

Questionnaire

Please provide information on the application of administrative measures in the context of countering terrorism. This includes, but not limited to, the use of administrative - or security- detention, travel or entry – into – own country bans, movement restrictions, deportation orders, countering the financing of terrorism, terrorism listing of entities and individuals, surveillance, and deprivation of nationality.

Countering financing of terrorism

Administrative measures applied in countering financing of terrorism in Türkiye could be classified as preventive measures and freezing of terrorist assets.

Preventive measures mainly regulated in the Law No.5549 on Prevention of Laundering Proceeds of Crime, Regulation on Measures Regarding the Prevention of Laundering Proceeds of Crime and Financing of Terrorism (Regulation on Measures – RoM) and Regulation on Program of Compliance with Obligations of Anti-Money Laundering and Combating the Financing of Terrorism (Regulation on Compliance – RoC).

On the other hand, Law No 6415 on the Prevention of the Financing of Terrorism and Regulation on the Procedures and Principles Regarding the Implementation of the Law on the Prevention of the Financing of Terrorism mainly regulates criminalizing the financing of terrorism and freezing of assets within the scope of effective fight against terrorism and financing of terrorism.

Preventive measures

The Law No. 5549, the RoM and RoC includes principles and procedures for prevention of laundering the proceeds of crime and financing of terrorism. Main aspects of these regulations are as follows:

- Obligated parties (financial institutions, designated non-financial businesses and professions –DNFBPs and others) are required to take customer due diligence measures including:
 - identifying their customers or those who act on behalf or for the benefit of their customers by receiving their identification information and verifying it and take necessary measures for revealing the beneficial owner of the transaction and taking necessary measures in order to detect the beneficial owner,
 - paying attention to complex and unusual large transactions the ones which have no apparent reasonable legitimate and economic purpose; business relationships and transactions with the persons in risky countries,
 - monitoring the customer profile and transactions,
 - taking enhanced measures for high-risk situations including complex and unusual large transactions and the ones which have no apparent reasonable legitimate and economic purpose, risks posed by technological developments and risky countries.
- Obligated parties are required;
 - to report suspicious transactions to MASAK in case where there is any information, suspicion or reasonable grounds to suspect that the asset, which is subject to the transactions carried out or attempted to be carried out within or through the obliged parties, has

been acquired through illegal ways or used for illegal purposes and is used, in this scope, for terrorist activities or by terrorist organizations, terrorists or those who finance terrorism,

- to provide all kinds of information, documents and related records when requested by MASAK or examiners (in addition to obliged parties, this obligation also covers all natural and legal persons and unincorporated organizations),

- to retain documents, books and records, identification documents and records kept in all forms regarding their transactions and obligations for eight years starting from the drawn up date, the last record date, the last transaction date respectively and submit them when requested,

- Obligated parties are subject to supervision conducted with risk-based approach by MASAK.

- Financial institutions and financial groups are required to establish a compliance programme on a risk-based approach for the purpose of ensuring the required compliance with the Law and Regulations and Communiques. The program should include following measures in order to prevent laundering proceeds of crime and financing of terrorism:

- institutional policy and procedures,
- risk management activities,
- monitoring and controlling activities,
- compliance officer and the compliance unit,
- training activities,
- internal audit activities.

Freezing of terrorist assets

The Law No 6415 basically includes acts for which providing or collecting funds are forbidden (Art.3), financing of terrorism offence (Art.4), execution of the UNSCRs decisions on freezing of assets (Art.5), requests made by foreign countries on freezing of assets (Art. 6), requests made by Türkiye to foreign countries on freezing of assets (Art.7), procedure for freezing of asset in Türkiye (Art.7), procedural issues including the execution and management, of decisions on freezing of asset as well as controlling whether persons or institutions who hold asset act in compliance with the decision of freezing or not; and whether the frozen asset is managed in compliance with the Law. The law also regulates penal provisions. These issues have been regulated in detail in the Regulation on the Procedures and Principles Regarding the Implementation of the Law.

Main aspects of the freezing of terrorist assets based on the Law and the Regulation as follows:

- 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 are executed without delay through the decision of the President published in the Official Gazette.

- In case of a request made by the government of a foreign country to Türkiye on freezing of asset under the possession of a person, institution or organization, the decision on the request assessed by the Assessment Commission, is made by the President. Reciprocity principle is taken into account in the assessment.

- Based on reasonable grounds that the person, institution or organisations have committed the financing of terrorism offence, the Assessment Commission may decide to make suggestion to the President on requesting for freezing of their asset in foreign countries and the decisions are notified to the requested country by the Ministry of Foreign Affairs.

- Apart from the decisions on freezing of assets through the UNSCR and freezing requests by foreign countries, 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 financing of terrorism, 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 Türkiye if reasonable grounds cease (*freezing upon internal decisions*).

- Financial research regarding the decisions on freezing of asset is made by MASAK, Turkish FIU. MASAK has the authority to perform this duty including to request information from all natural and legal persons in Türkiye.

- The decision on freezing of asset and the decision repealing it are gain legal validity upon their publication in the Official Gazette.

- As from the publication date of the decision in the Official Gazette, any kind of actions for obliteration, consumption, conversion, transfer, assignment, conveyance and other dispositional actions of the asset carried out contrary to the decision shall be null and void.

- MASAK is responsible for the execution of the decision on freezing of asset made in accordance with the provisions of the Law.

- The frozen asset is managed in the framework of the procedure in Article 15 of the Regulation in accordance with permission of MASAK provided that its possession remains on the natural or legal person whose assets have been frozen.

It should also be noted that the persons, organisations and institutions for whom a decision on freezing asset was taken are listed in MASAK website. In the case of repealing the decision, these persons, organisations and institutions are delisted. In this context, following lists could be accessible through <https://masak.hmb.gov.tr/bkk-ile-malvarliklari-dondurulanlar> :

List of persons, institutions and organisations whose assets were frozen:

- through the UNSCRs on terrorism financing,
- upon foreign countries requests,
- upon internal decisions,
- through the UNSCRs on proliferation financing.

With respect to administrative measures used and referred to above, please provide information on the challenges and benefits of the use of these administrative measures as well as good practices and lessons learned. In doing so, please elaborate how administrative measures used effectively address the threat posed by terrorism.

From the FIU (MASAK) perspective, practices resulting from differences in countries' approaches to terrorism and terrorist organizations weaken international cooperation in the fight against terrorist organizations, which have gained a largely global character today.