

Law No. 6415 On The Prevention Of The Financing Of Terrorism

(Adopted by the Turkish Grand National Assembly on 07th February, 2013)

CHAPTER ONE

Purpose, Scope and Definitions

Purpose and Scope

ARTICLE 1 – (1) This Law herein, has been prepared within the scope of effective fight against terrorism and financing of terrorism for the purpose of determining the principles and procedures on implementing the “International Convention for the Suppression of Financing of Terrorism” dated 1999 and the United Nations Security Council Resolutions related to combating terrorism and the financing of terrorism within the context of this Law, on establishing financing of terrorism offence, and on freezing of asset with the aim of preventing financing of terrorism.

Definitions

ARTICLE 2- (1) For the implementation of this Law;

a) MASAK means Presidency of Financial Crimes Investigation Board,

b) Assessment Commission means Commission for the Assessment on Freezing of Asset,

c) Fund means money or property, right, claims of every kind whether movable or immovable, tangible or intangible which could be represented by money and all kinds of documents representing them,

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

d) Freezing of asset means removal or restriction of the power of disposition over the asset for the purpose of preventing obliteration, consumption, conversion, transfer, assignation, conveyance and other dispositional actions of the asset.

CHAPTER TWO

The Offence of the Financing of Terrorism

Acts for which Providing or Collecting Funds are Forbidden

ARTICLE 3- (1) It is forbidden to provide or collect funds for perpetration of the following acts:

a) Acts intended to cause death or serious bodily injury for the purpose of intimidating or suppressing a population or compelling a government or an international organisation to do or to abstain from doing any act,

b) Acts set forth as terrorist offences within the scope of the Anti Terror Law No.3713 dated 12/04/1991,

c) Acts that are forbidden and stipulated as offence in;

1) Convention for the Suppression of Unlawful Seizure of Aircraft,

2) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation,

3) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents,

4) International Convention against the Taking of Hostages,

5) Convention on the Physical Protection of Nuclear Material,

6) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation,

7) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation,

8) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf,

9) International Convention for the Suppression of Terrorist Bombings

to which Turkey is a party.

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.

CHAPTER THREE

Freezing of Asset

The United Nations Security Council Resolutions

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.

(2) The decisions made shall be notified to the United Nations Security Council by the Ministry of Foreign Affairs.

(3) Applications against the United Nations Security Council Resolutions shall be conveyed to the United Nations Security Council by MASAK through the Ministry of Foreign Affairs.

(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.

Requests Made by Foreign Countries

ARTICLE 6- (1) In case of a request made by the government of a foreign country to Turkey on freezing of asset under the possession of a person, institution or organization, the decision on the request assessed by the Assessment Commission, shall be made by the President. Reciprocity principle shall be taken into account in the assessment. Grounds are also required to be sent together with the request by the foreign country so that a decision can be made.

(2) The requests shall be made to MASAK or to the Ministry of Justice or the Ministry of Foreign Affairs in order to be conveyed to MASAK.

(3) For execution of the requests made by the governments of foreign countries regarding freezing of asset, assurance may be requested from the relevant country.

(4) The decisions on the request regarding freezing of asset made by President shall be notified to the requesting country by the Ministry of Foreign Affairs.

(5) The decision on freezing of asset made under this Article may be repealed in cases where an investigation is not initiated within one year as from the date when the decision on freezing of asset is published in the Official Gazette.

Requests to Foreign Countries for Freezing of Asset and Procedure for Asset in Turkey

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,

(2) The decisions of the President regarding the requests for freezing of asset made to foreign countries shall be notified to the requested country by the Ministry of Foreign Affairs.

(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.

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.

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.

(2) Representatives from institutions and organisations whose knowledge and opinions are needed may also be invited to the Assessment Commission.

(3) The Assessment Commission makes a decision with at least five votes of the participants by meeting with members stated in paragraph (1) or their representatives duly assigned in place of them.

(4) Secretariat services of the Assessment Commission shall be performed by MASAK.

(5) The head of the Assessment Commission and its members shall be given a payment for each meeting which is calculated through multiplying the benchmark four thousand by the monthly wage coefficient of public officials. The payment shall not be subject to any tax or deduction except for the stamp tax.

(6) Working principles and procedures of the Assessment Commission shall be determined by a regulation.

Legal Consequences of Violation of the Decision on Freezing of Asset

ARTICLE 10- (1) Any kind of dispositions and operations carried out contrary to the decision on freezing of asset shall be null and void. Regarding such exercises of dispositions and operations, provisions of Turkish Civil Code No.4721 dated 22/11/2001 on protection of goodwill shall be reserved.

Notification and Announcement of the Decision

ARTICLE 11- (1) The decisions on freezing and unfreezing of asset made in accordance with the provisions of this Law shall be published in the Official Gazette. These decisions shall be accepted as notified on the date of their publication in the Official Gazette, to the relevant person or institution about whom the decision on freezing of asset has been made.

(2) A decision on freezing of asset shall contain the identity of the person about whom the decision was made, reasons, scope, and expiration of the decision and legal remedies that can be applied against this decision and duration of application.

Execution of Decisions on Freezing of Asset

ARTICLE 12- (1) The decisions on freezing of asset and repeal of such decisions shall gain legal validity upon its publication in the Official Gazette.

(2) MASAK is responsible for the execution of the decision on freezing of asset made in accordance with the provisions of this Law.

(3) Those about whom decision on freezing of asset has been made shall inform MASAK of the claims or debts and all other asset values and the information regarding their grounds; and those who are in claim or debt relationship with those about whom decision on freezing of asset has been made shall inform MASAK of the amount of the claim or debt and the information regarding their grounds, within thirty days at the latest following the publication date of the decision on freezing of asset in the Official Gazette.

(4) The decision on freezing of asset shall, upon the request of MASAK, be executed without delay in accordance with the procedure set forth under paragraphs 3 to 7 of Article 128 of the Law No.5271.

(5) 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.

(6) In cases where any increase occurs in the amount of the asset, such increases shall also be subject to the provisions on the freezing of asset.

(7) The decisions regarding the repeal of the decision on freezing of asset shall be notified by MASAK to the persons, organisations and institutions which carry out the freezing decision in accordance with Paragraph 4 and the decisions shall be published in the Official Gazette.

Management of the Frozen Asset

ARTICLE 13- (1) Management of the asset decided to be frozen shall be under the responsibility of the relevant natural or legal person. However, except the operations listed in the Paragraphs 2 and 3 of this Article, persons whose asset has been frozen may not carry out actions for obliteration, consumption, conversion, transfer, assignment, conveyance and other dispositional actions of the asset. Natural and legal persons, and public institutions or organizations requested to execute the decision on freezing of asset also shall not perform or facilitate such actions.

(2) The following actions may be carried out under the permission of MASAK for the purpose of ensuring the subsistence of the person about whom a decision on freezing of asset has been made and of the relatives of whom he/she is obliged to take care, or continuance of operations of the business enterprises or other legal persons about whom a decision on freezing of asset has been made:

a) establishment of absolute or personal rights on immovables, and on movables such as transportation vehicles of land, sea and air in favour of other persons,

Wielding of disposition power on;

b) accounts at banks or other financial institutions,

c) all kinds of rights and claims within natural or legal persons,

ç) negotiable instruments,

d) shares at companies,

e) the content of safe-deposit boxes,

f) Making obligatory payments of business corporations or other legal persons such as purchase and sale of goods and services, operation, maintenance and repair expenses, debts registered in their books and documents, rent, credit, custody service, insurance premium, advocacy fees and wages.

(3) All obligatory payments such as taxes, levies, duties, rents, social security premiums to be made from the frozen asset to public institutions or quasi-public corporations can be made without permission. However, MASAK may subject these actions to permission if it deems necessary.

(4) In case that permission is granted for the establishment of right in personam or in rem on immovables, and on movables such as transportation vehicles of land, sea and air in favour of other persons;

a) a copy of the contract,

b) the Information about the amount of money and value of other kinds of properties which have to be paid as requital in accordance with the contract, and the payment schedule and the bank account to which the payment is to be made,

shall be submitted to MASAK within fifteen days following the date of the establishment of the right.

(5) Any payment to those about whom decision on freezing of asset has been taken shall be made only into a bank account belonging to those persons after the decision on freezing has been published in the Official Gazette. If the person whose asset is frozen does not have an account in a bank which has its head office or a branch in Turkey, an account shall be opened by MASAK on behalf of that person.

(6) Permission for the management of the frozen asset may only be given to designated person or persons for once or for a period of time under certain conditions and restrictions.

(7) MASAK may change, where it deems necessary, the scope or time period of the permission or cancel it.

Control

ARTICLE 14 – (1) MASAK shall appoint examiners defined in Article 2(1)(e) of the Law No. 5549 on Prevention of Laundering Proceeds of Crime dated 11/10/2006 or Finance Experts employed in MASAK for controlling, when necessary, making research and examinations on the relevant books, documents and records:

a) whether persons or institutions who hold asset act in compliance with the decision of freezing or not,

b) whether the frozen asset is managed in compliance with this Law or not.

(2) Persons appointed in accordance with paragraph (1) shall be paid, by the approval of MASAK, an additional monthly wage not exceeding the amount calculated by multiplying the benchmark of 7.000 and the monthly wage coefficient of public officials, reserving the provisions of the Law No.6245 on Travel Expense dated 10/2/1954. Any tax and deduction cannot be made from these payments except for stamp duty.

Penal Provisions

ARTICLE 15- (1) Persons who do not obey or who neglect or delay to obey the decision made regarding freezing of asset in accordance with this Law shall be punished by an imprisonment for a term of six months to two years or a judicial fine unless such act constitutes a serious offence requiring a heavier penalty.

(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.

CHAPTER FOUR

Miscellaneous and Final Provisions

Provisions to be Applied and References

ARTICLE 16 – (1) For the matters not regulated within this Law, provisions of Law No.5549 which are not contrary to the provisions of this Law shall apply.

(2) In the legislation, the references made to Article 8 of Law No. 3713 which has been abolished by this Law shall be deemed to refer to Article 4 of this law.

Staff Positions Established

ARTICLE 17 – (1) The staff positions listed in Annex 1 have been established to be used in MASAK and added into the section related to the Ministry of Finance of the staffing table 1 annexed to the Decree Law No.190 dated 13/12/1983 on General Staffing and Related Procedures.

Abolished Provisions

ARTICLE 18- (1) Article 8 of Law No.3713 has been abolished.

Regulation

ARTICLE 19 – (1) Procedures and principles regarding the application of this Law shall be regulated by a Regulation which will be prepared jointly by Ministry of Justice, Ministry of Foreign Affairs, Ministry of Interior and Ministry of Finance. The regulation shall be put into force within six months as from the date on which this law enters into force.

Enforcement of Former Decisions

PROVISIONAL ARTICLE 1- (1) Provisions of this Law shall also be applicable for the enforcement of decisions on freezing of asset which have been made by the President before the date of entering into force of this Law.

Enforcement

ARTICLE 20 – This law shall enter into force on the date of its publication.

Execution

ARTICLE 21 – The President shall execute the provisions of this law.