

# TURKEY

May 2013

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## NATIONAL POLICY

Terrorism is a leading threat against international peace, security and stability. Turkey is committed to combating terrorism in all its forms, without distinction and takes a firm stance against associating terrorism with any religion, nationality, civilization or ethnic group

Based on its decades-old national experience in countering various forms of terrorism, and in line with relevant international instruments, including foremost the UN Global Counter Terrorism Strategy, Turkey has adopted a human rights based, holistic and multidimensional counter-terrorism approach which contains the following salient elements:

### Respect for Human Rights and the Rule of Law

Any counter-terrorism campaign should be conducted with full respect for human rights and the rule of law, which constitute indispensable elements for sustainable success. Upholding the rule of law does not diminish, but rather strengthens the effectiveness of counter terrorism efforts. It is crucial to preserve the right balance between security measures which are restrictive in nature, and protecting fundamental rights for a well functioning democratic system.

Accordingly, while maintaining its determined stance against terrorism, Turkey has taken important steps with a view to enhancing democratic standards and expanding freedoms. These measures cover a wide spectrum and include, but are not limited to, the adoption of a new Criminal Code and Criminal Procedure Code, amendments to other relevant legislation aimed at furthering freedom of thought, expression and assembly. Turkey has taken various legal and administrative measures, including comprehensive training courses for law enforcement/judicial authorities on the protection of human rights, and the rehabilitation of detention centers and prisons. Constitutional amendments adopted by a referendum on 12 September 2010, and enactment of subsequent implementing laws in particular granting the right for individual applications to the Constitutional Court<sup>1</sup> and the establishment of the institution of Ombudsman are

the latest important milestones in this respect. To further develop institutionalization in the area of human rights, the Turkish National Human Rights Institution, has also been established by the Law No. 6332 of 21.06.2012.

### Multidimensional Approach

Based on the realization that relying solely on security measures does not produce a sustainable solution to the threat of terrorism, Turkey has gone through a paradigm shift in its counter terrorism strategy. One of the most important indicators of this shift is the democratic opening process. In this new process, Turkey has adopted a holistic counter-terrorism strategy which comprises political, cultural, social and economical dimensions, as well as a focused attention on international cooperation.

There can be no justifications for acts of terrorism. On the other hand, issues that bear the potential of being abused by terrorist groups, particularly in support of their narrative, require attention. The Turkish government is sensitive to the demands of all of its citizens, without exception. Thereby, it aims to eliminate issues of potential abuse by terrorists.

Supporting victims of terrorist acts deserves particular attention. In recognition of the responsibility of the state in assisting the victims of terrorist acts, Turkey has enacted a specific legislation in this field.

Informing public and ensuring public support in relation to counter-terrorism are of great importance. In this context, multi-aspect activities and projects have been conducted with the participation and contribution of all relevant institutions.

### Capacity Development

Capacity development, both in terms of institutional and operational counter terrorism capabilities, is another pillar of Turkey's counter-terrorism strategy.

It is of vital importance to evolve the institutional framework according to the pressing needs of counter terrorism work. It is equally important to

<sup>1</sup> As of 23 September 2012, this mechanism has become effective.

ensure that security forces are highly advanced in terms of technical infrastructure, qualified personnel, as well as data gathering and analysis capabilities.

Witness Protection Committee was established on 27/12/2007 with the aim of taking measures coordinately in order to protect the lives and properties of especially counter-terrorism criminal procedure witnesses or their families. Witness Protection Department was founded within the Ministry of Interior and dependent to Turkish National Police on 27/06/2008 to implement judicial measures taken for witnesses.

For an effective counter-terrorism, ensuring timely and effective coordination among various responsible bodies is of key importance. To this end, the Undersecretariat for Public Order and Security was established in 2010. Its mandate comprises developing policies and strategies to combat terrorism, evaluating strategic intelligence and ensuring coordination, as well as informing public and gaining public support and trust in counter-terrorism efforts.

With the Law on the Prevention of Financing of Terrorism No.6415, the Assessment Commission on Freezing Assets has been set up. Under the chairmanship of the President of Turkish National Financial Intelligence Unit (MASAK), this Commission deals with asset freezing requests made by foreign countries and requests that will be made by Turkey to other countries.

## **International Dimension**

Ensuring effective bilateral, regional and global cooperation is another essential element of Turkey's counter terrorism strategy. In today's globalized world, terrorism has become a transnational enterprise.

Therefore, efforts to counter this threat need to be comprehensive and coherent on a global scale.

## **LEGAL FRAMEWORK**

### **General Information**

Turkey has undergone a comprehensive penal reform in the last decade and enacted some pieces of legislation on the field of criminal law, including Turkish Criminal Code (TCC) No. 5237, Criminal Procedure Code No. 5271 and Law on Enforcement of the Punishments and Security Measures No. 5275 which are the products of modern criminal policy and in force since 2005.

The purpose and philosophy behind the new Criminal Code, as defined in its first Article, is "to protect the individual rights and freedom, public order and security, rule of law, public health and environment, and communal peace, as well as to discourage commitment of offences." Similarly, Criminal Procedure Code seeks to strike a balance between security and liberty and aims at truth discovery while upholding the procedural safeguards. Actually, Procedure Code, despite the country's public safety concerns and issues, took on the task of responding to the human rights issues that Turkey had faced for decades.

With respect to counter- terrorism, Turkey has enacted a special Counter-Terrorism Law of 1991, No. 3713 and also introduced some relevant provisions in the Criminal Code and Criminal Procedure Code (CPC).

In Turkish criminal justice system, Article 170 of CPC establishes the principle of mandatory criminal prosecution. In accordance with Article 170 titled "The duty of filing a public prosecution", the duty to file a public prosecution rests with the public prosecutor and in cases where, at the end of the investigation phase, collected evidence constitute sufficient suspicion that a crime has been committed, the public prosecutor shall prepare indictment. In Turkish law, prosecutors have a monopoly over initiating criminal proceedings and at the same time they exercise their functions in full independence.

## **Substantive Rules**

### **Counter- Terrorism Law and the relevant provisions of the Turkish Criminal Code**

The main legal provisions concerning terrorism are set out in the Counter-Terrorism Law (CTL), No. 3713 of 12 April 1991 and the Turkish Criminal Code, No. 5237 which entered into force on 1 June 2005.

Since the enactment of the Counter-Terrorism Law, various amendments have been recently made to increase its effectiveness in counter-terrorism and to expand rights and freedoms in line with European Convention on Human Rights (ECHR).<sup>2</sup>

A definition of terrorism was introduced into Turkish law by Law No. 3713. Article 1 paragraph 1 of the Law establishes three main criteria for defining a terrorist act:

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<sup>2</sup> While July 2010 Law amending the CTL and other laws provided improvements regarding juvenile justice, with the Law No. 6352 of 2 July 2012 and the Law No. 6459 of 30 April 2013 Turkey has made further amendments to CTL so as to align it with the case-law of the ECtHR.

The first criterion concerns the *modus operandi*: the Law stipulates that terrorism involves the use of coercion, violence, terror, intimidation or threats.

The second criterion concerns the purposes for which the act is perpetrated. These are listed in the aforementioned article:

-any act designed to impair the basic characteristics of the Republic, as specified in the Constitution, or the country's political, legal, secular and economic systems;

-any act designed to violate territorial or national integrity, and any act designed to jeopardize the existence of the Republic of Turkey;

-any act designed to impair or weaken government authority;

-any act designed to destroy fundamental rights and freedoms;

-any act designed to impair domestic and international security, public order or public health.

The final criterion is that, in order to be considered as a terrorist act, the act must have been committed by a person or persons belonging to an organization.

Terrorist offenders are defined by Article 2 of CTL.

Accordingly, a member of a terrorist organization is a person belonging to an organization which fulfils the conditions listed in Article 1. Under paragraph 2, persons, who are not members of a terrorist organization, but commit a crime on behalf of the organization, are also deemed to be terrorist offenders.

Under the terms of the CTL, terrorism offences consist of a combination of a set of criminal offences defined in the Criminal Code (Article 3, CTL) and other group of offences in various laws which are committed for the purposes set out in Article 1 within the framework of a terrorist organization.

Article 3 of the Law refers to the section of the TCC entitled "offences against state security" and specifies that the acts described under Articles 302, 307, 309, 311, 312, 313, 314, 315 and 320 and first paragraph of 310 are terrorist acts.

Apart from the offences referred to in Article 3, Article 4 contains a list of certain acts which are under special circumstances to be considered terrorist offences. Terrorist motive of an act shall qualify it as a terrorist offence.

Article 4 envisages a number of offences under various laws, namely Criminal Code, Law on Firearms and Knives and Other Tools, Law on Forest, Anti-Smuggling Law, Protection of Cultural and Natural Property.

Article 5 of the CTL provides for increased penalties for all the offences described in the above-mentioned articles. Sanctions imposed according to the respective laws for those committing crimes as described in Articles 3 and 4 above shall be increased.

Articles 6 and 7 criminalize the dissemination of terrorist propaganda as well as being a member of terrorist organization.

Article 8/A provides for the qualified form of offences within the scope of this Law. Accordingly, if offences covered by the Law are committed by public officials, the sentence shall be increased by half.

Article 8/B of the CTL envisages the liability of legal persons for criminal offences within the scope of this Law which are committed within the framework of the activity of a legal person.

#### Other relevant legislation

- **Law on the Prevention of Financing Terrorism, No.6415**

The Law on the Prevention of Financing of Terrorism (No.6415) came into effect on 16 February 2013.

The law provides the principles and procedures on the implementation of the United Nations Security Council Resolutions 1267 (1999), 1988 (2011) and 1989 (2011), without any delay, through decision of the Council of Ministers. The law regulates asset freezing requests made by foreign countries and requests that will be made by Turkey to other countries.

In case of a request made by the government of a foreign country to Turkey on freezing of asset of a person, institution or organization, the decision on the request will be assessed by the Assessment Commission established in accordance with the Law and then the Council of Ministers may make a decision on it. Following evaluations will be made before making a decision. The Commission may also decide to propose to the Council of Ministers to request freezing of assets of persons, institutions or organisations in foreign countries based on reasonable grounds that they have committed acts of terrorism or terrorist financing. It has also been empowered to file a complaint before Public Prosecution Offices for the persons whose assets are in Turkey under a reasonable suspicion.

The Law has repealed Article 8 of CTL which had previously defined financing of terrorism offence and redefined this offence so as to comply with the international standards. Under the terms of this Law (Art.4, Law No. 6415), providing or collecting funds for a terrorist or terrorist organisations with the intention that they are used or knowingly and willingly that they are to be used in perpetration of the acts for which providing or collecting funds are prohibited under Article 3 constitutes the offence of financing of terrorism.

In accordance with Article 4/4 of the Law No. 6415, where the offence of financing terrorism is committed within the scope of the activities of legal persons, administrative fine shall be imposed upon the legal person concerned under Article 43/A-1-d of the Law on Misdemeanors, No. 5326.

#### • **Law on Compensation of Damages Arising From Terrorism and Combating Terrorism**

A special compensation law for victims of terrorism has been enacted in 2004, Law No. 5233 on Compensation of Damages Arising From Terrorism and Combating Terrorism which entered into force on 27.07.2004. The Law is intended to peacefully settle for the damages of natural or legal persons resulting from acts covered by Articles 1, 3 and 4 of CTL or activities within the scope of counter-terrorism.

In the course of the same year, the government issued further guidelines which regulate the procedural details.<sup>3</sup> In each of the 81 provinces, a victim compensation committee has been established which is responsible for the compensation procedure. The committee is headed by the Deputy Governor; one of the five additional members is an elected member of the local bar association. Eligible for application are victims or, in case of death, relatives who are heirs of the victims. Once an application is made within the scope of this law, the committee has to convene within ten days. The nationality of the victim does not matter. Legal entities are eligible as well.

Based on the information filed by the applicant, it has to determine the concrete amount of the damage and to make a concrete proposal on the amount of compensation. Compensable are any kind of material damage, loss of income and maintenance, loss of use of real estate and farmland, bodily injury, temporal and permanent disability, medical care and funeral costs. In legal terms, the final proposal of the committee has the

character of a settlement offer. If the applicant does not agree s/he can file a complaint to court.

The funds for this new compensation programme are borne by the Ministry of the Interior which allocates a special budget for this purpose. If the expenses exceed the budget the additional means are recovered by the general budget of the Government.

As a result of the legislation, some 1,500 home destruction cases pending before the ECtHR were rendered inadmissible. In the 2006 decision *İçyer v. Turkey*, the ECtHR held that the new compensation scheme was an effective domestic remedy that had to be attempted before applications could petition the ECtHR. In 2008, the Committee of Ministers of the Council of Europe, having examined the matter in the case of *Doğan and others*, concluded that the measures preventing similar violations have been taken by Turkey, and ended its examination of the case. In 2011, the ECtHR declared inadmissible the applications lodged by several hundred applicants, all of whom have suffered damage as a result of terrorism, since the Turkish domestic legal procedures continue to meet the criteria of effectiveness and operability as established by the Court's case-law.

#### • **Law on Execution of Sentence and Security Measures, No. 5275**

The Law covers provisions in Articles 59, 63 and 68 regarding special treatment of terrorist offenders in terms of their placement in prison and their rights as prisoners.

Article 59/4 provides an exception to the principle that the lawyer's documents and files in relation to defence and his records of the meetings with his client shall not be subject to examination. Accordingly, if there is any finding or evidence which indicates that lawyer serves as an intermediary among members of terrorist organization; an officer can be present in meetings and also documents, which are exchanged by lawyer and accused, can be examined by judge.

Regarding accommodation and bedding of sentenced persons, Article 63 principally states that terrorist offenders shall not be allowed to come together or to establish contact with each other.

Regarding the sentenced persons' right to send and receive letters, Article 68 states that, letters, fax messages and telegrams serving for communication between members of terrorist organizations shall not be delivered to the sentenced, or shall not be sent if they are written by the sentenced.

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<sup>3</sup> By-Law No. 7955 of 4 October 2004.

- **Law on Witness Protection, No. 5726**

This law envisages principles and procedures regarding the protection of witnesses at risk in criminal proceedings.

Under the terms of the Law, those who testify as witnesses in criminal proceedings for offences requiring a sentence from 10 years to life and also for terrorist and organized offences, can benefit from protective measures. Judges and public prosecutors are competent to render such a decision.

Article 5 of the Law envisages the protective measures, namely issuance of critical documents (ID cards, social security information, passports, tax registration information, criminal records and university diplomas) under a new name and maintaining the secrecy of the new identities. Financial help, relocation assistance and the changing of education or workplaces as well as altering physical appearance with or without plastic surgery are also included. Right to move to another country can also be granted to persons under witness protection.

- **Law on Prevention of Laundering Proceeds of Crime**

In Turkey, the fight against laundering proceeds of crime was introduced into Turkish legal system by Law no. 4208 enacted in 1996 and this Law served as the legal basis of this fight until the enactment of Law No. 5549 on Prevention of Laundering Proceeds of Crime.<sup>4</sup>

The Law No. 5549 drawn up considering international standards in combating laundering proceeds of crime entered into force on 18.10.2006, and gathering data, receiving, analyzing and evaluating suspicious transaction reports within the scope of terrorist financing have also been included among the duties of the Financial Crimes Investigation Board (MASAK) by this Law.

One of the most significant improvements introduced by the Law No. 5549 is the adoption of measures for the prevention of terrorist financing. The Law No. 5549 envisages that obliged parties are required to report to MASAK the transactions in which there is a suspicion that the related assets were used for illegal purposes. Thus, it was aimed to take necessary measures against funds used for financing of terrorism and the relevant persons.

On the other hand, the money laundering offence which has been initially defined in Turkish legal

system with Law No.4208, was re-regulated in Article 282 of Turkish Criminal Code No. 5237 titled "Laundering of Assets Acquired from an Offence" entered into force on 1 June 2006. (Amendment by Law No: 5918 of 26.06.2009).

## Procedural Rules

### Jurisdiction

With the Law dated 2 July 2012, amending the Counterterrorism Law, specially assigned heavy penal courts authorized by Article 250 of the CPC have been abolished. These courts have been replaced with heavy penal courts operating under Article 10 of the CTL. With the decision of Supreme Council of Judges and Prosecutors dated 10.07.2012, 13 heavy penal courts which were previously 8 have been assigned in 11 provinces (Adana, Ankara, Antalya, Bursa, Diyarbakır, Erzurum, İstanbul, İzmir, Malatya, Samsun, Van). These courts' territorial jurisdiction shall cover more than one province.

These courts have the power to investigate, prosecute and adjudicate the offences falling within the scope of the CTL as well as certain type of offences under TPC given below (Art. 10 of the CTL).

Under TPC, these courts shall also have jurisdiction over:

- a) The offence of manufacturing and trading of narcotic or stimulant substances committed within the framework of activities of the organization or the offence of laundering the assets gained by crime,
- b) Offences committed by coercion and threat within the framework of the activities of an organization established to gain unfair economic benefit,
- c) Offences defined under Volume Two, Chapter Four, Parts Four, Five, Six and Seven (except for Articles 305, 318, 319, 323, 324, 325 and 332) of TPC.

### Procedural measures and investigation methods

While CTL has introduced some special procedural measures in relation to terrorist offences, CPC has envisaged various investigation methods for certain number of offences including terrorist offences.

*Special procedural measures envisaged by CTL are the following:*

In accordance with Article 10 of the CTL:

- The duration of custody which is limited by 24 hours in Art. 91 of CPC shall be applied as 48

<sup>4</sup> The Law entered into force on 18 October 2006 and published in the Official Gazette No. 26323.

hours for offences within the scope of the Law 3713.

- The right to legal counsel may be delayed for twenty-four hours in custody.
- The right to notify a person when taken after being apprehended is limited.
- The pre-trial detention period as foreseen by the CPC shall be applied twice in relation to the crimes mentioned in Article 10 of the CTL.

*Investigative methods set out by CPC for certain offences including terrorist offences are as follows:*

*Seizure of immovable goods, rights and credits (Art. 128)*

The items belonging to the suspect or the accused may be seized in cases where there are strong grounds of suspicion tending to show that the crime under investigation or prosecution has been committed and that they have been obtained from this crime.

*Appointing a trustee for the administration of a firm (Art. 133)*

In cases where there are strong grounds of suspicion that the crime is being committed within the activities of a firm and it is necessary for revealing the factual truth, the judge or the court is entitled to appoint a trustee for the administration of the firm with the aim of running the business of the firm, for the duration of an investigation or prosecution.

*Search of computers, computer programs and transcripts, copying and provisional seizure (Art. 134)*

The judge may issue a decision on the search of computers and computer programs and records used by the suspect, as well as the copying, analyzing, and textualization of those records.

*Location, listening and recording of correspondence as part of interception of correspondence through telecommunication (Art. 135)*

The judge or, in cases of peril in delay, the public prosecutor, may decide to locate, listen to or record the correspondence through telecommunication or to evaluate the information about the signals of the suspect or the accused,

*Appointing of the undercover investigator (Art. 139)*

The judge, or in cases of peril in delay, the public prosecutor, may decide to empower the

public servants to act as undercover investigators.

*Surveillance with technical means (Art. 140)*

The activities of the suspect or the accused, conducted in fields open to the public and his working places, may be subject to surveillance by technical means, including voice and image recording

*Seizure in order to compel and certificate of guarantee (Art. 248)*

With the aim of getting the fugitive accused to come to the main hearing, his belongings in Turkey and his rights and credits may be seized. The decision shall be taken by a court proportional to the aim and a guardian shall be appointed for their administration, if necessary.

### **Procedural Safeguards in the CPC**

Special procedural and investigative methods mentioned above shall be applied within the limits set by the CPC.

As a consequence of the absolute prohibition against torture and different forms of ill-treatment, under the first paragraph of Article 148 of CPC, any bodily or mental intervention that would impair the free will of the suspect or accused, such as misconduct, torture, administering medicines or drugs, exhausting, falsification, physical coercion or threatening, using certain equipment, is forbidden. Moreover, second paragraph prohibits offering any advantage against the law.

Lastly, third paragraph prescribes a rule governing the admissibility of evidence. Accordingly, statements by a suspect or accused obtained through the aforementioned forbidden procedures shall not constitute admissible evidence in criminal proceedings.

### **INSTITUTIONAL FRAMEWORK**

The main governmental bodies involved in combating terrorism are the Ministry of the Interior, the Ministry of Justice, the Ministry of Foreign Affairs, the General Staff of the armed forces and the intelligence services. In addition to these existing institutional structures, more recently, The Undersecretariat of Public Order and Security has been established by Law No. 5952 and dated 17.02.2010 with the aim of developing policies and strategies to combat terrorism, evaluating strategic intelligence and ensuring coordination in the implementation of the measures taken. Under Article

6/2 of the Law 5952, the Undersecretariat does not have an operational duty in relation to security.

The Law also established an Intelligence Assessment Centre to strengthen strategic-intelligence sharing between security institutions.

The Undersecretariat functions under the Prime Ministry<sup>5</sup> and also serves as the secretariat for the Counter-Terrorism Coordination Board.

The Counter-Terrorism Coordination Board is the high-level board that oversees the delivery of counter-terrorism activity in Turkey. It convenes under the chairmanship of Deputy Prime Minister and involves key representatives from all the main organisations involved in tackling terrorism, namely: Undersecretaries of the Ministries of Foreign Affairs, Interior, Justice; the Undersecretaries of Public Order and Security and the National Intelligence Organization (MIT) as well as the Commander of the Coast Guard, Deputy Chief of General Staff, Commander of the Gendarmerie General, and other officials concerned are attending the meetings of the board.

### **National operational mechanisms**

The Government authorities that deal with counter-terrorism in operational terms are as follows:

1. Directorate General of Security (Turkish National Police), Ministry of Interior
2. Gendarmerie General Command, Ministry of Interior
3. Coast Guard Command, Ministry of Interior
4. National Intelligence Agency, Prime Ministry

The first three organizations report to the Minister of Interior, whereby The National Intelligence Agency reports directly to the Prime Minister.

There are four main departments in charge of counter-terrorism in the Directorate General of Security, namely Department of Counter-Terrorism and Operations, Department of Intelligence, Department of Special Forces and Department of Witness Protection.

*Counter-Terrorism Department* is responsible for coordinating the relevant departments, terrorist identification, screening, and tracking, searching for and gathering evidence and submitting an investigation report to Prosecution office.

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<sup>5</sup> The Undersecretariat, which was previously attached to the Ministry of Interior by Law No. 5952, was transferred to the Prime Ministry by Decree Law 643 of 03.06.2011.

*Intelligence Department* is tasked with collecting and disseminating intelligence on known and suspected terrorists.

*Special Force Department* carries out operational supportive activities and lastly,

*Witness Protection Department* implements the protective measures imposed by the judiciary under the Law on Witness Protection, No. 5726.

Regarding international judicial cooperation in relation to terrorist offences, the Directorate General for International Law and Foreign Relations of the Ministry of Justice is the Central Authority for the execution of all kinds of judicial assistance requests in criminal matters.<sup>6</sup>

For international aspect of counter-terrorism, the Directorate General for Research and Security Affairs of the Ministry of Foreign Affairs is responsible for following terrorism issues and cooperate with other relevant institutions in performing its duties.

With regard to financial intelligence, MASAK, which is part of the Ministry of Finance, receives, analyzes, and refers STRs for investigation. MASAK serves as Turkey's financial intelligence unit (FIU).

## **INTERNATIONAL COOPERATION**

One of the crucial lessons Turkey has learnt in her long struggle against terrorism is that international cooperation and solidarity is key to success in counter-terrorism efforts.

Turkey has been actively supporting efforts aimed at strengthening international and regional cooperation to deny terrorists safe heavens, to improve border and customs controls, to bring the perpetrators to justice on the basis of the principle of extradite or prosecute and to exchange timely and accurate information concerning the prevention and combating terrorism.

In this regard, Turkey, being party to all United Nations conventions and protocols as well as the Council of Europe's two major instruments on terrorism which are given below, considers them together with relevant Security Council Resolutions as a sound legal basis and a clear road map to combat terrorism.

Turkey has fully co-operated with the UN Counter-Terrorism Committee and submitted regularly its country reports in line with the UN Security Council Resolution 1373.

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<sup>6</sup> Article 13/A of the Law on the Organization and Functions of the Ministry of Justice (Law No. 2992).

Turkey takes active role in invigorating regional and bilateral efforts geared towards suppressing terrorism. Availability of adequate capacity is as important as having political determination to fight terrorism. Turkey contributes to capacity building efforts of the United Nations agencies and regional organizations as well as conducting extensive bilateral capacity building programs for countries in need of assistance. Turkey has also signed bilateral agreements with a significant number of countries on cooperation in combating terrorism, organized crime and drug trafficking.

Under Article 90 of the Constitution of the Republic of Turkey, international agreements duly put into effect carry the force of law. In accordance with Article 90, once an international agreement has been ratified, it becomes an internal part of the national legal system and can be directly enforced.

The legal framework for co-operation between Turkey and other countries therefore varies according to the country concerned and the bilateral or multilateral conventions, agreements or protocols that they have signed.

With regard to international co-operation, Turkey is bound by a multitude of United Nations and Council of Europe treaties which are listed below.

## **International Agreements**

### **UN Conventions**

Below-mentioned 13 UN Conventions and Protocols on Terrorism are ratified by Turkey:

- i. International Convention for the Suppression of the Financing of Terrorism, (New York, 9 December 1999) (S) on 27 September 2001, (R) on 28 June 2002, (E i F) 28 July 2002.
- ii. International Convention for the Suppression of Terrorist Bombings, (New York, 15 December 1997) (S) on 20 May 1999, (R) 30 May 2002, (E i F) 29 June 2002.
- iii. Convention on the Marking of Plastic Explosives for the Purpose of Detection, (Montreal, 1 March 1991) (S) 7 May 1991, (R) 14 December 1994, (E i F) 21 June 1998.
- iv. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, (Rome, 10 March 1988), (R) 6 March 1998, (E i F) 4 June 1998.
- v. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, (Rome, 10 March 1988), (R) 6 March 1998, (E i F) 4 June 1998.

vi. Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, (Montreal, 24 February 1988), (S) 27 February 1988, (R) 7 July 1989, (E i F) 6 August 1989.

vii. International Convention against the Taking of Hostages, (New York, 17 December 1979), (R) 15 August 1989, (E i F) 14 September 1989.

viii. Convention on the Physical Protection of Nuclear Material, (Vienna, 3 March 1980), (S) 27 August 1983, (R) 27 February 1985, (E i F) 8 February 1987).

ix. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, (New York, 14 December 1973), (R) 11 June 1981, (E i F) 11 July 1981.

x. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, (Montreal, 23 September 1971), (S) 5 July 1972, (R) 23 December 1975, (E i F) 22 January 1976.

xi. Convention for the Suppression of Unlawful Seizure of Aircraft, (The Hague, 16 December 1970), (S) 16 December 1970, (R) 17 April 1973, (E i F) 17 May 1973.

xii. Convention on Offences and Certain Other Acts Committed on Board Aircraft, Tokyo, 14 September 1963, (S) 17 December 1975, (R) 16 March 1976, (E i F) 16 March 1976.

xiii. International Convention for the Suppression of Acts of Nuclear Terrorism on 14 September 2005 in New York, (S) 14 Sep 2005, (R) 24 Sep 2012, (E i F) 24 October 2012.

### **Council of Europe Conventions**

Turkey also attaches great importance to close cooperation with the Council of Europe in the field of counter-terrorism. The following 2 Council of Europe Conventions which are specifically terrorism-related have been ratified by Turkey:

- i. European Convention for the Suppression of Terrorism (Strasbourg, 27 January 1977), (S) 27 January 1977; (R) 19 May 1981, (E i F) 20 August 1981.
- ii. European Convention on the Prevention of Terrorism (Warsaw, 16 May 2005), (S) 19 January 2006, (R) 23 March 2012, (E i F) 1 July 2012



## **Mutual assistance and extradition**

Turkey is party to the major instruments in this field, namely European Convention on Mutual Assistance in Criminal Matters and European Convention on Extradition under which most of the mutual assistance and extradition requests are exercised.

Adherence to and proper implementation of international instruments especially in the field of extradition and mutual legal assistance is of vital importance in combating terrorism effectively. One of the major difficulties encountered in this respect is the refusal to extradite perpetrators of terrorist acts claiming that the offence in question is of a political nature.

It is important to give a careful consideration to the difference between a political offence and a terrorist crime, since the Security Council Resolution 1373 clearly states that "claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists". The basic obligation to be undertaken by states under the extradition and prosecution regime of international instruments relating to terrorism is to bring perpetrators to justice either through extradition or prosecution before national courts.

Abuse of the refugee status by the perpetrators, organizers or facilitators of terrorist acts is another major problem in this struggle.

## Relevant Council of Europe Conventions

<b>Relevant Council of Europe conventions – Turkey</b>	<b>Signed</b>	<b>Ratified</b>
European Convention on the Suppression of Terrorism (ETS 90)	27/1/1977	19/5/1981
Amending Protocol (ETS 190)	15/7/2003	20/5/2005
European Convention on Extradition (ETS 24)	13/12/1957	7/1/1960
Second Additional Protocol (ETS 98)	16/7/1987	10/7/1992
European Convention on Mutual Assistance in Criminal Matters (ETS 30)	23/10/1959	24/6/1969
First Additional Protocol (ETS 99)	4/2/1986	29/3/1990
European Convention on the Transfer of Proceedings in Criminal Matters (ETS 73)	27/10/1978	28/1/1979
European Convention on the Compensation of Victims of Violent Crimes (ETS 116)	24/4/1985	
Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS 141)	6/10/2004	1/2/2005
Convention on Cybercrime (ETS 185)	10/11/2010	
Council of Europe Convention on the Prevention of Terrorism (ETS 196)	19/1/2006	23/03/2012
Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (ETS 198)	28/3/2007	