

then he is punished according to the Turkish laws. However, the trial is filed upon request of the Ministry of Justice.

(2) If the offence mentioned in the afore subsection is committed with the intension of causing injury to a Turkish citizen or a legal entity incorporated according to the Turkish laws and subject to special law, and if the offender is found in Turkey, then the perpetrator is punished according to the Turkish Laws upon complained of the injured party provided that that he is not convicted in the said foreign country for the same offense.

(3) If the aggrieved party is a foreigner, he is tried upon request of the Ministry of Justice in case of existence of the following conditions;

- a) Where the offence requires punishment with a minimum limit of less than three years imprisonment according to the Turkish Laws;
- b) Where there is no extradition agreement or the demand of extradition is rejected by the nation where the crime is committed or the person accused of a crime holds citizenship.

(4) A foreigner who is convicted of an offence in a foreign country within the scope of first subsection, or the action filed against him is extinguished or the punishment is abated, or the offence committed is not qualified for the prosecution, then a new trial can be filed in Turkey upon request of the Ministry of Justice.

### **Other Offences**

**ARTICLE 13-** (1) The Turkish laws are applied in case of commitment of following offences by the citizens or foreigners in a foreign country;

- a) Offences listed under Second Chapter of Second Volume.
- b) Offences listed under Third, Fourth, Fifth, Sixth, Seventh and Eighth Sections in the Fourth Chapter of Second Volume.
- c) Torture (Clauses 94,95)
- d) Intentional environmental pollution (Clause 181)
- e) Production and trading of habit-forming drugs or excitant substances (Clause 188), encouragement of use of habit-forming drugs or excitant substances (Clause 190).
- f) Counterfeiting money (Clause 197), manufacturing and trading of instruments used in production of money and valuable seals/stamps.
- g) Whoredom (Clause 227)
- h) Bribery (Clause 252)
- i) Confiscation or hijacking of aircraft, vehicles or vessels (Clause 223, subsections 2 and 3), or offences committed with the intention to give damage to these properties (Clause 152).

(2) A trial can be filed in Turkey upon request of the Ministry of Justice even if the offender is convicted or acquitted of an offense defined in paragraphs (a) and (b) of the first subsection.

### **Investigation in Alternative Punishments**

**ARTICLE 14** -(1) No investigation or prosecution is started if it is allowed to choose either punishment of imprisonment or administrative fine as noted in articles 11 and 12.

### **Quantification Of Punishment Subject To Investigation**

**ARTICLE 15** - (1) In cases where it is deemed necessary to carry out investigation to quantify the punishment, the minimum limit of legitimate aggravation and maximum limit of legitimate extenuation should be considered during the calculations.

### **Deduction of Punishment**

**ARTICLE 16** -(1) No matter where the offence is committed, the period lapsed under observation, detention or conviction is deducted from the punishment to be given for the same offense in Turkey.

### **Disqualification from Certain Rights**

**ARTICLE 17**-(1) Under the above-mentioned circumstances, if a judgment given by a foreign court seeks disqualification of a certain right according to Turkish Laws, then the court, upon demand of the Public Prosecutor, may decide recognition of legal consequences of this judgment in Turkey as long as it is not contrary to the Turkish judicial system.

### **Extradition**

**ARTICLE 18**-(1) A foreigner accused or convicted of a crime committed in a country may be returned to his country upon demand for prosecution or execution of the punishment. However, the demand for extradition is rejected;

- a) If the act does not constitute an offense according to the Turkish laws,
- b) If the act is not in the nature of a political or military offense,

- c) If the offense is committed against the security of Turkish State, or with the intention of damaging the Turkish State or a Turkish citizen or a legal entity incorporated according to the Turkish laws,
- d) If the offense is within the competence of the Turkish courts,
- e) If the action is subject to statute of limitation or amnesty.

(2) Excluding the provisions seeking participation in the International Criminal Court, a citizen may not be returned to a foreign country due to committed offense.

(3) The demand for extradition is rejected if there is deep concern or uncertainty about the future of a person after being extradited, whether he will be subject to prosecution or punishment due to racial, religious preference, or nationality, or membership to a social or political group, or to a cruel treatment or torture.

(4) The high criminal court at the domicile of the concerned person is entitled to give decision on the demand for extradition according to the provisions of this article and relevant international agreements of which Turkey is one of the parties.

(5) If the court adjudicates acceptability of the demand for extradition, the enforcement of this decision is within discretion of the Ministers' Council.

(6) Decision may be taken for application of protective measures for the person subject to extradition according to the relevant international agreements of which Turkey is one of the parties.

(7) In case the demand for extradition is adjudicated acceptable, a decision may be given for arrest of the accused or may apply to other protective measures according to the according to the Code of Criminal Procedure.

(8) A person subject to extradition may be tried or convicted of an offense which constitutes the basis of this decision, or sentenced to punishment.

### **Consideration of Foreign laws**

**ARTICLE 19-** (1) The punishment given in Turkey to a person who is convicted of an offense committed beyond the political authority of Turkey, may not be more than the maximum limit of the punishment stipulated in the laws of the country where the offense is committed.

(2) However, the provisions of the above subsection may not be applied if the offense is committed;

- a) Against the security of the Turkish State, or with the intention of giving injury to the State, or
- b) Against Turkish citizens, or with the intention of giving injury to the legal entities incorporated according to Turkish legislation and subject to special law.

## **SECONED CHAPTER**

### **Essence of Criminal Responsibility**

#### **FIRST SECTION**

#### **Individuality of Criminal Responsibility, Malice and Negligence**

#### **Individuality of Criminal Responsibility**

**ARTICLE 20-** (1) Criminal responsibility arises from a private wrong. No one can be kept responsible from another person's act.

(2) No punitive sanctions may be imposed for the legal entities. However, the sanctions in the form of security precautions stipulated in the law for the offenses are reserved.

#### **Malice**

**ARTICLE 21-** (1) In order to consider an act as an offense, a crime has to be intended by the offender. Malice is an intention to cause harm being aware of the legal consequences of the crime defined in the laws.

(2) Execution of an act by a person being aware of its legal consequences defined in the law is considered as malice. In that case, the offender is sentenced to life imprisonment in offences which require heavy imprisonment and to imprisonment between twenty years and twenty-five years in the offenses which require life imprisonment; in other offenses the basic punishment is abated from one third to one half.

#### **Negligence**

**ARTICLE 22-** (1) Offenses occasioned by negligent act are punished as expressly defined in the laws.

(2) Negligence is failure to take proper care or precaution during performance of an act without being aware of legal consequences of the crime defined in the laws.

(3) Where an act of person creates the legal consequence defined in the laws beyond his will, this is considered as intentional negligence; in such case the punishment imposed for negligent act is increased from one third to one half.

(4) The punishment to be given due to negligent offense is determined according to the fault of the offender.

(5) In negligent offenses committed by more than one person, each one is blamed of his own fault. The punishment is assessed