

The Law of Turkmenistan On the Fight Against Terrorism

The present Law specifies the legal and organizational foundation of the fight against terrorism in Turkmenistan, establishes the system for the work and coordination of the activities of state agencies, organizations regardless of the form of ownership and non-governmental organizations in the fight against terrorism, and sets out the rights, duties and guarantees of citizens engaged in combating terrorism.

CHAPTER I. GENERAL PROVISIONS

Article 1. Basic terms used in the present Law

The following terms shall be used in this Law:

1) "terrorism" - policy and tactics of actions, with the aim to seizing power or changing forcibly the constitutional order of the country, violating public security, intimidating the population, creating circumstances of chaos or influencing the adoption by state organs of decisions advantageous to terrorists, or satisfying terrorists' illegal material or (and) other interests;

2) "terrorist activity" - is activity that includes:

- the dissemination or propaganda of the terrorist ideology;
- the organization, planning, preparation, and implementation of a terrorist action;
- the incitement to terrorist act, to violence against individuals or organizations, or to the destruction of material objects for terrorist purposes;
- the organization of an illegal armed formation, criminal association (criminal organization), or an organized group in order to perpetrate a terrorist act, and participation in such act;
- the recruitment, armament, training, and use of terrorists;
- the funding of a known [the perpetrator knows that the organization is acknowledged to be terrorist - note by translator] terrorist organization, a terrorist group, a terrorist or other assistance to them.

3) "international terrorist activity" - terrorist activity, which is carried out:

- by a terrorist, a group of terrorists or a terrorist organization on the territory of more than one state or that is damaging the interests of more than one state;
- by citizens of one state against citizens of another state or on the territory of another state;
- in cases where both the terrorist and the victim of terrorism are citizens of the same state or different states but the crime is committed outside the territories of these states;

4) "terrorist action" is the direct commission of terrorist crimes in the shape of explosion, arson, or the use of or threat to use nuclear explosive devices or radioactive, chemical, biological, bacteriological, explosive, toxic, noxious, aggressive or poisonous substances; the destruction, damaging, or seizure of vehicles, material and other objects; an infringement on the life of the President of Turkmenistan, other statesman or a public figure, representative of national, ethnic, religious, or other population groups, on representatives of foreign states or staffers of international organizations enjoying international protection,

and also on the offices or vehicles of persons enjoying international protection; the taking of hostages and kidnapping; the creation of danger of harm to the life, health, or property of a nonspecific range of people by creating the conditions for accidents and man-made disasters or the real threat of creation of such danger; the dissemination of threats in any form and by any means; other actions aimed at creating danger to life and health of people; significant damage to property, or other socially dangerous consequences;

5) "terrorist crimes" are crimes envisaged by Articles 130, 170, Paragraph 1 of the Article 176, Articles 271-273 of the Criminal Code of Turkmenistan. Other crimes envisaged by the Criminal Code of Turkmenistan may be categorized as terrorist crimes if they are committed for terrorist purposes;

6) "terrorist" is a person participating in terrorist activity in any form;

7) a "terrorist group" is a group of persons united with an aim to carrying out terrorist activity;

8) a "terrorist organization" is an organization created with a view to carrying out terrorist activity or considering the use of terrorism possible in its activity. An organization is deemed to be terrorist if at least one of its subdivisions or a member of this organization engages in terrorist activities with the knowledge of at least one of the organization's steering bodies;

9) the "fight against terrorism" is activity to prevent, uncover, stop, and minimize the consequences of terrorist activity;

10) a "counterterrorist operation" is special measures aimed at stopping a terrorist action, ensuring the security of individuals, neutralizing terrorists, and minimizing the consequences of a terrorist action;

11) a "counterterrorist operation zone" is the particular areas of land or water, vehicle, building, installation, or premises and the adjoining territories or water areas within which the aforementioned operation is carried out;

12) a "hostage" is an individual seized and (or) detained with a view to compelling a state, an organization, or individuals to carry out an action or refrain from carrying out an action as a condition for the release of the person who is being detained.

Article 2. Legal basis of the fight against terrorism

The legal basis of the fight against terrorism shall be formed by the Constitution of Turkmenistan, the decisions of Khalk Maslakhaty of Turkmenistan, the Criminal Code of Turkmenistan, the present Law, other laws of the Republic of Turkmenistan, Decrees and Regulations of the President of Turkmenistan, generally recognized principles and norms of international law, Turkmenistan's international treaties and other legal acts of relevant state organs, adopted in accordance with the above mentioned legal norms.

Article 3. Objectives of combating terrorism

The fight against terrorism in Turkmenistan shall be carried out for the following purposes:

1. Ensuring the security of the person, the society and the state;
2. Detecting, preventing and stopping terrorism and minimizing its consequences;
3. Identifying and eliminating the causes and conditions, which contribute to the carrying out of terrorist activity.

Article 4. Basic principles of combating terrorism

The fight against terrorism in Turkmenistan shall be based on the following principles:

- 1) legality;
- 2) the priority of measures of preventing terrorism;
- 3) the inevitability of punishment for terrorist activity;
- 4) the combination of overt and covert methods of fighting terrorism;
- 5) complex use of prophylactic, legal, political, social-economic, propaganda measures;
- 6) the priority of defending the rights of persons exposed to danger as a result of a terrorist action;
- 7) one-man command in the operational leadership of forces and resources involved in conducting counterterrorist operations;
- 8) confidentiality regarding technical measures and tactics applied during the conduct of counterterrorist operations and the membership of such operations.

Article 5. Turkmenistan's international cooperation in the sphere of combating terrorism

1. In accordance with international treaties, Turkmenistan cooperates with foreign states in the sphere of combating terrorism, their law enforcement agencies and special services, and also international organizations engaged in the fight against terrorism; assists other states in connection with criminal investigations or criminal prosecution of persons, involved in financing or supporting terrorist activity, including assistance in providing evidences, necessary for such prosecution.

2. Guided by the interests of ensuring the security of the individual, society, and the state, Turkmenistan prosecutes on its territory persons involved in terrorist activity, including in cases where terrorist actions were planned or carried out outside Turkmenistan, but are detrimental to Turkmenistan and in other cases envisaged by Turkmenistan's international treaties.

3. In accordance with its national legislation and norms of international law Turkmenistan prevents and suppresses the financing of terrorist activity, immediately blocks means and other financial assets, deposits, economic resources and material assets of persons, who commit or attempt to commit terrorist actions or contribute to the commission thereof, organizations which are directly or indirectly owned or controlled by such persons, persons and organizations which act in the name or upon instructions of such persons and organizations, including means, acquired or received, or with the use of property which is directly or indirectly owned or controlled by such persons as well as persons and organizations linked to the above-mentioned persons.

CHAPTER II. ORGANIZATION OF MEASURES TO COMBAT TERRORISM

Article 6. State agencies engaged in combating terrorism

1. The President of Turkmenistan and the Cabinet of Ministers of Turkmenistan shall exercise general leadership of combating terrorism and shall provide necessary forces, means and resources to combat terrorism.

2. The following state agencies shall directly implement the fight against terrorism within their competencies:

- Ministry of National Security of Turkmenistan;
- Ministry of Internal Affairs of Turkmenistan;

- Security Service of the President of Turkmenistan;
- Ministry of Defense of Turkmenistan;
- State service of Turkmenistan on registration of foreign citizens;
- State border service of Turkmenistan; State customs service of Turkmenistan;
- General Prosecutor's office of Turkmenistan.

3. Other relevant state agencies of Turkmenistan shall, within the limits of their powers, also participate in preventing, uncovering and suppressing terrorism.

4. The State Commission on combating terrorism, which is formed by the President of Turkmenistan shall coordinate the activities and ensure the interaction between state agencies engaged in combating terrorism.

Article 7. Main tasks of the State Commission on combating terrorism

The State Commission on combating terrorism shall deal with the following main tasks:

- by order of the President of Turkmenistan the Commission elaborates the basis of the state policy of combating terrorism in Turkmenistan as well as recommendations, aimed at increasing the effectiveness of work directed at uncovering terrorism and eliminating the causes and conditions that give rise to terrorism and terrorist activity;
- accumulates and analyzes information on the conditions and tendencies of the likely terrorist activity on the territory of Turkmenistan;
- coordinates the activities and ensures the interaction between state agencies engaged in combating terrorism and non-governmental organizations, with the aim to reaching a unified stand in carrying out activities on preventing, uncovering and suppressing terrorist actions, as well as uncovering and eliminating the causes and conditions that contribute to preparation and realization of terrorist actions;
- sets out the list of important state objects, facilities and communications that are to be protected on the state level;
- takes part in preparing the international treaties of Turkmenistan in the sphere of combating terrorism;
- ensures training of specialists, conduction of scientific researches in the sphere of combating terrorism with the study and use of international practice;
- elaborates proposals on improving the Turkmen legislation in the sphere of the fight against terrorism.

Article 8. Competencies of the entities directly engaged in the fight against terrorism

1. In their activities, the state entities directly engaged in the fight against terrorism, shall be governed by the Constitution of Turkmenistan, decisions of Khalk Maslakhaty of Turkmenistan, the present Law, other laws of Turkmenistan, decrees of the President of Turkmenistan, international treaties of Turkmenistan.

2. Ministry of National Security of Turkmenistan engages in the fight against terrorism by:

- preventing, uncovering and stopping the terrorist crimes, including crimes, that pursue political aims, and preventing, uncovering and stopping the international terrorist activity; in accordance with the law of the criminal procedure conducts the preliminary investigation in criminal cases related to terrorist crimes;

- ensuring security in the institutions of Turkmenistan overseas, staffers of these institutions and members of their families;

- accumulating information on the activities of foreign and international terrorist organizations;

3. Within its competencies, the Ministry of Internal Affairs of Turkmenistan engages in the fight against terrorism by preventing, uncovering, and stopping terrorist crimes.

4. Security Service of the President of Turkmenistan engages in the fight against terrorism by ensuring the security of the President of Turkmenistan, members of his family and ensuring safety of objects that it should protect.

5. The Ministry of Defense of Turkmenistan ensures protection and safety of the military equipment in service, weapons, ammunition and explosive materials, protection of the military facilities, and takes part in ensuring the protection of the national sea navigation, national airspace and in carrying out counterterrorist operations.

6. State service of Turkmenistan on registration of foreign citizens engages in the fight against terrorism by controlling, within its competencies, the order for entrance into, exit from and stay of foreign citizens in Turkmenistan; in cooperation with other law enforcement organs of Turkmenistan undertakes relevant actions aimed at preventing, detecting and stopping likely terrorist crimes in cases of uncovering of a potential threat of a terrorist character.

7. The State border service of Turkmenistan carries out the fight against terrorism by: preventing, uncovering, and stopping the attempts of crossing the state borders of Turkmenistan by terrorists; stopping the illegal trafficking of arms, explosives, poisonous and radioactive substances and other items which could be used as tools for committing terrorist crimes; takes part in ensuring the safety of the national sea navigation within the territorial waters, the economic zone of Turkmenistan and in carrying out counterterrorist operations.

8. Within its competencies, State customs service of Turkmenistan engages in the fight against terrorism by stopping the attempts of illegal trafficking of arms, ammunition, explosives, poisonous and radioactive substances and items, printed and other materials, which contain appeals for overthrow of the constitutional order, commission of other actions, which undermine the public security, directed at physical elimination of statesmen, malignant disobedience to what law and public morals demand.

9. General Prosecutor's office of Turkmenistan and subordinate organs of prosecutor's office, exercising supervision over precise and uniform adherence to legal acts of Turkmenistan in accordance with its powers, contribute to elimination of violations of legislation, of causes and conditions, which could give rise to terrorism, and conduct investigations of criminal cases related to terrorist crimes.

10. State agencies, enlisted in the present Article, within their competencies, elaborate and implement prophylactic, regime-type, organizational and other measures of prevention, uncovering and suppression of terrorist activities, create and maintain the readiness of departmental systems of counteracting the commission of terrorist actions.

Article 9. Competencies of other state entities taking part in the fight against terrorism

1. Ministries and state departments, not mentioned in the Article 8 of the present Law, organs of local executive authorities and local self-government bodies, within their powers, shall participate in the fight against terrorism by elaborating and realizing of the prophylactic, regime-type, organizational and other measures aimed at preventing, uncovering and suppressing terrorist activities, creating departmental systems of counteracting the commission of terrorist actions and maintaining their readiness, providing the financial assets, information, means of transport and communication, medical equipment, medicine and medical service, material and technical supplies.

2. The order for the provision of material and technical supplies, financial assets, information, means of transport and communication, medical equipment and medicine by the state agencies, enlisted in Paragraph one of the present Article, shall be established by the Cabinet of Ministers of Turkmenistan.

Article 10. Provision of assistance to state agencies directly engaged in combating terrorism

1. State agencies and organizations, regardless of the form of ownership, public associations and state officials of Turkmenistan shall be obliged to provide assistance and necessary help to the state agencies directly engaged in combating terrorism.

2. Every person shall be obliged to immediately provide state agencies directly engaged in combating terrorism with information on the terrorist activity. A person who conceals such information shall be held responsible in accordance with the Turkmen legislation.

Article 11. Role of public associations and mass media in combating terrorism

1. Public associations shall be obliged to provide possible assistance for state agencies engaged in combating terrorism, in uncovering the causes and conditions which contribute to terrorist activity, in preventing and suppressing manifestations of terrorism.

2. Mass media sources, together with the interested ministries, state departments and public associations shall conduct everywhere purposeful work aimed at bringing up the citizens of Turkmenistan in the spirit of high spiritual-moral ideals, at forming with the young generation the feeling of national pride, devotion towards people's traditions, towards the nation, readiness to sacrifice life for the sake of the beloved Motherland, for its safety and integrity.

3. In their activities, the organizations, enlisted in the Paragraph one of the present Article, shall envisage the conduction of relevant events, aimed at forming in the public consciousness of the strong intolerance towards various anti-constitutional manifestations [indications - note by translator] , which could serve as sources for the emergence of terrorist activity.

CHAPTER III. CONDUCTION OF COUNTERTERRORIST OPERATIONS

Article 12. Leadership of counterterrorist operations

1. In order to ensure the direct leadership of a counterterrorist operation, an operational headquarters shall be set up (hereinafter referred to as operational headquarters) through a decision by the President of Turkmenistan and a headquarters chief shall be appointed representing either the Ministry of National Security of Turkmenistan or the Ministry of Internal Affairs of Turkmenistan depending on the prevailing competencies of either of the organs in a concrete counterterrorist operation.

2. The procedures governing the activities of the operational headquarters shall be established through the rules adopted by the President of Turkmenistan.

3. Depending upon the scale and the level of public danger, and the anticipated negative consequences of the terrorist action, the President of Turkmenistan can appoint a representative of the State Commission on combating terrorism or another state official as a head of operational headquarters.

4. Personnel assigned to counterterrorist operations - servicemen, employees and specialists - shall be subordinate to the operational headquarters chief as of the commencement of such operations.

5. The operational headquarters chief shall determine the boundaries of the zone where the counterterrorist operation is conducted; take decisions concerning the use of the forces and means, including special means, assigned for the purpose of conducting the operation. No one, regardless of the

position, may interfere in the operational leadership of counterterrorist operation.

Article 13. Provision of forces and means for counterterrorist operations

In order to conduct counterterrorist operations, the operational headquarters shall have the right to use the necessary forces and means at the disposal of the state agencies directly engaged in combating terrorism. The organs of executive authorities shall provide means of transport and communication, financial assets, and other material-technical means, necessary for the conduction of counterterrorist operations.

Article 14. Legal regime for the counterterrorist operation zone

1. In the counterterrorist operation zone, the persons conducting such operations shall have the following rights:

- 1) Where necessary, the right to apply measures which temporarily restrict or prohibit the movement of vehicles and pedestrians on streets and roads; prevent vehicles, including vehicles of diplomatic representations, consulates and citizens, from entering specific areas and sites; remove persons from specific areas and sites and to tow vehicles;
- 2) The right to check the identity documents of citizens and officials and, in the absence of such documents, to detain such persons in order to establish their identity;
- 3) The right to detain and transfer to the organs of internal affairs persons who have committed or are committing offenses or other acts aimed at impeding the fulfillment of the lawful demands of persons conducting anti-terrorism operations, and acts or attempts of non-authorized entrance in the operation zone;
- 4) The right to enter unimpeded the apartments and other premises belonging to citizens, their land, and at the site – enter premises of organizations regardless of the form of ownership, and vehicles in the course of preventing such acts if postponing these actions constitutes a real threat to the lives and health of persons;
- 5) The right to search citizens, to inspect their things, vehicles and objects located in vehicles, with or without the use of technical equipment;
- 6) The right to use, for official purposes, means of communication, including special ones, and vehicles belonging to citizens and organizations, regardless of the form of ownership (except for vehicles of diplomatic missions and consulates of foreign states and international organizations), with the purpose of preventing a terrorist action, pursuing and detaining persons, who have committed a terrorist action, or for transporting persons in need of urgent medical help to the medical institution, or for traveling to the place of an accident;
- 7) In cases of threats to the lives and health of hostages, other citizens, and servicemen, staffers and specialists of special forces, the right to use firearms and special means against terrorists without a warning and limitations set out in the legislation of Turkmenistan.

2. The presence of employees of the mass media in the counterterrorist operation zone shall be allowed by the operative headquarters chief, who has competencies to regulate their activities in the zone.

Article 15. Conducting negotiations with terrorists

1. During the counterterrorist operation negotiations may be conducted with terrorists in order to protect the lives and health of people, material valuables, to determine the possibilities for preventing terrorist actions without the use of force. Only persons authorized by the operational chief may conduct negotiations with terrorists.

2. During negotiations with terrorists, the handing over of any person to terrorists, the carrying out of political demands, or the provision of weapons and other means and objects, the use of which would create danger for the lives and health of people shall, as a condition for halting terrorist acts, be prohibited.

3. The conduct of negotiations with terrorists may not be grounds for absolving them from liability for actions committed.

Article 16. Informing the public about terrorist actions

1. During the conduct of counterterrorist operations, the public shall be informed about terrorist actions in the manner and to the extent determined by the operational headquarters chief or a representative of the operational headquarters responsible for public information.

2. The following information may not be disseminated:

1) Information that has been received through videotaping or that is broadcasted live on the radio or TV from the counterterrorist operation zone;

2) Information on the tactics and special technical means used in conducting counterterrorist operations;

3) Information, which may create danger for the lives and health of people in or outside the counterterrorist operation zone or impede the conduct of such operations;

4) Information designed to justify or propagandize terrorism and extremism;

5) Information on staffers of special units, members of the operational headquarters during the conduct of the operation, and on persons assisting the conduct of such operations.

3. Persons, who have disseminated the information, mentioned in the Paragraphs 2 of the present Article shall be held liable in accordance with the acting legislation of Turkmenistan.

Article 17. Completion of counterterrorist operations

1. A counterterrorist operation shall be deemed completed when the terrorist action has been prevented (stopped) and the danger threatening the lives of and health of people in the counterterrorist operation zone has been eliminated.

2. The operational headquarters chief shall issue a decision about the completion of the counterterrorist operation.

CHAPTER IV. REIMBURSEMENT OF DAMAGE CAUSED AS A RESULT OF A TERRORIST ACTION. SOCIAL REHABILITATION OF PERSONS WHO HAVE SUFFERED AS A RESULT OF A TERRORIST ACTION

Article 18. Reimbursement of damage caused as a result of a terrorist action

Damage resulting from terrorist actions shall be fully compensated through funds from the state budget of Turkmenistan, and subsequently the sum in question shall be recovered from the guilty parties in the order spelled out by the legislation of Turkmenistan.

Article 19. Social rehabilitation of persons who have suffered as a result of terrorist action

The social rehabilitation of persons who have incurred damage as a result of terrorist actions shall consist

in providing these persons with legal assistance, psychological and medical rehabilitation in the order established by the Cabinet of Ministers of Turkmenistan.

CHAPTER V. LEGAL AND SOCIAL PROTECTION OF PERSONS ENGAGED IN COMBATING TERRORISM

Article 20. Persons taking part in the fight against terrorism who are subject to legal and social protection

1. Persons engaged in combating terrorism shall be protected by the state. Legal and social protection measures shall be applied with regard to the following persons:

- 1) servicemen, staffers and specialists of the state agencies directly engaged in the fight against terrorism;
- 2) persons permanently or temporarily helping state organs engaged in the fight against crime in preventing, uncovering, and suppressing terrorist activity and minimizing its consequences;
- 3) members of the families of persons listed in paragraphs 1 and 2 of the present Article if the need to provide them with protection stems from participation of the enlisted persons in the fight against terrorism.

2. Social protection of the persons, engaged in the fight against terrorism, shall be carried out in accordance with the legal status of such persons, set out in the laws and other legislative norms, in line with the order established by the Cabinet of Ministers of Turkmenistan.

Article 21. Reimbursement of damage to persons participating in the fight against terrorism

1. Damage caused to the health or property of the persons listed in the Article 20 of the present Law in connection with their participation in the fight against terrorism shall be reimbursed in accordance with the procedure spelled out by the legislation of Turkmenistan.

2. In the event of the death of a person, participating in the fight against terrorism in the course of a counterterrorist operation, his family and dependants shall receive, through funds from the state budge, a one-time assistance grant in accordance with the procedure spelled out by the legislation of Turkmenistan, a pension shall be granted in the view of the loss of the breadwinner, housing preferences and preferential system of communal payments shall be kept, if the person who died had enjoyed such preferences.

3. If during the counterterrorist operation, a person engaged in combating terrorism is injured, and this has caused disability, this person shall be paid through funds from the state budge, a one-time assistance grant and a disability benefit shall be granted to him in accordance with the procedure spelled out by the legislation of Turkmenistan.

4. If during the counterterrorist operation, a person engaged in combating terrorism is injured, and this has not caused disability, this person shall be paid through funds from the state budge, a one-time assistance grant in accordance with the procedure spelled out by the legislation of Turkmenistan.

5. For servicemen, staffers and specialists who served or serve in the special units, directly engaged in the fight against terrorism:

1) in determining pensions, the years of service shall be calculated by making one day of service equivalent to one day and a half, and the period of participation in counterterrorist operations shall be calculated by making one day of service equivalent to three days of service;

2) because of particular conditions during the service in these units, these persons shall receive an additional monthly salary payment equal to 30% of their regular monthly salary.

Article 22. Immunity from liability for damage caused

Damage one is bound to cause to the lives, health or property of terrorists and their legally protected interests during counterterrorist operations shall be permitted in the manner provided for under the present Law. Persons engaged in combating terrorism shall not incur liability for such damage caused during the counterterrorist operations.

CHAPTER VI. LIABILITY FOR PARTICIPATION IN TERRORIST ACTIVITY

Article 23. Liability for participation in terrorist activity

Persons who have participated in the terrorist activity shall incur liability in the manner provided for under the Criminal Code of Turkmenistan.

Article 24. Liability of organizations for terrorist activity

1. An organization, which carried out terrorist activity, shall be deemed terrorist and shall be disbanded through a decision of kazyet. In disbanding an organization, which has been acknowledged terrorist, the property belonging to it shall be confiscated and sold in accordance with the legislation of Turkmenistan and the money gained shall be transferred to the state budget of Turkmenistan.

2. In case a relevant kazyet of Turkmenistan recognizes an international organization (its branches, affiliations, representations), which is registered outside Turkmenistan, a terrorist, the activities of such organization in Turkmenistan shall be banned, its branches (affiliations, representations) shall be liquidated, and the property belonging to them as well as the property of the international organization, operating in the territory of Turkmenistan, shall be confiscated and sold in accordance with the legislation of Turkmenistan and the money gained shall be transferred to the state budget of Turkmenistan.

3. The statement on bringing an organization to trial for terrorist activities shall be directed to the kazyet by the General Prosecutor of Turkmenistan or his subordinate prosecutors.

CHAPTER VII. FINAL PROVISIONS

Article 25. Monitoring the fight against terrorism

The measures on combating terrorism in Turkmenistan shall be monitored by the President of Turkmenistan and the Cabinet of Ministers of Turkmenistan.

Article 26 Monitoring the legality of measures on combating terrorism

The adherence to laws on combating terrorism in Turkmenistan shall be supervised by the Prosecutor General of Turkmenistan and his subordinate prosecutors.

Article 27. Liability for violations of the present Law

The violation of the legislation of Turkmenistan on combating terrorism shall be punishable in accordance with the legislation of Turkmenistan.

President of Turkmenistan
The Chairman of Khalk Maslakhaty of Turkmenistan
Saparmurat NIYAZOV
Turkmenbashi city, 15 August 2003

