PARIS JUDICIAL TRIBUNAL
Room 4, Section 1
Madam Pre-Trial Judge N° R.G. :
21/11358

Signed on September 12, 2022

CROSS-APPEALS FOR A DECLARATION OF LACK OF JURISDICTION AND INADMISSIBILITY

FOR:

Tasarruf Mevduatı Sigorta Fonu (Savings Deposit Insurance Fund), a public agency under Turkish law, having its registered office at Büyükedere Cad. No. 143 Esentepe, 34394 Şişli, Istanbul (Turkey), in the person of its legal or statutory representative domiciled in that capacity at the said head office

Having as applicant Counsel :
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Having as litigating counsel :
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DEFENDANT

AGAINST:

Mr. Murat Hakan UZAN, born on May 30, 1967, in Istanbul (Turkey), of Turkish nationality, residing at 32 avenue Foch, 75016 Paris (France) and

Mr. Cem Cengiz UZAN, born on December 26, 1960, in Istanbul (Turkey), of Turkish nationality, residing at 32 avenue Foch, 75016 Paris (France)

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APPLICANTS

IN THE PRESENCE OF :

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DEFENDERS

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PLEASE THE JUDGE OF THE MISE EN ETAT

1. By writ of summons dated July 13, 2021, Mr. Cem Cengiz Uzan and Mr. Murat Hakan Uzan (the "Plaintiffs" or "Uzan Estates") have decided to sue Tasarruf Mevduatı Sigorta Fonu or Savings Deposit Insurance Fund (the "TMSF", the "Fund" or "the Defendant"), together with approximately 50 other defendants (the "Co-Defendants"), for alleged financial damages they suffered as a result of an alleged "*fraudulent capture*" of the assets of companies of which they were the "*ultimate economic beneficiaries*.

2. The Uzan family thus claims to submit to the jurisdiction of the French courts tort claims relating to events that took place in Turkey more than 15 years ago, concerning measures taken by a Turkish public authority (the TMSF) in response to a banking fraud on an unprecedented scale characterized by the misappropriation of billions of dollars of deposits for the benefit of the Uzan family and the group of companies it controlled.

3. In an attempt to give an appearance of credibility to their theses[1] - and to circumvent the rules of international jurisdiction of the French courts, as well as the grounds of inadmissibility that defeat their claims - the Uzan family does not hesitate to accumulate approximations, confusions and untruths. Their action proceeds from an abuse of the right to sue.

4. The Defendant is thus obliged to return at length to the presentation of the facts (**I)**, before demonstrating that the Paris Court does not have jurisdiction to hear the claims of Mr. and Mrs. Uzan (only the Turkish courts have jurisdiction to hear them) and that the claims of Mr. and Mrs. Uzan run up against numerous grounds for dismissal (**II**).

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[1] The TMSF strongly contests the merits of the Uzan Consortium's claims, which would be debated at a later stage (if any), should the Tribunal consider itself competent to hear all or part of these claims and decide that all or part of these claims would be admissible.

I. REMINDER OF THE FACTS

A. Presentation of the Parties

1. Mr. Cem Cengiz Uzan and Mr. Murat Hakan Uzan

5. Mr. Cem Cengiz Uzan and Mr. Murat Hakan Uzan (the "Applicants" or
The "Uzan Consorts" are the sons of Kemal Uzan, a Turkish businessman descended from a family of Bosnian farmers who settled in Turkey in the 1910s[2] . Mr. Kemal Uzan made his fortune in the construction sector, starting in the 1970s-1980s[3] .

6. Building on his early success in the construction sector, Kemal Uzan, with the participation of other family members, including his sons Cem and Murat and his brother Yavuz (the "Uzan Family"), built a conglomerate active in the energy, finance, telecom and media sectors, among others[4] . By the early 2000s, the Uzan Family controlled a group of more than 200 companies[5] . It was considered one of the richest families in Turkey, with a fortune of more than $1 billion[6] and its members were active in Turkey, Europe and the United States[7] .

7. The year 2002 marked the beginning of serious legal troubles for the Uzan Family and the group of companies they control (the "Uzan Group") - long known for

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2 See **TMSF Exhibit 3**, Forbes, "Dial 'D' for Dummies - How a Turkish family business partnered with Motorola and Nokia -- and left the telecoms holding a $ 2.7 billion bag," March 18, 2002.

3 See **TMSF Exhibit 3**, Forbes, "Dial 'D' for Dummies - How a Turkish family business partnered with Motorola and Nokia -- and left the telecoms holding a $ 2.7 billion bag," March 18, 2002; **TMSF Exhibit 4**, Jeune Afrique, "Turkey: Cem Uzan protected by Claude Guéant?", July 30, 2013, p. 2.

4 See **TMSF Exhibit 5**, Britannica Online Encyclopedia, "Cem Uzan"; **TMSF Exhibit 4**, Jeune Afrique, "Turkey: Cem Uzan protected by Claude Guéant?", July 30, 2013, p. 2; **TMSF Exhibit #6**, Le Monde, "Cem Uzan, passé du gotha turc aux fichiers d'Interpol", October 19, 2009.

5 See **TMSF Exhibit 4**, Jeune Afrique, "Turkey: Cem Uzan protected by Claude Guéant?", July 30, 2013, p. 1 ; **Exhibit TMSF n° 6**, Le Monde, " Cem Uzan, passé du gotha turc aux fichiers d'Interpol " , October 19, 2009.

6 See **TMSF Exhibit 3**, Forbes, "Dial 'D' for Dummies - How a Turkish family business partnered with Motorola and Nokia -- and left the telecoms holding a $ 2.7 billion bag," March 18, 2002; **TMSF Exhibit 4**, Jeune Afrique, "Turkey: Cem Uzan protected by Claude Guéant?", July 30, 2013, p. 1.

7 See, e.g., **TMSF Exhibit 3**, Forbes, "Dial 'D' for Dummies - How a Turkish family business partnered with Motorola and Nokia -- and left the telecoms holding a $ 2.7 billion bag," March 18, 2002 ("*One of Cem's children still attends private school in New York, where he owns a $6 million apartment on Park Avenue (one of five multimillion-dollar Uzan properties in Manhattan). He seems immune to his legal problems. 'It's hard to be understood when you're surrounded by jealousy,' he says. Father and son still commute between Turkey and Europe in private jets or Sikorsky helicopters. A year ago, Cem dined at Buckingham Palace at a charity event for Prince Charles. Uzan père leads the way from Geneva; Hakan leads a quieter life in Istanbul*"); **TMSF Exhibit 6**, Le Monde, "Cem Uzan, passé du gotha turc aux fichiers d'Interpol", October 19, 2009 ("[In 2002] *Cem Uzan was* [...] *living high on the hog: yachts, sports cars, a Boeing 747, and properties in eleven countries, including the top floor of the Donald Trump Tower in New York, acquired for $38 million. He donated millions to the British Royal Family's charitable foundations and became friends with Prince Charles*.)

their unfair (and mostly illegal) practices, the source of numerous scandals and lawsuits[8] - when several members of the Uzan Family and several companies of the Uzan Group found themselves at the heart of two large-scale, billion-dollar fraud cases:

- The first case involves fraud committed by the Uzan Family and Uzan Group companies in connection with the execution of loan agreements worth nearly US$3 billion granted by Motorola and Nokia in the late 1990s to expand the business of the cell phone operator Telsim[9] . Motorola and Nokia, having discovered that the funds lent to Telsim had been misappropriated by the Uzan family, filed a lawsuit under the *Racketeer Influenced and Corrupt Organizations Act in* the US *District Court* for the *Southern District of* New York. In July 2003, the U.S. District Judge ordered certain members of the Uzan Family and Uzan Group companies (as well as the other defendants) to pay more than $2 billion in damages to Motorola for the harm they suffered.
- The second case concerns the discovery in 2003 of the fraudulent activities of Türkiye İmar Bankası T.A.Ş. ("Imar Bank" or "Imar"), one of two banks controlled by the Uzan Family[10] . Bank Imar's fraudulent activities included systemic failures to report deposits to the bank and massive misappropriations of those deposits to Uzan Group companies (the "Imar Fraud"). The Imar Fraud was discovered after Imar's license was revoked and control and management of the bank was transferred to TMSF in 2003. In order to preserve confidence in the banking system (already seriously undermined by the Turkish banking crisis of 2000-2001[11]), the Turkish authorities

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8 As noted by Forbes magazine in 2002, the Uzan family has a "*controversial history*" and its members or family-owned companies are "*involved in more than 100 civil and criminal cases*, with *claims ranging from money laundering to slander*. The complaints range from money laundering to slanderous denunciation." Examples cited were the launching of a private television channel by Mr. Cem Cengiz Uzan in violation of the constitutional monopoly of the national radio and television company at the time; the instrumentalization of the media controlled by the family to serve its financial interests; and suspicions of fraud in the takeover of the electricity production company Çukurova Elektrik. Regarding the latter case, the representative of Templeton Emerging Markets Fund, the Uzans' partner in the Çukurova Elektrik project, said it was "*one of our worst experiences investing in emerging markets*": **TMSF Exhibit 3**, Forbes, "Dial 'D' for Dummies - How a Turkish family business partnered with Motorola and Nokia -- and left the telecoms holding a $2.7 billion bag", 18 March 2002.

9 For more details on the dispute between the Uzan Family and Motorola, see *infra*, ¶¶ 25-32.

10 For more details on Imar Fraud, see *infra*, Section I.B.

11 See *infra*, ¶¶ 18-20.

The TMSF had to pay back the misappropriated deposits made with the bank, a task that fell to the TMSF in its capacity as resolution authority. Because of Bank Imar's lack of liquidity, the TMSF had to borrow several billion dollars from the Treasury.

8. These two fraud cases that came to light in the early 2000s have led to hundreds of civil, commercial and criminal proceedings in Turkey and around the world. The present proceedings are just one of the latest twists and turns (so far) in this twenty-year old legal saga.

9. The Imar fraud has led to numerous criminal proceedings (in particular against the Uzan family) and is the subject of numerous administrative disputes in Turkey[12] .

10. In the context of the criminal proceedings brought against them from 2003 onwards, Messrs Cem Cengiz Uzan and Murat Hakan Uzan refused to cooperate with the Turkish prosecution and judicial authorities and decided to flee abroad in order to escape Turkish justice[13] . This is how the Claimants allegedly arrived in France, where they claim to be residing since September 2009 and September 2014 respectively[14] , without specifying in what capacity[15] .

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12 See Sections I.B.3 and I.C.2 *below*.

13 See **TMSF Exhibit 7**, Judgment of the National Court of Asylum on the asylum application filed by Mr. Cem Cengiz Uzan, May 23, 2013, pp. 3-4 (the Court recalling that according to OFPRA "*many other members of [*Cem Cengiz Uzan's] *family are also involved* [in the financial crimes committed by Cem Cengiz Uzan] *and are being prosecuted, including his father Kemal Uzan and his brother Hakan Uzan, who are living in hiding in Jordan following their indictment in the fraudulent bankruptcy of IMAR Bank and are the subject of an international arrest warrant issued by Interpol.*") and p. 8 ("*following the authorities' finding of the fraudulent nature of the bankruptcy of the IMAR bank, the applicant's father and younger brother fled Turkey; that Mr. UZAN indicates that he broke off all contact with them following these events and that he was forbidden to leave Turkish territory on July 17, 2003* [...] *faced with these numerous legal proceedings, Mr. UZAN, convinced that they were not the only ones to be prosecuted. UZAN, convinced that they all originated from the ruling party's desire to eliminate him from the Turkish political scene once and for all, decided to flee his country for France on September 3, 2009, where he requested asylum, by application registered on September 7, 2009, with OFPRA*"); see also **Exhibit TMSF n° 6**, Le Monde, "Cem Uzan, passé du gotha turc aux fichiers d'Interpol", October 19, 2009 ("*Cem Uzan* [*...disappeared at the beginning of October. Threatened with arrest, he had fled his country in a yacht, shortly before, by docking on a Greek islet. He was said to be in Jordan, but he could be in France. [Cem joined his father Kemal and his brother Hakan on the run, suspected, like him, of having embezzled several billion dollars*.)

14 See **Plaintiffs' July 13, 2021 Summons**, ¶ 1.

15 In support of their claims, the Applicants have produced, among other things, a residence permit valid for ten years for Mr. Cem Cengiz Uzan, and temporary residence permits valid for one year for the period 2020-2021 for Mr. Murat Hakan Uzan: see **Applicants' Exhibits 1** and **2**. The documents submitted do not make it possible to determine the date of arrival (or passage) of the Applicants in France and the reasons for which these permits were issued. The Respondent notes, with regard to Mr. Cem Cengiz Uzan (who was allegedly a close associate of Mr. Claude Guéant, Secretary General of the Presidency of the Republic in 2007-2011, and then Minister of the Interior in 2011-2012), that he was authorized to reside in France despite an international arrest warrant issued against him by Interpol, before being granted the benefit of subsidiary protection by a decision of the National Court of Asylum in 2013 : see **TMSF Exhibit 8**, Paris Match, "L'étau se resserre autour de Claude Guéant," June 6, 2018; **TMSF Exhibit 7**, Jugement de la Cour nationale du droit d'asile relatif à la demande

2. Tasarruf Mevduatı Sigorta Fonu (TMSF): the Savings Deposit Insurance Fund

11. The Tasarruf Mevduatı Sigorta Fonu or Savings Deposit Insurance Fund (the "TMSF" or the "Fund"), the counterpart of the Fonds de Garantie des Dépôts et Résolution in France[16] , is a Turkish public institution. The TMSF is a member of various associations and forums of deposit insurance funds at the European and international level, such as the *European Forum of Deposit Insurers* and the *International Association of Deposit Insurers*[17] .

12. The TMSF, which was originally an unincorporated body - managed and represented successively by the Central Bank of Turkey from 1983 to 1999 and the Turkish Banking Regulatory and Supervisory Agency (the "BRSA") from 1999 to 2003 - became in 2003 an independent entity, a legal person under public law with its own budget and autonomy of operation[18] .

13. The legislative provisions relating to the tasks of the TMSF, the general principles of its organization and operation, and its powers are now included in Banking Act No. 5411 of October 2005 (replacing Banking Act No. 4389 of June 18, 1999 and consolidating the numerous amendments made to that Act).

14. Article 111 of Law No. 5411 provides, among other things, that the TMSF is "*endowed with public legal personality and administrative and financial autonomy*" with the mission of "*insuring deposits and holding funds, managing the Fund's banks, strengthening, restructuring, transferring, consolidating, selling and liquidating their financial structures, ensure and finalize the follow-up and collection of the Fund's claims, manage the Fund's assets and resources, and perform other tasks assigned by law, with the aim of protecting the rights and interests of the depositors within the framework of the powers conferred by this law and other relevant legislation*"[19] .

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asylum application filed by Mr. Cem Cengiz Uzan, 23 May 2013. To the best of the Respondent's knowledge, Mr. Murat Hakan Uzan does not enjoy subsidiary protection.

16 See **TMSF Exhibit 9**, Official website of the Fonds de Garantie des Dépôts et Résolution in France, "About the FDGR" section.

17 See **TMSF Exhibit No. 10**, Official Website of the Tasarruf Mevduatı Sigorta Fonu, "International Relations" section. See also **TMSF Exhibit No. 11**, Official Website of the *European Forum of Deposit Insurers*, List of Member Institutions; **TMSF Exhibit No. 12**, Official Website of the *International Association of Deposit Insurers*, List of Member Institutions.

18 See **TMSF Exhibit 13**, Official website of the Tasarruf Mevduatı Sigorta Fonu, under "Historical Background."

19 **TMSF Exhibit 14**, Banking Law No. 5411 of October 19, 2005, Section 111.

15. The tasks and powers of the TMSF - which now extend beyond deposit insurance to include, for example, bank resolution (i.e., "to *take over the supervision and management of failed or potentially failed banking institutions, to restructure or wind up failing or potentially failing banks in an orderly manner and avoid their failure*"[20]) or the recovery of its claims - are similar to those of its counterparts in many other countries[21] as reflected, for example, in the *Core Principles* established by the *International Association of Deposit Insurers* (IADI)[22] .

16. While the TMSF's scope of intervention was initially limited to the insurance of bank deposits, it expanded considerably during the 1990s and early 2000s to meet the new needs of the Turkish banking sector and to deal with the various crises that this sector has experienced[23] .

17. Thus, on the occasion of the financial crisis that hit Turkey in 1994, the TMSF was entrusted with the role of banking resolution authority. This mission was then confirmed and specified by the banking law n° 4389 of June 18, 1999:

- Article 14 of this law provided that when a bank's assets "*cannot meet its liabilities as they fall due, or when this situation is about to occur, or when it does not comply with liquidity regulations*" and a number of other conditions were met, the Board of Directors of the ARSB could "*transfer the corporate rights, excluding dividends, and the management and control of the bank to the Fund,* [or] *revoke its authorization to conduct banking business and/or accept deposits*."[24] .

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20 See **TMSF Exhibit 15**, Official website of the Fonds de Garantie des Dépôts et Résolution in France, section "Banking Resolution".

21 See, in this regard, **TMSF Exhibit 16**, Financial Stability Board, "Second Thematic Review on Resolution Regimes - Peer Review Report," March 18, 2016, especially pp. 12-13 and Appendices B and C. The Financial Stability Board is an international institution created as part of the work of the G20 to monitor the functioning of the international financial system and make recommendations to promote necessary regulatory and supervisory reforms.

22 See **TMSF Exhibit No. 17**, International Association of Deposit Insurer (IADI), *IADI Core Principles for Effective Deposit Insurance Systems,* November 2014, Principle 12 (recognizing the resolution authorities' power to act against persons through whose fault the bank is failing) and Principle 14 (clarifying that resolution and depositor protection is not limited to repayment and covers, among other things, the power to change the management of the failing institution as well as to divest and sell its assets).

23 See **TMSF Exhibit 13**, Official website of the Tasarruf Mevduatı Sigorta Fonu, under "Historical Background".

24 See **TMSF Exhibit 18**, Banking Law No. 4389 of June 18, 1999, Article 14.

- In addition, Article 16 of Law 4389 provided that "[i]f the *authorization of a bank to conduct banking transactions and accept deposits is revoked, its management and control shall be transferred to the* [TMSF]. The Fund was charged, in this event, with "*directly request*[*ing] the failure of the bank in place of the depositors by paying directly or through another bank the insured deposits to the bank whose management and control has been transferred.*" In the event that the bank failed, the Fund had the power "*as a preferred creditor* to liquidate *the bank*"[25] .

18. The TMSF was then called upon to play a leading role during the Turkish banking crisis of 2000-2001, in its capacity as resolution authority.

19. In the early 2000s, the Turkish economy had accumulated many structural problems (large public deficits and debt, high interest rates, inflation)[26] . In order to resolve these difficulties, the Turkish government decided to conclude a major loan agreement of US$4 billion with the International Monetary Fund, with a commitment to implement an ambitious stabilization program (notably to curb inflation)[27] . It was in this difficult economic context that the financial weaknesses of many private banks (*most of* which "were *owned by conglomerates controlled by family groups*"[28]) led to a loss of confidence in Turkish banks, which in turn led to a liquidity crisis, a dramatic rise in interest rates, capital flight and, ultimately, an economic recession[29] . The financial difficulties of many banks then worsened[30] .

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25 See **TMSF Exhibit 18**, Banking Law No. 4389 of June 18, 1999, Article 16.

26 See **TMSF Exhibit 19**, J.-C. Vérez, "Le cercle vicieux des crises bancaire, monétaire et financière en Turquie", Revue du Tiers Monde n° 175, Volume 2003/3, pp. 685-691.

27 See *id. ,* p. 684.

28 *Id. ,* p. 695.

29 See *id.* at 693-694.

30 See *id.* at 685, footnote 1.

20. Thus, at the end of this crisis, the TMSF found itself in charge of the resolution of 25 banking institutions (notably in the context of a Banking Sector Restructuring Program set up by the ARSB[31]), listed in the following table[32] .

Table 1-1: Banks which Operating Licenses were Revoked and Transferred to the SDIF *

	Bank	Cause of Transfer	Date of Transfer	Assets (**) TL Million	%	Personnel (**) Number	%	Duty Loss USD Million
1	Türk Ticaret Bankası A.Ş.	3182 B.K. 64/2	06.Nov.97	677	0.6	3,664	2.1	778
2	Bank Ekspres A.Ş.	3182 B.K.1, 5, 64 Fon Yön.12. Mad.	12.Dec.98	311	0.3	629	0.4	435
3	Interbank A.Ş.	3182 B.K. 64/2	07.Jan.99	1,112	1.1	1,320	0.8	1,269
4	Egebank A.Ş	4389 B.K. 14/3 ve 14/4	21.Dec.99	795	0.8	1,990	1.2	1,220
5	Yurtbank A.Ş	4389 B.K. 14/3 ve 14/4	21.Dec.99	332	0.3	563	0.3	656
6	Yaşarbank A.Ş.	4389 B.K. 14/3	21.Dec.99	823	0.8	1,626	1	1,149
7	Esbank A.Ş	4389 B.K. 14/3 ve 14/4	21.Dec.99	948	0.9	1,898	1.1	1,113
8	Sümerbank A.Ş.	4389 B.K. 14/3 ve 14/4	21.Dec.99	447	0.4	1,407	0.8	470
9	Kıbrıs Kredi İstanbul Şub.	4389 B.K. 14/3 ve 16/1	27.Sep.00	1	0	22	0	0
10	Bank Kapital T.A.Ş	4389 B.K. 14/3 ve 14/4	27.Oct.00	89	0.1	538	0.3	393
11	Etibank A.Ş.	4389 B.K. 14/3 ve 14/4	27.Oct.00	826	0.8	2,035	1.2	698
12	Demirbank T.A.Ş.	4389 B.K. 14/3	06.Dec.00	2503	2.3	4,225	2.4	648
13	Park Yatırım A.Ş.	4389 B.K. 14/3	06 Dec.00					
14	İhlas Finans Kurumu	4389 B.K. 20/6	10 Feb. 01					
15	Ulusal Bank A.Ş.	4389 B.K. 14/3	28.Feb.01	312	0.3	251	0.1	524
16	İktisatBankası T.A.Ş.	4389 B.K. 14/3 ve 14/4	15.Mar.01	685	0.7	1,339	0.8	1954
17	T. Emlak Bankası A.Ş. (***)	Lw Nr. 4684 and BRSA 5508	03 – 09Jul.01	3,684	3.5	10,000	5.8	
18	Kentbank A.Ş.	4389 B.K. 14/3 ve 14/4	09.Jul.01	899	0.9	1,766	1	681
19	EGS Bank A.Ş.	4389 B.K. 14/3 ve 14/4	09.Jul.01	510	0.5	1,004	0.6	545
20	Bayındırbank A.Ş.	4389 B.K. 14/3 ve 14/4	09.Jul.01	259	0.2	486	0.3	116
21	Sitebank A.Ş.	4389 B.K. 14/3	09.Jul.01	25	0	97	0.1	53
22	Tariş Bank A.Ş.	4389 B.K. 14/3	09.Jul.01	185	0.1	526	0.4	74
23	Toprakbank A.Ş.	4389 B.K. 14/3 ve 14/4	30.Nov.01	3,541	2	2,458	1.7	880
24	Pamukbank T.A.Ş.	4389 B.K. 14/3 ve 14/4	19.June02	4,942	1.9	4,040	3.2	3,618
25	T. İmar Bankası T.A.Ş	4389 B.K. 14/3 ve 16/1	03.Jul.03	1,158	0.5	1,521	1.2	5,933
Total (Emlak Bankası excluded)				**21,378**	**15.5**	**33,405**	**21**	**23,205**

Source: BRSA

(*)Banks operating licenses of which were abolished and partnership rights other than dividends and management and supervision of which are transferred to SDIF (**) Reflects the balance sheet value concerning the year-end before its resolution and its shares within total during the mentioned year. Thus, the figures reflecting the Total show the sum of values and ratios belonging to different years. (***)Emlak Bankası was taken into a resolution process by transferring to Ziraat Bankası pursuant to the Act Number 4684 and BRSA resolution Number5508.

21. According to the report on the 2000-2001 banking crisis prepared by the ARSB in 2009, the banks that were transferred to the Fund during this period "*represented one-fifth of the banking sector by size of assets and liabilities during the period mentioned. In these banks transferred to the TMSF, there were intense abuses by dominant shareholders as well as liquidity and capital shortfalls.*"[33] .

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31 See **TMSF Exhibit 20**, Banking Regulation and Supervision Authority, "From Crisis to Financial Stability (Turkey Experience)," p. 12 ("*The Banking Sector Restructuring Program (BSRP), announced on May 15, 2001, focused on the intermediation function and aimed to ensure the transition to an internationally competitive banking sector capable of withstanding internal and external shocks. The priorities of the BRSP were identified as recovering the deterioration caused by the 2000-2001 crisis in the banking sector and building a solid foundation for the system by ridding it of weak banks.*"); see also **TMSF Exhibit 21**,
A. Steinherr, A. Tukel and Murat Ucer, Economic and Financial Report 2004/02 prepared under the auspices of the European Investment Bank, "The Turkish Banking Sector Challenges and Outlook in Transition to EU Membership," pp. 8-9.

32 See **TMSF Exhibit 20**, Autorité de Régulation et de Supervision Bancaire, "From Crisis to Financial Stability (Turkey Experience)," p. 3.

33 See *id.* , p. 15.

In the context of its resolution mission, the TMSF was forced to bail out these troubled institutions with total losses of US$23.2 billion, according to ARSB estimates[34] .

22. Because of the Fund's large claims against troubled or failed banks, the issue of recovery of these claims quickly became critical and the Fund's powers in this area were strengthened:

> "*In order to accelerate the recovery of claims arising from the abuses of the dominant shareholders of banks, the monitoring and recovery authorities of TMSF have been strengthened by legal regulations. In order to protect companies that might survive and to increase the ability to recover TMSF debts, repayment agreements have been concluded with debtors other than the dominant shareholder. In the follow-ups under the powers given to the Fund by the Banking Act and Act No. 6183, important steps were taken, especially after 2005, for the effective recovery of public debts.*"[35] .

23. The report prepared by the BRSA recalls in this regard that pursuant to Law No. 5020 of December 16, 2003 "it was *possible to effectively punish those responsible for the corruption of the financial structures of banks, which caused savers and the rights of the public to suffer and endangered financial stability; a solid basis was established for the recovery of losses from those responsible and for establishing deterrence in this area*"[36] .

24. The provisions of this law, and its application in the case of Banque Imar, will be discussed in more detail later.

3. The Motorola Company

25. Motorola Solutions Credit Company LLC, the successor to Motorola Credit Corporation, ("Motorola Credit") is a subsidiary of Motorola Inc. a major global telecommunications company. In the late 1990s, the group

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34 See *id.* , p. 16.

35 *Id.* , p. 16.

36 *Id.* , p. 20.

Motorola and Nokia have partnered with the Uzan Family to enter the Turkish telecommunications market[37] .

26. In the context of this partnership, Motorola Credit and Nokia have provided and/or secured financing to Telsim (a mobile operator and part of the Uzan Group) in the aggregate amount of US$2.7 billion to finance the acquisition of a 25-year mobile operating license as well as the purchase of various infrastructure and equipment necessary to expand Telsim's business[38] .

27. Following a default by Telsim - which failed to repay a US$700 million loan in April 2001[39] - Motorola and Nokia gradually discovered that the Uzan Family had diverted loans to Telsim to finance other Uzan Group companies or for personal use[40] .

28. On January 28, 2002, Motorola and Nokia filed a fraud lawsuit in the United States *District Court* for the *Southern District of* New York against Kemal Uzan, Cem Cengiz Uzan, Murat Hakan Uzan, other members of the Uzan Family, business associates of the family and several companies of the Uzan Group.

29. On July 31, 2003, the *District Court* found that the Uzan Family and the other defendants had committed a massive fraud and ordered them to pay, among other things, more than US$2 billion in damages to compensate Motorola for its losses and more than US$2 billion in punitive damages[41] .

30. The reading of the decision of the American judge, who condemned in very severe terms the fraud suffered by Motorola and Nokia, is particularly instructive as to the modus operandi of the Uzan Family (also followed in the context of the Imar Fraud). The U.S. judge thus noted in the introduction to his judgment:

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37 See **TMSF Exhibit 3**, Forbes, "Dial 'D' for Dummies - How a Turkish family business partnered with Motorola and Nokia -- and left the telecoms holding a $ 2.7 billion bag," March 18, 2002.

38 See in particular **TMSF Exhibit 22**, *United States District Court* for the *Southern District of* New York, *Motorola Credit Corporation and Nokia Corporation v. Kemal Uzan et al*, Judgment of July 31, 2003, page 490 and ¶¶ 202-213.

39 See *id.* , ¶¶ 269-274.

40 On the evidence of embezzlement considered by the U.S. judge in the July 31, 2003 decision, see *id.* , ¶¶ 315-322.

41 See *id.* , p. 580.

> "*No legal issue...can hide the fact that all credible evidence before the Court proves that the defendants - particularly the Uzan family members - perpetrated a massive fraud. Under the guise of obtaining financing for a Turkish telecommunications company, the Uzans siphoned more than $1 billion of plaintiffs' money into their own pockets and into the coffers of other entities they control. After fraudulently obtaining the loans, they sought to advance and conceal their scheme through an almost endless series of lies, threats, and chicanery, including, among other things, filing false criminal charges against high-level U.S. and Finnish executives, grossly diluting and weakening the collateral for the loans, and repeatedly disobeying orders of this Court...*"[42] .

31. The U.S. judge also held the Uzan family and the other defendants in *contempt of court*, noting that the defendants repeatedly violated court orders:

> "*The complaint, filed in January 2002, charged the defendants with federal racketeering, state fraud and other serious misconduct. Early in the case, the court issued injunctions in an effort to maintain the status quo, including the preservation of what remained of the guarantee. But the defendants contemptuously refused to obey the Court's orders, going so far as to break their sworn promise not to further destroy the collateral*."[43] .

32. The award of damages for the injury suffered was not appealed by the defendants[44] , who did, however, obtain a reversal of certain other forms of relief and a reduction in the amount of punitive damages[45] .

4. The other Defendants

33. The other Defendants are natural and legal persons whom the Uzan Partners present - without any supporting evidence[46] - as the "*ultimate economic beneficiaries* of *the entity or entities that transferred assets from the* [Uzan Group] *Companies.*

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42 See *id.* at 490-491.

43 See *id. ,* p. 491.

44 See **TMSF Exhibit 23**, *United States Court of Appeals* for the *Second Circuit*, *Motorola Credit Corporation and Nokia Corporation v. Kemal Uzan et al*, Judgment of October 22, 2004, at 59.

45 See *id.* at 65-66; **TMSF Exhibit 24**, *United States Court of Appeals* for the *Second Circuit*, *Motorola Credit Corporation and Nokia Corporation v. Kemal Uzan et al*, Judgment of November 21, 2007.

46 In support of their claims regarding the "*ultimate economic beneficiary*[ies] of the *asset transferee(s) of the* [Uzan Group] *Companies*," Plaintiffs submitted a purported "expert report" prepared by Mr. Selahattin Bal consisting of a series of enumerations of asset transferees and their ultimate economic beneficiaries, without Plaintiffs disclosing the documents used by the

34. The TMSF notes, for all intents and purposes, that the transferred assets in question were transferred to companies incorporated under Turkish law (which the Claimants themselves admit[47]), following public auctions organized in accordance with Turkish law[48] .

35. In this context, it is up to the Uzan Consorts t o explain in what way the alleged The "*ultimate economic beneficiaries*" who did not participate in the auctions and are not parties to the asset transfer agreements with the TMSF could be held liable for alleged misconduct (assuming the existence of such misconduct is established) in connection with these transfers.

B. Reminder of the origin of the contested measures: the Imar Fraud

36. The Respondent will recall the main events that led to the revocation of Bank Imar's banking license (**1)** and then briefly describe the extensive fraudulent scheme that it discovered when the Fund took over management of the Bank (**2**).

1. The events that led to the revocation of the banking license of Bank Imar

37. Established in 1928, Bank Imar came under the control of the Uzan Family in 1984[49] . In the 1980s and 1990s, the bank grew rapidly, charging very high interest rates[50] .

38. Most of the loans granted by the Bank benefited companies in the Uzan Group[51] . Due to the high number of intra-group loans, Banque Imar has been under increased scrutiny since the 1990s, first by the Treasury and then by the ARSB,

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The Respondent notes that the so-called "expert" has not been able to provide the "analysis" (even though the report refers to "*folders*" containing "*data indexes*" that the "expert" seems to have compiled concerning the entities presented as transferees): see **Exhibit 7**, Report of Mr. Selahattin Bal of June 28, 2021. The Respondent further notes the manifest lack of independence and impartiality of this so-called "expert": see *infra*, ¶ 101.

47 See **Plaintiffs' July 13, 2021 Summons** at 13-15.

48 See *infra*, ¶¶ 87-96.

49 See **TMSF Exhibit 25**, B. Aktan, O. Masood and S. Yilmaz, "Financial shenanigans and the failure of ethics in banking: a review and synthesis of an unprecedented fraud," Banks and Bank Systems, Volume 4(1), 2009, p. 31.

50 The ARSB has written to Bank Imar on several occasions on this subject, asking it to reduce its interest rates t o bring them closer to the average rate in the banking sector: see, for example, **TMSF Exhibit 26**, ARSB letter to Bank Imar, November 15, 2002.

51 See **TMSF Exhibit 21**, A. Steinherr, A. Tukel, and Murat Ucer, Economic and Financial Report 2004/02 prepared under the auspices of the European Investment Bank, "The Turkish Banking Sector Challenges and Outlook in Transition to EU Membership," Annex 1.

when the institution was created in 1999[52] . At the time of the 2000-2001 banking crisis, the ARSB demanded that the bank be recapitalized and that it reduce its exposure to the rest of the Uzan Group[53] . In the absence of action by the bank's management, the ARSB was forced to intervene in the management of the bank by appointing a representative to the board of directors:

> "*Once the ARSB was established, the new authority asked the shareholders of Imar Bank to recapitalize the bank and reduce exposure to the Uzan Group. When no action was taken on either front, the ARSB appointed a board member with veto power in July 2001 and another representative was appointed to the board in December 2001. In 2002, during the May recapitalization program, the bank reduced its risk to the Uzan Group companies; shareholders injected capital into Imar Bank and the ARSB decided to remove the board member with veto power in August 2002. With an ARSB representative still on the board, the problem seemed to be solved and a takeover was avoided.*"[54] .

39. Although the ARSB's intervention temporarily helped to clean up Bank Imar's balance sheet, the situation quickly deteriorated.

40. In June 2003, following the cancellation of concession contracts signed with two electricity generation and distribution companies of the Uzan Group, Çukurova Elektrik A.Ş. ("ÇEAŞ") and Kepez Eletrik T.A.Ş. ("Kepez") - these companies having refused to comply with a new law passed in 2001 liberalizing the electricity sector[55] - Bank Imar found itself in trouble:

> "*The bank was hit again in June 2003 when the licenses of the two regional electricity companies, which provided most of the cash flow for the Uzan companies, were revoked by the Electricity Regulatory Board. This news caused a run on the bank and liquidity problems resulted. The members of the*

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52 See *id.* Appendix 1.

53 See *id.*

54 See *id.*

55 See **TMSF Exhibit 173**, *Cementownia 'Nowa Huta' S.A. v. Republic of Turkey*, ICSID Case No. ARB/AF/06/2, Award of September 17, 2009, ¶¶ 9-16. The measures taken by the Turkish authorities against ÇEAŞ and Kepez have been challenged before the competent Turkish courts, which have upheld their legality. These measures have also given rise to several arbitration proceedings (such as the aforementioned *Cementownia* case), initiated on the basis of various investment protection and promotion treaties by nominees of the Uzan Family. In all of these arbitration proceedings, the claims were declared inadmissible: see *infra*, ¶ 106 and **TMSF Exhibit 2**, Appendix 2, Some Examples of the Uzan Family's Attempts to Instrumentalize Justice.

> *Imar Bank's board of directors refused to cooperate with the ARSB and resigned from their positions at the end of June. Meanwhile, the BSRA had only four board members and could not make a decision because a decision required at least five members. After the government appointed the fifth member, the ARSB cancelled the deposit license of Imar Bank and declared that all personal deposits were guaranteed by the government.*"[56] .

41. The rapid succession of events described in the above excerpt led the ARSB to revoke the operating license of Bank Imar by a decision of July 3, 2003, in order to preserve "*the security* [and] *stability of the financial system*" and "*the rights of depositors*"[57] , and to transfer the management and control of the Bank to the TMSF, in accordance with Article 16 of the Banking Law No. 4389[58] .

2. The discovery of a vast fraud system for the benefit of the Uzan Group

42. The transfer of management and control of the Bank to the TMSF was complicated by the behavior of the Bank's managers and executives who refused to cooperate with the ARSB and TMSF. For example, on June 26, 2003, one week before Imar's banking license was revoked, all members of the Board of Directors (except the one appointed by the ARSB) - including two members of the Uzan Family, Kemal and his brother Yavuz - collectively resigned from their positions[59] . They were followed by 42 other executives who resigned on the same day the banking license was revoked.

43. As was later established, many of the Bank's documents, as well as much of the data on the Bank's operations, disappeared or were destroyed in the days leading up to these serial resignations. In particular, the manager of the Bank's data processing system - Merkez Yatırım (another Uzan Group company) - refused to share information about the Bank with the new management team put in place by the ARSB and the TMSF. It was later discovered that Merkez Yatırım had destroyed a large part of the Bank's data processing system.

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56 See **TMSF Exhibit 21**, A. Steinherr, A. Tukel, and Murat Ucer, Economic and Financial Report 2004/02 prepared under the auspices of the European Investment Bank, "The Turkish Banking Sector Challenges and Outlook in Transition to EU Membership," Annex 1.

57 **TMSF Exhibit 27**, ARSB Resolution No. 1085, July 3, 2003.

58 See, for example, **TMSF Exhibit 28**, TMSF Council Resolution No. 396 of July 3, 2003.

59 **TMSF Exhibit 29**, Resignation Letters from Imar Board Members dated June 26, 2003.

44. Obstruction by the Bank's former officers and managers complicated the work of the new team put in place by the TMSF to take over the leadership and management of the Bank. Nevertheless, the new management team soon found significant inconsistencies between the deposits recorded in the Bank's records that they had available and other information about actual deposits made with the Bank. The TMSF then established teams to investigate these inconsistencies[60] .

45. Based on the information gathered from these investigations (including information obtained from the Bank's depositors and from seizures at Merkez Yatırım's premises), the TMSF found that the Bank had systematically underreported the deposits it received from the public.

46. For example, the September 22, 2003 report prepared by the ARSB on the results of the investigation conducted by the TMSF teams regarding the difference between the deposits reported by the Bank and the deposits it actually received indicates that the Bank reported less than 10% of the deposits it actually received:

> "[I]*t is identified as a result of the claims (of TL-Turkish Lira and foreign currency holders) at Pamukbank T.A.S. document remittance centers, the number of accounts is 444,126 and the total deposit of these depositors is 8,144,639,636,406,690 TL (Turkish Lira). It was also stated by the officials of the Savings Deposit Insurance Fund that the claims continue and this figure is expected to increase further. However, it is visible in the daily monitoring form (Annex: 2) sent to the Banking Supervision and Regulation Agency on 25/06/2003 by the Bank that the total deposit is TL 735,544 billion, this sum is less than 10% of the total deposits detected as of 04/07/2003. In the balance sheet (Annex: 3) that the Bank has made public as of 31/12/2022, the total deposit is TL 976,043 billion. Therefore, the Bank has hidden more than 90% of the accumulated deposits and did not announce it in its official statements and public balance sheets. As a result of these findings, it was noticed that the difference between the real and visible deposits on the assets side of the Bank is not included in the assets side of the balance sheets prepared by the Bank and made public and/or notified to the Agency for Supervision and Regulation of Banks, because the need for the sum of the real and visible balance sheets to be equal in the balance sheet, also requires the presence of an asset in front of the deposit which is on the liabilities side of the balance sheet. This asset, which can be cash and can also be a security or a receivable (e.g., a bank loan), must be in the form of a deposit.*
> *credit). However, in the assets of the bank's balance sheet, there are no assets*

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60 See **TMSF Exhibit 30**, TMSF Board Decision No. 455, August 1er .

as mentioned above which would cover the difference between the actual and apparent deposit"[61] .

47. The authors of the report also found that the analysis of all the information gathered at this stage of the investigation into the activities of Bank Imar led to the unquestionable conclusion that the undeclared deposits (i.e. more than 90% of the deposits made with the Bank) were the subject of an embezzlement of funds (the "Misappropriated Deposits") involving several members of the Uzan Family, including Kemal (the father of the Plaintiffs), Yavuz (the uncle of the Plaintiffs), and Murat (one of the Plaintiffs):

> "*It has been concluded that the Bank's assets, which are the equivalent of the deposits collected by our team from the public, but not included in the official records and official statements of the bank, are misappropriated by the persons referred to in chapter* ***"V.3. RESPONSIBLE PERSONS"*** *of the report and that equality between total assets and total liabilities has been achieved by reducing the amount of embezzlement. No importance is given to the crime of embezzlement when it comes to the place and manner of use as well as the final beneficiary of the bank's resources which represents the deposit that is not shown, but is collected by the Bank. For, it is enough for the perpetrators of the crime not to show the mentioned amount among the assets of the bank and to act as if they were the holder on this amount. Even if in fact the perpetrator intends to return the bank assets used as a holder, this does not eliminate the crime of embezzlement. Studies on how and in what form the deposits collected by the Bank are used are still ongoing, additional reports may be prepared by our Team based on the findings of these.*
>
> [...]
>
> *It was deemed more appropriate to take into account the responsibilities of these individuals below who were senior executives of the Bank at the time in question and who are likely to have criminal responsibility because of the transactions and actions in accordance with paragraph No. 3 of Article No. 22 of the Banking Law No. 4389, in connection with the misappropriation of funds collected from depositors by accepting deposits and concealing the misappropriated portion of the deposit in order to ensure equality of the totals of the assets and liabilities of the balance sheet as explained in detail in the relevant sections of the report.*

FRAME	**FUNCTION**	**Start date**	**Departure date**
Kemal UZAN	Chairman of the Board Board of Directors / General Manager	21.11.1984	26.06.2003

[61] **TMSF Exhibit 31**, ARSB Report Prepared Pursuant to Section 22(3) of the Banking Act, September 22, 2003, pp. 3-4.

Yavuz UZAN	Chairman of the Board of Directors / CEO	21.11.1984	26.06.2003

[...]

Our team has concluded that the ultimate motivation for the actions and practices described in the preceding sections of the Report is to provide benefits to the Bank's core group of shareholders.

Given the severity of the sanction, it is considered appropriate to determine the degree of responsibility of Bank officials other than members of the Board of Directors following an investigation.

[...]

On the other hand, it was concluded that due to printing of legal book and creation of balance sheet which are not in accordance with the accounting records of Merkez Yatirim ve Ticaret A.S., and due to the technical support activities related to these matters and the presence of responsibility of Murat Hakan UZAN, Bahattin UZAN, Azmi YILMAZ and Suat GUSINALI who are and have been members of the board of directors while holding the position of senior manager at Merkez Yatirim ve Ticaret A.S., in fact these above mentioned persons have participated in the actions of "embezzlement" of the Bank by showing lower deposit in the legal book and balance sheet of the Bank "[62] .

48. Investigations into the activities of Banque Imar and the misappropriated deposits continued, particularly in the context of the criminal proceedings launched to determine who was responsible for the Imar fraud. In June 2005, a team from the ARSB finalized a report aimed at determining the beneficiaries of the embezzlement. After describing the fraudulent system set up within Bank Imar (and the Merkez Yatırım company that was in charge of managing its data processing system), the June 2005 report established that this fraudulent system benefited the Uzan Group to a large extent:

"*As a result of reviewing the information and documents provided by all these sources, our team has reached new findings regarding the transfer to the Uzan Group of funds collected from the public under the guise of the sale of deposits and treasury bills and the transfer to the Uzan Group of unpaid taxes to the Tax Authority, and the need for additional assessments regarding those responsible for the transfer of funds has emerged.*

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62 *Id.* at 43, 49-51.

It is understood that the transfer of funds to the Uzan Group has been going on in the Bank for many years, that a serious technical infrastructure has been set up in the Bank and Central Investment for this purpose, and that the managers and employees of the companies belonging to the Uzan Group, including Imar Bank, Imar Off-Shore and Central Investment, have been seriously organized to carry out the transfer of funds and conceal it from the public authorities. It is believed that the transfer of funds from the Bank to the Uzan Group and the concealment of these transactions from the public authorities date back at least to the early 1990s, when the GM04 module was designed in the computer system. Numerous irregular operations were carried out by the Bank and Merkez Yatırım managers and employees in the computer system in order to transfer the funds collected from the public and the unpaid taxes to the Tax Authority to the Uzan Group secretly from the public authorities and to conceal the transfer of funds in the legal books and financial statements.

In fact, it was not only a systematic method that was used to ensure the transfer of funds to the Uzan Group and to conceal the transfer of funds in the legal books and financial statements, but many methods of a different nature that were used. The managers and employees of the Bank and Merkez Yatırım frequently intervened in the accounting files of the computer system, which is the basis for the production of the documents in question, in order to make the legal books and financial statements appear different from what they were, by issuing fictitious retroactive receipts and deleting certain receipts.

[...]

The extent of the technical infrastructure and organization set up at the Bank and Merkez Yatırım to intervene in the Bank's computer system, the magnitude of the transferred funds, the fact that the transfer of funds was concealed from public authorities for years by not showing it in the legal books and financial statements, and the lack of effort to collect sufficient capital and interest on the transfer of funds, it shows that the managers and employees of İmar Bank, İmar Off-Shore, Merkez Yatırım and the companies belonging to the Uzan Group knew that they had caused the irreversible transfer of funds from İmar Bank to the Uzan Group."[63] .

49. The discovery of this vast fraud system that benefited the Uzan Group for years has led to numerous prosecutions and criminal convictions.

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63 **TMSF Exhibit 32**, ARSB Supplementary Report on the Transfer of Funds from Banque Imar to the Uzan Group, June 21, 2005, pp. 153-154.

3. The crimes committed in connection with the Imar Fraud have been the subject of numerous criminal convictions

50. The Imar Fraud has been the subject of a large number of criminal proceedings aimed at identifying and convicting those responsible for the fraud. These proceedings have resulted in numerous criminal convictions, including against Mr. Cem Cengiz Uzan.

51. In the criminal case No. 2004/1, which was filed before the Istanbul Court of First Instance (8ème Correctional Chamber), 24 defendants including Kemal, Yavuz, Bahettin and Murat Hakan Uzan were prosecuted on the charges of forming, participating in and directing a criminal organization for the purpose of committing a crime, participating in activities on behalf of the criminal organization, and embezzling funds[64] .

52. At the end of these proceedings, in a judgment dated February 21, 2006, the Istanbul Court of First Instance sentenced Hilmi Başaran (the director of Imar Bank[65]), Yeşim Öztürk, Tacettin Pak, Bahaettin Uzan, and Mustafa Akar to pay fines totaling tens of billions of Turkish Liras and various prison terms for organized embezzlement. In particular, Bahettin Uzan and Mustafa Akar were sentenced to 15 years, 6 months and 20 days in prison, as well as a fine of 19,426,377,822 Turkish lira[66] . The judgment also notes that Kemal Uzan had led the criminal organization that perpetrated the fraud[67] . An arrest warrant was issued for Kemal, Yavuz and Murat Hakan Uzan on the same charges, but they could not be arrested following their flight abroad, so the proceedings were severed in their respect[68] .

53. In criminal case no. 2005/123, filed before the Istanbul Court of First Instance (7ème Correctional Chamber), several defendants, including Kemal Uzan, Yavuz Uzan, Cem Cengiz Uzan and Murat Hakan Uzan, were charged with forming, participating in and directing a criminal organization for the purpose of

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64 See **TMSF Exhibit 33**, Judgment of February 21, 2006 of the 8ème Correctional Chamber of the Istanbul Court of First Instance, pp. 2-3.

65 See *id.* , ¶ 3.2.1.

66 See *id.* , p. 2.

67 See *id.* , p. 6.

68 See *id.* , p. 1. This judgment was confirmed by the 7ème criminal chamber of the Court of Cassation by judgment of January 26, 2007, case n° 2006/7636.

commission of a crime, participation in activities on behalf of the criminal organization, aggravated fraud, falsification of documents and violation of the banking law.

54. At the end of these proceedings, in a judgment of April 15, 2010, the Istanbul Court of First Instance (7ème Correctional Chamber) sentenced Cem Cengiz Uzan, among others, to 3 years of imprisonment for establishing and leading an organization with the aim of committing a crime, to 8 years and 9 months of imprisonment for falsifying documents, and to 10 years and 15 months of imprisonment and 33,750 Turkish Liras of fine for fraud against public institutions and organizations[69] .

55. In criminal case no. 2008/10, filed before the Istanbul Court of First Instance (8ème Correctional Chamber), 46 defendants including Cem Cengiz Uzan, Ayşegül (Akay) Uzan, Yavuz Uzan, Kemal Uzan, Yeşim Öztürk, Antonio Luna Betancourt, Raad El Rifai, Bahaettin Uzan, Melahat Uzan and Murat Hakan Uzan, were prosecuted on charges of aggravated bank fraud, aggravated fraud against the state, forming, participating in and directing a criminal organization for the purpose of committing a crime, participating in activities on behalf of the criminal organization, keeping fictitious accounts (violation of Banking Law No. 5411) and embezzlement of funds from a private bank (violation of Banking Law No. 5411).

56. At the end of these proceedings, in a judgment dated March 29, 2013, the Istanbul Court of First Instance sentenced Cem Cengiz Uzan to 18 years, 5 months and 20 days of imprisonment and a fine of 4,404,721,134.63 Turkish Liras[70] . He was also banned from holding public office[71] and was ordered to pay part of the compensation due to Bank Imar for the damage suffered, i.e. 1,468,240,378.21 Turkish Liras[72] . Other people involved (Raife Aynur[73] , Olgun Uyar and Ufuk Uzunkaya[74]) were sentenced to 7 years, 3 months and 15 days in prison and a fine

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69 See **TMSF Exhibit No. 34**, Judgment of April 15, 2010 of the 7ème Correctional Chamber of the Istanbul Court of First Instance. These convictions were confirmed by a judgment of the 5ème Criminal Chamber of the Court of Cassation on September 28, 2011, case no. 2011/7664. Certain other convictions against Mr. Cem Cengiz Uzan by the Court of First Instance were also overturned in a separate decision.

70 See **TMSF Exhibit No. 35**, Judgment of March 29, 2013 of the 8ème Correctional Chamber of the Istanbul Court of First Instance, p. 383.

71 See *id.*

72 See *id*. at 385.

73 Raife Aynur is a member of the board of directors and managing director of Imar Bank Offshore Limited (see *id. at* 21).

74 The three convicted individuals were members of the board of directors of Imar Bank Offshore Limited (see *id. at* 20).

4,404,513,400.65 Turkish Liras[75] . They were also banned from holding public office[76] and were ordered to pay the other part of the compensation due to Bank Imar for the damage suffered, i.e. 1,468,240,378.21 Turkish Liras[77] .

57. In the three decisions mentioned above, the Turkish criminal courts have confirmed, in application of the more demanding standard of proof that prevails in criminal matters (*i)* the existence of the Imar Fraud; (*ii*) the amount of funds embezzled; (*iii*) the fact that this embezzlement took place with the active participation of members of the Uzan Family (including Kemal, Cem and Murat Uzan); and (*iv*) the fact that the Imar Fraud benefited the Uzan Family and the Uzan Group.

C. Measures taken by the Turkish authorities (including the TMSF) in response to the Imar Fraud

58. When the Imar Fraud was discovered in 2003, the ARSB and the TMSF found that there were billions of dollars in misappropriated deposits - the repayment of which was at issue because of the withdrawal of the Bank's license - that were much larger than the data officially reported by the Bank to the ARSB. In addition, the Imar fraud and the potential harm it could cause to the Bank's clients posed a systemic risk of loss of confidence in the banking system, which was just beginning to recover from two years of crisis.

59. Under these circumstances, the most important and urgent issue that the Turkish authorities had to address upon discovery of the Imar Fraud was to determine and implement the necessary measures to protect depositors' rights and avoid further difficulties in the banking sector. As outlined below, the Turkish authorities decided to put in place mechanisms to allow the TMSF to fully reimburse most of the Bank's depositors (**1)**. Having reimbursed the depositors of Bank Imar, the Fund then exercised its statutory powers to recover the claims arising from these reimbursements (in accordance with the regime applicable to public claims, applicable under Banking Laws No. 4389 and 5411) (**2)**.

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75 See *id*. at 385.

76 See *id*.

77 See *id*. This judgment was upheld under a ruling of the 7ème criminal chamber of the Court of Cassation of January 28, 2015, case no. 2014/12969.

1. Compensation for the depositors of Banque Imar

60. After the revocation of Bank Imar's banking license, the Turkish authorities took a series of decisions to protect the interests of the Bank's clients, especially after the discovery of the Imar Fraud in the second half of 2003.

61. Thus, as a first step, by Resolution No. 1083 adopted on July 3, 2003, the ARSB strengthened depositor protection by removing for a period of one year the maximum threshold for the guarantee of covered bank deposits, so that this guarantee would be applicable to all deposits subject to the guarantee, regardless of their amount[78] .

62. The Turkish legislator and the Turkish executive branch then specified the procedure to be followed to ensure the compensation of the depositors of Bank Imar :

- Law No. 4969 of July 31, 2003 (as subsequently amended on December 16, 2003) provided that the principles and modalities of compensation for deposits after banks whose banking license is revoked (as well as the determination of deposit accounts to be excluded) should be determined by a decision of the Council of Ministers, based on proposals made jointly by the TMSF and the Treasury[79] .
- Law No. 5021 of December 16, 2003, concerning, inter alia, certain measures to be taken in the context of the withdrawal of the license of Bank Imar, then specified that the reimbursement of depositors by the Fund may be financed by funds granted by the Treasury and included an amendment in the Finance Law to allow the Treasury to issue additional debt securities up to 8.5 quadrillion Turkish liras (approximately US$5.9 at the time)[80] . Law No. 5021 also provided that certain categories of deposits with the Bank (including deposits of the Bank's shareholders or officers) were to be excluded from the scope of deposits guaranteed by the law[81] .
- A Resolution No. 2003/6668 adopted by the Council of Ministers on December 29, 2003, and which entered into force on January 3, 2004, subsequently specified, in accordance with Laws No. 4969 and 5021, the conditions and procedures to be followed in (*i*) determining the deposits that were to

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78 **TMSF Exhibit 36**, ARSB Resolution No. 1083, July 3, 2003.

79 **TMSF Exhibit 37**, Law No. 4969 of July 31, 2003, Provisional Article 2.

80 See **TMSF Exhibit 38**, Law No. 5021 of December 16, 2003, Article 2 and Interim Article 1.

81 See *id.* Article 1 and Interim Article 1.

be indemnified and those that were not to be indemnified and (*ii*) indemnify covered deposits[82] .

63. Taking into consideration the above-mentioned legal and regulatory provisions, the TMSF Board adopted Decision No. 677 to arrange for the payment of the sums due to the depositors of Bank Imar (estimated at the time at 7.8 quadrillion Turkish liras, or 5.5 billion US dollars at the then rate of exchange), to accounts opened with Bank Ziraat[83] . The Fund Board's decision also provided that the Fund would seek additional funds from the Treasury in the amount of approximately 6.8 quadrillion Turkish liras in the form of a special public debt issue (or US$4.8 billion at the time)[84] .

64. The payments under Decision No. 677 were made during 2004, once the necessary agreements were signed between the TMSF, the Central Bank of Turkey, the Treasury and Ziraat Bank:

> "Within the *framework of Laws No. 4969 and 5021 and Council of Ministers Resolution No. 2003/6668, protocols were signed between the Undersecretariat of the Treasury, the Central Bank of the Republic of Turkey, T.C. Ziraat Bankası A.Ş. and TMSF on January 7, 2004 and between T.C. Ziraat Bankası A.Ş. and TMSF on January 14, 2004.*
>
> *According to the signed protocols, the number of depositors paid under the insurance guarantee in 2004, the amounts of savings deposits transferred, the amounts of withholding tax on stock and bond returns, and the total outgoing resources of the DSDF are as follows:*

Steps	Number of depositors	Amount of deposit payments savings (billions of TL)	Total withholding (billion TL)	Total resources (billion TL)
Step 1 (16.01.2004)	364.335	7.524.811	28.185	7.552.996
Step 2 (12.03.2004)	9.006	201.917	823	202.740
Step 3 (16.04.2004)	8.329	169.816	728	170.544
Step 4 (19.07.2004)	992	18.392	84	18.476
Step 5	667	9.430	46	9.476

82 See **TMSF Exhibit 39**, Decision No. 2003/6668 of the Turkish Council of Ministers of 29 December 2003.

83 **TMSF Exhibit 40**, TMSF Board Decision No. 677 of December 29, 2003, Item No. 1.

84 See *id*. at 9.

(20.09.2004)				
Step 6 (19.11.2004)	234	3.338	15	3.353
Total	**383.563**	**7.927.704**	**29.881**	**7.957.585**

[...]"[85] .

65. The amount of deposits repaid then increased in subsequent years for two reasons:

- On the one hand, the Turkish Council of State invalidated the decision to exclude certain deposits from the scope of the guarantee[86] . The TMSF has taken over the reimbursement of these deposits as well[87] .
- On the other hand, a number of depositors did not come forward immediately, but contacted the TMSF in subsequent years to request the return of their deposits.

66. The aggregate amount of repayments assumed by the TMSF as a guarantee fund from the depositors of Bank Imar is thus TL 8,629,979,234 as of December 31, 2021[88] .

2. The recovery of public debts resulting from the Imar Fraud

67. In parallel with the repayment of the deposits made with Bank Imar, the TMSF initiated a judicial liquidation procedure against the Bank, subrogating itself in the rights of the repaid depositors for the purposes of the judicial liquidation, in accordance with the provisions of Article 16(3) of Law No. 4389[89] . The liquidation proceedings of the bank are still in progress[90] .

68. At the same time, the TMSF continued its efforts to recover funds committed to repaying the Bank's depositors (the amount of which was significantly higher than initially anticipated), particularly from the Uzan Family.

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85 **TMSF Exhibit #41**, TMSF Annual Report for 2004, p. 15.

86 See *id.* , p. 16.

87 See **TMSF Exhibit No. 42**, TMSF Annual Report for the Year 2021, p. 39.

88 See *id.* , p. 38. The Respondent recalls that in January 2005, the Turkish State replaced the currency in circulation, a "New" Turkish lira worth 1,000,000 "old" Turkish lira.

89 See **TMSF Exhibit No. 18**, Banking Law No. 4389 of June 18, 1999, Article 16(3); **TMSF Exhibit No. 43**, Official Website of the Tasarruf Mevduatı Sigorta Fonu, section "Revocation of the Operating License of Bank."

90 See **TMSF Exhibit No. 44**, Official website of the Tasarruf Mevduatı Sigorta Fonu, under "Bankrupt Banks / Banks with a Revoked Operating License".

69. The powers available to the TMSF and the measures it may take to recover such claims are expressly provided for and governed by Turkish law, including the aforementioned Banking Law No. 4389 (as amended) and the new Banking Law No. 5411 (enacted in 2005). After recalling the main legislative provisions applicable in this context (**a)**, the Respondent will briefly review the chronology of the measures taken by the TMSF (**b**).

a. The powers of the TMSF granted by the law

70. Turkish banking legislation provides that TMSF claims are to be considered as public claims, the legal regime of which is derogated from the ordinary law by a special law, the Law No. 6183 on Public Claims[91] .

71. Article 15 of Banking Law No. 4389 - in force when the Imar Fraud was discovered and the bulk of the repayments to depositors giving rise to the TMSF's claims took place - thus specified that the TMSF could pursue the recovery of its claims from the shareholders of the banks whose shares were transferred to it and from the companies controlled by these shareholders (according to the rules set out in Law No. 6183 on the recovery of public debts) :

> " [...] *concerning the monitoring and recovery of claims of banks whose shares are partially or fully transferred to the Fund, of the partners who directly or indirectly, individually or jointly, hold the management and control of these banks, of the companies of which these partners directly or indirectly, individually or jointly, hold the management and control, of the members of the board of directors and auditors, of the general manager and his deputies the chairman and members of the credit committee and officers whose signatures bind the bank, their spouses and children and those taken over by the Fund on the claims of other banks whose shares were transferred to the Fund, claims taken over by the Fund and belonging to the persons referred to in subparagraph (b) of paragraph (7), the provisions of Law No. 6183 on the Procedure for the Recovery of Public Claims shall apply. The Fund shall start tracking the claim it has taken over on the accumulated amount of the claims, which consists of the sum of the principal, all kinds of interest, commissions and other expenses, according to the books, records and documents of the bank as of the day the claim is taken over. These claims become public claims from the date of their assumption by the Fund*"[92] .

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91 See **TMSF Exhibit 18**, Banking Law No. 4389 of June 18, 1999, Article 15(3); **TMSF Exhibit 14**, Banking Law No. 5411 of October 19, 2005, article 132.

92 **TMSF Exhibit 18**, Banking Law No. 4389 of June 18, 1999, Article 15(3).

72. The TMSF's powers were expanded in the early 2000s as part of legislative reforms to strengthen the regulation of the banking sector, particularly in light of the difficulties created by the serial bank failures during the banking crisis and the Imar Fraud. These new powers were intended, among other things, to prevent the disappearance of assets that could be used to recover the TMSF's claims and to improve the effectiveness of the recovery measures put in place by the TMSF in the context of the numerous bank resolution procedures for which it was responsible[93] .

73. First, provisional Article 2 of Law No. 4969 of July 31, 2003, relating to banks whose license has been revoked (such as Banque Imar) introduced the possibility for the TMSF to freeze assets in the event of a discrepancy between the deposits declared by the bank in question and the deposits actually recorded. This provision stipulated, among other things, that the TMSF could ask the competent territorial judge to order the freezing of the assets of a certain number of persons, including in particular the shareholders and managers of the bank. It also specified that recovery of the difference between the deposits declared by the bank in question and the deposits actually recorded could be pursued in accordance with the procedures set out in Articles 14 and 15 of Banking Law No. 4389 :

> "*In the event of a difference between the amount of the insured savings deposit declared by the bank to the competent authorities in accordance with Law No. 1211 of the Central Bank of the Republic of Turkey and the amount of the savings deposit determined by the Fund, upon the request of the Fund's legal officer and/or the Treasury's legal officer assigned to the Fund, the judge of the court where the head office of the bank concerned is located may make the following decisions with respect to the claims considered as claims of the Treasury in accordance with this Law: impose measures in proportion to this difference on all bank accounts, including foreign currency deposit accounts and limited and unlimited credit card accounts, safe deposit boxes, with banks and non-bank financial institutions and other real and legal property, all kinds of movable and immovable property, including land, air and sea vehicles, valuable papers and other securities such as domestic or foreign treasury bills, government bonds, stocks, certificates of participation in investment funds, independent business enterprises, plants and facilities, trademark and licensing rights for the operation of such facilities, operating rights that authorize the establishment and operation of a facility such as a television station, power plant arising from public concession contracts, shares of companies operating and establishing such facilities with or without licensing rights owned by the president and members of the bank's board of directors and credit committee, the general manager, the*

93 See *supra*, ¶¶ 19-23.

> *The Fund may decide to recover the difference between the amount of the loan and the amount of the loan, as well as the difference between the amount of the loan and the amount of the loan's value, and the amount of the loan's value. In addition, the Fund may decide to follow up and recover the above-mentioned difference within the framework of the provisions of Articles 14 and 15 of Banking Act No. 4389.*
>
> *These provisions also apply to persons acting on behalf of the persons listed above or acquiring money, property or rights in their name.*"[94] .

74. Law No. 5020 then supplemented the powers of the TMSF under Article 15 of the Banking Law No. 4389[95] , providing, inter alia, that the TMSF could take control of companies owned directly or indirectly by the shareholders of a bank under its management and exercise the rights of the shareholders in such companies (except the right to receive dividends). The officers and members of the corporate bodies that the TMSF appointed in these companies could then dispose of the assets of the companies in order to pay the claims of the TMSF:

> *"In the event that the Fund is the beneficiary of the recovery of its receivables and whether or not the persons concerned are debtors to the Fund, it is authorized to take over the corporate rights (excluding dividends relating to all and/or part of the shares they hold in these companies) of subsidiaries under the management and control of a bank whose shares are partially or totally transferred to it, legal entity partners who directly or indirectly, alone or together, hold the management and control of this bank, companies whose natural and legal entity partners directly or indirectly, alone or together, hold the management and control as well as the management and supervision. He is authorized to remove and/or appoint members of the boards by increasing and/or decreasing their number, whether or not they are appointed on the basis of preference shares, and irrespective of the number of members of the management board, of the managers and of the supervisory board determined in the articles of association of the company concerned.*
>
> *After the members of the board of directors and supervisory board and the managers are appointed in these companies by the Fund, the officers, managers and members of the supervisory board, appointed by the Fund, of the companies whose management and supervision the Fund ensures and/or of the companies whose management and control it has taken over in application of this paragraph, as well as the employees of the company such as the managing director, the deputy managing director and the manager authorized to represent and bind the company, appointed by the former, are*

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94 **TMSF Exhibit 37**, Law No. 4969 of July 31, 2003, Provisional Article 2.

95 This law also incorporated the aforementioned provision of Law No. 4969 on asset freezes into Banking Law No. 4389, as an additional Article 1: see **TMSF Exhibit 45**, Law No. 5020 of December 12, 2003, Article 27.

> *authorized to sell shares and/or property proportionate to such shares belonging to the natural or legal persons listed in this paragraph, to deduct the sums obtained from such sales from the Fund's receivables or to apply them to the payment of public debts and/or debts of such companies to the Social Security Institution and other debts, and to make decisions regarding such transactions, regardless of Article 324 of the Turkish Commercial Code No. 6762."*[96] .

75. The provisions of Acts 4389, 4969 and 5020 relating to the powers thus granted to the TMSF were then largely taken over, and expanded where appropriate, by Banking Act 5411, notably in sections 132, 134 and 135 of that Act[97] .

b. <u>The measures taken by the TMSF for the recovery of its debts arising in the context of the Bank Imar</u>

76. After having taken the necessary steps to reimburse the misappropriated deposits to the depositors of Banque Imar, the TMSF undertook to recover the debts arising from these reimbursements. The Board of the Fund decided, by Decision n° 673 of December 24, 2003, to initiate the necessary steps to recover the sums corresponding to the misappropriated deposits:

> "*The difference between the aggregate amount of savings deposits falling under the insurance framework, declared by the bank to the competent authorities in accordance with the Central Bank of Turkey Law No. 1211 and the Banking Law No. 4389 and the aggregate amount of savings deposits ascertained by the Savings Deposit Insurance Fund shall be subject to debt prosecution and shall be recovered taking into account the reports prepared in this regard by the sworn inspectors of the banks and the information, documents and figures provided by the General Management of T. İmar Bankası T.A.Ş and by the Presidency of the Fund Liquidation Department, in accordance with the provisions of Law no. 6183"*[98] .

77. Contrary to what the Uzan Consorts maintain - who are trying to make the Court believe that the measures taken by the TMSF to recover its debts would be *"The* TMSF has only implemented the powers granted to it by the Turkish legislator. The legality of the measures taken by the TMSF in order to recover its claims arising from the repayment of the misappropriated deposits has

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96 *Id.* Article 20.

97 **<u>TMSF Exhibit 14</u>**, Law No. 5411 of October 19, 2005, Articles 132, 134 and 135.

98 **<u>TMSF Exhibit 46</u>**, TMSF Board Decision No. 673, December 24, 2003.

has been the subject of numerous appeals before the Turkish administrative courts, which have exclusive jurisdiction over such disputes[99] .

78. A brief review of the measures implemented with regard to the Uzan Group is necessary at this stage, as the Uzan Consortium is very confused about the course of events and fails to mention certain important contextual elements.

i. Payment orders

79. In accordance with the provisions of Law No. 6183 on public claims, the TMSF first sent notices to the natural and legal persons it identified as debtors of its claims arising from the repayment of the Misappropriated Deposits in accordance with the provisions of Banking Law No. 4389[100] .

80. In the absence of payments received from the notified persons, the TMSF decided to initiate enforcement measures and thus issued payment orders, in accordance with Article 55 of the Law No. 6183 on Public Debts[101] .

81. The Respondent notes that Messrs. Cem, Murat and Kemal Uzan applied to the relevant Turkish administrative courts for cancellation of the notifications and payment orders sent by TMSF. All of their requests for cancellation were rejected, as the Turkish courts confirmed that they were indeed debtors to the TMSF within the meaning of Banking Law No. 4389[102] .

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99 See in particular **TMSF Exhibit 18**, Banking Law No. 4389 of June 18, 1999, Article 15(7); **TMSF Exhibit 14**, Law No. 5411 of October 19, 2005, Section 134; see also *infra*, ¶¶ 81, 86, 96.

100 These notices were sent, inter alia, to all Uzan Group companies and to members of the Uzan Family, including Cem Cengiz and Murat Hakan Uzan (the Claimants in this proceeding), Kemal Uzan (their father) and Ayşegül Uzan (their sister): see, e.g., **Exhibit TMSF No. 47**, Letter of Invitation to Pay to Cem Cengiz Uzan in January 2004; **Exhibit TMSF No. 48**, Letter of Invitation to Pay to Murat Hakan Uzan on January 26, 2004; **Exhibit TMSF No. 49**, Letter of Invitation to Pay to Kemal Uzan on January 26, 2004; **Exhibit TMSF No. 50**, Letter of Invitation to Pay addressed to Aysegül Akay on January 26, 2004.

101 As with the Notices, the TMSF sent payment orders to all Uzan Group companies and to members of the Uzan Family, including Cem Cengiz and Murat Hakan Uzan (the Plaintiffs in this proceeding), Kemal Uzan (their father), and Ayşegül Uzan (their sister): See, e.g., **Exhibit TMSF No. 51**, Payment Order to Cem Cengiz Uzan on April 5, 2004; **Exhibit TMSF No. 52**, Payment Order to Murat Hakan Uzan on May 31, 2004; **Exhibit TMSF No. 53**, Payment Order to Kemal Uzan on March 29, 2004; **Exhibit TMSF No. 54**, Payment Order to Aysegül Akay on May 31, 2004.

102 See **Exhibit TMSF No. 55**, Judgment No. 2006/2046 of 4ème Istanbul Administrative Court of 12 October 2006; **Exhibit TMSF No. 56**, Judgment No. 2007/7709 of 13ème Chamber of the Council of State of 28 April 2008; **Exhibit TMSF No. 57**, Judgment No. 2009/3071 of 13ème Chamber of the Council of State of 28 May 2009; **Exhibit TMSF No. 58**, Judgment No. 2007/1703 of 2ème Istanbul Administrative Court of 25 May 2007; **TMSF No. 59**, Judgment No. 2010/2740 of 13ème Chamber of the Council of State dated April 2, 2010; **TMSF No. 60**, Judgment No. 2011/2535 of 13ème Chamber of the Council of State dated May 30, 2011; **TMSF No. 61**, Judgment No. 2006/3043 of 6ème Istanbul Administrative Court dated December 20, 2006; **TMSF No. 62**, Judgment No. 2008/3886 of the 13ème Chamber of the Council of State dated 24 April 2008; **TMSF No. 63**, Judgment No. 2009/2778 of the 13ème Chamber of the Council of State dated 9 March 2009;

ii. Asset freezes and takeover of Uzan Group companies

82. The TMSF then took several steps to prevent the concealment of assets that could be used to recover public debts resulting from the repayment of misappropriated funds.

83. As a first step, the TMSF sought and obtained orders from the Turkish criminal courts, pursuant to the provisions of Provisional Article 2 of Law No. 4969 of July 31, 2003[103] , freezing the assets of the shareholders and managers of Bank Imar (including Kemal, Cem, Murat, and Ayşegül Uzan) and their family members (including numerous other members of the Uzan Family), as well as the companies under their control (including the Uzan Group).

84. However, the TMSF found that after the issuance of these orders to freeze the assets of individuals and companies in the context of the banking fraud orchestrated by the Uzan Family, the transfers and transfers of funds and assets continued, in violation of these orders. It is in this context that the TMSF decided to take control and management of the Uzan Group companies, in accordance with the powers granted to it by Article 15 of the Banking Law No. 4389 (as amended by Law No. 5020)[104] .

85. Thus, by Decision No. 13 of February 13, 2004, the TMSF Board decided to take control and management of most of the companies of the Uzan Group and to replace the officers and members of the boards of directors of these companies[105] . By three decisions of March 9, 2004, June 22, 2004 and December 22, 2004, the TMSF took control of several other companies of the Uzan Group[106] .

TMSF No. 64, Judgment No. 2007/185 of 3ème Istanbul Administrative Court of January 30, 2007; **TMSF No. 65**, Judgment No. 2006/3071 of 6ème Istanbul Administrative Court of December 20, 2006; **TMSF Exhibit No. 66**, Judgment No. 2007/7710 of the 13ème Chamber of the Council of State dated November 23, 2007; **TMSF Exhibit No. 67**, Judgment No. 2009/3412 of the 13ème Chamber of the Council of State dated March 25, 2009; **TMSF Exhibit No. 68**, Judgment No. 2006/3008 of the 6ème Administrative Court of Istanbul dated December 20, 2006

103 See *supra*, ¶ 73.

104 See *supra*, ¶ 74.

105 See **TMSF Exhibit 69**, TMSF Board Decision No. 13, February 13, 2004.

106 See **TMSF Exhibit 70**, TMSF Board Decision No. 51, March 9, 2004; **TMSF Exhibit 71**, TMSF Board Decision No. 310, June 22, 2004; **TMSF Exhibit 72**, TMSF Board Decision No. 638, December 22, 2004.

86. The TMSF's decisions have been challenged in nearly 100 cases before the Turkish administrative courts, which have rejected these challenges[107] .

iii. Disposal of assets of Uzan Group companies

87. The TMSF then proceeded to sell the assets of certain Uzan Group companies, in accordance with the provisions of Article 15(7) of Banking Law No. 4389 (as amended by Law No. 5020), and subsequently Article 134 of Banking Law No. 5411.

88. As a reminder, Article 20 of Banking Law No. 5020 provides, among other things, that the representatives appointed to the corporate bodies appointed by the Fund of "the *companies whose management and supervision the Fund ensures and/or of the companies whose management and control it has taken over pursuant to this paragraph, as well as the employees of the company such as the general manager, the deputy general manager and the manager empowered to represent and bind the company, appointed by the former are authorized to sell shares and/or property proportionate to such shares belonging to the natural or legal persons listed in this paragraph, to deduct the sums obtained from such sales from the Fund's claims or to apply them to the payment of public debts and/or debts of such companies to the Social Security Institution and other debts, and to make decisions regarding such transactions, regardless of Article 324 of the Turkish Commercial Code No. 6762*"[108] . This provision is repeated, in similar terms, in Article 134 of the Banking Law No. 5411[109] .

89. The Respondent notes at this point that a simple reading of the text of these two provisions (which the Plaintiffs conveniently fail to cite in their pleadings) is sufficient to disprove the two assertions on which the Plaintiffs have chosen to build the case they are defending in this proceeding[110] :

- On the one hand, contrary to what the Claimants maintain, the purpose of Article 15 of Banking Law No. 4389 is not to grant a mere "*manager*" status to the TMSF, which would allow it to assume the management of the companies (like a judicial liquidator) on a purely conservatory basis; in fact, Article 15 expressly provides

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107 See, for example, **Exhibit TMSF No. 73**, Judgment No. 2008/1278 of 6ème Istanbul Administrative Court of July 21, 2008; **Exhibit TMSF No. 74**, Judgment No. 2006/1188 of 3ème Istanbul Administrative Court of May 31, 2006; **Exhibit TMSF No. 75**, Judgment No. 2006/105 of 5ème Istanbul Administrative Court of January 27, 2006; **Exhibit TMSF No. 76**, Judgment No. 2005/2631 of 5ème Istanbul Administrative Court of December 16, 2005.

108 **TMSF Exhibit 45**, Law No. 5020 of December 12, 2003, Article 20 (emphasis added). See also, **TMSF Exhibit 18**, Banking Law No. 4389 of June 18, 1999, Article 15(7).

109 **TMSF Exhibit 14**, Banking Law No. 5411 of October 19, 2005, Articles 132, 134 and 135.

110 See, e.g., **Plaintiffs' July 13, 2021 Summons**, ¶ 38.

that the TMSF (and its representatives) have the power to dispose of the assets of the companies over which they have taken control under the conditions provided for by law, for the purpose of recovering the public debts of the TMSF.

- On the other hand, neither Article 15 of Law No. 4389 nor Law No. 6183 on public claims (which contains no special provision relating to TMSF claims) make it a condition of the proposed asset transfers that the company or companies involved have "*committed an illegal act*.

90. Thus, in accordance with the express provisions of Turkish banking laws, the TMSF carried out asset disposals between 2004 and 2008.

91. TMSF has the ability to sell the assets of the companies under its control either separately or in lots (in order to maximize their sale price), the lots in question being designated by a term that could be translated into French as "ensemble commercial et économique")[111] . In the case of the Uzan Group companies, the Fund has most often disposed of "commercial and economic packages" (often including the assets of several companies)[112] .

92. The disposals of each of the "business and economic units" were then organized following a procedure including (*i)* a financial valuation of these assets by independent financial experts; (*ii*) a public tender for these assets, followed by an auction procedure; and (*iii*) a review of the outcome of the tender (if any) by the regulatory authorities of the various economic sectors concerned[113] . It is in this context that the decisions regarding the divestitures of the assets of the Uzan Group companies taken by the TMSF were published in the Official Gazette of the Republic of Turkey, indicating, inter alia, the assets included therein (these assets often originating from several different companies), the date of the auction and the deadline for the submission of bids by the potential buyers[114] .

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111 See **TMSF Exhibit 14**, Banking Law No. 5411 of October 19, 2005, Article 134.

112 See **TMSF Exhibit 1**, Appendix 1, Summary Table of Asset Disposals of Uzan Group Companies by TMSF. The remainder of the disposals involved real estate or sets of real estate: see *id*.

113 See **TMSF Exhibit 14**, Banking Law No. 5411 of October 19, 2005, Article 134.

114 See, for example, **TMSF Exhibit No. 77**, Announcement of Sale of the "Commercial and Economic Complex" of Telsim Assets published in the Official Gazette of the Republic of Türkiye on August 25, 2005.

93. The TMSF then approved, by a new decision, the transfer of the "commercial and economic complex" in question to the successful bidder[115] . The results of the auction (and the allocation of the price paid by the successful bidder) were then published in the Official Gazette[116] .

94. For an overview of the asset disposals of the Uzan Group companies organized by TMSF, the Respondent invites the Tribunal to consult the attached summary table listing all the auctions organized by TMSF, as well as the results of these sales published in the Official Gazette of the Republic of Turkey[117] .

95. The TMSF received a total of approximately US$6 billion from these divestitures, of which US$4.55 billion was from the divestiture of the "business and economic package" of Telsim assets. The TMSF then used the proceeds of these divestitures to settle the debts of the company(ies) concerned (including debts to certain suppliers and tax and social security debts), with the public claims held by the TMSF as a result of its intervention to reimburse the depositors of Banque Imar representing only a portion of these debts[118] .

96. The decisions taken by the TMSF in the context of each of these asset disposals were challenged before the Turkish administrative courts, all of which were rejected[119] .

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115 See, for example, **TMSF Exhibit No. 78**, TMSF Board Decision No. 243 of May 24, 2006 validating the award of the "commercial and economic package" of Telsim assets to Vodafone Telekomünikasyon A.Ş.

116 See, for example, **TMSF Exhibit No. 79**, Collocation Statement for the "Commercial and Economic Package" of Telsim's Assets published in the Official Gazette of the Republic of Türkiye on April 27, 2007.

117 **TMSF Exhibit 1**, Appendix 1, Summary Table on Asset Disposals of Uzan Group Companies by TMSF.

118 The Defendant further notes that, with respect to the Telsim assets, slightly more than one-fourth of the proceeds of the divestiture (approximately $1.3 billion) were paid to Motorola and Nokia pursuant to assignment agreements with those companies: see **TMSF Exhibit No. 79**, Collocation Statement for the "Commercial and Economic Package" of Telsim's Assets published in the Official Gazette of the Republic of Turkey on April 27, 2007. In their summons, Plaintiffs devote lengthy discussions to the agreement with Motorola (without mentioning the agreement with Nokia). TMSF strongly contests Plaintiffs' fanciful claims, which have no basis in fact. TMSF simply notes, at this stage, that Plaintiffs have not provided any serious evidence that could support these serious accusations.

119 See, for example, **TMSF Exhibit No. 1**, Appendix No. 1, Summary Table on Asset Disposals of Uzan Group Companies by TMSF, column on "Challenge Proceedings before Turkish Administrative Courts". The Respondent clarifies that the decisions referred to in this Annex represent only a small part of the total number of decisions issued by Turkish administrative courts regarding asset disposals. Given the large number of divestitures and the numerous instances in which these divestitures have been litigated before the Turkish administrative courts - most of which have been considered by each level of court - the Respondent does not intend to provide an exhaustive presentation of these

D. Preliminary Observations on the Plaintiffs' Action

97. As will be shown in the second part of these conclusions, the claims of the Uzan Consorts must be rejected, due to the lack of jurisdiction of the Paris Court of Justice to hear this action and, if applicable, the inadmissibility of these claims.

98. Before setting forth these numerous grounds for dismissal, Defendant wishes to make a few preliminary observations that are sufficient to note the manifest lack of seriousness of Plaintiffs' claims, as well as the abusive conduct adopted in these proceedings.

99. First, Mr. Cem Cengiz Uzan and Mr. Murat Hakan Uzan claim to submit their claims to the jurisdiction of the French courts on the basis of their alleged "domicile" in France since 2009 and 2014 respectively[120] . Thus, according to their theory that the French courts would have jurisdiction to hear the claims for compensation raised in the present proceedings because of their alleged domiciliation in France, the Uzan brothers could have brought these claims as early as 2009 (for Mr. Cem Cengiz Uzan) and 2014 (for Mr. Murat Hakan Uzan).

100. However, the Uzan family did not bring the present proceedings until many years after the dates on which they claim to have arrived in France: nearly 12 years in the case of Cem Cengiz Uzan and nearly 7 years in the case of Murat Hakan Uzan. Such an apparent lack of responsiveness is surprising, to say the least, on the part of "*two talented businessmen*"[121] who claim to have suffered an extremely significant loss, which they now estimate at 68 billion dollars.

101. Secondly, the Uzan Consortium's claims for compensation amount to an extravagant sum of nearly 68 billion US dollars, without submitting any assessment of the damage in support of these claims. As evidence of the alleged damage they have suffered, they submit a document that is merely a "summary" of an alleged "expert report" prepared by a Turkish accountant, Mr. Selahettin Bal[122] . Apart from the obvious lack of independence and impartiality of this so-called "expert" - in reality

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This presentation is not necessary in light of the numerous inaccuracies and approximations made by Plaintiffs in their July 13, 2021 Summons.

120 As Defendant explains further, Plaintiffs confuse the concepts of "domicile" and "place of residence" and fail to demonstrate that they would be domiciled in France: see *infra*, ¶¶ 145-148.

121 **Plaintiffs' July 13, 2021 Summons**, ¶ 1.

122 See **Exhibit 18**, Report of Mr. Selahettin Bal of June 28, 2021 (summary).

a former employee and shareholder in certain Uzan Group companies - the alleged
This "expert report" is simply incomprehensible.

102. Indeed, after a description of his work that is abstract, to say the least[123] , Mr. Bal indicates that his report would be a "*summary of his conclusions*", composed of a "*summary of the amount*" and a "*summary of the annexed companies*"[124] . Mr. Bal then simply lists figures, presented in several tables, without any explanation of what was the subject of a "valuation"[125] , the "valuation" method used, without providing the slightest detail of the calculations he made, and without providing a copy of the documents and information used to prepare this report.

103. The Uzan Estate cannot reasonably claim that they would be able to obtain any compensation (let alone an amount representing about 8% of Turkey's GDP in 2021) on the basis of such an "assessment".

104. Thirdly, the introduction of the present proceedings was an opportunity for the Uzan family to launch a major media campaign. Thus, the filing of the case was accompanied by numerous publications in the press[126] and the creation of a website dedicated to the "*Uzan case*" before the Court of Appeal, presenting this procedure as "*the trial of the century*" (www.uzancasetruejustice.com):

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123 Mr. Bal states that his work "*included reviewing the raw data underlying the documents used by any accountant* [sic]*, such as stock records, ownership percentages in shareholder records, minutes of general meetings, charts and graphs, financial statements and public statements, annual reports*": see **Plaintiffs' Exhibit #18**, Report of Mr. Selahettin Bal of June 28, 2021 (summary), p. 2, item (V).

124 **Plaintiffs' Exhibit No. 18**, Report of Mr. Selahettin Bal of June 28, 2021 (summary), p. 3, items (VII) and (VIII).

125 For example, while the Uzan Partners claim that the alleged loss corresponds to the value of the part of certain assets of the Uzan Group of which they are the "*ultimate economic beneficiaries*", as well as the
"The report of Mr. Bal is limited to listing a single amount for the damage that would have been caused to each of the companies of the group. It is not clear whether this amount corresponds to the value of the assets, the value of the dividends that would have been generated or the sum of these two values.

126 **TMSF Exhibit 80**, Extract from the "Uzan True Justice Case" website. The course of the present proceedings is also accompanied by the publication of articles in certain Turkish media with the aim of creating a sensation, presenting the course of the present proceedings in a favorable light for the Uzan Consorts: see, e.g., **TMSF Exhibit No. 81**, Euronews (Turkey), "In Uzan's $69 Billion Compensation Case, Court Asked TMSF to Defend Itself," Jan. 17, 2022 (stating, e.g., "[*a]ccording to a source close to the case at the Paris Court of Appeals* [sic], *the judges* [reportedly] *asked the defendants to defend themselves by saying: 'give your answers to the Uzan brothers' subpoena*'"); **TMSF Exhibit No. 82**, Euronews (Turkey),
"Second Hearing in Cem Uzan Case: Defendants Who Were Unable to Defend Themselves Appealed," May 26, 2022; **TMSF Exhibit No. 83**, Odatv.com, "New Development in Uzan Case: Unusual Case," January 17, 2022.

105. The legal action brought by the Uzan family before the Court of Appeal thus seems to be motivated more by the desire to make a publicity stunt than by a real desire to obtain compensation for alleged "prejudices" suffered as a result of measures taken by the TMSF, most of which were taken some fifteen years ago.

106. The TMSF notes in this respect that this is not the first time the Uzan Family has attempted to use a judicial process. For example, the Uzan Family has attempted on numerous occasions to act through mere nominees, either to bring claims for compensation or to try to oppose the seizure of certain of its "assets", which has been noted (and, in some cases, sanctioned as an abuse of process) by the courts or arbitral tribunals called upon to rule on the disputes in question. A brief summary of some of these cases is provided in **Appendix 2**, submitted with these incidental findings[127] .

107. Like the many other courts that have not been misled, the Court cannot accept this new attempt to manipulate justice by the Uzan Family, the latest (but in all likelihood not the last) of a very long series. As the Respondent will now explain, the Court can only reject the extravagant claims of the Uzan Family - which do not fall within the jurisdiction of the Court and are in any event inadmissible - and sanction the behavior of the Plaintiffs, which constitutes an abuse of rights.

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127 See **TMSF Exhibit 2**, Appendix 2, Some Examples of the Uzan Family's Attempts to Use the Justice System.

II. DISCUSSION

108. As a preliminary point, the Paris Court of Justice does not have jurisdiction to hear the action brought by the Uzan family (**A**), whose claims are also subject to the immunity from jurisdiction of the Turkish State (**B**).

109. In any event, the claims of the Uzan brothers are inadmissible (**C**).

A. As a preliminary matter, on the lack of jurisdiction of the Paris Court of Justice

110. For the reasons set out below, the action brought by the Uzan family in the present proceedings falls outside the jurisdiction of the Paris Court of Justice, since the French courts have no jurisdiction to interfere in the operation of the public services of the Turkish State (**1)** and neither Article 46 (**2)** nor Article 14 (**3**) of the Code of Civil Procedure can provide a basis for the jurisdiction of the Paris Court of Justice in the case in point

1. On the incompetence of the French courts to interfere in the functioning of the public services of the Turkish State

111. It is a principle of public international law that a State may not infringe upon the sovereignty of other States by interfering in the operation of their public services or by exercising control over their activities[128] .

112. By virtue of this principle, the French courts are not competent to annul a public act issued by a foreign administrative authority or to enjoin a foreign administrative authority to take such an act[129] , which has been recalled by eminent authors:

> *"A French court is never competent to order a foreign civil registrar to perform an act; it cannot annul a judgment, an administrative decision, or a foreign public act; it cannot order*

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128 See **TMSF Exhibit No. 84**, P. Mayer, V. Heuzé, B. Remy, *Droit international privé*, LGDJ, 12ème edition, ¶ 329. See also **TMSF Exhibit No. 85**, Paris, October 17, 1990, *Soc. La Martiniquaise v. Soc. Companhia Geral da Agricultura das Vinhas do alto Douro.* extracted from Rev. Crit. DIP 1991 p.400 ("*But whereas* [article 14 of the Civil Code] *is general in scope, it cannot however impede the principle of private international law according to which a State cannot infringe the sovereignty of other States by interfering in the functioning of their public services or by exercising control over the activity of the latter; - Whereas the registration of a trademark is an act of concession emanating from a public service which can only function in accordance with the laws which institute it ; - That it follows that disputes arising from this operation on the occasion of the issuance of a trademark were necessarily within the jurisdiction of the courts of the country of filing, ensuring the maintenance of internal public order, which takes precedence in this case over all other considerations*"); **TMSF Exhibit No. 86**, Tribunal de grande instance de Paris, May 13, 2016, RG No. 15/03149 ("[N]*o text gives French courts jurisdiction to rule on a request for invalidation of an industrial property title issued by a foreign authority, as such an examination would run counter to the principle that a State cannot exercise control over the activity of another sovereign State*").

129 *Id.*

It has no power to release an attachment ordered by a foreign body, etc. This incompetence derives from an obvious rule of public international law: a State must not interfere in the functioning of the public services of another State "[130] .

113. For these reasons, the French courts do not have jurisdiction to hear the validity of a claim by a foreign State or a foreign public authority based on the public law provisions of the State in question, or of an administrative act adopted by a public authority of that State, as such a challenge falls within the exclusive jurisdiction of the courts of that State[131] .

114. Similarly, French courts lack jurisdiction (and/or the power to) hear claims by a foreign state or public body based on public law provisions, insofar as, from the point of view of French law, their subject matter is related to the exercise of public power[132] .

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130 **TMSF Exhibit No. 84**, P. Mayer, V. Heuzé, B. Remy, *Droit international privé*, LGDJ, 12ème edition, ¶ 329.

131 See, for example, **Exhibit TMSF No. 87**, Metz, February 7, 2017, RG No. 15/01586 ("*Whereas the contested writ of execution was issued in Germany by a German tax authority on the basis of German tax law to recover a debt owed by the German State against Mr. A; whereas any challenge to the legality of the debt and of the German writ of execution is a matter for the courts of the requesting Member State.*") ; **TMSF Exhibit No. 88**, Nancy, February 6, 2017, RG No. 15/02482 ("*Whereas it is not for the judicial judge to rule on the legality of an administrative act, a fortiori if it is an act emanating from a foreign authority, that the Sarl Transports Schiocchet Excursions, which, moreover, brought an action before the Luxembourg administrative court against the amendment of June 17, 2007, and all of whose arguments were rejected by that court, cannot usefully ask the Enforcement Division to rule again on the validity of the said authorization*" (emphasis added). See also **TMSF Exhibit No. 89**, Nancy, November 8, 2017, RG No. 15/03361 ("*The commercial court correctly held that it was not for it to rule on the legality of an individual administrative act emanating from a foreign authority, a fortiori when the validity of that act was recognized by the foreign court competent to hear it, in this case the administrative court of appeal of Luxembourg, to which Transports Schiocchet Excursions had referred the matter.*") ; **TMSF Exhibit No. 90**, Douai, June 20, 2018, RG No. 18/01236 ("*The French courts do not have jurisdiction even by way of exception to verify whether the Border Force agents complied with the procedural rules applicable in the transit zone placed under their supervision to discover concealed in the trailer of a heavy goods vehicle M. Y C.*").

132 See **TMSF Exhibit 91**, Cass. Civ. 1ère , May 29, 1990, No. 88-13.737, Bull. civ. I, No. 123 ("*Having regard to the rules of international law governing relations between States, together with article 3 of the Civil Code; Whereas the combination of these rules and this text results in the lack of power of the French courts to hear, in principle, claims by a foreign State or a foreign public body, based on provisions of public law, insofar as, from the point of view of French law, their subject matter is related to the exercise of public power ; Whereas the judgment under appeal, in order to declare the tribunal de grande instance of Grasse competent, states that 'in order to qualify the claims, it is appropriate to disregard the criteria adopted in French domestic law to divide the litigation according to the administrative and judicial jurisdictional orders, and to seek, beyond the simple observation of the relationship existing between the Haitian State and its former leaders, the exact nature of the claims'; that after referring, in this respect, to the plaintiffs' writings 'from which it follows that the claims have as their object the restitution of funds taken by the defendants for personal purposes and are based on the personal fault committed by them while they were exercising power in Haiti', the judgment holds that the relationship between a public body and one of its agents who, through his personal fault, causes it damage, is a private relationship and that the claims are not based, in their formulation, on any rule of Haitian public law; Whereas in so determining, whereas according to French law, taken as the law of the forum, disputes relating to relations between a State and its officials, whatever the nature of the faults committed by the latter, are*

115. By way of exception to this principle, the French courts may be called upon to rule on the validity of a public act issued by a foreign authority in the exercise of a public service mission, but only in disputes involving private law relationships and for the sole purpose of not giving effect to such an act in France e[133] .

116. It follows from the foregoing that the French courts, just as they do not have jurisdiction to annul an act taken by a foreign administrative authority or to enjoin such an authority to take an act, do not have jurisdiction to hear an action for liability brought against a foreign administrative authority for an act taken by the latter on the basis of foreign public law in the exercise of a public service mission[134] .

117. In this case, the Uzan Estate is asking the French courts to interfere in the operation of Turkish public services by requesting the Paris Court of Justice to rule that the TMSF, a legal person under public law, is liable for adopting administrative measures in the exercise of the functions conferred on it by Turkish law - the validity of which the Uzan Estate disputes - in order to fulfill its missions in the public interest, in this case, by implementing the procedures provided for by Turkish law, in order to recover the claims arising from its intervention as a deposit guarantee fund (public claims within the meaning of Turkish law)[135] . The Consorts Uzan are asking the Paris Court of Justice to order the TMSF to pay damages for the alleged financial consequences suffered by the Consorts Uzan from the

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necessarily linked to the exercise of public power and can only find their solution in the principles of public law, the Court of Appeal exceeded its powers and violated the above-mentioned rules and text" (emphasis added)).

133 See **TMSF Exhibit No. 84**, P. Mayer, V. Heuzé, B. Remy, *Droit international privé*, LGDJ, 12ème edition, ¶ 330: "It is *the nature of the decision to be rendered, rather than that of the rules to be applied, which is likely to lead to a modification of the criteria of international jurisdiction. Thus, the simple incidental application of a rule relating to the operation of a foreign public service should not be excluded, as long as the French court has jurisdiction to hear the private dispute in which it is invoked. Our courts may, in connection with a principal claim for nullity of a marriage celebrated by a foreign civil registrar, agree to apply the foreign rules to verify whether the celebration was regular. They may, in the case of an accident at work which occurred in France and for which compensation is paid by a foreign social security system, apply the foreign rule which removes the recourse under ordinary law against the employer. In all these cases, in fact, the operative part of the judgment assesses private rights and does not contain any injunction with regard to the foreign bodies*.

134 In the same way, the French court would not have jurisdiction to rule on an action for liability brought against a foreign civil registrar for the pronouncement of a marriage or divorce, against a foreign court for the pronouncement of a judgment, or against any other public authority for acts taken by the latter in the exercise of the public service mission entrusted to it.

135 See *supra*, Section I.C.2. In this regard, the Respondent recalls that in this case, in order to repay the Bank Imar customers whose deposits were misappropriated, the Fund was forced to seek exceptional financing from the Turkish Treasury in an amount equivalent to several billion dollars (at that time). Some of the money recovered by the Funds under the challenged measures was used to repay these amounts: see, in this regard, *supra*, ¶¶ 63 and 95.

fact of the said measures (the legality of which is reviewed by the Turkish administrative courts[136]).

118. In other words, under the guise of an action in tort based on the provisions of the French Civil Code, the action brought by Consorts Uzan in fact concerns a public law relationship, falling under the exclusive jurisdiction of the Turkish administrative courts, so that Article 46 of the Code of Civil Procedure, Article 14 of the Civil Code and Regulation 1215/2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (the "Brussels I bis Regulation"), which are applicable only to disputes concerning private law relationships, are not applicable and cannot be the basis for the jurisdiction of the French courts[137] .

119. For the above reasons, the claim of the Uzan family falls outside the jurisdiction of the French courts. The Uzan Consortium's claim falls within the exclusive jurisdiction of the Turkish administrative courts, which have already been called upon to rule on the validity of the various types of measures now being challenged by the Uzan Consortium on numerous occasions. These measures taken by the TMSF in response to the Imar Fraud - in particular the decisions relating to the auction of assets belonging to the Uzan Group companies - have in fact been the subject of a large number of lawsuits brought by the shareholders or managers of the Uzan Group companies (including certain members of the Uzan Family) which have systematically led to the rejection of the complaints made against the measures taken by the TMSF.

120. In view of the foregoing, the Pre-Trial Judge is requested to declare that the Paris Court of Justice does not have jurisdiction to hear the action brought by the Uzan family against TMSF in the present proceedings.

2. On the lack of jurisdiction of the Paris Court of Justice on the basis of Article 46 of the Code of Civil Procedure

121. For the reasons set out below, the Uzan brothers and sisters cannot validly claim that the Paris Court of Justice has jurisdiction to hear their action on the basis of Article 46 of the Code of Civil Procedure.

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136 See, inter alia, *supra*, ¶¶ 77, 81, 86, 96 and **TMSF Exhibit No. 1**, Appendix No. 1, Summary Table on Asset Disposals of Uzan Group Companies by TMSF, column on "Challenge Proceedings before Turkish Administrative Courts."

137 See references cited in footnotes 130-133 and ¶¶ 134-135.

122. Article 46 of the Code of Civil Procedure provides for an option of jurisdiction in matters of tort between "*the court of the place where the harmful event occurred or the court within whose jurisdiction the damage was suffered*"[138] .

123. The place of the harmful event is the place where the alleged fault was committed and "*cannot be confused with the place of residence where the plaintiff's assets are located*"[139] .

124. As regards the place where the damage was suffered, it is neither the place where a pecuniary loss was suffered as a consequence of the initial loss directly suffered in another State[140] , nor the place of the

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138 Article 46 of the Code of Civil Procedure.

139 **TMSF Exhibit No. 92**, Cass. com, January 7, 2014, No. 11-24.157, Bull. IV, no. 5: "*that it finally holds that the place where the harmful event occurred cannot be confused with the place of residence where the plaintiff's assets are located*"; see also, **TMSF Exhibit No. 93**, Cass. Civ. 2ème , February 28, 1990, no. 88-11.320, Bull. II n° 46 p. 25: "*Whereas, however, by thus assimilating to the place where the damage was suffered the place where the financial consequences of the alleged conduct could subsequently be measured, the Court of Appeal violated the above-mentioned text*"; **TMSF Exhibit No. 94**, ECJ, September 19, 1995, Case C-364/93, *Marinani*, ¶¶ 13-21: "*The option thus open to the plaintiff cannot, however, be extended beyond the particular circumstances which justify it, otherwise the general principle, enshrined in the first paragraph of Article 2 of the Convention, of the jurisdiction of the courts of the Contracting State in whose territory the defendant is domiciled would be rendered meaningless and the result would be to recognise, outside the cases expressly provided for, the jurisdiction of the courts of the plaintiff's domicile, which the Convention has rejected by excluding, in the second paragraph of Article 3(*a*), the application of national provisions providing for such grounds of jurisdiction in respect of defendants domiciled in a Contracting State. [...*] *The answer to the question referred for a preliminary ruling is therefore that the concept of*
"The term 'place where the harmful event occurred' in Article 5(3) of the Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters must be interpreted as not referring to the place where the victim claims to have suffered pecuniary damage as a result of the initial damage which he or she suffered in another Contracting State" (emphasis added).

140 See for example, **TMSF Exhibit No. 95**, Cass. Com, April 8, 2021, n° 19-16.931 : "*It follows from the case law of the Court of Justice of the European Union that where the place where the event liable to give rise to liability in tort or quasi-tort is situated and the place where that event caused damage are not identical, the expression 'place where the harmful event occurred' must be understood as referring both to the place where the damage is suffered and to the place of the causal event (ECJ, Mines de potasse d'Alsace, 30 November 1976, no. 21/76), that this concept must, however, be interpreted in the sense that it does not refer to the place where the victim claims to have suffered pecuniary damage as a result of an initial damage which occurred and was suffered by him in another Contracting State (ECJ, Antonio Marinari, 19 September 1995, C-364/93), nor to the place where the claimant's domicile is located, where the center of his assets would be situated on the sole ground that he has suffered financial loss there as a result of the loss of elements of his assets which occurred and was suffered in another Contracting State (ECJ, Rudolf Kronhofer, 10 June 2004, C-168/02), and that, while the courts of the claimant's domicile may have jurisdiction, on the basis of the materialization of the alleged damage when the damage results from an unlawful act committed in another Member State and consists of financial loss realized directly on a bank account of the claimant with a bank established in the jurisdiction of those courts (CJEU, Harald Kolassa, 28 January 2015, C-375/13, CJEU, Helga Löber,12 September 2018, C-304/17), it is on the condition that there are other connecting points contributing to conferring jurisdiction on those courts (CJEU, Universal Music International Holding, 16 June 2016, C-12/15).* [*...In light of these findings and assessments, from which it follows that Bank Delubac had not produced the information needed to determine how the loaned funds were managed within its network, the Court of Appeal, which deduced that the alleged loss had not materialized directly in the bank's corporate accounts, which were affected only as a result of the financial losses suffered in these establishments, rightly held that the Aubenas Commercial Court did not have territorial jurisdiction*" (emphasis added); See also, **TMSF Exhibit 96**, ECJ, January 11, 1990, Case C-220/88, *Dumez*, ¶¶ 14-22, spec. ¶ 22: "*the rule of jurisdiction set out in Article 5(3) of the Convention cannot be interpreted as authorizing a claimant who alleges damage as a consequence of harm suffered by other persons who are direct victims of the harmful event to bring proceedings against the perpetrator of that event in the courts of the place where he himself ascertained the damage in his estate*"; **TMSF Exhibit No. 94**, ECJ, 19 September 1995, Case C-364/93, *Marinani*, ¶¶ 13-21; **TMSF Exhibit No. 93**, Cass. Civ. 2ème , February 28, 1990, n° 88-11.320, Bull. II n° 46

p. 25: "*Whereas, however, in thus assimilating to the place where the damage was suffered the place where the financial consequences of the alleged acts could subsequently be measured, the Court of Appeal violated the above-mentioned text*";

the plaintiff's domicile "*where the center of his assets is located*"[141] . Moreover, even if the financial loss is the initial loss that materializes directly in the plaintiff's bank account, the location of this bank account is not sufficient to characterize the place where the loss was suffered in the absence of other connecting points[142] .

125. As an illustration, in the case of a liability action against the portfolio manager of a Luxembourg company to obtain compensation for financial loss following fraud and the company's judicial liquidation, the Cour de cassation specified[143] that such loss "*can only be understood as the loss of its assets by the company*"[144] .

126. Moreover, when the French courts are seized as the courts of the place where the event giving rise to the damage was only partially suffered in France, they can only rule on that part of the damage which would have been suffered in France[145] .

TMSF Exhibit No. 97, Cass. Com. February 8, 2000, No. 98-13.282: "*Whereas by assimilating the place where the damage was suffered to the place where the financial consequences of the alleged acts could subsequently be measured, the Court of Appeal violated the aforementioned text*.

141 See, for example, **TMSF Exhibit 95**, Cass. com, April 8, 2021, No. 19-16.931. See also, **TMSF Exhibit 98**, ECJ, June 10, 2004, Case C-168/02, *Rudolf Kronhofer*, ¶¶ 19-21: "*as the Court has held, the concept of 'place where the harmful event occurred' cannot be interpreted so broadly as to encompass any place where the harmful consequences of an event which caused damage actually occurring in another place may be felt* [..... *the Convention must be interpreted as meaning that the expression 'place where the harmful event occurred' does not refer to the place of the claimant's domicile where 'the center of his assets' is located, on the sole ground that he has suffered financial loss there as a result of the loss of elements of his assets which occurred and was suffered in another Contracting State*.

142 See **TMSF Exhibit No. 99**, CJEU, June 16, 2016, Case C-12/15, *Universal Music International Holding*, ¶ 38: "*a purely financial loss that materializes directly in the claimant's bank account cannot, on its own, be qualified as a 'relevant connecting factor', under Article 5(3) of Regulation No 44/2001. In this respect, it should also be noted that it is not excluded that a company such as Universal Music could have had the choice between several bank accounts from which it could have paid the settlement amount, so that the place where this account is located does not necessarily constitute a reliable connecting factor*.

143 The solution of the Court of Cassation is in line with that of the CJEU in the above-mentioned matter.

144 See **TMSF Exhibit No. 92**, Cass. com, January 7, 2014, No. 11-24.157, Bull. IV, No. 5: "*the acts of which UBS Luxembourg is accused were necessarily committed in Luxembourg and that the place where the damage occurred, which can only be understood as the loss of its assets by Luxalpha Sicav, is in Luxembourg; it also holds that the place where Mrs. Z Z Z's financial loss materialized is not France but Luxembourg, where Luxalpha Sicav first suffered the loss of value of its securities*" (emphasis added).

145 See **TMSF Exhibit 100**, ECJ, March 7, 1995, Case C-68/93, *Fiona Shevill,* ¶ 33: "*the expression 'place where the harmful event occurred' used in Article 5(3) of the Convention must, in the case of defamation by means of a press article circulated in several Contracting States, be interpreted as meaning that the victim may bring an action for damages against the publisher either in the courts of the Contracting State of the place of establishment of the publisher of the defamatory publication, or in the courts of each Contracting State in which the publication was disseminated and where the victim claims to have suffered damage to his or her reputation, which have jurisdiction only in respect of damage caused in the State of the court seized*" (emphasis added); see also, **TMSF Exhibit No. 101**, L. Pech, JurisClasseur Communication - Fascicule 28: Conflict of Laws and International Jurisdiction of French Courts, ¶ 14: "*In matters of jurisdiction, in the event of dissociation of the elements of the tort, the choice is left to the victim between the court of the place where the precipitating event occurred and the court of the place where the damage occurred" (emphasis added).*

127. In the present case, it is not disputed that the alleged faults of the TMSF result from measures adopted in Turkey, namely the transfer of the control and management of the Turkish companies of the Uzan Group to the TMSF, and then the sale of the assets of these companies by tendering and auction procedures in accordance with Turkish law[146] . The Uzan Partners cannot therefore validly argue that the Paris Court of Justice has jurisdiction on the basis of Article 46 of the Code of Civil Procedure to hear their claim as "*the court of the place where the harmful event occurred*".

128. Moreover, the financial loss claimed by the Uzan Family, which would result, on the one hand, from the sale of the assets of Turkish companies for which the Uzan Family claims (without proving it) that they would be the "*ultimate economic beneficiaries*" [147] and, on the other hand, from the loss of dividends that these assets would have generated, could only constitute - if it were established - a ricochet loss. Assuming that there could be any harm resulting from sales made in accordance with Turkish law and as a result of the fraud orchestrated by the Uzan Family, such harm could only be suffered by the Turkish companies themselves, and not by their shareholders or ultimate beneficiaries. As none of these companies is registered in France, the Uzan Family cannot validly argue that the Paris Court of Justice has jurisdiction on the basis of article 46 of the French Commercial Code.

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the place where the damage was suffered. What will be the scope of the jurisdiction of the French court seised as the court of the place where the event giving rise to the damage occurred if the damage was only partially suffered in France? The solution consists in distinguishing between the case where the court is seised as the court of the place where the harmful event occurred in its entirety, in which case its jurisdiction will extend to the entirety of the dispute, and the case where it is seised as the court of the place where the harm was suffered or occurred. In the latter case, the court's jurisdiction will be limited to compensation for the damage suffered in France" (emphasis added). In this respect, the Plaintiffs are wrong to assert that the French courts would have jurisdiction to hear the entirety of an injury partially suffered in France. In this respect, they rely on case law relating to the multiplicity, on French territory, of the places where the alleged damage was suffered. This solution is inapplicable to the present case with regard to the international jurisdiction of the Paris Court.

146 **Plaintiffs' Summons of July 13, 2021**, ¶ 153: "*In this case, the fraudulent acts pursued by the Plaintiffs were committed in Turkey where the damages resulting from the misconduct of TMSF, MOTOROLA and the other defendants occurred, through the fraudulent capture of the Companies' assets*.

147 As evidence of their claims regarding their shareholdings in the companies mentioned in the Summons, the Plaintiffs submit a third "report" of their so-called "expert", Mr. Bal: see **Plaintiffs' Exhibit No. 4**, "Report on Plaintiffs' Profits in and Activities of Captured Companies" by Mr. Selahettin Bal dated June 28, 2021. The "report" in question contains, in the first part, a series of tables showing percentages of shareholdings in different companies for Mr. Cem Cengiz Uzan, Mr. Murat Hakan Uzan, Mr. Kemal Uzan and Ms. Ayşegül Uzan. The "report" does not provide any explanation regarding the preparation or content of these tables. As an example, the The "report" does not indicate the valuation date used and does not specify whether the percentages of holdings indicated correspond to direct or indirect holdings (or both). The report does not contain any information on the sources used or the calculation method, nor does it present the details of the calculations made. It is not accompanied by any supporting documentation. The second part of the "report" consists of a PowerPoint presentation that is more of an advertisement than an expert opinion.

civil procedure to hear their claim as the court "within whose *jurisdiction the damage was suffered*".

129. In any event, the Court could only rule on claims relating to the portion of a loss that would be suffered in France, assuming that this is demonstrated, which the Claimants do not do. On the contrary, according to their own allegations, the Claimants have only been residing in France since September 3, 2009 for Mr. Cem Cengiz Uzan and since September 3, 2014 for Mr. Murat Hakan Uzan[148] , even though the asset transfers in question took place between 2005 and 2008. Therefore, it is up to the Plaintiffs to demonstrate how the TMSF caused them direct harm on French territory[149] .

130. In view of the foregoing, the Pre-Trial Judge can only rule that Article 46 of the Code of Civil Procedure does not provide a basis for the jurisdiction of the Paris Court of Justice in this case.

3. On the lack of jurisdiction of the Paris Court of Justice on the basis of Article 14 of the Civil Code

131. The Uzan Consorts argue that the Paris Court of Justice would have jurisdiction to hear their claim, as the court of the Plaintiffs' domicile, on the basis of the combined application of Article 14 of the Civil Code and Article 6(2) of the Brussels I bis Regulation.

132. Article 14 of the Civil Code provides that:

> *"A foreigner, even one not residing in France, may be summoned before the French courts for the performance of obligations contracted by him in France with a French person; he may be brought before the French courts for obligations contracted by him in a foreign country with French persons*"[150] (emphasis added).

133. Article 6(2) of the Brussels I bis Regulation provides that:

> *"Any person, whatever his nationality, who is domiciled in the territory of a Member State, may, like the nationals of that State*

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148 **Plaintiffs' Summons of July 13, 2021**, ¶ 1: "*Mr. Murat Hakan UZAN and Mr. Cern Cengiz UZAN (hereinafter collectively referred to as "**Messrs. UZAN**") are two talented businessmen of Turkish nationality, who have been residing in France since September 3, 2014 and September 3, 2009, respectively (Exhibits 1 and 2).*

149 It being understood that the fact that the Uzan consorts are domiciled in France (assuming that such a fact is established by the plaintiffs, which is not the case in the present case) is not sufficient to establish that they have suffered harm in France.

150 Article 14 of the Civil Code (emphasis added).

Member State, invoke in that Member State against that defendant the rules of jurisdiction in force there and in particular those which Member States must notify to the Commission under Article 76(1)(a)"[151] .

134. The Brussels I bis Regulation is only applicable to civil and commercial matters, to the exclusion of disputes relating to administrative matters:

> *"This Regulation shall apply in civil and commercial matters whatever the nature of the court or tribunal. It shall not apply, in particular, to revenue, customs or administrative matters or to the liability of the State for acts or omissions in the exercise of State authority (*acta jure imperii*)*"[152] .

135. In this respect, the Court of Justice considers that decisions of an administrative authority taken in the exercise of its "*regulatory powers conferred on it by national legislation*" fall within the scope of administrative matters within the meaning of Article 1er of the Regulation:

> *"The Court thus held that, while certain disputes between a public authority and a person governed by private law may fall within the scope of Regulation No 44/2001, the situation is different when the public authority is acting in the exercise of its public powers [...*].
>
> *In order to determine whether this is the case in the context of a dispute such as that at issue in the main proceedings, it is therefore necessary to identify the legal relationship between the parties to the dispute and to examine the basis and the manner in which the action brought is to be exercised...*
>
> *In this regard, it should be noted that, while private actions taken to ensure compliance with competition law fall within the scope of Regulation No 44/2001 Advocate General in paragraph 34 of his Opinion, that a penalty imposed by an administrative authority in the exercise of the regulatory powers conferred on it by national law falls within the scope of 'administrative matters', which are excluded from the scope of Regulation No 44/2001 in accordance with Article 1er (1) thereof*"[153] .

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151 Regulation (EU) No. 2015/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast), Article 6(2) (emphasis added).

152 Regulation (EU) No. 2015/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast), Article 1; see also, **TMSF Exhibit No. 102**, ECJ, 1er October 2002, Case C-167/00, *Henkel*, ¶ 26: "*that only disputes between a public authority and a person governed by private law fall outside the scope of the Brussels Convention, even though the said authority is acting in the exercise of public authority*.

153 **TMSF Exhibit No. 103**, CJEU, July 28, 2016, Case C-102/15, *Gazdasági Versenyhivatal v. Siemens Aktiengesellschaft Österreich*, ¶¶ 32-34 (emphasis added). It should also be noted that Professors Hélène Gaudemet-Tallon and Marie-Elodie Ancel recall, in light of the case law of the Court of Justice, that it is *"It is more coherent to retain only the criterion of the exercise of public power, without it being necessarily*

136. In this case, the TMSF acted in accordance with its powers under the Turkish Banking Law[154] , the purpose of which is to regulate the principles and procedures aimed at ensuring the confidence and stability of the financial markets, the functioning of the credit system and the protection of the rights and interests of depositors[155] . Under the Banking Law, the TMSF, and the persons it appoints to manage and control the companies under its supervision, have the power to decide on the sale of assets of controlled companies[156] . These decisions could be and/or were challenged before the Turkish administrative courts[157] .

137. The Respondent notes, by way of comparison, that the intervention of the FGDR (the French deposit guarantee mechanism and the resolution financing mechanism), when a credit institution is no longer able (or will not be able in the short term) to return the deposits entrusted to it, may lead to "a *total or partial transfer of the credit institution or the extinction of its activity, in particular through the transfer of its business*"[158] , and appeals against its decisions fall under the jurisdiction of the administrative courts[159] . In a decision of September 28, 2021, the Conseil d'Etat specified the status of the FGDR as a private person entrusted with a public service mission

It should be noted that the company is "*endowed with public authority for this purpose*" and that even in the absence of such authority, it must be considered as carrying out a public service mission, particularly in view of "*the general interest of its activity*"[160] .

State responsibility directly at issue" (see **TMSF Exhibit 104**, H. Gaudemet-Tallon and M.-E. Ancel, *Jurisdiction and Enforcement of Judgments in Europe*, 2018, ¶ 41(3)).

154 See *supra*, ¶¶ 70-75.

155 See in particular **TMSF Exhibit 14**, Banking Law No. 5411 of October 19, 2005, Article 134: this law determines the powers of the TMSF and the procedures applicable to the recovery of the Fund's claims, Article 1.

156 *Id.* Article 134.

157 See, inter alia, *supra*, ¶¶ 77, 81, 86, 96 and **TMSF Exhibit No. 1**, Appendix No. 1, Summary Table on Asset Disposals of Uzan Group Companies by TMSF, column on "Challenge Proceedings before Turkish Administrative Courts."

158 Monetary and Financial Code, Article L. 312-5, II.

159 Monetary and Financial Code, Article L. 312-5 V.

160 See **TMSF Exhibit No. 105**, CE, September 28, 2021, No. 447625, *Fonds de garantie des dépôts et de résolution (FGDR)*: "*Regardless of the cases in which the legislator has itself intended to recognize or, conversely, to exclude the existence of a public service, a private person who carries out a mission of general interest under the control of the administration and who is endowed with prerogatives of public power for this purpose is charged with the execution of a public service. Even in the absence of such prerogatives, a private person must also be considered, in the silence of the law, as carrying out a public service mission when, having regard to the general interest of its activity, to the conditions of its creation, organization or operation, to the obligations imposed on it as well as to the measures taken to verify that the objectives assigned to it are attained, it appears that the administration intended to entrust it with such a mission*. In addition, Thierry Samin and Stéphane Torck note that the Conseil d'Etat retains an "all-encompassing notion of the public service mission including regulation" and in particular prevention and banking regulation (**TMSF Exhibit No. 106**, Thierry Samin and Stéphane Torck, note under CE,

138. It follows from the foregoing that Plaintiffs' action against the TMSF falls within the This is an "administrative matter" within the meaning of Article 1 of the Brussels I bis Regulation. Consequently, the Brussels I bis Regulation (including its article 6(2)) is inapplicable to the present case and the Plaintiffs cannot rely on the jurisdictional privilege of article 14 of the Civil Code, as they cannot prove French nationality[161] .

139. If the Pre-Trial Judge were to consider that the Plaintiffs' action is not of an administrative nature, the fact remains that the Plaintiffs do not prove that their domicile is in France, so that they cannot avail themselves of the jurisdictional privilege resulting from the combination of Article 14 of the Civil Code and Article 6(2) of the Brussels I bis Regulation.

140. Indeed, article 6(2) of the Brussels I bis Regulation extends the privilege of jurisdiction provided for in article 14 of the Civil Code only to foreigners domiciled in France. As regards the determination of domicile, Article 62(1) of the Brussels I bis Regulation refers to the law of each Member State, providing that :

> *"To determine whether a party is domiciled in the territory of the Member State whose courts are seized, the court shall apply its domestic law*"[162] .

141. Article 102 of the Civil Code defines domicile as follows:

> *"The domicile of any Frenchman, as regards the exercise of his civil rights, is the place where he has his main establishment*"[163] .

142. Domicile means the private place where a natural person actually lives, which is stable, permanent and coincides with the center of the family ties and occupations of the person concerned[164] .

September 28, 2021, n° 447625, *Fonds de garantie des dépôts et de résolution (FGDR), Revue de droit bancaire et financier,* n° 2, mars-avril 2022, comm. 41, p. 4).

161 See **TMSF Exhibit 107**, Cass. Civ. 1ère , December 14, 2004, n° 01-03.285, Bull. I, n° 311, p. 260: "*But whereas the international jurisdiction of the French courts, by application of article 14 of the Civil Code, is based not on the rights arising from the facts in dispute but on the nationality of the parties, unless there is proof of fraud intended to give the French court jurisdiction artificially in order to remove the debtor from his natural judges*" (emphasis added).

162 Regulation (EU) No. 2015/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast), Article 62(1).

163 Article 102 of the Civil Code.

164 See **TMSF Exhibit 108**, Cass. Civ. 1ère , February 10, 1993, n° 91-17.601, Bull. Civ. I, no. 69. See also **TMSF Exhibit No. 109**, Orléans, January 15, 2018, RG No. 17/00312; **TMSF Exhibit No. 110**, Paris, May 31, 2022,

143. The concept of domicile is distinct from that of residence, which refers to "the place *where a natural person actually lives in a fairly stable manner, but which may not be his domicile*"[165] . It is common ground that the criterion used by the Brussels I bis Regulation to extend the jurisdictional privilege provided for in Article 14 of the Civil Code is that of the foreigner's domicile in France, and not that of his residence.

144. Moreover, the plaintiff cannot avail himself of the jurisdictional privilege of Article 14 of the Civil Code in the case of "*fraud intended to artificially give jurisdiction to the French court in order to remove the debtor from his natural judges*"[166] .

145. In the present case, the Plaintiffs do not justify a domicile in France. Although they mention for the purposes of the case a domicile in France[167] , it is a residence in France that they intend to justify[168] .

146. In any event, the Plaintiffs are attempting to artificially create the jurisdiction of the Paris Court in order to circumvent the exclusive jurisdiction of the Turkish courts to adjudicate their claims[169] .

147. In this regard, it should be noted that the Plaintiffs, who claim to be "*the successors of their sister, Mrs. Aysegul Uzan, and their father, Mr. Kemal Uzan*", rely on "[a]*ctuses confirming the agreements for the transfer of Mrs. Aysegul Uzan's rights*

RG n° 20/10132: "*the domicile, in the sense of the nationality law, means the actual residence that is stable, permanent and coincides with the center of the family ties and occupations of the person concerned*".

165 See **TMSF Exhibit 111**, G. Cornu, Association Henri Capitant [ed.], Vocabulaire juridique, "Résidence", p. 918. While it is possible that "*the law may* [alternatively] *attach various legal effects*" to the notion of residence, this is the case in matters of territorial jurisdiction only with regard to the residence, if not domicile, of the defendant (article 43 of the Code of Civil Procedure: "*The place where the defendant resides is understood to be: - in the case of a natural person, the place where he has his domicile or, failing that, his residence* [...]").

166 **TMSF Exhibit 107**, Cass. Civ. 1ère , December 14, 2004, n° 01-03.285, Bull. I, no. 311, p. 260.

167 See **Plaintiffs' Summons of July 13, 2021**, ¶ 134: "*In the present case, the Plaintiffs are certainly of foreign nationality, but they all have their domicile in France, and have done so for many years (Exhibits 1 and 2)*.

168 See **Plaintiffs' Summons of July 13, 2021**, ¶ 129: "*France is indeed the place where the Plaintiffs carry out their 'activity' as economic beneficiaries of the Companies, so that the damage was and still is suffered in France, where this capacity as shareholders is exercised, as natural persons having their residence in France*" (emphasis added). The Plaintiffs then maintain the confusion by claiming that they are domiciled in France ("*In the present case, the Plaintiffs are certainly of foreign nationality, but they are all domiciled in France, and have been for years (exhibits 1 and 2)*"): **Plaintiffs' Summons of July 13, 2021**, ¶ 134) while producing in support of this claim exhibits 1 and 2 labeled "*Proof of Residence in France*": see **Plaintiffs' Discovery Statement**.

169 See *infra*, ¶¶ 188-194.

and Mr. Kemal Uzan in favor of Mr. Murat Hakan UZAN and Mr. Cem Cengiz UZAN"[170] . The Respondent notes, in this regard, that these "*confirmatory deeds*", produced by the Claimants in Exhibit 3, were signed on May 30, 2021, i.e. one and a half months before the Claimants' Summons. These are clearly documents prepared for the purposes of the case, which do not, moreover, give any indication of the essential elements of the alleged transfers, such as the date and price, for example[171] . In these circumstances, there is every reason to believe that the alleged transfers, if they exist at all, were made solely for the purposes of the case, in accordance with the strategy already used by the Uzan Family in the past[172] , even though the rights allegedly transferred concern measures taken by the TMSF, the legality of which has been confirmed by the Turkish courts on the occasion of challenges brought before them[173] .

148. Therefore, the Plaintiffs, who do not provide evidence of a domicile in France, cannot benefit from the jurisdictional privilege resulting from the combination of Article 14 of the Civil Code and the Brussels I bis Regulation.

149. Moreover, the Plaintiffs cannot validly invoke Article 42, paragraph 3 of the Code of Civil Procedure to justify the internal territorial jurisdiction of the Paris Court of Justice as "the *court of their choice*" or "the *court of the place where they live*"[174] .

150. Article 42 paragraph 3 of the Code of Civil Procedure states:

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170 See **Exhibit 3**, Confirmatory Deeds of the Assignment Agreements of the Rights of Mrs. Aysegul Uzan and Mr. Kemal Uzan to Mr. Cem Cengiz Uzan and Mr. Murat Hakan Uzan.

171 Defendant notes that only the production of the purported "*assignment agreements*" themselves (and not the "*confirmatory deeds*" prepared for purposes of the case by Plaintiffs' father and sister) would verify the terms of the purported assignments of claims or rights, including the purpose of the purported assignments, the date, the price, as well as other terms relating to the assignments (if any).

172 See, for example, **TMSF Exhibit 2**, Annex 2, Some Examples of the Uzan Family's Attempts to Instrumentalize Justice; **TMSF Exhibit 174**, ICSID, *Europe Cement Investment and Trade S.A. v. Republic of Turkey*, Case No. ARB(AF)/07/2, Award of August 13, 2009, ¶¶ 84-85 and 163-164.

173 See, inter alia, *supra*, ¶¶ 81, 86, 96 and **TMSF Exhibit No. 1**, Appendix No. 1, Summary Table on Asset Disposals of Uzan Group Companies by TMSF, column on "Challenge Proceedings before Turkish Administrative Courts."

174 See **Plaintiffs' July 13, 2021 Summons**, ¶¶ 137-138: "*Because the Defendants reside abroad, Plaintiffs are entitled to bring suit before the Judicial Court of Paris, the court of their choice and, moreover, the court of their place of residence. Therefore, the Court should retain its domestic territorial jurisdiction to hear the present dispute*.

"If the defendant has no known domicile or residence, the plaintiff may seize the court of the place where he lives or the court of his choice if he lives abroad"[175] .

151. Case law states that the above-mentioned provision can only be used as a basis for the jurisdiction of a French court if "*the defendant has no known domicile or residence*", and if the plaintiff lives abroad[176] .

152. In this case, it is not disputed by the Plaintiffs that the domicile of the TMSF (as well as that of the other co-defendants) is known. The Plaintiffs cannot therefore validly invoke Article 42 paragraph 3 of the Code of Civil Procedure to justify the jurisdiction of the Paris Court.

153. In view of the foregoing, the Pre-Trial Judge will declare that the Paris Court of Justice does not have jurisdiction to hear the Plaintiffs' claims.

B. As a preliminary matter, on TMSF's immunity from jurisdiction

154. It is settled case law that foreign States enjoy immunity from jurisdiction when the act which gives rise to the dispute participates, by its nature or purpose, in the exercise of the sovereignty of those States and is therefore not an act of administration[177] . This is the case when the action relates to acts of public authority or performed in the interest of a public service.

155. It is also accepted that this immunity from jurisdiction may be invoked by any entity acting in the name and on behalf of the foreign State for acts of public authority or performed in the interest of a public service[178] .

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175 Article 42, paragraph 3 of the Code of Civil Procedure (emphasis added).

176 See, for example, **TMSF Exhibit No. 112**, Tribunal de grande instance de Paris, May 31, 2013, RG No. 11/14039: "*Paragraph 1er of Article 42 is intended to apply in the present case, to the exclusion of paragraph 3, which concerns only the case where the defendant has no known domicile, which is clearly not the case in this instance since the summons was validly served on him at his domicile in Lausanne, Switzerland*" (emphasis added); see also, **TMSF Exhibit No. 113**, Paris, February 22, 2019, RG No. 17/14719 : "*the principle laid down by Article 42 of the Code of Civil Procedure leads to the preference of the territorial jurisdiction of the place of domicile of the defendant, which in the present case would lead to referring the examination of the dispute to a Belgian court. If, on the other hand, the Piriou company maintains that it is appropriate to apply paragraph 3 of article 42 of the Code of Civil Procedure, which would allow it, itself having its headquarters abroad, to choose the French court of its choice, it should be noted that this text provides for a subsidiary jurisdiction which can only come into play if 'the defendant has no known domicile or residence', which is not the case here, the registered offices of the companies B C and Sealease being known, even though they are not located in France*" (emphasis added).

177 See, for example, **TMSF Exhibit No. 114**, Cass 1ère civ., July 12, 2017, No. 15-29.334 and 15-29.335 (published in the Bulletin).

178 See, for example, **TMSF Exhibit No. 115**, Cass. Civ. 1ère , May 19, 1976, No. 74-11.424, Bull. I, No. 181 ("*But whereas, after having rightly recalled* that *immunity from jurisdiction may be invoked by foreign States and by organizations acting by their order or on their behalf, for acts of public authority or performed in the interest of a public service, the court of appeal noted that, by virtue of the Japanese legal texts that it analyzed, the Bank of Japan, when acting as a foreign exchange controller, does so by order and on behalf of the*

156. In this case, the action brought by the Uzan Consorts concerns acts of public authority performed by TMSF in the interest of a public service: as previously mentioned, in the context of the Imar Fraud, TMSF intervened as a resolution authority before taking measures to recover the public debts that had arisen on that occasion[179] .

157. For these reasons, the claim of the Uzan brothers and sisters that their action concerns "management acts", of a commercial nature, exercised "within the *framework of legal relationships governed by private law*"[180] is manifestly unfounded.

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on behalf of the Japanese State"). See also **TMSF Exhibit 116**, Cass. Civ. 1ère , April 27, 2004, n° 01-12.442, Bull. Civ. I, no. 114 ("*But whereas foreign States and bodies or persons acting by their order and on their behalf enjoy immunity from jurisdiction not only for acts of public authority but also for those performed in the interest of a public service; that the Court of Appeal, having noted, first, that Mr. Y...the Court of Appeal, having noted, first, that Mr. Y..., a non-commissioned officer in the army, was a member of the USAPT, which was attached to the United States Army Recruiting Command, and second, that the training during which the accident occurred was part of the ordinary framework of the activities of the USAPT on American territory, was financed by the American army and was carried out under its command, and again, that the association of a team of soldiers with the USAPT was not only an act of public authority but also an act of public service, that the association of a civilian team with this training did not cause it to lose its military character since the purpose was for the American army to train its parachutists and to promote its recruitment, and therefore deduced that the activity of the parachuting team was carried out within the framework of the execution of a public service mission of the foreign State and decided that Mr. Y.. Y... was entitled to rely on the principle of sovereign immunity of States, thus depriving the forum seized of the power to judge and without the provisions on jurisdiction of article 14 of the Civil Code being able to be invoked against it*" (emphasis added); **TMSF Exhibit No. 117**, Cass. Civ. 1ère , December 14, 2004, No. 01-15.471 and 01-15.472, Bull. Civ. I, No. 310 ("*But whereas the Court of Appeal rightly held that the immunity from jurisdiction invoked by ASECNA was not based on its status as an international agency in application of the Dakar Convention, but on the activities carried out on behalf of the Senegalese State in execution of the contract of December 7, 1987, so that the complaints of the first three branches are in fact lacking; that, furthermore, the Court of Appeal did not have to carry out a search that was not requested of it ; that finally, having noted that the responsibility of the agency was called into question for the conditions of storage of the fuel depots subject to its control and that, contrary to the statements of the first judge who had focused only on the commercial activity entrusted to ASECNA, this organization accomplished, on behalf of the Senegalese State a public service mission relating to the safety of national air transport and the maintenance of airports under the administrative and financial control of the Minister of Civil Aviation of that State, the Court of Appeal rightly deduced that ASECNA, which was acting by virtue of a public service delegation, should benefit from immunity from jurisdiction, which deprived the French court of the power to judge it*" (emphasis added)) and **TMSF Exhibit n° 118**, Cass. Civ. 1ère , April 17, 2019, No. 17-18.286, published in the bulletin ("*But whereas the activities of certification and classification, which fall under different legal regimes, are dissociable and only the former authorizes a private law company to avail itself of the jurisdictional immunity of the flag State which has specially empowered it to issue, in its name, to the owner of a vessel, the statutory certification*" (emphasis added)). See also **TMSF Exhibit 119**, United Nations Convention on Jurisdictional Immunities of States and Their Property, Article 1(b) ("*1. For the purposes of this Convention: ... (b) 'State' means : (i) The State and its various organs of government; (ii) Components of a federal State or political subdivisions of the State, which are empowered to perform acts in the exercise of sovereign authority and are acting in that capacity; (iii) State institutions or agencies or other entities, provided that they are empowered to perform and are actually performing acts in the exercise of the sovereign authority of the State; and (iv) Representatives of the State acting in that capacity*" (emphasis added)).

179 See *supra*, Section I.C and ¶ 137. See also, **TMSF Exhibit No. 120**, Judgment No. 2007/1077 of 1er Istanbul Administrative Court of April 25, 2007; **TMSF Exhibit No. 121**, Judgment No. 2009/455 of 6ème Istanbul Administrative Court of March 19, 2009; **TMSF Exhibit No. 122**, Judgment No. 2014/2069 of 13ème Chamber of the Council of State of May 28, 2014; **TMSF Exhibit No. 123**, Judgment No. 2007/2344 of 4ème Istanbul Administrative Court of October 31, 2007.

180 **Plaintiffs' July 13, 2021 Summons**, ¶¶ 139-150.

158. In view of the foregoing, TMSF is entitled to invoke the immunity of jurisdiction, so that the French courts are deprived of the power to hear the action brought by the Consorts Uzan.

C. On the inadmissibility of the Uzan Consorts' claims

159. Defendant notes, as a preliminary matter, that many of the companies named in the Complaint have not been divested. Plaintiffs appear to be arguing that the assets of these companies were also divested, but that "*the details* [of these divestitures] *were not publicly disclosed*"[181] . They appear to be seeking more than $20 billion in damages (or one-third of their claims)[182] .

160. This request is so imprecise as it stands that it cannot be answered. It is up to the Claimants to specify their allegations, in particular concerning the nature of the assets that were allegedly transferred, the procedure followed to carry out the alleged transfers, the identity of the alleged transferees, the price of the alleged transfers, the date on which these alleged transfers took place, or the circumstances in which the Claimants allegedly became aware of these alleged non-public transfers. Without such information, the TMSF cannot fully verify the regularity, admissibility and unfoundedness of Plaintiffs' claims.

161. The claims of the Uzan Partners are also inadmissible for at least four distinct reasons. The Defendant will demonstrate that the Plaintiffs do not have a personal and legitimate interest in the action (**1)**, that the present action seeks to circumvent the res judicata effect of the judgments rendered by the Turkish administrative courts concerning the measures taken by the TMSF in the context of the Imar Fraud (**2**), that the present action is an abuse of rights (**3)** and that the Uzan Consortium's claims are barred by the statute of limitations (**4**).

1. On the inadmissibility of the claims due to the lack of a legitimate interest in acting on the part of the Uzan consorts

162. Article 31 of the Code of Civil Procedure provides that:

> *"The action is open to all who have a legitimate interest in the success or rejection of a claim, except in cases in which the law attributes the right to act only to persons whom it qualifies to*

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181 **Plaintiffs' July 13, 2021 Summons**, ¶ 276.

182 **Plaintiffs' July 13, 2021 Summons**, p. 52.

to raise or combat a claim, or to defend a specific interest"[183] .

163. Article 122 of the Code of Civil Procedure provides that:

> *"A plea of inadmissibility is any means of declaring an adversary's claim inadmissible, without examination of the merits, for lack of right to act, such as lack of standing, lack of interest, prescription, time limit, or res judicata*"[184] .

164. In accordance with the above-mentioned articles 31 and 122, the plaintiff in a legal action, in order for this action to be admissible, must justify an interest in acting. This interest to act must be personal, legitimate, born and actual[185] .

a. The Plaintiffs do not have a personal interest in the matter

165. The interest to act must be "*personal*", i.e. specific to the plaintiff to the action:

> *"This requirement means that a person can only take legal action insofar as the violation of the right affects his own interests and the result of the action will benefit him personally. It is not possible to recognize the right to act to ensure the respect of the general interest [...], nor the right to act to defend the* interests of others*, whether natural or legal persons, because 'no one pleads by attorney!' and res judicata has only a relative authority between the parties to the lawsuit*"[186] .

166. An action in tort brought by a plaintiff acting as a partner or shareholder of a partnership is thus admissible only on the double condition that the claim is for compensation for personal injury as distinct from injury to the partnership[187]

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183 Article 31 of the Code of Civil Procedure (emphasis added).

184 Article 122 of the Code of Civil Procedure (emphasis added).

185 See for example, **TMSF Exhibit No. 124**, T. Le Bars, K. Salhi, J. Héron, *Droit judiciaire privé*, 2019, Lextenso, ¶ 67.

186 **TMSF Exhibit No. 125**, L. Cadiet, E. Jeuland, *Droit judiciaire privé*, Lexis Nexis, 2016, p. 287, ¶ 358 (emphasis added).

187 See, for example, with regard to the individual action of a shareholder against a company director, **TMSF Exhibit No. 126**, Cass. Com. 26 January 1970, No. 67-14.787, Bull. Chambre commerciale n° 30, p. 31 : "*Whereas the judgment under appeal is criticized [...] for having declared that* [the shareholder] [...] *is inadmissible to subsequently request compensation from the directors responsible for the mismanagement of the company for the loss resulting from the sale of his shares* [*...that in complaining of having sold at a loss,* [the shareholder] *does not claim a prejudice that is special to him, that in this case it is only a question of the prejudice suffered by the company itself as a result of bad management, that the prejudice caused to the shareholder is only the corollary* [*...In ruling as it did, the Court of Appeal, far from having committed the alleged distortion, merely gave the circumstances of the case their true characterization*" (emphasis added); **TMSF Exhibit 127**, Cass. Com, June 28, 2005, n° 04-13.586: "*But whereas the decision holds that the partners who do not act in this case by the oblique way and do not exercise a corporate action are admissible in their personal action only if they justify a personal prejudice distinct from the prejudice suffered by the company in which they hold shares and that the prejudices suffered by the partners of a company in liquidation, relating to the loss of value of their shares because of the alleged violation of contractual stipulations by the sole customer of the company, are suffered*

and, if applicable, that the applicant provides proof of his/her status as a partner or shareholder[188] .

167. With respect to the first condition, a partner or shareholder of a corporation does not have a claim for personal injury where the alleged injury consists of a "*fraction of the loss suffered by the community of creditors or by the debtor company*":

> *"If the plaintiff in the action for damages is a partner acting in liability against the directors of the debtor company, the admissibility of his action is subject to the allegation of a personal loss distinct from that which could have been suffered by the company itself*. In so determining, without distinguishing between whether Mr. *[M]'s action was intended to compensate only a fraction of the loss suffered by the group of creditors or by the debtor company, in which case an individual action would be inadmissible, or to compensate a personal loss, in which case an individual action would be admissible, the court of appeal deprived its decision of a legal basis*"[189] .

168. With regard to the second condition, in the event that the plaintiff claims to be acting as a partner or shareholder of a company in respect of dividends distributed by the company of which he or she claims to have been deprived, the action is inadmissible unless the plaintiff

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indiscriminately by the community of shareholding partners and by the partnership; that in deciding thus that the prejudice invoked by the partners who, by reason of their corporate rights and duties, were called upon to bear the corporate losses being only the corollary of that caused to the partnership, was not of a personal nature, the Court of Appeal made a correct application of the aforementioned texts" (emphasis added); **TMSF Exhibit No. 128**, Paris, February 18, 2016, RG No. 15/06253: "*The court recalls that the partners have an individual action in liability against the corporate officers, distinct from the ut singuli action exercised in the name of the partnership. In order to be admissible, a partner who brings such an action must suffer a personal injury distinct from the injury suffered by the partnership*" (emphasis added); see also, with respect to the individual action of a shareholder against a third party, **TMSF Exhibit No. 129**, Cass. Com. February 8, 2011, No. 09-17.034, Bull. IV, no. 19: "*Having regard to article 1382 of the Civil Code, together with article 31 of the Code of Civil Procedure; Whereas the admissibility of a liability action brought by a partner against a co-contractor of the company is subject to the allegation of a personal prejudice distinct from that which could be suffered by the company itself*"; **TMSF Exhibit no. 130**, Cass. Com, November 4, 2021, no. 19-12.342, published in the bulletin: "*In view of articles 1382, now 1240, of the Civil Code and 31 of the Code of Civil Procedure, it follows from these texts that the admissibility of a liability action brought by a partner against a third party is subject to the allegation of a personal injury distinct from that which could be suffered by the partnership itself, i.e., an injury that cannot be wiped out by reparation of the partnership's injury. The mere fact that this partner is acting on the basis of contractual liability is not sufficient to establish the personal nature of the alleged loss [...] In so determining, without investigating, as it was requested to do, whether the financial loss alleged by Mr. [X] in his capacity as a partner is personal or not. In so determining, without investigating, as it was required to do, whether the financial loss alleged by Mr. [X] in his capacity as shareholder was not, in whole or in part, the corollary of the loss suffered by the company [X] Group as a result of the alleged depreciation of the catalog of works constituting its principal asset, the court of appeal deprived its decision of a legal basis*" (emphasis added).

188 See **TMSF Exhibit No. 131**, Cass. Com, December 2, 2008, No. 07-19.061; **TMSF Exhibit No. 132**, Paris, January 30, 2008, RG No. 05/21137; **TMSF Exhibit No. 133**, Tribunal de Grande Instance de Paris, December 19, 2007, RG No. 05/14342
; **TMSF Exhibit No. 134**, Aix-en Provence, January 31, 2019, RG No. 16/12713.

189 **TMSF Exhibit 135**, Cass. Com. June 2, 2021, No. 19-23.758 (emphasis added).

to provide proof of his status as a shareholder or partner of the company[190] , since only the partners or shareholders of a company are entitled to the dividends distributed by this company[191] .

169. In this case, the Plaintiffs claim to have suffered financial harm characterized by the sale of corporate assets and the alleged loss of dividends generated by the assets sold[192] .

170. For the foregoing reasons, the Plaintiffs' action must be deemed inadmissible since their action does not seek compensation for a specific loss distinct from that allegedly suffered by the companies of the Uzan group targeted by the TMSF measures. The Plaintiffs are not entitled to claim compensation for any alleged loss resulting from the sale of the assets of the companies listed by the Plaintiffs in their writ of summons[193] , since this loss, if proven, would only directly affect the assets of these companies.

171. With respect to the alleged loss of dividends, the Plaintiffs, who present themselves as the "*ultimate beneficiaries*" of the companies whose asset disposals allegedly caused them harm[194] , do not provide any evidence that they are shareholders or partners (and in what proportion) of the said companies[195] . The Claimants

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190 See **TMSF Exhibit No. 136**, Cass. Com. June 9, 2004, No. 01-02.356.

191 In both French and Turkish law, the distribution of dividends to shareholders is decided by the ordinary general meeting of shareholders: see, for example, for commercial companies, Article L. 232-12 of the Commercial Code: "*After approval of the annual accounts and determination of the existence of distributable sums, the general meeting shall determine the share allocated to the partners in the form of dividends*" (emphasis added).

192 See **Plaintiffs' Summons of July 13, 2021**, p. 6: "*This case is about **one** of **the largest frauds i n history**. It has resulted in a financial loss of extreme intensity, estimated at approximately US$68 **billion**, representing the value of which Plaintiffs, residents of France and who should have received dividends there, were defrauded as **economic beneficiaries of a set of companies** (hereinafter the "Companies"), the assets and fruits of which were fraudulently captured*" (emphasis added); see also, **Plaintiffs' July 13, 2021 Summons**, ¶ 124: "*This injury represents the market value to date of the businesses and assets disposed of by the Companies under the management of the TMSF, including the dividends already generated by these businesses and assets today for the past 19 years, as well as the present and future dividends generated by these businesses and assetsf today held by third parties, representing to date over **US$68 billion***" (emphasis added).

193 See **Plaintiffs' July 13, 2021 Summons**, ¶ 5.

194 See, e.g., **Plaintiffs' July 13, 2021 Summons**, ¶ 3: "[Plaintiffs] *are acting in this case as the **ultimate beneficial owners** of numerous Turkish companies (hereinafter referred to as **"Companies"**) of which they own, directly or indirectly, more than 25% of the capital or voting rights and whose assets have been fraudulently misappropriated by Defendants (Exhibit 4)*" (emphasis added).

195 It should be noted in this respect that Mr. Cem Cengiz Uzan had declared, in his defense to the criminal proceedings brought against him in Turkey, at the end of which he was convicted of money laundering, fraud committed against depositors, fraud committed against the State, aggravated embezzlement, and criminal organization with a view to embezzlement, that "*after 1994, he cut off all relations with Imar Bank of Turkey S.A., Imar Bank Off-Shore Ltd. As well as with all the companies dependent on the Uzan Group* [...] *that he cut all legal and de facto links with Imar Bank of Turkey S.A., Imar Bank Off-Shore Ltd. and with the companies dependent on the Uzan Group*" (underlined by us): **TMSF Exhibit No. 35**, Judgment of the 8ème Criminal Chamber of the Istanbul Court of First Instance, March 29, 2013, No. 2008/10, p. 217 (emphasis added). In addition, the

are inadmissible to claim damages for the absence of dividends, which is only the consequence of the alleged loss of these same companies, namely the disposal of the assets that make it possible, in the words of the Plaintiffs[196] , to generate these dividends. The Plaintiffs also present the damage they have allegedly suffered as a fraction, uncertain[197] , of the company's damage.

172. The Plaintiffs' lawsuit must therefore be deemed inadmissible since they do not have a personal interest in the matter.

Claimants have a history of using nominees to bring various actions to circumvent applicable jurisdictional rules: see for example **TMSF Exhibit 2**, Annex 2, Some Examples of Attempts to Instrumentalize Justice by the Uzan Family, and in particular **TMSF Exhibit 137**, ICSID, *Saba Fakes v. Turkey*, Case No. ARB/07/20, Award of July 14, 2010, ¶¶ 136-149, inter alia: "In *light of the foregoing, the Tribunal concludes that the parties to the Uzan-Masoud-Fakes 'arrangement' never intended to give effect to the purported transfer of Masoud shares to Mr. Fakes and instead agreed to implement an agreement that did not even transfer legal ownership of the Telsim share certificates to Mr. Fakes. Accordingly, the Court finds that Mr. Fakes' arrangement does not meet the requirement of contribution [...], nor does it meet the requirements of duration and risk, since no rights were actually transferred to the Plaintiff through the Uzan-Masoud-Fakes arrangement* [...]. *In other words, Mr. Fakes did not make any investment in Telsim that would meet any of the three criteria for the existence of an investment under Article 25(1) of the ICSID Convention*" (emphasis added).

196 **Plaintiffs' July 13, 2021 Summons**, ¶ 124: "*This loss represents the market value to date of the businesses and assets disposed of by the Companies under the management of the TMSF, including dividends already generated by those businesses and assets today for the past 19 years, as well as present and future dividends generated by those businesses and assets today held by third parties, representing to date more than* ***US$68 billion***.

197 *Id.* **Plaintiffs' Exhibit No. 4**, to which Plaintiffs refer, is the "report" that Plaintiffs allege sets forth Plaintiffs' ownership interests in the companies whose asset dispositions are being challenged in this proceeding. However, as noted above, this report is incomplete and incomprehensible (see *supra*, footnote 147). Moreover, the report (i) lacks supporting annexes, and (ii) does not list companies, but rather "commercial and economic complexes" formed by the TMSF in accordance with Turkish law to sell together assets whose collective use makes economic and commercial sense, and at the best possible price (see, inter alia, *supra,* ¶ 91). *First,* some of these "commercial and economic complexes" contained assets of different companies; this is the case, for example, of the "commercial and economic complex" "Star TV" in which assets of the following companies are included: Star Televizyon Hizmetleri AŞ; Teleon Reklamcılık ve Filmcilik Sanayi ve Ticaret AŞ; İnter Televizyon Servisleri AŞ; Yıldız Medya Reklamcılık Hizmetleri Ticaret AŞ; M.B.I. Reklamcılık ve Filmcilik Sanayi ve Ticaret AŞ; Universal Filmcilik ve Reklamcılık Sanayi AŞ; Merkez Sistem Filmcilik ve Yayıncılık Ticaret AŞ ; Uyum Televizyonculuk Reklamcılık ve Yayıncılık AŞ; Boyut Prodüksiyon ve Yayıncılık Ticaret AŞ; Güncel İletişim Filmcilik ve Yayıncılık Ticaret AŞ ; Rumeli Teknik AŞ; Kutup Prodüksiyon AŞ; Lotus Reklamcılık AŞ; Film Türk Film Prodüksiyon ve Dağıtım Ticaret AŞ; Prime Prodüksiyon Hizmetleri AŞ ; Star Haber Ajansı AŞ; Ultra Filmcilik ve Reklamcılık Sanayi ve Ticaret AŞ; Medya Prodüksiyon Ticaret AŞ; Prime Medya Filmcilik ve Reklamcılık San. AŞ; Star Digital İletişim AŞ. *Second*, the assets of the same company could be divided into different commercial and economic packages; this is the case, for example, with Star Televizyon Hizmetleri AŞ, whose assets were divided into the commercial and economic packages "Süper FM," "Metro FM," "Star TV," "Rock FM," "Radyo Alaturka," "Joy FM," "Joy Türk FM," and "Rumeli Plaza." See, in this regard, **TMSF Exhibit 1**, Appendix 1, Summary Table on the Disposal of Assets of Uzan Group Companies by TMSF. It is common ground that the assets of a commercial company do not form part of the assets of the company's shareholders. Consequently, the Plaintiffs cannot seriously claim to be able to determine their shareholding in the assets and, consequently, the report produced in **Plaintiffs' Exhibit 4** is not of a nature to justify the Plaintiffs' status as shareholders, nor to establish the existence of a definite injury to a right of the Plaintiffs due to the transfers of assets which they claim to have caused them prejudice.

b. The Plaintiffs do not have a legitimate interest in the matter

173. The interest to act must be legitimate. Legitimacy implies controlling the use of the action as a means[198] in the service of a purpose that must also meet this requirement of legitimacy[199] .

174. The plaintiff in a tort action must justify, not any damage, but the certain injury of a legitimate interest protected by law[200] . His action will not be admissible if the legally protected interest whose lesion he intends to sanction is affected by illegality or immorality prohibiting it from being sanctioned by judicial means[201] .

175. In this case, Plaintiffs have not demonstrated a legitimate interest.

176. As noted above[202] , the TMSF actions challenged by Plaintiffs in this proceeding have their roots in the organized fraud at Bank Imar (which was controlled by the Uzan Family) that resulted in the detour of billions of U.S. dollars of deposits made by Imar Bank customers to Uzan Group companies or to members of the Uzan Family themselves[203] .

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198 The judge must then "*ensure that the origin of the evil does not prevent the use of social coercion to remedy it*": **TMSF Exhibit 138**, G. Wicker, "La légitimité de l'intérêt à agir", Mél. Serra, Dalloz, 2006, p. 455, spec. p. 461.

199 *Id.*

200 **TMSF Exhibit No. 139**, Cassation Civ, July 28, 1937, Bulletin des arrêts Cour de Cassation Chambre civile, No. 181, p. 377: "*the claimant of a tort or quasi tort indemnity must justify, not any damage, but the certain injury of a legitimate interest, legally protected*". See also, **TMSF Exhibit 140**, Cass. Civ. 2ème , February 19, 1992, n° 90-19.237, Bull. II, No. 54, p. 26: "*In view of article 31 of the new Code of Civil Procedure, together with article 1384, paragraph 1, of the Civil Code* [...] *In the light of these statements, which do not establish the illegitimacy of his interest in seeking compensation for his damage from the train keeper, the Court of Appeal deprived its decision of a legal basis*"; **TMSF Exhibit No. 141**, Cass. Civ. 2ème , January 24, 2002, No. 99-16.576, Bull. II, n° 47: "*Whereas a victim can only obtain compensation for the loss of his or her earnings if they are lawful*".

201 **TMSF exhibit no. 138**, G. Wicker, "La légitimité de l'intérêt à agir", Mél. Serra, Dalloz, 2006, p. 455, spec. p. 461. The Court of Cassation has decided, on the one hand, that the plaintiff who has committed a tort by his activity cannot claim compensation for the damage "*residing in the impossibility of pursuing such an activity*" and which would have been caused by the body in charge of market surveillance which had forbidden the company of which the plaintiff was the sole director, to carry on its activity, and on the other hand, the fact of continuing "*the liability action that he had brought in 1984, against the Commission des Opérations de Bourse, after his conviction by the criminal courts became final, ten years later, in 1994*" characterized an abuse of the right to act, sanctioned in the present case by an order to pay a civil fine under article 32-1 of the Code of Civil Procedure: see **TMSF Exhibit No. 142**, Cass. Com, November 30, 1999, n° 97-15.978.

202 See *supra* Section I.B.

203 It is emphasized that the Plaintiffs personally participated in this fraud, with Mr. Cem Cengiz Uzan having been convicted by the Turkish courts of money laundering, fraud on depositors, fraud on the state, aggravated embezzlement, and criminal organization to embezzle. See *supra*, Section I.B.3. See also, **TMSF Exhibit No. 143**, Judgment of the *United States District Court (Southern District of New York)* of February 8, 2006, *Motorola Credit Corporation and Nokia Corporation (Plaintiffs) v. Kemal UZAN, Cem Cengiz Uzan, Murat Hakan Uzan, Melahat Uzan,*

177. Following the discovery of this fraud, in the exercise of its public service mission of guaranteeing deposits made with Turkish banks, the TMSF compensated all the depositors of Bank Imar who were victims of the fraudulent maneuvers within the Bank (and for which one of the Claimants, Mr. Cem Cengiz Uzan, was convicted in Turkey, receiving heavy prison sentences), out of funds obtained by borrowing from the Turkish Public Treasury Secondly, in the exercise of its public authority under Turkish law, the TMSF has taken steps to recover the public debts it holds in respect of the funds used to overcome the Imar Fraud.

178. The measures taken by the TMSF, consisting of acts of public authority carried out in the interest of a public service and practiced in accordance with Turkish law, have moreover been the subject of numerous challenges before the Turkish administrative courts (including by members of the Uzan Family), which have confirmed the legality of the measures taken by the TMSF.

179. Under the terms of the present proceedings, under cover of an action in tort based on the provisions of the French Code of Civil Procedure, the Uzan Consorts are attempting to obtain a ruling from the Paris Court of Justice on the validity of the acts of public authority taken by TMSF, a Turkish public authority, and to order TMSF to compensate them for the alleged damages they suffered as a result of the measures taken in the exercise of its public service mission.

180. The action brought by the Plaintiffs, appropriately presented as an action in tort (whereas it seeks to challenge the exercise by a Turkish public authority of public power which it holds under Turkish public law), seeks to obtain from the French courts that they deprive of effect the measures taken by the TMSF because of the banking fraud committed by Bank Imar for the benefit of the Uzan Family.

181. If the Court of Appeal were to grant the Uzan Consortium's claims in whole or in part, this would have the effect of allowing the Uzan Consortium to benefit from fraudulent activities carried out by Bank Imar to the detriment of its depositors, and of condemning the TMSF to bear the cost of the damages caused to Bank Imar's depositors by these fraudulent activities.

Aysegul Akay, Antonio Luna Betancourt, Unikom Iletism Hizmetleri Pazarlama A.S., Standart Pazarlama A.S., and Standart Telekomunikasyon Bilgisayar Hizmetleri A.S.

182. In this context, Mr. and Mrs. Uzan do not justify any legitimate interest in acting, so that their claims are inadmissible.

2. On the inadmissibility of the Uzan Consorts' claims in that they seek to circumvent the res judicata effect of judgments rendered by the Turkish administrative courts

183. The Plaintiffs are thus attempting, under the guise of a tort action, to have the Paris Court of Justice rule on the legality of the TMSF's actions, which cannot be allowed, for the reasons explained below.

184. As is clear from the excerpts reproduced in the table below as examples, in order to rule on the tort claims of the Uzan Consorts, the Paris Court of Justice would necessarily have to rule on the legality of the measures taken by the TMSF in the context of the Imar Fraud.

Extracts from the Summons confirming that the Plaintiffs' action is aimed at challenging the legality of the TMSF's acts

Reference	Retrieved from
p. 7	"*TMSF has in fact used, by misusing them, its legal prerogatives by committing a colossal abuse of power, by organizing and implementing the disposal of all the assets of the Companies [...]*" (emphasis added).
p. 7	*"By serving its own interests through a real abuse of corporate assets, TMSF has thus instrumentalized these Companies by leading them, through a form of coercion, to accept in a totally unjustified manner, in their name and on their behalf, payment orders issued by TMSF itself for the benefit of the debt that TMSF had undertaken to recover, without the slightest legal basis and without proof, in respect of the Difference alleged by TMSF on the deposits of the IMAR BANK*" (underlined by us)
p. 7	*"TMSF did not shy away from using perfectly illegal means, outside of any legal framework and judicial process, to take possession of the Companies' assets*" (emphasis added).
¶ 18	*"This proceeding involves actions taken outside the law by abuse of statutory prerogatives in the circumstances set forth below*" (emphasis added).
¶¶ 40-41	"*TMSF never made any of the essential demonstrations that would have allowed it to exercise the above broad powers.* *In a very serious illegal manner, however, TMSF overrode this lack of demonstration and proof of its allegations by abusing its powers to fraudulently capture assets of the Companies, as set forth below*" (emphasis added).

Reference	Retrieved from
¶¶ 71-72	*"TMSF then decided to commit abuses of power that resulted in a misappropriation of the Companies' assets, which is precisely the subject of this litigation.* *Indeed, TMSF misused the extensive powers granted to it by law to organize the capture of the Companies' assets and to obtain the settlement of the payment orders, which were nonetheless illicit, that TMSF had issued against them and then accepted in their name, always without any demonstration or proof of imputability to the Companies or of any link between these Companies and the Difference alleged by TMSF on the IMAR BANK deposits, and while TMSF knew perfectly well that it was incapable, at this stage, of making such a demonstration, as shown by the court decisions submitted to the debates and as confirmed by MOTOROLA itself (before its change of position)*" (underlined by us)
¶ 74	*"In this situation, if TMSF had acted in accordance with the laws requiring preservation of shareholder economic rights, TMSF could not possibly abuse its position to alter or impair those economic rights. However, TMSF will do just the opposite*" (emphasis added).
¶ 77	*"In these exceptional circumstances of "full powers" and while TMSF should have respected the limits of its legal prerogatives confined to conservatory purposes only, TMSF exceeded its powers and, contrary to the law, initiated operations to capture the assets of the Companies through fraudulent maneuvers that materially consisted in* [...]" (emphasis added).
¶ 83	*"This unbelievable and obviously illegal situation is an abuse of power in every respect*" (emphasis added).
¶ 85	"...] *TMSF did not comply with the legal conditions allowing it to implement enforcement measures and that in so doing, by exceeding its powers confined to protective purposes only, TMSF necessarily acted without right and therefore in an abusive manner, and outside of any legal framework...*" (emphasis added).

185. This would lead, in practice, the Paris Judicial Court to rule on questions falling within the exclusive jurisdiction of the Turkish administrative courts and to review the merits of a great many decisions of the Turkish administrative courts (including the Turkish Council of State), thus calling into question the res judicata authority attached to these decisions.

186. As the Respondent has previously pointed out, it is for the Turkish administrative courts to review the legality of the TMSF's decisions in the context of public debt recovery[204] . The Turkish administrative courts have also been seized by

[204] See in particular *supra*, ¶ 77.

hundreds of challenges to the actions taken by the TMSF to recover public debts resulting from the Imar Fraud - from payment orders, to the transfer of control and management of the Uzan Group companies to the TMSF, to asset transfers made pursuant to Banking Law No. 5411 - and upheld the legality of those actions[205] .

187. In such circumstances, the Court of First Instance, which does not have the power to review the merits of foreign judgments[206] or to rule on matters falling within the jurisdiction of the Turkish courts, must declare the claims of the Uzan Consorts inadmissible[207] .

3. On the inadmissibility of the claims of the Uzan Partners arising from an abuse of the right to institute legal proceedings

188. For the reasons set out below, the claims of the Uzan family are inadmissible since they are the result of an attempt to misuse the legal remedies provided for by French law, constituting an abuse of rights[208] , and confirming, as necessary, the absence of a legitimate interest in bringing the action on the part of the Plaintiffs.

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205 See especially *supra*, ¶¶ 81, 86, 96. For an overview of Turkish administrative court decisions upholding the legality of the asset disposals of the Uzan Group companies, see **TMSF Exhibit No. 1**, Annex No. 1, Summary Table on Asset Disposals of Uzan Group Companies by TMSF. See also **TMSF Exhibit No. 144**, Judgment No. 2011/17 of the 13ème Chamber of the Council of State of January 11, 2011; **TMSF Exhibit No. 145**, Judgment No. 2014/1427 of the Plenary Assembly of the Administrative Chambers of the Council of State of April 3, 2011; **TMSF Exhibit No. 146**, Judgment No. 2007/2600 of the 4ème Administrative Court of Istanbul of November 29, 2007; **TMSF Exhibit No. 147**, Judgment No. 2011/20 of the 13ème Chamber of the Council of State of January 11, 2011.

206 It is common ground that French courts do not have the power to review the merits of foreign judgments. This solution was recalled in matters of exequatur of foreign judgments by the leading *Munzer* decision of the Court of Cassation: see **TMSF Exhibit No. 148**, Cass. Civ. 1ère , January 7, 1964, Bull. Civ. I, no. 15: "*That this verification, which is sufficient to ensure the protection of the French legal system and interests, the very purpose of the institution of exequatur, constitutes in all matters both the expression and the limit of the control power of the judge responsible for rendering a foreign decision enforceable in France, without this judge having to review the merits of the decision*" (emphasis added); see also **TMSF Exhibit no. 149**, Pascal de Vareilles-Sommières, "Jugement étranger : matières civile et commerciale - Généralités," in *Répertoire de droit international*, Dalloz, September 2013 (update: September 2020), ¶ 50.

207 It is also common ground that actions that have the effect of granting the judge a power that does not fall within the scope of his powers must be declared inadmissible: see **TMSF Exhibit No. 150**, Cass. Civ. 2ème , January 8, 2015, No. 13-21.044, Bull. Civ. II, No. 3: "[...] *And whereas the Court of Appeal, in order to justify the absence of a referral of the case, accurately retains that the plea based on the lack of jurisdictional power of the court seized constitutes a plea of non-receivability and not a plea of lack of jurisdiction*"; **TMSF Exhibit No. 151**, Cass. Civ. 2ème , April 15, 2021, n° 19-20.281, published in the Bulletin: "*the lack of jurisdictional power of a judge constitutes a plea of non-receipt, which may, therefore, be proposed in any event pursuant to article 123 of the Code of Civil Procedure*"; **TMSF Exhibit n° 152**, Cass. Civ. 2ème , April 21, 2005, n° 03-15.607, Bull. Civ. II, no. 116, p. 105: "*In so ruling, whereas the argument put forward by Mr. X... that the court seized of the matter lacked jurisdictional power constituted a plea in bar and not an exception to jurisdiction, and that the judgment referred to did not put an end to the proceedings, the Court of Appeal violated the aforementioned texts*"; **TMSF Exhibit no. 153**, Cass. Civ. 2ème , July 8, 2010, no. 09-65.256, Bull. Civ. II, no. 134: "*In so ruling, the Court of Appeal violated the aforementioned texts, whereas the plea based on the lack of jurisdictional power of the court seized, which is itself required to verify the regularity of its seizure of the case, constitutes a plea of non-receipt*.

208 See, for example, **TMSF Exhibit 154**, M. L. Niboyet, "La globalisation du procès civil international dans l'espace judiciaire européen et mondial", *Journal du droit international (Clunet)*, No. 3, July 2006, var. 14. See also

189. The abuse of the right, whether it is the abuse of the right to sue or the abuse of the choice of court[209] , can result in particular from the fact that the legal action proceeds from an instrumentalization by the plaintiff of multiple jurisdictions which he refers to with contradictory and unfounded claims and arguments[210] .

190. In this case, the Uzan family is seeking a ruling from the Paris Court that the TMSF is liable in tort for the measures adopted by this Turkish public authority, which could be and/or were challenged before the Turkish administrative courts.

191. The present action is part of the strategy implemented by the Uzan Family for more than twenty years to challenge, directly or indirectly, before as many jurisdictions as possible - whether judicial or arbitral - all the measures taken by the TMSF, by adopting contradictory positions from one proceeding to the next, even though these actions are constantly rejected by the jurisdictions that are called upon to hear them.

192. In this respect, the TMSF emphasizes that the Uzan Family maintains in the present proceedings that the TMSF is "an *autonomous legal entity, with its own budget, accounting and governance*" allegedly acting "*in the framework of activities falling within the scope of private law legal relations*", whereas the Uzan Family (including the Uzan Family) has directly or indirectly brought numerous challenges before the Turkish administrative courts against measures taken by the TMSF, on numerous occasions, the Uzan Family (including the Uzan Consorts) has brought before the Turkish administrative courts challenges to measures taken by TMSF, which it did not dispute were administrative measures taken by a public authority in the context of activities falling within the scope of public law relationships, and on the contrary, it has never brought before the Turkish civil courts tort actions against TMSF based on

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TMSF Exhibit No. 155, E. Cornut, "Forum shopping et abus du choix de for en droit international privé", *Journal du droit international (Clunet)*, No. 1, January 2007, doctr. 2, ¶¶ 27-31.

209 On abuse of right generally, see in particular **TMSF Exhibit No. 156**, Ph. Le Tourneau (ed.), *Droit de la responsabilité et des contrats*, Dalloz Action, 2020, ¶ 2213.12; **TMSF Exhibit No. 157**, H. Gaudemet-Tallon, "*De l'abus de droit en droit international privé*", in *Mélanges en l'honneur du Professeur Bernard Audit - Les relations privées internationales*, LGDJ, 2014, p. 384 et seq.; **TMSF Exhibit n° 158**, L. Josserand, *De l'Esprit des droits et de leur relativité. Théorie dite de l'abus des droits*, 1939 (available at gallica.bnf.fr). See also **TMSF Exhibit No. 159**, ICSID, *Orascom TMT Investments S.à.r.l. v. The People's Democratic Republic of Algeria*, Case No. ARB/12/35, Award of 31 May 2017, ¶¶ 540-543.

210 See, for example, **TMSF Exhibit No. 160**, Commercial Court of Clermont-Ferrand, March 24, 2016, RG No. 2013003812 ("*Whereas this instrumentalization of multiple jurisdictions degenerates into abuse when the claims and arguments developed, in particular during the present proceedings, contradict each other and include repeated accusations as much as they are unfounded, of 'faults', 'discrimination' and 'vexations' brought against his mother, Ms. E Y, with the clear intention of causing harm*").

on private law provisions for the measures they intend to challenge in this proceeding.

193. The abusive nature of the action thus brought is confirmed as necessary by the fact that the Plaintiffs (who claim to have arrived in France in 2009 and 2014, respectively), while claiming to be victims of colossal damages in the amount of 68 billion dollars, cannot justify having waited more than ten years (in the case of Mr. Cem Cengiz Uzan) and nearly seven years (in the case of Mr. Murat Hakan Uzan) to bring this action before the French courts.

194. For the reasons set out above, the action brought by the Uzan Consorts is an abuse of the right to bring a lawsuit and is therefore inadmissible.

4. On the inadmissibility of the claims of the Uzan Partners on the grounds of prescription

195. The Pre-Trial Judge can only find that these claims are time-barred under both Turkish and French law.

196. With regard to the law applicable to the statute of limitations of the action brought by the Uzan Consorts, article 2221 of the Civil Code provides that :

"Extinctive prescription is subject to the law governing the right it affects.

197. In this respect, the case law has confirmed that the applicable law in relation to the limitation period of an action in tort is that of the State of the place where the harmful event occurred (*lex loci delicti commissi*)[211] .

198. In this case, it is not disputed that the place of the alleged harmful event invoked by the Uzan Consorts is Turkey[212] . The injury allegedly suffered would have been suffered in Turkey as well, by the companies subject to the measures taken by the TMSF[213] . Taking into account

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211 See, for example, **TMSF Exhibit No. 161**, Paris, November 19, 2021, RG No. 16/22163: "*The statute of limitations for legal action is subject in French private international law to the law applicable to the merits. [...] pursuant to article 3 of the Civil Code, the law applicable to extra-contractual liability is that of the State of the place where the harmful event occurred, this place being understood to be the place where the event giving rise to the damage occurred as well as the place where the damage was sustained. In the present case, it is not disputed by the parties that the events complained of by Mr. Y, assuming they are proven, took place in Russia and originated in a contract signed in Moscow. As Russian law is applicable to the present dispute, the extinctive prescription of the action is also subject to this same law*" (emphasis added).

212 See *supra*, ¶ 127.

213 See *supra*, ¶ 128.

In view of the above, the law applicable to the limitation period of the action brought by the Uzan Consorts is Turkish law.

199. Under Turkish law, in accordance with Article 60 of the Turkish Code of Obligations applicable at the time (prior to a reform on July 1er 2012), the limitation period for a tort action is one year from the knowledge of the alleged damage and its perpetrator by the alleged victim thereof[214] .

200. Pursuant to this provision, the action brought by the Uzan Partners before the Court is therefore time-barred, as the allegedly harmful events (the transfers of assets of the Uzan Group companies) - of which the Plaintiffs were aware - occurred between 2004 and 2008, i.e., between 13 and 17 years before the commencement of the present proceedings[215] .

201. TMSF points out for all intents and purposes that the action brought by Consorts Uzan is also time-barred under French law.

202. In French law, the Act of June 17, 2008 reforming the statute of limitations in civil matters reduced the limitation period applicable to tort claims from ten years to five years. Article 2224 of the Civil Code now provides that the limitation period for personal or movable actions (including actions in tort) "*are prescribed by five years from the day on which the holder of a right knew or should have known the facts enabling him to exercise it*"[216] .

203. The transitional provisions of Act No. 2008-561 of June 17, 2008 reforming the statute of limitations in civil matters provide, among other things, that the provisions "*which reduce the duration of the statute of limitations shall apply to statutes of limitations as of the date of entry into force of this Act, without the total duration exceeding that provided for by the previous Act*"[217] .

204. The Court of Cassation thus affirmed that the new common law period of article 2224 of the Civil Code "*applies to statutes of limitation in progress as of June 19, 2008*" without the

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214 See **TMSF Exhibit No. 164**, Turkish Code of Obligations, Article 60 (version applicable before July 1er 2012).

215 See *supra*, Section I.C.2.b and **TMSF Exhibit 1**, Annex 1, Summary Table on the Disposal of Assets of the Uzan Group Companies by the TMSF. The Respondent recalls in this regard (and for all intents and purposes) that the tenders for the disposal of the assets of the Uzan Group companies were advertised in the Official Gazette of the Republic of Turkey: see, inter alia, *id.*

216 Article 2224 of the Civil Code: "*Personal or movable actions are prescribed by five years from the day when the holder of a right knew or should have known the facts enabling him to exercise it*.

217 Similarly, article 2222 paragraph 2 of the Civil Code provides that "[i]*n the event of a reduction in the duration of the limitation period or the period of foreclosure, the new period shall run from the day on which the new law comes into force, without the total duration exceeding that provided for by the previous law*.

The total duration of the period may exceed the ten-year period provided for in the former Article 2270-1 of the Civil Code[218] .

205. Consequently, for facts occurring before the entry into force of Act No. 2008-561 of June 17, 2008 reforming the statute of limitations in civil matters, the new limitation period began to run on the day the Act came into force, June 19, 2008, and expired on June 19, 2013 at the latest.

206. In this case, the Plaintiffs' action is entirely barred by the statute of limitations under both Turkish and French law.

207. In view of the foregoing, the Pre-Trial Judge is requested to rule that the claims made by the Uzan Partners in the present proceedings are time-barred and, consequently, to rule that these claims are inadmissible.

208. For the foregoing reasons, the Pre-Trial Judge can only rule that the claims of the Uzan Partners in the present proceedings are inadmissible and dismiss them.

D. On the condemnation of the Uzan Consorts as an abuse of process

209. It is established case law that the exercise of a legal action degenerates into abuse, particularly in the case of malice, bad faith, intention to harm, or gross error equalling fraud on the part of the Plaintiff[219] .

210. In the present case, in addition to the fact that the Plaintiffs' action, opportunely presented as an action in tort (whereas it seeks to challenge the exercise by a Turkish public authority of prerogatives of public power that it holds under Turkish law), was brought before the French courts, which are manifestly incompetent to deal with it, on the basis of an artificial connecting factor, by individuals who do not provide proof of the rights they claim to hold or of any injury of their own that they

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218 **TMSF Exhibit No. 165**, Cass. Civ. 3ème , February 13, 2020, No. 18-23.723: "*Article 2 of the Civil Code should be applied, according to which the law provides only for the future and has no retroactive effect. It can thus be deduced from these texts, on the one hand, that the law of June 17, 2008, which cannot have retroactive effect, did not have the effect of modifying the starting point of the extinctive prescription period having begun to run prior to its entry into force (3rd Civ, January 24, 2019, pourvoi n° 17-25.793, published),on the other hand, that the duration of the statute of limitations, fixed at five years by article 2224 of the Civil Code, applies to the statutes of limitations in progress as from June 19, 2008, without the total duration exceeding the duration of ten years provided for by article 2270-1 of the Civil Code* ".

219 **TMSF Exhibit No. 166**, Y. Desdevises and O. Staes, "Action en justice," *Jurisclasseur Procédure civile*, November 5, 2019, Fasc. 500-60, ¶ 60. See also **TMSF Exhibit No. 167**, L. Cadiet and Ph. Le Tourneau, "Abus de droit," *Répertoire de droit civil*, May 2017, ¶¶ 141-148. See also **TMSF Exhibit No. 168**, Cass. Civ. 2ème , February 16, 1984, No. 82-12.399; **TMSF Exhibit No. 169**, Cass. Civ. 3ème , November 28, 2001, No. 00-14.539; **TMSF Exhibit No. 170**,
Cass. Com. February 28, 2006, No. 04-17.194; **TMSF Exhibit No. 171**, Cass. Civ. 1ère , July 9, 2014, No. 12-14.562.

The request of the Uzan Family is to obtain from the French courts that the measures taken by the TMSF due to the bank fraud committed by Banque Imar for the benefit of the Uzan Family be rendered ineffective.

211. All of these elements, as well as the context in which the present action of the Uzan brothers and sisters is taking place (their inaction for many years, the manifestly unserious nature of the alleged "evaluation" of their supposed "prejudices", the media campaign surrounding this trial[220]) confirm that the legal action brought by the Uzan brothers and sisters before the Court of Appeal is obviously motivated by the desire to make a communication stunt rather than by a real desire to obtain compensation for alleged
"harms".

212. In view of the foregoing, the Pre-Trial Judge is requested to rule that the Uzan Consortium's action is abusive and to order the Uzan Consortium to pay the sum of 100,000 euros as damages for abusive proceedings.

E. On the unrecoverable costs

213. It would be unfair to leave TMSF to bear the costs it has incurred in asserting its rights in this proceeding.

214. It is therefore requested that the Pre-Trial Judge order the Uzan Consorts to pay the TMSF the sum of 200,000 euros under Article 700 of the Code of Civil Procedure.

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220 See *supra*, Section I.D.

NOW THEREFORE

Having regard to articles 14, 42 paragraph 3, 46 and 700 of the Code of Civil Procedure, Having regard to the Brussels I bis Regulation of 12 December 2012,

The Pre-Trial Judge is requested to :

By way of introduction:

- **DECLARE** the Paris Court of Justice incompetent to hear the claims of the Uzan family (only the Turkish courts have jurisdiction to hear them);

- **DECLARE** that the Uzan Consorts' action is subject to TMSF's immunity from jurisdiction, so that the French courts have no power to hear it;

As a principal :

- **JUDGE that** the claims of Mr. and Mrs. Uzan are inadmissible on the grounds of TMSF's immunity from jurisdiction, the lack of interest in acting on the part of Mr. and Mrs. Uzan, the lack of power of the French courts to review the merits of foreign judgments, the abuse of the right to institute legal proceedings by Mr. and Mrs. Uzan and the statute of limitations on the claims of Mr. and Mrs. Uzan **;**

In any case:

- **DISMISS** the Uzan Consorts from their action;

- **DISMISS** the Uzan Partners from all of their claims, ends and pretentions;

- **ORDER** the Uzan Estate to pay TMSF the sum of 100,000 euros as damages for abusive proceedings;

- **CONDEMN** the Uzan Consorts to pay TMSF the sum of 200,000 euros under Article 700 of the Code of Civil Procedure;

- **ORDER** the Uzan Consortium to pay the costs.

WITH ALL

RESERVATIONS,

OF WHICH NOTE

FOR

DOCUMENTS PROVIDED BY TASARRUF MEVDUATI SIGORTA FONU

September 12, 2022

Part number	Title
	Appendix 1, Summary table of asset disposals of Uzan Group companies by TMSF
	Appendix 2, Some examples of attempts by the Uzan family to manipulate the justice system
	Forbes, "Dial 'D' for Dummies - How a Turkish family business partnered with Motorola and Nokia -- and left the telecoms holding a $ 2.7 billion bag", March 18, 2002
	Jeune Afrique, "Turkey: Cem Uzan protected by Claude Guéant?", July 30, 2013
	Britannica Online Encyclopedia, "Cem Uzan
	Le Monde, " Cem Uzan, passé du gotha turc aux fichiers d'Interpol ", 19 October 2009
	Judgment of the National Court of Asylum on the asylum application filed by Mr. Cem Uzan, May 23, 2013
	Paris Match, "L'étau se resserre autour de Claude Guéant," June 6, 2018.
	Official website of the Deposit Guarantee and Resolution Fund in France, "About the FDGR" section
	Official website of the Tasarruf Mevduatı Sigorta Fonu, section "International Relations
	Official website of the *European Forum of Deposit Insurers*, List of member institutions
	Official website of the *International Association of Deposit Insurers*, List of member institutions
	Official website of the Tasarruf Mevduatı Sigorta Fonu, section "Historical Background".
	Banking Law n° 5411 of October 19, 2005
	Official website of the Deposit Guarantee and Resolution Fund in France, "Banking Resolution" section
	Financial Stability Board, "Second Thematic Review on Resolution Regimes - Peer Review Report," March 18, 2016, including pp. 12-13 and Appendices B and C.

	International Association of Deposit Insurer (IADI), *IADI Core Principles for Effective Deposit Insurance Systems,* November 2014.
	Banking Law No. 4389 of June 18, 1999
	J.-C. Vérez, "The vicious circle of banking, monetary and financial crises in Turkey", Revue du Tiers Monde n° 175, Volume 2003/3
	Autorité de Régulation et de Supervision Bancaire, "From Crisis to Financial Stability (Turkey Experience)
	A. Steinherr, A. Tukel and Murat Ucer, Economic and Financial Report 2004/02 prepared under the auspices of the European Investment Bank, "The Turkish Banking Sector Challenges and Outlook in Transition to EU Membership
	United States District Court for the *Southern District* of New York, *Motorola Credit Corporation and Nokia Corporation v. Kemal Uzan et al*, judgment dated July 31, 2003
	United States Court of Appeals for the *Second Circuit*, *Motorola Credit Corporation and Nokia Corporation v. Kemal Uzan et al*, decision of October 22, 2004
	United States Court of Appeals for the *Second Circuit*, *Motorola Credit Corporation and Nokia Corporation v. Kemal Uzan et al*, decision of November 21, 2007
	B. Aktan, O. Masood and S. Yilmaz, "Financial shenanigans and the failure of ethics in banking: a review and synthesis of an unprecedented fraud", Banks and Bank Systems, Volume 4(1), 2009
	Letter from ARSB to Banque Imar dated November 15, 2002
	ARSB Resolution No. 1085 of July 3, 2003
	TMSF Board Resolution No. 396 of July 3, 2003
	Resignation letters from Imar's Board of Directors dated June 26, 2003
	TMSF Board of Directors Decision No. 455, August 1 er
	ARSB Report prepared pursuant to section 22(3) of the Banking Act, September 22, 2003
	Supplementary ARSB report on the transfer of funds from Banque Imar to the Uzan Group, June 21, 2005
	Judgment of February 21, 2006 of the 8ème Correctional Chamber of the Istanbul Court of First Instance
	Judgment of April 15, 2010 of the 7ème Correctional Chamber of the Istanbul Court of First Instance

	Judgment of March 29, 2013 of the 8ème Correctional Chamber of the Istanbul Court of First Instance
	ARSB Resolution No. 1083 of July 3, 2003
	Law n° 4969 of July 31, 2003
	Law n° 5021 of December 16, 2003
	Decision No. 2003/6668 of the Turkish Council of Ministers of 29 December 2003
	TMSF Board of Directors Decision No. 677 of December 29, 2003
	TMSF Annual Report for 2004
	TMSF Annual Report for the year 2021
	Official website of the Tasarruf Mevduatı Sigorta Fonu, section "Revocation of the Operating License of Bank"
	Official website of the Tasarruf Mevduatı Sigorta Fonu, section "Bankrupt Banks / Banks with a Revoked Operating License"
	Law n° 5020 of December 12, 2003
	TMSF Board of Directors Decision No. 673 of December 24, 2003
	Letter of invitation to pay addressed to Cem Cengiz Uzan in January 2004
	Letter of invitation to pay sent to Murat Hakan Uzan on January 26, 2004
	Letter of invitation to pay sent to Kemal Uzan on January 26, 2004
	Letter of invitation to pay addressed to Aysegül Akay on January 26, 2004
	Payment order sent to Cem Cengiz Uzan on April 5, 2004
	Payment order sent to Murat Hakan Uzan on May 31, 2004
	Payment order sent to Kemal Uzan on March 29, 2004
	Payment order sent to Aysegül Akay on May 31, 2004
	Judgment No. 2006/2046 of 4ème Istanbul Administrative Court of 12 October 2006
	Decision no. 2007/7709 of the 13ème chamber of the Council of State of April 28, 2008
	Decision no. 2009/3071 of the 13ème chamber of the Council of State of 28 May 2009
	Judgment No. 2007/1703 of 2ème Istanbul Administrative Court on May 25, 2007

	Decision no. 2010/2740 of the 13ème chamber of the Council of State of April 2, 2010
	Decision no. 2011/2535 of the 13ème chamber of the Council of State of May 30, 2011
	Judgment No. 2006/3043 of 6ème Istanbul Administrative Court of 20 December 2006
	Decision no. 2008/3886 of the 13ème chamber of the Council of State of April 24, 2008
	Decision no. 2009/2778 of the 13ème chamber of the Council of State of March 9, 2009
	Judgment No. 2007/185 of 3ème Istanbul Administrative Court of January 30, 2007
	Judgment No. 2006/3071 of 6ème Istanbul Administrative Court of 20 December 2006
	Decision no. 2007/7710 of the 13ème chamber of the Council of State of November 23, 2007
	Decision no. 2009/3412 of the 13ème chamber of the Council of State of March 25, 2009
	Judgment No. 2006/3008 of 6ème Istanbul Administrative Court of 20 December 2006
	TMSF Board of Directors Decision #13 of February 13, 2004
	TMSF Board of Directors Decision No. 51 of March 9, 2004
	TMSF Board of Directors Decision No. 310 of June 22, 2004
	TMSF Board of Directors Decision No. 638 of December 22, 2004
	Judgment No. 2008/1278 of 6ème Istanbul Administrative Court of July 21, 2008
	Judgment No. 2006/1188 of 3ème Istanbul Administrative Court of May 31, 2006
	Judgment No. 2006/105 of 5ème Istanbul Administrative Court of 27 January 2006
	Judgment No. 2005/2631 of 5ème Istanbul Administrative Court of December 16, 2005
	Announcement of the sale of the commercial and economic assets of Telsim published in the Official Gazette of the Republic of Turkey on August 25, 2005
	Decision No. 243 of the Board of Directors of TMSF of May 24, 2006 validating the allocation of the "commercial and economic package" of Telsim's assets to Vodafone Telekomünikasyon A.Ş.

	Collocation statement for the "commercial and economic package" of Telsim's assets published in the Official Gazette of the Republic of Turkmenistan on April 27, 2007
	Excerpt from the website " Affaire Uzan True Justice ".
	Euronews (Turkey), "In Uzan $69 billion compensation case, court asked TMSF t o defend itself," Jan. 17, 2022
	Euronews (Turkey), "Second hearing in Cem Uzan case: defendants who could not defend themselves appealed", 26 May 2022
	Odatv.com, "New development in the Uzan case: Unusual case", 17 January 2022
	P. Mayer, V. Heuzé, B. Remy, *Droit international privé*, LGDJ, 12ème edition
	Paris, October 17, 1990, *Soc. La Martiniquaise v. Soc. Companhia Geral da Agricultura das Vinhas do alto Douro.* extracted from Rev. Crit. DIP 1991 p.400
	Tribunal de grande instance de Paris, May 13, 2016, RG n° 15/03149
	Metz, February 7, 2017, RG n° 15/01586
	Nancy, February 6, 2017, RG n° 15/02482
	Nancy, November 8, 2017, RG n°15/03361
	Douai, June 20, 2018, RG n° 18/01236
	Cass. Civ. 1ère , May 29, 1990, n° 88-13.737, Bull. civ. I, n° 123
	Cass. Com., January 7, 2014, n° 11-24.157, Bull. IV, no. 5
	Cass. 2ème civ., February 28, 1990, n° 88-11.320, Bull. II n° 46
	ECJ, 19 September 1995, case C-364/93, *Marinani*
	Cass. Com., April 8, 2021, n° 19-16.931
	ECJ, January 11, 1990, case C-220/88, *Dumez*
	Cass. Com., February 8, 2000, n° 98-13.282
	ECJ, 10 June 2004, case C-168/02, *Rudolf Kronhofer*
	CJEU, 16 June 2016, Case C-12/15, *Universal Music International Holding*
	ECJ, 7 March 1995, Case C-68/93, *Fiona Shevill*

	L. Pech, JurisClasseur Communication - Fascicule 28: Conflict of laws and international jurisdiction of French courts
	ECJ, 1er October 2002, Case C-167/00, *Henkel*
	CJEU, 28 July 2016, Case C-102/15, *Gazdasági Versenyhivatal v. Siemens Aktiengesellschaft Österreich*
	H. Gaudemet-Tallon and M.-E. Ancel, *Jurisdiction and Enforcement of Judgments in Europe*, 2018
	CE, September 28, 2021, n° 447625, *Fonds de garantie des dépôts et de résolution (FGDR)*
	Thierry Samin and Stéphane Torck, note under CE, September 28, 2021, n° 447625, *Fonds de garantie des dépôts et de résolution (FGDR), Revue de droit bancaire et financier,* n° 2, mars-avril 2022, comm. 41
	Cass. Civ. 1ère , December 14, 2004, n° 01-03.285, Bull. I, n° 311, p. 260
	Cass. Civ. 1ère , February 10, 1993, n° 91-17.601, Bull. Civ. I, n° 69
	Orléans, January 15, 2018, RG n° 17/00312
	Paris, May 31, 2022, RG n° 20/10132
	G. Cornu, Association Henri Capitant [ed.], Legal Vocabulary, "Residence", p. 918
	Tribunal de grande instance de Paris, May 31, 2013, RG n° 11/14039
	Paris, February 22, 2019, RG n° 17/14719
	Cass 1ère civ., July 12, 2017, No. 15-29.334 and 15-29.335
	Cass. Civ. 1ère , 19 May 1976, n° 74-11.424, Bull. Civ. I, n° 181
	Cass. Civ. 1ère , April 27, 2004, n° 01-12.442, Bull. Civ. I, n° 114
	Cass. Civ. 1ère , December 14, 2004, n° 01-15.471 and 01-15.472, Bull. Civ. I, n° 310
	Cass. Civ. 1ère , April 17, 2019, n° 17-18.286, published in the bulletin
	United Nations Convention on Jurisdictional Immunities of States and their Property, Article 1b
	Judgment No. 2007/1077 of 1er Istanbul Administrative Court on April 25, 2007
	Judgment No. 2009/455 of 6ème Istanbul Administrative Court of 19 March 2009
	Ruling No. 2014/2069 of the 13ème chamber of the Council of State of May 28, 2014

	Judgment No. 2007/2344 of 4ème Istanbul Administrative Court o f October 31, 2007
	T. Le Bars, K. Salhi, J. Héron, *Droit judiciaire privé*, 2019, Lextenso
	L. Cadiet, E. Jeuland, *Droit judiciaire privé*, Lexis Nexis, 2016
	Cass. Com. 26 January 1970, n° 67-14.787, Bull. Chambre commerciale n° 30, p. 31
	Cass. Com., June 28, 2005, n° 04-13.586
	Paris, February 18, 2016, RG n° 15/06253
	Cass. Com. February 8, 2011, n° 09-17.034, Bull. IV, n° 19
	Cass. Com., November 4, 2021, n° 19-12.342, published in the bulletin
	Cass. Com., December 2, 2008, n° 07-19.061
	Paris, January 30, 2008, RG n° 05/21137
	Tribunal de Grande Instance de Paris, December 19, 2007, RG n° 05/14342
	Aix-en Provence, January 31, 2019, RG n° 16/12713
	Cass. Com., June 2, 2021, n° 19-23.758
	Cass. Com., June 9, 2004, n° 01-02.356
	ICSID, *Saba Fakes v. Turkey*, Case No. ARB/07/20, Award of July 14, 2010
	G. Wicker, "La légitimité de l'intérêt à agir", Mél. Serra, Dalloz, 2006, p. 455
	Cass. civ. 28 July 1937, Bulletin des arrêts Cour de Cassation Chambre civile, n° 181, p. 377
	Cass. Civ. 2ème , February 19, 1992, n° 90-19.237, Bull. II, n° 54, p. 26
	Cass. Civ. 2ème , January 24, 2002, n° 99-16.576, Bull. II, n° 47
	Cass. com, November 30, 1999, n° 97-15.978
	Judgment of the *United States District Court (Southern District of New York)* of February 8, 2006
	Decision no. 2011/17 of the 13ème chamber of the Council of State of January 11, 2011
	Ruling no. 2014/1427 of the Plenary Assembly of the Administrative Chambers of the Council of State of April 3, 2014

	Judgment No. 2007/2600 of 4ème Istanbul Administrative Court o f November 29, 2007
	Decision no. 2011/20 of the 13ème chamber of the Council of State of January 11, 2011
	Cass. Civ. 1ère , January 7, 1964, Bull. Civ. I, n° 15
	Pascal de Vareilles-Sommières, "Foreign judgments: civil and commercial matters - Generalities", in Répertoire de droit international, Dalloz, September 2013 (update: September 2020)
	Cass. Civ. 2ème , January 8, 2015, n° 13-21.044, Bull. Civ. II, no. 3
	Cass. Civ. 2ème , April 15, 2021, n° 19-20.281, published in the bulletin
	Cass. Civ. 2ème , April 21, 2005, n° 03 15.607, Bull. Civ. II, n° 116, p. 105
	Cass. Civ. 2ème , July 8, 2010, n° 09-65.256, Bull. Civ. II, n° 134
	M. L. Niboyet, "La globalisation du procès civil international dans l'espace judiciaire européen et mondial", *Journal du droit international (Clunet)*, n° 3, July 2006, var. 14
	E. Cornut, " Forum shopping et abus du choix de for in private international law ", *Journal du droit international (Clunet)*, n° 1, January 2007, doctr. 2
	Ph. Le Tourneau (ed.), *Droit de la responsabilité et des contrats*, Dalloz Action, 2020
	H. Gaudemet-Tallon, "*De l'abus de droit en droit international privé*", in *Mélanges en l'honneur du Professeur Bernard Audit - Les relations privées internationales*, LGDJ, 2014
	L. Josserand, *De l'Esprit des droits et de leur relativité. Théorie dite de l'abus des droits*, 1939 (available on the website gallica.bnf.fr)
	ICSID, *Orascom TMT Investments S.à.r.l. v. The People's Democratic Republic of Algeria*, Case No. ARB/12/35, Award of May 31, 2017
	Commercial Court of Clermont-Ferrand, March 24, 2016, RG n° 2013003812
	Paris, November 19, 2021, RG n° 16/22163
	Decision of the 2ème Chamber of the Istanbul Commercial Court of 19 June 2013, no. 2005/144
	Judgment of the judicial court of April 14, 2021, RG n° 17/11702
	Turkish Code of Obligations, Article 60 (version applicable before July 1er 2012)

	Cass. Civ. 3ème , February 13, 2020, n° 18-23.723
	Y. Desdevises and O. Staes, "Action en justice", Jurisclasseur Procédure civile, 5 November 2019, Fasc. 500-60
	L. Cadiet and Ph. Le Tourneau, "Abus de droit", Répertoire de droit civil, May 2017
	Cass. Civ. 2ème , February 16, 1984, n° 82-12.399
	Cass. Civ. 3ème , November 28, 2001, n° 00-14.539
	Cass. Com., February 28, 2006, n° 04-17.194
	Cass. Civ. 1ère , July 9, 2014, No. 12-14.562
	Libananco Holdings Co. Limited v. Republic of Turkey, ICSID Case No. ARB/06/8, Award of September 2, 2011
	Cementownia 'Nowa Huta' S.A. v. Republic of Turkey, ICSID Case No. ARB/AF/06/2, Award of 17 September 2009
	Europe Cement Investment and Trade S.A. v. Republic of Turkey, ICSID Case No. ARB(AF)/07/2, Award August 13, 2009
	Hong Kong High Court, HCA 2232/2013, *Motorola v. Uzan*, Judgment of June 17, 2016
	Collocation statement for the "commercial and economic package" of Süper FM assets published in the Official Gazette of the Republic of Turkey on November 22, 2008
	Collocation Statement for the "Commercial and Economic Package" of Metro FM's assets published in the Official Gazette of the Republic of Turkey on November 22, 2008
	Collocation statement for the "commercial and economic package" of Star TV assets published in the Official Gazette of the Republic of Turkey on July 20, 2007
	Collocation statement for the "commercial and economic package" of Rock FM assets published in the Official Gazette of the Republic of Turkey on November 22, 2008
	Collocation statement of the "commercial and economic package" of Radyo Alaturka's assets published in the Official Gazette of the Republic of Turkmenistan on November 22, 2008
	Collocation statement regarding the "commercial and economic package" of Lalapaşa Cimento assets published in the Official Gazette of the Republic of Türkiye on October 8, 2007

	Collocation statement for the "commercial and economic package" of Standart Çimento's assets published in the Official Gazette of the Republic of Türkiye on October 8, 2007
	Statement of collocation relating to the "commercial and economic package" of Bartin Çimento's assets published in the Official Gazette of the Republic of Türkiye on October 8, 2007
	Statement of collocation for the "commercial and economic package" of Ladik Çimento's assets published in the Official Gazette of the Republic of Türkiye on October 8, 2007
	Collocation statement for the "commercial and economic package" of Gaziantep Çimento assets published in the Official Gazette of the Republic of Türkiye on October 8, 2007
	Collocation statement on the "commercial and economic package" of Şanliurfa Çimento assets published in the Official Gazette of the Republic of Türkiye on October 8, 2007
	Statement of collocation relating to the "commercial and economic package" of Ergani Çimento's assets published in the Official Gazette of the Republic of Türkiye on October 8, 2007
	Collocation statement for the "commercial and economic package" of Van Çimento's assets published in the Official Gazette of the Republic of Türkiye on October 8, 2007
	Collocation statement for the "commercial and economic package" of Trabzon Çimento assets published in the Official Gazette of the Republic of Türkiye on October 8, 2007
	Collocation Statement for the "Commercial and Economic Package" of Joy FM's assets published in the Official Gazette of the Republic of Turkey on November 22, 2008
	Collocation statement of the "commercial and economic package" of Joy Türk FM's assets published in the Official Gazette of the Republic of Türkiye on November 22, 2008
	Collocation statement for the "commercial and economic package" of Star Gazetesi's assets published in the Official Gazette of the Republic of Türkiye on January 27, 2010
	Collocation statement regarding the "commercial and economic package" of Metaş assets published in the Official Gazette of the Republic of Türkiye on April 4, 2008
	Statement of collocation relating to the "commercial and economic package" of Limaş assets published in the Official Gazette of the Republic of Türkiye on March 26, 2008

	Collocation statement of the "commercial and economic package" of Oksijen's assets published in the Official Gazette of the Republic of Turkmenistan on September 14, 2007
	Collocation statement relating to the "commercial and economic package" of Demaş assets published in the Official Gazette of the Republic of Türkiye on 26 March 2008
	Collocation statement regarding the "commercial and economic package" of the assets of İstanbulspor Spor Faal. Aş published in the Official Gazette of the Republic of Türkiye on March 7, 2008.
	Collocation statement of the "commercial and economic package" of Aysan's assets published in the Official Gazette of the Republic of Turkey on August 21, 2008
	Collocation statement for the "commercial and economic package" of Rumeli Plaza assets published in the Official Gazette of the Republic of Turkmenistan on November 22, 2008
	Statement of collocation of the "commercial and economic package" of the assets of Kral TV - Kral FM published in the Official Gazette of the Republic of Türkiye on December 19, 2008