewal of declaration

Article 7 – Those continuing duties within the scope of this Act shall renew their declarations until the end of February of years ending with (0) and (5) at the latest. New declarations shall be collated by competent authorities with prior declarations.

Authorities to which declarations shall be submitted

Article 8 – Declarations shall be submitted to the following authorities:

- a) The Presidency of the Grand National Assembly of Turkey for the members of the Grand National Assembly of Turkey and the Council of Ministers,
- b) The authority which has the records and document reports concerning personnel matters for staff working with public institutions and organisations,
- c) Relevant Ministry for the General Directors, boards of directors and auditors of institutions, enterprises, agencies and organisations,
- d) President judge for department heads and members of supreme courts,
- e) Ministry of Justice for notaries,
- f) The authority powered to appoint for civil servants and servants of other institutions and organisations,
- g) Institution and association general directorate for those working with Turkish Aeronautical Association and Turkish Red Crescent Society,
- h) **(Repealed: 24/6/1995 – Decree Law - 557/Art. 21)**
- i) The authority which they had to make declaration when they were in their posts for those who have left their posts,
- j) Supreme Court of Appeal, Chief Public Prosecutor's Office for political parties' chairmen,
- k) Organisations which conduct the audits of cooperatives and unions for cooperative and union chairmen, members of boards of directors and general directors,

- l) Ministry of Finance and Customs for certified public accountants,
- m) Ministry of Interior for members of general management and central inspection boards of Turkish Aeronautical Association, Turkish Red Crescent Society and Public welfare associations, and the Provincial Governorships for branch directors thereof,
- n) Governors for the Members of Provincial Councils, Mayors for the Members of Municipal Councils, Ministry of Interior for Mayors,
- o) The authority charged with personnel matters of their organisations for those final authorities which must declare property,
- p) The biggest civilian authority of the place for newspaper-owner real persons, and members of boards of directors and auditors of newspaper-owner companies, responsible managers, editorial writers and columnists,
- r) Foundations General Directorate for those who have posts in the administrative organs of foundations,

Those who have to make more than one declaration due to their functions shall make a single declaration of property due to their primary function.

Confidentiality of declarations

Article 9 – Without prejudice to the provisions in the special acts, property declarations shall be kept in the declarant’s private file. No statement can be made and no information can be given about the contents of declarations save for the provision of Article 20. Furthermore, no publication can be made about the contents of the property declaration based on the information and records in the property declaration.

SECTION THREE

Penal Provisions

Article 10 – Those who do not declare their properties within the time limits specified in Article 6 shall be warned by the authorities to which the declarations are to be submitted. Those who do not declare their properties without good excuse within thirty days as of the notification of the warning shall be punished with imprisonment up to three months.

Those who do not declare their properties within the time limit given regarding the investigation shall be punished with three months to one year of imprisonment.

False statement

Article 11 – Those who breach Article 9 regarding the contents of the declaration of property shall be punished with three months to one year of imprisonment.

In the event that this act is committed through the press, the penalty increased fifty per cent.

False declaration

Article 12 – If a more severe penalty is not required by law, those who make false declarations shall be punished with six months to three years of imprisonment.

Unjust acquisition of property, smuggling or concealing property

Article 13 – If a more severe penalty is not required by law, those who unjustly acquire property shall be punished with three years to five years of imprisonment and imposed a heavy fine from five million liras up to ten million liras.

Those who smuggle or conceal the unjustly acquired property shall also be punished or fined in the same manner.

Confiscation

Article 14 – Properties unjustly acquired shall be confiscated. In cases where confiscation is not possible due to failure to get these properties or in the event that the entire property is not the subject of unjust acquisition of property, it shall be resolved to pay to the treasury a price equivalent to the asset unjustly acquired. This price shall be collected pursuant to the provisions of the Act on Collection Procedure of Public Receivables.

Barring from public service

Article 15 – Those punished under Articles 11 and 12 of this Act shall be barred from public service as long as the term of the penalty; while those punished under the provision of Article 13 are barred from public service for life.

Deferment, conversion into money and advance payment prohibition

Article 16 – Penalties set out in this Section cannot be deferred save for Subparagraph 1 Article 10, personal criminal penalties cannot be converted into money or injunction, the provisions of Article 119 of Turkish Penal Code shall not be applicable to perpetrators.

SECTION FOUR

Investigation Procedure for Crimes Specified in this Act and for Some Crimes

Investigation

Article 17 – Provisional Provisions of the Act on Trial of Civil Servants are not applicable to those accused of crimes listed in this Act, or those accused of connivance to these crimes, and malversation, bribe, defalcation and embezzlement, smuggling on duty or due to duty, rigging official tenders and purchases and sales, disclosure of State secrets or causing disclosure of State secrets.

The provision of the above subparagraph is not applicable to undersecretaries, governors and district governors.

The provisions of the relevant law are reserved concerning culprits who are subject to special investigation and prosecution procedure due to their posts or positions.

Denunciation of crime

Article 18 – Denunciations of the crimes listed in the Article above are directly made to the Chief Public Prosecutor’s Office. Upon denunciation, a denunciation report shall be forthwith drawn up and a copy thereof shall be given to the denunciator. In urgent cases and cases where delays may have drawbacks, drawing up of the report can be saved for a better time. The identities of denunciators shall not be disclosed without their consent. If it is found out that the denunciation is unfounded, the identity of the denunciator is disclosed upon request of the person prosecuted.

If inspectors and investigators find evidence or indications of these crimes at the end of the investigation, they report the case to the competent and charged Chief Public Prosecutor’s Office and submit the documents. Even if the Chief Public Prosecutor’s Office does not deem submission of documents by inspectors and investigators necessary, it may request the documents from the relevant authority by providing reasons for making investigation about the case to which the documents relate.

If inspectors and investigators who find evidence or indications of crimes listed in Article 17 do not report the case to the competent and charged Chief Public Prosecutor’s Office and submit the documents, the Provisional Provisions of the Act on Trial of Civil Servants shall not be applicable to prosecution about these.

It is forbidden to furnish information or make publication about the attributed crime which is the subject of denunciation until an action is filed.

Investigation procedure

Article 19 – When the Chief Public Prosecutor learns that the crimes listed in Article 17 are committed, s/he shall report the situation to the supervisor powered to appoint and the authorities listed in Article 8 as well as starting investigation about the culprits directly and personally.

Should the Chief Public Prosecutor find indications verifying the denunciation when s/he starts the investigation, s/he shall require the culprit to make a property declaration; in case s/he obtains evidence and indications showing that the unjustly acquired property is smuggled, s/he shall require the culprit’s relatives by blood and marriage upto the second degree and his/her daughter-in-law and son-in-law to make a property declaration. The declaration of property must be submitted to the Chief Public Prosecutor within seven days as of the date of delivery of this request to the culprit and other relevant people. In the event that the investigation is conducted by an inspector or investigator, the inspector or the investigator shall also request declaration of property from the culprit and the above mentioned relevant people. Submission of the declaration of property to the inspector or investigator within seven days as of the delivery of this request to the culprit and the relevant people is also compulsory.

The Chief Public Prosecutor may request from the charged court or the civil court at the location of the money or property, taking of measures concerning money or property which have evidence or indications that they are unjustly acquired before public prosecution.

Compulsory provision of information

Article 20 – Even if provisions to the contrary are included in special Acts, the relevant persons, private or public organisations are obliged to fully furnish information requested by persons and authorities powered to investigate and prosecute pursuant to this Act. Persons acting contrary shall be punished with three to six months of imprisonment.

Investigation of military staff

Article 21 – In the event that the crimes specified in this Act are committed by military staff, investigations shall be carried out pursuant to the provisions of this Act by army prosecutors.

SECTION FIVE Miscellaneous Provisions

Regulation

Article 22 – Issues such as the manner of declaration of property, how it is excuted, number, what it will cover and how it will be delivered to the relevant authority and other matters to be required within the context of implementation of this Act shall be regulated with a regulation to be adopted by the Council of Ministers within six months following the publication of the Act and this regulation shall be promulgated in the Official Gazette.

Repealed provisions

Article 23 – Act No 2871 of 9 August 1983 on Property Declarations by Public Officials and Acts repealed by this Act, and Act No 1609 of 15.5.1930 on Prosecution and Trial Procedure for Civil Servants and Accomplices Due To Some Crimes have been repealed.

Provisional Article 1 – In one month following the entry into force of this Act, those listed in Article 2 shall declare their properties.

The penal provisions in Section Three shall be applicable to those who do not declare their properties or who make false declarations.

Provisional Article 2 – Declarations prepared pursuant to Act No 2871 of 9 August 1983 shall be continued to be received from those listed in Article 2 of this Act until the entry into force of the regulation to be adopted based on Article 22.

Provisional Article 3 – Documents of investigations made on crimes which are committed before the entry into force of this Act and newly covered by this Act pursuant to the Provisional Provisions of the Act on Trial of Civil Servants, shall be forthwith submitted to the relevant Chief Public Prosecutor's Offices for action, save for finalised trial necessity and prohibition on trial decisions.

Entry into Force

Article 24 – This Act shall enter into force on the date of its publication.

Enforcement

Article 25 – The Council of Ministers shall enforce the provisions of this Act.