

- 3) All kinds of cutting, piercing or injuring instrument used for to attack or defense oneself;
- 4) Other instruments which are suitable to use in attack or defense although actually not manufactured for this purpose;
- 5) Burning, corrosive, harmful, suffocating, toxic nuclear, radioactive, chemical and biological substances which cause unrecoverable disease;
- g) Press and Broadcast; all kinds of written, visual, audio and electronic means used for public announcements,;
- h) Inveterate offender; Any person who commits the same kind of offence within one year or at different times after having been convicted of a heavy offense or any other similar criminal offense which requires imposition of less punishment;
- i) Professional Perpetrator; Any person who use to earn money by committing offense in the past;
- j) Offender who is a member of a criminal group; Any person who forms or manages a criminal group, or becomes a member of the same, or establishes cooperation with other criminal groups for committing offense.

SECOND SECTION

Field Of Application

In Respect of Time

ARTICLE 7- (1) A person may neither be punishment nor subject to a security measure for an act which does not constitute an offense according to the law in force at the time of commission of the offense. Also, one may neither be punished nor subject to a security measure for an act which does not constitute an offense according to the law which put into force after the commission of the offense. Where a punishment or security precautions of that sort is imposed, its execution and legal consequences are spontaneously abrogated.

(2) Where there are differences between provisions of the law in force at the time of commission of the offense and the provisions of the law subsequently put into force, the law which is in favor of the perpetrator is applied and enforced.

(3) The law in force at the time of conviction is applied in respect of execution of security precautions.

(4) The provisional or permanent laws are continued to be applied for the offenses which are committed during the period when they are in force.

In respect of Location

ARTICLE 8- (1) Turkish laws are applied for the offenses which are committed in Turkey. Where the act constituting an offense is partially or entirely committed in Turkey, or the result is obtained in Turkey, the offense is assumed to have been committed in Turkey.

(2) If the offense is committed;

- a) in the Turkish territory, or airspace and Turkish territorial waters,
- b) in open seas and the space extending above these waters, and in/by the Turkish vessels and airplanes,
- c) in/by Turkish war ships and aircrafts,
- d) in the stationary platforms exclusively constructed in the territorial boundaries of Turkey or in industrial zones,

then this offense is assumed to have been committed in Turkey.

Conviction in a Foreign Country

ARTICLE 9-(1) A person who is convicted in a foreign country for an offense committed in Turkey is subject to retrial in Turkey.

Offences Committed During Performance of A Duty

ARTICLE 10- (1) A new trial can be filed in Turkey for a person who commits an offense in a foreign country while performing an official duty in the name of Turkey even if he is convicted in a foreign country due to execution of such act.

Offences Committed By the Citizens

ARTICLE 11- (1) If a Turkish citizen, excluding the offences listed in Article 13, commits an offence in a foreign country which requires punishment with a minimum limit of less than one year imprisonment according to the Turkish laws, and if the offender is found in Turkey, then he is punished according to the Turkish laws provided that he is not convicted in the said foreign country for the same offense and there is possibility to proceed a trial in Turkey.

(2) Where the offence requires a punishment with a minimum limit of less than one year imprisonment, the trial is filed only upon rise of complaint by the injured party or the foreign country. In such case, the complaint has to be brought within six months as of the date of entry of the citizen into Turkey.

Offences Committed By the Foreigners

ARTICLE 12-(1) If a foreigner, excluding the offences listed in Article 13, commits an offence in a foreign country causing injury to Turkey, which requires a punishment with a minimum limit of less than one year imprisonment, and if the offender is found in Turkey,

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