Republic of Turkey **06.05.2015**

Collection of information prior to the sixth meeting of the "Open-ended Intergovernmental Working Group on Prevention"

I - Information requested from States parties and signatories in relation to integrity in public procurement processes and transparency and accountability in the management of public finances (arts. 9 and 10).

1. Please describe (cite and summarize) the measures/steps your country has taken has taken (or is planning to take) to implement this provision of the Convention.

Public Procurement Authority is assigned and authorized for the accurate implementation of the principles, procedures and proceedings specified in Public Procurement Law (PPL) which is numbered as 4734.

Most deterrent part of PPL in terms of anti-corruption is Article 17 which regulates the prohibited acts or conducts. According to Article 17 of PPL, prohibited acts or conducts are as follows;

a) to conduct or attempt to conduct procurement fraud by means of fraudulent and corrupt acts, promises, threats, unlawful influence, undue interest, agreement, malversation, bribery or other actions,

b) to cause confusion among tenderers, to prevent participation, to offer agreement to tenderers or to encourage tenderers to accept such offers, to conduct actions which may influence competition or tender decision,

c) to forge documents or securities, to use forged documents or securities or to attempt these.

d) to submit more than one tender by a tenderer on his own account or on behalf of others, directly or indirectly, as the principal person or as representative of others, apart from where submitting alternative tenders is allowed.

Moreover, Article 17 prohibits the acts which are expressed in Article 11.

The following persons or authorities cannot participate in any procurement, directly or indirectly or as a sub-contractor, either on their own account or on behalf of others:

a) those who have been temporarily or permanently prohibited from participating in public procurements; and those who have been convicted of the crimes under the scope of Prevention of Terrorism Law No:3713, or of organized crimes, or of bribing crimes in their own country or in a foreign country.

b) those whom the relevant authorities have been decided that they have been involved in fraudulent bankruptcy,

c) the contracting officers of the contracting authority carrying out the procurement proceedings, and the persons assigned in boards having the same authority,

d) those who are assigned to prepare, execute, complete and approve all procurement proceedings relating to the subject matter of the procurement held by the contracting authority,

e) the spouses, relatives up to third degree and marital relatives up to second degree, and foster children and adopters of those specified under paragraph (c) and (d),

f) the partners and companies of those specified under paragraph (c), (d) and (e) (except for joint stock companies where they are not a member of the board of directors or do not hold more than 10 % of the capital).

Additionally, Article 58 and 59 of PPL regulate sanctions against prohibited acts and conducts. According to aforementioned article, those who are established to be involved in acts and conducts set forth in Article 17, shall be prohibited from participation in any tender carried out by all public institutions and authorities, for at least one year and up to two years depending on the nature of the said acts and conducts; and those who do not sign a contract in accordance with the procedures, except for force majeure, although the tender has been awarded to them, shall be prohibited likewise from participation in any tender for at least six months and up to one year.

Even if it has been established after the completion and acceptance of the contract, the real or legal persons and their partners or proxies who have been involved in acts or conducts among the ones specified in Article 17 constituting a crime under the Criminal Code, shall be notified to public prosecutors in order to be held subject to criminal prosecution in accordance with provisions of the Criminal Code. In addition to the punishment rendered by the court, these persons shall be prohibited from participation in the procurement proceedings of all public institutions and authorities that are included within the scope of PPL by decision of court, starting from the ending date of the prohibition decision made by the contracting authority and for a period of at least one year and up to 3 years.

Those who are convicted for repeated times for prohibited acts and conducts set forth under PPL, and the companies with shared capital in which these persons own more than half of the capital, or the sole proprietorships to which these persons are partner, shall be prohibited permanently from participation in public procurements by court decision.

Moreover, contracting officers are also responsible for their illegal acts. In case it is established that the contracting officer, the chairperson and the members of the tender commissions and other related persons assigned at any stage of the procurement proceedings from the beginning until the signing of contract, have committed acts or conducts specified in Article 17; have failed to fulfil their duties in accordance with the legal requirements or failed to act impartially; or have been involved in defaults or negligent acts which inflict loss upon one of the parties, these persons shall be given a disciplinary punishment in accordance with the related legislation. Criminal prosecution shall also apply for these persons depending on the nature of their acts or conducts, and in addition to the punishment rendered by the court,

these persons shall compensate for all the loss and damage inflicted upon the parties in accordance with the general provisions. The persons who have been convicted for the acts and conducts contrary to PPL shall not be assigned to duties within the scope of PPL.

The personnel who have been incurred to any punishment by judicial bodies due to acts and conducts included within the scope of PPL shall not be appointed and assigned by any Public institutions and authorities covered in PPL, to any duties or authorized positions related with the implementation of PPL or other related regulations.

Public Procurement Authority keeps the records of those who are prohibited from participating in tenders. According to procurement statistics which were published by Public Procurement Authority, the number of companies which are profhibited from participating in tenders, are shown in Table 1. Additionally, Table 2 shows the number of prohibited companies in year 2014 in terms of types of entities.

Table 1: Number of Prohibited Companies in 2014

Year	Prohibited Companies
2011	8190
2012	9697
2013	8697
2014	7845

Table 2: Number of Prohibited Companies in 2014

Type of Entity	Number of Prohibited Companies in year 2014	Percentage
Natural Entity	6424	81,89
Legal Entity	1421	18,11
Total	7845	100

Strategy For Enhancing Transparency and Strengthening the Fight Against Corruption:

The Prime Ministry's Circular No: 2009/19 published in the Official Gazette dated 05/12/2009 has provided for the creation of:

- A "Commission of Enhancing the Transparency and Strengthening the Fight against Corruption in Turkey" (the "Commission") headed by the Deputy Prime Minister and comprising the Minister of Justice, the Minister of Finance and the Minister of Labor and Social Security and
- -A "Steering Committee for Enhancing Transparency and Strengthening the Fight against Corruption in Turkey" (the "Steering Committee") headed by the Deputy Undersecretary of the Prime Ministry and comprising the representatives of the Union of Chambers and Commodity Exchanges of Turkey and Türk-İş Labor Union.

"The Strategy for Enhancing Transparency and Strengthening the Fight against Corruption" adopted by the Decree of the Council of Ministers numbered 2010/56 has been published in the Official Gazette number 27501 dated 22 February 2010

"The Action Plan for Enhancing Transparency and Strengthening the Fight against Corruption", has been adopted by the Commission's Decision dated 12 April 2010 and numbered 2010/1

On 21 April 2010, the Steering Committee requested the establishment of a working group on 23 measures.

The Steering Committee discussed the reports prepared by the working groups, including their findings, between 18 October 2010 and 10 May 2011 and submitted them to the Commission.

On 19 August 2011, the findings submitted to the Commission by the Steering Committee were ratified and working groups were entrusted to propose solutions.

The Steering Committee discussed the reports prepared by the working groups, including their findings, between 13 June 2012 and 26 November 2013 and submitted them to the Commission.

The solution proposals were approved by the Commission's Decision number 2014/1, dated 14 January 2014.

Transparency Package Announced by Prime Ministry

Prime Minister Mr. Ahmet Davutoğlu publicized the strategy outputs on 14 January 2015, namely 'Transparency Package in Public Administration'. In this regard, the work planned within the framework of "The Strategy for Enhancing Transparency and Strengthening the Fight against Corruption in Turkey" covering the period 2010-2014 was completed and the strategy has been concluded. By this package, the following legal amendments were proposed:

Amendments to the Law No. 298 on Fundamental Provisions on Elections and Electoral Registers and Law No. 2820 on Political Parties with reference to the transparency of the financing of political parties and election campaigns;

- Depositing contribution in cash into bank accounts held in the names of parliamentary and mayoral candidates for their election campaigns, and ensuring the transparency of these accounts;

- Imposing certain limits on contribution, either in cash or in kind, provided to the candidates and political parties;

- Ensuring that the amount granted to the political parties is announced in the electronic environment;

- Auditing election accounts and election expenditures and announcing the audit results in the electronic environment;

- Imposing an administrative fine for failure to comply with the obligations introduced by the draft law;

- Ensuring that all political parties participating in the elections will inform the public on their financial resources as of the beginning of the election campaigns;

- Ensuring the announcement of accounts regarding the elections in the electronic environment upon publicizing of election results;

Amendments to the Law No. 3628 on Declaration of Property and Fight against Bribery and Corruption;

- Introducing the obligation for deputy chairmen of political parties with a group in the TGNA (The Turkish Grand National Assembly), administrators of the party central organisation, provincial and district chairmen, managers of radio and television channels broadcasting at the regional or local levels to submit a declaration of their property; ensuring that the president and members of the high courts and heads of chambers submit a declaration of property to the TGNA;

- Decreasing the interval for renewing declarations of property from five years to two years and removing the obligation to submit additional declarations;

- Ensuring that ethics committees set up in public institutions have an effective role in the control and assessment of declarations of property; also ensuring the assessment of such declarations of high-level administrators (specified in the Law No. 5018) by the "Public Servants Board of Ethics";

- Setting-up of an IT infrastructure that enables submission and assessment of declarations of property in the electronic environment.

Amendments to the Law No. 2531 on the jobs prohibited to those who quit a position in the public service

- Ensuring that the public servants who are no longer employed in public service cannot provide services or undertake commitments nor act as contractor, broker, representative, consultant or handler vis a vis their former employer and neither can they attend negotiations involving their former employer for a period of two or three years, depending on the nature of their former position.

- Introducing the obligation for natural and legal persons who will be contracted by administrations to submit a written declaration that they do not employ persons with such restrictions in accordance with this law.

Amendments to the Law No. 657 on Public Servants;

- Ensuring a permanent or temporary transfer to a different department or paid leave of absence for up to three months or appointment in another public institution or

organization for public servants who have notified the relevant authorities about an irregularity;

- Ensuring that any superior who is related with the subject matter is prevented from preparing the employment records or performance evaluation of the public servant who has notified the authorities about an irregularity;

- Rewarding the public servants notifying the relevant authorities, provided that the allegation is well founded; however, applying serious sanctions without delay in cases of unfair incrimination and slander;

Amendments to the Law on Zoning include the following arrangements:

- Ensuring that the preparation of zoning plans is carried out with greater transparency and accountability;

- Ensuring the fair and swift implementation of zoning practices;

- Ensuring that municipalities also benefit from the value increases stemming from the changes in the master zoning plan; publication of draft and finalized zoning plans and changes to these plans on the websites of municipalities, on bulletin boards accessible to all and at the offices of the district authorities, as well as providing summarized versions of these plans in a local newspaper;

- Ensuring that all public administrations authorized to prepare and change zoning plans publish all stages of planning on their websites and the website of the Ministry of Environment and Urbanization specifically set up for this purpose;

- Ensuring that changes to the plans are to the extent allowed by social and technical limitations and they preserve the history, culture, environment, as well as the city skyline; ensuring that plans are no longer routinely changed;

- Allowing for overall changes that involve the master zoning plan, rather than an incremental change to one minor section; with reference to changes to the master zoning plan which are not made upon a request by an individual, allowing the municipality to make changes in the overall plan or in one section of this plan, or one street, road or entire neighborhood regardless of whether a request has been made;

The Law on Members of Parliament will be prepared by taking into consideration the Political Ethics study agreed on by four political parties with groups in the TGNA.
The Next Period;

- In addition to the amendments, which have been realized in 2010-2014 period, work will continue to increase transparency within the scope of a new action plan on the fight against corruption covering 2015-2018 period.

- Draft topics are about 'Transparency in NGOs and private sectors' and 'Review of the Public Procurement System'.

Additional Information;

- ‘Political Ethical Principles’ are included in the draft law on Members of Parliament.

2. Please outline actions required to strengthen or improve the measures described above and any specific challenges you might be facing in this respect.

N/A

3. Do you require technical assistance in relation to the measures described above? If so, please specify the forms of technical assistance that would be required. In case you have received or are receiving technical assistance to implement these measures, please indicate so in your response.

N/A

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II. Information requested from States parties and signatories in relation to measures to prevent money-laundering (art. 14)

1. Please describe (cite and summarize) the measures/steps your country has taken has taken (or is planning to take) to implement this provision of the Convention.

Turkey has completed a heavy legislation making process regarding the preventive and suppressive measures to combat with money laundering (ML) since 2005. In 2005, the new Turkish Criminal Law (TCL) no 5237 was entered into force and the article 282 regulates ML offence. Afterwards, in 2006 the Law no 5549 on Prevention of Laundering Proceeds of Crime (AML/CFT Law) was enacted and then the relevant regulations and communiques were adopted. Also Criminal Procedures Law (CPL) no 5271 and Misdemeanors Law no 5326 comprise relevant provisions in this context.

Suppressive Measures for ML

Regarding the suppressive measures, the TCL no 5237, the CPL no 5271, Misdemeanors Law no 5326 and the AML/CFT Law no 5549 are of utmost importance.

The article 282 of TCL was amended with the law no 5918 in 2009 for the purpose of complying with the FATF standard which refers to the definitions of Vienna and Palermo Conventions. The last version of the article is seen below:

Box 1: Article 282(1) and (2) of TCL (ML Offence)

ML Offence *“(1) A person who transfers abroad the proceeds obtained from an offence requiring a minimum penalty of six months or more imprisonment, or processes such proceeds in various ways in order to conceal the illicit source of such proceeds* ***or*** *to give the impression that they have been legitimately acquired shall be sentenced to*

imprisonment from three years up to seven years and a judicial fine up to twenty thousand days"

"(2) A person who, without participating in the commitment of the offence mentioned in paragraph (1), purchases, acquires, possesses or uses the proceeds which is the subject of that offence knowing the nature of the proceeds shall be sentenced to imprisonment from two years up to five years."

In cases where the proceeds of crime were detected in a laundering case, the court may also decide for confiscation. The TCL also comprises the conviction based confiscation provisions. The article 54 of TCL regulates confiscation of property and the article 55 regulates confiscation of income. Both provisions are applied value based.

However, it is not necessary to wait until the end of trials for restricting the rights of disposition on laundered assets. The CPL comprises seizure provisions between the articles 123 to 128 and according to article 17 of the Law no 5549, the illicit assets may be seized. According to the results of analysis, evaluation and examination works conducted by Financial Intelligence Unit of Turkey (MASAK) experts and examiners; MASAK may request seizure of assets from the public prosecutors.

Box 2: Article 17 of the AML/CFT Law

Seizure

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. The decision of Public Prosecutor's Office shall be invalid in case of non-approval.

Besides, according to article 282(5), if a legal entity is involved in the ML offence it shall be subject to security measures. The security measures for legal persons are described in TCL article 60 that confiscation and cancellation of licences measures are considered for legal persons involving in the commission of ML offence. Additionally, according to the Article 43/A of the Misdemeanours Law (added by Law No. 5918 in 2009) in cases where ML (and terrorist financing) offence is committed for the benefit of a legal person, the legal person will be punished with an administrative fine (of ten thousand TRY to two million.

Preventive Measures for ML

Within the preventive measures, the measures regarding customer due diligence (CDD), suspicious transactions reporting (STR), record keeping, retaining and submitting documents, supervision of obligations were regulated in the Regulation on Measures

Regarding Prevention of Laundering Proceeds of Crime and Financing of Terrorism (RoM) that entered into force on 1 April 2008 . RoM was amended by Regulations Amending the RoM which entered into force on 2 January 2010 and 10 June 2014 respectively.

Aside from the preventive measures mentioned above, establishing a compliance program comprised of institutional policy, AML/CFT risk management, monitoring and control activities, training activities, internal control activities and assigning a compliance officer issues are regulated in the Regulation on Program of Compliance with Obligations of Anti-Money Laundering and Combating the Financing of Terrorism (RoC) that entered into force on 1 March 2009 and was amended by Regulation Amending the RoC which entered into force on 11 June 2014.

Additionally, relevant Communiqués were issued by MASAK in accordance with RoM . For instance, the provisions regarding simplified measures within the scope of CDD are regulated through MASAK General Communiqué No: 5 that entered into force on 09 April 2008 and was amended respectively by MASAK General Communiqué No: 9 dated on 2 January 2010, MASAK General Communique No 10 published on 19 November 2013 and MASAK General Communiqué No:11 published on 11 June 2014.

The STR types and reporting procedures were also regulated through MASAK General Communiqués. The MASAK General Communique no:6 entered into force on 27 September 2008. This communique was substituted by MASAK General Communique no 13 that was published on 25 August 2014.

The compliance level of obliged parties listed in RoM article 4(1) are annually monitored and supervised by MASAK. According to article 35(1) of RoM, supervision of obligations activities are based on annual supervision programs or individual violation examinations. The supervision is carried out by the examiners on behalf of MASAK which are listed in 3(1)d of RoM. They are "Tax Inspectors, Customs and Trade Inspectors, Sworn-in Bank Auditors, Treasury Comptrollers, Insurance Supervisory Experts and Actuaries, Banking Regulation and Supervision Agency and Capital Markets Board Experts" and assigned according to their professional area for supervision. The sectors to be primarily supervised annually are decided by MASAK after consulting with the relevant regulatory and supervisory authorities.

In addition to on-site supervision activities, MASAK also conducts off-site supervision. The institutional policies, results of training and internal control activities are submitted to MASAK and the accuracy and appropriateness of them are monitored by MASAK experts.
In cases of detecting a violation in the obligations, administrative fines are imposed to the obliged parties. The fines in Article 13 of the Law No.5549 are applicable for each violation of an obligation.

Box 3: Administrative Fines Imposed to Obliged Groups (*Article 13/1 of the Law No.5549)*

Fines imposed to **non-financial obliged parties** for each violation *(Article 13/1 of the Law No.5549)*

- 2006 – TRY 5.000
- 2007 – TRY 5.390
- 2008 – TRY 5.778
- 2009 – TRY 6.471
- 2010 – TRY 6.613
- 2011 – TRY 7.122
- 2012 – TRY 7.852
- 2013 – TRY 8.464
- 2014 – TRY 8.796
- 2015 – TRY 9.685

For each obligation, the total amount of fine imposed within the year of the violation can not exceed TRY 1.000.000

Fines imposed to **financial institutions** for each violation. *(Article 13/1 of the Law No.5549)*

- 2006 – TRY 10.000
- 2007 – TRY 10.780
- 2008 – TRY 11.556
- 2009 – TRY 12.942
- 2010 – TRY 13.226
- 2011 – TRY 14.244
- 2012 – TRY 15.704
- 2013 – TRY 16.928
- 2014 – TRY 17.592
- 2015 – TRY 19.370

For each obligation, the total amount of fine imposed within the year of the violation can not exceed TRY 10.000.000

For example, if a bank violates customer identification obligation for a single transaction, it will be subject to an administrative fine of TRY 19.370 in 2015. If the bank violates this obligation for 10 transactions, it will be subject to TRY 193.700. However, the total amount of fine to be imposed for violation of customer identification within the year of violation cannot exceed TRY 10.000.000

Moreover, it should be noted that in cases of violations regarding the obligations of "tipping off", providing information and documents, retaining and submitting, the cases are conveyed to public prosecutors as judicial penalties are imposed for these violations in article 14 of the Law no 5549. (The AML/CFT Law and the relevant regulations can be found in MASAK's official web site in English version.)

At minimum, banks and non-bank financial institutions ensure effective customer and beneficial owner identification, monitoring of transactions, accurate record keeping and have in place a reporting mechanism on suspicious transactions

Customer due diligence (CDD), suspicious transactions reporting (STR), record keeping, retaining and submitting documents, supervision of obligations are regulated in RoM and establishing a compliance program comprised of institutional policy, AML/CFT risk

management, monitoring and control activities, training activities, internal control activities and assigning a compliance officer issues are regulated in RoC. Besides, the banks, non-bank financial institutions, designated non-financial businesses and professions (DNFBPs) are among the obliged groups in Turkey. The compliance level of the obliged groups to the obligations is supervised according to annual supervision programs and individual violation examinations.

The list of the obliged groups is featured in article 4(1) of the RoM.

Box 4: List of the Obliged Parties (*Article 4/1 of the RoM)*

Obliged Parties (groups)
ARTICLE 4- (1)
In implementation of the Law, obliged parties are the followings and their branches, agencies, representatives, commercial proxies and similar affiliated units:
a) Banks.
b) Institutions other than banks who have the authority to issue bank cards or credit cards.
c) Authorized exchange offices given in legislation on foreign exchange.
ç) Money lenders, financing and factoring companies within the scope of legislation on money lending.
d) (Amended: Official Gazette- 02.01.2010 /27450) Capital Markets Brokerage Houses, Futures Brokerages and portfolio management companies.
e) Investment fund managers.
f) Investment partnerships.
g) (Amended: Official Gazette- 02.01.2010 /27450) Insurance, reinsurance and pension companies, and insurance and reinsurance brokers.
ğ) Financial leasing companies.
h) Institutions furnishing settlement and custody services within the framework of capital markets legislation.
ı) Presidency of Istanbul Gold Exchange pertaining only to its custody service.
i) General Directorate of Post and cargo companies,
j) Assets management companies.
k) Dealers of precious metals, stones and jewelleries.
l) Directorate General of Turkish Mint pertaining only to its activities of minting gold coins.
m) Precious metals exchange intermediaries.
n) Those who buy and sell immovable for trading purposes and intermediaries of these transactions.
o) Dealers of any kind of sea, air and land transportation vehicles including construction machines.
ö) Dealers and auctioneers of historical artefacts, antiques and works of art.
p) Those who operate in the field of lotteries and betting including Turkish National Lottery Administration, Turkish Jockey Club and Football Pools Organization Directorate.
r) Sports Clubs.
s) Public notaries.
ş) Freelance lawyers pertaining only to functions within the scope of paragraph 2 in Article 35 of Law No. 1136 on Lawyers such as trading of immovable, establishing, managing and transferring companies, foundations and associations provided that these functions are not contrary, in terms of right of defending, to provisions of other

laws.
t) (Amended: Official Gazette- 02.01.2010 /27450) Certified general accountants, certified public accountants and sworn-in certified public accountants operating without being attached to an employer
u) (Added: Official Gazette- 02.01.2010 /27450) Independent audit institutions authorized to conduct audit in financial markets

Here are the statistics regarding supervision of obliged groups for the last five years. As seen from the table, the supervision is focused primarily on banks (which take almost %90 of the Turkish financial system) and other financial institutions. Besides, DNFBPs are also taken into consideration of the annual supervision programs.

Table 1: Supervision Statistics

Obliged Group	Number of Supervisions Per Year				
	2010	2011	2012	2013	2014
Banks	-	-	2	52	23
Factoring companies	16	20	8	20	7
Financial leasing companies	3	18	10	2	2
Financing companies	10	-	1	1	2
Money lenders	10	10	1	2	-
Dealers of any kind of sea, air, land transportation vehicles including construction vehicles	-	-	-	-	7
Cargo companies	-	-	-	5	-
Dealers of precious metals, stones and jewelries	-	-	-	5	6
Precious metals exchange intermediaries	-	11	8	-	-
Portfolio management companies	7	5	4	-	3
Capital market brokerage houses	23	43	11	14	8
Insurance agencies	-	-	-	-	5
Insurance and pension companies	-	-	-	6	7
Insurance and reinsurance companies	-	-	-	-	4
Operators of lottery and bet games	-	6	1	-	-
Dealers and auctioneers of historical artifacts, antiques and works of art	-	-	-	5	2
Those who buy and sell immovable for trading purposes	-	-	2	5	-

Asset management companies	-	6	2	-	-
Exchange offices	-	-	3	11	11
Other	-	1	-	2	1
Total	69	120	53	130	88

The statistics regarding the number of administrative fines per violated obligation type for the last 5 years is shown below. As seen from the tables below, while the number of violations detected is decreasing, the number of obliged groups subject to administrative fines has increased in the last years. From our point of view, it shows that both the awareness of obliged groups and efficiency of the supervision activities are increasing.

Table 2: Number of Violations and Obliged Groups Being Subject to Administrative Fines

Obligations \ Years	**2010**	**2011**	**2012**	**2013**	**2014**
CDD Measures (Customer Identification)	127	66	1.275	1.239	504
STR Reporting	5	23	1	12	72
Training, Internal Control, Control and Risk Management Systems, Other measures	-	-	-	3	1
Total number of acts	**132**	**89**	**1.276**	**1.254**	**577**
Number of Obliged Groups Subject to Administrative Fines	**12**	**15**	**21**	**27**	**49**

Years	**2010**	**2011**	**2012**	**2013**	**2014**
Amount of Administrative Fine (TRY)	1.452.441	1.292.284	14.369.887	10.973.207	9.354.671

This increase of awareness on the obligations can also be seen from the STR statistics as the number of STRs have increased from 10.251 in 2010 to 36.483 in 2014 and number of financial institutions sending STR have increased from 75 in 2010 to 181 in 2014.

Chart 1: STR Statistics

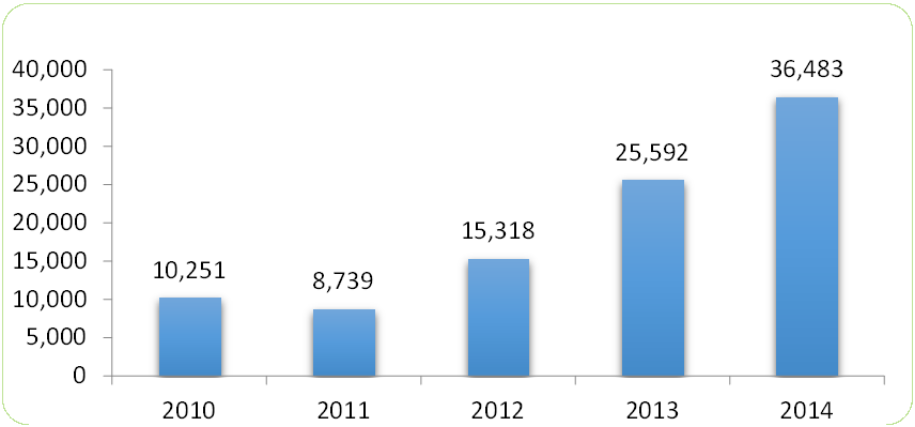
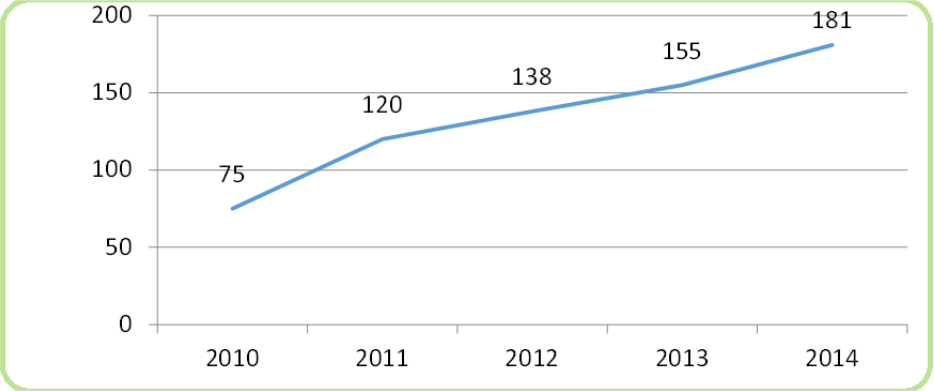


Chart 2: Number of Different Financial Institutions Sending STRs



The increase in the compliance level of obliged groups and efficiency in supervision activities can also be gained by the training activities coordinated by MASAK. In 2014, 10 training activities were organised by MASAK for the obliged groups and totally 566 participants attended. In addition to training activities, MASAK prepares guidelines and brochures for the obliged parties, organize meetings annually with the compliance officers of financial institutions and provide feedback about the qualities, quantities and trends of STRs and good practice examples for other obligations.

The list of the obliged groups are given in Box 1. As seen from this box, in addition to financial institutions, many non-financial institutions and professions are determined as obliged groups. These non-financial obliged groups include the de*signated non-financial businesses and professions* (DNFBPs) as defined in the FATF general glossary (except trusts and casinos which are not operating in Turkey) and other obliged groups such as cargo companies, Directorate General of Turkish Mint, dealers of transportation vehicles, dealers and auctioneers of historical artefacts etc., those operating in the field of lotteries and betting, sport clubs.

Box 5: DNFBP Definition in FATF Glossary

The DNFBPs are defined in the FATF General Glossary, Accordingly, DNFBPs include a) Casinos b) Real estate agents. c) Dealers in precious metals. d) Dealers in precious stones. e) Lawyers, notaries, other independent legal professionals and accountants, f) Trust and Company Service Providers

The non-financial obliged groups shall comply with the obligations regulated by the articles from 5 to 19 (customer and beneficial ownership identification), 22 (rejection of transaction and termination of business relationship), 27 to 30 (suspicious transaction reporting), 31-34 (providing information and documents) and 46 (obligation of retaining and submitting) of RoM.

As shown in Table 1 and explained in previous question, the non-financial obliged groups are supervised according to annual supervision programs and individual violation examinations. However, these groups do not have any obligation regarding RoC that they are not subject to the obligations of establishing compliance programs and assigning compliance officers.

Ensure that agencies involved in anti-money laundering can cooperate and exchange of information at national and international levels.

MASAK has the authority to collect any kind of information from public institutions and organizations, natural and legal persons and unincorporated organizations according to article 7 of the AML/CFT Law. Moreover, according to the article 9 of the same law, MASAK may set up an access system to the data processing systems of those institutions. In this context MASAK signs protocols with the relevant public institutions to gather information from them. As a result MASAK has real time and direct access to some institutions databases such as tax, citizenship, land registry, social security, judicial records, etc. Stock data is also received from some institutions such as the possession and balance of bank accounts, police intelligence records etc.

Additionally, regarding the domestic cooperation and exchange of information works, MASAK informs the relevant agencies in Turkey about the results of the analysis and evaluation works. The works on analysis, evaluation and examination of money laundering offence has three basic outputs. In cases of obtaining findings on the commission of money laundering offence MASAK directly conveys the file to the Public Prosecutors as referrals. In cases where such findings are not obtained accurately but the results of the works is considered to be of interest to other relevant institutions, MASAK informs these institutions about the cases. If no serious findings are obtained, the file is recorded to the MASAK database.

Here are the statistic regarding informing other institutions for the purpose of intelligence sharing in 2014.

Table 3: Institutions Informed for Intelligence Purposes after Analyses and Evaluations (2014)

Institution	Number of Persons
Law Enforcement	564
Tax Inspection Board	130
Ministry of Customs and Trade	130
Judicial Authorities	73
National Intelligence Organization	55

Aside from the domestic cooperation and exchange of information channels, MASAK is authorized to exchange information internationally and sign memoranda of understanding (MoU) with its foreign counterparts according to Article 12(1) and 19(1)m of the Law No 5549.

Box 6: ***International Information Exchange***

International Information Exchange
Article 12 (1) Head of MASAK shall be authorized to sign the memoranda of understanding, which are not in the nature of international agreement, with foreign counterparts and to amend the memoranda of understanding signed in order to ensure exchanging information within the scope of duties of MASAK. The signed memoranda of understanding and their amendments shall enter into force by the Decision of Council of Ministers.

Duties and Powers of MASAK
Article 19(1)
m) To exchange information and documents with counterparts in foreign countries, and for this purpose, to sign memorandum of understanding that is not in the nature of an international agreement.

Since 2006, MASAK has signed MoU with 48 countries' FIU units.

2006 (1) Turkish Republic of Northern Cyprus
2007 (3) Indonesia, Portugal, Sweden
2008 (6) Mongolia, Afghanistan, Georgia, Albania, Syria, Romania
2009 (4) Macedonia (FYROM), South Korea, Croatia, Bosnia and Herzegovina
2010 (6) Japan, Ukraine, Norway, Jordan, Senegal, Luxembourg
2011 (6) Belarus, United Kingdom, Canada, Monaco, Finland, Australia
2012 (8) United States, Netherlands, Belgium, Poland, Malaysia, Kosovo, Russia Federation, Philippines
2013 (7) South Africa, Germany, Tunisia, Turkmenistan, Denmark, S. Arabia, Morocco
2014 (2) Bangladesh, Kazakhstan
2015 (5) Azerbaijan, Argentine, Kirgizstan, Tajikistan, Montenegro

Besides, MASAK has been a member of Egmont Group of Financial Intelligence Units since 1998 which is an informal network of FIUs on cooperation and information sharing. Since 2001, MASAK has been exchanging intelligence with its counterparts via Egmont Secure Web being the secure communication platform of Egmont Group.

Table 4: Dispersion of the Number of Information Exchanges per Year (2009-2014)

Year	Received Requests	Sent Requests
2009	169	162
2010	188	63

2011	202	38
2012	221	60
2013	282	33
2014	289	96

- **Consider or establish financial intelligence units (FIUs)**

  In Turkey, the fight against laundering proceeds of crime acquired a legal identity by Law no. 4208 enacted in 1996 and the Financial Crimes Investigation Board (MASAK) was set up with this law which was abolished in 2006 after the enactment of the current AML/CFT law no 5549 in 2006. MASAK is operating as Turkey's financial intelligence unit.

- **Consider or become part of anti money laundering networks (such as FATF, FSRBs, Egmont Group)**

  Turkey has been a member of FATF since 1991 and has been a member of Egmont Group since 1998 and exchanging information via Egmont Secure Web since 2001. Moreover, Turkey has observer status in Eurasian Group and Moneyval.

- **Require individuals and businesses to declare / disclose cash border transportation and other negotiable instruments**

  "Disclosure to custom administration" is regulated under Article 16 of Law No.5549. Accordingly, passengers who carry Turkish currency, foreign currency or instruments ensuring payment by them to or from abroad, shall disclose them fully and accurately on the request of customs administration. If no explanations are made or false or misleading explanation is made upon requested by the authorities, valuables with the passenger shall be sequestrated by the Customs Administration.

  An administrative fine shall be imposed on the passengers who do not make explanation and who make false explanation on the amount they carry, with one tenth of the value carried, and of the difference between the value carried and disclosed respectively. Besides, the circumstance is considered as suspicious and shall be conveyed to the MASAK and other related authorities.

  In accordance with Article 42 of the RoM, detections regarding the passenger from whom a disclosure is requested shall be recorded in official form and the following minimum information must be included in the official form drawn up;

  - The place where the form has been drawn up and the date of the form,
  - The identification information of the passenger which is determined through one of the ID cards stated in Article 6,
  - Profession or occupation of the passenger,
  - The address of residence, destination address and telephone number of the passenger, if any, which he/she declared,
  - Disclosures of the passenger regarding the values with them concerning their type, quantity, amount and to whom they belong,

- The detailed list of values held by the passenger determined by customs officer according to their type, quantity and amount,
- The explanations relating to the situation occurred in terms of liability in the Article 16 of the Law,
- Number of pages and copies of the form,
- The signature of the passenger,
- The name, surname, title, personnel record number and signature of the officer who has drawn up the form.

Additionally, according to Article 45 of the RoM,

- Customs administration shall take the necessary measures for recording in electronic form the findings in the official form drawn up in accordance with the Article 42 and protecting these records.
- MASAK may request preparation of statistics using data recorded in electronic form and transmission of data to MASAK in various formats.

Moreover, a circular no 2010/3 was published by General Directorate of Customs attached to Undersecretariat of Customs indicating the procedures of requesting disclosure from the passengers. After the adoption of decree law number 640 by Council of Ministers, Undersecretariat of Customs was abolished and establishment of a new Ministry of Customs and Trade was decided on 03.06.2011. Ministry of Customs and Trade, General Directorate of Customs Enforcement was assigned to control cross border transportating of currency. In this context, a new circular no 2013/1 was published by General Directorate of Customs Enforcement which indicates the procedures of requesting disclosure from the passengers.

Require financial institutions including money remitters to meaningful indentify originator of electronic transfer of funds; maintain such information throughout the payment chain and apply enhanced scrutiny to transfers lacking complete information on originator or beneficiary.

Wire transfer is defined in Article 3(1)(e) of the RoM as *"the transaction carried out to transfer a certain amount of money and securities from a financial institution on behalf of the originator to the beneficiary in another financial institution by using electronic means."*
The obligation for wire transfers is stipulated in Article 24 of the RoM. This obligation applies to cross border and domestic transfers between financial institutions except the transfers defined in Article 24(2).

For all wire transfers, required full originator information is listed in Article 24(1) as "name and surname, account number or reference number, address or place and date of birth or the numbers such as TR-ID number, passport number, tax ID number for identifying the originator".

The obligation for wire transfers applies to the financial institutions regardless of their status (whether originator, intermediary or beneficiary) as the provision refers to "financial institutions". Accordingly, each financial institution including intermediaries in the payment chain is required to ensure that full originator information accompanies the transfer.

The arrangements in the Chapter 3 of the RoM on CDD principles involve the institutions who make wire transfers.

In accordance with Article 5(1)(c) of the RoM, obliged parties shall identify their customers or those who act on behalf or for the benefit of their customers by receiving their identification information and verifying it when the amount of a single transaction or the total amount of multiple linked transactions is equal to or more than TRY 2.000 in wire transfers.

Obligation of retaining and submitting is regulated in Article 8 of the Law No:5549 and Article 46 of the RoM. Accordingly, obliged parties shall retain all necessary records regarding their transactions and obligations for 8 years and submit them when requested.

For handling wire transfers that are not accompanied by full originator information,

- Banks and PTT bank, in the scope of monitoring and controlling activities, are required to take measures to control the information required to be placed in wire transfer messages, and to complete the missing information and documents and update them. (Article 15(1)(e) of the RoC) When financial institutions receive a wire transfer message not including the full originator information, they are required to either return the wire transfer message or to get the financial institution that sent the message to complete the missing information. (Article 24(3) of the RoM)
- When the messages include missing information and is not completed although it is requested, either the wire transfers may be refused or transactions carried out with related financial institution may be restricted or business relationship with related financial institution may be ceased. (Article 24(4) of the RoM)
- When the messages include missing information and although requested this information is not completed, the wire transfer may be refused, transactions carried out with related financial institution may be restricted or business relationship with related financial institution may be ceased.
- In case of the wire transfers are in unusual amount and frequency or directed from risky countries, and lack **full names and the addresses of the originators and beneficiaries,** it is required to file an STR to MASAK.

Also supervision of compliance of financial institutions for these provisions above is conducted in accordance with Chapter 6 of The RoM.

Refer to or use as a guideline regional or multilateral anti money laundering initiatives.

As an FATF member state, Turkey adopts the FATF standards on AML/CFT issues and the AML/CFT legislation of Turkey has been prepared in line with the FATF standards. Additionally, complying with the FATF standards are comprised in the opening / closing benchmarks for Chapter 4 (Free Movement of Capital) in Turkey - EU negotiations. Turkey has committed to harmonize its AML/CFT legislation with the relevant EU directives and regulations.

Demonstrate the use of mutual legal assistance, administrative or judicial cooperation in cases of money laundering among law enforcement, judicial authorities and financial regulatory authorities

Mutual legal assistance (MLA) requests relating to the identification or surveillance of proceeds, assets, equipment-instruments and other things relating to crime for the purpose of collecting evidence must be transmitted, pursuant to the provisions of bilateral and multilateral agreements, to the Ministry of Justice as the central authority. If the Ministry of Justice can identify the relevant office of prosecutor from the content of the request, it refers the MLA request to the incumbent and competent office of prosecutor for fulfillment of the request. The Public Prosecutor's Office may transmit the request to the Ministry of Interior, Department of Fight Against Smuggling and Organized Crimes and if the request is related to financial offenses, then the request may be transmitted to the Ministry of Finance, The Financial Crimes Investigation Board.

Aside from mutual legal assistance, as mentioned previously, MASAK is a member of Egmont Group of Financial Intelligence Units. MASAK has been exchanging intelligence with its counterparts via Egmont Secure Web since 2001.

Apart from the cooperation channels of judicial authorities and the FIUs, law enforcement agencies and supervision authorities have exchange of information channels. However, Turkey has not adopted the exchange of information between non-counterparts.

Regulate cooperation and information exchange with relevant agencies (for instance on matters related to asset declarations, real estate transactions, tax matters)

As mentioned previously, MASAK have the authorities to collect any kind of information from public institutions, organizations, natural persons, legal persons, unincorporated organizations and to set up an access system to data processing systems of those institutions. In this regard, MASAK signs protocols with the relevant public institutions to gather information from them. For example, tax records, real estate records are gathered by MASAK. Real estate agencies are also among the obliged groups and they are subject to relevant obligations in RoM.

In order to improve the cooperation among the relevant institutions in AML/CFT field, the Coordination Board for Combating Financial Crimes, the secretariat of which is carried out by MASAK has some functions. The Board was established in order to evaluate the draft laws on prevention of laundering proceeds of crime and the draft regulations which will be issued by Council of Ministers and to coordinate relevant institutions and organizations regarding implementation.

The board works under the chairmanship of the Under-Secretary of Ministry of Finance and comprised of the Head of MASAK, the Head of the Revenue Administration, the Head of the Tax Inspection Board, the Deputy Undersecretary of the Ministry of Interior, General Director of Legislation of the Ministry of Justice, the Director of Economic Affairs of the Ministry of Foreign Affairs, the Head of the Board of Treasury Comptrollers, the Head of the Insurance Supervision Board, the General Director of Financial Sector Relations and Exchange of the Under secretariat of Treasury, the General Director of Insurance of the Under secretariat of Treasury, the Head of the Guidance and Inspection Department of the Ministry of Customs and Trade, the General Director of Customs of the Ministry of Customs and Trade, the Deputy Head of the Banking Regulation and Supervision Agency, the Deputy Head of the Capital Market Board and the Deputy Head of the Central Bank of the Republic of Turkey.

2. **Please outline actions required to strengthen or improve the measures described above and any specific challenges you might be facing in this respect.**

Financial and technical capacity challenges with regard to the ability of agencies involved in combating money laundering to cooperate and exchange information at the national and international levels.

The most significant challenges in this regard were setting up secure communication channels among relevant obliged groups and MASAK and improving MASAK's information technology and communication (ITC) infrastructures.

With regard to overcome these obstacles, in 2012, Information Technologies and Communication (ITC) Group was re-structured in MASAK in order to perform FIU activities via ITC tools. Accordingly, for two years, two projects namely "Modernizing IT Systems" and "Improving the Managerial Capabilities of IT Systems" were implemented in MASAK. Total budget of the projects (hardware and software investment) was 28.500.000 TRY (approximately 15.160.000 USD as of 2012 exchange rates).

Thanks to the Projects, Modern MASAK Data Centre was established considering the principles of "uninterrupted service", "easy management" and "productive usage of resources". As the software component, Integrated Financial Intelligence System (EMIS) has been introduced which enables analysing data more efficiently. In addition, MASAK.ONLINE System which provides a secure communication infrastructure between MASAK and the obliged parties has been developed. Currently, banks, capital market brokerage houses, insurance and pension companies are sending suspicious transaction reports online. It should be noted that the said financial institutions cover more than %90 of Turkish financial system.

Finally, MASAK has officially commenced a new project in March 2015 titled as "Efficiency in Anti-Money Laundering and Financing of Terrorism" which is being co-financed by EU and Turkey. The project has twinning and investment pillars.

At the twinning pillar, the project comprises the activities of organising trainings and workshops for law enforcement groups, examiners and obliged groups, (Actually, MASAK annually conducts joint trainings for these groups. See MASAK activity reports) Besides, the investment pillar comprises the activities of procurement and installation of needed software and hardware in order to improve electronic communication among MASAK, obliged groups and other cooperated public institutions.

With regard to international exchange of information, MASAK is carrying out this function via Egmont Secure Web (ESW) and we have not encountered with any major technical or financial challenges in ESW platform.

- ***Coordination challenges among relevant agencies responsible for combating money laundering with regard to global, regional and bilateral cooperation.***

Up till now, MASAK has signed 48 MoU with its counterpart FIU bodies and as a member of Egmont Group, MASAK exchanges information via ESW channel and we have not experienced major coordination challenges to be reported.

- ***Challenges with regard to monitoring the compliance of banks and other reporting entities with the AML preventive measures.***

The awareness level of the obliged groups may not be at the same level. In order to overcome this problem, MASAK reviews its annual supervision programs to include the financial and non-financial groups as well. Following the experiences gained from supervision activities, as also mentioned above, the training and supervision activities are focused on the least complied groups and MASAK monitors their improvements in the following years.

3. Do you require technical assistance in relation to the measures described above? If so, please specify the forms of technical assistance that would be required. In case you have received or are receiving technical assistance to implement these measures, please indicate so in your response.

N/A