



ANTI-TERROR LAW [TERRORLAW]

Act No. 3713:

LAW TO FIGHT TERRORISM

[Published in the Official Gazette on 12 April 1991]

PART ONE

Definition of Terrorism and Terrorist Offences

Definition of Terrorism:

Article 1.

Terrorism is any kind of act done by one or more persons belonging to an organization with the aim of changing the characteristics of the Republic as specified in the Constitution, its political, legal, social, secular and economic system, damaging the indivisible unity of the State with its territory and nation, endangering the existence of the Turkish State and Republic, weakening or destroying or seizing the authority of the State, eliminating fundamental rights and freedoms, or damaging the internal and external security of the State, public order or general health by means of pressure, force and violence, terror, intimidation, oppression or threat. An organization for the purposes of this Law is constituted by two or more persons coming together for a common purpose. The term "organization" also includes formations, associations, armed associations, gangs or armed gangs as described in the Turkish Penal Code and in the provisions of special laws.

Terrorist Offenders:

Article 2.

Any member of an organization, founded to attain the aims defined in Article 1, who commits a crime in furtherance of these aims, individually or in concert with others, or any member of such an organization, even if he does not commit such a crime, shall be deemed to be a terrorist offender. Persons who are not members of a terrorist organization, but commit a crime in the name of the organization, are also deemed to be terrorist offenders and shall be subject to the same punishment as members of such organizations.

Terrorist Offences:

Article 3. Offences defined in Articles 125, 131, 146, 147, 148, 149, 156, 168, 171 and 172 of the Turkish Penal Code are terrorist offences.

Offences committed for terrorist purposes:

Article 4. In applying this Law offences defined in: a) Articles 145, 150, 151, 152, 153, 154, 155, 169 and the second paragraph of Article 499 of the Turkish Penal Code and b) offences defined in Article 9, part (b), (c) and (e) of Law 2845 on the Foundation and Criminal Procedure at State Security Courts are terrorist offences if they are committed for terrorist purposes as described in Article 1.

Increase of sentences:

Article 5. Penalties of imprisonment and fines imposed according to the respective laws for those committing crimes as described in Articles 3 and 4 above shall be increased by one half. In doing so the penalties may exceed the maximum penalty for that or any other crime. However, in the case of rigorous imprisonment the penalty may not exceed 36 years', in case of [ordinary] imprisonment 25 years', and in case of light imprisonment 10 years' imprisonment.

Disclosure and publication:

Article 6.

Those who announce that the crimes of a terrorist organization are aimed at certain persons, whether or not such persons are named, or who disclose or publish the identity of officials on anti-terrorist duties, or who identify such persons as targets shall be punished with a fine of between 5 and 10 million Turkish liras. Those who print or publish leaflets and declarations of terrorist organizations shall be punished with a fine of between 5 and 10 million Turkish liras. Those who, in contravention of Article 14 of this law, disclose or publish the identity of informants shall be punished with a fine of between 5 and 10 million Turkish liras. If any of the offences defined above are committed by periodicals as described in Article 3 of Press Law No. 5680 their publishers shall be punished additionally by the imposition of fines as follows: for periodicals published at less than monthly intervals the fine shall be 90 per cent of the average real sales of the previous month, for periodicals issued monthly or at longer intervals the fine shall be 90 per cent of the real sales of the previous issue; for printed works that are not periodicals or periodicals which have just entered the market the fine shall be 90 per cent of the monthly sales of the best selling daily periodical. In any case the fine shall not be less than 50 million Turkish liras. Editors in charge of such periodicals shall be punished with half the sentences imposed on their publishers.

Terrorist Organizations:

Article 7.

Under reservation of provisions in Articles 3 and 4 and Articles 168, 169, 171, 313, 314 and 315 of the Turkish Penal Code those who found organizations as specified in Article 1 under any name or who organize and lead activities in such organisations shall be punished with imprisonment of between 5 and 10 years and with a fine of between 200 million and 500 million Turkish liras; those who join these

organizations shall be punished with imprisonment of between 3 and 5 years and with a fine of between 100 million and 300 million Turkish liras. Those who assist members of organizations constituted in the manner described above or make propaganda in connection with such organizations shall be punished with imprisonment of between 1 and 5 years and with a fine of between 50 million and 100 million Turkish liras, even if their offence constitutes a separate crime. Where assistance is provided to such organisations in the form of buildings, premises, offices or extensions of associations, foundations, political parties, professional or workers' institutions or their affiliates, or in educational institutions or students' dormitories or their extensions the punishments mentioned in paragraph 2 shall be doubled. In addition, activities of associations, foundations, trade unions and similar institutions found to have supported terrorism shall be banned and the institutions may be closed down by a court's decision. Assets of these institutions will be confiscated. If the offence of propaganda in connection with an organization as mentioned in paragraph 2 is committed by a periodical as defined in Article 3 of the Press Law No. 5680, its publishers shall be punished additionally with the following amounts of fine: for periodicals issued at less than monthly intervals the fine shall be 90 per cent of the average real sales for the previous month; for printed works that are not periodicals or periodicals that have just entered the market the fine shall be 90 per cent of the monthly sales of the best selling daily periodical. In any case the fine shall not be less than 100 million Turkish liras. Editors in charge of such periodicals shall be punished with half the sentences awarded to publishers and a sentence of between six months and two years' imprisonment.

Propaganda against the indivisible unity of the State:

Article 8.

Written and oral propaganda and assemblies, meetings and demonstrations aimed at damaging the indivisible unity of the Turkish Republic with its territory and nation are forbidden, regardless of the methods, intentions and ideas behind such activities. Those conducting such activities shall be punished with a sentence of between 2 and 5 years' imprisonment and with a fine of between 50 million and 100 million Turkish liras. If the offence of propaganda as mentioned in the foregoing paragraph is committed by a periodical as defined in Article 3 of the Press Law No. 5680, its publishers shall be punished additionally by the following amounts of fine: for periodicals issued at less than monthly intervals the fine shall be 90 per cent of the average real sales of the previous month; for printed works that are not periodicals or periodicals that have just entered the market the fine shall be 90 per cent of the monthly sales of the best selling daily periodical. In any case the fine shall not be less than 100 million Turkish liras. Editors in charge of such periodicals shall be punished with half the sentences awarded to publishers and a sentence of between six months and two years' imprisonment.

PART TWO Criminal procedure

Competent court:

Article 9. Offences within the scope of this law are to be tried in state security courts; and for those committing one of these crimes or participating in these crimes, the provisions of this Law and the Law 2845 on The Foundation and Criminal Procedures at State Security Courts shall be applied.

Representation by and contacts with a lawyer:

Article 10. In applying this law: a) the defendant and intervenors may be represented by a maximum of three lawyers. b) the defendant in pre-trial detention or convicts may have contact with a lawyer under the supervision of a detention centre or prison official.

Length of detention:

Article 11. People detained for offences under this law shall be presented before a judge within 48 hours [of their arrest]; in case of collective crimes, within 15 days excluding the time it takes to bring the suspect from the place of detention to the nearest court.

Testimonies of interrogators/investigators:

Article 12. Police chiefs and officers interrogating suspects and witnesses of crimes within the scope of this law or writing reports about the event or facts may, if necessary, testify in court as witnesses. However, if they are called to testify, their testimony shall be taken in a closed hearing.

Suspension and commutation of sentences to fines:

Article 13. Sentences imposed under this law cannot be commuted to a fine, converted to other measures or suspended.

Non-disclosure of the identity of informants:

Article 14. The identity of those providing information about crimes or criminals within the scope of this law shall not to be disclosed, unless the informant has given permission or the nature of the information constitutes a crime by the informant.

Trial without imprisonment:

Article 15.

Where chiefs and officers of police and intelligence or other officials engaged in fighting terrorism are publicly prosecuted for crimes allegedly committed during the course of their duty, they shall be tried without being detained. Where chiefs and officers of police and intelligence or other officials engaged in fighting terrorism are publicly prosecuted for crimes allegedly committed during the course of their duty, they shall be represented by a maximum of three lawyers whose fees shall be paid by the relevant institution [to which they were attached] regardless of the amount of fees charged by the lawyers. Where chiefs and officers of police and intelligence or other officials engaged in fighting terrorism are alleged to have committed crimes during the course of their duty, the provisions of the Law on Prosecution of Civil Servants shall be applied in case of offences involving negligence and similar failures, except offences of murder or attempted murder.

PART THREE Execution of sentences

Execution of sentences and holding of pre-trial detainees:

Article 16.

The sentences of those convicted under the provisions of this law shall be executed in special penal institutions built with rooms each capable of holding between one and three persons. In such institutions, free visits may not be allowed. Contacts between the convicts and communication with other convicts may be prevented. Those convicts who have served at least one third of their sentences with good conduct and have less than three years to serve before becoming entitled to conditional release may be transferred to other closed penal centres. Those held in pre-trial detention for crimes within the scope of this law shall be kept in detention centres as described in paragraph 1. The provisions of paragraph 2 shall also apply to pre-trial detainees.

Conditional release:

Article 17.

Those convicted under this law shall be released conditionally: after 36 years' imprisonment if, having been sentenced to death, their death penalty is not ratified by the Grand National Assembly of Turkey; after 30 years' imprisonment if they were sentenced to life imprisonment; or after they have served three quarters of their terms of imprisonment in all other cases, if they have served their sentences with good conduct [and have applied for such release]. Those who may have escaped during pre-trial detention or as convicts, or may have attempted to escape, or were convicted for insurrection against the prison administration and who as a disciplinary punishment have been awarded a sentence of solitary confinement shall not benefit from conditional release, even if their disciplinary punishment has been lifted. Convicts under the provisions of this law who commit another crime under this Law after their sentence has been confirmed shall not benefit from conditional release. The provisions of paragraph 1 and 2 of Article 19 and additional Article 2 of Law 647 on the Execution of Sentences shall not be applied to such convicts.

Construction of Prisons and Detention Centres:

Article 18. For the construction of prisons, detention centres and custodial buildings according to Article 16 of this law, the provisions of Article 89 of Law 2886 on Public Tender will be applied. PART FOUR Miscellaneous provisions

Rewards:

Article 19.

Those, to be specified by the Ministry of the Interior, who help to apprehend criminals under this law or provide information about their whereabouts or identity shall be entitled to a financial reward according to Law 1481 on the Prevention of Certain Crimes against Public Order. The Ministry of the Interior shall take measures to protect those receiving a reward.

Measures of Protection:

Article 20.

The State shall take necessary protective measures for officials involved in fighting terrorism or anarchy and officials of the judiciary, intelligence, administration and military who carry out such duties, police chiefs and officers, the Director-General and deputy Director-General for Prisons and Detention Centres, prosecutors and directors of prisons and detention centres for the detention of terrorists, judges and prosecutors of state security courts and others performing such duties, those who may become or have been made targets for terrorist organizations, and witnesses and informants who assist in the exposure of such crimes. Such protective measures shall include plastic surgery to change physical appearance, alteration of registration records, driving licences, matrimonial certificates, degrees and other documents, arrangement of military service, rights of movable and immovable property, and protection of social security and other rights. In applying these measures the Minister of the Interior and other institutions involved shall be bound by all rules of secrecy. The rules for protective measures shall be specified in guidelines to be prepared by the Prime Minister's Office. Those mentioned above are entitled to use arms in order to protect themselves, their spouses and children against attacks by terrorists, even if they have left service.

Pension for invalids and support for widows and orphans:

Article 21. Where an official is injured, left disabled, dies or is killed as a result of being exposed to terrorist activities in the course of his duty at home or abroad, even if he has [subsequently left service], the provisions of Law 2330 on Monetary Compensation and Pension shall be applied. In addition: (a) The total of the pension for invalids, or the spouse and orphans of those killed and entitled to a pension, may not be less than the pension of their colleagues on duty; if pensioners are killed the monthly payment for their spouse and orphans may not be less than their monthly pension according to the relevant law. In case of deficiency the difference shall be paid by the social security institutions and reimbursed by the Treasury. (b) Those left invalid while benefitting from public accommodation at home or abroad, and the spouse and orphans of those killed and entitled to a pension (except those living in houses specially provided under the Law of Public Housing, shall continue to benefit from public accommodation for one year. Those who after that year leave such public housing and those not benefitting from public accommodation and those living in specially provided houses shall on application be paid rent by the State for accommodation within the country for a period of 10 years. Those living in specially provided accommodation abroad shall on application be paid the rent payable abroad for one year by the State. (c) As regards benefiting from accommodation loans, the provisions of additional Article 9 of Law 2559 on the Duties and Competence of the Police shall be applied; those provisions shall also be applicable to invalids or their spouses and, where their partners are not alive or have re-married, to their children. (d) Invalids, spouses and the minor children of those killed in circumstances mentioned above shall be entitled to travel free of charge on State Railroads, City Maritime Lines and on public transport. If the spouses or orphans cease to be entitled to a pension under the provisions of the laws on social security, they shall not be entitled to any of the rights provided in this Article.

Support for other people suffering losses from terrorism:

Article 22. Citizens who are not civil servants, but suffer from terrorist activities with loss of life or property shall get special support

from the Social Welfare and Solidarity Fund. The scope and amount of the support will be determined by the local authorities administering the Fund.

PART FIVE

Temporary provisions

Temporary Article 1.

In connection with crimes committed until 8 April 1991: Death sentences shall not be executed. Convicts covered by this provision shall be required to serve 10 years of the sentences provided for in Article 19 of Law 647 on the Execution of Sentences. Convicts sentenced to life imprisonment shall have to serve 8 years of their sentences. All others sentenced to punishments restricting personal liberty will have to serve one fifth of their sentences. After serving the abovementioned terms they shall be conditionally released regardless of good conduct and without having to apply for such release. The time spent in pre-trial detention shall be included in calculating the abovementioned periods. The provisions relating to reduction of sentences in additional Article 2 of Law 647 on the Execution of Sentences shall not be applied to such convicts.

Temporary Article 2.

In connection with suspects held in pre-trial detention for alleged crimes committed until 8 April 1991, the minimum limits of the expected sentence provided in the relevant law shall be considered: (a) at the stage of preparatory investigations, according to the nature of the crime taken as the basis of the indictment; (b) at the stage of final investigations, according to the crime mentioned in the indictment or according to the changed nature of the crime; and if the pre-trial detainee has been imprisoned for a period specified in temporary Article 1, the detainee shall be released within 30 days of this law entering into force, (i) before a public case was started by the prosecution; (ii) if a public case is continuing by the competent court; (iii) if a case is pending at the appeal or military appeal court [after being referred there] by the competent court or the chief prosecutor. Defendants awaiting a public case or against whom a public case was started earlier shall be tried. In case the defendant does not appear in court, the testimonies made to the prosecutor or before a judge shall be taken as sufficient. Following a final verdict at the end of the trial, the provisions of conditional release according to temporary Article 1 of this Law shall be applied. Temporary Article 3. Those who, following the publication of this law, are entitled to benefit from the provisions of temporary Article 1, but have received disciplinary punishment on account of acts prejudicial to prison discipline, shall not benefit from the provisions of temporary Article 1 until their disciplinary punishment is lifted according to the Statute on Administration of Penal Institutions and the Execution of Sentences.

Temporary Article 4.

Those who until 8 April 1991: (a) killed or attempted to kill civil servants or officials on duty by acts defined in this law as terrorist acts, even if they have subsequently abandoned their status [sic], and those who participated in such offences; (b) committed offences under Articles 125, 146 (except the last paragraph), 403, 404(1), 405, 406, 407, 414, 416 (1) and 418 of the Turkish Penal Code, (c) violated provisions of the third chapter in Part Two of the Turkish Penal Code, entitled "Crimes against the Administration of the State", or, in contravention of the Banking Law, unjustly and irregularly received moneys from banks, or, in violation of Law 1918 on the Prevention and Prosecution of Smuggling, obtained an advantage, or conducted irregular, fraudulent or fictitious transactions of export, import or investment incentives and by doing so obtained unjust deduction of taxes, premiums, loans, difference of interest or similar advantages from public sources and those participating in such offences, regardless of whether or not the time limit for prosecution against such offence has passed, unless they have repaid the unjust and irregular advantage obtained by them, (d) committed offences under Articles 55, 56, 57, 58 and 59 of the Military Criminal Code, shall not benefit from the provisions of Temporary Article 1. However, death penalties imposed for offences mentioned in this Article shall not be executed. Such convicts shall be released conditionally regardless of good conduct and without the need for a special application, as follows: after 20 years if they were sentenced to death; after 15 years if they were sentenced to life imprisonment; and after they have served one third of their sentences in all other cases. The time spent in pre-trial detention shall be included in calculating the abovementioned periods. The reducing provisions of Additional Article 2 of Law 647 on the Execution of Sentences shall not be applied to such convicts. The provisions of Temporary Article 2 (except for the reference in the last paragraph to Temporary Article (1) and Article 3 of this Law shall also be applied to such convicts.

Temporary Article 5. In order that those who, according to chapter (g) of Article 25 of Law 403 on Turkish Citizenship, have lost their Turkish citizenship can benefit from the temporary provisions of this Law, there shall be no condition imposed on their re-entry into the country within two years from the coming into force of this law and such persons shall not be stopped at the border when re-entering.

Temporary Article 6. Until special facilities for penal institutions have been built, pre-trial detainees and those convicted of terrorist crimes shall be kept in other penal institutions.

Temporary Article 7. The provisions of Article 17 of this law shall be applied to those who commit crimes under this law after it has entered into force.

Temporary Article 8. The provisions of Article 21 of this law shall be applied from the beginning of the first day of the month following the entering into force of the law for all persons included in this law since 1 January 1968.

Temporary Article 9. The movable and immovable property and incomes from such property belonging to confederations and trade unions affiliated to confederations whose administration was handed over to an inspector by a court order prior to this law entering into force and based on the provisions [similar to] Article 23 of this law, as well as all their monetary possessions [sic] shall, according to Article 46 of Law 2821 on Trade Unions, be handed over to the competent institution [for investment]; the movable and immovable property of associations and foundations will be handed over to the Treasury.

Provisions repealed:

Article 23. [The following laws:] (a) Law 2 on High Treason; (b) Law 6187 on the Protection of Freedom of Conscience and Meetings; (c) Articles 140, 141, 142 and 163 of the Turkish Penal Code No. 765; (d) Article 5, chapter 7 and 8 and Article 6, chapter 2 of Law 2908 on Associations; and kish". are hereby repealed.

Entry into force:

Article 24. This Law shall enter into force on the date of its publication.

Implementation:

Article 25. This Law shall be implemented by the Council of Ministers. [12 April 1991]