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Tyrkiet: Ny lov om terroristers reintegration i samfundet

Vedlagt fremsendes til orientering kopi af fax fra ambassaden i Ankara
vedrørende ovenstående emne.

Med venlig hilsen

SØREN KVISTGAARD RASMUSSEN

f/ Torsten Kjølby Nielsen



EMBASSY OF THE
REPUBLIC OF TURKEY
Ambassador

→ Uddannelseshøjtskolen

CS 20/8

18 August 2003

Dear Ambassador Søndergaard,

The Turkish Grand National Assembly has adopted the "Law on the Reintegration into Society" on July 29, 2003. The aim of this Law is the reintegration into society of the members of terrorist organizations established to commit acts of crime for political and ideological purposes and to reinvigorate and maintain social peace and solidarity.

The law, whilst not making reference to any specific terrorist organization, foresees a type of amnesty from which members of all terrorist organizations will benefit, within a period of 6 months. It will cover members of terrorist organizations who have or have not participated in terrorist acts and those who have assisted them. The law will not embody senior members of the terrorist organizations who have taken part in the highest administrative unit and have directed and commanded the organization with full authority over it.

There will be two types of beneficiaries from this law.

a) Those who will not be penalized at all:

In this case the law will apply to those members of terrorist organization who have not participated crimes by terrorist organizations and who surrendered without armed resistance, by themselves, through intermediaries or who have withdrawn from the organization with their own will.

b) Those terrorist organization members who have participated in crimes by the organizations but have, after the date this law entered into force, surrendered on their own will or through intermediaries without armed resistance or those who are found to have left the organization on their own will, shall be sentenced to reduced punishments in accordance with the nature and elements of the crime they have committed. Such

H.E. Ambassador Carsten Søndergaard
State Secretary
Royal Danish Ministry of Foreign Affairs

reduction will be twelve years instead of life imprisonment commuted from the death penalty, to nine years of imprisonment instead of life imprisonment and other verdicts shall be handed with a reduction to a fifth. The preconditions are that the terrorist organization members have to declare their wish to benefit from this law and that they should provide the Turkish authorities accurate information relevant to their position and activities within the organization, on the structure the activities and other suspects within and the crimes committed by the organization.

c) Those who are apprehended after the entry into force of this law, irrespective of their participation or non-participation in crimes committed by the terrorist organization prior to the entry into force of this law, will benefit from punishment reductions, if they declare that they wish to benefit from this law and if they provide information, consistent with their position and activities with the organization that will help the dissolution or unearthing of the terrorist organization or help the prevention of a crime planned to be committed by it, by providing informative documents and personal involvement.

As seen from its provisions, the law thus intends to reintegrate members of the terrorist organizations into the Turkish society, by giving this last opportunity of repentance to members who have been involved with them at different levels a) without having committed crimes b) having committed crimes or c) having been seized by enforcement authorities.

It is believed that this law will help to minimize terrorist activities in Europe and in the Middle East, if a comprehensive compliance can be assured with the assistance of all related countries.

In fact, up to present date, around 600 members of terrorist organizations have returned to Turkish authorities with the intention of benefiting from this law.

Being cognizant of the commitment of the Royal Danish Government to fight against terrorism, the Turkish government expects that the Danish authorities will assist the new reintegration process by not giving terrorists of Turkish nationality coming from Northern Iraq, transit or permanent visas to Denmark and by returning to Turkey those seized in Denmark.

Turkey considers this collaboration as constituting an important element of the existing close relationship between the two countries and hopes that it will assist also the efforts to ensure peace and stability in Iraq by the coalition partners.

Yours Sincerely

Fugen OK

LAW ON THE REINTEGRATION INTO SOCIETY

Law No.4959

Aim

ARTICLE 1.- The aim of this Law is the reintegration into society of the members of terrorist organizations established to commit acts of crime for political and ideological purposes, and to reinvigorate and maintain social peace and solidarity.

Scope and Definition

ARTICLE 2.- This Law applies to those:

a) members of terror organizations who surrender by themselves without armed resistance or through intermediaries, or those who are found to have left the organization of their own will or those apprehended who

1) have not participated,

2) have participated

in crimes committed by terrorist organizations;

b) who, aware of their situation and identity, have abetted members of the terrorist organization by providing shelter, food, weapons or ammunition, or who have assisted them by other means.

The term terrorist organization referred to in this Law comprises the organization, association, armed association, mob, armed band or secret alliance established with the aim of committing crimes for political and ideological purposes, as referred to in the Turkish Penal Code No.765 dated 1.3.1926 and specific laws involving penal provisions.

Those who cannot benefit from this Law

ARTICLE 3.- This Law does not apply to those:

a) who have taken part in the highest administrative unit, under whatever title, and directed and commanded the terrorist organization with an authority extending over the whole organization.

b) who, despite being within the scope of this Law, reject their previous statements before a judge, prior to the finalization of their verdict or who state that they do not wish to benefit from the provisions of this Law,

c) to whom the provisions of the laws no.3216 dated 5.6.1985, no.3419 dated 21.3.1990, no.3853 dated 26.11.1992, no.4085 dated 28.2.1995, no.4450 dated 26.8.1999 and no.4537 dated 24.2.2000 were applied and have re-committed the crimes referred to in the aforementioned laws

Punishment reduction, ill-intentioned statement and re-commission

ARTICLE 4.- Those members of a terrorist organization,

a) who have not been involved in crimes committed by the terrorist organization and who, after this Law has entered into force, surrendered by themselves, without putting up an armed resistance, or through intermediaries, or who are found to have left the organization of their own will, and who declare their intention to benefit from this Law shall not be handed a punishment.

b) who, prior to the entry into force of this Law, were involved in crimes committed by the terrorist organization but surrender after the entry into force of this Law, by themselves, without putting up an armed resistance, or through intermediaries, or who are

found to have left the organization of their own will, shall be sentenced, in accordance with the nature and elements of the crime they have committed, to twelve years instead of life imprisonment commuted from the death penalty; to nine years of imprisonment instead of life imprisonment, and other verdicts shall be handed with a reduction to a fifth, should they declare that they wish to benefit from this Law, if they are found to have provided accurate information, consistent with their position and activities within the organization, on the structure and activities of, and on the other suspects within and the crimes committed by the terrorist organization.

c) who, with no respect to their participation or non-participation in crimes committed by the terrorist organization prior to the entry into force of this Law, are apprehended after the entry into force of this law, if they declare that they wish to benefit from this Law, and should they provide information, consistent with their position and activities within the organization, that will help lead to the dissolution or unearthing of the terrorist organization or they help prevention of a crime planned to be committed by the terrorist organization by providing information and documents or with their personal involvement; shall be,

1) sentenced, in accordance with the nature and elements of the crime they have committed, to sixteen years instead of life imprisonment commuted from the death penalty; to fourteen years of imprisonment instead of life imprisonment; and other verdicts shall be handed with a reduction to a third, if they provide such information prior to the finalization of their verdict.

2) sentenced, in accordance with the nature and elements of the crime they have committed, to twenty two years instead of life imprisonment commuted from the death penalty; to nineteen years of imprisonment instead of life imprisonment; and other verdicts shall be handed with a reduction by half, if they provide such information after the finalization of their verdict.

If any statements made by those who want to benefit from this law are found to be ill-intentioned or their evidence fabricated, the suspects shall be sentenced to a minimum of an additional five years of imprisonment even if the act constitutes another crime, and they will not benefit from the provisions of this law.

The sentences shall be increased by half for those who, after having benefited from this Law, re-commit the crimes under the scope of this Law within the periods prescribed in Article 81 of the Turkish Penal Code.

The provisions prescribed herein also apply to those who, although not members of the terrorist organization themselves, have provided the members of the terrorist organization with weapons and ammunition. However, those who have provided only shelter or food, or aided in other ways the members of the terrorist organization, shall not be punished.

Protection measures

ARTICLE 5.- Without awaiting the finalization of the court verdict, the Ministry of Interior shall take, upon the request of those concerned, the necessary protection measures and all measures for the re-integration of the persons to whom the Article 170 and the last paragraph of the Article 171 of the Turkish Penal Code as well as the provisions of this Law apply as they are found to have provided information consistent with their position and activities within the organization.

The Ministry of Interior and all other relevant authorities have to comply with rules of confidentiality in the implementation of the measures taken. Those acting in breach of the provisions of this paragraph shall be punished from two to three years.

The persons liable for protection, and the types, forms as well as relevant expenditures as regards these measures shall be prescribed by a regulation issued by the Ministry of Interior. The relevant authorities and institutions shall carry out without delay the requests of the Ministry of Interior regarding protection measures.

The expenditures for the implementation of the protection measures shall derive from the funds made available to the relevant line of budget of the Ministry of Interior. The expenditures from this fund shall be approved by the Minister of Interior and in accordance with the principles outlined in Article 77 as amended of the Code of General Accounts No.1050 dated 26.5.1927. The provisions of the Law on the Public Tenders No.4734 dated 4.1.2002 does not apply to such expenditures.

The new identities of persons, whose identities have been changed in accordance with this article, shall be registered on their criminal records, which will be kept only in the central criminal records at the Directorate General of Criminal Records and Statistics of the Ministry of Justice.

The implementation of the protection measures shall be continued for those who benefited from the provisions of the Law No.3216 dated 5.6.1985 and the Law No.3419 dated 25.3.1988.

Investigation of the information provided

ARTICLE 6.- In cases where information is given to the authorized bodies and courts in accordance with this Law, these authorized bodies and courts shall immediately and in confidentiality relay such information to the Ministry of Interior.

As to the implementation of this Law, the relevant court shall investigate separately the accuracy of the information given and the statements made through the Ministry of Interior. In order that the information given and the statements made can be investigated, the court shall send a file, enclosing all statements by the suspect taken at all stages, to the Ministry of Interior. The Ministry of Interior shall, upon receipt of the court's written request, review the file as soon as possible and submit a report back to the court with its justifications.

When deemed necessary for the investigation of the accuracy of the provided information, the convicts or the detainees, subject to their own consent, can be taken, upon an application by the investigating authority and a request by the prosecutor, from their institutions of detention or prison by the decision of a local court. The period of remaining under custody shall be determined by the court in accordance with the nature of the work. In each case, a judge shall hear the convict or the detainee. However, this period may not exceed four days in each individual case and may not exceed an overall of fifteen days. This period is counted as passed in service of conviction or detention. The physical conditions of the convicts or the detainees shall be verified by a medical report when they leave and return to the prison or house of detention. A copy of all documents relating the actions taken during the custody shall be furnished to the Ministry of Interior to be kept in the file of the relevant person.

In cases where this Law applies, the court may decide, if it deems necessary, to postpone the execution of the sentence.

A copy of the verdict on those who benefit from this Law shall, upon its finalization, be sent by the court to the Ministry of Interior.

During the procedures regarding persons who fall within the scope of the Article 7 of the Law on Combating Profit-Seeking Crime Organizations No.4422 dated 30.7.1999 and to whom protection measures are applied, the relevant witness protection units shall investigate whether these persons are within the scope of this Law.

Annulled articles

ARTICLE 7.- The Law on the Provisions to be Applied to Certain Perpetrators of Crimes No.3419 dated 25.3.1988 has been annulled, together with its additions and amendments. References in other laws to the annulled Law No.4319 dated 25.3.1988 shall be considered to have been made to this Law.

PROVISIONAL ARTICLE 1.- The provisions of this Law also apply to those members of the terrorist organization who are found to have left the organization of their own

will or surrendered or apprehended prior to the entry into force of this Law, or who applied, within six months from the date of entry into force of this Law, to the authorities and courts stating that they wish to benefit from the provisions of this Law, if they have complied or comply with the conditions.

Entry into force

ARTICLE 8.- This Law enters into force on the date of its promulgation and the first and the last paragraphs of the Article 4 ceases to have effect six months after the date of promulgation.

Execution

ARTICLE 9.- The Council of Ministers executes the provisions of this Law.

5/8/2003

