



**SCREENING CHAPTER 24
JUSTICE, FREEDOM AND SECURITY**

**AGENDA ITEM 8: JUDICIAL COOPERATION
IN CRIMINAL MATTERS**

**Country Session: Republic of TURKEY
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JUDICIAL COOPERATION AND EXTRADITION PROCEDURE

Sources of Law on International Judicial Cooperation in Criminal Matters:

Since Turkey has adopted the continental legal system, the main source of law is legislative statutes.

Legislative statutes include the Constitution, codes and laws, international agreements, decree-laws, regulations, by-laws and circulars. Other sources of law are case law, doctrine, customary law and general principles of law.



The relevant Turkish legislation on judicial cooperation in criminal matters:

I- Constitution:

In the Constitution, there are two provisions related to judicial cooperation in criminal matters.

Article 90 regulates the relationship between the laws and international agreements, inter alia on judicial cooperation in criminal matters.

Under Article 90, international agreements duly put into effect carry the force of law.



In accordance with Article 90, once an international agreement has been ratified, it becomes an internal part of the national legal system and can be directly enforced.

No appeal to the Constitutional Court can be made with regard to these agreements on the ground that they are unconstitutional.

Article 38 of the Constitution provides that citizens shall not be extradited to a foreign country on account of an offence except under obligations resulting from being party to the International Criminal Court.



II- Code and Laws:

There is no specific law on judicial cooperation in criminal matters but the following laws include some provisions on judicial cooperation in criminal matters:

Turkish Criminal Code (TCC), Law no: 5237, dated September 26, 2004, Article 18 governs extradition:



Extradition

- Article 18 (1) stipulates that a foreigner about whom a prosecution is initiated or who is convicted because of an offence committed or alleged to have been committed in a foreign country may be extradited on a request for the purpose of carrying out prosecution or executing the sentence. However, extradition request is refused if;
 - not an offence under the Turkish Law,
 - an offence of political or military nature or an offence related to expression,



-against the security of Turkey or committed to the detriment of a Turkish citizen or a legal person established under Turkish law,

-under the jurisdiction of Turkey,

-expired period of limitation or subject to amnesty,

Other grounds for refusal:

18(2) Citizens shall not be extradited to a foreign country except for the obligations arising from being party to the International Criminal Court.



18(3) Extradition request shall not be accepted if there is strong suspicion that the person will be tortured or inhumanely treated or punished or prosecuted because of his political opinions or his membership to a particular social group, nationality, religion or race in case of his extradition to the requesting State.



Extradition requirements

18(4) Felony court of the place where the person is present shall decide on the extradition request in accordance with this article and the provisions of the relevant international conventions to which Turkey is party.

This decision may be appealed.



- 18(5) If the court finds the extradition request admissible, the execution of this decision is at the discretion of the Council of Ministers.
- 18(6) Application of protective measures for requested person may be held under the relevant international conventions to which Turkey is party.
- 18(7) In case the extradition request is found admissible, detention order may be issued or other protective measures may be taken under Code on Criminal Procedure.
- 18(8) When extradition is granted, requested person shall be tried or the decision implemented only for the offences based on the extradition decision.



b) Law on the Organization and Functions of the Ministry of Justice (Law No. 2992):

Article 13/A of this Law provides that the Directorate General for International Law and Foreign Relations is the Central Authority for the execution of all kinds of judicial assistance requests in criminal matters.



III- International Agreements:

The main sources of international judicial cooperation in criminal matters in Turkey are the bilateral agreements between Turkey and other countries and the multilateral agreements to which Turkey is party.

Multilateral Conventions of the Council of Europe and United Nations to which Turkey is party:



Council of Europe Conventions

No	Title	Opening of the treaty	Entry into force	Date of ratification	Entry into force
1	<u>European Convention on Extradition</u>	13/12/1957	18/4/1960	18/11/1959	26/11/1959
2	<u>European Convention on Mutual Assistance in Criminal Matters</u>	20/4/1959	12/6/1962	18/3/1968	16/10/1968
3	<u>European Convention on the International Validity of Criminal Judgments</u>	28/5/1970	26/7/1974	1/3/1977	1/6/1977
4	<u>European Convention on the Transfer of Proceedings in Criminal Matters</u>	15/5/1972	30/3/1978	1/3/1977	27/12/1977
5	<u>European Convention on the Suppression of Terrorism</u>	27/1/1977	4/8/1978	27/10/1980	26/3/1981
6	<u>Second Additional Protocol to the European Convention on Extradition</u>	17/3/1978	5/6/1983	8/5/1991	8/5/1991
7	<u>Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters</u>	17/3/1978	12/4/1982	18/5/1987	18/8/1987
8	<u>Convention on the Transfer of Sentenced Persons</u>	21/3/1983	1/7/1985	26/3/1987	26/6/1987
9	<u>Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime</u>	8/11/1990	1/9/1993	16/6/2004	1/2/2005



United Nations Conventions

No	Title	Date of ratification	Entry into force
	Single Convention on Narcotic Drugs, 1954. (New York, 30 March 1954) amending with Protocol amending the Single Convention on Narcotic Drugs, 1954. (Geneva, 25 March 1972)	27/12/1966	27/3/1967
	Convention on psychotropic substances. (Vienna, 21 February 1971)	27/10/1980	22/2/1996
	United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. (Vienna, 20 December 1988)	22/11/1995	2/4/1996
	United Nations Convention against Transnational Organized Crime (New York, 15 November 2000)	30/1/2003	25/3/2003
	International Convention for the Suppression of the Financing of Terrorism (New York, 9 December 1999)	10/1/2002	28/7/2002
	International Convention for the Suppression of Terrorist Bombings (New York, 15 December 1997)	11/1/2002	30/6/2002



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Countries Which Turkey Has Concluded Agreements on MLA and Extradition	MUTUAL ASSISTANCE	EXTRADITION
ALGERIA		X
AUSTRALIA		X
BOSNIA-HERZEGOVINA	X	X
CHINA	X	
EGYPT	X	X
INDIA	X	
IRAN	X	X
IRAQ	X	X
JORDAN	X	X
KAZAKHSTAN	X	X
KUWAIT	X	X
LEBANON	X	X
LIBYA		X
MOROCCO	X	X
PAKISTAN		X
SYRIA	X	X
TAJIKISTAN	X	X
TURKISH REPUBLIC OF NORTHERN CYPRUS	X	X
TUNISIA	X	X
UNITED STATES *	X	X
UZBEKISTAN	X	x

* Published in the OJ 17166 of 20.11.1980 and entered into force on 01.01.1981



If there is no bilateral agreement or multilateral convention between Turkey and the related country, judicial cooperation in criminal matters is governed by international customary law and principle of reciprocity.



IV- Circulars

Implementation of judicial cooperation in criminal matters is governed by the circulars issued by the Directorate General for the International Law and Foreign Relations.

As the recent TCC and CCP entered into force on 1 June 2005, a new circular no: 69 and dated 1 January 2006 has been issued. The following issues are covered in this circular:



- Service of documents and rogatory letters including mutual legal assistance on the enforcement of the decisions on seizure and confiscation,
- Extradition requests for search of offenders with Interpol Red Notice,
- Transfer of sentenced persons,
- Researches of addresses abroad and provision of birth and death certificates and judicial records of foreign nationals.



JUDICIAL COOPERATION IN PRACTICE

Extradition:

Extradition procedure has a mixed nature, namely, it requires involvement of both judicial and administrative bodies:

- The Ministry of Justice makes an initial assessment whether the extradition documents are in conformity with the relevant international conventions or bilateral agreements.
- Criminal Court of Peace decides on the provisional arrest of the concerned person for extradition purposes.



- Felony Court of the place where the person claimed is present decides on the extradition request in accordance with Article 18 of the TCC and the provisions of the relevant international conventions,
- Court of Cassation decides on the appeals made to the felony court,
- The Council of Ministers decides on the execution of decision of the court,
- Council of State examines the challenges lodged against the decision of the Council of Ministers.



Administrative Capacity of the Ministry of Justice for International Law

Directorate General for International Law and Foreign Relations consists of 3 main sections. 35 Judges serve including the Director General, 3 Deputy Directors General, Heads of Department and 70 administrative staff.

The Criminal Section deals with extradition, mutual legal assistance and transfer of sentenced persons.

The Civil Section deals with mutual legal assistance, child abduction and maintenance obligations.



The Human Rights Section deals with the human rights cases.

Most of the judges at the Directorate General speak several foreign languages and have master degrees. In 2005 the Directorate General dealt with approximately 110,000 communications.



EUROPEAN ARREST WARRANT

RELEVANT TURKISH LEGISLATION:

- 1-The Constitution (Article 38/last paragraph)
- 2-European Convention on Extradition (Paris, 13.12.1957).
- 3-Second Additional Protocol to the European Convention on Extradition (Strasbourg, 17.3.1978).
- 4-Bilateral agreements on extradition
- 5-Turkish Criminal Code (Law no: 5237) (Article 18)
- 6-Code on Criminal Procedure (Law no: 5271)
- 7-Circular No: 69 issued by the Directorate General for International Law and Foreign Relations on the points that shall be taken into account by the judicial authorities on international cooperation in criminal matters.



- Article 38/last paragraph of the Constitution provides that citizens shall not be extradited to a foreign country on account of an offence except under obligations resulting from being party to the International Criminal Court.

- Article 18 of Turkish Criminal Code as mentioned above includes the provisions of the offences which shall not be subject of extradition, on the competent court , on provisional arrest, on the rule of speciality, on the authority which will give the final decision on extradition.



Participation to Eurojust and EJM Activities

Within the context of the aim; extending the new cooperation units Eurojust and EJM to the benefit of more judicial systems, Turkey has also participated in activities of Eurojust and EJM.

It should be noted that candidate status allows this participation to some extent.



Turkey believes in the importance of developing means and ways of criminal judicial cooperation.

Upon the official invitation; the Ministry of Justice has appointed two contact points in 2001, since the very beginning of these formations.

Naturally, legal status of contact points is not the same as for the contact points of the Member States.



Currently, Turkish contact points are responding to the requests of their colleagues received from various EU countries.

They reply to e-mails, phone calls or fax messages in a cooperative manner and are trying to facilitate the execution of extradition or MLA requests of their colleagues from EU.



As examples to the joint activities;

-In 2002, representatives from Turkey participated in a meeting of Eurojust involving the Netherlands, Belgium, Italy and Turkey regarding a transnational drug trafficking case.

-In May 2004 Turkey's contact point to Eurojust participated in the Eurojust meeting on human trafficking and migrant smuggling and attended coordination meetings with Italy, Greece, Romania and the United Kingdom on a specific human trafficking case and afterwards reported the meeting to the Istanbul Public Prosecutor's Office and supplied information to the participants of the meeting.



-In October 2005 two public prosecutors from Edirne attended a Eurojust coordination meeting in The Hague with representatives from France, the United Kingdom, Italy and Greece regarding an organized crime case on migrant smuggling.

-Turkey has also contributed in the preparation of EJM Solon Project in which all the legal equivalents of criminal cooperation matters have been prepared both in Turkish and English.



Main Achievements :

Turkish contact points are part of the confidential information network system which enables fast and daily information exchange.

It is of great importance for Turkey to have necessary country information on particular topics. Turkey has benefited from the advantage of mutual good relations in gathering required information.

In 2004, password and username have also been given to the Turkish contact points, hence, access to electronic system tools is ensured.



NE BIS IN IDEM

Article 223 of Code on Criminal Procedure regulates that the case shall be rejected if for the same act and about the same suspect there is a previous case or judgment.

This provision is valid for domestic law. According to the Turkish Criminal Code in determination of application in respect of place, *ne bis in idem* principle is not applicable for crimes that are committed within the jurisdiction of Turkey.



Article 9 of the Criminal Code reads: “A person who has been sentenced in a foreign country in respect of an offence he/she has committed in Turkey shall be retried in Turkey”.



According to Article 12 of the TCC a foreigner who had committed a crime against Turkey in another country and if this crime requires minimum sentence of one year imprisonment, he/she shall be sentenced according to Turkish law, but the accused should be in Turkey. Application of this rule is subject to a request of the Minister of Justice.

Paragraph 4 of Article 12 arranges that a foreigner who had been convicted for a crime against Turkey or his/her case or sentence has been dropped or acquitted shall be retried in Turkey upon a request of Minister of Justice.



Article 13/3 of the TCC stipulates that upon the request of the Minister of Justice, a person shall be retried in Turkey for the offences such as international crimes and certain offences against the state, even if he/she had been acquitted or convicted by a foreign judgment.



Article 16 of TCC requires that the time spent in custody, on remand or serving a prison sentence in a foreign country in respect of an offence, irrespective of where the offence was committed, shall be deducted from the penalty imposed in Turkey in respect of the same offence.

Article 188/2 of TCC sets out that in case of punishment of a crime relating to importation of drugs in another country, the executed part of the penalty shall be deducted from the penalty which shall be imposed by Turkish court owing to exportation of same drugs.



Turkey is party to the following Council of Europe Conventions:

- European Convention on the International Validity of Criminal Judgments.
- European Convention on the Transfer of Proceedings in Criminal Matters.

Ne bis in idem principle is applicable under certain conditions in accordance with the provisions of these Conventions:

- completion or continuation of execution of the sentencing judgment in one of the Contracting State,
- sentence should not have been subject to amnesty or fall under period of limitation.



SEIZURE OF PROPERTY AND EVIDENCE AND FINANCIAL PENALTIES

Article 123 of CCP arranges seizure and precautionary measures of property and income.

Article 127 of CCP stipulates that the competence to issue any seizure order for the purpose of either securing evidence or subsequent confiscation of related property belongs to courts and in case of emergency to public prosecutors and in cases where there is no opportunity to inform the public prosecutor, the law enforcement officer may carry out the seizure upon a written order of the chief security officer. However, in the latter cases, the decision is submitted to the approval of the competent judge within 24 hours.



Additionally, Article 128 of CCP sets out the rules for seizure of immovable property, rights and credits.

Types of seizure:

- Seizure at the post office (Article 129)
- Search and seizure at lawyers' offices (Article 130)
- Appointment of curator for the company management (Article 133)
- Search of computers and computer programmes and archives, copying and provisional seizure (Article 134)



Turkey is also party to the main Conventions regarding search, seizure and confiscation;

- European Convention on the International Validity of Criminal Judgments,
- Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime,
- United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.
- UN Convention on Fight Against Transnational Organized Crime.



JUDICIAL COOPERATION IN CRIMINAL MATTERS WITH NORWAY, ICELAND AND THE US

Turkey has concluded two bilateral agreements on January 1981 with the US on extradition and mutual legal assistance, and on the validity of criminal judgments.

There is no bilateral agreement with Iceland and Norway on extradition and mutual assistance.

However, since these two countries are party to the Council of Europe's multilateral instruments in the area of judicial cooperation in criminal matters, namely 1957 European Convention on Extradition and 1959 European Convention on Mutual Assistance in Criminal Matters, Turkey exercises judicial cooperation in criminal matters with Iceland and Norway on the basis of these multilateral agreements concluded in the framework of the Council of Europe.



DISQUALIFICATIONS

Driving Disqualifications under Turkish Legislation

The following provisions of the Road Traffic Law (RTL), No:2918 set out conditions leading to withdrawal or suspension of a driving licence:

- Article 41(e) concerns restrictions on right to drive on the basis of conviction for certain type of offences covered by the TCC, Anti-Smuggling Law, the Law on Fire Arms and Knives and Other Tools.
- Article 45 envisages the withdrawal of the driving license by traffic officials in case of a negative change in the physical and mental state of drivers which will prevent them from operating a vehicle safely.



- According to Article 48, driving a vehicle under the influence of alcohol or other substances shall result in withdrawal of driving licence.
- Driving a vehicle faster than the permitted speed under conditions set out by Article 51 (2-A) shall lead to withdrawal of driving licence.

Withdrawal of the driving licence as a safety measure under the terms of TCC

- In accordance with Article 53(6) of TCC, the competent court shall impose withdrawal of driving licence from 3 months to 3 years in case of conviction of an offence of operating a motor vehicle carelessly or without exercising due care.



CRIMINAL RECORDS INFORMATION

As a party to 1959 Convention on MLA, Turkey exchanges information on criminal convictions with other parties under Articles 13 and 22 of the Convention.

Law on Criminal Records (Law no: 5352 dated 1.6.2005):

- All criminal records of Turkish nationals who are convicted in Turkey or abroad and foreigners who have committed a crime in Turkey are kept by the DG for Criminal Records of the Ministry of Justice (Article 2).
- Criminal records information shall be given to other states under the principle of reciprocity (Article 7/2).



MUTUAL LEGAL ASSISTANCE

Turkey does not have any legislation that specifically deals with MLA. Bilateral and multilateral conventions are the main instruments in MLA practice in Turkey.

The Ministry of Justice plays a central role. Directorate General for International Law and Foreign Relations of the Ministry as a central authority receives the requests for mutual legal assistance and then transmits them to the competent authorities for execution.

According to the general legal system, the competent authority may be either the court or the public prosecutor, depending on the type of the assistance sought.



Likewise, the competent authority has discretion to execute the request to decide on the presence of foreign officials, according to the provisions of Article 4 of the 1959 MLA Convention.

Where urgent requests are received by Turkey under Article 15 of the 1959 Convention (i.e. via Interpol), the Ministry of Interior transmits the request to the Ministry of Justice for execution.



Technological advances in the provision of mutual legal assistance

Under the terms of new Code on Criminal Procedure , Turkish courts may hear experts and witnesses or question the accused by using audio and visual communication technology.

Hearing the experts and witnesses through the visual and sound communication technology

Article 180 (5) ...If there is a suitable infrastructure, the judge shall hear the expert or the witness via sound and visual recording system.



Questioning the suspect or accused by using visual and sound communication technology

Article 196 (4) ...If there is such a technical opportunity, the court shall question a suspect or an accused by using visual and sound communication technology.

In practice, the Turkish Central Authority (DG International Law) uses technical facilities of computer network systems with the contact points of other central authorities, especially the UK, the Netherlands, the US and Switzerland.



Controlled Deliveries

The Law on Prevention of Money Laundering

Articles 10, 11, 12 and 13 regulate the controlled delivery.



INTERCEPTION OF TELECOMMUNICATIONS

Detection, monitoring and recording of communication (Article 135 of CCP)

(Article 135/1 of CCP) If during a crime investigation, there is strong suspicion that a crime has been committed and there are no other means of collecting evidence, with the decision of the judge or where a delay is detrimental with the decision of the public prosecutor, the communications of the suspect or the accused may be detected, monitored or recorded by means of telecommunications.



In such a case, the public prosecutor shall immediately submit his decision to the judge for approval and the judge shall decide on this matter within twenty four hours at the latest.

Upon expiry of this period or if the judge denies approval, such measure shall be lifted by the public prosecutor immediately.



(Article 135/2 of CCP) The suspect's communication with persons who are entitled to refrain from acting as a witness shall not be recorded. If such a situation is detected after the recording, the recorded material shall be destroyed immediately.



(Article 135/3 of CCP) In the decision to be taken in accordance with paragraph one, the type of the crime attributed, the identity of the person for whom such a measure is to be implemented, the type of communication means, telephone number or the code that allows for the detection of the communication line, the type of measure, its scope and duration shall be stated. Such a measure can be ruled for maximum three months, however this period can be extended only once. With regard to offences committed for the purposes of criminal organization if it is considered necessary by the judge, this period may be extended further for numerous occasions but not longer than one month.



(Article 135/4 of CCP) In order to apprehend the suspect or the accused, the place of the mobile phone can be detected by a judge's decision or where a delay may be detrimental by the public prosecutor's decision. In the decision taken for this purpose, the number of the mobile phone and the duration of the detection process shall be indicated. Detection can be performed for a period of maximum three months, however this period can be extended only once.

(Article 135/5 of CCP) The decision and the actions taken according to the provisions of this Article shall be kept confidential during the period in which this measure is implemented.



(Article 135/6 of CCP) The provisions of this article shall only apply in the case of the offences listed below :

a) In Criminal Code ;

- Smuggling of migrants and trafficking in human beings (Articles 79, 80),
- Deliberate murder (Articles 81, 82, 83),
- Torture (Articles 94, 95),
- Sexual assault (excluding the first paragraph, Article 102),
- Sexual abuse of children (Article 103),
- Manufacturing and trafficking of drugs and stimulants (Article 188),
- Counterfeiting of money (Article 197),



- Establishing an organization with the aim of committing crimes (excluding paragraphs two, seven and eight, Article 220),
- Prostitution(Article 227, paragraph three)
- Corruption in tenders (Article 235),
- Bribery (Article 252),
- Laundering the proceeds obtained through criminal activity (Article 282),
- Membership of an armed organization (Article 314) or provision of arms for such organizations (Article 315),
- Espionage and crimes against state secrets (Articles 328, 329, 330, 331, 333, 334, 335, 336, 337)



- b) Arms smuggling as defined in the Law on Fire Arms and Knives and Other Tools (Article 12)
- c) Embezzlement mentioned in Article 22, paragraphs three and four of Law on Banks
- d) The crimes which necessitate imprisonment according to the Anti-Smuggling Law.
- e) The crimes defined in Articles 68 and 74 of the Law on the Preservation of Cultural and Natural Heritage.



(Article 135/7 of CCP) Apart from the principles and procedures laid down in this Article, no one can monitor or record the communication of another person through telecommunications.



PROTECTION OF ENVIRONMENT THROUGH CRIMINAL LAW

Relevant Provisions of Turkish Criminal Code

Intentional Offences

(Article 181) A person who intentionally discharges waste or remnants into soil, water or air contrary to technical proceedings as determined in relevant laws and causes damage to the environment shall be sentenced to 6 months to 2 years of imprisonment.

A person who imports waste and remnants without authorization shall be sentenced to 1 to 3 years of imprisonment. Sentences double in case of lasting effects of the waste and remnants in the soil, air or water.



At least 5 years of imprisonment and a judicial fine that is calculated over a maximum of one thousand days shall be applied to a person who unlawfully discharges waste and remnants which causes or are likely to cause hardly curable damages to the health of human beings, animals and plants.

Special security measures shall be applied to legal persons for the above-mentioned offences.



Article 60 of the Criminal Code envisages the measures for legal persons. According to this provision it is possible to cancel the work permit of the legal person.

Besides, provisions on confiscation are also applied for the legal persons.



Negligent Offences

(Article 182) The offences enumerated in Article 181 are also punishable when committed due to negligence.

The sentences for negligent offences against environment vary from fines to 5 years imprisonment depending on their gravity.



Ionizing Radiation

(Article 172) One who exposes any other person to radiation in order to endanger his/her health shall be sentenced to 3 to 15 years of imprisonment.

If the above-mentioned offence is committed against persons of indefinite number, the sentence shall not be less than 5 years.



Entry into force:

Article 344 of Turkish Criminal Code stipulates that Articles 181/1 and 182/1 of the Code shall enter into force 2 years following their publication in the Official Gazette (dated 12 October 2004).



Ship-source pollution

Although Articles 181 and 182 of Turkish Criminal Code envisages penalties for intentional and negligent pollution of water, there is no specific provision in the Code on ship-source pollution.



Law on Environment (Law No: 2872)

Article 22 of the Law on Environment regulates a wide range of administrative fines for ships which cause pollution in Turkish territorial seas, lakes and rivers. Fines are determined according to the sizes of the ships.

The maximum fine is approximately € 45.000. The fine is doubled in case of recurrence of the offence.



Article 28 of Law on Environment arranges general rule on liability for pollution.

According to Article 28, those who pollute the environment and give hazardous damage shall be liable for the pollution and damage they cause. They have also liability to compensate the damages in accordance with the general provisions of Turkish Law.



RIGHTS OF VICTIMS IN CRIMINAL PROCEEDINGS

Code on Criminal Procedure includes a specific section concerning the victims' rights (Articles 233-236).

(Article 234/1 of the CCP) Victims have the right to request collection of evidence and a copy of any document related to a pending prosecution from public prosecutors, to appeal against decisions of non-prosecution given by prosecutors which are sent to all victims whether they made complaints regarding the crime, to be informed of date of trial, to join the case as a party; and to appeal against decision on condition that they have joined the case.



(Article 234/2 of the CCP) Victims may ask to appoint a lawyer to represent them at the prosecution or trial stage. Where they are under the age of 18, or deaf or mute, or are not in a state in which they can explain their intentions, and are not represented by a lawyer; the lawyer is appointed without their consent.

(Article 234/3 of the CCP) In order to enable victims to use these rights effectively and to prevent loss of rights due to not knowing their rights, under Article 234 of the CCP, the victims shall be reminded of their rights and this point is recorded at the prosecution or trial stage.



(Article 202/1 of the CCP) If a victim does not know Turkish sufficiently to present his/her case, fundamental points regarding claim and defence in a trial are translated by means of an interpreter appointed by the court.

(Article 202/2 of the CCP) Fundamental points regarding claim and defence in a trial are explained to handicapped victims in a way that they are able to understand them.



(Article 236 of CCP) The victim whose psychology is badly affected by the crime may be heard only once at the pending prosecution or the trial related to the crime, and during the examination of juvenile victims or other victims, an expert in psychology, psychiatry, medicine, or pedagogy has to be available.

(Article 253 of the CCP) Through plea bargaining adopted by the Code, on condition that offenders compensate for the whole or main part victims' loss and they reach an agreement, and this situation is confirmed by prosecutors, then the case drops.



TRANSFER OF SENTENCED PERSONS

Legal basis of the proceedings in relation to transfer of sentenced persons are the Law on the Execution of Convictions Given by the Foreign Courts concerning Turkish Nationals and Convictions Given by the Turkish Courts concerning Foreign Nationals” (Law No:3002) along with multilateral conventions such as “Convention on the Transfer of Sentenced Persons” and bilateral agreements.

In case of non existence of an agreement, principle of reciprocity is applied.



Upon the approval by the Minister of Justice on the transfer of the concerned person, a decision is taken by the competent Ankara Court on the conversion of the foreign judgment. Afterwards, the surrender procedure is carried out in collaboration with the Ministries of Justice and Interior.



The Law on the Execution of Sentences and Security Measures came into force on 1 June 2005.

In Article 107, conditional release of the convicted persons is described. According to this Article, offenders who have served two thirds of an imprisonment may conditionally be released. The period of imprisonment to be served for conditional release is 24 years for life imprisonment and 30 years for aggravated life imprisonment.