

LAW ON FIGHT AGAINST TERRORISM

Law No: 3713

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PART ONE

Definition and Terrorist Offences

Definition of Terror and Organization

ARTICLE 1- Terror; every kind of acts which are perpetrated by any of the methods of extortion, intimidation, discouragement, menace and threat by using force and violence by a person or by persons belonging to an organization with a view to changing the nature of the Republic as defined in the Constitution and its political, legal, social, secular and economic order, impairing the indispensable integrity of the State with its country and nation, endangering the existence of the Turkish State and Republic, weakening or annihilating or overtaking the State authority, eliminating the basic rights and freedoms and damaging the internal and external safety, public order or general health of the country.

The organization referred in the present Law is assumed to have been formed when two or more persons come together for the same purpose.

The term organization includes also the associations, groups, armed groups, bands and armed bands mentioned in the Turkish Penal Code and in ad hoc laws containing penal provisions

Terror Offender

ARTICLE 2- Persons who take part in organizations formed for perpetrating the offences mentioned in Article 1 are terror offenders if they perpetrate the said offences alone or in association with others for attaining the aforesaid objectives or who take part in such organizations irrespective of whether they perpetrate the said offences or not.

Persons who perpetrate the said crimes for and on behalf of the organization are also considered as terror offenders even if they do not take part therein and are punished as members of organization.

Terror Offences

ARTICLE 3- The offences enumerated in the Articles 125, 131, 146, 147, 148, 149, 156, 168, 171 and 172 of Turkish Penal Code are offences of terror.

Offences Committed for Terror Purposes

Article 4- in the implementation of the present law;

- a) The offences indicated in Articles 145, 150, 151, 152, 153, 154, 155, 157 and 169 and in the paragraph 2 of the section 499 of the Turkish Penal Code, and
- b) The offences specified in paragraphs (b), (c) and (e) of Article 9 of the Law No: 2845* on

* Article 3 of Law No: 5190(16/6/2004) abolished Law No: 2845. Accordingly, Provisional Article 5 of 5190 refers to Article 250 of Code on Criminal Procedure (ex Article 394 of the same Code). Article 250

the Establishment and Trial Procedures of State Security Courts are considered as terrorist offences if they are perpetrated with a view to attaining the terror objectives indicated in forgoing Article 1.

Aggravation of Sentences

Article 5- The sentences pronounced for the persons committing the offences mentioned in Articles 3 and 4 will be aggravated up to one-half for both the freedom-restricting and fines. In sentences to be so pronounced, the upper limits for both the aforesaid acts and for other infractions may be exceeded. In sentences which restrict the freedom, however, these limits may not exceed 36 years in heavy imprisonment, 25 years in imprisonment and 10 years in light imprisonment.

Announcement and Publication

ARTICLE 6- Persons who reveal the names of public servants in charge of abatement of terrorism by indicating their names or in such a manner that their names and identities may be inferred with a view to display them as targets of terrorist action or who make publications for the above purposes shall be punished to fine from five million to ten million Turkish Liras.

Persons who print and disseminate the declarations of terror organizations will be punished to heavy fines from five to ten million Turkish Liras.

In contrary to Article 14 of the present Law, those who reveal and disseminate the names of the informers shall be punished to heavy fines from five to ten million Turkish Liras.

Where the propaganda activities referred to in the above paragraphs hereof are carried out through the periodicals indicated in the Article 3 of the Law No: 5680 on Mass Media, the proprietors of such periodicals shall be punished to a fine corresponding to ninety per cent of the average sales revenues of the previous month if the periodical has a frequency of less than a month. However, the fine shall not be less than fifty million Turkish Liras. The editors of such periodicals shall be sentenced to fines corresponding to one-half those applied to their proprietors.

Terrorist Organizations

ARTICLE 7- Without prejudice to Articles 3 and 4 of the present Law and Articles 168, 169, 171, 313, 314 and 315 of Turkish Criminal Code, the persons who establish the organizations which are covered by Article 1 of the present Law under any name or arranges the activities or manages the organizations shall be punished to five to ten years heavy imprisonment and heavy fine from two hundred to five hundred Turkish Liras, those who participate to these organizations shall be sentenced to three to five years of heavy imprisonment and heavy fine from a hundred to three hundred million Turkish Liras.

Those who aid to members of the organization mentioned above or propagandize to incite violence and other terror methods shall also be sentenced to one to five years of imprisonment and heavy fine from five hundred million to one billion Turkish Liras even if their acts constitute another offence.

If the aid takes place in the buildings, locals, offices or outbuildings of associations, foundations, political parties, labor and professional unions or in educational institutions or their dormitories and outbuildings than the sentences mentioned in the second paragraph shall be doubled.

Additionally in case of determination of the support of the associations, foundations, trade unions and similar institutions to terror, their activities shall be stopped and closed by the decision of the court. Decision on confiscation of properties of the closed institutions shall be given.

Where the propaganda activities referred to in the second paragraph hereof are carried out through the periodicals indicated in the Article 3 of the Law 5680 on Mass Media, the proprietors of such periodicals shall also be sentenced to a fine corresponding to ninety per

cent of the average sales revenues of the previous month if the periodical has a frequency of less than a month provided that these fines are not inferior to one hundred million Turkish Liras. The editors of the periodicals shall be sentenced to half of the fine which shall be imposed to proprietors and six months to two years imprisonment.

Propaganda against State's Indivisibility

ARTICLE 8- (Repealed by Article 19 of Law no: 4928, 15/7/2003)

PART TWO

Trial Procedure

Competent Court

ARTICLE 9- The State Security Courts are empowered to handle the cases falling within the ambit of offences mentioned in the present Law and the provisions hereof and of the Law 2845 on the Establishment and Trial Procedures of State Security Courts shall apply to those committing and joining these offences.*

Representation by and Consultation with Counsel in the implementation of the present Law

ARTICLE 10- (Annulled by the Constitutional Court's decision, dated 31.03.1992 No: 1992/18 and 1992/20 through publication of the Official Gazette No: 21478 of 27.01.1993)

Detainment Period

ARTICLE 11- (Repealed by Article 31 of Law no: 3842, 18/11/1992)

Audition of Officials Preparing Statements

ARTICLE 12- Whenever necessary, the enforcement officers and their superiors who prepared the statements of the accused and witnesses during the prosecution stage of the offences indicated under the present law may be heard as witnesses at the court. (2nd sentence was annulled by the Constitutional Court decision dated 31.03.1992 No:1992/18 and 1992/20 through publication of the Official Gazette issue no:21478 of 27.01.1993)

Postponement of Sentences and Conversion into Fines

ARTICLE 13- Sentences pronounced for the offences falling within the ambit of the present law may not be postponed or converted into fines or to other measures.

(Supplementary: 27/10/1995- Law no: 4126, Article 2) However, the provisions of this article are not applied to the convictions imposed according to Article 8.

Non disclosure of Identities of Informers

ARTICLE 14- Identities of the persons informing about the offences and persons committing such offences falling within the ambit of the present law may not be revealed without their consents or if the nature of the information does not constitute an offence against them.

Counsel Assignment

ARTICLE 15- (1 Paragraph was annulled by the Constitutional Court decision dated 31.03.1992 no: 1992/18 and 1992/20 through publication of the Official Gazette issue no: 21478 of 27.01.1993)

Not more than three counsels will be charged in the defense of intelligence and police officials commissioned to fight against terror and other persons in charge of similar activities with respect to charges referred against them in relation to their said duties and the payments to be

* See supra note.

made to such counsels without limits established by the regulations on attorneys fees will be met by budgetary allocations to be foreseen for their parent organizations.
(3rd paragraph was annulled with the Constitutional Court decision, dated: 31/3/1992, no: 1991/18 and 1992/20)

PART THREE

Execution of Sentences

Execution of Sentences and Detainment of Arrestees

ARTICLE 16- The sentences of convicts for offences hereunder shall be executed in special execution institutions (rooms) built for one or three-person.

The convicts in these institutions shall participate in the activities which are prepared for them in the framework of training and sport, vocational and workshop and other social and cultural works within the groups according to their offences, behaviors interests and talents without endangering the security of the institution. Duration and number of participants in the programs shall be determined according to specialty of the program, security conditions and facilities of the institution. For the convicts that determined to be seen in contrary to the aim of the program, well-being and training programs may be ended or necessary changes be made. Open contact shall be prohibited for the convicts who got disciplinary punishment other than condemnation.

The convicts who complete at least one third of their sentences with good conduct or who benefit from the provisions of Law on Implementation of Provisions for Certain Crime Perpetrators (Law no: 3419, dated: 25.03.1988) may be transferred to other execution institutions.

The detainees for the crimes falling within the ambit of the present law will be held in detainment institutions built according to the same principles as are indicated in the first paragraph hereof. Provisions of the second paragraph also apply to the detainees.

Conditional release

ARTICLE 17- Conditional release will be available without request to the convicts of offences following within the ambit of the present law who has got aggravated life imprisonment and complete 36 years in penitentiary, 30 years for life imprisonment and 3/4 ths of their sentences for all other freedom restricting sentences if they are in the category of convicts of good conduct.

Those from among them who escape from the detainment institutions of penitentiaries while they are under detention or convict status as the case may be, convicted from mutiny against the penitentiary or referred to cell sentence thrice on discipline matters shall not be entitled to conditional release even if their disciplinary punishments are subsequently paroled.

Convicts for offences falling within the ambit of the present law shall not be entitled to conditional release if they commit an offence likewise falling within the ambit of the present law subsequently to the finalization of the sentences pronounced against them.

Provisions of the Subsections I and 2 of the Article 19 of the Law no: 647 on the Execution of Sentences and of its Supplemental Section 2 shall not apply to the convicts of the crimes falling within the ambit of the Present Law.

(Supplementary paragraph: 14/7/2004- Law no: 5218, Article 1) The provisions of the present Law and Law on the Execution of Sentences shall not apply for terror offenders whose death penalties have been converted to aggravated life imprisonment by the Law on Amending Certain Provisions of Some Laws, no: 4771, dated 3.8.2002 or terror offenders who are convicted to aggravated life imprisonment. For these convicts aggravated life imprisonment shall continue until the end of their lives.

Construction of Penitentiaries and Detainment Institutions.

ARTICLE 18- Article 89 of the State Tender Law shall apply to the construction of Penitentiaries, Detainment Institutions, courts and law enforcement detainment centers that will be built under Article 16.

PART FOUR

Miscellaneous Provisions

Awarding

ARTICLE 19- Monetary awards will be granted to persons who assist in the apprehension of the authors of crimes falling within the ambit of the present Law or report their locations or identities in accordance with the provisions of the Law 1481 on the Prevention of Acts Affecting the Public Order.

The extent of awards will be determined by the Ministry of Interior which will introduce appropriate measures to ensure the security of lives of the informers.

Protective Measures

ARTICLE 20- Juridical, intelligence, administrative and military officials performing duty in line with the prevention and abatement of terrorism and anarchy, police officials and personnel, General Director and Deputy General Directors of Detainment Houses and Penitentiaries, prosecutors and directors of such detainment houses and penitentiaries where the convicts and detainees are held, judges and prosecutors of State security courts and those who are retired from such duties, those who are made or who become open targets of terrorist organizations, witnesses and informers assisting in the solution of terror cases will be protected by the State through appropriate measures.

These protective measures may include, upon request, the change of physical appearance through surgical intervention and alteration of civil registry at vital statistics, driver's licenses, marriage certificates, diplomas and other similar documents and preservation of rights on movable, immovable, tangible and intangible property.

The Ministry of Interior and other concerned bodies and agencies are under the obligation of complying with the strictest secrecy requirements in the implementation of these measures.

Rules and guidelines regarding the protective measures will be determined by a by-law to be prepared by the Prime Ministry.

The public servants are authorized to resort to use of weapons to ward off attacks by the terrorists to themselves, spouses and children even if they left their previous jobs or are retired

Assistance to Maimed, Widows and Orphans

ARTICLE 21- Provisions of the Law 2330 on Monetary Indemnities and Monthly Allowances will apply to the public servants who are wounded, maimed or killed in connection with terrorist actions during the performance of their duties within and without the country even if they are removed there from or retired subsequently.

Further to the above;

a) If the total amount of monthly allowances payable to the ones maimed and to the widows and orphans of ones killed shall not be inferior to the salaries received by their colleagues in active duty and in equal status and that payable to the widows and orphans of those killed while on retirement shall not be inferior to the legal retirement pay to which they are entitled under the relevant laws. If the amounts are inferior to the sums mentioned above, the difference shall be covered by the concerned social security institutions which will subsequently collect the difference from the Treasury.

b) The public servants maimed while resident at housing facilities of the public bodies and agencies while on duty within the country or abroad and the widows and orphans of such officials who are killed shall continue occupying the said facilities for a period of one year thereafter with the exception of residential units allocated to specific functions. The rental charges of those who will vacate these facilities at the end of the aforesaid period, who reside at facilities allocated to specific functions will be borne within the country for a period often years by the State. Likewise, the rental charges of those residents at public housing facilities allocated to specific functions will be borne for a period of one year by the State upon their request to that effect.

c) Provisional Article 9/3 of the Law 2559 on the Duties and Responsibilities of the Police is applicable to the maimed officials, the widows of killed such officials and to their children if their wives are not alive or if they are remarried.

d) The maimed officials, and the widows of deceased ones, their daughters who do not work with the insurance of or not getting benefits from social security institutions other than Turkish Republic Retirement Institution, their needy sons who are unable to work, their children who are not minors as well as their parents shall be entitled to free access within the country to the State Railroads, to the intra-city lines of State Maritime Lines and to the mass commuting services of city administrations.

e) The missing organs of the maimed officials shall be replaced with artificial ones using the latest technology within Turkey or abroad.

f) Those who cannot be treated in Turkey shall be sent abroad after having health reports from the authorized health institutions.

g) The maimed officials who are unable to make movements necessary to live are sheltered, taken care of and treated for free at the government, if not private rehabilitation and care centers and senior houses.

h) Ordinary soldiers who have been maimed while combating against terrorism and have been benefiting from the Law no: 2330 dated on 03.11.1980 on Monetary Compensation and Allowances, shall also benefit from previous subparagraphs d, e, f and g, their widows, then daughters who do not work with the insurance of or not getting benefits from social security institutions other than Turkish Republic Retirement Institution, their needy sons who are unable to work, their children who are not minors as well as their parents shall benefit from the rights at subparagraph (d).

i) University students whose villages have been evacuated because of anti-terrorist activities as well as the children of the deceased shall be entitled to take free tuition from the Social Assistance and Solidarity Fund as long as their education continues. Article 15 of Law numbered 351 on the Institution for Credits and Housing for University Students does not apply to those students.

The widows and orphans to whom allowances are granted will cease to benefit from the other privileges provided hereunder if the allowances under the present Law are withheld for any reason whatsoever.

Assistance to Third Parties Suffering from Terrorism

ARTICLE 22- Treatment of people who have been maimed because of terrorist activities is made by the State. Assistance will be provided in priority to citizens who are not public officials but suffering the effects of terrorist actions through the Social Assistance and Solidarity Fund. Educational expenses of the children of the deceased officials are paid for firsthand. The scope and extent of such assistance shall be determined by the local authorities.

SUPPLEMENTING ARTICLE 1

A) All government authorities as well as local authorities and investments or companies -if the majority of their shares belong to the State- must allocate the 0.5 % of the total number of their officials or contracted employees or permanent workers according to the provisions of this paragraph to the following:

a) spouses, if not one of the children, if not one of the siblings of government

officials or ordinary soldiers who have died or got maimed, or

b) the maimed that can still work.

The Ministry of Interior shall determine people whose conditions fit to the above paragraph and inform the governmental institutions and organizations that need employees about those who would like to work, taking into consideration the qualifications of people and the requirements of jobs. Permission for assignment of those people is not required during the process of assignment. But the relevant people must have the qualifications and the requirements that the jobs require, and they are exempt from exams.

The methods and the procedure to be followed during the employment of the relatives of the deceased and the maimed who can work shall be determined by a by-law which will be adopted within three months after having received the opinions of the Ministries of Finance, National Defense, Employment and Social Security as well as the Department of Government Personnel and the Employment Institution.

B) Because of the terrorist activities mentioned in Article 1 of this Law;

a) The deceased official's spouses or the maimed officials and ordinary soldiers who are unable to work, if not one of their children, if not one of their siblings,

b) Those that are maimed, but are still able to work;

Shall be employed with the status of permanent worker at workplaces with 50 or more employees at the rate of 2 %. (For employees having more than one workplace in the vicinity of one city, the total number of their workers is taken into consideration.)

The number of permanent workers is the base for the determination of the number of the employers that shall be employed in this way. In the calculation of the 2 %, the rates up to half is not taken into consideration, rates more than half is calculated as a whole.

Administrative fine which is equal to ten times of relevant lowest salary shall be imposed for the employers or their proxies who behaves contrary to the provision of this paragraph.

SUPPLEMENTING ARTICLE 2

If perpetrators do not comply with the order to surrender and attempt to use firearms during operations against terror organizations, law enforcement officers are authorized to open fire to the target directly and without stopping with the purpose of making them incapable.

PART FIVE

Transitional provisions

TRANSITIONAL ARTICLE 1- For the offences committed until 8 April 1991,

a) The death penalties shall not be executed and shall be entitled to conditional release when they undergo ten years of their sentences pursuant to Article 19 of the Law 647 on Execution of Sentences, and

b) The conditional release shall be granted to those who undergo eight years thereof if they are sentenced for lifetime imprisonment,

c) The same privilege shall be available to those who serve one-fifth of their sentences in other freedom-restricting sentences. Regardless of whether they are of a good conduct or not.

The periods spent in detainment of the convict shall be taken into consideration in the determination of the above periods. The deduction provisions of the Supplementing Article 2 of Law no: 647 on the Enforcement of Sentences shall not apply to such convicts.

TRANSITIONAL ARTICLE 2- Of the convicts sentenced for offences committed until 8 April 1991, those who are found to have been in detainment for the length of period indicated in the Transitional Article 1 on the basis of the minimum level of the sentence provided therefore depending on;

a) The nature of the offence on which the indictment is based as per the indictment, and

b) The specifics of the offence stated in the indictment or to the changing characteristics

thereof during the final investigation stage shall be released,

1. By the public prosecution offices if public charges are not preferred against them,
2. By the concerned courts if public charges have been preferred against them, or
3. By the concerned departments of the Supreme Court of Justice or the Supreme Court of Military Justice if their files are at the said authorities.

Trials will be proceeded with of the accused against which public cases shall be or have been established. Subsequent to the finalization of their sentence as a result of their trials, the provisions of the conditional release indicated in the Transitional Article 1 of the Law will be applied in their favor.

TRANSITIONAL ARTICLE 3- Those who will benefit from the privileges granted by the Transitional Article 1 following the publication of the present law shall not be entitled to benefit from the aforesaid Transitional Article 1 as long as their disciplinary punitive decisions are not rescinded under the provisions of the Regulation on the Management of Detainment Houses and Penitentiaries and the Execution of Sentences.

TRANSITIONAL ARTICLE 4- The Transitional Article 1 shall not be implemented for those;

a) **(annulled with the Constitutional Court decision, dated: 19/7/1991, no: 1991/15 and 1991/22)**

b) Who commit the crimes mentioned in Sections 125,146 (except the ultimate Subsection), 403. 404 (1), 405, 406, 407, 414, 416 (primo) and 418 of the Turkish Penal Code,

c) Who violate the provisions of the third chapter of second book of the Turkish Penal Code, draw money from the banks in an illicit and illegal manner through action against the Law on Banking Institutions, secure illegal profits through the Prevention and Prohibition of Smuggling, obtain illicit profits from the public funds through tax rebates, premiums, loans, interest and unreal export, import and investment incentives and fail to return these benefits and profits together with the interest applicable thereto irrespective of the prescribed lapse of time provisions,

d) Who commit the crimes mentioned in the Articles 55 through 59 of the Turkish Military Penal Code until 8 April 1991. The death sentences pronounced under the foregoing Sections will not, however, be executed. The conditional release will be available to these convicts without their application or irrespective of their status of good conduct when they complete 20 years of their sentence if there are death sentences against them, 15 years if they are sentenced to lifetime imprisonment and one-third if they are sentenced to other personal freedom-restricting punishments.

The time which they spent in detainment is taken into the consideration in the calculation of these periods.

Provisions of the Supplemental Article 2 of the Law 647 on the Execution of Sentences are not applicable to such convicts.

The Transitional Article 2 (excepting the reference made to the Transitional Article 1 in its ultimate sub-section) and 3 are applicable also these convicts.

TRANSITIONAL ARTICLE 5- The ingress to Turkey shall not be prevented of the persons whose Turkish Nationalities are resigned under the Article 25(g) of the Law 403 on the Turkish Citizenship if they apply within 2 years from the date of entry into force hereof for benefiting from the transitional articles hereof and no conditions shall be sought for their ingress.

TRANSITIONAL ARTICLE 6- Until such time as the special execution institutions are built, the detainee and convicts shall be held in the other enforcement institutions.

TRANSITIONAL ARTICLE 7- Provisions of the Articles 17 hereof will be implemented also to those who commit the offences falling in the ambit of the present law after the entry into force hereof.

TRANSITIONAL ARTICLE 8- The provision of Article 21 of the present Law shall be implemented as of the first day of the month following the entry into force hereof to include the offences committed also after the 1 January 1968.

TRANSITIONAL ARTICLE 9- (Annulled by the Constitutional Court decision dated 31.03.1992 no:1992/18 and 1992/20 through publication of the Official Gazette issue no: 21478 of 27.01.1993.)

TRANSITIONAL ARTICLE 10- (Supplementing: 15/7/2003-Law no: 4928, Article 21) Before entry into force of this Law, the offences which fall under Article 8 of Law no: 3713 that was abolished by this Law;

1. The prosecution carried out by prosecutors shall be dropped,
2. a) those for whom against an action have not been brought before a court shall be released by public prosecution offices
b) those for whom against an action have been brought before a court shall be released by the court.
3. a) the cases which have not been sent to the Court of Cassation and the cases which are at the office of Head Public Prosecutor of Court of Cassation, by the court that had been given the judgment,
b) the cases which are at the Court of Cassation, by the relevant chamber,
c) the convicts whose sentences are being executed, by the court that had been given the judgment,
are accepted as urgent cases and shall be determined by taking into account Article 2 of the Criminal Code.

Resigned Provisions

ARTICLE 23- The following Laws and the provisions are hereby resigned :

- a) The Law no: 2 on High Treason ,
- b) The Law no: 6187 on the Protection of the Freedoms of Thought and of Association,
- c) The Articles 140,141,142 and 163 of the Turkish Penal Code, no: 765,
- d) The subparagraphs 7 and 8 of Article 5 of the Law no: 2908 on Associations, and
- e) The Law no: 2932 on the Publications in Languages other than Turkish .

Entry into Force

ARTICLE 24- The present law will enter into force upon its publication.

Enforcement

The present Law shall be enforced by the Council of Ministers.

12 April 1991