

**TURKEY**

**National Procedures for Mutual Legal Assistance on laundering, search, seizure and confiscation of proceeds of crime (ETS 141)**

Updated 26/02/2021

**Procedure for search (asset-tracing) and seizure**

<b>The Central Authority responsible for mutual legal assistance:</b> (including freezing and seizure)	Name of the institution: Directorate General for Foreign Relations and European Union Affairs, Ministry of Justice Republic of Turkey  Address: Milli Müdafaası Şankaya-N Ankara/TURKEY  Telephone: +90 312 414 80 51 Fax: +90 312 219 45 23 E-mail: <a href="mailto:diabgm@adalet.gov.tr">diabgm@adalet.gov.tr</a>
If different from the Central Authority, the authority to which the request should be sent:	None
<b>Channels of communication</b> for the request for mutual legal assistance: (directly or other)	Diplomatic Channels  Interpol  Direct Correspondence between Central Authorities
<b>Means of communication:</b> (eg. by post, fax, e-mail <sup>1</sup> )	Post  In case of emergency, fax or e-mail on condition that it will be sent via post later.
<b>Language requirements:</b>	Turkish or English
<b>Double criminality requirement,</b> if applicable:	Double criminality is a requirement. The offence, which is also the subject of the request, shall be an offence in accordance with Turkish law.

<sup>1</sup> Please indicate if encryption or electronic signature is required.

<p><b>Other requirements:</b></p> <p>(e.g. a link between the proceeds and the criminal offence, or that a request for the confiscation judgment or measure will be made later, or that leave is given by a judge for the seizure of assets/goods)</p>	<p>Court decision is required for search and seizure. If there is peril in delay, the decision of the public prosecutor shall be sufficient and this decision shall be submitted for the approval of the judge in 24 hours.</p>
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<p><b>Modalities/requirements</b> for the execution of MLA requests for investigative assistance (search, tracing, special investigative techniques), existence of a central register of real estate/bank accounts, duration of preservation of bank data, etc.:</p>	<p>There shall be a connection between real estate / bank account and the imputed offence. Moreover, the letter of request prepared by the competent judicial authorities shall include detailed information about real estate or bank account.</p>
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<p><b>Limitation of use of evidence obtained:</b></p>	<p>The evidence or information obtained as a result of the execution of the request shall not be used except for the investigation or prosecution, the subject of the request, by the competent authorities of the Requesting Party without the approval of Turkey.</p>
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<p><b>Modalities/requirements</b> related to the execution of provisional measures (freezing, prejudgment seizing) including lifting of these measures (possibilities to seize (im)movable properties) and applicable time limits, if any:</p>	<p>For the provisional measures such as freezing, the act, which is also the subject of the request, shall constitute an offence in accordance with our law. There shall be a request for legal assistance prepared by competent judicial authorities. There shall not be a limitation of time but by taking the emergency of the request into attention, it shall be completed in a reasonable period.</p>
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<p><b>Available asset management system</b> including preservative measures (for example prejudgment selling) concerning the seized goods:</p>	<p>The property used in the offence, which will not lose its material value, shall be preserved in depository bureaus within the body of chief public prosecutor's offices until the end of trial. If it is money, bond or a precious metal, it may be stored in a safe deposit box of a bank. The property, which will be damaged or lose its value until the end of the trial, shall be sold and the revenue shall be invested to the bank. The subject of the deposits such as animals, which are difficult to be cared, shall be submitted to the trustee after the assignment of the trustee.</p>
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## Procedure for confiscation/Recognition of foreign decisions.

### Recovery of confiscated assets.

<b>The Central Authority Responsible for confiscation/ recognition of foreign judgments/decisions/measures:</b>	Name of the institution: Directorate General for Foreign Relations and European Union Affairs, Ministry of Justice Republic of Turkey  Address : Milli Müdafalar Çankaya- Ankara/TURKEY  Telephone: +90 312 414 80 51 Fax: +90 312 219 45 23 E-mail: <a href="mailto:diabgm@adalet.gov.tr">diabgm@adalet.gov.tr</a>
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If different from the Central Authority, the authority to which the request should be sent	None
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<b>Channels of communication</b> for the request for mutual legal assistance: (directly or other)	Diplomatic Channels  Interpol  Direct Correspondence between Central Authorities
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<b>Means of communication</b> (eg. by post, fax, e-mail <sup>2</sup> ):	Post  In case of emergency, fax or e-mail
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<b>Language requirements:</b>	Turkish or English
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<b>Document requirements</b> and modalities/requirements for the procedure of confiscation:	The request shall be prepared in accordance with the Article 27 of the Convention. The final court decision is needed for confiscation.
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<b>Other requirements, if applicable:</b> (e.g, a link between the proceeds and the criminal offence.)  In case of money laundering, what are the requirements for the predicate offence(s)	The offence, which is also subject of the request, shall be an offence in accordance with Turkish law. On the other hand, there shall be a connection between the act and the property in the court decision. According to article 282 of the Turkish Penal Code the ML offence applies to all offences punishable by a minimum penalty of six months.
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<sup>2</sup> Please indicate if encryption or electronic signature is required.

<b>Procedure /possibilities to trace assets/proceeds</b> when a (foreign) confiscation order is already given:	In the evaluation of request, foreign judgment is required and the decision of confiscation is also required to be given by the courts in Turkey.
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<b>Procedure for sharing of assets,</b> if applicable:	<p>a Party may give special consideration to conclude agreements or arrangements on sharing with other Parties, on a regular or case-by-case basis, such goods, in accordance with its domestic law or administrative procedures.</p> <p>Enforcement of foreign country confiscation requests in Turkey requires an order of confiscation issued by Turkish judicial authorities.</p> <p>Pursuant to article 1/3 of The Law No. 6706 on International Judicial Cooperation in criminal Matters, provisions of conventions on judicial cooperation to which Turkey is a party are a part of our domestic law. Thus, article 3/1 of the Law No.6706 which regulates the powers of Central Authority, arrangements of sharing are within the powers of Central Authority and this Authority may determine the conditions for sharing. To sum, in terms of asset sharing, the legal ground providing such assistance is Article 3 of Law on International Judicial Cooperation In Criminal Matters (Law No 6706) from which it can be inferred that the Ministry of Justice, as central authority in MLA requests, is the competent authority to enter into agreements on asset sharing with foreign countries and as such able to share assets.</p>
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<b>Where applicable, limitations to the possibility for the requesting state to serve judicial documents directly to the persons concerned:</b>	In accordance with our reservation to the convention, the documents shall be served via central authorities.
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**Other particularly relevant information on special types of assistance**

<b>Non-Conviction Based Confiscation:</b>	None
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<b>MLA regarding liability of legal persons:</b> (criminal, civil or administrative)	For legal persons, there is legal (search, seizure, confiscation) and administrative responsibility. On the other hand, security measures may be applied as criminal responsibility.
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<b>Other information:</b> (for example, extended confiscation, confiscation for the purpose of victims)	Provided that there is no goodwill, the properties related with the offence of third parties may be confiscated. On the other hand, the material benefits obtained with the commission of
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	offence or constituting the subject of the offence or provided for the commission of offence, or the revenues gained with the evaluation or transformation of these material benefits may be confiscated.
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<b>Links</b> to national legislation, national guides on procedure:	<a href="http://www.mevzuat.gov.tr">www.mevzuat.gov.tr</a>
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