



EMBASSY OF THE
REPUBLIC OF TURKEY
Ambassador

EUROPAUDVALGET

Alm. del - bilag 519 (offentligt)

Copenhagen, 13 January, 2003

Dear Mr. Larsen-Jensen,

I have the pleasure to enclose herewith the EU harmonisation package that was adopted by the Turkish Grand National assembly on 2 January 2003 for your information.

Yours sincerely,



Fügen Ok

Encl.: As stated

Mr. Claus Larsen-Jensen
Chairman of the EU Committee
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DRAFT LAW ON CHANGES TO BE MADE IN VARIOUS LAWS

Article 1- The following paragraph has been added to Article 245 of the Turkish Penal Code No. 765 of 1.3.1926.

“The penalties imposed by Article 243 due to the offenses listed in this article cannot be converted into fines or measures or be postponed.”

Article 2- The following paragraph has been added to Article 316 of the Code of Criminal Procedures No. 1412 of 4.4.1929.

“The communiqué to be prepared by the Court of Appeals Chief Public Prosecutor’s Office shall be communicated to the parties by the relevant department.”

Article 3- Paragraph 6 of Article 1 of the Foundations Law No. 2762 of 5.6.1935 has been amended to read as follows and the following paragraph has been added to the article.

“Regardless of whether or not they have a deed of trust, foundations of religious communities can acquire and dispose of immovables to meet their religious, charity, social, educational, health and cultural needs following the permission of the Directorate General of Foundations.”

The principles and procedures relating to the implementation of this article shall be determined through a regulation to be published by the Ministry to which the Directorate General of Foundations is attached.

Article 4- The following paragraph has been added to Article 15 of the Press Law No. 5680 of 15.7.1950.

“Owners of publications, chief editors and writers cannot be forced to disclose their news information sources.”

Article 5- The following article has been added to the Stamp Tax Law No. 488 of 1.7.1964.

“Additional Article 1- Documents relating to the payments to be made based on the judgments of the European Court of Human Rights and in cases of peaceful settlements are exempt from stamp tax.”

Article 6- Paragraph 1 of Article 8 of the Political Parties Law No. 2820 of 22.4.1983 has been amended to read as follows.

“Political parties can be established by at least thirty Turkish citizens who satisfy the criteria for membership to political parties.”

Article 7- Clauses (2), (3) and (5) of sub-paragraph (b) of paragraph 2 of Article 11 of the Political Parties Law have been amended to read as follows.

“2. Those who have been convicted of infamous crimes such as simple or qualified embezzlement, malversation, bribery, stealing, fraud, forgery, misuse of faith, fraudulent bankruptcy and smuggling offenses with the exception of employment and consumption-related smugglings, corruption in official tenders and procurements or disclosure of State secrets,”

3. Those who have been sentenced to five years of heavy imprisonment or five years or more years in prison with imprudent crimes being excepted,”

5. Those who have been convicted of terrorist acts,”

Article 8- The expression “or permit that political party to use its publications or broadcasts” has been added to follow the expression “totaling more than two billion liras in the same year to a given political party” in Paragraph 2 of Article 66 of the Political Parties Law.

Article 9- The following sentence has been added to Paragraph 1 of Article 98 of the Political Parties Law.

“In the cases where the closure of political parties is being requested, a three-fifths majority is required for a decision of closure to be taken.”

Article 10- Paragraph 1 of Article 100 of the Political Parties Law has been amended to read as follows.

“The Chief Public Prosecutor’s Office can file a case requesting the closure of a party in the following cases;

- a) Ex officio,
- b) By the request of the Minister of Justice upon a decision by the Council of Ministers,
- c) Upon the request of a political party.

Article 11- The expression “its closure or” has been removed from Paragraphs 1 and 3 of Article 102 of the Political Parties Law and the following sentence has been added to Paragraph 1 of the Article.

“The political party can appeal to the Constitutional Court in reply to this request of the Court of Appeals Chief Public Prosecutor’s Office.”

Article 12- Paragraph 2 of Article 104 of the Political Parties Law has been amended to read as follows.

“If the Constitutional Court notices an incongruity with the said provisions, it makes a decision to notify the related political party for this incongruity to be redressed. If the incongruity is not redressed within six months of the communication of this notification, the Chief Prosecutor’s Office may, ex officio, file a case at the Constitutional Court requesting that the political party in question is partially or fully deprived of State aid.”

Article 13- The following sub-paragraph (d) has been added to follow sub-paragraph (c) of Article 111 of the Political Parties Law.

“d) Light imprisonment of between three to six months to those responsible for depriving the party partially or fully of State aid by not fulfilling the requirements of the notification decision made on the basis of Article 104 and to the responsables of political parties that do not receive State aid,”

Article 14 – The following paragraph has been added to Article 7 of the Law on Election of Parliamentarians No. 2839 of 10.6.1983.

Excluding the circumstances described above, in cases where a province or electoral district is left with no members in the TGNA, a by-election shall be held in that electoral district on the first Sunday after 90 days has elapsed following the materialization of the said vacancy.

Article 15- Clauses (1) and (3) of subparagraph (f) of Article 11 of Law on the Election of Parliamentarians No. 2839 of 10.6.1983 have been amended to read as follows.

“1. Those who have been convicted of infamous crimes such as simple or qualified embezzlement, malversation, bribery, stealing, fraud, forgery, misuse of faith, fraudulent bankruptcy and smuggling offenses with the exception of employment and consumption-related smugglings, corruption in official tenders and procurements or disclosure of State secrets,”

“3. Those who have been convicted of terrorist acts,”

Article 16- The expression “the sixtieth day” in Paragraph 3 of Article 39 of the Law on the Election of Parliamentarians has been amended to read “the ninetieth day”.

Article 17- Article 5 of the Associations Law No. 2908 of 6.10.1983 has been amended to read as follows.

“Article 5- Associations cannot be established in violation of the provisions in the Constitution relating to the protection of the fundamental characteristics of the Republic, of the provisions in Article 174 relating to the protection of the laws of revolution, of national security and public order, of general health and general morality; with a view to create discrimination within the Republic of Turkey on grounds of race, religion, sect and region or minorities based on these grounds and disrupt the unitary structure of the Republic of Turkey; to insult or degrade Atatürk’s personality, principles, works or memories or to restrict others’ liberties.”

Article 18- Paragraph 2 of Article 6 of the Associations Law has been amended to read as follows.

“Associations use the Turkish language in their written communications with the official institutions of the Republic of Turkey.”

Article 19- Paragraph 1 of Article 16 of the Associations Law has been amended to read as follows.

“Natural and legal persons eligible to use their civil rights can become members of associations.”

Article 20- The following sentences have been added to Paragraph 5 of Article 18 of the Associations Law.

“If a legal entity becomes a member, the chairperson of the executive board or his/her representatives vote on behalf of the entity. When this individual’s term as chairperson or as representative is finished, a new person is selected to vote on behalf of the legal entity.”

Article 21- Article 44 of the Associations Law has been amended to read as follows.

“Article 44- If the announcements, declarations and other publications of associations are found to be in violation of the fundamental characteristics of the Republic as set out in the Constitution and the provisions on the protection of the laws of revolution as listed in Article 174 or if they disrupt the internal and external security of the State or its indivisible integrity with its country and nation or if they incite individuals to commit criminal offenses, to rebellion or to insurrection, or if they aim to disclose classified documents of the State, or to insult or degrade Atatürk’s personality, principles, works or memories, or to attack others’ reputations, rights, private or family lives, they can be confiscated on the orders of the Highest Administrative Official of the location. The Highest Administrative Official informs the office of the first instance court judge of his/her decision within 24 hours. The judge reviews the decision of the administrative official and makes a decision within 48 hours at the

latest. If no decision is made within this time period, the decision of the highest administrative official of the location is considered null and void.

The above provision does not apply to political parties.

Article 22- Paragraph 2 of Article 8 of Law no. 2972 of 18.1.1984 on the Elections of Local Administrations, District Headmen and Board of Elders has been amended to read as follows.

Excluding elections held based on the last paragraph of Article 7 of the Law on the Election of Parliamentarians, the general or by-elections to the organs of local administrations or for the membership of these organs that normally are scheduled to be held within the year preceding or following a general or by-election for the parliament are to be combined with the latter.

Article 23- Article 1 of the Law on the Use of the Right to Petition No. 3071 of 1.11.1984 has been amended to read as follows.

“Article 1- The objective of this Law is to regulate the manner in which Turkish citizens and foreigners residing in Turkey use their right to apply in writing to the Turkish Grand National Assembly and competent authorities with regard to their wishes or complaints concerning their persons or the public.”

Article 24- Article 2 of the Law on the Use of the Right to Petition has been amended to read as follows.

“Article 2- This Law involves the applications made to the Turkish Grand National Assembly or administrative authorities by Turkish citizens and foreigners residing in Turkey concerning their wishes or complaints.”

Article 25- The following paragraph has been added to Article 3 of the Law on the Use of the Right to Petition.

“Foreigners residing in Turkey can make use of this right on the basis of reciprocity and provided that their petitions are written in Turkish.”

Article 26- Article 4 of the Law on the Use of the Right to Petition has been amended to read as follows.

“Article 4- The petitions submitted or sent to the Turkish Grand National Assembly or competent authorities must contain the name, surname, signature and work or residence address of the applicant.”

Article 27- Article 7 of the Law on the Use of the Right to Petition has been amended to read as follows.

“Article 7- Those Turkish citizens or foreigners residing in Turkey who have applied to the competent authorities concerning their wishes or complaints relating to their persons or the public are given either a reply on the result of their application or information on the progress of the actions taken as a result with an attached reasoning within 30 days at the latest. If information is given on the progress of the actions taken, the result obtained is communicated to the applicant separately.”

Article 28- Article 8 of the Law on the Use of the Right to Petition has been amended to read as follows.

“Article 8- The petitions sent to the Turkish Grand National Assembly are reviewed and resolved in the Petition Committees within 60 days. The relevant public bodies and

institutions shall reply within 30 days to petitions forwarded by the Petitions Committee of the TGNA. The principles and procedures relating to this process are shown in the statutes of the Turkish Grand National Assembly.”

Article 29- Paragraph 2 of Article 7 of Law no. 3686 of 5.12.90 concerning the Human Rights Investigation Commission has been amended to read as follows.

The Commission shall inform applicants within 60 days at the latest of the result or the status of their applications.

Article 30- The subtitle of Article 5 of the Criminal Records Law No. 3682 of 22.11.1990 has been amended to read, “Principles that will apply to authorities that can provide information on criminal records and to minors” and the following paragraph has been added to the Article.

“The information filed in criminal records can be provided only when requested by Public Prosecutors and courts for issues subject to an investigation or inquiry or by the competent election committees in connection with Turkish Grand National Assembly elections. This information cannot be used in for any other process or matter.”

Article 31- Article 8 of the Criminal Records Law has been amended to read as follows.

“Article 8- As from the date that the sentence has been served, annulled or become obsolete;

- a) In case of conviction for the offense, another crime or offense, within one year;
- b) In infamous crimes such as simple or qualified embezzlement, malversation, bribery, stealing, fraud, forgery, misuse of faith and fraudulent bankruptcy and for heavy imprisonment and imprisonment of more than five years, within ten years;
- c) For another crime in cases of heavy imprisonment of less than five years or conviction of imprisonment or heavy fine, within five years;
- d) For another crime in cases where the convictions foreseen for the offenses listed in sub-paragraph (b) have been ruled for minors, within five years;
- e) For another crime in cases where the convictions foreseen for the offenses listed in sub-paragraph (c) have been ruled for minors, within two years;

If the individual in question has not received a sentence equal to or heavier than the previous sentence, on the request of the Public Prosecutor or the Directorate General of Criminal Records and Statistics of the Ministry of Justice, the court that has given the verdict or the criminal court of first instance of the location rules, without the need for a trial, for the criminal record of the individual to be erased. In cases where the postponed sentence is considered not to have occurred, the date for this ruling is used. A copy of these decisions is sent to the Directorate General of Criminal Records and Statistics of the Ministry of Justice.

Information relating to offenses that have ceased being considered offenses through the changes made in the laws or offense commuted to administrative penalties are erased from criminal records, ex officio, by the Directorate General of Criminal Records and Statistics of the Ministry of Justice.”

Article 32- Paragraph 1 of Clause (c) of Article 3 of the Decree No. 430 of 15.12.1990 in the Force of Law on the Regional Governorate of the State of Emergency and the Additional Measures to be Taken During the Course of the State of Emergency has been amended to read as follows.

“In the investigation of crimes that have necessitated the declaration of the state of emergency, convicts and detainees can be collected from the penal institution or prison for periods not to exceed four days each time upon the proposal of the Regional Governor of the State of Emergency, the request of the Chief Public Prosecutor and the decision of the judge for purposes of statement taking, location identification, confrontation, identification and medical examination. This time is considered to have passed in conviction or detention. The judge hears the convict or the detainee each time before reaching a decision. The convict or the detainee also makes use of the rights applicable to his/her legal standing after being collected from the penal institution or prison. In leaving the penal institution or prison and in returning, the convict or the detainee’s health condition is certified by a doctor’s report.”

Article 33- The following paragraph has been added to Article 2 of the Law on the Trial of Officials and Other Public Servants No. 4483 of 2.12.1999.

“The provisions of this Law do not apply in investigations or inquiries to be conducted within the scope of Articles 243 and 245 of the Turkish Penal Code No. 765 and Paragraph 4 of Article 154 of the Code of Criminal Procedures no. 1412.

Article 34- Article 91 of the Turkish Civil Code No. 4721 of 22.11.2001 has been amended to read as follows.

“Article 91- In order to realize the objectives in their statutes, associations can undertake international activities or cooperation, can establish branches abroad and become members of associations or organizations established abroad.”

Article 35- Article 92 of the Turkish Civil Code has been amended to read as follows.

“Article 92- In cases where international cooperation is deemed to be useful and where it is reciprocal, foreign associations can operate in Turkey, cooperate with other associations, establish branches and supra-establishments or join existing supra-establishments by a permission to be granted by the Ministry of Interior upon a positive view given by the Ministry of Foreign Affairs.”

Article 36- The provisions of Article 92 of the Turkish Civil Code, amended with this Law, also apply to non-profit organizations other than associations and foundations.

Article 37- Article 34 of Law No. 2253 of 7.11.1979 on the Establishment, Duties and Trial Procedures of Juvenile Courts, Paragraph 4 of Article 16 of Law No. 2845 of 16.6.1983 on the Establishment and Trial Procedures of State Security Courts and Articles 11 and 12 of the Associations Law No. 2908 of 6.10.1983.

Article 33- This Law enters into force on the date of its publication.

Article 34- The provisions of this Law are implemented by the Council of Ministers.