



REPUBLIC OF TURKEY
MINISTRY OF TREASURY AND FINANCE
FINANCIAL CRIMES INVESTIGATION BOARD

GUIDANCE FOR PREVENTION OF ABUSE OF NON-PROFIT ORGANIZATIONS FOR TERRORIST FINANCING

2019

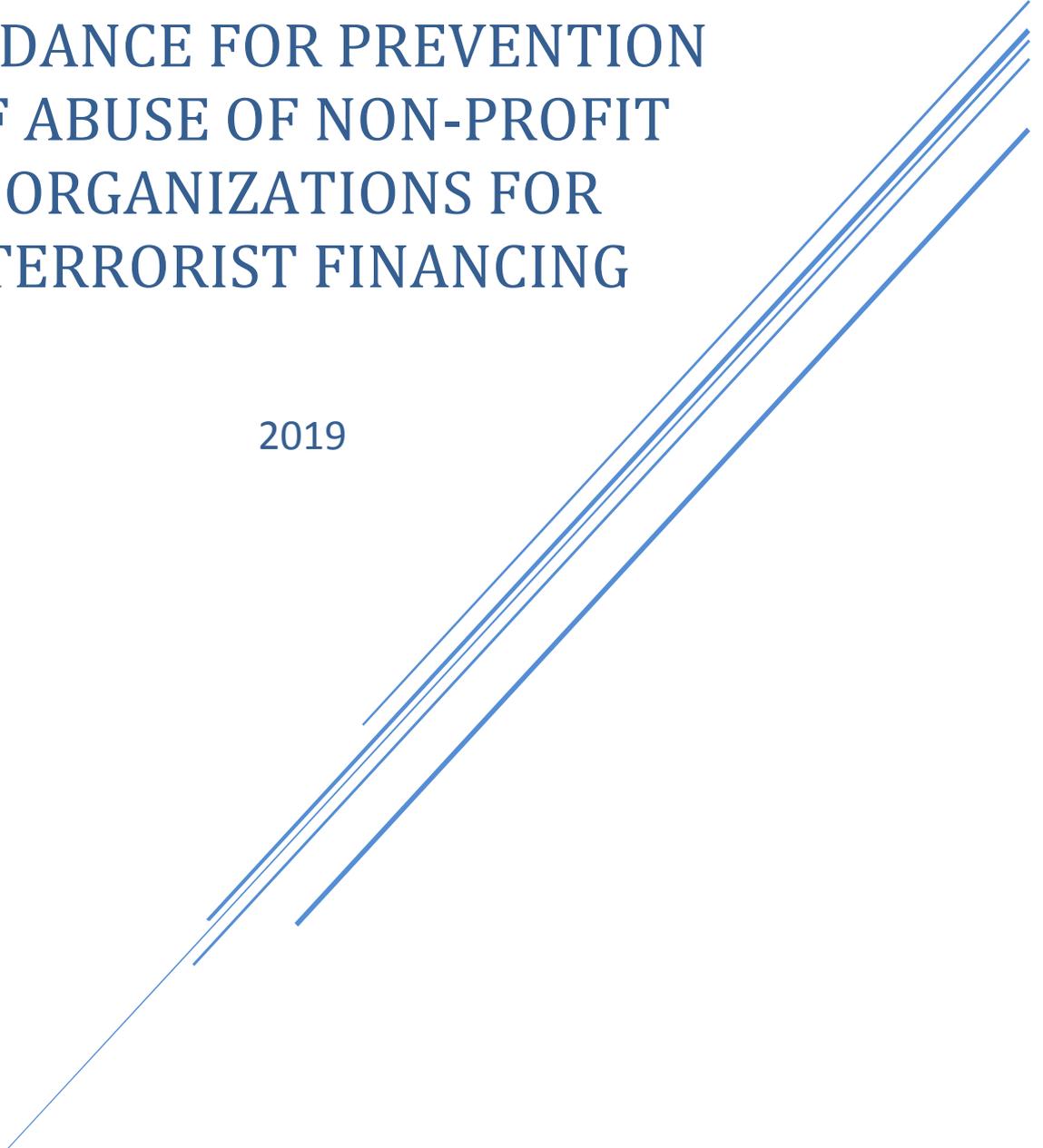


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INTRODUCTION

It is known that the other institutions apart from governmental agencies have also made efforts for the purpose of ensuring social welfare which is regarded one of the functions of the states. Non-governmental institutions, which is one of the other institutions, is defined as a legal person or arrangement or organisation that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of “good works”. These institutions have made contribution to ensure social welfare increasingly in today’s world in which globalization and liberalism are overwhelming trends, and have played significant role on the world economy, national economies and social system. From this aspect, NPOs have been supported by the governments and they have developed gradually, qualitatively and quantitatively.

NPOs as an organic sector providing millions of people with numerous aids, may be abused by terrorists and terror organizations for raising funds they need, transferring the funds, supplying logistics and supporting terrorism activities. Abuse of NPOs to this end not only facilitates to actualize terrorism activities but also causes loss of confidence of donors and rises as a serious threat against NPO images.

Non-profit organizations display a vulnerable structure open to the abuse of terrorists due to several reasons. First of all credibility of these organizations in public, makes them target for fund raising for terrorists. The followings are the main factors to target NPOs; they have large fund sources, they can access to conflict regions and they carry out their activities intensively in these areas. Moreover, several NPOs may perform national and international activities in connection with their own activities and they may carry out financial transactions easily to this ends. This global activity network has created a quite attractive environment for terrorists.

Thus, enhancing the collaboration between public sector, private sector and non-profit organizations is of vital importance for prevention of abuse of NPOs for terrorist purposes and enhancing awareness on this issue as to the fight against terrorist financing.

In February/2009, MASAK issued a guidance titled “*Guidance For Prevention of Abuse of Non-profit Organizations For Terrorist Financing*” with the aim of informing NPOs operating in our country of terrorism and terrorist financing and of enhancing awareness and sensitivity on this issue. The Guidance herein, it is aimed at taking further steps on the studies on enhancing awareness and its goal is to enhance awareness of NPOs operating in Turkey and the authorities responsible for regulation and supervision of NPOs on forming common understanding of the terrorism and terrorist financing risks; to inform the sector of relevant issues; and to increase their sensitivity and awareness on this issue.

Primarily, the Guidance gives general information about terrorist financing and the information of national and international legislation on the fight against the offence abovementioned. Moreover, the sector risks are defined and some suggestions are proposed for the future for the purpose of mitigating the risks in the last section.

1. FINANCIAL SOURCES OF TERRORISM

Purpose of terrorism is defined as the influence on the government or an international governmental organization to do or not to do something or to intimidate the public. Although the goals and strategies of terror organizations differ, it is apparent that they extend their activities to a wide range and they have taken various initiatives in direct proportion to the size of the organization and the extent of activity field.

Despite the fact that main purpose of terrorists and terror organizations is not to gain proceeds, they need financial sources to carry out their activities. Thus, they seek to gain sufficient financial sources and to use them in order to actualize terrorist activities by not drawing attention of public authorities. AML/CFT covers deprivation of terror organization from financial sources, prevention of laundering and suppression of fund transfers to terrorists and terror organizations.

Terror organizations have sometimes use the sources derived from illegal origins and foreign country oriented aids (supporting terrorism and directing terror activities) and use the institutions operating legitimately, such as non-profit organizations (NPOs) with the aim of raising funds. Occasionally, they are exploiting the legal system and they set up screen entities to perform transfer operations without attracting attention of law enforcement units.

Among the illegal activities, illegal drug and arm smuggling, human trafficking, migrant smuggling, tobacco and other goods smuggling, racketeering and forgery are in the front. As to seemingly legal activities, use of commercial enterprises, media, raising funds, carrying out social activities and use of NPOs on which the Guidance focuses particularly may listed in the foreground.

2. INTERNATIONAL REGULATIONS IN COMBATING TERRORIST FINANCING

It is aimed at deprivation of terror organizations from legal and illegal sources, prevention of laundering, suppression of fund transfers to terror organizations and terrorists by using different means in combating terrorist financing. In this framework, several international initiatives were taken and some recommendations were developed in the direction of carrying out international cooperation between the countries in a broad sense. Main international regulations are stated below.

2.1 Regulations within the scope of United Nations (UN)

UN was established for the purpose of protecting countries' welfare, their economic and political stability, and maintaining international peace and security and who determined its mission and vision in this framework has taken several initiatives in the direction of preventing

terrorist activities and enhancing international cooperation for the purpose of combating against terrorism threatening the safety of life and property of the people and playing a global role gradually since 1960.

The conventions that UN adopted in combating against laundering and terrorist financing are as follows:

2.1.1. United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention)

It was adopted by UN Vienna Conference on 19 December 1988 and entered into force on 11 November 1990. The purpose of this Convention is to promote co-operation among the Parties so that they may address more effectively the various aspects of illicit traffic in narcotic drugs and psychotropic substances. In carrying out their obligations under the Convention, the Parties shall take necessary measures, including legislative and administrative measures, in conformity with the fundamental provisions of their respective domestic legislative systems.

Although there are no definitions of predicate offence and money laundering offence in the Convention, the acts which should be established as offences are listed in it.

2.1.2. United Nations Convention Against Transnational Organized Crime (Palermo Convention)

The Convention adopted by UN General Assembly on 15 November 2000 is the first regulation on combat against organized crime. The purpose of this Convention is to promote cooperation to prevent and combat transnational organized crime more effectively. The convention also covers the regulations on seizure and confiscation of proceeds of crime, special investigative techniques, extradition of criminals and mutual legal assistance.

In the context of the Convention, the money laundering offence is defined in article 6 for the first time and it is stipulated in the Convention that the state parties should criminalize predicate offences to the widest range including serious crimes, the offences of participation in organized criminal groups, corruption and evasion of legal consequences.

2.1.3. United Nations Convention against Corruption (UNCAC or Merida Convention)

The purposes of this Convention open for signature on 10 December 2003 are:

- (a) To promote and strengthen measures to prevent and combat corruption more efficiently and effectively;
- (b) To promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption, including in asset recovery;

(c) To promote integrity, accountability and proper management of public affairs and public property

The Convention is in the nature of the most comprehensive international law document established so far.

2.1.4. UN International Convention for the Suppression of the Financing of Terrorism (Newyork Convention)

As a result of the studies on the purpose of suppression of the financing of terrorism by the leading country / France, UN International Convention for the Suppression of the Financing of Terrorism was prepared on 9 December 1999 and opened to signature of the States on 10 January 2000. Since ratification of 22 states is mandatory for the Convention's entry into force, several countries including Turkey have ratified the Convention. Turkey ratified the Convention by the Law No.4738 on "Law on Adoption of the International Convention for the Suppression of the Financing of Terrorism" and it was entered into force on 10.04.2002.

Thus, the countries which is fighting against terrorism and taking several initiatives, have taken significant steps to make regulations in their domestic laws on identification of the financial sources of terrorism after ratification of the Convention.

Key feature of the Convention is to establish the financing of terrorism as a separate offence and to set forth a provision enabling seizure of any funds used or allocated for the purpose of committing the offences as well as the proceeds derived from such offences, for purposes of possible forfeiture. Article 2 of the Convention describes the financing of terrorism. Accordingly, if any person by any means, directly or indirectly, unlawfully and wilfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to commit terror offences, his/her act shall be deemed the offence of financing of terrorism. Moreover, the Convention covers several provisions on the matters such as international cooperation, compensation of the loss of the injured persons and extradition of criminals.

2.1.5. UN Security Council Resolutions

Under the United Nations Charter, the functions and powers of the Security Council are: to maintain international peace and security in accordance with the principles and purposes of the United Nations; to investigate any dispute or situation which might lead to international friction; to recommend methods of adjusting such disputes or the terms of settlement; to formulate plans for the establishment of a system to regulate armaments; to determine the existence of a threat to the peace or act of aggression and to recommend what action should be taken; and to take military action against an aggressor.

The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the section V and VII of the UN Charter.

Besides the Conventions abovementioned, UNSC has also made resolutions on prevention of financing of terrorism binding all member countries. Followings are the main ones:

- Pursuant to resolutions 1267 (1999) 1989 (2011) and 2253 (2015), countries are required to take the measures to freeze without delay the funds and other financial assets or economic resources of individuals, groups, undertakings and entities affiliated with DAESH and Al-Qaida.
- Pursuant to Resolution 1988, all States shall take necessary measures to freeze the assets of the individuals, entities and undertakings associated with the Taliban.
- Resolution 1373 of UNSC includes the provisions on criminalization of financing of terrorism; refraining from providing any form of support, active or passive, to entities or persons involved in terrorist acts; freezing without delay funds and other financial assets or economic resources of persons; and exchange of information. Based on this Resolution, countries may request from other countries to freeze assets of persons, entities and undertakings in this country within the framework of international cooperation.
- Resolutions 2170 and 2178 of UNSC stipulate to report relevant threats of DAESH and ANF, to freeze the assets of these organizations, to carry out travel ban and arms embargo requirements, and taking necessary measures on foreign terrorist fighters.

2.2. FATF (Financial Action Task Force) Standards

Financial Action Task Force or FATF was established by G-7 countries within OECD in Paris in 1989. Turkey became a member of it in 1991. FATF established for the purpose of enhancing national law systems, harmonizing relevant legislations, strengthening the role of financial system and setting up permanent cooperation between the members in combating laundering proceeds of crime and developing recommendations for this purpose has extended its mission, which was determined as promoting measures in the fight against laundering solely, to the combat against financing of terrorism after the September 11 attacks in the USA.

As a result of the Extraordinary Plenary held in relation to terrorist financing entirely in October/2001, FATF added 8 Special Recommendations in the direction of combat against terrorist financing adopted by all counties into 40 Recommendations stipulating measures on prevention of laundering and 9th Special Recommendation was adopted by FATF Plenary held in 22 October 2004.

It is stated in SR VIII that countries should review the adequacy of laws and regulations that relate to entities that can be abused for the financing of terrorism. Non-profit organisations are particularly vulnerable, and countries should ensure that they cannot be misused:

- (i) by terrorist organisations posing as legitimate entities;

(ii) to exploit legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset freezing measures; and

(iii) to conceal or obscure the clandestine diversion of funds intended for legitimate purposes to terrorist organisations.

The elements of Special Recommendations regarding terrorist financing were included into the other recommendations in its form adopted by FATF Plenary held in February/2012 and FATF Recommendations was revised and issued again. FATF Methodology was updated in February/2013 and it was decided that FATF Evaluation processes would be carried out on the basis of 40 Recommendations and 11 Elements of Effectiveness. In this framework, SR VIII. was revised two times in parallel to increasing risk perception and importance in the sector in 2012 and 2016, and SR VIII. regarding non-profit organizations was set up in the following way;

Taking a risk-based approach

8.1 Countries should: (a) Without prejudice to the requirements of Recommendation 1, since not all NPOs are inherently high risk (and some may represent little or no risk at all), identify which subset of organizations fall within the FATF definition²⁷ of NPO, and use all relevant sources of information, in order to identify the features and types of NPOs which by virtue of their activities or characteristics, are likely to be at risk of terrorist financing abuse²⁸;

(b) identify the nature of threats posed by terrorist entities to the NPOs which are at risk as well as how terrorist actors abuse those NPOs;

(c) review the adequacy of measures, including laws and regulations, that relate to the subset of the NPO sector that may be abused for terrorism financing support in order to be able to take proportionate and effective actions to address the risks identified; and

(d) periodically reassess the sector by reviewing new information on the sector's potential vulnerabilities to terrorist activities to ensure effective implementation of measures.

Sustained outreach concerning terrorist financing issues

8.2 Countries should: (a) have clear policies to promote accountability, integrity, and public confidence in the administration and management of NPOs;

(b) encourage and undertake outreach and educational programmes to raise and deepen awareness among NPOs as well as the donor community about the potential vulnerabilities of NPOs to terrorist financing abuse and terrorist financing risks, and the measures that NPOs can take to protect themselves against such abuse;

(c) work with NPOs to develop and refine best practices to address terrorist financing risk and vulnerabilities and thus protect them from terrorist financing abuse; and

(d) encourage NPOs to conduct transactions via regulated financial channels, wherever feasible, keeping in mind the varying capacities of financial sectors in different countries and in different areas of urgent charitable and humanitarian concerns.

Targeted risk-based supervision or monitoring of NPOs

8.3 Countries should take steps to promote effective supervision or monitoring such that they are able to demonstrate that risk based measures apply to NPOs at risk of terrorist financing abuse.

8.4 Appropriate authorities should: (a) monitor the compliance of NPOs with the requirements of this Recommendation, including the risk-based measures being applied to them under criterion 8.330; and

(b) be able to apply effective, proportionate and dissuasive sanctions for violations by NPOs or persons acting on behalf of these NPOs.

Effective information gathering and investigation

8.5 Countries should: (a) ensure effective co-operation, co-ordination and information-sharing to the extent possible among all levels of appropriate authorities or organisations that hold relevant information on NPOs;

(b) have investigative expertise and capability to examine those NPOs suspected of either being exploited by, or actively supporting, terrorist activity or terrorist organisations;

(c) ensure that full access to information on the administration and management of particular NPOs (including financial and programmatic information) may be obtained during the course of an investigation; and

(d) establish appropriate mechanisms to ensure that, when there is suspicion or reasonable grounds to suspect that a particular NPO: (1) is involved in terrorist financing abuse and/or is a front for fundraising by a terrorist organisation; (2) is being exploited as a conduit for terrorist financing, including for the purpose of escaping asset freezing measures, or other forms of terrorist support; or (3) is concealing or obscuring the clandestine diversion of funds intended for legitimate purposes, but redirected for the benefit of terrorists or terrorist organisations, that this information is promptly shared with competent authorities, in order to take preventive or investigative action.

Effective capacity to respond to international requests for information about an NPO of concern

8.6 Countries should identify appropriate points of contact and procedures to respond to international requests for information regarding particular NPOs suspected of terrorist financing or involvement in other forms of terrorist support.

Besides Un and FATF, the World Bank, IMF, EU (Directives No. 2015/849/EU and 2018/843, and Regulation No.2015/843), European Council (Convention on Laundering, Search, Seizure

and Confiscation of the Proceeds from Crime No.141 and Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism No.198), The Organization of the Black Sea Economic Cooperation (BSEC), Basel Committee on Banking Supervision, Egmont Group and Wolfsberg Group have also taken initiatives in combating terrorist financing and mandatory measures have been recommended to the countries to this end.

3. NATIONAL LEGISLATION

3.1. Legislation of Associations and Foundations

In Turkey, we have a regulated non-profit organisations sector covering associations and foundations. Both associations and foundations are subject to a system of registry. Foundations are established, supervised and operate in accordance with the Foundations Law 5737; associations are established, supervised and operate in accordance with the Associations Law 5253. In addition, the Constitution, The Civil Code 4721 and the Law 2860 of Collecting Aid involve regulations regarding the sector.

3.1.1. Turkish Civil Code 4721

The Turkish Civil Code which was put into force by being published in the Official Gazette 24607 of 08.12.2001 regulates associations with article 56 to 100, and foundations with articles 100 to 117.

Civil code includes general framework regulations for associations such as establishment, membership, creation of their organs and their termination. Similarly, it includes such regulations as establishment process, organisation of the foundation, termination and suspension of activities of foundations.

3.1.2. Law 2860 on Fund Raising

The Law 2860 on Fund Raising which was put into force by being published in the Official Gazette 18088 of 23.06.1983 has the purpose of defining the persons and entities authorised to collect aid and their purposes for collecting aid, and regulating the principles and procedures of collecting, using and supervising the aid.

The Law establishes the principles regarding the activities of collecting aid in compliance with the purposes of persons and organisations authorised to collect aid and in compliance with public interest. Article 3 of the Law defines associations and foundations among those who may collect aid and sets forth the instructions for the principles and procedures to be obeyed when collecting aid.

3.1.3. The Foundations Law 5737

According to the Turkish Civil Code foundations are the property groups in the status of a private law legal entity formed by natural or legal persons who dedicate adequate property and rights to a specific and permanent purpose.

The Foundations Law which entered into force by being published in the Official Gazette 26800 of 20.02.2008 was prepared for the purpose of determining principles and procedures regarding the management, activities and supervision of foundations, registration, protection, maintenance and sustainment of cultural movable and immovable assets of foundations in Turkey and abroad, and economic operation and utilisation of foundations' assets. Additionally, issues regarding international activities and accounting records of foundations, and obligation to submit declaration and its supervision are also covered by the Law.

The Regulation on Foundations which entered into force by being published in the Official Gazette 27010 of 27.09.2008 was prepared based upon The Foundations Law 5737.

3.1.4. The Associations Law 5253

The purpose of the Associations Law which entered into force by being published in the Official Gazette 25649 of 23.11.2004 is to regulate the forbidden and authorisation-requiring activities, obligations, supervisions of and penalties to be imposed to associations, their branches and representatives, federations, confederations and branches and representatives of foreign associations and NPOs other than associations and foundations headquartered abroad, and other issues related with associations.

Association is defined in the Associations Law 5253 as a non-profit group which has legal entity formed by at least seven natural or legal persons in order to fulfil a certain common goal, other than sharing profits, which is not prohibited by law and to enable constant exchange of knowledge and studies. The law also regulates activities of associations, operations of their organs, their income and expenditure procedures, their obligation of submitting declarations, supervision, and receiving aid from abroad. Sanctions to be imposed in case of violation of these principles and procedures are established in Article 32.

The Regulation of Associations which entered into force by being published in the Official Gazette 25772 of 31.03.2005 was prepared based on the Associations Law 5253. The Regulation covers procedures regarding the establishment, executive board meetings, international activities, obligations, authorisation-requiring activities, opening facilities, creating funds and other issues related with some transactions of foundations, associations, branches and representatives of associations, federations and confederations, branches and representatives of associations and NPOs other than associations and foundations headquartered abroad.

Other laws and regulations regarding the NPO sector are as follows:

- Law 5072 on the Relationship of Associations and Foundations with Public Institutions,
- Law 3628 on Declaration of Assets, Fight against Bribery and Corruption,
- Law 1606 on Exempting some Associations and Organisations from Tax Liability,
- Regulation on the Ministry of Finance Auditors of Associations (OG of 22.09.2004 No: 25591)
- Regulation on Principles and Procedures of Collecting Aid (OG of 27.12.1999 No:23919),
- Regulation on Providing Aid for Associations, Foundations, Unions, Organisations, Funds and Similar Entities from the Budgets of Public Administrations of the General Administration (OG of 17.07.2006 No:26231)

3.2 The Place of the Sector With Regard to TF

Legal provisions established in Turkey for the purpose of combating terrorism and TF are included by the Law 6415 on the Prevention of the Financing of Terrorism, Law 5549 on Prevention of Laundering Proceeds of Crime, the Presidential Decree 1 on the Organisation of the Presidency, The Anti-Terror Law 3713 and relevant secondary legislation. In addition, due to references in the abovementioned laws and existing general provisions, Turkish Criminal Law 5237 (TCL) and Criminal Procedure Law 5271 are also significant in terms of combating terrorism and TF.

Legal arrangements deemed necessary to be mentioned in this Guidance will be briefly dealt with.

3.2.1. Law 5549 on Prevention of Laundering Proceeds of Crime, the Presidential Decree 1 on the Organisation of the Presidency

MASAK (Financial Crimes Investigation Board) was established based on the Law 4208 on Prevention of Money Laundering which entered into force on 19.11.1996, and started operating on 17.02.1997. As an administrative FIU, MASAK has the vision of being a pioneer institution contributing to the creation of an effective economy and secure society by combating ML and TF effectively. MASAK's mission for detection and prevention of ML and TF is to contribute to developing policies and legislation, to gather and analyse fast reliable information, to do research and examinations, and to forward the findings to relevant authorities.

MASAK's powers and duties which were previously defined in Article 19 of the 5549 which abolished the Law 4208 on 18.10.2006 are now regulated under Article 231 of the Presidential Decree 1 on the Organisation of the Presidency which was published in the OG 30474 on 10.07.2018. According to this article, in addition to its functions regarding the prevention of laundering proceeds of crime, MASAK has other functions related with TF which are to collect data, receive, analyse and evaluate STRs, to request, when necessary, from LEAs and other

units to carry out examination and research in their own field of duty, and to refer the case to the relevant public prosecutor if there are serious suspicions about the commission of the TF offence. MASAK has also been given the powers to request any kind of information and documents from public institutions, natural and legal persons and unincorporated institutions while fulfilling its duties.

Fundamental preventive measures regarding ML and TF, which are also underlined in international regulations, such as “Customer Due Diligence”, “Customer identification”, “STR”, “Internal audit”, “Risk management” and “Assignment of Compliance Officers” are established in Law 5549. A general legal framework was drawn by the Law, detailed arrangements were made with secondary legislation such as Regulations and Communiqués.

3.2.2. Law 6415 on the Prevention of the Financing of Terrorism

TF offence was first defined in Turkish legislation in the abolished Article 8 of the Anti-Terror Law 3713. Then, in order to comply with the International Convention for the Suppression of the Financing of Terrorism, a new special law was issued. Thus, the Law 6415 on the Prevention of the Financing of Terrorism was approved on 07.02.2013. The offence of financing of terrorism is defined in Article 4 of this Law in compliance with international legislation and sanctions to be imposed in case of the commission of this offence are determined.

Paragraph 4 of Article 4 of the Law 6415 establishes that 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. Since associations and foundations are legal persons in our country, they are covered by this article in addition to other arrangements.

Additionally, paragraph 7 of the same Article states that some measures may be applied set forth by the Criminal Procedure Law 5271 such as detection of communication, tracing by means of technical tools.

3.2.3. The Anti-Terror Law 3713

The Anti-Terror Law 3713 of 12.04.1991 is essentially composed of provisions for preventing terrorist activities. Although TF offence was first defined in this Law, its relevant article was then abolished since the offence is redefined in Article 4 of the Law 6415.

Although another law defines TF offence, aiding terrorist organisation members is listed among crimes that require penalty of imprisonment in the Law 3713. Article 7 of the Law requires that any person who makes propaganda of the terrorist organization shall be punished by imprisonment for one to five years, and **if this offence is committed inside any block, local, bureau or outlying buildings belonging to associations, foundations, political parties, labour and trade unions or their subsidiaries, or inside educational institutions or student hostels or their outlying buildings, the punishment shall be doubled. In the event that associations, foundations and similar organisations are detected to be supporting terrorism, their activities shall be ceased, they shall be closed by the courts and assets of closed organisations shall be confiscated.**

In addition, in Article 8/B on “The Responsibilities of Legal Persons” it is stated that if crimes included in this Law are committed in the context of a legal personality, security measures peculiar to those persons as per the Article 60 of the Turkish Penal Law shall be applied.

3.2.4. Turkish Criminal Law 5237

Article 20 of TCL establishes that punitive sanctions cannot be imposed for the legal entities. However, the sanctions in the form of security precautions stipulated in the law for the offenses may be applied. In Article 60 of TCL, security measures regarding legal entities referred in special laws are defined. According to the Article, in case of commission of a crime through participation of the organs or representatives of a legal entity subject to special law and operating under the license granted by a public institution or misuse of authorization conferred upon by this license, the court may decide cancellation of this license. The provisions relating to confiscation are applied also for the legal entities subject to special laws.

Article 282 of TCL on “Laundering proceeds of crime”, it set forth that 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.

Since the penalty of TF offence has been determined to be imprisonment from 5 to 10 years, this offence is listed among predicate offences¹ of laundering and, thus, transferring the proceeds obtained from TF offence abroad or processing them in various ways in order to conceal their illicit source or to give the impression that they have been legitimately acquired is taken into consideration under the scope of “laundering” offence.

It is significant in terms of combating laundering and financial sources of terrorist organisations that these organisations obtain funds through numerous illegal sources and adopt various methods to launder these funds.

3.2.5. Misdemeanours Law 5326

In paragraph 1 of Article 43/A on “the Liability of Legal Persons” of Misdemeanours Law 5326, it is established that where the act does not constitute a misdemeanour which requires more severe administrative fines; in the case that an organ or a representative of a private law legal person; or; a person, who is not the organ or representative but undertakes a duty within the scope of that legal person`s operational framework commits ML or TF offence to the benefit of that legal person, the legal person shall also be penalized with an administrative fine of 10,000 (ten thousand) TRY to 2,000,000 (two million) TRY.

¹ Predicate Offence is the offence through which proceeds of crime is obtained. In ML process, first an offence is committed and an economic value is obtained. Then, acts are conducted for giving legal appearance to such values.

A legal arrangement stipulates that in the case that an organ or a representative of an NPO; or a person, who is not the organ or representative but undertakes a duty within the scope of that NPO's operational framework commits ML or TF offence to the benefit of that NPO, the NPO shall also be penalized with an administrative fine.

3.2.6. The Regulation on Measures Regarding Laundering Proceeds of Crime and Financing of Terrorism (RoM)

Customer identification for associations and foundations is regulated by Article 8 of the Regulation which was issued regarding preventive measures defined in Law 5549. It is clearly established that in customer identification of associations for transactions to be carried out within obliged parties², the name of the association, its aim, log number, full address, telephone number, fax number and e-mail, if any, and the name, surname, place and date of birth, nationality, type and number of the identity card and sample signature, and for Turkish citizens, as additional information, the names of mother and father and T.R. identity number of the person authorized to represent the association shall be received. The name, aim, log number and full address of the association shall be verified through the charter of the association and documents of registry in the associations' log; the identification information of the person authorized to represent the association shall be verified through identity cards stipulated in Article 6; and the authority to represent shall be verified through documents of authorization to represent.

In customer identification of foundations for transactions to be carried out within obliged parties the name of the foundation, its aim, central registry record number, full address, telephone number, fax number and e-mail address, if any, and the name, surname, place and date of birth, nationality, type and number of the identity card and sample signature of the person authorized to represent the foundation and for Turkish citizens the additional information as the names of mother and father and T.R. identity number shall be received. Name, central registry record number, full address of the foundation shall be verified through foundation deed and records kept by the General Directorate of Foundations; the identity information of the person authorized to represent the foundation shall be verified through identity cards stipulated in Article 6; and the authority to represent shall be verified through documents of authorization to represent.

Obliged parties who violate the mentioned obligation of customer identification are penalised by MASAK with an administrative fine of 15.035 TRY (for 2019) for each violation pursuant to Article 13 of the Law 5549. In cases where such an obliged party is a bank, financing company, factoring company, money lender, financial leasing company, insurance and reinsurance company, pension company, capital market institution or an exchange office, the administrative fine is applied two fold (30.070 TRY for 2019).

² Banks, institutions other than banks with the authority to issue bank cards and credit cards, exchange offices, financing and factoring companies, payment institutions and e-money institutions, insurance, reinsurance and pension companies, insurance and reinsurance brokers, public notaries...

The applicable General Communiqués issued by MASAK within the framework of CFT are as follows:

- General Communiqué of STRs Regarding TF which involves information on CFT;
- MASAK General Communiqué 13 which involves explanations and arrangements regarding timely and properly fulfilment of STR obligation related with ML and TF by obliged parties listed in RoM.

3.2.7. General Communiqué of STR Regarding TF

In the Communiqué which entered into force by being published in the OG 26693 of 07.11.2007, arrangements drawing the general framework are made, referring to the relevant articles of the Law 6415, such as acts for which collecting and providing funds is forbidden, TF offence, the nature of TF and sources of TF. As summarised in the chapter of this Guidance regarding sources of TF, sources acquired through illegal and legal activities are given in the Communiqué in detail.

“Abuse of NPOs” is dealt with under a separate title among sources acquired through ostensibly legal activities.

3.2.8. MASAK General Communiqué 13

Article 27 of RoM authorises MASAK to determine suspicious transaction types, and Article 28 authorises the Ministry of Finance to determine for each group of obliged parties separately the principles and procedures regarding preparing STR forms, making it obligatory to submit the forms using electronic environment and IT tools and using e-signature in STR submissions.

MASAK General Communiqué 13 issued depending on articles 27 and 28 of RoM to regulate principles and procedures regarding STR entered into force by being published in the OG 29099 on 25.08.2014. (The previous MASAK General Communiqué 6 which was on the same subject as Communiqué 13 has been abolished.)

Based on the definition given in Article 27 of RoM, MASAK General Communiqué No. 13 defines suspicious transactions as the existence of suspicion or reasonable grounds to suspect that the asset which is subject to transaction carried out or attempted to be carried out with or through the obliged parties has been acquired through illegal ways or used for illegal purposes, used for terrorist activities or by terrorist organizations, terrorists or those who finance terrorism, or connected or linked with them.

The General Communiqué explains, in detail, the principles and procedures for fulfilment of STR obligation within the scope of AML/CFT in a timely and proper manner.

Article 6 of the Communiqué authorizes MASAK to issue general or sectorial guidelines of suspicious transaction reporting for the purpose of determining principles and procedures for suspicious transaction reporting by obliged parties and states that the guidelines to be issued

will be published on official website of MASAK. MASAK has published separate STR guidelines for banks, capital market intermediaries, insurance and pension companies, factoring, financing and financial leasing companies, exchange offices, payment and e-money institutions, and other obliged parties.

Each guideline sets forth suspicious transaction types in order to ensure that obliged parties adopt a common attitude, understanding and cooperation against the risk of being used as an instrument in ML/TF and in order to help them in the detection of suspicious transactions. The guidelines also set forth general suspicious transaction types related to customer profile and transactions, sector-specific suspicious transaction types, and TF-related suspicious transaction types. TF-related suspicious transaction types are classified into two groups given below:

- Types related to transactions conducted by persons suspected to be linked to terrorist organizations or conducted in risky countries,
- Types related to non-profit organizations.

Suspicious transaction types related to NPOs are also given in the section on risk mitigation of the Guidance.

4. RISK IDENTIFICATION AND METHODS

Associations and foundations might frequently be used in providing apparently-legal funds for terrorist organizations. The organizations that are provided with funds under the name of contribution, donation or aid might transfer these funds to terrorist organizations or terrorists through various methods. Some people do not know that the funds they provide will be transferred to terrorist organizations, and they make donations believing that the funds will be used within the framework of the legal purpose declared by the NPO; and some people knowingly and willingly provide funds to terrorist organizations, they provide funds by giving it a legal appearance, e.g. by making a donation, and thus, they finance terrorism without drawing the attention of public authorities.

Abuse of NPOs by terrorist organizations and terrorists has been a matter of concern that threatens the national security since 2000s. Although the abuse of this sector by terrorist organizations and terrorists may seem low when taking the global size of the sector into account, the impact of such an abuse on the sector goes beyond monetary value. Donators believe that the sources in kind and in cash will be used for charitable purposes and this trust is the keystone of the sector. Transferring these sources to organizations that intend to cause harm will damage the public's trust in the sector and will negatively affect the sectorial activities.

Therefore, this section will try to answer a few basic questions on TF-related abuse of the sector through open sources, analyses, risk assessments and cases.

What is the nature of the threat posed by terrorist organizations and terrorists on NPO sector?

NPOs can be targeted by terrorist organizations and terrorists in many ways at operational level. Principally, terrorist organizations try to damage the integrity of the system by abusing legal NPOs or establishing front organizations. In this framework, besides transnational terrorist organizations, it is seen that some crime groups operating at national level pose a threat to the sector as well and is a growing element of the threat environment. Therefore, focusing on foreign activities and foreign organizations may give the wrong idea that the activities of domestic NPOs pose low risk.

Which NPOs carry the highest risk in terms of abuse by terrorist organizations and terrorists?

NPOs are a sector that has a wide range of scope and activities at global level. However, the analyses show that organizations conducting certain types of activities and operating at certain environments are more vulnerable to abuse.

Particularly, “NPOs operating in service field” that are engaged in humanitarian aid services provide the most desirable opportunities sought by terrorists and terrorist organizations. Types of sources in their activities, geographic broadness of their activities and their outreach to defenceless population provide quite alluring opportunities for terrorists. For example, in none of the cases so far has an NPO operating in rights and advocacy field been detected to be targeted by terrorists or terrorist organizations.

However, the regions where terrorists are actively operating, the conflict zones, and the population in such regions face a serious abuse risk. The defined region does not always refer to conflict zones or regions with authority gaps. NPOs can be subject to threats of crime and corruption, though not being related to terrorism, in regions where terrorist activities are not active. The population in relatively stable regions can also be targeted by terrorist entities for their possible support. For example, PKK, which is a separatist terrorist organization mainly active in East and South East Anatolia region of Turkey, may possibly regard our citizens of Kurdish origin living in Europe as potential sympathizers and supporters.

Under which conditions are NPOs most likely to be abused by terrorist organizations and terrorists?

In relation with the answer to the previous question, analyses show the abuse risk is at the highest level for NPOs conducting service activities in environments where threat of terrorism is present. In addition to this, strategic shocks such as natural disasters which raise the demand for funds and services of NPOs operating in service field in such environments increase vulnerabilities. For example, after such shocks, the demand rapidly increases and it becomes harder to conduct internal audits due to reasons such as the need for relocating the personnel, and this seriously increases the vulnerabilities.

In which processes are NPOs most likely to be abused by terrorist organizations and terrorists?

NPO activities can be vulnerable at many points during the course of their operations. In this regard, the stages of collection, transfer, keeping and spending of funds was reviewed and it was observed that in some cases, the activity of the organization was legal until the stage when it reached the beneficiary, and the abuse occurred at delivery stage. For example, an objective can be adopted, in which it is aimed to recruit members for a terrorist organization within the scope an education activity. In such a scenario, the collection, transfer and use of the funds are in line with the nature and purpose of the education program offered by the NPO. However, the activity is abused at delivery stage for terrorist purposes. Abuse at delivery stage indicates that focusing on the resources of NPOs may result in failure to detect some serious cases and that program information may be as important as information on flow of funds.

Why do NPOs run the risk of being abused by terrorist organizations and terrorists?

As briefly stated in the title of the guidance, NPOs and terrorist organizations operate in the same global environment. In general, they try to reach the same populations, though for very different purposes.

NPOs aim to ensure high mobility, fund increase and low level of external audit in order to carry out their activities. Strategic and operational analyses show that these are organizational properties also valued by terrorist organizations, though for achieving quite different purposes. Therefore, NPOs are targeted by terrorists and terrorist organizations since these organizations can easily and legally access to equipment, funds and networks. Terrorists and terrorist organizations try to access to same equipment, funds and networks but they have to do it in secret as they are illegal entities. For this reason, terrorists and terrorist organizations attach serious importance to abuse of legal sectors that have access to these facilities.

How are NPOs vulnerable to terrorist activities?

NPOs are vulnerable to TF activities for various organizational tendencies in the sector. For example, extended logistic networks makes oversight difficult especially in international programs. The rate of temporary labour in the sector makes it difficult for the organizations to employ skilled and experienced personnel based on an effective recruitment system. Access to a diverse range of resources and significant level of public trust increase the vulnerability of the sector.

Another important factor is that the importance attached, by tradition, to achieving aims in organizations operating in the sector may make these organizations vulnerable, and may cause the managers or personnel to ignore acute risks for the sake of carrying out activities.

How do terrorist organizations and terrorists abuse NPO sector?

Case studies and analyses show that abuse of NPOs takes place in 5 different ways.

Abuse Methods and Risks	
Diversion of funds	An NPO or its representative diverting funds to a known or suspected terrorist organization,
Affiliation with terrorist entities	An NPO or its representative continuing an operational contact with a terrorist organization or its supporter
Misuse of programs or activities	A legitimate humanitarian program supported and financed by an NPO being manipulated at delivery stage to support terrorism.
Support for recruitment for the terrorist organization	NPO-financed programs or facilities being used for supporting and/or creating an environment to support the activities for recruitment for a terrorist organization
Front organizations	Providing funds and/or conducting other activities to support a terrorist organization or a terrorist under the guise of charity activity.

According to FATF Report on “Risk of Terrorist Abuse in Non-Profit Organizations” published in 2014, diversion of funds is the most common method by 54% which is followed by affiliation with terrorist entities which has a share of 45% and support for recruitment for the terrorist organization is adopted by 26%.

In concordance with the questions and answers given in this guidance, “National Risk Assessment” process which deals with ML/TF risks in Turkey identifies major risk criteria in terms of possible abuses of NPOs by criminals within the scope of AML/CFT, which are as follow:

- a) The size of the sector
- b) Number and type of NPOs operating in the sector
- c) Donator base profile according to the type of NPO operating in the sector (legal persons/natural persons, foreign donations, donations from a certain geographical region etc.)
- d) Type of programs/activities carried out by NPOs operating in the sector according to their type (education, foreign activity, international cooperation etc.)
- e) The level of AML/CFT awareness of NPOs operating in the sector
- f) Difficulty of entering the sector
- g) Nature of services and activities offered by the sector
 - i) Higher risk in NPOs operating in services such as housing, social services, education or health)
 - ii) Low risk in interest-advocacy NPOs such as sports and recreation, arts and culture, political parties and think tanks

- h) Abuse of NPO activities-exploitation of delivery points with legitimate fund flow
- i) Quality of the supervision activities
- j) Frequency of the supervision activities
- k) Referrals to Public Prosecutor Office following supervisions
- l) Sanctions imposed following supervision and their grounds (administrative fine, judicial punishment and other sanctions)
- m) Type of NPOs referred to Public Prosecutor Office, subjects of referrals to Public Prosecutor Office and the state of being used as a TF instrument
- n) Types, numbers and ratio to the sector of closed or suspended NPOs
- o) Front charity organizations detected
- p) Nature of the international activities of NPOs in the sector and the frequency of these activities
- q) Variety and routing of NPO funds
- r) NPOs operating close to active terror threat
 - i) Those operating in the conflict zone with active terrorist threat (Syrian border)
 - ii) Those operating within a population actively targeted by a terrorist activity with the intention of support and protection in case of non-conflict (Ethnical/religious groups, of which the terrorist group targets to receive support)
- s) NPOs or representatives that have been detected to have established connection with a terrorist party knowingly and unknowingly,
- t) Sector's state of being suitable for providing supporters
- u) Existence of vulnerabilities to the points of financial flows, logistics support and vehicle support

Based on the assessment made within the scope of the following criteria, a risk analysis compatible with the FATF recommendation was made, and as not all NPOs were of high risk by their nature, the characteristics of NPOs that run the risk of TF abuse were set forth.

Up to this chapter of the guidance, an outline of TF has been provided, national and international legislation has been covered, terrorism and TF risks and methods related to NPOs have been examined and answers to a few basic questions have been given. However, providing a perspective on how current and potential risks can be eliminated constitutes one of the most important purposes of this guidance.

5. IDENTIFICATION AND MITIGATION OF RISKS

Risks should first be identified so that they can be mitigated. Access to different types of information is important in the detection of abuse, which is the first stage, and the investigation of abuse. For example, open sources, regulatory information and financial information ensure determination of the situation to a significant extent. However, access to national information such as LEAs and national security units, and exchange of information with foreign units are

necessary in more complex cases. Therefore, there are six major sources of information in this category, which are:

- Regulatory information on NPOs (information obtained and exchanged by General Directorate for Relations with Civil Society and General Directorate of Foundations)
- Open sources (news reports, articles, internet inquiries, etc.)
- MASAK data and other financial information
- Information obtained by national security units,
- Information provided by LEAs, and
- Information obtained from foreign units.

In brief, cooperation among many national and international actors is necessary for detecting and stopping important abuse cases. For example, the case given below is an example which includes information sent by two foreign (government) partners and which sets forth the national regulatory institution's ability to determine, understand and deal with the risky situation involving an NPO that alleges to conduct international humanitarian aid activities.

An NPO carrying out international humanitarian aid activities in a foreign conflict zone applied to national authorities for registration. The official authorities reviewing the application of the NPO detected that some of the objectives and activities of the NPO was outside the scope of legal framework. Therefore, intelligence units were contacted, and the information obtained by this way indicated that the NPO could be affiliated with terrorists or terrorist organizations operating in conflict zone. It was also found out the NPO would transfer the funds and sources, through legal ways, to a few organizations operating in education field in the conflict zone. It was seen that some of these organizations were also affiliated with above-mentioned terrorist organizations or terrorists.

Furthermore, information that could be useful in the review of the application was also received from two foreign partners. One foreign partner stated that the relevant NPO was under investigation in the country of the foreign partner for being affiliated with terrorist activities. Official authorities contacted the NPO and expressed their concern and stated the measures that should be taken to address these concerns. Consequently, the NPO withdrew its application and the information obtained by the official authorities during the review process were conveyed to national security units to be used in their inquiries.

The stage of detecting abuse is followed by the stage of eliminating, i.e. mitigating risks. As prevention of the terrorist act is an important focal point in TF cases, there are principal measures that can be taken for mitigating these risks. The following are the prominent the risk mitigation methods:

- Organizing trainings for and increasing the awareness of units responsible for regulation and supervision of the activities of the sector and relevant LEAs,
- Ensuring that the controls on the regulations related to operation of the sector are widespread,

- Law enforcement investigations and operations,
- Identifying and disclosing the individuals and entities supporting terrorists or terrorist organizations.

These measures are adapted for the NPO sector in Turkey as follows:

1) It will be appropriate that Directorate General for Relations with Civil Society and its provincial units which are responsible for the association and which are attached to Ministry of Interior, General Directorate of Foundations and its provincial units which are responsible for the foundations and which are attached to Ministry of Culture and Tourism and MASAK conduct necessary activities within the scope of organizing trainings and increasing the awareness for this sector.

2) As for the self-regulation of the sector, the biggest task falls on Directorate General for Relations with Civil Society and General Directorate of Foundations. Internal audits, on-site supervisions and declaration and disclosure obligations conducted by these Directorates General within the scope of system of supervising and monitoring the system make up an important part of these measures.

3) Police investigations and operations shall cover the process of evaluating the information received from the intelligence units, the denunciations and complaints conveyed by the units authorized to supervise the sector to the law enforcement units and the requests made by the Public Prosecutors.

4) In the identification of natural persons and organizations supporting terrorist elements, an information network and cooperation process, which each counterpart institution acting in relation to the sector will be involved in, shall be an indicator of an effective system.

Until now, MASAK has carried out various studies to increase the awareness of the sector, reveal possible risks and mitigate the risks. These studies are taken below.

5.1. Measures to be taken by NPOs

In order to mitigate the risks of financing of terrorism, it is beneficial for NPOs to take into consideration the issues stated below;

- National and international studies on the current trends in the financing of NPOs in financing of terrorism should be followed, and be aware of the risks arising from the area of activity and the geographical area of activity;

- In case of high risk, research should be carried out within possibility to the connections between the persons to whom help is delivered to and the terrorist organizations,

-The international sanctions taken to prevent financing of terrorism should be closely monitored,

- The persons and organizations to whom goods and services are provided and the persons and organizations with which joint aid activities are carried out abroad should be controlled whether they are included in the international sanction lists.

Additionally, in the MASAK General Communique No.6 mentioned in the national legislation on financing of terrorism and in the Guidelines prepared in accordance with Article 6 of the General Communique No. 13, “Types of Suspicious Transactions related to Non-Profit Organizations” within the scope of suspicious transaction types “related to financing of terrorism” have been determined in detail.

5.2. Issues to be taken into account by obliged parties

For example, in the Guidelines prepared in accordance with Article 6 of the General Communique No. 13 mentioned in the national legislation on financing of terrorism (Section 3.7), “Types of Suspicious Transactions related to Non-Profit Organizations” within the scope of suspicious transaction types “related to financing of terrorism” have been determined in detail;

1. Inconsistencies between the declared purpose, activities and visible resources of the NPOs with the nature and size of the financial transactions and the collected or transferred funds.
2. The sudden increase in the frequency and amount of financial transactions related to the bank account of the organization.
3. Keeping funds in the organization's account for too long.
4. The organisation only receives donations from abroad, or a significant part of the donations originate from abroad.
5. The fact that the managers of the organization are foreign nationals, especially the existence of large-scale transactions with the countries of foreign managers and the place where the money is sent is also a risky country.
6. Existence of unexplained connections of the organization; for example, several organizations transfer money to each other or share the same address, same director or personnel.
7. Existence of account movements of organisations giving an impression of intense activities without having adequate personnel, a suitable workplace or telephone numbers.
8. Receiving of funds by using a large number of individual and commercial accounts or the accounts of the organisation and transfer of these funds to foreign beneficiaries in a short time.

In the same Communique, it is established that the obliged parties, including the above mentioned matters, shall submit suspicious transaction reportings to MASAK within ten workdays starting from the date when the suspicion occurred or immediately in cases where any delay may cause inconveniences. In this framework, suspicious transaction reportings

regarding the transactions of NPOs by the obliged parties reach MASAK and the necessary examinations are carried out by MASAK.

5.2.1. Obligation of Customer Identification for the Sector

Awareness-raising activities are carried out by MASAK for the banking sector where a large proportion of the financial transactions are carried out by NPOs, and also in the guideline “The Principles regarding Customer Identification in Banking Transactions for Bank Customers” prepared again within this framework, the issues to be taken into consideration by the association and foundation representatives in banking transactions are instructed as follows;

If you act on behalf of an association;

- Present to the bank staff, together with the documents relating to power of representation, the documents related to the registration in the association charter and the association record (originals or notarized copies of the documents).
- Also give the telephone number of the association and the fax number and e-mail address, if any, to the bank staff.

If you act on behalf of a foundation;

- Present to the bank staff, together with the documents relating to power of representation, the deed of trust and the documents related to the registration kept in The General Directorate of Foundations (originals or notarized copies of the documents).
- Also give the telephone number of the foundation and the fax number and e-mail address, if any, to the bank staff.
- Present to the bank staff, together with the documents relating to power of representation, the charters of these organisations and the other documents based to the registration kept in the Ministry of Labour and Social Security, regional directorate of labour (originals or notarized copies of the documents).
- Also give the telephone number of these organisations and the fax number and e-mail address, if any, to the bank staff.

5.3. Suggestions for Donators

It is important for the public institutions and organizations that have the authority to regulate and supervise the sector, the representatives of the non-profit organizations, the institutions that perform their financial transactions, as well as the natural and legal persons who wish to make donations to associations or foundations shall also be aware of the existence of the risks mentioned in this Guideline and consider these matters while making donations in kind and in cash.

As stated in the definition of risks and methods section, it is not known that funds transferred to donors by NPOs will be transferred mostly to terrorist organizations, and donations are made considering that they will be used within the legal purpose that the NPO disclosed. The donor, who by its very nature cannot have access to all information related to the sector, has the opportunity to access to a few important information within the system in Turkey, for example;

- Natural and legal persons who wish to contribute to civil society activities may carry out various duties such as association membership, founding member and organ membership. However, in some cases, it is seen that there are some association membership, founding member and organ membership records without the knowledge of the persons. In order to increase transparency in the sector, this information can also be queried through the “Association Founding Membership and Association Organ Membership” service provided by the Ministry of Interior in the E-Government portal and citizens are able to make objections through the Directorate General of Civil Society Relations and Provincial Civil Society Relations for memberships that are not included in their information.

- As seen in the section stating the risks and methods of abuse of NPOs by the terrorist elements, funding of terrorist organisations to provide support to a terrorist organisation or individual is also a method used through fake organisations and under cover of charity. In our country, there are mechanisms to prevent this. For example, a significant amount of information regarding associations and foundations is provided publicly and easily accessible on the official website of the General Directorate of Civil Society Relations and on the official website of the General Directorate of Foundations.

- There is open access to the information of the each associations operating in Turkey regarding their name, field of activity, the province and sub-provinces where they operate (<https://www.dernekler.gov.tr/tr/Anasayfalinkler/illere-gore-faal-dernekler.aspx>). On the official website of the Directorate General of Foundations and in section “Foundation Inquiry”, the name, address and contact information of all foundations giving scholarship, community foundations, annexed foundations, foreign foundations and new foundations and the provinces and sub-provinces where they operate are provided as a list (<https://www.vgm.gov.tr/vakiflar/Sayfalar/Yeni-Vak%C4%B1f.aspx>). Thus, there are many sources of information to distinguish the real and false organizations in the non-profit organizations sector.

- According to the Article 6 of the Law No. 2860 on Fund Raising, persons and organizations cannot collect aid without the permission of the competent authority. The collection of aid activities without permission is immediately forbidden by security forces and prosecution is carried out for those responsible.

- According to the Law No.2860 on Aid Collection; associations, foundations and natural persons are required to obtain permission from the Governorship or District Governorship in order to collect aid (The list of associations and foundations authorized to collect aid without permission is published on the website of the Directorate General of Civil Society Relations). Persons who will be appointed by associations and foundations in the aid collection will be

given a photo identity card indicating the subject and duration of the activity by the authority gave the permission. In the collection of aids, receipts in hard covered form (solidary and sequence of a number) are used. These receipts are printed separately from the receipts used by associations and foundations for the acceptance of donations or from the donation receipt. In the originals and counterfoils of the receipts, the following information exists; the names, surnames and addresses of at least two of the responsible board members in case of printed by natural persons; in case of printed by associations and foundations, the name of these institutions, if any, the short name, address, the purpose for which the aid is collected, the authority which gives the permission, the date and number of the permit and the starting and ending date of the permit. In the tickets printed for aid collection through organising raffle and in the tickets and invitation cards printed for aid collection through organising cultural shows and exhibitions, sports shows, tours and entertainments; it is obligatory to write the information required on the aid collection receipts and to show the price of tickets and invitations in figures and letters. If the authority allowing the aid collection is deemed appropriate, the fixed receipts on which the amount of aid is stated in figure and letter may be printed. It is required to include the mentioned information in these receipts. People cannot be forced to donate to associations and foundations. In case of non-compliance with these obligations, judicial and administrative procedures are applied to the related persons.

- In Turkey, the Ministry of Interior provides the service of “Query of Aid Collection Authorisation” via E-Government and ensure the control of possible donators. Also, detailed information about aid collection operations can be received from the province general directorates of civil society relations within the governorships.

- The information on “organizations that have the right to collect aid without permission” and ‘associations working for the public benefit’, having certain privileges within the scope of aid collection, are kept up-to-date on the official website and the name of the organisation and the province where it operates is published as a list (<https://www.dernekler.gov.tr/tr/Anasayfalinkler/izin-almadan-yardim-toplama.aspx>, <https://www.dernekler.gov.tr/tr/Anasayfalinkler/kamu-yararına-calisan-dernekler.aspx>).

In the announcement made through the website of the General Directorate of Foundations, information was given about the Law No.2860 on Collecting Aid and the foundations that have the right to collect aid without permission were presented to the citizens (<https://www.vgm.gov.tr/vak%C4%B1f-i%C5%9Flemleri/vak%C4%B1flar-hakk%C4%B1nda/izin-almadan-yard%C4%B1m-toplayan-vak%C4%B1flar>).

- According to the Article 21 of the Law on Associations No.5253, it is possible for associations to receive aid from persons, institutions and organizations at abroad provided that they declare this to the local administrative authority beforehand. It is obligatory to receive monetary fund by means of banks. In accordance with Article 11 of the Law on Associations; donations are granted either depositing to the bank accounts or giving certificate of receipt to the donator by the person on whom authorisation certificate has been drawn up on behalf of by the relevant association. When the aids are collected by banks, banks receipts or account statements substitute the certificate of receipt. The volumes, serial and sequence numbers of the receipts

are reported to the provincial directorates of civil society relations or to the conductor relations with the civil society by the printing houses that print these documents. Collection of documents other than certificate of receipts is unlawful. In addition, associations can only accept donations with their certificate of receipts; they cannot use these receipts in aid collection activities.

- There is a similar application for the foundations and according to the Article 25 of Law on Foundations, cash aids that come from or are sent to abroad shall be remitted and received through and over the banks and the result shall be notified to the General Directorate of Foundations. In accordance with the same article, foundations may receive in-kind and in cash donations from individuals, institutions and bodies at home. In the Article 51 of the Regulation on Foundations, a logbook of donation receipts is also stated among the books to be kept by the foundations and in the Article 52 it is stated that the foundations shall procure receipts of donation to be used and other documents deemed necessary from the General Directorate. Likewise, no revenue can be collected by means of documents other than donation receipts obtained through the banks and from the Directorate General.

When the natural and legal persons, wishing to donate to associations or foundations, make in cash and in kind donations to the sector, they should take into account these matters and when they encounter with situations other than stated here, they should inform the public institutions by making complaints.

For a better understanding of the information contained in this Guideline, two examples of misuse of NPOs are stated below.

6. CASE STUDIES

Case Study-1

The association X appears as a NPO operating in Diyarbakır and carrying out charitable activities and providing in-kind and cash aid to those in need. MASAK received suspicious transaction reportings and some intelligence from other institutions about this association, this was as;

- The aids given by the association were directed to the families of the members of the separatist terrorist organization PKK/KCK and to the persons who were affiliated and related to the terrorist organization.

As the result of the studies conducted by MASAK about the accounts of the association and the directors of the association, the followings have been determined;

- Some of the founders and directors of the association were affiliated to the organization and/or had criminal records for crimes related to terrorism and some of them were imprisoned and criminal action were taken against them,

- As a result of the financial analysis, it was understood that the people who donated to the association were municipal employees and directors related with the organization, the persons who were affiliated to the organization and the persons who had criminal records for crimes related to terrorism and/or criminal action were previously taken against them.
- The bank accounts of the association were examined by MASAK and it was found that more than half (54%) of the persons who were assisted were relatives of persons convicted of terror crimes and/or persons who had criminal records for crimes related to terrorism.

After the study, a referral was made to the relevant Public Prosecutor's Office regarding the directors of association and the persons who in particular made donations to the association within the scope of aiding to the terrorist organization, being a member of the organization and the financing of terrorism. Subsequently, the mentioned association was closed in 2016.

Determined methods: Transferring of funds, commonality with terrorist elements, support in recruiting members to the organization

It was understood that, the association was established to finance the partisans or members of the organisation or the organisation itself, it aimed to camouflage/conceal the illegal transactions carried out, to increase the loyalty of the members of the terrorist organization to the organization and to recruit new members recruit with the aids made other than the purpose of the association and the aids were made by the persons affiliated to the organisation and the association was established to legalize the process.

Case Study-2

In June 2005, the **Foundation A** was registered as a charity by the government agency responsible for non-profit organizations in Canada. In the deed of trust of the foundation, the objectives were stated as to establish and operate religious facilities in Canada and to decrease the poverty by providing financial aid to the indigents.

In 2011, the Association B which was the umbrella organisation of the Foundation A and operated in USA had been the subject of news detailing the findings of an independent internal audit.

- The audit findings revealed the matters such as the misuse of the resources of Foundation A, fund transfers to wrong persons, problems with accounting records, and substantial allocation of resources to activities which were not permitted in accordance with Canadian legislation. In addition, it was determined that a significant amount of resources were transferred to **another Canadian aid organization** operating in Pakistan.

Upon the findings of this news and internal audit report, the Canadian authorities supervised the activities of the Foundation A;

- It was determined that the Foundation A and the other aid organisation which significant fund transfers were made entered into a financing arrangement with the aim of sending final funds to a Pakistan-based NPO. With the collusive agreement between the two organisation, funds were collected for the ‘aid activities’ and while Foundation A made out formal aid receipts to donators, funds were sent to Pakistan through the other aid organisation. During the audit, the authorities of Foundation A stated that they had no information about the other organisation or the specific nature of the activities to which the funds would be directed.
- With the determinations reached as the result of the audit; making out aid receipts were found to be contrary to Canadian legislation. It was also seen that the Foundation A could not maintain the direction and control of the funds and could not prove the nature of the programs and activities that the funds were directed to.

The examinations of the Canadian authorities also revealed that the NPO, operating in Pakistan, was a charitable association which was connected with an armed group in the region. This group was listed by the Council of the European Union as a terrorist entity.

In 2013, the charity organisation status of the Foundation A was revoked because the findings reached by the Canadian authorities strengthened the possibility that the resources of Foundation A were used to fund the activities of the mentioned armed group operating in Pakistan.

The website of the aid organisation operating in Pakistan was closed after being reported in the news in Canada, the United States and India



7. CONCLUSION

Turkey is struggling with many terrorist organizations for many years; both directly threatened by terrorism as a target and indirectly affected by terrorism due to closeness to areas where the conflicts are intensive. As mentioned throughout the guideline, terrorist organizations, which are both within the borders of the country and subject to for our geographical location, aim to collect funds to carry out their activities.

In this respect, the fight against the financing of terrorism has an important place in the agenda of our country and in this process, MASAK appears to be one of the leading actors. As terrorist organizations are looking for new sources of finance with developing technology and mobility, MASAK also aims to open new horizons in the fight against the financing of terrorism. In addition to close cooperation with each counter-terrorism unit, international regulations and cooperation are on the agenda of MASAK as areas of importance.

Many countries have more extensive and comprehensive information on other sources of terrorism, and the effectiveness and deterrence of measures taken in these areas are on higher levels. The misuse of NPOs for terrorism purposes has recently become relatively an important issue in the agenda of international security. For this reason, it is essential to raise awareness regarding the abuse of the sector, to develop best practice examples and ultimately to carry out studies for mitigating the abuse. Increasing the awareness of public institutions and organizations having the authority of regulating and supervising the sector as well as the representatives of NPOs operating in Turkey and the natural and legal persons who wish to make donations to associations or foundations shall be one of the most effective measures in prevention of the abuse of the sector.

Our first priority was to update this Guide, the former of which was published in 2009, in parallel with the risk analysis of the sector and to ensure that the sector's charitable works are transparent and reliable with the public support.