

Gökçe

# The Resolution

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## VICTIMS OF FRAUD



### Highlights of this issue

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## VICTIMS OF FRAUD

Nowadays, countless criminal complaints with the allegation of fraud are made to the judicial authorities. Nevertheless, it seems that victims lose trust in law enforcement due to the Public Prosecution Offices generally take the decisions of non-prosecution by considering the complaints as legal disputes, not criminal ones. Legally, to constitute the fraud crime, a number of actions must be carried out for a specific purpose and these actions need to be fully proved.

The nature of fraudulent conducts involved in these days cannot be proved properly in accordance with the elements of the crime either during the investigation phase or during the prosecution phase. For this reason, the complaints are considered as legal disputes by the Public Prosecution Offices. In order to avoid such result, the process must be carried out in a correct way and with legal support.

Therefore, in the case of “Çiftlikbank”, which is in the agenda of the country in previous days, it is detected that the perpetrator had collected 511,7 million TL from 77.843 people and only made a partial payment to 62.877 people according to the report of the Capital Markets Board (CMB). According to the statement of the Ministry of Customs and Trade, it is indicated that there are 11 more set-ups like “Saadet Zinciri”, in the international literature called “Ponzi Scheme”, in Turkey.

Although when the act of perpetrator is evaluated separately from the above mentioned case, it is accepted by the Public Prosecution Offices that fraud crime is not committed, the large number of victims and the size of the damage suffered had caused nationwide sensitivity against such organized set-up. Considering such sensitivity, it has been accepted specifically for this case that the fraud crime has been committed.

## “SIMPLE LIE” AND FRAUD

First of all, it is necessary to state that every monetary loss is not a fraudulent activity. Since judicial authorities approach very cautiously to fraud cases, it must be clearly understandable that the perpetrator involve in fraudulent conducts knowingly and willfully, and the victim suffer the loss. In addition, this is not enough solely and it must be fully proved that the perpetrator provide benefit to himself. According to judicial authorities, in order to decide that this crime is committed, the fraudulent conduct and delivery of the assets must be objectively proved and revealed.



Nowadays, the first thing to know by the victims is that the perpetrator probably committed such crime before and it is not the first time of him. Therefore, even when the fraud crime is only a possibility, every single information regarding the perpetrator and the potential fraud must be collected. If the perpetrator has been convicted of the same crime, the argument that the fraud crime is committed would be strengthened before the judicial authorities.

## HOW CAN YOU PROVE THAT YOU SUFFER?

Any kind of transaction made in daily life is a legal transaction and has legal consequences. However, when the amount of money subject to such transaction increases, judicial system seeks some specific proofs to prove that the money is being given. Foremost among such proofs is written instrument such as bill, bond, voucher even piece of paper. The person who gives money can create such proof by having the opposite party's signature on a simple text including how much money is taken. Even if such paper is just a paper, the judicial authorities would be convinced that the crime has genuinely committed.

After being a victim of fraud, besides punishing the perpetrator, compensation for the damages suffered is substantially important. Therefore, even if you are asked for money with the promise of high profits and "zero risk", it should not be taken into consideration. Notwithstanding foregoing, if such transactions will be carried out, legal support would be vital. Otherwise it will be inevitable to suffer irreparable pecuniary and non-pecuniary damages.





# Answers. Not theories.

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Gokce Attorney Partnership is an Istanbul-based law firm offering legal services across a broad range of practice areas including mergers and acquisitions, joint ventures, private equity and venture capital transactions, banking and finance, capital markets, insurance, technology, media, telecoms and internet, e-commerce, data protection, intellectual property, regulatory, debt recovery, real property, and commercial litigation. Please visit our web site at [www.gokce.av.tr](http://www.gokce.av.tr) for further information on our legal staff and expertise.

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