



Financial Action Task Force
Groupe d'action financière

**SUMMARY OF THE
THIRD MUTUAL EVALUATION REPORT
ANTI-MONEY LAUNDERING AND
COMBATING THE FINANCING OF TERRORISM**

TURKEY

23 February 2007

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EXECUTIVE SUMMARY

1. Background Information

1. This report provides a summary of the anti-money laundering (AML) and combating the financing of terrorism (CFT) measures in place in Turkey at September 2006 (the date of the on-site visit) and also considers the new AML legislation passed in October 2006. The report describes and analyses those measures and provides recommendations on how certain aspects of the system could be strengthened. It also sets out Turkey's levels of compliance with the Financial Action Task Force (FATF) 40 + 9 Recommendations (see attached table on the Ratings of Compliance with the FATF Recommendations). The Turkish Government recognises the importance of an effective AML/CFT regime and continues to actively update its AML/CFT framework.

2. The government of Turkey has recently passed a number of key laws relating to ML and TF. A new money laundering offence was introduced in June 2005, and the stand-alone terrorist financing offence was introduced in July 2006. The confiscation framework in Turkey appears to meet most of the standards, but has not yet produced substantial results. Turkey has weak systems for implementation of S/RES/1267(1999) and S/RES/1373(2001). The new AML law (Law 5549 of October 2006) provides, amongst other things, for a new and more comprehensive system for disclosures of cross-border movements of cash and monetary instruments to be implemented in the near future.

3. The Turkish financial intelligence unit (FIU) is the focal point for Turkish AML/CFT efforts and it is generally effective in its functions. Supervision is conducted by the FIU, the Banking Regulation and Supervision Agency, the Capital Markets Board and the Undersecretariat of Treasury. The AML/CFT system is overseen by a multi-agency Coordination Board for Combating Financial Crime. Competent authorities are capable and actively involved in the Turkish AML/CFT system. Prosecutors and judges do seem however to have limited awareness of AML/CFT issues. Turkey has generally complete international cooperation mechanisms and sound national and international cooperation in practice. Most authorities were able to provide useful statistics on AML/CFT and other matters, though these do not appear to be jointly examined by related authorities.

4. The preventive system deals with customer identification and other AML/CFT obligations and applies to a range of financial institutions and a number of designated non-financial businesses and professions (DNFBPs). While some limited systems are in place for verification of identity, a number of other customer due diligence (CDD) requirements have not been implemented. There is now a strong dematerialisation programme in place to deal with the bearer shares issued in the past. The legal concept of trust does not exist under Turkish law. Turkey has a large non-profit sector which is closely regulated but it is not reviewed periodically to assess TF vulnerabilities and authorities do not provide it with CFT-related outreach.

5. While the number of suspicious transaction reports (STRs) submitted has increased substantially, the level of reporting remains low when the size and nature of Turkey's financial sector is considered. Most STRs have been submitted by banks, and none have been submitted by DNFBPs. Supervision is generally effective, though not comprehensive in its sectoral coverage. The number of detected violations and the number of sanctions imposed are low. No systems exist for monitoring and ensuring compliance of DNFBPs with AML/CFT requirements, and limited training and guidance has been provided to DNFBPs.

6. Turkey has a unitary secular democratic parliamentary system with a written Constitution, and its legal system follows the civil law tradition. Turkey participates in a number of international multilateral fora. Its financial sector, dominated by the banking sector, has shown good economic growth over the past 5 years. This sector has undergone important changes, in part due to a financial

sector consolidation program over the past 10 years and in part associated with anticipated accession to the European Union (EU).

7. The major sources of illegal proceeds in Turkey relate to drug trafficking, but also smuggling, qualified fraud and bankruptcy, document forgery, pillage, highway robbery and kidnapping, and serious crimes against the State. The primary methods for laundering funds are money transfers and other banking transactions, commercial transactions, accounting transactions and purchase of real estate. Turkey has been actively working to counter terrorism, primarily of a domestic nature, for some time.

2. Legal System and Related Institutional Measures

8. After the establishment of the Turkish Republic in 1923, certain laws and codes promulgated were strongly inspired by those of other European civil law jurisdictions. The government of Turkey has in recent years embarked on a programme of legislative renewal, in part related to anticipated accession to the EU. Overall, Turkey's legal requirements to combat ML and TF are generally comprehensive. The legislative renewal program has strengthened the AML/CFT system though, due to the recent implementation of a number of key laws, many elements of the system's effectiveness have not yet been tested.

9. The listing approach for predicate offences was in place in Turkey until enactment of the new criminal code (Law 5237) in June 2005. Predicate offences are now those for which the minimum punishment is one year or more imprisonment, and this includes most of the required offence types. The number of ML prosecutions brought under the previous offence provision was low and from these there are not yet any finalised convictions. While the scope of the new ML offence is broader than its predecessor, and it may produce better results in the future, the penalties provided for ML are low when compared to similar types of offences. No prosecutions have yet been brought using the new ML offence. Turkey has been actively combating terrorism for some years and has a counter terrorism system in place which predates the FATF standards. The new TF offence of July 2006 is generally broad, although it does not completely implement the *International Convention on the Suppression of the Financing of Terrorism* (1999). It has not yet been tested in Turkish courts. The TF offence only applies in relation to terrorism against Turkey and its interests and it only applies to funding for the commission or attempted commission of specific terrorist acts. As with the ML offence, penal sanctions for the TF offence apply only to natural persons and licence cancellation and confiscation provisions apply to legal persons.

10. The confiscation framework in Turkey appears to meet most of the standards, but has not yet produced substantial results. The new confiscation measures, introduced in June 2005, may assist in this regard. Turkey has implemented S/RES/1267(1999) and its successor resolutions via decrees of the Council of Ministers, but has not established formal procedures for, or guidance relating to, gaining access to frozen funds for necessary expenses, delisting, unfreezing or sanctions for failure to observe a freezing order. There is no system in place for communicating the decrees to DNFBPs and no deadlines are set for action by financial institutions in accordance with the decrees. In addition, Turkey does not have a mechanism that will permit it to freeze the assets of persons designated by other jurisdictions as foreseen by SR.III in the context of S/RES/1373(2001).

11. The Turkish financial intelligence unit (FIU) – *Mali Suçları Araştırma Kurulu* (MASAK) - has been a member of the Egmont Group of FIUs since 1998. MASAK receives suspicious transaction reports (STRs) and develops cases that are forwarded to the public prosecutor for action against ML. The FIU is a focal point for the Turkish AML/CFT efforts and is generally effective in its functions.

12. Turkish law enforcement authorities have comprehensive legal powers for gathering evidence and compelling the production of documents, and they can also use special investigative techniques. Nevertheless, there is little specialisation among law enforcement or prosecutorial authorities in ML or TF financing matters. The lack of awareness shown by the representatives of the prosecution and

judicial authorities met by the evaluation team and the disproportionate level of acquittals are of concern.

13. While Turkey currently has a limited declaration system relating to movement of currencies worth over USD 5,000, the new AML law (Law 5549 of October 2006) provides for a more comprehensive system to be implemented in the near future.

3. Preventive Measures - Financial Institutions

14. The preventive side of the Turkish AML/CFT regime was originally instituted through the *Law on Prevention of Money Laundering* (Law 4208 of 19 November 1996), the Regulation supporting this law and four MASAK Communiqués. After the on-site visit, Turkey enacted a new AML law (Law 5549 of 18 October 2006), which replaces and strengthens a large number of the provisions contained in Law 4208. Both the new and old laws deal with customer identification and other AML/CFT obligations and apply them to a range of financial institutions and a number of DNFBPs. Turkish AML/CFT measures are not based on risk in the manner set out in the revised FATF 40 Recommendations, and in particular, do not allow for enhanced due diligence. However, recent non-mandatory guidance issued by MASAK does describe the concept of risk and appears to take different risk situations into account. There is no requirement for financial institutions to give special attention to business relationships and transactions with persons from or in countries which do not sufficiently apply the FATF Recommendations.

15. The current law incorporates generally good customer identification requirements. Some verification of identity is also required. Turkey has a generally strong set of record keeping requirements for financial institutions. There are no requirements for customer due diligence (CDD) to be ongoing, very limited requirements for identification of beneficial owners and no requirements for application of enhanced due diligence. Measures have not yet been stipulated in relation to PEPs, correspondent banking or misuse of new technologies. Only the securities sector is subject to provisions on the use of third parties to perform CDD under Turkish law. Obligated parties are not required to investigate the purpose of complex/unusual large transactions or to keep such records. Financial institutions are required to include the name of the originator in wire transfer instructions but are not required to include other originator information.

16. The regulatory system is implemented and supervised by four primary agencies: MASAK, the Banking Regulation and Supervision Agency, the Capital Markets Board, and the Undersecretariat of Treasury; and it is overseen by the multi-agency Coordination Board for Combating Financial Crime. All competent authorities have the power to obtain documents and information without any secrecy limitations and are able to share this information.

17. While the number of STRs submitted to MASAK from 2002 to 2005 was more than three times that submitted in the previous four year period, the level of STR reporting is low when the size and nature of the financial sector is considered. Some STRs relating to TF have been submitted despite the fact that there is an incomplete obligation to report STRs on terrorism financing to MASAK. The prohibition on 'tipping off' does not explicitly apply to the natural persons within obliged parties, and the practice of some financial institutions to automatically suspend transactions that are the subject of an STR may inadvertently alert the customer to fact that a report has been made.

18. Turkey has requirements in place for internal controls in banks, participation banks and companies operating in the capital markets. Financial and other businesses subject to AML obligations are obliged to train, conduct internal audits and assign compliance officers. Financial institutions are not however required to have internal audit procedures and policies in relation to TF, and it appears few obliged parties have appointed AML/CFT compliance officers. There are some requirements in law and regulation for banks to apply CDD and internal control systems to overseas branches, though on the whole these have not been implemented. The requirements which must be met in order to establish a bank in Turkey may make it impossible in practice to establish a shell bank,

though there is no explicit prohibition on establishment of shell banks and Turkish banks are not prohibited from having relationships with such banks.

19. The range of obliged parties subject to AML/CFT regulation is broad and includes necessary financial institutions. The focus of AML regulation is customer identification, reporting suspicious transactions, record keeping and submission of information. There is limited ongoing offsite control of financial institutions. The STR statistics reveal that almost all reports in the last five years have been submitted by banks, suggesting inadequate AML/CFT supervision of other obliged parties. There is no consolidated supervision for insurance and securities sectors. Limitations identified generally in relation to financial institutions also apply to the alternative remittance sector.

20. Regulations dealing with the ownership and/or control of banks are in place, though the qualifications and fit and proper tests for persons operating in senior roles in this sector are at times vague. The list of offences of which these persons must not have been convicted does not include the TF offence. There is no corresponding regulation dealing with the ownership and/or control of other financial sector companies.

21. MASAK is authorised to examine obliged parties to determine whether they fulfil their AML obligations, and the primary financial sector supervisors can through their controls take into consideration AML requirements. Any AML violations found by other supervisors must be communicated to MASAK for investigation. Sanctions can be applied to the persons who execute transactions which violate AML/CFT laws and regulations but not to the directors and senior managers of these companies. The number of detected violations is low, and the number of sanctions imposed where violations were detected is low compared to the number of institutions supervised. A limited range of sanctions is available, and this is not flexible and proportionate to the various potential AML/CFT violations. The availability of administrative fines under the new AML law is likely to allow for a more effective sanction system, though there is a relatively low limit on the fines that can be applied.

22. MASAK and other authorities have good relationships with the financial sector, and the banks appear to have a strong compliance culture. MASAK and the Turkish Banks Association (TBA) work cooperatively and have issued a number of non-binding guidelines to assist obliged parties to implement and comply with AML/CFT requirements. This guidance does not address all areas of the FATF Recommendations however. The non-mandatory guidelines issued by the TBA are the most extensive, though these are only produced for banks. Other competent authorities have not issued guidance for this purpose. While guidance for DNFBPs has been limited, MASAK's recently issued guideline for financial institutions and DNFBPs provides useful description and analysis by sector. MASAK does not provide feedback to parties reporting STRs, and only provides limited information to obliged parties on trends and examples drawn from the STRs via its annual activity report.

4. Preventive Measures – Designated Non-Financial Businesses and Professions

23. A number of the relevant categories of DNFBPs are covered by the AML/CFT obligations set forth in law, but there is limited indication that the currently listed obliged DNFBPs are in fact implementing preventive measures. No systems exist for monitoring and ensuring compliance of DNFBPs with AML/CFT requirements and little training has been provided to DNFBPs. DNFBPs are not required to conduct in-house training or screen potential employees. Limitations identified generally in relation to financial institutions apply also to the DNFBP sector. No STRs have been submitted by DNFBPs. Lawyers, accountants and other legal professionals are notably absent from the list of obliged parties. They are not required to submit STRs and are not subject to other AML/CFT measures. Turkey is effectively working to move more transactions to secure payment systems.

5. Legal Persons and Arrangements & Non-Profit Organisations

24. Turkey has a good Trade Registry system for legal persons though there is no requirement to disclose information on beneficial ownership to the Trade Registry or to other government authorities. While the current paper-based Trade Registry has some limitations in terms of real-time access to information, it is expected that the database system which is due to be operational in 2007 will improve access and searchability. Bearer shares have been issued in the past and are thus a concern. However Turkey's strong dematerialisation programme is expected to reduce and eventually remove the risk posed by bearer shares. Only a limited range of sanctions can be applied to legal persons involved in money laundering.

25. The Turkish legal system does not allow for the creation of trusts, and the legal concept of trust does not exist under Turkish law.

26. Turkey has a large non-profit sector, primarily comprising associations and foundations, which is closely regulated. Both associations and foundations are subject to registration systems. However the evaluation team did not receive any information which demonstrates that Turkey periodically reviews the sector in order to assess TF or ML vulnerabilities. In addition, there is no outreach programme for raising the awareness of the non-profit sector about the risk of abuse by money launderers or the financiers of terrorism. Government authorities are able to search, if needed, and obtain accurate information on entities operating in the non-profit sector and persons who own, control and direct such entities. The number of associations inspected in recent years is quite low and domestic and international cooperation in this area is not strong. Sanctions are in place for non-profit organisations and those working for them who commit crimes.

6. National and International Cooperation

27. The Coordination Board for Combating Financial Crime provides a good means of domestic coordination at a policy level and has been an important forum encouraging recent legislative developments. Turkey's AML/CFT system would benefit from active involvement of the public prosecutors in the Coordination Board. While ongoing operational coordination and information sharing between competent authorities does occur, it could be strengthened, particularly in relation to the various reports the financial sector must make to different supervisors and the reporting by multiple supervisors direct to the public prosecutor's office.

28. Turkey has ratified *The United Nations (UN) Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances* (1988) (the Vienna Convention), *The UN Convention Against Transnational Organised Crime* (2001) (the Palermo Convention) and the *UN Convention for the Suppression of the Financing of Terrorism* (1999). Turkey is party to treaties which provide the legal basis for providing and requesting mutual legal assistance though it has not signed the Second Additional Protocol (2001) to the *European Convention on Mutual Legal Assistance in Criminal Matters*. Turkey has a generally clear and complete framework for providing international cooperation, and Turkish authorities appear to be committed to cooperating with their international counterparts. Little information was obtained however evidencing regular effective cooperation in practice. While Turkey requires dual criminality in order to apply extradition provisions and some areas of mutual legal assistance (search, seizure and confiscation), it does not define this restrictively, and neither dual criminality nor the principle of reciprocity have been used as a grounds to refuse mutual legal assistance. Turkey does not apply disproportionate or undue conditions that can hamper provision of mutual legal assistance. While Turkish authorities do appear able to assist foreign countries with measures available for domestic investigations or criminal proceedings, there are no specific provisions that extend the scope of domestic laws for mutual legal assistance purposes.

29. The new criminal code (Law 5237 of 1 June 2005) provides a robust basis to cooperate at international level in extradition matters, though the procedure for extradition does seem complex.

ML and TF are extraditable offences in Turkey. Turkey will not extradite its own nationals, but if requested by a foreign country it will instead initiate domestic proceedings.

30. Authorities in Turkey have conducted joint controlled operations with foreign counterparts. Turkey does not however have arrangements for coordinating seizure or confiscation actions with other countries. There is no asset forfeiture fund, and no indication Turkey has considered establishing one. Turkey does not share confiscated assets with other countries which have participated in coordinated action, and there is no indication it has considered establishing a system to do so.

31. Competent authorities are capable, committed and actively involved in the Turkish AML/CFT system. Prosecutors and judges do seem however to have limited awareness of AML/CFT issues. As the TF offence was enacted recently, the CFT training of all authorities and of the financial sector is so far insufficient. Competent authorities do not have an adequate structure and sufficient technical staff and other resources for full AML/CFT supervision of the insurance sector. The FIU is not adequately resourced with staff who have a law enforcement background. Also the need for a Council of Ministers decree for a MASAK memorandum of understanding to enter into force is too restrictive. The Customs service does not seem to have sufficient funding and staff for undertaking its functions, and this may lead to inadequate attention to AML/CFT issues.

32. Turkey has thorough statistics on the suspicious transactions reports received. Statistics are kept on the matters referred to the FIU by government authorities and on the referrals by MASAK to the public prosecutor and other authorities. Statistics are readily available on international wire transfers. Information on the value of currency involved in declarations made on cross border transportation of currency is not available for all declarations. Statistics on prosecutions for ML and TF, as well as related confiscation data, are maintained by Turkish authorities; however, they are not comprehensive or consistently kept in all areas, thus making it difficult to fully assess the effectiveness of these regimes. Information on extradition and mutual legal assistance does not indicate the grounds for refusal or provide an indication of the amount of time taken to respond to requests. Most supervisors were able to provide useful statistics on the number of AML/CFT inspections conducted and on the sanctions applied. Each authority in Turkey has different types of statistics that reflect different aspects of the system and these do not appear to be jointly examined by related authorities.

Table 1: Ratings of Compliance with FATF Recommendations

The rating of compliance vis-à-vis the FATF Recommendations are made according to the four levels of compliance mentioned in the 2004 Methodology - Compliant (C), Largely Compliant (LC), Partially Compliant (PC), Non-Compliant (NC) - or, in exceptional cases, Not Applicable (N/A).

Recommendation	Rating	Summary of Factors Underlying Rating ¹
Legal systems		
1 – ML offence	PC	<ul style="list-style-type: none"> The threshold for predicate offences is too high as it only captures offences penalised by minimum imprisonment of 1 year or more. Not all elements required by the relevant UN conventions appear to be covered, in particular; possession and possibly also use. There are doubts about the effectiveness of Turkey's criminalisation of ML; prosecutions under the old ML offence (in effect up to June 2005) have produced a disproportionately high number of acquittals, and there have not been any final convictions for ML under this offence. Effectiveness of the new ML offence cannot be assessed as it was introduced relatively recently (June 2005).
2 – ML offence – mental element and corporate liability	LC	<ul style="list-style-type: none"> It has not been clearly demonstrated (through prosecution or case-law) that the intentional element of the ML offence can be inferred from factual circumstances though this has not yet been tested in a prosecution, and this does not appear to be supported by case-law. The 5 year maximum penalty for ML (or 10 years if committed in the context of a criminal organisation) is relatively low in comparison with similar types of offences. Only a limited range of sanctions can be applied to legal persons. There are questions of effectiveness in this area.
3 – Confiscation and provisional measures	LC	<ul style="list-style-type: none"> The rights of bona fide third parties may not be fully protected. The effectiveness of Turkey's confiscation system to date is questionable: The number of confiscation proceedings is very limited (only 3), and no final confiscation action has occurred up to now. New confiscation powers for ML and TF are too recent to test their effectiveness.
Preventive measures		
4 – Secrecy laws consistent with the Recommendations	LC	<ul style="list-style-type: none"> Financial institutions are not authorised to share information in the implementation of Recommendations 7 and 9 and SR.VII.
5 – Customer due diligence	NC	<ul style="list-style-type: none"> The only explicit CDD requirement is customer identification. It is not specified whether identification must be conducted for linked transactions below the TRY 12,000 threshold. Customer verification of natural persons only partially complies with international standards. There are no verification requirements for legal persons, associations, and foundations. Documents authorising a natural person to conduct transactions on behalf of a legal person are required as part of customer identification in accordance with primary or secondary law for legal persons registered in Trade Registry, but not for foundations or associations.

¹ These factors are only required to be set out when the rating is less than Compliant.

Recommendation	Rating	Summary of Factors Underlying Rating ¹
		<ul style="list-style-type: none"> • There is only a very limited provision, which is not yet implemented in supporting regulation, requiring the identification of the beneficial owner, and financial institutions are not required to take reasonable steps to understand the layers of ownership and control of legal persons which are their customers. • Measures for collection of information on the purpose and nature of the relationship for legal persons are only contained in unenforceable guidelines. There is no provision applicable for insurance. • Measures for enhanced CDD for sensitive countries, sensitive business and higher risk customers, are only contained in non-mandatory and unenforceable guidelines and this is largely undefined. • There are no clear CDD requirements for the financial sector other than those for banks. • The exemption of requirements for identification for transactions carried out with central and local public administrations, state economic enterprises, quasi public institutions, banks and participation banks are overly broad. • There are no clear requirements to conduct ongoing CDD.
6 – Politically exposed persons	NC	<ul style="list-style-type: none"> • Turkey has not implemented AML/CFT measures concerning establishment of customer relationships with PEPs.
7 – Correspondent banking	NC	<ul style="list-style-type: none"> • Turkey has not implemented AML/CFT measures concerning establishment of cross-border correspondent banking relationships.
8 – New technologies & non face-to-face business	PC	<ul style="list-style-type: none"> • Turkey has not implemented adequate AML/CFT measures concerning risks in technology or the establishment of non face-to-face business transactions (in the latter category, other than for banks and brokers).
9 – Third parties and introducers	NC	<ul style="list-style-type: none"> • There is no law, regulation or enforceable guidance, outside of the securities' sector, on the use of third parties to perform CDD under Turkish law.
10 – Record keeping	C	<ul style="list-style-type: none"> • Recommendation 10 is fully observed.
11 – Unusual transactions	NC	<ul style="list-style-type: none"> • Recommendation 11 has not been implemented.
12 – DNFBP – R.5, 6, 8-11	NC	<ul style="list-style-type: none"> • Lawyers, accountants and other legal professionals are not obliged parties. • Turkey's general shortcomings in implementation of Recommendations 5, 6 and 8-11 also apply to DNFBPs. • There are questions about the effectiveness of implementation of customer identification and record keeping requirements in obliged DNFBPs.
13 – Suspicious transaction reporting	PC	<ul style="list-style-type: none"> • There is no express obligation to report STRs on terrorist financing and the limited definition of terrorism means the full range of terrorist financing activities is not covered by the definition of what matters STRs may relate to. • Many of the STR types relate to high value transactions. • The level of STR reporting is low when the size and nature of the Turkish financial sector is considered.

Recommendation	Rating	Summary of Factors Underlying Rating ¹
14 – Protection & no tipping-off	LC	<ul style="list-style-type: none"> In practice, the practice of some financial institutions in automatically suspending transactions that are the subject of an STR may inadvertently alert the customer to fact that a report has been made, thus limiting the effectiveness of the 'tipping off' prohibition.
15 – Internal controls, compliance & audit	PC	<ul style="list-style-type: none"> Financial institutions are not required to establish adequate internal audit procedures and policies in relation to TF. The access to information by compliance officers in banks and participation banks is only inferred from their position in the organisation structure. While brokerage houses are required to adopt internal audit policies and procedures, this does not specifically relate to AML/CFT. Insurance companies and other obliged parties are not required to have internal controls or compliance officers. In-house training and screening requirements only apply to the banking and securities industries. Training requirements for banks do not exist in relation to the full breadth of AML/CFT issues and obligation. Effectiveness issue: Of the 20 banks inspected by the BRSA in 2005 (13 Turkish banks and 7 foreign banks), 6 did not fulfil their obligation on the appointment of compliance officer.
16 – DNFBP – R.13-15 & 21	NC	<ul style="list-style-type: none"> Accountants, lawyers and other legal professionals are not required to submit STRs and are not subject to other measures covered by Recommendations 14, 15 and 21. DNFBPs are not obliged to have compliance officers or internal control programmes. DNFBPs are not required to conduct in-house training or screen potential employees. Limited training has been provided to DNFBPs. DNFBPs are not required to pay special attention to transactions with countries which do not or do not adequately implement the FATF Recommendations. No STRs have been submitted by DNFBPs, which calls into question the effectiveness of implementation of Recommendation 13 in this sector.
17 – Sanctions	PC	<ul style="list-style-type: none"> The range of available sanctions, although expanded under the new AML law, is still limited. The requirement under the old AML Law that mandatory criminal penalties applied to obliged parties which did not comply with AML/CFT requirements was a factor in the low number of sanctions issued. The level of fines which may be issued is very low. No sanctions are available for senior staff in institutions where violations occur. Sanctions are now available for legal persons which do not fulfill their AML obligations but it is too early to assess their effectiveness.
18 – Shell banks	PC	<ul style="list-style-type: none"> There is no explicit prohibition on establishment of shell banks. There is no provision that prohibits Turkish banks from entering into, or requiring them cease, operations with shell banks. There are no provisions requiring Turkish financial institutions to verify that their respondent institutions do not have accounts used by shell banks.

Recommendation	Rating	Summary of Factors Underlying Rating ¹
19 – Other forms of reporting	C	<ul style="list-style-type: none"> Recommendation 19 is fully observed.
20 – Other NFBP & secure transaction techniques	C	<ul style="list-style-type: none"> Recommendation 20 is fully observed.
21 – Special attention for higher risk countries	NC	<ul style="list-style-type: none"> Recommendation 21 has not been implemented.
22 – Foreign branches & subsidiaries	NC	<ul style="list-style-type: none"> Article 4 of the RRIL providing for application of customer identification requirements to overseas branches and subsidiaries has not been implemented. Internal control provisions for overseas branches and subsidiaries only exist for banks, not for any other obliged parties. There is no requirement to pay particular attention where branches and subsidiaries are in countries which do not or insufficiently apply the FATF Recommendations. There is no requirement to apply the higher of the two countries' standards. There is no requirement to inform supervisors when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures due to host country restrictions.
23 – Regulation, supervision and monitoring	PC	<ul style="list-style-type: none"> There is no ongoing offsite AML/CFT control other than limited reporting by obliged parties of a limited set of statistics. AML/CFT obligations do not extend to all CDD measures and matters in the FATF Standards. No provisions exist which would prevent criminals or their associates from being beneficial owners of significant or controlling interests in financial institutions. The fit and proper criteria for founders and persons operating in senior roles in the financial sector are broad. The Core Principles are not applied for AML/CFT purposes, in particular in the insurance and securities sectors.
24 – DNFBP - regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> No systems exist for monitoring and ensuring compliance of DNFBPs with AML/CFT requirements.
25 – Guidelines & Feedback	PC	<ul style="list-style-type: none"> MASAK does not provide specific feedback to obliged parties on STRs submitted, nor does it provide information on the trends and methods observed in the STRs received. The number of STRs received is low when the size and nature of the Turkish financial sector is considered. Only 3 pieces of AML/CFT guidance have been issued by Turkish government authorities and these do not cover all AML/CFT matters. Neither feedback on STRs received nor information on typologies and trends is provided to obliged parties. The only guidance issued (for DNFBPs) is a recent MASAK guideline which provides DNFBPs with indicators of ML and TF.
Institutional and other measures		
26 – The FIU	LC	<ul style="list-style-type: none"> The efficiency of MASAK in relation to TF could be jeopardised due to limitations in the scope of the reporting obligation for TF.

Recommendation	Rating	Summary of Factors Underlying Rating ¹
		<ul style="list-style-type: none"> • The quality of financial analysis is in question as only a small number of files are referred to the public prosecutor. • Reports on typologies and trends are not publicly released.
27 – Law enforcement authorities	PC	<ul style="list-style-type: none"> • There is a very low level of convictions in ML cases. Almost all cases result in acquittals and of the small number where convictions have been recorded, all were on appeal at the time of the visit. • The awareness of the public prosecutors and judges on ML matters seems to be poor. • The new TF offence has not yet been tested therefore its effectiveness could not be judged.
28 – Powers of competent authorities	LC	<ul style="list-style-type: none"> • The new TF offence has not yet been tested.
29 – Supervisors	PC	<ul style="list-style-type: none"> • The number of AML/CFT inspections conducted and the number of violations detected are very low considering the size of the sector, suggesting limited effectiveness of the supervision system. • There is no explicit provision for control of compliance with AML/CFT requirements for insurance companies. • There is limited ongoing offsite AML/CFT control.
30 – Resources, integrity and training	PC	<ul style="list-style-type: none"> • CFT training of all supervisors (in banking and especially securities and insurance sectors) is insufficient. • Competent authorities do not have an adequate structure and sufficient technical, staff and other resources for AML and CFT supervision of the insurance sector, particularly if full CDD and internal control requirements are implemented in this sector. • The FIU is not adequately resourced with staff with a law enforcement background. • The customs service does not seem to have sufficient funding and staff for its functions and this may lead to inadequate attention to AML/CFT issues. • There seems to be a serious lack of knowledge of AML/CFT issues among prosecutors and judges. • There is a need for CFT training to all authorities.
31 – National cooperation	LC	<ul style="list-style-type: none"> • The public prosecutors are not directly involved in national AML/CFT policy development on a regular basis. • There are questions of effectiveness of the cooperation as reflected in the general results obtained from AML/CFT measures.
32 – Statistics	PC	<ul style="list-style-type: none"> • There are no statistics on spontaneous international disseminations involving the FIU. • The limited information on cross border transportation of currency does not reflect the amount of cross border transportation of currency. • Since 2002 the statistics on cases in courts as kept by the General Directorate of Judicial Records and Statistics show the number of persons convicted/acquitted but authorities are unable to say how many cases this information relates to. • Statistics on inspections dedicated to AML/CFT and the sanctions applied should be shared amongst the supervisors. • Statistics are not jointly examined by agencies to evaluate trends and issues.

Recommendation	Rating	Summary of Factors Underlying Rating ¹
33 – Legal persons – beneficial owners	PC	<ul style="list-style-type: none"> • Because the current Trade Registry is paper-based, there are some limitations on accessing the information in real-time; it is unclear how often the information is updated. • There is no obligation to declare the real beneficial owner or the natural persons who ultimately control legal persons to the Trade Registry or to other government authorities. • Bearer shares, even if <i>de facto</i> limited to companies not traded in the stock market, remain a matter of concern, albeit one which is being addressed by Turkey's dematerialisation programme.
34 – Legal arrangements – beneficial owners	N/A	<ul style="list-style-type: none"> • Trusts do not exist under Turkish law.
International Cooperation		
35 – Conventions	PC	<ul style="list-style-type: none"> • Some shortcomings exist in relation to implementation of Article 3(1)(c)(1) of the Vienna Convention and Article 6(1)(b)(i) of the Palermo Convention, namely the lack of full coverage of one of the elements of the ML offence: "possession". • Turkey has not fully implemented the Terrorist Financing Convention as the TF offence only applies to acts of terrorism against Turkey and where the funds are used to carry out or attempt a terrorist act; also the offence does not include all of the offences as foreseen by relevant UN Conventions as stated in Article 2 of the TF Convention. Turkey's implementation of Recommendation 5 does not include adequate measures to identify the beneficial owners (in accordance with Article 18(1)(b) of the TF Convention). • There are no procedures for identifying the beneficial owner of accounts and transactions as required by the TF Convention.
36 – Mutual legal assistance (MLA)	LC	<ul style="list-style-type: none"> • Dual criminality may impede search, seizure and confiscation where the request relates to the possession of criminal proceeds. • The effectiveness of new international cooperation procedures could not be fully assessed due to their recent implementation.
37 – Dual criminality	LC	<ul style="list-style-type: none"> • Applying dual criminality for search, seizure and confiscation could be an obstacle to mutual legal assistance and extradition for TF in cases which do not involve Turkey or its interests.
38 – MLA on confiscation and freezing	PC	<ul style="list-style-type: none"> • In cases where no convention or bilateral agreement exists, there is no specific provision for applying provisional measures to answer mutual legal assistance requests for search, seizure and confiscation except for reciprocity. • Dual criminality may impede search, seizure and confiscation where the request is related to TF in cases which do not involve Turkey or its interests. • No consideration has been given to establishing an asset forfeiture fund or to sharing confiscated assets with a foreign country after coordinated international action. • There are no arrangements for coordinating seizure or confiscation actions with other countries.
39 – Extradition	LC	<ul style="list-style-type: none"> • Domestic legislation provides limited circumstances in which it explicitly provides that if the extradition is refused on the ground of citizenship, the person will be prosecuted in Turkey.

Recommendation	Rating	Summary of Factors Underlying Rating ¹
		<ul style="list-style-type: none"> As the TCL came into force on 1 June 2005, it is too early to assess the effectiveness of the new extradition provisions it introduced.
40 – Other forms of cooperation	LC	<ul style="list-style-type: none"> MOUs signed by MASAK and foreign authorities require a decree from the Council of Ministers to enter into force, a requirement that could limit the effectiveness of international cooperation as envisaged by this Recommendation.
Nine Special Recommendations		
SR.I – Implement UN instruments	PC	<ul style="list-style-type: none"> There is no specific arrangement for the implementation of the S/RES/1373(2001) other than through judicial means. There are no formal procedures in place for, or guidance relating to, gaining access to frozen funds for necessary expenses, unfreezing or on sanctions for failure to observe a freezing order. Turkey has not fully implemented the Terrorist Financing Convention, as the TF offence only applies to acts of terrorism against Turkey and where the funds are used to carry out or attempt a terrorist act; also the offence does not include all of the offences as foreseen by relevant UN Conventions as stated in Article 2 of the TF Convention.
SR.II – Criminalise terrorist financing	PC	<ul style="list-style-type: none"> The TF offence is incomplete as it applies to terrorist groups only in the financing of the commission or attempted commission of specific acts. The TF offence does not apply to support to the individual terrorist, other than support to the individual terrorist for the commission of a limited set of criminal offences. The offence only applies in relation to terrorism against Turkey and its citizens. It does not cover all of the offences required by Article 2 of the UN Convention on the Suppression of the Financing of Terrorism (including offences in the <i>Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons</i>). The intentional element of the offence cannot be inferred from factual circumstances. The range of sanctions which can be applied to legal persons is limited. Due to the recent enactment of the autonomous TF offence, its effectiveness cannot be assessed.
SR.III – Freeze and confiscate terrorist assets	PC	<ul style="list-style-type: none"> There are deficiencies in many areas relating to the freezing of funds in accordance with the UNSC Resolutions. There are no formal procedures in place for, or guidance relating to, gaining access to frozen funds for necessary expenses, deslisting, unfreezing or sanctions for failure to observe a freezing order. There is no system in place for communicating the decrees to DNFBBs and no deadlines are set for action by financial institutions in accordance with the decrees. There is no provision for giving effect to, if appropriate, the actions initiated under the freezing mechanisms of other jurisdictions (as related to S/RES/1373(2001)) other than through judicial or mutual legal assistance mechanisms.
SR.IV – Suspicious transaction reporting	PC	<ul style="list-style-type: none"> There is no explicit requirement in law or regulation for obliged parties to submit STRs relating to terrorism or TF, other than that conduct that involves assets “acquired through illegal ways or used for illegal

Recommendation	Rating	Summary of Factors Underlying Rating ¹
		<p>purposes" and the limited definition of terrorism means the full range of terrorist financing activities is not covered by the definition of what matters STRs may relate to.</p> <ul style="list-style-type: none"> Only 5 STRs were received as at 1 January 2006 based on a suspicion of terrorism, which seems to call into question the effectiveness of the existing requirement viewed against the potential size of the terrorism problem in Turkey.
SR.V – International cooperation	PC	<ul style="list-style-type: none"> The limited scope of the TF offence could present grounds to refuse an extradition request or mutual legal assistance requests for search, seizure or confiscation if the request relates to terrorism not involving Turkey or its interests.
SR.VI – AML requirements for money/value transfer services	PC	<ul style="list-style-type: none"> Limitations identified under R. 5-11, 13-15 and 21-23 generally apply to this sector; SR.VI has not been fully implemented.
SR.VII – Wire transfer rules	NC	<ul style="list-style-type: none"> Turkey has not implemented SR.VII.
SR.VIII – Non-profit organisations	PC	<ul style="list-style-type: none"> Turkey does not periodically review the NPO sector for TF vulnerabilities and does not provide outreach and guidance on TF to the NPO sector. There is no requirement for foundations to keep detailed records or to keep them for a period of five years. The number of associations inspected in recent years is quite low, suggesting insufficient control of the sector. Domestic and international cooperation in this area is not strong.
SR.IX – Cross Border Declaration & Disclosure	LC	<ul style="list-style-type: none"> Regulations to implement the new disclosure requirement have not yet been issued. The exemption from STR reporting (when the difference is less than TRY 1,500) foreseen by the new law and the low sanctions available (maximum of 1/10 of the amount transported) are concerns that call into question the potential overall effectiveness of the new measure.