

TURKEY

Definition and Prosecution of Terrorist Acts

Turkey has two principal laws that regulate terrorist offences and punishments: the Turkish Penal Code and the Law on Fight Against Terrorism (LFAT, Act No. 3713, April 12 1991).

According to the Law on Fight Against Terrorism, assistance to members of terrorist organizations and propaganda of such organizations are terrorist crimes punishable by up to one year imprisonment. Propaganda with the purpose of recruitment to terrorist groups and expression of sympathy for such groups are offenses within the scope of this article. If such propaganda is made in periodical publications, their owners and responsible editor-in-chiefs are also punished. Those who commit crimes for and on behalf of a terrorist organization are also considered terrorists (even if they do not take part) and are punished as members of said terrorist organization. The Turkish Penal code states that “Whoever knowingly gives shelter, assistance, provisions, arms or ammunition to such a society or a band, or facilitates their actions, shall be punished by imprisonment for three to five years.”

It also states that anyone who establishes “armed societies and bands or undertakes the duty of chieftain or command or any particular duty in such societies or bands, with the purpose of committing the crimes shall be punished by heavy imprisonment for not less than fifteen years. Other members of such society or band shall be punished by imprisonment for ten to fifteen years.” Those who help the adherents of such organizations or are involved in propaganda activities for the said organizations are sentenced to imprisonment from one to five years and to heavy fines, even if their acts constitute different crimes under other laws.

All sentences pronounced for those who commit the crimes mentioned in various articles of the Turkish Penal Code are aggravated by one-half for both freedom-restricting and monetary sanctions when those crimes are committed for terrorist purposes. Terrorist offences are tried in specialized State Security Courts and sentences for terrorist offences cannot be commuted nor deferred. Turkish courts have the authority to deal with criminal acts that are committed inside and outside Turkey by Turkish nationals.

Prevention of Terrorism – Security Measures

Several government bodies investigate and deter terrorist attacks, including: The Directorate General of Security - Turkish National Police, the Gendarmerie General Command - Ministry of the Interior, the Coast Guard Command – Ministry of the Interior, The National Intelligence Agency – the Prime Ministry. Turkey has adopted measures to prevent terrorists from obtaining weapons within and outside its territory – specifically, small arms and light weapons. Anyone bringing weapons into Turkey or facilitating their delivery faces five to eight years imprisonment.

Control of Weapons of Mass Destruction

According to the Law No. 3763 On the Control of Private Industrial Enterprises Producing War Weapons, Vehicles, Equipment and Ammunition, as amended, licenses must be issued by the Ministry of National Defense for the export of all weapons and ammunition, except sporting and hunting rifles. The Export Regime Decree No. 95/7623, 22 December 1995, enables a centralized monitoring of the export of sensitive goods, technology and dual-use material on the basis of the exporting company, product, quantity and value. The Istanbul Metals and Minerals Exporters’ Union (IMMIB) must register sensitive goods, technology and dual-use material which denotes this registration on the customs declaration.

Financing of Terrorism and Money-Laundering

Provisions of the Turkish Penal Code serve to prevent and suppress the financing of terrorist activities and money-laundering. Government authorities can freeze all financial accounts of persons suspected of being involved in money-laundering. This includes the values in deposit boxes, the total or partial annulment of the right of disposition, the seizure of property, negotiable instruments, cash and other valuables, the holding of the assets in custody and the taking of other precautionary measures on claims and rights. The Criminal Court of Peace Magistrate (during the preliminary investigation) or the Court (during the trial) decides whether an account or asset can be seized by the government. Requests for precautionary measures are concluded immediately as a result of evaluation of documents and at latest within 24 hours. Public prosecutors may also decide to freeze claims and rights in cases where it is necessary to avoid delay. The Office of the Public Prosecutor notifies the Criminal Court of Peace Magistrate about the decision within 24 hours. The Peace Court Magistrate decides within 24 hours whether to approve the decision or not; in case of non-approval, the decision of the Public Prosecutor becomes void.

Individuals found guilty of money laundering face a sentence of two to five years imprisonment and a fine equal to the amount of the money laundered. Additionally, all the property and assets in the scope of “dirty money” shall be subject to confiscation (Dirty money includes assets derived from smuggling of knives and firearms, illegal production of arms and explosives, counterfeiting of currency, etc.). If dirty money is derived from offences of terrorism or from smuggling of substances or materials whose export or import is prohibited or if the offence is committed in order to obtain financial sources for the commission of terrorist offences, the term of imprisonment referred to in the paragraph above shall not be less than four years.

Other steps taken by Turkey to suppress the financing of terrorism include:

- Adopting regulations which require minimum qualifications and the endorsement of the Capital Market Board (Board) for founders, shareholders and holders of managerial posts of capital market institutions, and providing the Board oversight and control in transfers of shares of capital market institutions over a certain percentage.
- Adopting the customer name based custody system used in Istanbul Stock Exchange (ISE) Settlement and Custody Bank Inc as well as the “Know your customer rule”. These methods enable determination of the identity of securities investors.
- Issuing memoranda of understanding concluded between the Board and equivalent foreign authorities, providing for international cooperation in cases of securities fraud
- Adopting regulations on suspicious transactions that apply also to transactions carried out by terrorists. Type 2 transactions have to be reported to the Financial Crimes Investigation Board of the Ministry for Finance (FCIB) (Type 2 transactions are transfers of large amounts of money from or to countries in which there are illegal activities regarding narcotic substances, smuggling or in which there are terrorist organizations and transfers of large amounts of money from or to offshore centers).

Information Sharing – Other States

Information related to transnational terrorist acts and intelligence related to possible terrorist activities is transmitted to the relevant law enforcement bodies of pertinent countries via the Interpol National Central Bureau. This provides countries with direct access to the database of the Interpol General Secretariat.

The National Intelligence Agency also provides early warning on the basis of its bilateral and multilateral relations with other countries.

To facilitate the exchange of information on terrorist activity, liaison officers have been reciprocally appointed with a number of countries (USA, Germany, Belgium, Denmark, France, Holland, UK, Spain, Italy, and Saudi Arabia). There are also Turkish contact persons at expert level in Germany, Austria, Holland, Italy and Romania. Furthermore, within a well established cooperation and information-exchange mechanism, all information regarding persons for whom there are grounds to believe that they have been or will be involved in terrorist activities is immediately conveyed by the Turkish Ministry of Interior to its counterparts.

BIBLIOGRAPHY OF TURKISH LAWS

Definition and Prosecution of Terrorist Acts

1. The Law on the Fight Against Terror, Act No. 3713, 12 April 1991, Articles 2, 4, 5, 7, 16
2. The Turkish Penal Code, Articles 168, 169, 314, 179, 192, 264, 316, 317, 318, 319, 322, 325, 332, 333, 335, 341, 342, 345, 350, 403, 404, 406, 435, 436, 495, 496, 497, 498, 499, 500, 504, 506
3. The Law No. 1918, 6136, 2238, 2863

Weapons of Mass Destruction

1. Law No. 3763 On the Control of Private Industrial Enterprises Producing War Weapons, Vehicles, Equipment and Ammunition, as amended 25 January, 1997.
2. Export Regime Decree No. 95/7623, 22 December 1995,

Financing of Terrorism and Money-Laundering

1. The Prevention of Money Laundering, Articles 7, 9
2. The Law on the Prevention on Benefit-Oriented Criminal Organizations, Article 6

Prevention of Terrorism – Security Measures

1. European Convention on the Suppression of Terrorism