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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

TURKEY

LAW N°7262¹

**LAW ON COUNTERING FINANCING
OF PROLIFERATION**

¹ ***Non- official translation***

LAW ON COUNTERING FINANCING OF PROLIFERATION

CHAPTER I

General Provisions

Objective, Scope and Definitions

ARTICLE 1– (1) The law sets up the procedures and principles of implementation of United Nations Security Council Resolutions on the financing of proliferation.

(2) Provisions of the Law shall be executed based on the scope of United Nations Security Council Resolutions.

(3) In the implementation of the law, the followings mean that;

- a) UNSC: United Nations Security Council,**
- b) UNSC resolution: United Nations Security Council Sanction Resolutions on the financing of proliferation and their annexes,**
- c) Commission: Commission on Supervision and Cooperation,**

As to definitions of fund, asset and freezing of asset, the definitions stated in article 2 of the Law No 6415 dated 07/02/2013 on Prevention of Financing of Terrorism shall apply.

Prohibited actions and activities

ARTICLE 2- (1) Based on the scope of UNSC resolutions, the followings shall be prohibited;

a) Collection or provision of any fund for the persons and entities stated in the resolutions or for the benefit of them, or for the persons and entities controlled directly or indirectly by them or for the persons and entities acting on their behalf or on their account; or establishment of business partnership or business relationship in Turkey by these persons and entities,

b) Collection or provision of any fund for the organizations in relation to nuclear activities, ballistic missile programs or other activities prohibited in such Resolutions, or for the persons or entities controlled directly or indirectly by them or for the persons and entities acting on their behalf of or on their account or for the benefit of them,

(2) Based on the scope of UNSC resolutions, the followings shall be prohibited to the persons, entities and organisations specified in UNSC Resolutions, to the persons and entities controlled directly or indirectly by them or to the persons and entities acting on their behalf or on their account; and their ongoing activities shall be terminated;

- a) Opening of representative offices, performance of any activity by persons, or performance of their activities directly or indirectly through natural or legal persons;**
- b) Opening of branches or representative office or establishment of business partnership in Turkey by their banks;**
- c) Establishment of business partnership, capital partnership or correspondent banking relationship with their banks.**

(3) Apart from the activities permitted by UNSC, importing, exporting, transiting substances, materials and equipment and transferring technology or making contributions to or providing support for nuclear activities or developing nuclear weapon launching systems shall be prohibited.

(4) Applications against UNSC resolutions shall be made to the Commission on Supervision and Cooperation by the related persons to be submitted to UNSC via the Ministry of Foreign Affairs.

Freezing of assets and implementation of prohibitions

ARTICLE 3– (1) The followings shall be executed pursuant to the Presidency Decisions issued in the Official Gazette without delay;

(a) The decisions on freezing of the assets in Turkey of the persons or entities subject to UNSC Resolutions or of the persons or entities controlled directly or indirectly by them or of the persons or entities acting on their behalf or on their account of them,

(b) The decisions on freezing of maritime vessels subject to UNSC Resolutions or the prohibition decisions stated in article 2 and the decisions on repeal of these decisions.

(2) In the event that there is reasonable ground that organizations stated in the UNSC resolutions or the persons or entities controlled by them directly or indirectly or the persons or entities acting on their behalf or on their account carry out prohibited actions or activities specified in article 2, upon the proposal of the Commission on Supervision and Cooperation, their assets in Turkey shall be without delay frozen by the Presidency Decision issued in the Official Gazette.

(3) The cumulative lists shall be published without delay by the relevant public institutions once the decisions pursuant to the first and second paragraphs are published in the Official Gazette.

(4) Relevant provisions of the Law No.6415 shall apply as to execution and consequences of the decisions on freezing assets made pursuant to UNSC resolutions, without prejudice to the provisions in this law.

(5) Prohibition decisions made pursuant to the first paragraph shall be executed by relevant authorized public institutions immediately.

(6) The provisions of the first and second paragraphs shall not apply to the allowed expenditures and payments stated in the UNSC resolutions. The procedure and limits indicated in the UNSC decision apply.

Commission on Supervision and Cooperation

ARTICLE 4- (1) Commission on Supervision and Cooperation was established in relation to implementation of this law. This commission shall ensure implementation, supervision of the law and any form of cooperation. Under the chairmanship of the Head of Financial Crimes Investigation Board, the commission is composed of representatives (at a minimum director general or deputy head) from the Ministry of Justice, Ministry of Foreign Affairs, Ministry of Energy and Natural Resources, Ministry of Interior, Ministry of Defence, Ministry of Trade, Banking Regulation and Supervision Agency, Treasury Comptrollers Board, National Intelligence Organization, Nuclear Regulation Authority and Capital Market Board. Financial Crimes Investigation Board shall carry out the secretariat services of the commission.

(2) The representatives of the institutions whose opinions and knowledge are needed can be invited to the Commission. The commission can request opinion, information and documents from relevant persons and institutions, when necessary. In cases where the Commission requests information and documents in relation to implementation of this Law, the requested person and institution cannot refrain from providing information and documents based on the provisions in the laws. The Commission may present opinions and

recommendations to public institutions on matters related to implementation and measures that should be taken.

(3) Public institutions shall report information, documents, findings related to prohibited actions and activities specified in Article 2 and their evaluations in this regard to the Commission.

(4) The Commission can submit proposals to the President to be conveyed to UNSC for adding persons, entities and vessels to UNSC lists in cases where there are reasonable grounds that forbidden transactions and activities have been committed, and removing from lists in cases where such reasonable grounds no longer exist.

(5) The Commission shall meet at least twice a year. When necessary the Chair can convene the Commission. Commission can meet with the members stated in the first paragraph and take a decision with at least nine members. The Chair and the members of the Commission shall be paid remuneration for each meeting which is calculated by multiplying indicator number (4000) with the salary coefficient for public officials. These payments shall not be subject to any tax or deduction except stamp duty. Payments shall not be made for meetings held more than five in a year.

(6) The Commission works shall be conducted in accordance with confidentiality principles.

Penal Provisions

ARTICLE 5– (1) Persons who act contrary to prohibitions specified in Paragraphs (1) and (2) of Article 2 of this Law shall be sentenced to imprisonment for a term of one to five years or a judicial fine unless such act does not constitute an offence that requires a heavier sentence.

(2) Persons who act contrary to Paragraph (3) of Article 2 of this Law shall be sentenced to imprisonment for a term of two to eight years, unless such act does not constitute an offence that requires a heavier sentence.

(3) Persons who do not obey or who neglect or delay to obey the asset freezing decision made pursuant to Article 3 of this Law shall be sentenced to imprisonments for a term of six months to two years or a judicial fine, unless such act does not constitute another offence that requires a heavier sentence.

(4) In cases where the offences that are under the scope of this Article are committed through misusing the influence derived from public service, the penalty to be imposed shall be increased by half.

(5) In cases where the acts defined in this Article are committed in the context of the activities of an organization established for the purpose of committing offences, the sentence shall be increased by one fold.

(6) In cases where the acts defined in this Article are committed in the context of the activities of a legal person, security measures specific to the legal persons shall be imposed.

(7) In cases where the person who commits the prohibited actions and activities specified in Article 2 of this Law or who does not obey the decision on freezing of asset made in accordance Article 3 of this Law is an organ or a representative of a 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, this legal person shall also be punished by an administrative fine from ten thousand up to two million Turkish Liras.

(8) The upper limit of the administrative fine to be imposed in cases where the act specified in Paragraph (7) is committed for the benefit of a private-law legal persons shall be fifty million Turkish liras. However, the administrative fine to be imposed pursuant to this Paragraph cannot be less than amount of the action or activity if it is detected.

(9) The Commission shall be authorized to decide on administrative fine pursuant to provisions of this Article.

Regulation

ARTICLE 6– (1) The principles and procedures for the implementation of this Law and principles and procedures for the operations of the Commission shall be arranged through a regulation to be drawn up jointly by Ministries of Justice, Foreign Affairs, Energy and Natural Resources, Treasury and Finance, Interior and Trade. The Regulation shall be put into force within one month as of the date this Law enters into force.

CHAPTER TWO

Amended and Abolished Provisions

ARTICLE 7 – The following paragraph has been added to Article 6 of Law 2860 on Aid Collection of 23/6/1983.

In cases where it is detected that unauthorized aid collection activity is conducted through internet, the relevant governorship or Ministry of Interior shall notify the content and/or hosting service provider through an e-mail or other means of communication based on the information obtained from contact information specified on websites, domain name, IP address and similar sources to ensure that the content and/or hosting service provider removes the content on aid collection. In cases where the content is not removed by the content and/or hosting service provider within 24 hours, or any information on the content or hosting service provider cannot be obtained or the content or hosting service provider cannot be notified due to technical reasons, the relevant governorship or the Ministry of Interior shall apply to Criminal Judicature of Peace to obtain a decision to block access to relevant content on the internet. The judge shall make a decision about the request within 24 hours at the latest without holding any hearings and shall forward the decision directly to Information Technologies and Communications Authority so that the said Authority can take necessary action. The decision can be objected pursuant to provisions of Criminal Procedure Law No. 5271 of 04/12/2004. Access-blocking decision within the scope of this Paragraph shall be made by blocking access to content (URL, etc.)

ARTICLE 8 - The following paragraph has been added to Article 9 of Law 2860.

The principles and procedures for aids to be made domestically and to abroad shall be arranged through a Regulation.

ARTICLE 9 – Paragraph three of Article 16 of Law 2860 has been amended as follows:

Those assigned for audit and competent authorities shall be mandated to request information and documents, within the scope of audit duty, from persons involved in collection of aid, public organisations and institutions, natural and legal persons including

banks. The requested parties cannot refrain from providing the relevant information and documents based on the provisions specified in special laws.

ARTICLE 10 – Article 29 Law 2860 has been amended as follows:

Article 29

An administrative fine from five thousand Turkish Liras up to one hundred thousand Turkish Liras shall be imposed on persons or entities collecting aid in violation of the provisions of this Law. An administrative fine from ten thousand Turkish Liras up to two hundred thousand Turkish Liras shall be imposed in cases where the aid is collected through internet without authorization.

An administrative fine of five thousand Turkish Liras shall be imposed on persons or entities who provide facilities or venues for unauthorized aid collection in cases where they do not terminate such activity despite being warned.

An administrative fine from five thousand Turkish Liras up to one hundred thousand Turkish Liras shall be imposed on responsible board members in cases where foreign aid is provided in violation of the authorization granted pursuant to Article 9 of this Law.

An administrative fine from five thousand Turkish liras up to twenty thousand Turkish liras shall be imposed on those violating Paragraph (3) of Article 16 of this Law. However, in the event that this violation occurs within the body of a public institution, disciplinary action shall be taken under relevant legislation against those who work in the relevant public institution, regardless of their employment type, upon the notification to be made by the authority authorized pursuant to Paragraph 9, and the result shall be notified to the competent authority.

An administrative fine from five thousand Turkish liras up to twenty thousand Turkish liras shall be imposed on those who do not terminate collecting aid without authorization according to other aid collection methods specified in Article 5, apart from the authorized method, despite being warned.

An administrative fine from **five thousand Turkish Liras up to twenty thousand Turkish liras** shall be imposed on any persons or entities carrying out aid collection activities outside of a permitted venue **in cases where they do not terminate such activity despite being warned.**

An administrative fine of **one thousand** Turkish Liras shall be imposed on any persons or entities who violate other provisions of this Law, provided that their acts do not constitute a crime.

Money and goods collected in violation of the above paragraphs shall be seized and confiscated.

The authority granting authorization for aid collection shall decide on the administrative sanctions regulated in this Article. **The governor shall decide on administrative sanctions in case of unauthorized collection of aid. The Governor may delegate this power to deputy governors or district governors.**

ARTICLE 11 - The expression “and except foreign associations and associations and foundations headquartered abroad” in Article 1 of Associations Law No 5253 of 4/11/2004 has been replaced with the expression “associations and foundations whose headquarters are at abroad and other”, and the expression “and to associations” has been replaced with “and to them”.

Amended Article 1 of Associations Law

The objective of the Law is to regulate prohibited activities and the activities subject to permission, liabilities, auditing, punishments and **other issues** of associations, representations and branches of associations, federations, confederations, **associations and foundations whose headquarters are at abroad** and branches and representations of other non-profit organizations in Turkey.

ARTICLE 12 –The following paragraph has been added to Article 3 of Law 5253 to come after the second paragraph.

Persons convicted of the offences within the scope of the offences specified in the Law No.6415 on Prevention of the Financing of Terrorism dated 07.02.2013 and of the offences of manufacturing and trafficking narcotic drugs and psychotropic substances or of the offences of laundering assets derived from crimes cannot be assigned in the organs of the associations apart from the plenaries, even if the periods stated in article 53 of Turkish Criminal Law No.5237 dated 26.09.2004 have passed or are remitted. Assignments of those who are convicted of the aforementioned offences after they are elected to the organs of the association shall be terminated. The provisions of this paragraph shall not be applied if the decision of reinstatement of forbidden rights has been taken.

ARTICLE 13 - The expression “to public officials” has been added to the first sentence of Article 19 (2) of Law 5253 to come after “by ...”. The sentence below has been added to the paragraph to come after the first sentence. The sentences below has been added to the paragraph, and the paragraphs below have been added to the Article to come after the third paragraph.

“The audits shall be carried out every year provided that it is completed within maximum three years in accordance with the risk assessment.”

“The amount of payment for public officials to be assigned in audits, excluding civil inspectors and auditors of associations of the Ministry of Interior, shall be determined by the Ministry of Interior and the Ministry of Treasury and Finance together, and the payment shall be made through the allocation made in the budget of the Ministry of Interior. Procedures and principles regarding the officers to be assigned in these audits shall be determined with a regulation.”

Amended Article 19(2) of Associations Law

If appropriate, the Interior Minister or local administrative authority may order the audit of associations **by the assigned public officials** regarding if the associations conduct their activities in parallel with the objectives stated in their statutes and whether records and books of associations are kept in pursuant of the legislation. **The audits shall be carried out every year provided that it is completed within maximum three years in accordance with the risk assessment.** The auditing conducted by Ministry of Interior and local administrative authority shall be done during office hours. The associations shall be notified the auditing before at least twenty four hours. Law enforcement officials shall not be assigned in the auditing. **The amount of payment for public officials to be assigned in audits, excluding civil inspectors and auditors of associations of the Ministry of Interior, shall be determined by the Ministry of Interior and the Ministry of Treasury and Finance together, and the payment shall be made through the allocation made in the budget of the Ministry of Interior. Procedures and principles regarding the officers to be assigned in these audits shall be determined with a regulation.**

Assigned auditors shall be authorized to request relevant information and documents limited to the auditing scope from public institutions and organizations, and natural and legal persons, including banks. Requested parties cannot refrain from submitting information and documents on the ground of written in provisions in the special laws.

Associations and any premises, entities and the partner institutions of the associations shall be audited by relevant ministry and institutions limited to the scope of their duty fields if the Ministry of Interior or local authorities make request for auditing, provided that the regulations in their special laws are reserved.

Experts may be assigned in auditing process in necessary circumstances requiring expertise or technical capacity by the Ministry of Interior, governorships and district governorships. Procedure and principles of assignment of experts shall be determined in a regulation. Amount of payment for the expert shall be determined by the Ministry of Interior and the Ministry of Treasury and Finance together, and the payment shall be made through the allocation made in the budget of the Ministry of Interior.

ARTICLE 14 - The title of Article 21 of Law No 5253 has been amended to be “Foreign Aids”, and the following paragraph has been added to the article.

The local administrative authority shall be informed by associations about the aid for abroad before it is sent. The format and content of the declaration and the procedures and principles of the aids for abroad shall be determined in a regulation.

ARTICLE 15 - The following article has been added to Law No 5253 to come after Article 30.

Suspension from office and temporarily ceasing the activity

Article 30/A-

If a prosecution is initiated on the persons assigned in the organs of the associations apart from the plenaries or relevant persons on the ground of the offences within the scope of the offences specified in the Law No.6415, on Prevention of the Financing of Terrorism dated 07.02.2013, and of the offences of manufacturing and trafficking narcotic drugs and psychotropic substances or of the offences of laundering assets derived from crimes, the persons or the relevant organs may be suspended from office by the Minister of Interior as a temporary measure.

If the measure stated in paragraph (1) is not sufficient and it is inconvenient to delay the measure, the Minister of Interior may cease the activity of the association temporarily and make application to the court. The court makes decision on the temporary cease of activity within 48 hours and judicial proceeding continues in accordance with article 89 of Turkish Civil Law. Relevant persons may always request to repeal the decision on ceasing activity temporarily. The court makes decision on this request without delay.

Provisions of article 27 and related articles of Turkish Civil Law shall apply to assignment in place of the organs and the members of the organs suspended from office temporarily pursuant to paragraph (1) and sub-paragraph (f) of paragraph (1) of article 32.

ARTICLE 16 – Article 32(1)(k) of Law No 5253 has been amended as follows, the following sub-paragraphs have been added to the paragraph, and the the paragraph below has been added to the article.

k) An imprisonment fine up to three months or a punitive fine is imposed to those who do not meet the obligation in subsection three of article 9 and article 19 and the persons who doesn't apply to get the document,(indicating that the records and documents obligated to keep become unreadable or lost provided to take necessary car,) from authorized court located in the place of centre of association within 15 days from the date of realization of this situation or present this document during the audit shall be punished with imprisonment from **three months to one year or judicial fine. An administrative fine from five thousand up to one hundred thousand Turkish Liras shall be imposed on those who violate the first and second paragraph of Article 21.**

t) **An administrative fine from five thousand Turkish Liras to twenty thousand Turkish Liras shall be imposed on those who violate the fourth paragraph of Article 19. However, in the event that this violation occurs within the body of a public institution, disciplinary action shall be taken under relevant legislation against those who work in the relevant public institution, regardless of their employment type, upon the notification to be made by the authority authorized pursuant to Paragraph 3 of Article 33, and the result shall be notified to the competent authority.**

u) **The executives of the associations who do not make any income, collection, expenditure and payments in excess of seven thousand Turkish Liras through banks and other financial institutions or the Post and Telegraph Organization shall be imposed to an administrative fine for each transaction up to 10% of the amount subject to the transaction. The monetary limit stipulated in this paragraph shall be applied, effective from the beginning of each calendar year, by increasing the revaluation rate determined and announced by the Ministry of Treasury and Finance in accordance with the provisions of the repeated Article 298 of the Tax Procedure Law No. 213 dated 4/1/1961 for that year. The fraction of one Turkish Lira shall not be taken into account in the calculation of the limits determined in this way.**

(2) An administrative fine, at the amount of one thousand five hundred Turkish Liras, shall be imposed on those who work in the organs of the association violating the third paragraph of Article 3 of this Law and the directors of the association who do not knowingly terminate the duties of them within seven days despite written warning. In case of not terminating duties of these persons in relevant organs within thirty days despite the second written warning made by the local administrative authority, article 89 of Turkish Civil Code shall be applied.

ARTICLE 17 – Article 36 of Law No 5253 has been amended to be as follows.

Article 36- The provisions of this Law, including the penalty provisions, shall also be applicable for; **the branches of the associations, supreme institutions of associations and foundations, the branches or representative offices of associations, foundations and non-profit organisations of which the head offices are domiciled abroad and the permissions of them relating to operating and cooperating in Turkey.** Where there is no provision in this Law on this subject, the relevant provisions of the Turkish Civil Code No.4721 shall be applied.

ARTICLE 18 – The following paragraph has been added to Article 123 of the Criminal Procedure Law 5271 of 4/12/2004.

(3) Values of the goods and assets kept or seized shall be determined.

ARTICLE 19 - The following sub-item has been added to Article 43/A(1)(a) of Misdemeanours Law No 5326 of 30/3/2005 to come after item (1), the subsequent item numbers have been amended accordingly; sub-paragraph (d) has been amended as follows, and the expression “two millions” has been replaced with “fifty millions”. The following sentence has been added to the paragraph, and the following paragraph has been added to the Article.

(1) Where the act does not constitute a misdemeanour 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 following offences to the benefit of that legal person, the legal person shall also be penalized with an administrative fine of 10,000 Turkish Lira to **50,000,000** Turkish Lira.

2) Production and Trade of Narcotics and Psychotropic Substances defined in Article 188
d) Offence of financing of terrorism defined in Article 4 of Law on Prevention of Financing of Terrorism, dated 7/2/2013 and numbered 6415.
However, the administrative fine cannot be less than the double amount of the benefit subject to action or activity.

ARTICLE 20 - The expression “**freelance lawyers, pertaining to conducting financial transactions related with purchasing and selling real estate, establishing and repealing limited property rights, establishing, merging, managing, transferring and liquidating a company, foundation and association; and to managing bank accounts, securities accounts and any kind of accounts and assets in such accounts, on condition that it is not contrary to the provisions of other laws in terms of the right of defence, and excluding the information obtained through professional work performed under the scope of Article 35(1) of the Attorney’s Law 1136 of 19/03/1969 and alternative dispute resolution**” has been added to Article 2(1)(d) of Law No 5549 on Prevention of Laundering Proceeds of Crime of 1/10/2006 to come after the expression “sports clubs”. The following sub-paragraph has been added to the paragraph.

h) Financial group: a group consisting of financial institutions resident in Turkey and their branches, agencies, representatives and commercial agents and similar affiliated units which are connected to or controlled by a parent company whose head office is in Turkey or abroad.

ARTICLE 21 – The title of Article 3 of Law No 5549 has been amended to be “Customer Due Diligence”, the expression “under the scope of CDD principles” has been added to the first paragraph to come after the expression “Obligated parties”; the expression “and to take other necessary measures” has been added to come after “to detect”; and the expression “and regarding customer due diligence” has been added to the second paragraph to come after “monetary limits”.

Amended Article 3 of the Law on Prevention of Laundering Proceeds of Crime
Customer Due Diligence

Article 3 – (1) The obliged parties, **within the scope of the principles regarding customer due diligence**, shall identify the persons carrying out transactions and the persons on behalf or for the benefit of whom the transactions are conducted within or through the obliged parties before the transactions are conducted, **and to take the other necessary measures**.

(2) The Ministry has the authority to determine document types required for customer identification. The types of transactions necessitating customer identification, monetary limits of them and other related principles and procedures **relating to customer due diligence** shall be determined by regulations.

ARTICLE 22 - In Article 5(1) of Law No 5549, the expression “with a risk based approach” has been added to come after “in compliance with”; the expression “at obliged party and financial group level” has been added to come after the expression “to the introduced obligations”. And the following paragraph has been added to the Article.

(2) Institutions affiliated with the financial group, in order to ensure that the measures stated in the first paragraph are taken at the group level, may share information within the group, regarding customer due diligence, accounts and transactions. The provisions stated in special laws can not be asserted to avoid information sharing. The Ministry is authorized to determine the information subject to sharing and the principles relating to the implementation.

Amended Article 5 of the Law on Prevention of Laundering Proceeds of Crime
Training, internal control, control and risk management systems and other measures

Article 5 – (1) In the scope of necessary measures including measures to assign an officer with necessary authority at administrative level for ensuring **compliance at the obliged party and financial group level** with this Law and to establish training, internal control and control and risk management systems **with a risk-based approach**, the Ministry has the authority to determine obliged parties and implementation principles and procedures by regarding size of business and business volumes.

(2) Institutions affiliated with the financial group, in order to ensure that the measures stated in the first paragraph are taken at the group level, may share information within the group, regarding customer due diligence, accounts and transactions. The provisions stated in special laws can not be asserted to avoid information sharing. The Ministry is authorized to determine the information subject to sharing and the principles relating to the implementation.

ARTICLE 23 – Article 13 of Law No 5549 has been amended to be as follows.

Administrative fine in failure to comply with obligations

Article 13 – (1) The obliged parties failing to comply with any obligation **within the scope of** Articles 3 and 6 of this Law shall be punished with an administrative fine of **thirty thousand** Turkish Liras and the obliged parties failing to comply with any obligation **in** paragraph (1) of Article 4 of this Law shall be punished with an administrative fine of **fifty** thousand Turkish Liras by **MASAK**. If the obliged party is a bank, finance company, factoring company, money lender, financial leasing company, insurance and reinsurance company, pension company,

capital market institution, exchange office, **payment and electronic money institution, and the other financial institutions to be determined in the regulation, the administrative fine shall be applied twofold, not to be less than five percent of the transaction amount.**

(2) In case of determining that the obligations in the Article 5/1 of this Law are violated, a written warning and a period of not less than thirty days shall be given to the obliged parties. In case the deficiencies are not addressed at the end of this period, an administrative fine of five hundred thousand Turkish Liras is applied. With the notification of the administrative fine, a written warning and a new period of not less than sixty days is given. In case the deficiencies are not addressed at the end of this period, an additional administrative fine that is twice the first administrative fine is applied. If the deficiencies are not addressed within thirty days from the notification of the second administrative fine, the situation is notified to the relevant institution in order to suspend or restrict the activities of the obliged party for a certain period of time or to take measures for the cancellation of the activity license.

(3) The member of the board of directors or else the senior manager in charge, who do not comply with the obligations specified in the first paragraph of Article 5 of this Law, shall be given the one fourth of the administrative fine imposed on the obliged party, provided that the warnings within the scope of the second paragraph are given and the periods are abided by.

(4) Persons, institutions and organizations who fail to comply with the obligations of electronic notification specified in Article 9/A of this Law shall be punished with an administrative fine of **forty** thousand Turkish Liras by MASAK for each failure to comply. The total amount of administrative fine applied in this regard in one year cannot **one million** Turkish Liras.

(5) For each failure, the total amount of administrative fines applied within the year of the violation pursuant to **first and second** paragraph of the Article cannot exceed **forty million** Turkish Liras for obliged parties that will be punished with a twofold fine pursuant to Paragraph 1, and **four million** Turkish Liras for the other obliged parties. If the obliged parties subject to upper limit on fines make same kind of failure to comply with obligation in the following year, the limit shall be applied twofold.

(6) Administrative fine cannot be imposed after **eight** years from the date of violation of obligation.

(7) Other principles and procedures regarding this article shall be determined by the regulation to be issued by the Ministry.

ARTICLE 24 – The title of Article 17 of Law No 5549 has been amended to be “Protection Measures”, the second paragraph has been amended as follows, and the paragraph below has been added to the Article.

(2) Public Prosecutor may also make seizure decision in urgent cases. The seizure applied without the judicial decision shall be submitted for the approval of the judge on duty in twenty-four hours at the latest. The judge shall decide on whether it will be approved or not in twenty-four hours at the latest. **If the judge approves, the report regarding the value stated in Article 128 of Criminal Procedure Law shall be obtained within three months and submitted for the approval of the judge once again.** The decision of Public Prosecutor’s Office shall be invalid in case of non-approval **or the report not obtained within three months.**

3) Without considering whether the laundering offence has been committed within the framework of the organization's activities, an undercover investigator may be appointed

in accordance with the provisions of Article 139 of the Criminal Procedure Law and the measure of controlled delivery may be decided in accordance with the provisions of Law No. 4208.

Amended Article 17 of the Law on Prevention of Laundering Proceeds of Crime

Protection Measures

Article 17 – (1) In cases where there is strong suspicion that the offences of money laundering and financing of terrorism are committed, the asset values may be seized in accordance with the procedure in Article 128 of Criminal Procedure Law No. 5271.

(2) Public Prosecutor may also make seizure decision in urgent cases. The seizure applied without the judicial decision shall be submitted for the approval of the judge on duty in twenty-four hours at the latest. The judge shall decide on whether it will be approved or not in twenty-four hours at the latest. **If the judge approves, the report regarding the value stated in Article 128 of Criminal Procedure Law shall be obtained within three months and submitted for the approval of the judge once again.** The decision of Public Prosecutor's Office shall be invalid in case of non-approval **or the report not obtained within three months.**

3) Without considering whether the laundering offence has been committed within the framework of the organization's activities, an undercover investigator may be appointed in accordance with the provisions of Article 139 of the Criminal Procedure Law and the measure of controlled delivery may be decided in accordance with the provisions of Law No. 4208.

ARTICLE 25 - The sentence below has been added to Article 19/A(1) of Law No 5549. The paragraph below has been added to the Article to come after the second paragraph, and the subsequent paragraph's item number has been amended accordingly.

“The Minister may delegate this authority to Deputy Minister.”

(3) The obliged parties who conducted the transaction that was suspended or not allowed to be conducted within the scope of the first paragraph contrary to the decision taken shall be punished with an administrative fine in the amount of the transaction, by MASAK. However, the administrative fine to be imposed cannot be less than fifty thousand Turkish Liras.

Amended Article 19/A of the Law on Prevention of Laundering Proceeds of Crime

Delaying Transactions

Article 19/A- (1) In cases where the assets which are the subject of a transaction are suspected to be linked to offence of laundering or financing of terrorism, the Minister shall be authorized to suspend the transactions that are attempted to be conducted or currently going on within or through obliged parties for seven work days or not to allow the performance of those transactions for the same period of time so that MASAK can verify the suspicion, analyse the transaction and convey the results of those analyses to competent authorities when necessary. **The Minister may delegate this authority to Deputy Minister.**

(2) This power may also be used, based on reciprocity principle, for transactions which are the subject of the reasoned request made by foreign counterparts for suspending or not

allowing the performance of the transaction provided that MASAK suspects that the transaction is linked to offence of laundering or financing of terrorism.

(3) The obliged parties who conducted the transaction that was suspended or not allowed to be conducted within the scope of the first paragraph contrary to the decision taken shall be punished with an administrative fine in the amount of the transaction, by MASAK. However, the administrative fine to be imposed cannot be less than fifty thousand Turkish Liras.

(4) The other principles and procedures relating to implementation of this article shall be determined by a regulation issued by the Ministry.

ARTICLE 26 - The date "31/12/2020" in Provisional Article 3(5) of the Check Law No 5941 of 14/12/2009 has been amended to be "31/12/2021".

ARTICLE 27 - The following sentences have been added to Article 64(4) of Turkish Commercial Code 6102 of 13/1/2011.

"The Ministry of Trade may make it obligatory to keep share books, executive board minutes books, and general assembly meeting and negotiation books in electronic environment. Provisions of Capital Market Law shall be reserved."

ARTICLE 28 - The expression "10/A" in Article 415(2) of the Law No.6102 has been replaced with "13th" and the third paragraph has been repealed.

ARTICLE 29 - The expression "10/A of the Capital Market Law" in Article 417(1) of Law No.6102 has been replaced with "bearer shareholders and 13th.. of the Capital Market Law", and the expression "entry card fields also in terms of bearer share certificate holders" has been removed from the text and the fifth paragraph has been amended as follows.

Amended Article 417(1) of Turkish Commercial Code

ARTICLE 417- (1) The list on **holders of bearer shares and holders of shares monitored through registry who can attend general assembly pursuant to Article 13 of Capital Market Law** shall be drawn up by Board of Directors in accordance with the "shareholder table" to be obtained from Central Securities Depository.

(5) The principles and procedures on how shareholders table will be obtained from Central Securities Depository, prohibition of share transfers to be limited with the day of general assembly when necessary, and other relevant matters shall be regulated through Communiqués by the Capital Market Board **regarding shares monitored through registry pursuant to Article 13 of Capital Market Law, and by the Ministry of Trade regarding bearer shares.**

ARTICLE 30 - The expression "and notified to the Central Registry Agency" has been added to come after the expression "proving" to the second paragraph of Article 426 of Law No. 6102.

Amended Article 426(2) of Turkish Commercial Code

ARTICLE 426- (2) Any person who proves that she/he holds bearer share certificate **and reported to the Central Securities Depository** shall be authorised towards the company to use the rights emerging from shareholding.

ARTICLE 31 - The following sentence has been added to the second paragraph of Article 486 of Law No.6102 to come after the second sentence.

“Information regarding bearer share holders and the share that they hold shall be reported to the Central Securities Depository before share certificates are distributed to share holders.”

ARTICLE 32 - The Article 489 of Law No.6102 has been amended as follows.

ARTICLE 489- (1) Transfer of bearer share certificates shall only be applicable for the company and third parties through the transfer of holding and through reporting to the Central Securities Depository. In the event that it is not reported to the Central Securities Depository, holders of bearer shares cannot use their rights of shares emerging from this Law until the required reporting is made.

(2) In claiming the rights of bearer share certificates before the company and third parties, the date on which reporting is made to the Central Securities Depository shall be taken as basis.

(3) Records of bearer share certificates kept by the Central Securities Depository shall be shared with authorities which are authorised by relevant laws.

(4) Principles and procedures regarding reporting bearer share certificates to the Central Securities Depository and their recording and relevant fees shall be defined by the Ministry of Trade through a Communiqué.

ARTICLE 33 – The following paragraph has been added to Article 562 of Law No.6102 to come after the twelfth paragraph and the other paragraphs have been continued accordingly.

(13) Any person who:

a) does not carry out reporting pursuant to paragraph two of Article 486 of this Law shall be punished with an administrative fine of twenty thousand Turkish Liras;

b) does not carry out reporting pursuant to paragraph one of Article 489 of this Law shall be punished with an administrative fine of five thousand Turkish Liras.

ARTICLE 34 - The following provisional article has been added to Law No.6102.

PROVISIONAL ARTICLE 14 – (1) Those who hold bearer shares apply to the joint stock company with their share certificates to be notified to Central Securities Depository until 31/12/2021. Upon the application, the executive board of the joint stock company shall notify the information regarding bearer share holders and their shares to the Central Securities Depository, within five business days. If shareholders do not apply to the joint stock company, they cannot use their rights emerging from their shares pursuant to this Law until the required application is made.

(2) Any person who does not carry out the application or reporting pursuant to paragraph one shall be punished in accordance with paragraph thirteen of Article 562.

ARTICLE 35 - Article 2(1)(ç) of the Law No.6415 on the Prevention of Financing of Terrorism dated 7/2/2013 has been amended as follows.

ç) Asset means;

1. Funds, proceeds, and benefits and values **derived from them** or inter-conversion of them, owned or possessed or directly or indirectly controlled by a natural or legal person,
2. **Funds, proceeds, and benefits and values derived from them or inter-conversion of them, owned or possessed by a natural or legal person who act on behalf or for the benefit of this natural or legal person**

ARTICLE 36 - The following paragraph has been added to the Article 4 of Law No.6415 to come after the first paragraph and the other paragraphs continued accordingly, the following sentence has been added to the existing seventh paragraph of the article.

(2) In the event that the acts mentioned in paragraph one are committed by the founder, manager or member of an organisation, the punishment to be imposed on these persons shall be increased by up to one-third pursuant to the offences of establishing, managing or being a member of an organisation.

“Besides, it may be decided to apply controlled delivery measure according to provisions set forth in Law 4208”.

Amended Article 4 of the CTF Law No 6415

The Offence of the Financing of Terrorism

ARTICLE 4- (1) Any person who provides or collects funds for a terrorist or terrorist organisations with the intention that they are used or knowing and willing that they are to be used, even without being linked to a specific act, in full or in part, in perpetration of the acts that are set forth as crime within the scope of Article 3 shall be punished by imprisonment for a term of five to ten years, provided that his/her act does not constitute another offence requiring a heavier punishment.

(2) In the event that the acts mentioned in paragraph one are committed by the founder, manager or member of an organisation, the punishment to be imposed on these persons shall be increased by up to one-third pursuant to the offences of establishing, managing or being a member of an organisation.

(3) To impose a penalty in accordance with the provision of paragraph one, it shall not be necessary that the funds have actually been used to commit an offence.

(4) In cases where the offences that fall within the scope of this article are committed through undue influence in the public service, punishment to be imposed shall be increased by half.

(5) In cases where the offence is committed within the framework of a legal person's activity, security measures peculiar to legal persons shall be applied.

(6) In cases where the offence is committed against a foreign state or an international organization, investigation or prosecution shall be initiated upon the request of Ministry of Justice.

(7) Provisions of Law No.3713 regarding investigation, prosecution and enforcement shall also apply to this offence.

(8) **(Added: 14/4/2016 - 6704/29)** With regard to this offence, the provisions pertaining to the following measures under the Criminal Procedure Law may apply;

- a) Assignment of trustee to company management stated in article 133,
- b) Detection of communication, wiretapping and record of communication stated in article 135,
- c) Assignment of secret investigator stated in article 139,
- ç) Tracing by means of technical tools stated in article 140.

Besides, it may be decided to apply controlled delivery measure according to provisions set forth in Law 4208.

ARTICLE 37 - The article 5(1) of Law No.6415 has been amended as follows and the following paragraph has been added to the article.

ARTICLE 5- (1) Decisions on freezing of assets under the possession of persons, institutions and organisations designated through the United Nations Security Council Resolutions 1267(1999), 1988 (2011), 1989 (2011) and **2253 (2015) and decisions on the repeal of assets freezing for those who are de-listed** shall be executed without delay through the decision of the President published in the Official Gazette.

(4) Upon the suggestion of the Assessment Commission based on reasonable grounds that the acts within the scope of Article 3 and 4 have been committed, the President may suggest the United Nations Security Council to list relevant individuals, entities or organisations pursuant to United Nations Security Council Resolutions 1267(1999), 1988 (2011), 1989 (2011) and 2253 (2015) and to de-list them when reasonable grounds cease. The suggestion of the President shall be submitted to the UNSC by the Ministry of Foreign Affairs.

ARTICLE 38 - The article 7(1) of Law No.6415 has been amended as follows and the following paragraphs have been added to the article.

ARTICLE 7- (1) Apart from the subjects regulated in Articles 5 and 6, the Assessment Commission, based on reasonable grounds that the person, institution or organisations have committed the acts within the scope of Article 3 and 4, may decide to make suggestion to the President on requesting for freezing of their asset in foreign countries,

(3) Apart from the subjects regulated in Articles 5 and 6, following the definitive judgement of the court about the terrorist organisation and based on reasonable grounds the person, institution or organisations have committed the acts within the scope of Article 3 and 4, the Minister of Interior and Minister of Treasury and Finance may decide upon the suggestion of the Assessment Commission to freeze or to repeal the freezing decision regarding their assets in Turkey if reasonable grounds cease.

(4) The decision on freezing of assets made under paragraph three shall be immediately applied and presented for approval to Ankara Heavy Criminal Court determined by the Council of Judges and Prosecutors within forty eight hours. The Court shall decide within five days to retain or repeal the freezing decision as a result of examining whether there are reasonable grounds, and shall inform immediately MASAK about the decision. Decisions of the Court may be objected pursuant to the provisions of Criminal Procedure Law.

(5) The Assessment Commission shall assess whether reasonable grounds still exist in six month-periods at the latest from the date on which the decision on freezing of assets in Turkey is published in the Official Gazette and present to the relevant ministers.

(6) Requests by relevant persons for the repealing of freezing decisions shall be made to the Assessment Commission. If the Commission does not consider the request applicable, it shall forward it and its assessment to the Court for a decision to be made pursuant to paragraph four.

(7) If it is decided to freeze the assets in pursuance to paragraph three, MASAK shall decide to make a referral with a request of initiating an investigation about relevant persons pursuant to Criminal Procedure Law. The decisions upon the investigation and prosecution shall be sent to MASAK, in order to be presented to the Assessment Commission.

ARTICLE 39 - The expression "with the fourth paragraph of Article 5" has been added to the article 8(2) of Law No.6415 to come after the expression "the institutions", and "and the repealing of freezing of assets" have been added to come after the expression "freezing of the asset".

Amended Article 8 of the CFT Law no 6415

Research

ARTICLE 8- (1) Financial research regarding the decisions on freezing of asset shall be made by MASAK. For the purpose of performing this duty, information requested from public institutions and organizations and natural and legal persons shall be conveyed to MASAK without delay in accordance with required procedure, form and duration.

(2) The Ministry of Justice, the Ministry of Interior, the Ministry of Foreign Affairs, the Undersecretariat of National Intelligence Organisation, the Undersecretariat of Treasury and other relevant public institutions and organizations shall submit MASAK information, documents, findings and their opinions with regard to decisions and requests regarding freezing **and repeal of freezing** of assets within the scope of implementation of **paragraph four of Article 5 and** Articles 6 and 7.

(3) The research results shall be presented to the Assessment Commission by MASAK.

(4) Research procedures for freezing of asset shall be fulfilled in conformity with the confidentiality principles.

ARTICLE 40 - The expression "with the fourth paragraph of Article 5" has been added to the beginning of the Article 9(1) of Law No.6415.

Amended Article 9(1) of the CFT Law No 6415

Assessment Commission

ARTICLE 9- (1) The Assessment Commission for Freezing of Assets has been established in relation to the freezing of assets under the scope of **paragraph four of Article 5** and Articles 6 and 7.

ARTICLE 41- The expression "whether exists or not" (asset records) in Article 12(5) of Law No.6415 has been removed from the text.

Amended Article 12(5) of the CTF Law No 6415

If natural and legal persons and public institutions and organisations which are requested to carry out the decision on freezing of asset **have asset records** within themselves, they shall inform MASAK of the information on the frozen asset within seven days following the date of request.

ARTICLE 42- The Article 15(2) of Law No.6415 has been amended as follows and the following paragraph has been added to the article.

(2)Persons who willingly and knowingly provide or collect funds or provide financial services, knowing their natures, for the benefit of individuals, entities and organisations about whom decision of freezing of assets has been made pursuant to articles 5 to 7 of this Law, or for entities controlled directly or indirectly by them, or for individuals or entities who act on their behalf or for their benefit shall be punished with an imprisonment of one to three years or a judicial fine unless such act constitutes a serious offence requiring a heavier penalty.

(3) In case that the person who does not obey the decision on freezing of asset made in accordance with paragraph (1), or **who provides or collects funds or provides financial services** is an organ or a representative of a 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, this legal person shall be punished with an administrative fine between 10,000 and **2.000.000** Turkish Liras. **However, the administrative fine cannot be less than the amount of the transaction if it is detected.**

Enforcement of Current Decisions

PROVISIONAL ARTICLE 1- (1) The enforcement of decisions made by competent boards based on UNSC Resolutions related to countering the financing of proliferation before this Law entered into force shall continue.

(2) The provisions of this Law shall apply to enforcement of decisions made by competent boards before this Law entered into force as well.

Entry into Force

ARTICLE 43 – (1) The Articles 28 to 34 of this Law shall enter into force on 1/4/2021 and the other Articles shall enter into force at the date of its publication.

Execution

ARTICLE 44 – (1) The provisions of this Law shall be executed by the President.

31/12/2020