

LAW ON THE PREVENTION OF THE FINANCING OF THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION (Law No 7262)

INFORMATION NOTE

26 January 2020

On 31 December, 2020, the “Prevention of the Financing of the Proliferation of Weapons of Mass Destruction Law” (no. 7262) entered into force within days of being submitted to Turkey’s parliament. This information note examines the passing of the law, its content, how it changes existing legislation regarding non-government organizations and the threat it poses to civil society in Turkey.

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The Legislative Process

Date	Process
16 December 2020, Wednesday	44 Members of Parliament submitted the bill ¹ of 43 articles together with an explanatory memorandum ² to the Presidency Office of the Grand National Assembly of Turkey The Presidency Office referred the bill to the Justice Committee as the main committee and to Interior Affairs and Plan and Budget Committees as secondary committees. ³
18 December (Friday) and 19 December (Saturday) 2020	The Justice Committee held sessions to discuss the bill with participation of representatives from the Foreign Ministry, Ministry of Interior, Treasury and Ministry of Finance, Ministry of Commerce, the Supreme Court of Appeals, Supreme Court of Appeals Chief Prosecutor's Office, the Financial Crimes Investigation Board, the Union of Bar Associations and the Union of Chambers and Commodity Exchanges of Turkey and the Chambers and Commodity Exchanges (TOBB). All articles with very minor changes were accepted by a majority vote at the Justice Committee ⁴ .
21 December 2020, Monday	The Justice Committee submitted its report together with dissenting opinions from the opposition CHP, HDP and İyi Party to the Presidency to be put on the agenda of the Plenary of the General Assembly. Secondary committees failed to provide an opinion within the required period.
24-26 December 2020	Plenary of the General Assembly Result: Amendments were made to only 7 out of 43 articles, one article was rejected, one article added. Among amended articles, one was related to the Collection of Aid Law, three were related to the Associations Law and one related to lawyers (as a result of pressure from civil society organizations campaigning for revision of the law). Voting results: Total no. of vote: 367 out of 584 Accepted: 254 - Rejected: 113
31.12.2020, Thursday night	Promulgation of the Law in the Official Gazette

General Justification of the Law

The Explanatory Note in the bill consists of three pages of general justification mainly focusing on UN Security Council Resolutions and implementation of those resolutions. There are also references to a 2019 assessment of Turkey by the Financial Action Task Force (FATF)⁵, an international watchdog tracking countries' efforts to comply with recommendations on combatting terrorism financing and money-laundering

Excerpt from the General Justification in the Explanatory Note

"(...) In this context, the decisions taken by the UNSC in accordance with Chapter VII of the United Nations Charter and which are obliged to be followed by countries, as well as the recommendations and short-term goals created by the FATF on the basis of these decisions, are also international

¹ According to Article 88 of the Constitution, Deputies are empowered to introduce bills. Bills might be introduced with one or more than one deputy's signature.

² **Explanatory Memoranda:** Bills are introduced with their explanatory memoranda. The reasons for drafting the bill are explained in the explanatory memoranda of the bill. The reasons for new provisions or articles that are repealed, amended or added are explicitly specified in the justification of each article.

³ The committees that examine bills are classified into two groups as "main committees" and "secondary committees." The committee whose report and bill is considered in Plenary is designated as the main committee, and the committee that provides an opinion to the main committee is designated as the secondary committee. Bills can be referred to more than one secondary committee, but only one committee may be designated as the main committee according to the bill's content

⁴ Composition of the Committee: AKP (13), MHP (2), CHP (6), HDP (3), İyi Party (2)

⁵ This assessment is not available in Turkish and not publicised by the relevant public officials.

guidelines in the context of preventive measures. Indeed, in Article 7 of its Resolution 1617 (2005), the UNSC invites all UN member states to comply with the international standards developed by the FATF.

In our country, various Prime Ministry Circulars and Decisions of the Council of Ministers were issued based on the decisions of the UNSC within the scope of combating weapons of mass destruction. Although the aforementioned Circular and Decisions have developed an effective practice in combating the financing of the proliferation of weapons of mass destruction, today it has become mandatory to arrange a new legislation, including effectiveness, coordination, international cooperation and criminal sanctions, due to the increase in international threats and risks related to these weapons. In this framework, effective, deterrent and proportional judicial and administrative sanctions are adopted in order to prevent the financing of the proliferation of weapons of mass destruction, and it is aimed to comply with the UNSC decisions on this subject.

(...)In addition, by making amendments in the Law on Aid Collection dated 23/6/1983 and numbered 2860 and the Law on Associations dated 4/11/2004 and numbered 5253, provisions are regulated for increasing the audits and the more effective implementation of administrative sanctions.”⁶

Content of the Law

The Law has two sections: First section covers general provisions and the second one covers amendments in different laws.

Section one (Articles 1 to 6)	Section two (7-42)*
<ul style="list-style-type: none"> • Purpose, scope and definitions • Prohibited acts and actions • Freezing of assets and enforcement of prohibitions • Audit and Cooperation Commission • Criminal provisions • Regulations 	<ul style="list-style-type: none"> • Aid Collection Law No 2860. (Articles 7, 8, 9,10) • Law on Associations No.5253 (Articles 11-17) • Code of Criminal Procedure No.5271 (Article 18) • Law on Misdemeanors No: 5326 (Article 19) • Attorney Law No. 1136 (Article 20) • Law on Prevention of Laundering Proceeds of Crime No. 5549 (Articles 21-25) • Law of Cheques No. 5941 (Article 26) • Turkish Commercial Code No. 6102 (Articles 27-34) • Law on the Prevention of Financing of Terrorism No 6415 (Articles 35-42)
<ul style="list-style-type: none"> • Articles 43 and 44 are related to execution and the entry into force of the Law 	

⁶ Kanun teklifinin önu

Section One

First two paragraphs of Article 1 of the Law define the purpose and scope of the law.

“ARTICLE 1 - (1) The purpose of this Law is to lay down the procedures and principles regarding the implementation of the sanction resolutions of the United Nations Security Council for the prevention of the financing of the proliferation of weapons of mass destruction.

(2) The provisions of this Law shall be applied depending on the scope of the United Nations Security Council resolutions.”

Articles 1-6 are dedicated to establishing a legal framework to prevent the financing of the proliferation of weapons of mass destruction in order to comply with FATF Recommendation No 7⁷.

In its Report dated October 2019, FAFT

Section Two

The Law makes amendments to 8 existing laws. Two of those laws are directly related to civil society organisations in Turkey. One relates to their fundraising activities (the Aid Collection Law) and the other to those with the status of associations (the Law on Associations).

⁷[FATF Recommendations 2012.pdf \(fatf-gafi.org\)](https://www.fatf-gafi.org/publications/fatfrecommendations/documents/FATF_Recommendations_2012.pdf)

Amendments made to the Aid Collection Law No. 2860

Article no in Law no. 7262	Article no in Aid Collection Law no. 2860	Summary of Amendments	Articles with amendments shown in green
Article 7	A paragraph added to Article 6 concerning “Requirement to obtain authorization”	Additional paragraph concerns unauthorised collection of aid via internet	<p>Requirement to obtain authorization:</p> <p>Article 6 – No person or entity may collect aid without obtaining the authorization of the competent authority. The Council of Ministers shall determine and announce which institutions and foundations may collect aid for the public benefit without obtaining such authorization upon the proposal of Ministry of Interior.</p> <p>Security forces shall immediately prohibit the aid collection activities engaged without the required authorization and initiate legal proceedings against the offenders.</p> <p>"In case it is determined that the unauthorized aid collection is carried out on the internet, the relevant governorship or the Ministry of Internal Affairs shall notify the content and/or hosting provider by e-mail or other communication tools to remove the content related to aid collection using information obtained through the communication tools on the website, the domain name, IP address and similar sources. In the event that the content is</p>

			<p>not removed by the content and/or hosting provider within twenty-four hours at the latest, and or the information on the content and hosting provider cannot be obtained or notifications cannot be made for technical reasons, the relevant governorship or the Ministry of Internal Affairs shall have recourse to the criminal judge of peace to order blocking access to the content on the Internet. The judge shall decide on the request within twenty-four hours at the latest without holding a hearing, and send it directly to the Information Technologies and Communication Authority for necessary action. An objection can be made against this decision in accordance with the provisions of the Code of Criminal Procedure No. 5271, dated 4/12/2004. The decision to block access made under this paragraph shall be made by the method of blocking access to the content (URL, etc.). "</p>
Article 8	<p>A paragraph added to Article 9 concerning "Evaluation of applications and authorization"</p>	<p>Additional paragraph refers to issuing a new regulation to identify the procedures and principles of aid made in the country and abroad.</p>	<p>Evaluation of applications and authorization:</p> <p>Article 9 – Upon receipt of an application petition, the relevant competent authority shall evaluate the application in terms of the importance of the work to be performed, the capacities of those to engage in such aid collection activities, the suitability of the services for purposes indicated or for the public</p>

			<p>benefit, the likely success of the proposed aid collection activities, and any other relevant matters; and shall give its response within two months of receipt of the relevant application.</p> <p>"The procedures and principles regarding the aid to be made in the country and abroad shall regulated in a regulation."</p>
Article 9	<p>Third paragraph of Article 16 concerning "inspection of activities" amended</p>	<p>The amendment widens powers of the auditors and the authorities granting permission to collect aid to gain access to all information within the scope of an audit.</p>	<p>Inspection of activities</p> <p>Article 16 – The competent authority which has granted the authorization of the aid collection activity shall be liable for inspection and supervising the aid collection activities to determine whether net revenue generated from such aid collection activities are used in accordance with the purpose of such activities.</p> <p>The competent authority shall assign a sufficient number of inspectors, comprising civil servants or external advisers, and shall inform any interested parties.</p> <p>"Authorities assigned to make audits and with the power to grant authorization shall be entitled to request relevant information and documents limited to the subject of the audit from those involved in the collection of aid, public institutions and organizations, and natural and legal persons, including banks. Those requested to provide information and</p>

			<p>documents shall not avoid giving them by relying on provisions in special laws. "</p> <p>In the event that authorization is granted for aid collection activities for the purposes of restoration of historical buildings and monuments, the General Directorate of Foundations or the Ministry of Culture and Tourism may also conduct an inspection at its discretion.</p>
Article 10	Article 29 concerning "Penalties" amended	<ul style="list-style-type: none"> - Fines in cases of breach of the Law are increased - Penalties are extended to those who provide place and opportunity for entities to collect aid without authorisation - Public institutions and organisations are included in the scope of the law. - Governors and sub governors are authorised to implement administrative sanctions. 	<p>PENALTIES</p> <p>ARTICLE 29 - Those who collect aid without authorization in violation of this Law shall be fined from five thousand Turkish lira to one hundred thousand Turkish Lira. In case of unauthorized aid collection on the Internet, an administrative fine from ten thousand Turkish lira to two hundred thousand Turkish Lira shall be assessed.</p> <p>Those providing a place and opportunity for unauthorized aid collection and failing to terminate this activity despite being warned, shall be imposed an administrative fine of five thousand Turkish Lira.</p> <p>An administrative fine from five thousand Turkish lira to one hundred thousand Turkish Lira shall be imposed on the responsible board members who provide assistance abroad in</p>

			<p>violation of the procedures and principles set forth in Article 9 of this Law.</p> <p>Those violating the third paragraph of Article 16 of this Law shall be imposed an administrative fine from five thousand Turkish lira to twenty thousand Turkish Lira. However, in the event this violation occurs in a public institution and organization, upon notification by the authority authorized in accordance with the ninth paragraph, disciplinary provisions shall be taken against those who work in the relevant public institution and organization, regardless of the nature of their employment, according to disciplinary provisions of the applicable legislation, and the outcome shall be notified to the competent authority.</p> <p>Excluding authorized aid collection, those who collect aid without authorization adopting methods specified in Article 5 shall be assessed an administrative fine from five thousand Turkish lira to twenty thousand Turkish Lira if they do not terminate this activity despite being warned.</p> <p>If those who collect aid outside the place authorized by the authority do not terminate this activity despite being warned, they shall be assessed an administrative fine from five thousand Turkish lira to twenty thousand Turkish Lira.</p>
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			<p>Those who act contrary to the other provisions of this Law shall be assessed an administrative fine of one thousand Turkish lira, provided that their acts do not constitute any crime.</p> <p>Assets and cash collected without an authorization and in violation of the preceding paragraphs shall be expropriated.</p> <p>The power to decide on administrative sanctions set forth in this Article shall belong to the authority that grants authorization for aid collection. In case of unauthorized aid collection, the governor shall decide on administrative sanctions. The governor may transfer this authority to deputy governors or district governors.</p>
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Amendments made to the Associations Law No. 5253

Article no in Law no. 7262	Article in Associations Law no, 5253	Summary of Amendments	Articles with amendments shown in brown
Article 11	Amendment on Article 1 concerning “ Scope and objective of the Law ”	<ul style="list-style-type: none"> - representations and branches of associations and foundations active in Turkey whose headquarters are abroad are included in the scope of the Law. 	Scopes and Objectives Article 1. The objective of this Law is to regulate the activities prohibited and subject to permission, obligations, audits, penalties and other related issues of associations, branches or representation offices of associations, federations, confederations, and branches or representation offices of associations, foundations and other non-profit organizations whose headquarters are located abroad.
Article 12	A paragraph added on Article 3 concerning “ Right to Set-up Association ”	<ul style="list-style-type: none"> - Prohibition of persons convicted of crimes under the Law on the Prevention of the Financing of Terrorism No. 6415 and convicted of production and trade of narcotics or stimulants, or laundering proceeds of crime under the Turkish Criminal Code, to assume any position in any organ of an association, excluding its general assembly unless their rights have been reinstated. 	Right to Set up an Association Article 3- Real and legal entities with capacity to act have the right to set up an association without prior authorization. However there exist some limitations concerning members of armed forces, law enforcement officers and officials working in public institutions and organizations. Even if the periods specified in Article 53 of the Turkish Criminal Code No.5237 dated 26/9/2004 have expired or have been amnestied; those convicted of crimes under the Law on the Prevention of the Financing of Terrorism No. 6415 dated 7/2/2013, and convicted of production and trade of narcotics or stimulants, or laundering proceeds of crime under the Turkish Criminal Code, shall not assume any position in any organ of an association, excluding its general assembly. Anyone, who is convicted of any of the above-mentioned crimes after being elected

			<p>to any organ of an association, shall be dismissed from office. If it is decided to reinstate prohibited rights, provisions of this paragraph shall not apply.</p> <p>Minors over 15 years old having the necessary discernment capacity may either found children's associations or be a member with the written consent of their legal representatives in order to develop their social, spiritual, moral, physical and mental capabilities, to preserve their rights to sport, education and training, their social and cultural existence, the structure of their families and their private ways of life.</p> <p>Minors over 12 years old may become members of child associations however, they cannot be commissioned in executive and auditing boards.</p> <p>Adults over the age of 18 cannot become members of children's associations.</p>
Article 13	Amendment on Article 19 concerning " Duty to submit declarations and to be audited "	Amendments cover: <ul style="list-style-type: none"> - Appointment of (unspecified) public officers other than identified auditors and inspectors of the Ministry of Interior to conduct audits of associations - Audits regulated to take place at yearly intervals - Introduction of the concept of "risk assessment" 	<p>Duty to submit declaration and auditing</p> <p>Article 19- Associations are responsible for submitting a declaration regulating income and expense outputs and their activities to the local administrative authority by the end of April every year. The basis and procedures on regulation of declaration are arranged by regulation. When needed, public officers may be assigned by the Interior Minister or local administrative authority to audit whether the associations conduct their activities in accordance with the objectives stated in their statutes and</p>

		<ul style="list-style-type: none"> - Increased access to information by auditors from public organisations, legal and natural entities regardless of any existing laws - Preparation of a regulation on using technical expertise during audit 	<p>whether records and books of associations are kept in pursuant of the legislation. It is essential that these audits are carried out every year, and not in excess of three years, based on risk assessments. Law enforcement officers cannot be commissioned for this auditing. The auditing conducted by Ministry of Interior and local administrative authority shall be done during office hours. The associations shall be notified the auditing before at least twenty four hours. Except for the civil inspectors and the auditors of the associations of the Ministry of Interior, the amount of the fee to be paid to the public officers who will be assigned to make audits shall be determined jointly by the Ministry of Interior and the Ministry of Treasury and Finance and covered with the funds to be allocated in the budget of the Ministry of Interior. The procedures and principles regarding those to be assigned to make these audits shall be arranged in the regulation.</p> <p>Any information, document or record required by commissioned officers shall be shown and their request of entering the extensions and enterprises shall be met by the association officials during auditing.</p> <p>Those assigned to make audits shall have the authority to request relevant information and documents limited to the subject of the audit from public institutions and organizations, natural and legal persons, including banks. Those who are requested to provide any information and document shall not avoid providing them by relying on provisions of special laws.</p> <p>Without prejudice to provisions of special laws, if requested by the Ministry of Interior or the local</p>
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			<p>administrative authority, all kinds of facilities, establishments of the associations, and organizations with which they are in partnership, shall be audited by the relevant ministries and organizations limited to their tasks.</p> <p>During the audit, in cases where expertise or technical knowledge is required, an expert can be appointed by the Ministry of Interior, governorships and district governorships. The procedures and principles regarding the appointment of an expert shall be set forth in a regulation. The amount of the fee to be paid to the expert shall be determined jointly by the Ministry of Interior and the Ministry of Treasury and Finance and covered with the funds to be allocated in the budget of the Ministry of Interior.</p> <p>When any act constituting crime is established during auditing, the local administrative authority shall notify the public prosecution office immediately.</p>
Article 14	Amendment to the heading of Article 21 and a paragraph is added.	The heading is amended to cover aid received from abroad and sent abroad and a paragraph is added to regulate the obligation of notification regarding aid to be sent abroad.	<p>Aids Abroad</p> <p>Article 21- Associations may receive aid from persons, institutions and organizations abroad provided that they notify this to the local administrative authority beforehand. The way and content of notification is arranged by regulation. It is obligatory to receive monetary fund by means of banks.</p> <p>Aids to be given abroad shall be notified to the local administrative authority by the associations before the aid is given. The way and content of the notification and the procedures and principles regarding the aid to be given abroad shall be set forth in a regulation.”</p>

<p>Article 15</p>	<p>A new article is added as Article 30/A under “Suspension from office and temporary suspension of activities”</p>	<ul style="list-style-type: none"> - This new article grants the authorities (Ministry of Interior, governors and sub governors) power to suspend the office or the activities of an association in the event that a <u>prosecution is launched in relation to their association activities</u> against an individual in any organ of an association or against an employee of the association for crimes listed in the Law on the Prevention of the Financing of Terrorism, and crimes in the Turkish Criminal Code concerning production and trade of narcotics or stimulants or laundering proceeds of crime. - Appointment of trustees by court order was only defined to public benefit associations defined in Article 27⁸ of the Law is now extended to all associations through recourse to 	<p>“Suspension from office and temporary suspension of activities ARTICLE 30 / A - In the event a prosecution is launched in relation to their association activities against individuals in any organ of an association excluding its general assembly, or against relevant employees of the association for crimes under the Law on the Prevention of the Financing of Terrorism dated 7/2/2013 and numbered 6415, and crimes in the Turkish Criminal Code concerning the production and trade of narcotics or stimulants or laundering proceeds of crime,, those individuals or organs in which they are working may be suspended by the Minister of Interior as a temporary measure. In the event that the measure specified in the first paragraph is not sufficient and any delay may be harmful, the Minister of Interior may temporarily suspend the activities of the association and shall apply to the court immediately. The court shall make its decision on the</p>
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⁸ “Article 27- Public benefit associations are identified by Presidential Decree upon the proposal of the Ministry of Interior in consultation with relevant ministries and the Ministry of Finance. Public benefit status is granted to associations pursuing activities that yield socially beneficial outcomes to reach their aims at least for one year. The necessary documents, procedures and principles related to acquisition and loss of public benefit status are arranged by regulation. Public benefit associations shall be audited at least once in two years. Upon submission of the report prepared at the end of these inspections, if the members and personnel assigned in the organs of the associations serving for public benefit are determined to have committed offenses which require imposition of imprisonment(1), these persons may be dismissed from office by the Ministry of Interior as an interim measure. Simultaneously with the governor of the province in which the headquarters of an association is located notifying a decision of removal from duty, according the Turkish Civil Code, the magistrate courts where the headquarters of the association is located requests the appointment of a trustee. The court decides within a week first on how many among the association members will be removed and the appointment of a trustee, and in this decision the duties and powers of the trustee and the salary to be given to the trustee by the association. The duty of the trustee continues until the verdict becomes final at the end of the case. New trustees are appointed by the same procedure in place of trustees who leave office for various reasons.”

		Article 89 of the Turkish Civil Code ⁹ regulating “Dissolution by Court”	<p>temporary suspension of activities within forty-eight hours, and the trial shall continue in accordance with Article 89 of the Turkish Civil Code. The relevant parties may always request the lifting of a decision for temporary suspension of activities. The court shall decide on the application without delay.</p> <p>Article 27 and the relevant provisions of the Turkish Civil Code shall apply to replacement of organs that are temporarily suspended according to the first paragraph and clause (f) in the first paragraph of Article 32 and replacement of relevant individuals.”</p>
Article 16	Additional paragraphs are added to Article 32 under “ Penalties ”	<ul style="list-style-type: none"> - Additional administrative fines for breach of obligations defined in Article 9 (Internal Auditing) and Article 19 (Duty to submit declarations and auditing) and Article 21 (aid abroad) - Defining a monetary limit for actions exceeding 7000 TL which is subject to update every year - Those who work in the organs of the association contrary to the third paragraph of Article 3 of this law and the executives of the association who fail to terminate their duties within seven days despite a written warning shall be subject to an administrative 	<p style="text-align: center;">Penal Provisions</p> <p>Article 32- Those acting contrary to this Law are subject to the following penalties:</p> <p>a) An administrative fine, at the amount of five hundred Turkish lira, is imposed on those who establish associations although not entitled to do so; those who become a member of an association although his/her membership in associations is prohibited by the laws; the executives of the association who purposely admit persons to membership although his/her membership is prohibited by the laws or neglect to write off registration of such persons, or others who lost the credentials of a member.</p> <p>b) The executives of the association, who do not hold the meetings of the general assembly on time, hold the</p>

⁹Turkish Civil Code No: 4721; III. Dissolution by Court “ ARTICLE 89- If the aims of the association are not compatible with the legislation and ethics, the court may order the dissolution of the association upon request of the public prosecutor or any other concerned person. The court takes all the necessary measures during the proceeding of the case, including suspension of activity.”

		<p>fine of 1,500 TL. In the event that the duties of these persons in organs are not terminated within thirty days despite the second written warning made by the local administrative authority, an action shall be taken under Article 89 of the Turkish Civil Code.</p>	<p>meetings of the general assembly contrary to the laws and the Statute, or convene the meetings at a place other than the head office or any other place not indicated in the Statute shall be punished with an administrative fine of five hundred Turkish lira. Besides, the court may adjudicate cancellation of the general assembly meetings which are held contrary to the laws and the Statute.</p> <p>c). An administrative fine corresponding to twenty five percent of the amount transferred from abroad is imposed on the executives of the association if the foreign fund in the form of aid is not received via banks.</p> <p>d) Executives of the association who do not keep the statutory books or records of the association or use uncertified statutory books shall be punished by a fine of three months to one year in prison or a judicial money fine. Executives of the association and persons who are responsible for keeping the books shall receive an administrative fine of five hundred Turkish liras in case of not keeping these statutory books or records of the association properly. Persons who fundraise without authorization document and executives of the association who admit the person(s) to fundraise without an authorization document shall receive an administrative fine of one thousand Turkish liras.</p> <p>e) Unless the offenses do require heavier punishment, imprisonment from six months to two years or a punitive fine is imposed on persons involved in cheating during the elections and voting, counting and breakdown of votes in the general assemblies and other organs of the association; who falsify, destroy or hide the books or records.</p>
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f) The chair and members of the board of directors, or auditors and other personnel of the association who use or produce or pledge or sell, conceal, destroy, deny, falsify or modify a cash or a paper, bill or other properties with monetary value for their own benefit or for the benefit of others face punishment for dereliction of duty in the Turkish Penal Code. Also during the proceedings, the court may decide the defendants' temporary removal from the organs they serve on in the association.

g) An administrative fine, to the amount of one thousand Turkish lira, is imposed on those who open or operate representations or branches of foreign associations and nonprofit organizations which the head office is domiciled in abroad in Turkey without the permission of the concerned authorities; and those who establish cooperation with these associations or admit members to these associations. And representations and branches opened illegally are closed down.

h) An administrative fine, at the amount of five hundred Turkish lira, is imposed to the executives of the printing office who fail to fulfill the obligations stipulated in article 16.

i) An administrative fine, at the amount of one hundred Turkish lira, is imposed to those who do not meet the obligations set out in article 17.

j) A punitive fine at the amount of at not less than 100 day is imposed to those who intentionally submit wrong information in the statement mentioned in article 19.

k) Those who fail to comply with the obligations in the third paragraphs of Article 9 and 19, and those who fail to apply to the court that has jurisdiction over where the

headquarters of the association is located, to obtain a certificate of loss within fifteen days after becoming aware that the books and documents that have to be kept has become unreadable or have been lost due to a reason beyond their control, or those who fail to present such certificate during the audit shall be sentenced to imprisonment from three months to one year or shall receive an administrative fine. Those who violate the obligations in the first and second paragraphs of Article 21 shall receive an administrative fine from five thousand Turkish lira to one hundred thousand Turkish lira. "

l) An administrative fine, at the amount of five hundred Turkish lira, is imposed on executives of an association and representatives stipulated in article 24 who fail to fulfill the obligations stipulated in articles 22, 23 and 24 and to submit a statement as per article 19 of this Law.

m) An administrative fine, at the amount of five hundred Turkish lira is imposed on executives of an association who open the facilities mentioned in article 26 without permission, and the facilities which opened illegally may be closed with decision of the competent authority.

n) Unless the offenses require heavier punishment, a punitive fine at the amount of not less than 100 days, is imposed on executives of an associations who use the names in article 28 without permission and act contrary to the prohibitions stated in article 29, in spite of the warnings made in writing, and a decision is also taken for the dissolution of the association.

o) A punitive fine, at the amount of not less than 50 days is imposed on executives of an association who act contrary to the restrictions stipulated in paragraph (a) of

article 30. Unless the offenses require a heavier punishment, imprisonment from one year to three years is imposed on executives of an association who execute acts contrary to paragraph (c) of the same article, and a decision is taken for the shut-down of the facility.

p) Unless the offenses require a heavier punishment, imprisonment from one year to three years and a punitive fine at the amount of not less than 50 days is imposed on executives of an association who act contrary to paragraph (b) of article 30, and establish associations prohibited in the same paragraph, and a decision is also taken for the dissolution of the association.

r) An administrative fine, at the amount of one thousand Turkish liras is imposed on those who do not meet the obligations stipulated in article 31.

“t) Those who violate the fourth paragraph of Article 19 shall receive an administrative fine from five thousand Turkish lira to twenty thousand Turkish lira. However, in the event this violation occurs in a public institution and organization, upon notification by the authority authorized in accordance with the third paragraph of Article 33, disciplinary provisions shall be taken against those who work in the relevant public institution and organization, regardless of the nature of their employment according to disciplinary provisions, and the outcome shall be notified to the competent authority.

u) Executives of an association failing to perform any income, collection, expense, and payment transaction exceeding seven thousand Turkish Lira through banks or other financial institutions or the Post and Telegraph Corporation shall be assessed an

			<p>administrative fine for each transaction, up to 10% of the amount of the transaction. As of the beginning of each calendar year, the monetary limit stipulated in this paragraph shall be applied by increasing the monetary limit applied in the previous year by the revaluation rate determined and announced by the Ministry of Treasury and Finance in that year in accordance with the provisions of the repeated article 298 of the Tax Procedure Law dated 4/1/1961 and numbered 213. A fraction of a Turkish lira shall not be taken into account when calculating the monetary limits. "</p> <p>Those who work in the organs of the association contrary to the third paragraph of Article 3 of this Law and the executives of the association who do not terminate their duties within seven days despite a written warning shall receive an administrative fine of 1,500 Turkish lira. In the event that the duties of these persons in organs are not terminated within thirty days despite the second written warning made by the local administrative authority, an action shall be taken under Article 89 of the Turkish Civil Code. "</p> <p>-</p>
Article 17	Amendment to Article 36 under " Applicable Provisions "	- Application of the provisions of the law is revised to comply with the amendment made to Article 1.	<p>Applicable provisions</p> <p>ARTICLE 36 - The provisions of this Law shall be applied together with criminal provisions to the branches of associations, the parent organization of associations and foundations, branches or representation offices in Turkey of associations, foundations and other non-profit</p>

			<p>organizations whose headquarters are located abroad, and to their permits to operate or enter into cooperation in Turkey. In cases where there is no provision in this Law, the provisions of the Turkish Civil Code shall apply. "</p>
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GENERAL CONCERNS ABOUT LAW NO. 7262

The general reasoning explains the aim of the Law on the Prevention of the Financing of the Proliferation of Weapons of Mass Destruction as being “to catch up with international standards in the fight against the financing of terrorism and money-laundering offences in light of the 2019 report of the Financial Action Task Force-FATF and the UN Security Council (UNSC) resolutions.”

The law also introduces new restrictive and punitive criteria to Turkey’s existing Law on the Prevention of Financing of Terrorism no 6415. Furthermore, by means of introducing provisions which are not stipulated in the relevant International Convention on the Prevention of Financing of Terrorism (1999) and introducing provisions restricting even eliminating freedom of association, the scope of the Convention has been entirely exceeded.

While this aim may seem satisfactory within the scope of UN Security Council resolutions and FATF recommendations, the new law has the potential to permit serious violations of human rights.

Concern about the Anti-Terror Legislation

Among the most concerning aspects of the new law are the powers it provides to authorities to: remove individuals from their role in an association if they are prosecuted for certain crimes in the context of their work for the association; on the same basis to suspend an association’s activities; and even to take over the running of an association through the appointment of a trustee.

The new law refers to those crimes stipulated in the Law on the Prevention of the Financing of Terrorism, as well as crimes in the Turkish Penal Code concerning production and trade in narcotics and money-laundering of the proceeds of crimes. The reference to crimes listed in the Law on the Prevention of Financing of Terrorism is of greatest concern here because that law includes terrorism crimes within the scope of Turkey’s notorious Anti-Terror Law (no. 3713). In other words, though not stated directly, the new law is focused on restricting the right to association of individuals if they find themselves prosecuted for terrorism offenses under Turkey’s Anti-Terror Law.

Although some amendments made on the Anti-Terror legislation, the problem of vagueness continue and even the interpretation has been expanded by Emergency Decrees issued during the State of Emergency between 2016 and 2018.

It has been well-documented by the Council of Europe Commissioner of Human Rights, UN rapporteurs, the European Commission and other intergovernmental bodies and NGOs that in Turkey many executives and officials in associations working in particular on issues related to human rights have been subjected to court cases based on groundless terrorism charges. Among the more than 100.000 individuals in the last two years (2018-2019)¹⁰ people being prosecuted for membership of terrorist organisations are thousands of civil society activists, journalists, elected opposition politicians and members of professional organisations.

The definition of terrorism in Turkey’s Anti-Terror Law is wide and vague, and incompatible with international criteria as it was also detected by the Special Rapporteur of UN in 2006.

“90. (a) The definition of terrorist crimes should be brought in line with international norms and standards, notably the principle of legality as required by article 15 of ICCPR, including

¹⁰ Judicial Statistics 2018 and 2019 published by the Ministry of Justice. Access: [Adalet İstatistikleri Yayın Arşivi](#)

defining more precisely what crimes constitute acts of terrorism and confining them to acts of deadly or otherwise grave violence against persons or the taking of hostages.”¹¹

Moreover, the crime of “spreading terrorist propaganda” (Article 7/2 of the Anti-Terror Law) has been amended six times following rulings of the European Court of Human Rights. There are currently hundreds of applications before the European Court of Human Rights and Turkey’s Constitutional Court relating to vague, wide and disproportionate implementation of this provision. Similarly, in its recent rulings the ECtHR has found a recurring pattern of Turkey arbitrarily detaining people through the misuse of charges such as “aiding a terrorist organisation”, “committing crimes in the name of a terrorist organisation”, and “membership of a terrorist organization” in violation of the principle of legality (Article 7 of the European Convention on Human Rights). Thousands have been prosecuted and convicted under these charges for the exercise of rights protected under the European Convention.

Absence of the Definition of Risks

“The risk assessment” which was recommended by FATF is integrated into the Law on Associations without any definition.

Conclusion

Human rights groups in Turkey and internationally, as well as hundreds of other civil society organizations in Turkey, have therefore raised deep concerns that the authorities will potentially use provisions in the “Law to Prevent Financing of Proliferation of Weapons of Mass Destructive” to target associations they deem oppositional or critical of the government, to remove individuals from associations, to suspend association activity and even to take over associations through the appointment of trustees.

Since the new law makes it possible to seize the management of an association by prosecuting its executives on terrorism charges, the new “Law on the Prevention of Financing of Proliferation of Weapons of Mass Destruction” has rightly been criticized by NGOs in Turkey as constituting a major threat to the work and existence of Turkey’s civil society organizations.

¹¹ Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Addendum; MISSION TO TURKEY, A/HRC/4/26/Add.2 16 November 2006, page 22.