1) REQUESTING INTERNATIONAL COOPERATION IN CIVIL AND ADMINISTRATIVE PROCEEDINGS RELATING TO CORRUPTION

TÜRKİYE

i. Introduction

Regarding the investigation of corruption-related offences on EU funded projects, The State Supervisory Council (SSC) is the responsible unit of coordination among EU-fraud services (OLAF) and national institutions.

Financial Crimes Investigation Board (MASAK), Turkish financial intelligence unit (FIU) is an administrative authority working attached to the Ministry of Treasury and Finance and it has duties and powers in prevention of money laundering and terrorism financing (AML/CFT) field. As the FIU, MASAK mainly collects data, receives suspicious transaction reports, analyses and records them, produces intelligence and informs relevant units of the intelligence produced and outcomes of the analyses, when necessary, in the scope of AML/CFT according to the Article 231(1)(ç) of the Presidential Decree No.1.

As seen, MASAK has duties and powers in AML/CFT area and has not direct role in preventing/detecting corruption. However, as one of the associated predicate offences of money laundering, MASAK contributes efforts against corruption including international cooperation in the context of AML/CFT.

MASAK has the authority to exchange views and information with counterparts in foreign countries for the subjects that are within in the scope of its duties. (Article 231(1)(l) of the Presidential Decree No.1) As the member of the Egmont Group, MASAK exchanges information with foreign counterpart FIUs based on domestic legislation and Egmont Group’s information exchange principles as well as Memorandum of Understandings (MoUs) signed with counterpart foreign FIUs for this purpose. 60 MoUs have been signed so far. In addition, the information is exchanged through Egmont Secure Web and the it could only be used as intelligence, not the evidence by the counterparts.

In addition to information exchange, MASAK has also authority to suspend transactions. Accordingly, 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 of Treasury and Finance is 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, analyze the transaction and convey the results of those analyses to competent authorities when necessary. 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 (Article 19/A of the Law No.5549 on Prevention of Laundering Proceeds of Crime).

ii. Conditions to be met previously to the submission of a formal request

Turkey does not impose any specific condition to be met previously to the formal submission of a cooperation request. Nevertheless, considering the nature of the assistance sought, requests
should not require MLA (Mutual Legal Assistance). If MLA is required, requesting country has to transmit it via Ministry of Justice.

In terms of EU requests, According to article 50 (5) of the IPA framework agreement, signed in 2015 between Türkiye and the EU Commission, OLAF (European Anti-fraud Office) may conduct documentary and on-the-spot checks and inspections in accordance the Regulation (EU, Euratom) No 883/2013 and Regulation (EU, Euratom) No 2185/1996 on the condition that close collaboration with Türkiye’s AFCOS (Service of coordination of the fight against fraud). Accordingly, OLAF should notify Türkiye’s AFCOS in advance in good time of the object, purpose and legal basis of the inspections, and AFCOS shall provide all the requisite support to facilitate the work of the persons instructed to carry out audits or inspections.

### iii. Scope of the assistance

The State Supervisory Council (SSC) may provide assistance in regard to collecting evidence, taking statements and the serving of documents. SSC may also offer counsel on demand of relevant foreign institutions as well as joining and assisting on the spot checks of European Anti-Fraud Office (OLAF) within Türkiye.

As noted above, MASAK exchanges information with foreign counterpart FIUs based on domestic legislation and Egmont Group’s information exchange principles as well as Memorandum of Understandings (MoUs) signed with counterpart foreign FIUs for this purpose. The information can be exchanged on money laundering, associated predicates offences including corruption and terrorism financing. In this context, suspicious transactions, bank accounts, wire transfers, ID information of individuals and corporate entities etc might be subject to assistance. The information exchanged could only be used as intelligence, not the evidence by the counterparts.

### iv. Information to be included in the request

MASAK exchanges information with counterpart foreign FIUs on the basis of Egmont Group principles. Accordingly, FIUs requesting information are encouraged to disclose all information needed so the FIU receiving the request can properly process the request. This information ideally includes:

- the reason for the request;
- a description of the suspicious activities under analysis is and the grounds for suspicion;
- details of the persons or companies involved (name and date of birth for individuals; name and registered office for companies) as well as the transactions and the accounts used.
- the information requested and the purpose for which it will be used, including, if foreseen, further dissemination;
- whether the request for information is based on reports or information received or is on behalf of another authority. If the request is on behalf of another domestic agency, that agency should be clearly identified along with the expected use of the information;
- whether the FIU receiving the request is authorized to disclose the request, in full or in part, to third parties, if such disclosure is required to obtain the requested information;
- signature from authorizing official;
any need for urgency.

v. Urgency

If necessary, the FIU making the request can identify a deadline or an urgent request, including justification. This will allow the FIU receiving the request to accurately prioritize the request. Where a request is only deemed partially urgent, the relevant urgent sections should be clearly identified. FIUs are expected to refrain from arbitrary use of this terminology. Requests designated as urgent should remain the exception rather than the rule.

vi. Steps to follow when seeking assistance from Türkiye

The steps to be followed in case of international cooperation demand for administrative proceedings related to corruption are as follows:

When a request regarding the mission of the SSC is received from a foreign State, the SSC performs the required studies and contributes topics within its scope. Such a request comes from the foreign mission of the relevant state via the Ministry of Foreign Affairs.

When the European Anti-Fraud Office requests information or documents based on an investigation related to allegations of irregularity in the spending of European Union funds, the State Supervisory Council (SSC) meets these requests directly in accordance with international commitments and domestic legislation. Such requests come with an official letter via emails provided to OLAF.

If the OLAF plans an "on-the-spot check", it informs the SSC and the head of the SSC assigns and authorises auditors to join and assist OLAF investigators on their mission. Assigned auditors do all the coordination activities with OLAF and other domestic authorities.

Because Türkiye commits to protecting EU funds within Türkiye, the SSC acting as the AFCOS evaluates all investigation requests received from the Undersecretariat of Treasury (NAO) or other relevant sources and launches an investigation if necessary. After deciding the case need to be investigated based on primary evaluation, the Turkish AFCOS conduct its own investigation or ensures the examination/investigation of the allegations by the relevant public bodies which are natural members of the AFCOS network, receives the end report and notifies the NAO of the outcome of the investigation.

vii. Contact information of the Central Authority

“SSC:

Hasan Basri CAN (Auditor): hbasri.can@TCCB.GOV.TR
Cumali AYTEKİN (Auditor): cumali.aytekin@TCCB.GOV.TR
Seyfettin METİN (Auditor): seyfettin.metin@TCCB.GOV.TR
Yusuf Erkan ÖZÇELİK (Auditor): yusuf.ozcelik@TCCB.GOV.TR”