



SCREENING CHAPTER 24 JUSTICE, FREEDOM AND SECURITY

AGENDA ITEM 7A: ORGANISED CRIME

**Country Session: Republic of TURKEY
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LEGAL BASIS

- Turkish Criminal Code (Law No:5237)
- Code on Criminal Procedure (Law No:5271)



DEFINITION OF ORGANISED CRIME

According to Article 220 of the Turkish Criminal Code:

“Those who establish or direct organizations for the purpose of committing crimes shall be sentenced to imprisonment of 2 to 6 years if the structure of the organization, number of members, equipment and supplies are sufficient to commit the crimes aimed. However, for the existence of an organization, the number of members shall be at least three.



CRIMINAL ACTIVITIES WHICH CAN BE DEFINED AS ORGANIZED CRIME UNDER CERTAIN CIRCUMSTANCES:

- Illicit trafficking of narcotics, psychotropic substances and their precursors,
- Smuggling of firearms, ammunition, nuclear and radioactive materials,
- Smuggling of cultural and natural assets,
- Customs smuggling,
- Smuggling of immigrants and trafficking of human beings,
- Smuggling of organs and tissues,
- Counterfeiting, forgery and fraud,
- Money laundering,
- Corruption,
- Cyber crimes.



LAW ENFORCEMENT AUTHORITIES

- Ministry of Interior
 - Turkish National Police (TNP)
 - General Command of Gendarmerie
 - Command of Coast Guard
- Ministry of Justice (Prosecution Authorities)
- Ministry of Finance
 - MASAK (Financial Crimes Investigation Board)
 - The Inspection Board of Finance
- Customs Administration



ORGANISATION

-The TNP (in urban areas) and the Gendarmerie (in rural areas) are the two main law enforcement bodies in the fight against organised crime.

-Investigations are conducted by these law enforcement bodies upon the order and instructions of the public prosecutor.



COORDINATION AND COOPERATION OF LAW ENFORCEMENT BODIES

In the recent past with the co-ordinated procedure in the fight against organized crime, frequency of joint operations has increased, monthly meetings on illicit drug related organised crimes between TNP, Gendarmerie, Coast Guard and Customs have been held regularly and bilateral working facilities have been improved.



CODE ON CRIMINAL PROCEDURE (CCP) INTRODUCES SPECIAL INVESTIGATIVE TECHNIQUES IN THE FIGHT AGAINST ORGANIZED CRIME:

- Protection of the witnesses and the officers,
- Precautions such as recording, interception, and detection of communications,
- Assignment of secret investigator,
- Surveillance by technical devices,
- Search and seizure of proceeds of crime.
- Ban on leaving the country
- A curator is appointed to manage the company.



ACCORDING TO ARTICLE 58 OF THE CCP;

- Measures in relation to disguising the identification and providing the security of witness shall be applicable only within the framework of the activities of the criminal organizations.
- The statements of the witnesses may be taken in a confidential hearing. Voice and image of the witness may be transferred from a different place to the court.



ACCORDING TO ARTICLE 135 OF THE CCP CONCERNING THE RECORDING, INTERCEPTION, AND DETECTION OF COMMUNICATIONS

“During the investigation and prosecution of a crime, in case of a strong suspicion about commission of crime and no other possibility of obtaining evidence, communications of suspect can be recorded, intercepted and detected by the decision of judge or in exigent circumstances by the public prosecutor...”



ARTICLE 139, ASSIGNMENT OF SECRET INVESTIGATOR:

“Public officials can be assigned as secret investigator upon decision of judge or public prosecutor under exigent circumstances provided that there are reasons for strong suspicion about the commission of crime constituting the subject of this investigation and evidence cannot be obtained in another way ...”



ARTICLE 140, SURVEILLANCE BY TECHNICAL DEVICES

“In case of strong suspicion about the commission of the following crimes and any evidence cannot be obtained in another way, activities of accused or suspected person in public areas and his office can be kept under surveillance by technical devices and audio-visual records can be made..:”



ARTICLE 55 OF THE TURKISH CRIMINAL CODE CONFISCATION OF PROCEEDS OF CRIME

- The material benefits shall be confiscated, if they are
 - derived from the commission of a crime or constitute subject
 - of the crime or they are provided for the commission of the
 - crime. Economical earnings obtained by the deposition or
 - conversion of material benefits shall also be confiscated.
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- When property or material benefits cannot be seized or
 - submitted to the competent authorities, equivalent value of
 - such proceeds shall be confiscated.



CONFISCATION OF PROCEEDS OF CRIME ARTICLE 54 OF TURKISH CRIMINAL CODE “CONFISCATION OF PROPERTY

“(1) Provided that they do not belong to the bona fide third parties, the property used in commission of a deliberate offence or allocated for the commission of the offence or arising from a crime shall be confiscated. The property prepared for using in the commission of the offence shall be confiscated in case of danger for public security, public health or public morality...



LAUNDERING OF PROCEEDS OF CRIME ARTICLE 282 OF TURKISH CRIMINAL CODE

- “*Predicated offence*” is an offence for which minimum punishment is one year or more imprisonment.
- Transferring proceeds of crime abroad or subjecting proceeds of crime to a series of transactions for the purposes of disguising illicit sources of them and misleading as if they have been derived from legitimate sources
- “*Penalty*”; imprisonment from 2 years up to 5 years and a fine corresponding up to twenty thousand days.



ARTICLE 282 OF TURKISH CRIMINAL CODE

Aggravating Circumstances

- When committed by public servants or a person having specific professions, during the execution of their duties, the sentence of imprisonment shall be increased by half.
- When committed in the context of the activities of a criminal organization designed for the purpose of committing offences, the sentence shall be doubled.
- With regard to committing this offence, for legal persons, security measures pertinent to them are taken.



SPECIAL INVESTIGATION, PROSECUTION AND ADJUDICATION PROCEDURE;

According to Article 250 of Code on Criminal Procedure; the offences committed by use of force or violence or by threatening within the activities of organisations established for the purpose of gaining illicit benefit or illicit production and trafficking in drugs require special investigation, prosecution and adjudication procedure.

The period of custody for these crimes is 48 hours.



TRAINING

Turkish International Academy Against Drugs and Organized Crime (**TADOC**) is an important training initiative, which has been established in Ankara in 2000 within the framework of Turkey-UNDCP collaboration to provide training in the field of narcotics and organized crimes. At the Academy, training is given to the law enforcement units of the member countries of the Economic Cooperation Organization and Black Sea Economic Cooperation, Balkan countries and countries that have bilateral cooperation agreements with Turkey.



TRAINING

TADOC has provided international advanced training to more than 1,100 personnel from 49 countries. Besides these, nearly 6,000 national law enforcement personnel have benefited from the training in TADOC. The activities undertaken by TADOC, which focuses on drug law enforcement training is welcomed by the regional countries and many international organizations including INCB and UNODC.



INTERNATIONAL COOPERATION

As regards international cooperation, active participation in international efforts in these areas, adherence to the relevant international agreements and observance of their full implementation are important elements of our national security policy.

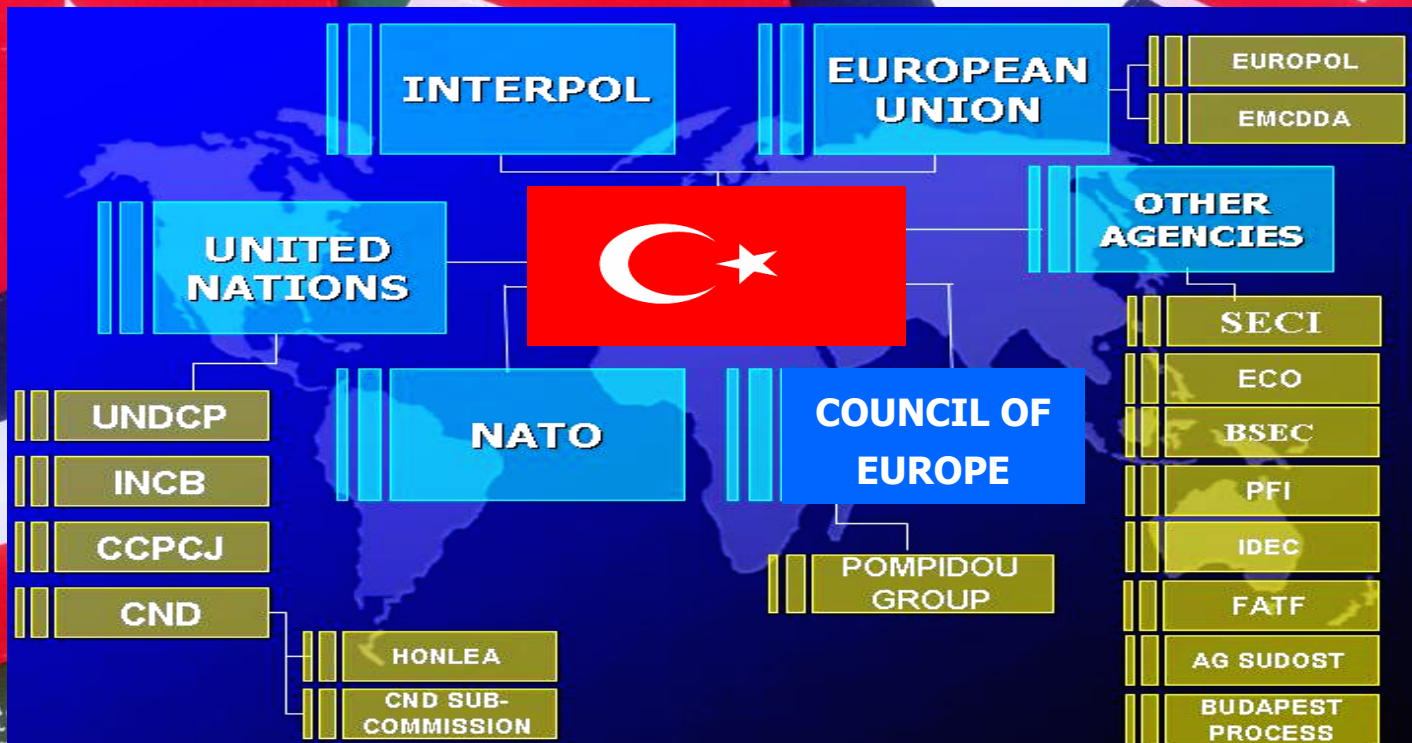


INTERNATIONAL COOPERATION

- Turkey is party to several multilateral and bilateral agreements concerning general mutual assistance in criminal matters. These agreements deal with judicial and police co-operation in general criminal matters.
- In the framework of the security cooperation documents, Turkish liaison officers are appointed to some countries to facilitate the exchange of strategic and operational information. There are also some foreign liaison officers located in Turkey working in close cooperation with Turkish National Police.



INTERNATIONAL COOPERATION





TWINNING PROJECTS

- Strengthening the fight against organized crime
-TR 02-JH-06
- Strengthening the struggle against money laundering,
financial sources of crime and the financing of terrorism
TR 03-JH-04
- Strengthening the fight against money laundering
-TR 02-JH- 04



STRENGTHENING THE FIGHT AGAINST ORGANISED CRIME

-The following results have been achieved in the field of Combating Organised Crime:

-Current strategy on organised crime assessed and a draft for a national strategy on organised crime developed, complemented by sectoral strategies and action plans in particular regarding the illicit use, production of and trafficking in drugs, high-tech crimes, international co-operation, criminal analysis and anti-corruption.

-Government institutions' efforts and capabilities in fight against organised crime coordinated and reinforced and the co-operation between National Police and Gendarmerie under the Ministry of Interior dealing with organised crime improved.



STRENGTHENING THE FIGHT AGAINST ORGANISED CRIME

- Law enforcement authorities' staff and other key personnel trained on the above issues.
- International contacts and understanding concerning successful strategies against organised crime and the capability of the Turkish National Police in participating in EUROPOL increased.
- Police anti-corruption investigation introduced into the Turkish National Police.



STRENGTHENING THE STRUGGLE AGAINST MONEY LAUNDERING, FINANCIAL SOURCES OF CRIME AND THE FINANCING OF TERRORISM

Overall Objective:

To strengthen the capacity of the anti-money laundering institutional system in Turkey in line with the EU Acquis and best practices in Member States.



STRENGTHENING THE STRUGGLE AGAINST MONEY LAUNDERING, FINANCIAL SOURCES OF CRIME AND THE FINANCING OF TERRORISM.

Project purpose:

- Increase Turkish National Police capability for:
- tracing the financial sources of crime,
- carrying out complex financial investigations,
- implementing seizure and confiscation of the proceeds of crime, and
- co-operating with national and international institutions involved in the fight against money laundering, terrorism financing and other financial crimes.



STRENGTHENING THE FIGHT AGAINST MONEY LAUNDERING

MASAK, the Turkish FIU, is carrying out a project supported financially by E.U. to develop a database.

The main purposes of the project are “strengthening the data collection and analyzing capacity of MASAK” and “development of an efficient legal, institutional and technical framework for combating money laundering in line with the EU legislation and practice.”



The project consists of 3 main components; a Twinning Project and two procurement contracts (Service Contract for Technical assistance and Supply Contract for Investment).

The investment component will be completed in March 2006 and Twinning part in June 2006.



CORRELATION TABLE FOR ACQUIS

-Turkey has ratified the “UN Convention against Transnational Organised Crimes” and signed the “UN Convention against Corruption” on 10 December 2003.

-Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organized Crime on 31 January 2003.



CORRELATION TABLE FOR ACQUIS

- Protocol against the smuggling of migrants by land, sea and air, supplementing the UN Convention against Transnational Organized Crime (adopted 15 November 2000)
- Turkey has ratified 1990 Council of Europe Convention on Search, seizure and Confiscation of proceeds from Crime.



CORRELATION TABLE FOR ACQUIS

- Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the UN Convention against Transnational Organized Crime (adopted 31 May 2001)
- Turkey has signed United Nations Convention against Corruption.
- Turkey has ratified OECD Convention on Combating Bribery of foreign public officials in International Business Transactions,

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CORRELATION TABLE FOR ACQUIS

- Turkey has ratified Council of Europe Criminal Law Convention on Corruption, (also relevant for judicial cooperation in penal matters)
- Turkey has ratified Council of Europe Civil Law Convention on Corruption.