

LAW ON INTERNATIONAL JUDICIAL COOPERATION IN CRIMINAL MATTERS

Law no. 6706

Adopted on: 23/4/2016

PART ONE General Provisions

Purpose and Scope

ARTICLE 1- (1) The purpose of this Law shall be to regulate the procedures and principles of international judicial cooperation in criminal matters.

(2) This Law shall cover the judicial cooperation to be conducted with foreign States in criminal matters.

(3) The international agreements on judicial cooperation to which Turkey is a party and the provisions of the other Laws shall be reserved.

Definitions

ARTICLE 2- (1) In the implementation of this Law;

a) Judicial authority shall mean court, offices of judges and prosecutor's offices and the other authorities which are granted, statutorily and exceptionally, the power of conducting criminal investigation, as well as the authorities defined under the declarations of the States to the international agreements,

b) Central Authority shall mean the Ministry of Justice,

c) International judicial cooperation shall mean the proceedings in criminal matters carried out by the judicial authorities of one State on behalf of the judicial authorities of another State.

Duties and powers of the Central Authority

ARTICLE 3- (1) The duties and powers of the Central Authority shall be as follows:

a) To decide on accepting the requests for cooperation of foreign States and on the conformity of the requests for cooperation of Turkish judicial authorities within the framework of international agreements to which Turkey is a party or the principle of reciprocity,

b) To decide on the type of the judicial cooperation and method to be followed,

c) To give consent to the use of the information and documents requested by the States within the scope of judicial cooperation, to limit or to subject the use of the mentioned information and documents to guarantee or condition,

(2) In the event that statutory and actual reciprocity is non-existent between the foreign State and Turkey, execution of the request for judicial cooperation may be subjected to a guarantee to be given by the Requesting State that Turkey's requests for judicial cooperation on the same issue shall be executed.

(3) The execution of request for judicial cooperation of a foreign State may be subjected to a condition or guarantee by the Central Authority.

(4) The Central Authority may, except the issues that fall within the competence of the judiciary, accept the conditions stipulated by the States or grant the guarantee requested. The judicial authorities shall be bound by the conditions accepted or guarantees granted by the Central Authority.

(5) In the event that compensation has been paid for the execution of requests for judicial cooperation, the Central Authority may request the relevant State to pay back the compensation amount.

(6) The Central Authority may reject the request where an explicit disproportion exists between the gravity of the offence subject to the request for judicial cooperation and the

effort, work and cost required for the execution of the request or where the request concerns proceedings that are habitually avoided by the State.

(7) The Central Authority may, when required, receive the opinion of the relevant public institutions and organizations concerning the proceedings to be carried out with foreign States.

Rejection of the requests for judicial cooperation

ARTICLE 4- (1) The requests for judicial cooperation received from a foreign State may be rejected if:

a) The sovereign rights, national security, public order or other fundamental interests of Turkey are violated,

b) The offence subject to the request is solely a military offence, thought crime, political offence or an offence connected with a political offence,

c) There are convincing grounds that the person subject to the request would be exposed to an investigation or prosecution or be punished or be exposed to torture or ill-treatment because of his/her race, ethnic origin, religion, nationality, his/her connection to a certain social group or political opinions,

ç) Fundamental guarantees in relation to the right to defence are not granted in the requesting State.

Application of procedural provisions

ARTICLE 5- (1) While executing the request for judicial cooperation, the provisions of the Criminal Procedure Code dated 04/12/2004 and numbered 5271 shall be applied in cases which are not provided for by this Law and other Laws.

Using information and documents

ARTICLE 6- (1) The information and documents received within the scope of judicial cooperation shall not be used for investigation or prosecution or proceedings other than those subject to the request, without the State's permission.

(2) Permission shall not be required if:

a) The legal nature of the offence subject to the request has changed,

b) New suspects or accused persons, who have emerged after the proceedings concerning the judicial cooperation, have been included into the investigation or prosecution,

c) The use of information and documents subject to the request are required in a civil lawsuit connected to this offence.

PART TWO Legal Assistance

Requests of Turkish judicial authorities

ARTICLE 7- (1) Judicial authorities may request legal assistance for issues deemed necessary in order to conclude an investigation or prosecution or to execute a conviction judgment. In this case, the following provisions shall apply:

a) In cases where delay is prejudicial, provisional measures may be requested to be taken prior to the request for legal assistance in order to protect the evidence.

b) Notifications indicating that restrictive or mandatory measures are to be applied shall not be included in the requests for legal assistance concerning the service of documents.

c) A request to be present during the execution of the proceeding subject to the request for legal assistance may be made.

ç) The proceedings carried out within the scope of the request for legal assistance in compliance with the domestic law of the relevant State shall be deemed valid with regard to Turkish law.

(2) In the event that judicial authorities are informed, within the framework of an ongoing investigation or prosecution, of information which may result in the initiation of an investigation by another State, this information shall be provided to the Central Authority in order to be submitted to the relevant State without there being any request.

Requests of foreign judicial authorities

ARTICLE 8- (1) The following provisions shall apply to the requests for legal assistance:

a) Requests shall be executed in accordance with Turkish law. In case of a request for carrying out a special procedure, the request for legal assistance may be executed according to this procedure unless it is contrary to Turkish law.

b) Turkish judicial authorities may reject the requests partially or completely or may request supplementary information or documents when necessary.

c) In cases where delay is prejudicial, provisional measures may be taken in order to protect the evidence before the request for legal assistance is submitted. If the request for legal assistance is not received by the Central Authority within forty days following the date when the provisional measures were taken, the measures shall be abolished forthwith by the competent authorities or bodies.

ç) In the event that search or seizure is requested, the offence subject to the request must be an extraditable offence. Turkish judicial authorities shall request, at least once a year, information from the requesting State on whether the measure concerning the seized assets and immovables, rights and receivables is to be continued.

d) Where a notification indicating that restrictive or mandatory measures are to be applied is included in a request for legal assistance concerning the service of documents, the request shall be rejected.

e) Foreign judicial authorities may request to be present before Turkish judicial authorities during the execution of the proceedings within the scope of the request for legal assistance. The request shall be fulfilled if considered appropriate.

f) In the event that the person has been convicted or acquitted by the Turkish courts or the offence has been pardoned or lapsed, requests for legal assistance concerning the same act may not be executed.

Legal assistance through audiovisual communication technique

ARTICLE 9- (1) Audiovisual communication technique may be requested to be used during the execution of the request for legal assistance. Such proceedings shall be conducted under the administration of the competent authorities or bodies of the executing State and in accordance with the law of this State.

(2) In the event that Turkish judicial authorities ask that the request for legal assistance is executed through audiovisual communication techniques, it shall be executed as so under the supervision of competent Turkish authorities and in accordance with Turkish law, as long as such a provision is laid out under international agreements,.

(3) In the event that judicial authorities of a foreign State asks that the request for legal assistance is executed through audiovisual communication techniques, it shall be executed as so under the supervision of the competent authorities of the requesting State and in accordance with its law, as long as such a provision is laid out under international agreements. During the execution of this request, Turkish judicial authorities shall be present and ensure that the fundamental principles of Turkish law are not violated.

PART THREE Extradition

Extradition from Turkey to a foreign State

ARTICLE 10- (1) A foreigner against whom the judicial authorities have initiated a criminal investigation or prosecution or rendered a conviction for an offence committed in a foreign country may be extradited, upon request, to the requesting State, in order for the investigation or prosecution to be concluded or for the execution of the imposed sentence.

(2) During the investigation or prosecution phase, the extradition request may be accepted for offences which require the upper limit of the sentence of deprivation of liberty to be at least one year according to both the law of the requesting State and Turkish law. With regard to finalized convictions, the extradition request may be accepted if the imposed sentence is deprivation of liberty for at least four months. In the event that the person whose extradition is requested has committed more than one offence, these offences may be included in the extradition request even if the stipulated sentence for some of them is less than the specified period.

(3) Where more than one State request the extradition of the same person, the Central Authority shall determine the request to be primarily processed by taking into account factors such as the gravity of the offences, places where the offences have been committed, sequence of the receipt of the requests, the nationality of the person and probability of re-extradition.

(4) If extradited, the person may only be tried for offences constituting the basis of the decision of extradition or only the sentence imposed on the person for that offence may be enforced.

Cases where extradition cannot be accepted

ARTICLE 11- (1) The extradition request shall not be accepted if:

a) The person who is requested to be extradited is a Turkish national, with the exception of the obligations required for being a party to the International Criminal Court,

b) There is strong suspicion that the person who is requested to be extradited would be subject to an investigation or prosecution or be punished or be subject to torture or ill-treatment because of his/her race, ethnic origin, religion, nationality, his/her connection to a certain social group or political opinions,

c) The offence constituting the basis of the extradition request is;

1) a thought crime, political offence or an offence connected with a political offence,

2) solely in the nature of a military offence,

3) committed against the security of the Republic of Turkey, or to the detriment of the Republic of Turkey or a Turkish national or a legal entity established in accordance with Turkish laws,

4) an offence within the jurisdiction of Turkey,

5) lapsed or pardoned.

ç) The person who is requested to be extradited has previously been acquitted or convicted in Turkey for the act subject to the request.

d) The extradition request is related to offences which require capital punishment or a sentence incompatible with human dignity.

(2) The act may not be considered a political offence when all of the elements of the offence within the scope of paragraph 1 sub-paragraph (c) item (1), which constitutes the basis of the extradition request, especially when the manner in which the offence was committed, the means used to commit the offence or the consequences of the offence are taken into account. Genocide and crimes against humanity shall not be considered political offences.

(3) In the event of grounds for rejection concerning the nature of the sentence as stated under paragraph 1 sub-paragraph (d), the extradition request may be accepted provided that the requesting State provides sufficient guarantee not to execute the stipulated sentence,.

(4) The extradition request may not be accepted in the event that the person, who is requested to be extradited, and his/her family would suffer disproportionately compared to the

gravity of the offence, due to personal reasons such as the fact that the person has not attained the age of 18, that he/she has been present in Turkey for a long time or that he/she is married.

Relation between extradition and deportation

ARTICLE 12- (1) During the process of extradition, the foreigner may not be deported before the Central Authority's opinion has been taken.

(2) The foreigner may not be deported, before the Central Authority's opinion has been taken, to the State whose extradition request was rejected.

Examination conducted by the Central Authority

ARTICLE 13- (1) After examining the requests for extradition, the Central Authority may request supplementary information and documents where necessary and shall reject the requests which do not fulfil the requirements.

(2) The requests fulfilling the requirements shall be sent to the Chief Public Prosecutor's Office before the competent high criminal court.

Provisional arrest

ARTICLE 14- (1) In the event of strong suspicion for accepting that an offence, which may be subject to the extradition request, was committed, the person may be arrested provisionally before the request is received by the Central Authority, upon the request of the relevant State and the approval of the Central Authority, within the framework of the provisions of international agreements or the principle of reciprocity.

(2) The person concerning whom there is strong suspicion that he/she has committed an offence, which may be subject to the extradition request, and which is within the scope of Article 12 Paragraph 3 Sub-paragraph (a) of Turkish Criminal Code dated 26/09/2004 and numbered 5237, may be arrested provisionally without requiring the relevant State to make such a request.

(3) The request for provisional arrest of the relevant State shall be submitted by the Central Authority to the Ministry of Interior in order to arrest the person for the purpose of extradition and refer him/her to the Chief Public Prosecutor's Office. The captured person shall be brought before the judge of the criminal court of peace within 24 hours at the latest for a decision to be made concerning provisional arrest. After the judge of the criminal court of peace informs the person, who is requested to be arrested provisionally, of the possibility of extradition based on consent and its legal consequences, he/she shall make a decision concerning the request.

(4) The duration for provisional arrest shall be determined in accordance with the provisions of the relevant international agreement. The person may be arrested provisionally for maximum forty days within the framework of the principle of reciprocity.

(5) Instead of provisional arrest, an order of judicial control in accordance with Article 109 of Criminal Procedure Code may be given in a manner to prevent absconding.

(6) In the event that the relevant State does not submit the extradition documents within the specified time period under Paragraph 4, the order for provisional arrest or judicial control shall be abolished. This situation shall not be an obstacle to the implementation of protective measures for the purpose of extradition after the receipt of the extradition request.

Duties and powers

ARTICLE 15- (1) The high criminal court, which is located in the place where the person is present, shall be competent to make a decision on the extradition request. If the place where the person is present is unknown, Ankara High Criminal Court shall be competent.

(2) Chief Public Prosecutor's Office shall request the High Criminal Court to make a decision concerning the extradition request.

Implementation of protective measures for the purpose of extradition

ARTICLE 16- (1) High Criminal Court may order protective measures concerning the person who is requested to be extradited during any phase of the extradition in accordance with the Criminal Procedure Code.

(2) In case the person is arrested during the extradition process, his/her situation shall be examined by the High Criminal Court once every thirty days at the latest until surrender takes place.

(3) In the event that a decision of extradition is not given in accordance with Article 19 within a year following the finalization of the decision of High Criminal Court concerning the acceptance of the extradition request, the protective measures imposed on the person shall be abolished.

(4) Total period of arrest shall not exceed the period of execution of the sentence, which may be imposed or have been imposed on the person for the offence subject to the extradition request.

Extradition based on consent

ARTICLE 17- (1) Where the person consents to extradition, he/she may be extradited to the requesting State without following the normal extradition procedure.

(2) The person shall be explained by the High Criminal Court his/her rights under Criminal Procedure Code and the nature and legal consequences of extradition based on consent. The person shall be asked whether he/she consents to the procedure for extradition based on consent.

(3) Upon the person's acceptance of the procedure for extradition based on consent, the court shall consider and decide whether the extradition request is acceptable according to the provisions of this Law and the international agreements to which Turkey is a party. An objection may be filed against this decision. If the decision is finalized, the documents of extradition shall be sent to the Central Authority.

(4) The execution of the decision of extradition, given according to the procedure for extradition based on consent, shall be subjected to the approval of the Central Authority.

Extradition proceedings

ARTICLE 18- (1) In the event that the person does not accept the procedure for extradition based on consent, the court shall examine the circumstances of the extradition according to this Law and the international agreements to which Turkey is a party and shall decide whether the extradition request is acceptable.

(2) Where the documents submitted by the requesting State are found to be insufficient, the court may request supplementary information and documents to be submitted in a reasonable time period.

(3) A request for intervention may not be submitted for extradition proceedings.

(4) The decision of the court may be appealed. The Court of Cassation shall conclude these appellate cases within three months. When the judgment is finalized, it shall be sent to the Central Authority, along with the extradition documents.

Extradition decision

ARTICLE 19- (1) Where the High Criminal Court decides that the extradition request is acceptable, the execution of this judgment shall be subjected to the proposal of the Ministry of Justice and the approval of the Prime Ministry, after the opinions of the Ministries of Foreign Affairs and Interior have been taken.

(2) The Central Authority shall inform the requesting State and the person who is requested to be extradited whether the extradition request has been accepted or rejected.

Surrender

ARTICLE 20- (1) The proceedings of surrender of the person, concerning whom a decision of extradition was given, shall be carried out in cooperation with the relevant Ministries.

(2) In the event that the person, concerning whom a decision of extradition was given, is not surrendered on the date agreed with the authorities of the requesting State without a justification, protective measures concerning this person ordered by the court shall be abolished on the 30th day following this date.

(3) Where an investigation or prosecution is conducted in Turkey for another offence against the person, concerning whom a decision of extradition was given, or an imprisonment sentence is required to be executed, or if the person is unable to travel, the Central Authority may decide to postpone the surrender. The person and the requesting State shall be notified of this decision.

(4) Properties, which are considered helpful as proof with regard to the offence subject to the extradition request, or which have been obtained upon the commission of the offence and were seized when the person was arrested or obtained afterwards, may be delivered to the requesting State. Where a decision on extradition cannot be made due to reasons such as death or absconding of the person or similar reasons, the property may still be delivered.

(5) The delivery of the property may be postponed, if it is deemed mandatory with regard to an investigation or prosecution conducted in Turkey.

(6) The requests for delivery of the property, belonging to bona fide third parties, shall not be executed.

Decision for transit

ARTICLE 21- (1) Where the requirements for extradition are fulfilled in accordance with Turkish law, the person, concerning whom a decision of extradition to another State was given, may be granted transit through Turkey.

(2) Request for transit shall be assessed by the Central Authority and the competent authority of the requesting State shall be notified of the decision.

(3) Where transit lasts more than 24 hours and therefore, where it is necessary to deprive the liberty of the person, the judge of the criminal court of peace may give an order for provisional arrest not exceeding seven days in order to carry out the transit.

(4) In the event that reasons requiring the rejection of the request for transit arise or that the person commits an offence during transit which requires investigation *ex officio*, the transit may be aborted.

(5) The provisions of this article shall also apply to the transit of sentenced persons from one State to another State through Turkey.

Turkey's requests for extradition and their conditions

ARTICLE 22 – (1) The judicial authorities of Turkey may request the extradition of a person located in a foreign State, concerning whom an arrest warrant have been issued, in order to finalise an investigation or prosecution or to execute a conviction decision.

(2) The extradition of a person may be requested for an offence punishable by imprisonment for a maximum period of at least one year. In order to make an extradition request concerning a finalized conviction, the duration of the imposed imprisonment sentence shall be at least four months. Where the person whose extradition is requested has committed more than one offence, these offences may also be included in the request, even if the penalty stipulated for some of them is below the limit of the specified period for imprisonment.

(3) The request shall be sent to the foreign State after being approved by the Central Authority. The Central Authority, however, may reject an extradition request without sending it to the foreign State if:

- a) The request does not fulfil the conditions required for extradition,
- b) Taking into account the time to be served in prison, the extradition would cause an explicit disproportion between the interests of the person and the public,
- c) The extradition may prejudice the national security or international relations of Turkey.

(4) Provisions of Articles 20 and 21 shall apply, where applicable, in the event of transit and surrender of a person, concerning whom a decision of extradition to Turkey was given, through the territories of third countries to Turkey.

PART FOUR

Transfer of Investigation or Prosecution

Transfer of Investigation or Prosecution

ARTICLE 23 – (1) Pursuant to this Law and to the international agreements to which Turkey is a party, investigations or prosecutions for offences committed in Turkey may be transferred to foreign States, as well as investigations or prosecutions conducted for offences committed in foreign States may be taken over by Turkey.

(2) In the absence of any international agreements, investigations or prosecutions may be transferred or taken over under this Law by virtue of the principle of reciprocity.

Transfer of investigation or prosecution to a foreign State

ARTICLE 24 – (1) Transfer of investigations or prosecutions conducted for offences punishable by a maximum period of at least one year imprisonment shall be carried out if,

- a) the suspect or the accused is a national of a foreign state and therefore he/she cannot be present in Turkey or his/her defence cannot be obtained through legal assistance,
- b) the transfer shall allow revealing the truth as the suspect or the accused person, who is a national of Turkey, habitually resides in a foreign State or as the evidence are located in this State.

(2) Transfer of investigation or prosecution shall be requested by judicial authorities. Upon the approval of the Central Authority, the request shall be submitted to the relevant State. This procedure does not constitute an obstacle for conducting the investigation or prosecution. The request for transfer of proceedings shall be accompanied with a copy of the investigation or prosecution file and if necessary, with its translation. After the consent of the foreign State for transfer is obtained and upon request, property in the nature of evidence shall be submitted.

(3) In the event that a request for transfer of investigation is granted, irrespective of the conditions laid down in Article 171 of the Criminal Procedure Code and the consequences thereof, the filing of the public lawsuit shall be postponed. If a lawsuit is filed against the suspect by foreign judicial authorities, a decision of non-prosecution shall be given. If a lawsuit is not filed, the investigation may continue provided that the grounds for such a decision are assessed.

(4) Where a request for transfer of prosecution is granted, the courts shall give a suspension decision. In the event that the accused is convicted by the foreign judicial authorities, the lawsuit shall be abated. Where a decision other than conviction is given, the prosecution may be continued provided that the grounds for such a decision are assessed.

(5) Where the foreign State informs that it has waived its decision on granting the transfer of the investigation or prosecution or where the Central Authority informs the relevant judicial authority that the transferred investigation or prosecution is not conducted properly, a decision shall be given to resume the investigation or prosecution.

(6) In cases where delay is prejudicial, the authorities of the requested State may be asked to apply any kind of provisional measures, including confiscation and detention, prior to or along with the request for transfer of the investigation or prosecution.

Taking over a investigation or prosecution

ARTICLE 25 – (1) Investigations or prosecutions conducted in a foreign State for offences, which have been committed abroad and are punishable by a maximum period of at least one year imprisonment, and which have not lapsed or pardoned under Turkish law, may be taken over. However, the request for transfer shall not be granted if;

- a) The person is not habitually resident in Turkey,
- b) The person is not a Turkish national,
- c) The offence has been committed outside the territory of the requesting State,
- ç) The person has previously been tried in Turkey for the offence for which extradition is requested.

(2) Upon the approval of the Central Authority, the request for transfer of the investigation or the prosecution shall be sent to the competent Public Prosecutor's Office, which shall initiate an investigation on the offence subject to the transfer of the investigation or prosecution and conduct proceedings according to the results of this investigation.

(3) Investigation or prosecution proceedings conducted under the legislation of the requesting foreign State and the evidence obtained in the process shall be valid under the Turkish law.

PART FIVE

Transfer of Execution of Sentences

Taking over the execution of a sentence

ARTICLE 26 - (1) Convictions rendered by courts of foreign State may be enforced in Turkey, provided that the following conditions are met:

- a) The sentenced person is located in Turkey.
- b) The conviction has become final.
- c) The act for which the conviction has been imposed constitutes a crime under Turkish law and the statute of limitations has not lapsed.
- ç) For punishments in the form of deprivation of liberty, unless otherwise decided by the Central Authorities, the remainder of the sentenced person's imprisonment sentence is not less than six months on the date specified on the request.
- d) No criminal investigation or prosecution has been conducted in Turkey for the same offence.

(2) Upon a request for transfer of execution of a sentence, the authorities of the requesting foreign State shall be asked to submit the following documents:

- a) a certified copy of the conviction decision,
- b) the text of the relevant articles of law serving as legal grounds for conviction,
- c) a document specifying the remaining sentence to be served,
- ç) other information and documents necessary for the assessment of the request,
- d) translation of the documents listed in this paragraph, if necessary.

(3) Where it is detected that the conditions for transfer are not met or if it is considered that the transfer contradicts with Turkey's national security and fundamental interests, the Central Authority shall reject the request for transfer.

(4) Prior to receiving the request for transfer of execution of a sentence, protective measures under Article 14 hereof shall be applied upon the request of the foreign State and the approval of the Central Authority, taking into account the offence for which the imprisonment sentence has been given, the amount of the penalty and the possibility of the person to abscond.

(5) The request for transfer of execution of a sentence shall be forwarded to Ankara High Criminal Court for an adaptation decision to be given according to Turkish law. The Court shall designate within fifteen days the corresponding penalty under Turkish law for the

act concerning which a conviction decision was given by the court of the foreign State. The term of penalty calculated in this way may not exceed the duration of the penalty specified in the decision of the court of the foreign State. The adaptation decision may be appealed against. The High Criminal Court shall also have the power to order protective measures.

(6) The adaptation decision shall be submitted to the Central Authority to be forwarded to the competent authorities of the requesting State.

Execution of a sentence in Turkey

ARTICLE 27 - (1) The Court, which has given the adaptation decision, shall be informed when the foreign State transfers the execution of a sentence. The Court shall forward the decision to the Chief Public Prosecutor's Office in order to initiate the execution. The Court shall also forward a copy of the decision to the Ministry of Justice, Directorate General for Criminal Records and Statistics.

(2) The conviction imposed by the High Criminal Court shall be executed in accordance with Turkish laws.

(3) Requests concerning the merits of the conviction shall be submitted to the state courts, which have given decisions on the merits of the case. The decisions thus given shall be re-adapted by the High Criminal Court.

(4) If during the execution of a sentence, general amnesty or pardon is granted in the sentencing State or in Turkey, or if revoking or mitigating circumstances arise concerning the offense committed or the sentence, the High Criminal Court, which has given the adaptation decision, shall make a decision on the legal status of the sentenced person.

Transfer of the execution of a sentence

ARTICLE 28 - (1) The Chief Public Prosecutor's Office may request the execution of convictions rendered by Turkish courts in foreign States, provided that the following conditions are met:

a) The sentenced person, who is located in the State to which the execution of a sentence shall be transferred, is a national of or has strong social ties with this State.

b) The imprisonment sentence is finalized.

c) The act for which the conviction has been rendered is a criminal offence punishable under the laws of the foreign State.

ç) For imprisonment sentences, unless otherwise decided by the Central Authorities, the remainder of the sentenced person's imprisonment sentence is not less than six months on the date specified on the request.

d) The Central Authority has granted its approval.

(2) Penalties imposed on sentenced persons, which have been executed by applying probation measures, may be transferred.

(3) The request for transfer of execution does not constitute a hindrance for continuing the execution of the imposed sentence.

(4) Where it is considered that the transfer shall not serve the purposes of criminal justice or that it contradicts with Turkey's national security and fundamental interests, the Central Authority shall reject the request for transfer.

(5) The request to be forwarded to the foreign State authorities shall be accompanied by:

a) a certified copy of the conviction decision,

b) the text of the relevant articles of law serving as legal grounds for conviction,

c) a document specifying the remaining sentence to be served,

ç) other information and documents necessary for the assessment of the request,

d) translation of the documents listed in this paragraph, if necessary.

(6) In order for the execution of a sentence to be transferred, the State, from which the transfer is to be made, shall be requested to provide information on how the execution is

going to be conducted. In accordance with the information received, the request for transfer may be revoked by the Chief Public Prosecutor's Office upon approval by the Central Authority.

Consequences of execution in a foreign State

ARTICLE 29 - (1) The Central Authority shall request the foreign State to provide important information such as special circumstances that may arise during the execution process, completion of the execution or absconding of the sentenced person. Information received by the Central Authority shall be forwarded to the Public Prosecutor's Office.

(2) Carrying out the execution in whole or revoking the execution in whole or in part shall bear the same consequences under Turkish law.

(3) Where the foreign State does not or is no longer able to execute the sentence, the execution proceedings shall be continued in Turkey.

PART SIX Transfer of Sentenced Persons

Transfer of sentenced persons to Turkey

ARTICLE 30 - (1) The sentenced person, who has been sentenced by a foreign State court and who is currently in prison, may be transferred to Turkey for the execution of the sentence only if all of the following conditions are met:

a) The sentenced person is a Turkish national or has strong social ties with Turkey.

b) The sentenced person or his/her legal representative has consented to the transfer.

c) The imprisonment sentence is finalized.

ç) The act for which the sentence has been imposed constitutes an offence under Turkish law.

d) Unless otherwise decided by the Central Authorities, the remainder of the sentenced person's imprisonment sentence is not less than six months on the date specified on the request.

(2) If the sentenced person, his/her legal representative or his/her relative requests his/her transfer to Turkey, the authorities of the foreign State shall be required to provide the following documents:

a) a certified copy of the conviction decision,

b) the text of the relevant articles of law serving as legal ground for conviction,

c) a declaration of consent for transfer by the sentenced person or his/her legal representative,

ç) a document specifying the sentence to be served,

d) if necessary, medical reports on the health of the sentenced person, as well as documents containing advice for treatment if the person has been diagnosed with an illness,

e) translation of the documents listed in this paragraph, if necessary.

(3) The request for transfer may be rejected by the Central Authority, if it is considered that the conditions for transfer are not fulfilled, or that the transfer will not contribute to the social rehabilitation of the sentenced person, or that it does not serve the purposes of criminal justice, or that it contradicts with Turkey's national security and fundamental interests.

(4) The Minister of Justice shall decide on the transfer of sentenced persons.

Execution of a sentence in Turkey

ARTICLE 31 - (1) When the request for transferring the sentenced person is granted, the sentenced person and the foreign authorities shall be informed about the period of time he/she will serve in prison. When the foreign State and the sentenced person consent to the transfer, the sentenced person shall be brought to Turkey. The sentenced person shall be

surrendered to the Public Prosecutor's Office along with his/her transfer file. The Public Prosecutor's Office shall communicate the information concerning the decision whose execution has been initiated to the Ministry of Justice, Directorate General of Criminal Records and Statistics.

(2) The execution of the sentence shall be executed in accordance with Turkish laws.

(3) Requests concerning the merits of the conviction shall be submitted to the state courts, which have given decisions on the merits of the case. The decisions thus given shall be executed in accordance with Paragraph 2.

(4) If during the execution of a sentence, general amnesty or pardon is granted in the sentencing State or in Turkey, or if revoking or mitigating circumstances arise concerning the offense committed or the sentence, the High Criminal Court of the jurisdiction where the sentenced person is located shall make a decision on the legal status of the sentenced person.

Transfer of sentenced persons from Turkey

ARTICLE 32 - (1) The sentenced person who has been sentenced by a Turkish court and who is currently in prison may be transferred to a foreign State for the execution of the sentence only if all of the following conditions are met:

a) The sentenced person is a national of the State of transfer or has strong social ties with that State.

b) The sentenced person or his/her legal representative has consented to the transfer.

c) The imprisonment sentence is finalized.

ç) The act for which the sentence has been imposed constitutes a crime under the laws of the State of transfer.

d) Unless otherwise decided by the Central Authorities, the remainder of the sentenced person's imprisonment sentence is not less than six months on the date specified on the request.

e) The sentenced person is not investigated or prosecuted for any other offence in Turkey.

(2) If the sentenced person, his/her legal representative or his/her relative requests his/her transfer from Turkey to another State, the following documents shall be provided the authorities of that state:

a) a certified copy of the conviction,

b) the text of the relevant articles of law serving as legal ground for conviction,

c) a declaration of consent for transfer by the sentenced person or his/her legal representative,

ç) a document specifying the remaining sentence to be served,

d) if necessary, medical reports on the health of the sentenced person, as well as documents containing advice for treatment if the person has been diagnosed with an illness,

e) translation of the documents listed in this paragraph, if necessary.

(3) The request for transfer may be rejected by the Central Authority, if it is considered that the conditions for transfer are not fulfilled, or that the transfer will not contribute to the social rehabilitation of the sentenced person, that it does not serve the purposes of criminal justice or that it contradicts with Turkey's national security and fundamental interests.

(4) If the sentenced person has a fine imposed on him/her in addition to his/her imprisonment sentence, the fine must be paid off in order for the transfer to be granted. If the fine remains outstanding, the remaining amount shall be converted into days in prison. The part of the imprisonment sentence that the sentenced person served in Turkey shall be added to the days in prison, converted from the fine. If the duration which the sentenced person has spent in prison fails to correspond to the duration of imprisonment converted from the fine, it shall be added to the imprisonment term. The duration of the imprisonment thus calculated

shall be communicated to the foreign State and, if approved by that State, transfer may be granted.

(5) For the request for transfer to be granted, the litigation expenses must have been paid off. However, if it is considered that the sentenced person is unable to pay the litigation expenses, transfer may be granted without paying the litigation expenses.

(6) The State of transfer shall be asked to provide information about the duration and the manner of execution of the sentence of the sentenced person. This information shall be communicated to the sentenced person.

(7) The Minister of Justice shall decide on the transfer of the sentenced person upon the consent of the foreign State.

Consequences of execution in a foreign State

ARTICLE 33 - (1) The Central Authority shall request the foreign State to provide important information such as special circumstances that may arise during the execution process, completion of the execution or absconding of the sentenced person. Information received by the Central Authority shall be forwarded to the court which has given the decision.

(2) Carrying out the execution in whole or revoking the sentence in whole or in part by the foreign State shall bear the same consequences in the Turkish law.

(3) Where the foreign State cannot execute the sentence, the execution proceedings shall be continued in Turkey.

PART SEVEN

Miscellaneous and Final Provisions

Expenses

ARTICLE 34 - (1) Expenses incurred during the execution of requests for judicial cooperation under this Law shall be borne by the executing State, unless otherwise agreed by the Central Authorities.

(2) In the event that an extradition request is submitted for concluding an investigation or prosecution, the expenses incurred for the execution of the request shall be considered as litigation expenses. In cases where requests for extradition are submitted for the purposes of execution of conviction, the expenses incurred for the execution of the request shall be paid within one month along with the default interest rate, calculated according to the Procedural Law on Collection of Public Receivables no. 6183, dated 21/07/1953, for the time elapsed from the day of its payment until the day of its collection. This information shall be conveyed to the sentenced person by the Public Prosecutor's Office. If no payment is effected during this period, the Public Prosecutor's Office shall inform the relevant tax office of these receivables for follow up and collection according to the provisions of the Procedural Law on Collection of Public Receivables.

(3) Expenses for the transfer of the sentenced person from the State of location to Turkey shall be borne by the sentenced person. These expenses shall be deposited by the sentenced person or by another person in his/her name to an account opened for this purpose by the Ministry of Justice. If it is determined that the sentenced person is unable to afford the expenses, the transfer expenses may be paid from the allowance in budget of the Ministry of Justice, taking into account the nature of the offence, its benefits to the public, the prison conditions in the State of location of the sentenced person and the remaining time to be served in prison. The calculation of transfer expenses with regard to the appointed officers shall be made according to the provisions of the Law on Travel Expenses dated 10.02.1954 and numbered 6245.

Bylaws

ARTICLE 35 - (1) Bylaws concerning the application of this Law shall be enacted by the Ministry of Justice.

Abolished legislation

ARTICLE 36 - (1) As of the day of entry into force of this Law, the following laws shall be abolished:

- a) Article 3 of Law No. 2080, dated 01.03.1977, on Ratification and Adoption of the European Convention on the Transfer of Proceedings in Criminal Matters,
- b) Article 4, paragraph 1 and 3, and Article 5 of Law No. 2081, dated 01.03.1977, on Ratification and Adoption of the European Convention on the International Validity of Criminal Judgments,
- c) Law No. 3002, dated 08.05.1984, on Execution of Sentences of Foreign State Courts on Turkish Nationals and of Turkish Courts on Foreign Nationals
- d) Article 18 of the Turkish Criminal Code No. 5237, dated 26.09.2004.

Entry into Force

ARTICLE 37 - (1) This Law shall enter into force on the day of its publication.

Execution

ARTICLE 38 - (1) This Law shall be executed by the Council of Ministers.

04/05/2016