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## CRIMINAL LAW GENERAL PROVISIONS COURSE NOTES

### A- FUNCTION OF PENALTY LAW

Criminal law to all the rules that determine the sanctions to be applied to the behaviors called crime is called. Criminal law will be applied last in violations in social life.

is a branch of law. Penalty sanction in case of any violation of law arising in social life

It does not apply.

For example, although acts of misdemeanor are against the law, this kind of unlawfulness administrative sanctions are applied instead of punishment.

Criminal law is based on humanitarian foundations today. Indeed, whoever is accused no one can be considered guilty until his guilt is fixed by a court decision (Innocence Karesi). For this reason, the investigation stage in Criminal Procedure Law (from the acceptance of the indictment SUSPECT to anyone under criminal charges during the previous phase); Dismiss the acceptance of the indictment The person who is under suspicion of crime in the process until his finalization is called SANIK. Decision After being finalized, it is only called JUDGMENT.

Criminal law has a preventive and suppressive function. Called crime determined in criminal laws norms and punishments will impose sanctions that people will face if they violate these provisions. allows them to know and give up the idea of committing a crime. This effect is preventive (deterrent) effect. Second effect The counterpart of the actions of those who break the rules of public order and social life by committing a crime It is the suppressive, repelling effect that occurs due to the penalties written in the law.

### B- SOURCES OF CRIMINAL LAW

The main source of criminal law is the Constitution. There are many provisions on criminal law in the Constitution.

However, the most basic and most important provision is in Article 38. **Under the title of principles regarding crime and punishment:**

- **The** principle of legality in crime and punishment,
  - Scorpion of Innocence,
  - Prohibition of making an accusative statement about the person or his / her relatives and showing evidence in this way,
  - Evidence that is against the law cannot be used,
  - Personality of criminal responsibility,
  - **From** the liberty of the person due to failure to fulfill a contractual obligation can not be deprived,
  - Death Penalty and confinement penalty cannot be given,
  - **The** administration cannot make sanctions restricting the liberty of the person,
  - No reason other than the obligations of being a party to the international criminal court
- In this way, the issues that the citizen cannot be given to the foreign country have been regulated.

**The second source is the** Turkish Penal Code No. 5237, which came into force on 1 June 2005. First 76 Articles general provisions and subsequent articles include special provisions.

**Nations concerning fundamental rights and freedoms in accordance with the 90 / last sentence (2004 amendment) of the Constitution inter contracts have a priority application area stipulated by laws .** For this reason, the punishment

When interpreting the provisions of the law, when the international contract is in conflict with the law on the same subject, contract terms can be applied. Indeed, the Supreme Court on the right to freedom of expression and criticism He frequently refers to the freedom of expression in Article 10 of A.İ.HS.

### The Relationship Between Criminal Law and Special Criminal Laws

**The general provisions of Law No. 5237, which is a general law, are special criminal laws and penalties. It will also apply to crimes in laws involving. (5237 SK m. 5)**

Special criminal laws and provisions on crimes and penalties in penal laws include the same will be continued, but ENTERPRISE, SUBSIDIARY, REPEAT, DEFER, TRANSLATION, MUSADERE etc. The Turkish Penal Code No. 5237 has to be applied in matters falling within the general provisions field.

The Enforcement Law No. 5252 provides the relevant law provisions until 31 December 2006. 5237 for the crimes included in the penal laws and special criminal laws. It regulated that the numbered Turkish Penal Code will be implemented. Indeed, Law No. 5728 and special criminal laws

### C- PRINCIPLES DOMAINING PENALTY LAW

#### 1- The State of Law Principle

According to our Constitution, Jurisdiction is an authority exercised by independent courts. Criminal In the context of law, the state of law has three qualities. Respect for human rights and human securing their rights, ensuring justice and establishing security.

#### 2- The Law of Legitimacy in Crime and Punishment

BUT the human behavior called crime and the sanction to be applied in return BUT It is the principle that stipulates the determination by LAW. The principle of legality was first regulated by the Law of 1876.

The lawfulness principle has five consequences. These:

- **Clarity:** In order for any person to be punished for an action, it is clear and distinct somehow it should be regulated as a crime in the law. Clearly what action is a crime should write in the law. As a matter of fact, according to Article 2 of the TCK: For a verb that the law does not expressly consider crime nobody can be punished and security measures cannot be applied. The law enforcer is uncertain in criminal laws and should avoid using elastic concepts. Criminal laws should be clear.

- **Prohibition of Enforcement of the Law Against the Past : Coming** into force after the person's criminal act and the laws that aggravate the situation are against the law.

*The law, which came into force after the action was committed, further improved the status of the perpetrator compared to the previous law. If it is aggravating, that is, against the perpetrator, the provisions of the law that came into force later on the perpetrator. not applicable.*

According to Article 7 of the TCK: " *According to the law in force when it is committed, No punishment can be imposed on anyone for the act and security measures cannot be applied.*

*According to the law that came into force after being committed, nobody can be deemed to be a crime. cannot be punished and security measures cannot be applied. Such a penalty or security measure if enforced, the execution and legal consequences will be removed automatically. "*

According to the second article of the Turkish Penal Code, *with the law in force at the time of the offense, If the provisions of the laws that came into force later are different, the law in favor of the perpetrator is applied and executed. Kindly.*

- **Comparative Prohibition:** Comparison of a legal gap with the help of similar rules. Criminal to another act organized as a crime of an action that is not explicitly organized as a crime in terms of law simulated punishment or if there is a gap in the rules regarding the criminal responsibility of the offender Utilization of similar rules is analogy. However, in accordance with TCK Article 2:

*" Laws can not be made mutatis mutandis in the implementation of provisions including crime and punishment. Contains crime and punishment Provisions cannot be interpreted broadly, leading to a stink . "*

For this reason, the comparison is absolutely absolute in the implementation and interpretation of the provisions involving crime and punishment. is prohibited . **It is forbidden whether the comparison is in favor or against the perpetrator.**

KIYAS is to be made in the **provisions that include crime and punishment** prohibited in the law . **Compare in favor of perpetrator though it is prohibited.**

#### A COMMENTARY COMMENTARY THAT WILL OPEN THE COMPUTER WAY

**It is also forbidden to do.** However, it is possible to comment in a way that does not lead to apocalyptic and even is also necessary. The law needs to be interpreted in order to apply it to the concrete event. For this reason it is forbidden STOP WIDE COMMENT, which leads to the Resurrection.

#### - PROHIBITION OF ADMINISTRATION FOR CRIME AND REGULATION OF HURRIYAT BINDING BY REGULATORY PROCEDURES:

The administration cannot constitute a crime and punishment with procedures such as regulations and regulations. Article 2 of the Turkish Criminal Code According to: "Crime and punishment cannot be imposed with the regulatory actions of the administration".

**With the Decree Laws (Ordinary Decree Laws), basic rights, personal rights and**

**No regulation can be made on homework and political rights and duties. Putting crime and punishment is essential rights and person is a topic in the rights and duties section. Therefore, the ordinary period**

#### CRIME AND PENALTY CANNOT BE PURCHASED BY KHKs.

According to Article 38 of the Constitution: "Criminal and substitute security measures BUT LAW IT IS WITH "

- **Customary Units on the basis of Crime and Punishment Creation Making BAN:** In criminal law, customary units on the basis of a crime cannot be created, punishment cannot be given. One should be able to easily learn what is a crime. Whereas It is difficult for individuals to obtain a healthy information, since there are customary rules. Article 2 of TCK According to the *statement* : " *Nobody can be punished and security measures cannot be applied for a verb where the law clearly does not regard crime. . "*

**The customary can only be a resource for the implementation of the provisions of the law on the concrete case.** for example The scope of the concept of exhibitionism in the crime of mischievous movements is determined by making use of customs and customs.

*Supreme Court; deciding that stealing a few apples is not the theft crime, the legal value violated by the act of stealing that it is a reflection of habit and general tolerance, accepting that it does not suffer a certain and observable level according to the general and general understanding in the society. Custom made use of rules.*

### **3- The Perfect Crime and No Punishment Principle**

Unless the offender has a fault in performing a criminal act, it is the principle that states that it cannot be exposed. Odd; by someone who is capable of an action isnad knowingly and willingly or at least knowingly. From an unintentional or involuntary act nobody can be punished because of it. This principle has three important consequences:

- **Nobody can be punished for a perfect verb.**
- **The penalty cannot exceed the degree of the offender's fault.**
- **The penalty cannot be less than the perpetrator deserves.**

### **4- Personality Principle of Criminal Responsibility**

According to Article 20 of the TCK numbered 5237. “ *Criminal responsibility is personal. Nobody else cannot be held responsible for the act. Penalties cannot be imposed on legal entities. But crime Therefore, the security measures stipulated in the law can be applied .* ”

Pursuant to this provision, criminal liability is personal and no one else has committed. It was demonstrated that he could not be responsible for the verb he was in. In this article, legal entity that is not in the old law. The provision of security measures on persons is a NEW PROVISION.

Legal persons cannot be punished. However, confiscation of goods about legal entities, earnings confiscation and cessation of the activity (cancellation of the activity permit) can be applied to security measures. In order for security measures to be applied against legal entities, in each crime type, MUST BE SPECIFIED.

### **5- Principle of Equality Before Justice and Law**

The penalty and security measure in proportion to the severity of the action committed about the offender its rule is called the principle of justice. In Article 3 of the TCK: “ *The act committed against the person who committed the crime The principle of justice is given by saying that the punishment and security measure proportional to the weight is ruled.* ”

Religion, language, race or any other reason among persons in the implementation of the criminal law the non-discrimination is called the principle of equality. In this case, TCKm is regulated by the provision of 3.

### **6- The Principle of Protecting Human Dignity**

The aim of regaining the person who is punished for committing a crime to the society is the principle that acquires. According to this principle, even if a person commits a crime, a criminal and it should be judged. In Article 17 of our Constitution: “*Nobody can be tortured and tortured, nobody is human it cannot be subjected to a punishment or treatment that is incompatible with dignity...* ” protection is guaranteed. For this purpose, death penalty, whip, general confiscation, grinding and other penalties not accepted. Even if a person has committed a crime, he should be treated as a human being. it must be judged like a human being. For this reason, the rights of the suspect and suspect are included in the criminal procedural law. This rights are the rights given to the person as a human being.

### **7- Non Bis In Idem Principle**

A single sentence for a verb committed by the perpetrator is formulated as a punishment for a crime is the principle. According to this principle, to try again on a subject judged by trial should not be made (definitive judgment, barrier of pre-condition). This principle is related to crimes committed abroad there are exceptions. This principle has not been validated in international crimes. For example, drug manufacture or commerce crime.

Judging if a person abroad and even been given an exception to the provisions in Turkey again. It is on trial. However, even if the person is tried for the second time, even if the person is ABROAD exposed, All LIABILITY RESTRICTIONS he / she has stayed will be deducted from the penalty.

## **IMPLEMENTATION OF CRIMINAL LAW**

### **A- APPLICATION FROM TIME MAINTENANCE**

**Rule: It is the IMMEDIATE application of the law in force when the person commits a crime.**

The action constitutes a crime in accordance with the provisions of the current law when the person makes the move if not, the person is not punished. If a subsequent law criminalizes a person's action, this situation. It cannot be applied about the person because it is against. (Prohibition of the Law against the past)

**Exception:** If the law provisions that come into force after committing a crime are in favor of the perpetrator, the law goes into the past and this is the perpetrator. benefits from provisions.

#### HOW TO IDENTIFY THE PROCESSING LAW:

- In favor of the law that takes an action from being a crime (For example, if the law makes adultery from being a crime, in favor)
- It is in favor of the law that makes it more difficult to add additional conditions to the occurrence of the crime. (Eg Crime with special caste law that makes it workable, or stipulates the need for permission from an authority for trial  
It is in favor. )
- **It is in** favor of the law that makes the crime ex officio prosecuted.
- **The** law shortening the time-out period is in favor of the law.
- **The** law envisaging a judicial fine as sanction is in favor of it. (The first law imprisonment comes into effect later the law entering is only in favor if it provides for a judicial fine. )
- The law, which provides less penalty in terms of type and quantity, is in favor of it. (The law envisages a term imprisonment It is in favor of prison terms. The law, which also envisages life imprisonment, is aggravated by life. it is in favor of the law envisaging the penalty. )
- If both laws provide fixed penalties, the law that prescribes less penalties is in favor. For example, the first law is 3 years If the next law envisages prison terms, then the law that came into force later in favor of 2 years.
- If there is an intermittent penalty in both laws (which gives the judge discretion), there are three possibilities:
  - 1- If the upper limits are the same but the lower limits are different;** The lower limit is in favor of the law. for example  
The first law envisages prison terms from 2 to 5 years, while the law that came into force later 1  
The second law is in favor if it envisages prison terms from 5 to 5 years, because its lower limit is less.
  - 2- If the lower limits are the same but the upper limits are different;** law with a lower upper limit  
For example, while the first law provides for prison terms of 3 to 8 years,  
If the law that comes into force predicts prison terms of 3 to 7 years, then  
The enacted law is in favor of less prison sentences as the upper limit.
  - 3- If the upper and lower limits are different ;** previous and next law as a whole event SEPARATELY  
the law is tried to be determined by applying. The law in favor of this way  
and that law is applied to the event. Only the favorable provisions of a law are  
not applicable. Lehe law is determined after all provisions are determined and lehe  
The law, which is WHOLE, applies to the EVENT.

#### When Crime Is Considered

Although there is no explicit provision in this regard, the TCK; mostly **crime in teaching**  
**It is stated that the movements will be deemed to have formed at the time of their completion .** Article 7 of the TCK area ". ... *partially or completely* made "will also support this.

#### Enforcement of Laws Regarding Execution Regime and Security Measures in Terms of Time

Laws on the enforcement regime are, as a rule, enforced immediately. As a rule, in favor or against the perpetrator regardless of whether it is applied immediately. For example, the condition of reading books to prisoners 3 hours a day An enforcement law that enforces is immediately enforced, even against prisoners. However, in three cases, the convict The law with provisions against it does not apply:

- *Postponing The Prison Term*
- *Conditional Release.*
- *Repeat.*

These cases are exceptions to the application principle immediately. In these cases, however, in the favor of the perpetrator, the provisions of the law applicable. It cannot be applied against. Against the law, the prohibition against the past is valid in these cases.

In security measures, **EXCEPTION OF TERROR** immediately applies.

#### Application of Temporary and Temporary Laws in Terms of Time

Temporary criminal laws are criminal laws that are in force at certain periods. If the term penal laws are laws that are clearly regulated when they remain in force. State of Emergency laws are term penal laws.

the perpetrator who committed a crime during the period; after the period in which the law is in force, it is also temporary and temporary will be tried according to the provisions of the law. Lehe law will not be in the past.  
ONLY IN THE MAINTENANCE OF TIMES, THE LAW applies.

### Implementation of Judicial Law Laws in Terms of Time

Rules on Criminal Procedure and security measures according to Turkish Penal Code No. 5237 IMMEDIATELY apply, regardless of whether the offender is in favor or against.

### B- APPLICATION FROM GROUND CARE

**There are different systems in the application of criminal law in terms of location. These:**

#### 1- Property:

Regardless of the perpetrator's or victim's citizenship, wherever the crime was committed, that country's punishment express the application of laws.

According to the Turkish Penal Code Article 9: "*Turkey is due to crimes committed in a foreign country Turkey also issued one judgment on retrial .*"

**A portion or all of the movement listed as a crime in Turkey are realized or The result also took place in Turkey CRIME IN TURKEY PROCESSED SAYILIR .**

- **in** Turkish land and air fields and Turkish territorial waters,
- **In the** open sea and the airspace above it,
- **In** Turkish sea and air vehicles or with these vehicles,
- **In** Turkish maritime or air combat vehicles or with these vehicles,
- **Turkey continental shelf or the exclusive economic zone has been established in the fixed The platforms involved in these crimes or processed TURKEY PROCESSED SAYILIR.**

#### 2- Personality:

The personality system is divided into two. One of them is personality according to the perpetrator based on the citizenship of the perpetrator. the other is personality according to the victim based on the citizenship of the victim.

**PERSONALIZATION BY Perpetrator** : The country in which the perpetrator is a citizen for the crime he committed is punished in accordance with criminal laws. In this system, when a Turkish citizen commits a crime abroad for trial in Turkey:

- **The** crime he committed requires **at least 1 year in prison** , (There will be no crime that requires a judicial fine )
- damaged the country of the victim or perpetrator damaged (Turkish citizen) After entering to Turkey **Complain within 6 months** ,
- The perpetrators of Turkish citizens **PRESENCE OF TURKEY well** ,
- Due to this act, **there should be no provision** in the foreign country .
- Regarding the crime committed by the perpetrator Turkish Citizen, both the prison law in the foreign country penal code If both the sentence and the judicial fine are applied selectively, even if the victim has a complaint, not INVESTIGATED.

**However, in foreign countries it has been undertaken on behalf of the civil service or task so in a Turkey given someone commits a crime in a foreign country in relation to the provisions of this act, even though in Turkey REFURBISHED. (If sentenced abroad and received a penalty, the sentence TURKEY also be deducted from the sentence)**

**PERSONALIZATION ACCORDING TO THE VICTOR:** The state in which the victim suffered from crime is a citizen is the system in which the laws are applied.

**According to the Turkish Criminal Code:**

- Turkey's detriment,

- **At the** loss of Turkish Citizen,
- What kind of crime has been committed in the PRIVATE LAW ENVIRONMENTAL PERSON, established in accordance with Turkish Laws According to the victim system in accordance with salicylic may be made in Turkey in the proceedings.

**According to the victim, in order to be able to conduct trials in accordance with the personality system:**

- **The** crime will include at least 1 year of imprisonment,

- Turkey finished the loss of the REQUEST TO SEE JUSTICE,
- COMPLAINTS OF THESE PEOPLE AGAINST THE TURKISH CITIZEN OR THE PRIVATE LAW
- **Not being sentenced in a foreign country,**
- Most importantly, the FAIL (of foreign nationals) DE PRESENCE OF TURKEY is required.

**Turkey judge a crime in a foreign country at the expense Even if the provisions been made and Turkey can also be tried again upon the request of the MINISTRY OF JUSTICE . Penalty taken abroad Turkey is deducted from the penalty to be given.**

However, if the crime was committed against the Turkish Citizen or against the Turkish Private Legal Entity, then given the provisions made in Turkey and abroad trial proceedings it can not be done again.

### **3- Protection System:**

Regardless of whether the offender is a citizen or a foreigner, a crime against the state existence the possibility of punishing the crime by the victim state itself if committed abroad is the system that recognizes.

These crimes are: Torture, Genocide, Spirit, Fraud in Money, Seal Forgery, State Sovereignty. Crimes committed in their signs, Crimes against the state, Crimes against the Constitution, Espionage, Bribery, etc.

In this system, the state is aimed to protect itself in crimes committed against it.

Regarding crimes against genocide and humanity and crimes against the existence of the State Even if a sentence or acquittal has been issued in a foreign country, **THE MINISTRY OF JUSTICE IS REQUESTED ON TURKEY CAN BE RE-TRIALS.**

### **4- Universal System:**

No matter where it is in the world, it is accepted so that no crime will go unpunished. system. In this case, both the victim and the perpetrator are foreigners. *However, the crime he committed was a very serious crime. In any country, the person committing a crime can be tried and punished.*

### **GIVE BACK**

The return is regulated by bilateral agreements signed between states. Don't give back Turkey said to be the realm of crimes committed outside the area. Because of Turkey's sovereignty **TURKISH LAWS WILL ALWAYS APPLY** to the crimes committed in the field and the offender will be Foreign Under no circumstances **WILL BE RETURNED.**

Returning is only for foreign perpetrators. According to the Constitution, **CITIZENS CRIMINAL LIABILITY EXCEPT AS REQUIRED COURT ULUSALARARA of AT ALL REASONABLE, BUT IT WILL NOT BE BACK.**

To give back:

- Crime is not a crime of thought, political crime or military crime,
- Turkey or Turkish citizens or legal persons involved in the Turkish private law was not processed,
- **THE CASE OF THE CASE AND PUNISHMENT TIME UNDER THE TURKISH LAW OR AFFAIR**  
It MUST NOT be discontinued.
- **The action is a crime according to Turkish Laws,**

These conditions are ensured and extradition between countries requesting the extradition to Turkey If there is a bilateral agreement, the **request for extradition is located in the HEAVY PRISONER** Evaluated.

**THE BOARD OF MINISTERS ONLY to give back** after this decision **It IS COMPETENT.** The Council of Ministers may refrain from returning the person to the requesting state for political reasons.

**In case the offender is given back, the offender will be treated as inhuman or discriminated against. The subject is not given back to the perpetrator.**

**Returnees can only be prosecuted for refusal offenses (FEATURE RULE)**

### **C- APPLICATION FROM PERSON CARE**

The principle of equality before the law regardless of the person who commits a crime in accordance with the principle of equality

Trial and punishment are among the basic principles of Criminal Law. But this rule  
There are exceptions:

**1- President:** He has no criminal responsibility other than treason. He worked because of his duty is fully irresponsible for the crimes he committed. With the proposal of 1/3 of the Turkish Grand National Assembly and the decision of Y, the Supreme DİVAN can also be tried with treason.

**There is no obstacle for the President to be defendant in civil cases.** But in courts cannot be forced to testify. He testifies if he wants. Otherwise, it cannot be taken by force.

**2- Legislative Immunity:** This immunity granted to MPs is of two types. of them one is the rostrum immunity, and the second is the personal immunity afforded to the trial.

Absolute Immunity: In parliamentary assembly work (necessarily within the parliament building not necessarily) **vote, because words and thoughts descriptions** in no way responsible for They do not. Even if a crime occurs due to these actions, judgment cannot be made. Because of these actions, criminal there is no responsibility. The tribune immunity is absolute, it cannot be lifted. Even if his parliament has ended judgment cannot be made due to actions. *Criminal situation requiring heavy punishment and BEFORE ELECTION THE CONSTITUTION WITH THE START OF THE INVESTIGATION REGARD TO THE CONDITIONS IN M. 14 ALL JUDGMENT PROCEDURES CAN BE MADE WITHOUT DECISION.*

**Relative Immunity:** A deputy allegedly committed a crime before or after the election Failure to be captured, captured unless the immunity is removed by the Parliament, failure to be interrogated, arrested and tried. This immunity is not absolute. It is temporary. When the parliamentary period expires, immunity also disappears.

TIMER STOP DURING THE IMMUNITY TIME.

**However, the integrity of the State and the Constitutional Order written in Article 14 of the Constitution INQUIRY TO INQUIRE BEFORE Election due to crimes against deputies can be tried.**

**3- Judicial Immunity (Diplomatic Immunity):** Due to diplomatic immunity is immunity provided. Diplomat committing a crime related to or not related to duty in a foreign country it cannot be tried in that country. Due to such a crime, he can be tried only in his own country.

This immunity speaks to ambassadors and those who represent the state at the ambassadorial level. It is concerned. Consuls cannot benefit from diplomatic immunity.

**Heads of state, ministers of foreign affairs, representatives of the B.M., justice visiting a foreign country People who represent the court and the state benefit from this immunity.** Benefiting from this immunity Even if people commit murder in a foreign country, they cannot be tried in that country. They are tried in their own country.

**4 NATO Troops:** Located foreign troops in Turkey as well impunity for certain offenses It has. These people are also tried by their own country when they commit some crimes.

## CRIME GENERAL THEORY

**CRIME:**

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A person who has the ability to commit a crime that complies with the definition of crime written in the law (Lawfulness) (Imperfection), illegal (Unlawfulness) human his behavior (Material Aspect) is called crime.

An action without these features cannot be described as a crime. Unlike these elements, crime A number of requirements are required to prosecute the perpetrator. These:

- **Prerequisites:** In order for a behavior to be a crime, the first thing that must be done in that behavior is a prerequisite. For example, for the embezzlement crime to be the case, the perpetrator must be a public official. is required.
- **Punishment Conditions:** These conditions, like the prerequisites, exist before the elements of the crime. are the necessary issues. For example, if a foreign offender commits a crime against a Turkish citizen in a foreign country, Turkey does as well for the prosecution. This action is a crime even if the foreigner is not in Turkey



judgment cannot be made.

- **Personal Impunity Reason:** These reasons prevent the punishment of the person. for example that the deputies' words, votes and thoughts are a crime, even if it is a crime. cannot be punished for. The action is a crime, but a deputy for a personal specific reason Not punished. However, a normal citizen with the deputy participates in this crime (An ordinary citizen with the deputy insulted another during parliamentary work if so) this citizen is punished. Because immunity only to the deputy provided is a personal cause of impunity.

### REASONS TO REMOVE OR REDUCE PENAL LIABILITY

Failure to act as a crime is not accepted as a crime if some actions are carried out under certain circumstances and some Although it is considered a crime in cases, it results in the reduction of penalties or no penalties. are the reasons.

These reasons are **lawfulness reasons** and **other lifting or decreasing criminal liability**. It is possible to separate them as **reasons** .

### CONFORMITY TO THE LAW:

- 1- **Legitimate Defense.**
- 2- **Fulfillment of the Law.**
- 3- **Exercise of the Right.**
- 4- **Consent of the Victim.**

Verbs committed in these cases are not a crime. **In these cases, the person is not punished and security measures not applicable, if the case has been filed, DECLARATION OF THE EXPENSE IS MADE.** These reasons are objective. Depends on the person reasons are not. All persons in these situations are evaluated in accordance with these provisions and punishment not allowed.

### 1- Legitimate Defense

**Occurred towards someone 's own or someone else 's right , or An unfair attack that is certain to happen is currently proportional to the attack according to the situation and conditions. Elimination** is called legitimate defense.

In order to speak of legitimate self-defense, some conditions related to the attack and the defense against the attack must be present.

### Conditions for Attack:

**1- The attack must still exist (current attack):** The attack will either still be in progress or even if it did not happen, if it is certain to happen, or if the finished attack will be repeated there is legitimate self-defense.

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**For example: If** A person attacks B with a knife in his hand, the attack is up to date. This attack is also legitimate There is a defense.

**Example:** X's house was gunned by Y. Resists X while shooting with a gun there is legitimate self-defense. But X is not at that moment, but an armed attack on Y the next day. If it is found, it is not self-defense.

There is no legitimate defense against an all-out attack. However, the attack will be repeated legitimate self-defense is in question. **Example:** X attacked Y with his knife in his hand and Y There escape. The action of X seeking Y with knife in his hand is still continuing, as opposed to Y The verb of injury is a verb that is certain to be repeated and there is legitimate defense.

**2- Attack MUST BE UNJUSTED :** In order to speak of legitimate defense, the attack is unfair is required. Legitimate defense is not against all kinds of injustice, it is only against the **UNAUTHORIZED ATTACK** . the ayes have it.

THE ATTACK SUBJECT ACTION IS NOT REQUIRED. UNFAIR

**The beneficiary of legitimate defense caused an attack with his own flawed action can. In this case, there is legitimate defense.**

For example: M swearing at F and annoying him; F fires to kill himself  
He injured F to override the attack. In this incident, M himself caused an unfair attack.  
However, since someone swear at another would not require anyone to die, F opened fire.  
It is possible for M to benefit from self-defense.

However: if M fictionally constructed this situation, that is, by using legitimate defense, to kill F or if he wanted to hurt, then legitimate defense can no longer be applied.

EXAMPLE: In a situation where the law enforcement is authorized to use a weapon, the person who runs away He cannot say that he has the right to self-defense by betting, as he attacked the counter armed. Because The action of the law enforcement is not unfair. Law enforcement (within legal limits) law enforcement Why it is.

**3- Attack should be directed to ONE RIGHT: Attack should be directed towards the nafs or rape.**

There is no need. **It can be directed to any right of anyone** . Repealed with No. 765  
The Criminal Code regulated legitimate self-defense only in attacks against ego and rape. Yet new punishment that the law may be a legitimate defense against an attack on any right.  
has broadened the legitimate defense.

**This right can be the right to life, body immunity, as well as the right to property, housing it may also have the right to immunity.**

**Attacks against all kinds of rights are also subject to legitimate defense. Your right is an important right whether it is necessary or not.**

**Conditions for Defense**

**1- Must be in defense: There should be** no opportunity to survive other than the attack.

**2- There must be a causal link between defense and attack:** Defense attacked must have been made against anyone.

**3- There must be a RATIO Between Defense and Attack:** Defense will defeat the attack, should be enough to get away from it. The rate is proportional to the weapon in the attacker's hand. weapons and defense are also among the protected interests.

**Absolute equality between the attacked interest and the interest that is damaged in defense it is not compulsory to be found.**

**Example:** Cemil attacked Mehmet with a knife with the intent to injure and injured him.

If there is a defense against Mehmet i Cemil, it will be self-defense. But Cemil was not involved  
There is no defense against his daughter Serpil. If it does harm, it cannot be self-defense.

**For example:** Short and thin, Recep e mit 2-00 is tall and has a large rotating knife in his hand.

There is no ratio between the attacking Yavuz in terms of weapons. A more effective weapon of Recep Yavuz's attack (such as firearms). In this case, there is a ratio between the vehicles.

**Example:** Afakan's 2008 Mercedes Brand car, the lens of the enemy Zeki

If it was seen breaking, Afakan can use legitimate defense to defend the attack. Because property is a right. However, there should be a ratio here in terms of subject. **So for Afakan car**

**cannot kill the attack by killing Zeki** . Because , *as a rule, human beings are not killed in legitimate defense for property.*

**However, against someone who attacked with a knife in his hand to injure himself, if there is no opportunity to resist and if it is not possible to get rid of it in another way, It can be resisted by killing against anyone found.**

**FOR THE BENEFIT OF THE THIRD PARTY**

An attack **against a right that** belongs to **him or someone else in the law** legitimate self-defense was organized. So defense against an attack against another done.

**For example: While** he was having a picnic in the woods, he saw that someone was stabbed in the future and that K was against the attackers. it is possible to defend. In order to save the victim of K, all means of defense against perpetrators You can use.

**FOR THE LEGENDARY DEFENSE, THE ATTACK IS PROCESSED AGAINST THE PERSON ONLY**

NOT NECESSARY. LEGISLATION AGAINST AN ATTACK AT ANY OTHER  
CAN BE AVAILABLE.

**ACTION DOES NOT CREATE A CRIME IN LEGAL RESPONSE, DUE TO ACTION  
IF JUDGMENT HAS BEEN MADE, EXPENSE DECISION IS MADE AND IF A DAMAGE SQUARE  
IF IT IS ADVANCED, NO LIABILITY FOR COMPENSATION.**

## **2- THE IMPLEMENTATION OF THE PROVISION OF THE LAW**

**No punishment is imposed on anyone who complies with the law (TCK art. 24/1).**

The following conditions must be found in order for the fulfillment of the law to be the reason for compliance with the law.

must:

- The person authorized by the law should take action,
- behave as prescribed by law,
- The limit stipulated by the law should not be exceeded.

**For example:** According to the Law on Enforcement and Bankruptcy, if there is no one in the house foreclosure or at home to kidnap property  
If this is not the case, the executive director can open the door. In this case, by the locksmith of the door  
If it is opened, no crime will occur.

## **3- USING THE RIGHT**

**According to the Turkish Criminal Code, no punishment is imposed on anyone exercising their right .** For example, your home garden  
M of the host, who has the warning of There is a Dog on the wall, can prevent the dangers  
self-protection is in question. The burglar who came home for the purpose of theft at night  
Host M has no criminal liability for injury. Because he exercised his right.

**The use of the right should not be abused to be a cause of lawfulness**

**must.**

**For example:** The garden that wants to prevent the cherries in its garden from being collected by children.  
The right is abused if the owner gives electricity to the tree. Because in this case, the purpose of the right  
has been used in a way that harms others.

Zilyet (the one who owns a property) force all property against extortion and attack  
(MK m. 981-1).

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*Medical interventions are also the reason for compliance with a law. In medical interventions  
patient's consent is essential. However, if the patient is not able to declare consent, to improve his health.  
(high interest) can be intervened without seeking consent. Again for superior public interest  
consent is not sought in actions. These actions are deemed lawful.*

## **4- RISK OF THE RELEVANT**

**In order to accept the consent of the victim in accordance with the law, first of all  
SHOULD BE SUFFICIENT TO SHOW. So he must have completed the age of 15 and distinguish  
must have power.**

**If consent is related to a right that a person can absolutely save,  
is the reason for suitability. If there is no such right, consent is not a reason for compliance with the law.**

Consent can be given verbally, in writing, or can be given IMPLIED (by keeping silent). For example,  
the condition of anyone who sees someone else picking up the pen that belongs to him but does not make a sound implicitly consent  
is to show .

**For example: It is not possible for the person to consent to his killing or injury.**  
Because there is no absolute power over these rights. But freely save on person assets  
has the right to give. Theft is not a crime if someone consents to the purchase of their property.

BEFORE ACTION or ENERGY ACTION to allow consent to be a cause of lawfulness

**For example:** Someone should have received an item by someone else before that person received the item or he must give consent as soon as he gets late. If the item was bought, theft has now occurred. After this the given consent is not a reason for compliance with the law. This kind of consent manifests not to complain you will.

### EXCEEDING THE LIMIT IN REASONS FOR LAW COMPLIANCE

There are three situations for crossing the border for reasons of compliance:

- **Deliberately overcoming:** If the border is deliberately exceeded, a crime occurs. For example, the attacker finished the attack and if the act of killing against him is carried out while turning around, a deliberate killing crime occurs.
- **Negligence Overcome:** If the limit is exceeded due to carelessness and negligence, the action is negligent if it is punished, punishment is given by negligence. Ex: Against the attacker who attacked him if the person who caused his excessive injury while defending has crossed the border negligently. He is responsible for the crime of crime injury.
- **Crossing the border with Fear, Excitement and Panic: ONLY IN LEGAL RESPONSE at the time of the incident, if the limit was exceeded with excitement and panic, NO LIABILITY.** Ex: when using force against those who attack him at night. Anyone who uses excessive force due to excitement and fear cannot be held responsible even if the attackers are dead.

### REASONS TO REMOVE OR REDUCE PENAL LIABILITY

The reasons for removing or reducing criminal liability are:

- 1- Must state (mischief)
- 2- Unfair Drive
- 3- Fulfilling the Binding Order,

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- 4- Algebra, Violence, Scare and Threat
- 5- Error
- 6- Childhood
- 7- Deaf and Mute
- 8- Mental Illness
- 9- Temporary Causes, Being under the Effect of Alcohol and Drugs.

#### 1- MUST REQUIRED (SCRATCH)

It is directed towards a right that belongs to itself and to another person, and does not knowingly cause and to get rid of a heavy and surely danger that cannot be protected in another way or there is a proportion between the obligation to save and the severity of the hazard and the subject and the vehicle used. No penalty is given to the person for the act committed with the condition.

**In these cases, the ACTION CRIMES AND THE ACTION DECISION due to this action NOT, THERE IS NOT A PLACE FOR PUNISHMENT (REQUIRED FAIL PENALTY NOT given) decision is made. Again, this action REQUIRES COMPENSATION.**

*In order to speak of the Must, the following conditions must be found:*

#### Conditions Regarding Hazard:

- **There** will be a danger to the person's OWN or TO A RIGHT TO ANYONE,
- This danger will be HEAVY AND CONSCIOUS,
- Hazard will not be intentionally caused,
- **There will be** no obligation to resist the danger (ex: if there is a fire,

There is an obligation to resist fire. Unless firefighters are justified  
He cannot escape from the fire. If the firefighter crushes someone while escaping from the fire and gets injured  
If so, then he cannot take advantage of the imperative. Because counteracting danger  
has an obligation.)

### Conditions for Protection

- There will be no other means of protection,
- **There** will be a RATIO between the weight of the danger and the action taken.

**Example:** A mountaineer trapped in the mountain in snowy and cold weather, in order not to freeze from the cold if he broke his door and got inside, warmed up inside and finally ate food in the cupboard, punished. However, in this case, the action maintains its criminal character. Again the damage caused by the climber there is an obligation to indemnify. (NOT A CRIME AND DAMAGES OF ACTION IN LEGENDARY DEFENSE NO LIABILITY OF COMPENSATION)

OBLIGATION WHEN SUBJECTING A RIGHT ATTACK TO THE LEGAL RESPONSE  
HOWEVER, A RIGHT DANGER IS THE SUBJECT.

**For example: When** someone escaped from a fire in his house, he crushed his child lying on the ground and caused the death of anyone. The condition is MANDATORY. Again, when going downhill, the brake of his car  
It is also an example of necessity to hit the car on the roadside in order not to hit people.

THIRD PEOPLE TO RECOVER THE THIRD PARTY FROM THE CONDITION  
THE BENEFIT MAY BE A SUBJECT.

**For example:** A person who sees his neighbor's house flooded, broke another neighbor's glass and  
In case it enters into force, there is a necessity.

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## 2- UNAUTHORIZED DRIVE

**Committing a crime under the influence of anger or violent elimination caused by an unfair act**

**The situation that allows a reduction in the penalty of anyone is an unjust provocation.** In this case, the perpetrator the crime under the influence of dignity and element in terms of the mood and psychological state of the crime while committing the crime  
It operates.

**Unfair incitement DOES NOT REMOVE penalty, REDUCE. The offender is punished but DISCOUNT (Discount between 1 / 3- ¾ depending on the nature of the drive and the nature of the event)**

**Fury and sorrow ARE SOURCE FROM AN UNLIMITED Verb. Crime of unfair act it doesn't have to be. It is enough to be unfair.**

**Ex:** For the victim of a crime (victim who has been subjected to sexual assault)  
**unfair provocation discount cannot be applied** due to verbs) .

To commit the unfair act against the person who committed the wrongdoing is required. For example: If an offense has been committed against someone's son who has gossiped about him, there is no drive. Because the crime was not committed against anyone who committed injustice.

**For example:** If a person **beats** anyone who insults him, an unjust provocation is promised.  
It is concerned. Because insult is an unfair act.

**The unfair act does not have to be directed at anyone who commits a crime.** Ex: for a small child someone who saw that he was beaten by several adults, to those who beat the child under the influence of this situation  
In this case, unjust provocation is in question.

*The crime must have been committed in response to unfair action and between the unfair action and the crime committed in response it must not have been too long.*

**For example:** A crime under unjust provocation by a person who killed an insulting person 2 years later. it is not possible to say that it works.

THERE IS NO SEARCH BETWEEN THE CRIME COMMITTED WITH THE FAILURE. BECAUSE UNAUTHORIZED NOT A REASON FOR A DRIVE PENALTY IS ONLY THE REASON FOR A DISCOUNT.

### 3- COMPLETING THE BINDING ORDER

A person who has been given an order from a competent authority, which is mandatory to fulfill. he is not responsible for this move. (TCK art. 24-2)

**The order must be given from a Turkish authority, the person who issued the order must be authorized to place the order, must be followed (binding order), the order must comply with the law.**

**The order, the subject of which is a crime, cannot be carried out under any circumstances. (TCK art. 24-3)**

**CONSTITUTION Article 137** - *Any person working in public services in any capacity and manner, does not fulfill the order he / she sees in contradiction with the provisions of the regulations, regulations, laws or Constitution. and notifies this contradiction to the orderer. However, if the superior insists on its order and renews this order in writing, the order fulfilled; in this case, the execution of the order will not be responsible.*

**The order, the subject of which is a crime, is not fulfilled under any circumstances; fulfilling responsibility can not escape.**

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*By law for military services and for the protection of public order and public security in a hurry exceptions shown are reserved.*

The only special case for law enforcement officers: Law enforcement orders given to law enforcement officers themselves is not discussing its suitability. Even if the order is against the law, the law enforcement officer will fulfill the order.

It is difficult. **However, the order which constitutes a crime is included by the LAW OFFICER NOT REPLACED.** If it is brought, the person who issued the order is responsible for the crime.

### 4- ALGEBRA VIOLENCE AND THREAT

TCK m. According to 28: **algebra violence or surely that it cannot resist or escape and anyone who commits a crime as a result of severe intimidation or threat is not punished. In such cases, algebra, anyone who uses violence or threat is considered to be the perpetrator.**

**For example:** preventing firefighters from putting fire in a room or preventing the incoming people are not allowed to help.

**For example:** A left B hungry for crimes. Scare in the event (fear of dying of hunger) in question. Again, if A told him that he would kill B if he did not grant illegal construction permits, there is a threat. **Under these circumstances, anyone who commits a crime will not be given a penalty .**

**Algebra means material coercion - THREAT means Spiritual coercion.**

**Algebra, Threat, and Scare Cases have the following conditions to remove Imperfection must:**

- **There** should be a **RATIO** between intimidation, algebra, threat and crime committed .
- Scare, algebra and threat must be heavy and precise.
- **The** threatener should not be able to get out of it without complying with his wishes.
- **The** threat should not have been caused intentionally.

### 5- ERROR

**Anyone who makes a mistake in the elements of the crime during the execution of the act is not punished. ERROR**

**IT MUST BE AN ESSENTIAL ERROR TO REMOVE THE IMPERFECTION. So your perpetrator  
If we can say that the crime would not have happened without the error, the error is based.**

**For example: The person** who thinks that he is going to take someone else's bike and goes by someone else's bike he would not take the bike off if he knew. In this case, the error is based and the perpetrator is based on this error punishment is not given.

**This is the person who made the mistake about the more severe or less punishment of the crime.  
makes use of the error.**

**Ex.** While trying to kill her mother, the mother who kills another night by thinking her mother is wrong Benefit. (While killing the mother is aggravating, the perpetrator fails to kill his mother because he killed someone normal with the mistake. He is not punished for killing. **For example: If** he wanted to kill his mother, if he killed his father by mistake, in reality the person he wants to kill takes advantage of his mistake because he does not have a father and is not as if he killed his father, but normal punished like killing someone.

**Person who commits a crime by believing that there is a reason for lawfulness (error due to lawfulness ) benefits from this error and is considered as if there is a reason for lawfulness and punishment not allowed.**

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**Example:** A person who sees four or five people running towards him in a deserted place with a stick in his hand at night. If he hurts people who take off his gun and think he is attacking him, he actually sticks in his hand. If it turns out that the people who run with the chase of their escaped animals, then it is actually legitimate. While there is no self-defense, the perpetrator who is wrong and fails in this regard will benefit from this situation and will not be punished.

**The person who has made an inevitable mistake about the injustice of the act committed is not punished.** Ex. One If Antalya travels half naked in Antalya, no punishment will be given for obscenity. Because half naked there is an error that it is unfair to walk around.  
MUST.

**Ex.** A German could not say that if he was caught while drinking drugs in Antalya, he did not know it was a crime. Because the same action in his own country constitutes a crime. **NOT TO KNOW THE LAW  
Facts do not. (TCK art. 4)**

## 6- AGE OF SIZE

Persons under the age of 12 do not have criminal responsibility in terms of criminal law. At this age Even if people commit a crime, they cannot be punished. **BUT SECURITY ABOUT THESE CHILDREN MEASURE CAN BE APPLIED.** (Placement with the family, educational institution, treatment etc.) According to the penal code People who have not completed the age of 18 are CHILDREN.

**Children are divided into three groups in terms of Criminal Law:**

- **0-12 years old;** there is no criminal responsibility.
- **12-15 years old;** they can grasp the result of their movement and their ability to guide themselves if any, they are responsible. If these abilities are absent, they have no criminal liability. If you have these abilities they are punished and their penalties are reduced.
- **15-18 years old;** Criminal responsibilities are full as they have the power to distinguish. They're just kids due to their penalties are given a little.

## 7- HEAVY AND SILENT

Deaf and mute people's perception ability develops later than their peers.  
Discounts are provided for the mute. About those who are in this situation:

- Deaf muteers who have not completed the age of 15 have no criminal liability (not over 12 like children )

- provisions concerning children aged 12-15 years old, about deaf mutees aged 15-18; and discounts are applied.

- provisions on children aged 15-18, about deaf mutees aged 18-21, and discounts are applied.

**THERE IS NO DISCOUNT ABOUT THE HEAVY AND Mute THESE PENALTY RESPONSIBILITIES ARE FULL.**

#### **8- MENTAL DISEASE**

It is necessary to distinguish mental illness as complete and partial mental illness. **Complete Mental Illnesses:** No they have no criminal responsibility. No punishment, SECURITY MEASURE IS APPLIED (to the Health Institution It is placed for Treatment Purpose and does not heal - health, where it becomes non-hazardous to the community they cannot leave the treatment institution unless determined by the board report. )

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**Partial Mental Illnesses :** They do not have criminal responsibility only in cases related to their illness. Ex. Nobody with Kleptomania can be responsible for theft. Because these people take things all the time They take. However, if a Kleptomania patient kills a person, he has criminal responsibility.

#### **9- TEMPORARY REASONS, BEING AFTER ALCOHOL AND DRUG EFFECT**

**TCK m. According to 34: " Alcohol or drugs taken for a temporary reason or out of will. with regard to this act, who cannot perceive the legal meaning and consequences of the verb he / she committed The person whose ability to steer their behavior has decreased significantly will not be punished. "**

**For example:** In case the person with weak will by committing a crime by giving alcohol or drugs by force no one is punished.

**ALCOHOL OR DRUG IS RECEIVED AS A REQUEST AND THE CRIME WITH THIS EFFECT IF PROCESSED, THE PUNITER'S LIABILITY IS COMPLETE. NON-PENAL NO DISCOUNT. For example:** Anyone who drinks alcohol and gets into traffic and accidents with alcohol responsible for the rate. However, if the person who crashed into the vehicle by giving drugs or alcohol by force, is not responsible.

#### **LIMIT REMAINING OR REDUCING CRIMINAL RESPONSIBILITY the EXCEEDING**

**If the limit is exceeded for the reasons that remove or decrease the responsibility of the penalty, two situations are mentioned.**

**The subject:**

**1- Deliberately Crossing the Border: If the border has been crossed deliberately, there is a responsibility for the action being committed.**

For example: In case of necessity, the person trapped in the mountain has taken refuge in the mountain house and then his house is not used. is responsible for property damage crime.

**2- Crossing the Border with Negligence : If the border is crossed with negligence , the action is If punished, punishment is imposed.**

For example: If the climber stuck in the mountain in case of necessity causes fire in the chalet while warming up and In this case, is there a crime of damaging property? It does not occur because the crime of damaging property is negligent processed. The way that the vehicle whose brake exploded while going downhill does not enter the market place below the one who led to the edge and hit the wall while causing the death of a person standing near the wall exceeded the limit, if necessary. In this case, there is negligence in crossing the border. Eventually death occurs killing by negligence is also a crime. The responsibility of the perpetrator is the negligence of a person It is killed.

**Fear of excitement and panic is only for legitimate defense**

**SUBJECT is. OTHERS THAT REMOVE OR REDUCE PENAL LIABILITY**



## WHY IT IS NOT APPLIED.

### TANGIBLE MATERIAL ELEMENTS (MOVEMENT- NETICE-ILLIETY)

Effects in the external world arising from doing or not doing from a person

It is a concrete situation that depends on the will of the person who gives birth (will) and has a causal link. Criminal law punishes movements, not thoughts.

### MOVEMENT AND NETICE OF THE CRIME

MOTION → SCHEDULE OF CAUSALITY (PROVINCIAL) → SCHEDULE (RESULT)

#### Form of the Movement

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Movement occurs in two ways: execution and neglect. Performing actions in the form of While the movements are called, movements in the form of not doing are also called negligent movements. The executive movement is a whole It is a type of movement that can be observed from outside, such as the human body's playing, displacement. For example, one person punching another, the doctor cuts the solid organ, the nurse makes a needle, the driver driving, etc.

**The neglected act is that what needs to be done is not done.** Done by the legal order Criminal responsibility arises if the required action is not taken. Ex: A firefighter's fire not to extinguish, the doctor does not interfere with a patient with bleeding, the nurse does not give his medication to the patient, action to be taken in cases where the lifeguard does not save the person who is about to drown - The action envisaged by the law is not done, it is neglected.

### DISCRIMINATION OF OFFENSES BY MOVEMENT

#### 1- Executive Crimes - Neglect Crimes:

Format which can be processed to do so legally strong enforcement actions criminal offenses committed by **executive** called **crimes** . Executive crimes occur in the form of actions that should not be done. To anyone Movements such as firing, punching a person, giving poison, are movements that should not be done. Because killing people and suffering their body is prohibited by law.

Movements do with the crimes committed in the form of legal terms in **the crimes of negligence** name It is given. While the law enforcement physicians have the duty to intervene in patients, a physician he has no executive action in not interfering. However, when he had to act according to the law ( intervention). Ex. Like the nurse's not giving the patient's medicine. It is possible to try to neglect crime It is not.

In fact, a crime that can be committed with enforcement acts with a negative action (negligent action) is called **enforcement crime by negligence** . **Such crimes are crimes committed through enforcement.** It is possible to try to enforce the crime by negligence.

**For example:** Surgeon A did not interfere with severely injured K, who was brought to the emergency room during the night watch. and K died because it was not intervened early. In this case, the crime of deliberate killing is actually caused by While it is a crime that can be committed, in this case, it was committed with a negligent act. There is a crime of enforcement by negligence (Deliberately crime of killing neglect by behavior TCK m. 83)

**For example:** Nurse H, who is required to give her medication on time, did not give her medicines and patients' health is therefore impaired. The nurse did not give H drugs, but did not. In this case if the patients died because of not giving medication, the crime of killing, and if their illnesses increased, then the injury will be the crime. While these crimes can actually be committed through enforcement actions, Processed. (Deliberate crime of injury with negligence)

**For example:** A used his vehicle fast to catch up on his house on a snowy day and control the vehicle. It is lost. The vehicle coming out of control hit NİYAZI, standing on the sidewalk. Niyazi was injured A Fearing that he would be caught, he left Niyazi on the road and ran away. Niyazi is seriously injured, hospital He could not be intervened because he was not taken away and died on the spot. In this case with his own flawed behavior Anyone who puts another's life in danger has to help the person he hits

### 2- Bound Moving-Free Moving Crime:

If he clearly writes in the law that crime can only be committed **by performing certain actions**, this crime **related to mobile crime**.

**For example:** For fraud, someone else's assets will be damaged and this damage is fraudulent. It will be given by movements (deceptive to the other). If it is committed in this way, there is a connected mobile crime. Otherwise, fraud crimes do not occur.

**For example:** It is a crime to release the atomic energy and cause an explosion. In this crime, atomic energy is released and the explosion will happen. These two movements are linked.

If no act is specified in the law for crime to occur, the crime will be processed. Such crimes are called **free-motion crime**.

**For example:** The crimes of killing and wounding can be committed by any action. Law is a form of action It did not foresee. Any action that results in killing and wounding is considered a crime.

### 3- Single Moving Crime- Multi-Moving Crime- Optional Moving Crime- Contract Crime

If only one act is counted in the law in order for crime to occur, then **single action crime** in question.

**For example:** The crime of swearing the lie (m. 275).

**For example:** Theft is the only mobile crime. Insult and false witness crimes are the only mobile crimes.

Here, not as a number to be understood from the uniqueness of the movement.

Is SINGULARITY. For example, killing can be processed with ten knife strokes. However, this crime is also possible with a single knife stroke. is a type of crime that can be committed. The important thing is that the movement is a single legal act.

If at least two acts are required in the law for a crime to occur, in this case

**there is a very mobile crime**.

**For example** : For the crime of fraud in the special document; **the private document will be fake and this fake document will be used**. If a fake document is not used, no crime will occur. (TCK art. 207-1)

**For example:** Someone else's life, the life or sexual immunity betting that it will carry out an attack against you or cause a great loss in terms of assets. threatening or *using algebra to comply with the delivery or receipt of a good what makes ...* (Loot Crime)

In order to commit a crime in the text of the law, the law also shows several movements and each of these movements In case of occurrence of the crime which was written to someone in this state **elective moving crime** mentioned (It is an optional mobile crime when counting movements in the law OR if a conjunction is used)

**For example:** Establishing **or** managing an organization to commit a crime.

**For example:** Non-public conversations between persons without the consent of either party.

a person who listens with a device **or** records them with a sound-receiving device, between two months and six months in prison punished with. (The crime of listening to the conversations between people and recording them)

**For example:** Partially or completely washing, destroying, destroying someone else's movable or immovable property, person who spoils, renders useless or pollutes ... (Crime damage to property)

**In crime with optional action, a single crime occurs even if all of the optional actions have been done.**

**For example:** someone else's possession, to keep or use in a certain way

Transfer of possession on the property transferred to him, for the benefit of himself or anyone else

The person who saves other than his purpose or denies this transfer phenomenon... (Abusing Trust-Security Crime: In this crime, the perpetrator denies the transfer of the property and also sells this property.

on the other hand, it will have performed two elective movements. However, only one crime occurs.

**POSSIBLE CRIME for the** type of water in which a certain number of repetitions of the same movement is sought for crime to occur. is called. Conflict crimes are completed as soon as the last action to demonstrate the existence of the confession is made.

TCK m. According to 6 / h: From a confession statement; **the basic form of a deliberate crime or heavier or more than two of their qualifications requiring less punishment within one year** and at **different times** the person who works is understood.

## NETICE (CONCLUSION)

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**The result of the emergence of the movement is called the result.** For example deliberate killing In the act, stabbing a knife to a person's body is the result of the death of the victim.

## CLASSIFICATION OF CRIMES FROM NETICE CARE

As a rule, every consequence constitutes an independent crime in the Criminal Code. For example, if the opponent F shoots K but if he fails to hit the target and injures K and also hits A passerby and In this case, there are two consequences. There are two crimes with two consequences. To kill against K Attempt - against A or deliberately - there is a crime of killing by possible intent or negligence.

## CASE OF EVERY RESPECT TO A CRIME

### 1- Sudden Crime- Distance Crime:

The action took place simultaneously with the result defined in the Criminal Code **ANI CRIME** diagnosis (result of action contiguous crime) is mentioned.

**Example:** The crime of insult is a sudden crime. Movement and consequence are adjacent. The moment the word containing insults came out of the mouth the result occurs.

If there is no distance between the crime-making movement listed in the law and the result, then the distance is the crime. Distance crime is conducive to attempts. Because as a rule, attempts to distance crimes are promised may be the subject. It is not possible to attempt sudden crimes.

### 2- Continuous (Continuous-Continuous) Crime:

The crime that the **result** continues for a certain period of time is called **IMMEDIATE CRIME** . Legal violation in this crime type it does not end immediately and continues for a certain period of time.

**For example:** In the crime of deprivation of liberty of person, no crime occurs when the liberty of the person is prevented. a certain amount of time (more or less) deprived of going somewhere for this crime to occur, or forced to be left on the ground.

For the continuing crime, the continuing result comes from the fault of the perpetrator and this continuity is no longer the perpetrator must have power to give.

Continuous crime is deemed to have been committed as soon as the blackout has started, and where the interruption takes place. PROCESSED.

Sudden crimes are COUNTERED at the place where the action took place.

**For example:** A train that takes the train to the card is locked in a compartment by B while it is in Erzurum. B, A After locking, he got off the train. When the train arrives at Ankara Station, A is removed from the compartment and It recovered. There is permanent crime in this incident (continuous crime). Where such crimes occur The ongoing result was interrupted in Ankara as it would be considered as processed. The crime is considered committed in Ankara.

In uninterrupted crimes, crime is completed when freedom is restricted and after this stage the result is still After the crime is completed, it may be the subject of a crime involvement. But sudden Participation is not possible in crimes after the crime is completed.

**Example:** Injury crime is a sudden crime. After A wounded B with the stick in his hand, the result came true and it's done. After B is injured, it is not possible for C to participate in the crime of injury. But force A, B after closing a cellar, the sequel continues. Crime occurred but the outcome is not over. C it can participate in the crime by waiting at the door and peeping B and after a while opening the door.

**The timeout and the duration of the complaint in the permanent crime starts as soon as the interruption occurs .**

**Legitimate self-defense is not possible after action has taken place in sudden crimes. Whereas As the result is continuous in permanent crimes, legitimate self-defense can be pursued as the result continues.**

**Examples of Continuous Crime (permanent crime):** Establishing an organization to commit a crime, unduly undertaking, electricity theft and energy theft, carrying weapons prohibited from carrying, escape, military service

As a rule, every outcome that occurs in the outer world gives the body a crime, while the exception to the law is In some cases, more than one result is considered a single crime .

**1- Chain Crime (Joint Crime)**

Within the scope of the decision to commit a crime, more than one of the same crime against a person at different times If committed, chain crime will occur. The offender is given a single penalty, but his sentence is increased.

**Article 43 - (1) Within the scope of execution of a crime decision , at different times (between TIME MUST NOT BE LONG) multiple offenses of the same crime against one person In the event of a penalty is imposed . However, this penalty is increased from a quarter to three quarters.**

The basic form of a crime and its qualitative forms that require heavier or less punishment are considered the same crime. In cases where the victim is not a certain person, the provision of this paragraph is applied.

(2) In the event that the same crime is committed with more than one person in a single act, the first paragraph provision is applied.

(3) Chain crime in **deliberate killing , deliberate injury , torture and looting** crimes provisions are not applied.

The victim of the crime must be the same. The thought will be to commit the same crime (simple or qualified). Besides these conditions, it will not be long time between the two crimes.

If a crime was committed against more than one person in a move, the chain crime provisions It applied.

**For example:** Insulting three people at once. More than one person using negligent vehicle negligence In cases of injury, there is only one movement but more than one victim.

**For example:** If a cashier steals money from the safe at certain intervals, the same crime is committed. According to the decision (the purpose of theft), theft was made at different times. But in this case, a single there will be a crime and a single penalty will be given, but the penalty will be increased.

**The chain crime is considered to have been committed at the moment the chain is broken (AT THE TIME OF THE LAST CRIME).** In other words, it is deemed to have occurred when the last result occurred. However, as soon as the crime was stopped it was considered processed.

**For example:** A spoke against victim M and spoke twice again after 6 months. In this case, no chain crime will occur. Because the time passed is very long. So two separate sexual There is a crime of harassment. Whereas if A had made a word every time he saw it (every 2-3 days), it would be a chain crime. There would be one crime and one punishment. But after a long time, chaining crime now can not.

**2- Combined Crime (Ink Crime)**

**Article 42 - (1)** One is considered a single act because it constitutes another element or an aggravating cause. crime **compound the crime** is called.

**For example:** The crime of looting is to take the movable property of someone by using algebra and violence. It is processed. In this case, algebra and violence are CRIME. Theft of someone's property without their consent It is a crime. However, two crimes combine to form a new crime. Both the ALGEBRA and THEFT crime In this case, IT IS THE ELEMENT OF THE RAIN CRIME. The perpetrator is punished only for the crime of plunder.

**For example:** An internet virus can damage Victim M's computer and its bank passwords. who transfers money from his account using the "Both in 244-2" field *that disrupts the data in an information system, destroying, modifying or making it inaccessible, placing data on the system, existing data elsewhere*

send ”andcommittedthe **simple fraud** by transferring money. But two crimes together with QUALIFICATIVE SCAMS (158/1, information system) fraud ) form and give another CRIME body. Here, the perpetrator is only accused of qualified fraud It is responsible.

**3- Mixed Crime**

If a crime involves another slight crime, then there is **mixed crime** .

**For example:** Sexual assault crime, injury injured with Simple Medical Intervention,

**For example:** Torture crime involves algebra crime.

**4- Transitional Crime**

In order for a crime to be committed, if a slight crime must be committed from this crime, then a **gated crime is** mentioned. becomes the subject. In other words, heavy crime cannot be committed without a light crime.

**For example: In order for** sexual assault crime to be committed, sexual harassment crime must be committed first. Because sexual After the harassment crime, sexual assault crime is started.

**For example:** In the crime of killing, for example, firstly injury (disruption of body integrity) then the crime of killing is committed.

Gated in crime **it is granted only convicted of the most serious crimes.**

**5- Intellectual Integration**

TCK m. In accordance with 44: “ **A person who caused more than one different crime with a verb he committed, of these, they are punished for the crime that requires the heaviest punishment. ”**

Intellectual intercourse also consists of **ONE MOVEMENT and TWO CRIME** . In this case only the perpetrator is held responsible for the serious crime. Each result is considered as the result of a separate move. It should be. If there is only one movement and more than one crime, then intellectual intercourse is in question.

**For example:** If someone defeats his child, there are two crimes. One of them is in the same residence together The other one is mistreatment, and the other is deliberate injury. In this case, the perpetrator was

It is responsible. (Intentional injury)

**For example:** A person who steals unlicensed guns from somewhere. Both theft and the weapon forbidden to carry to commit the crime with a single move. In this case, there is intellectual intercourse.

- The perpetrator is punished for the heaviest crime.
- If one of the crimes is a public trial and someone is a complaint, it is seen as a public trial procedure,
- The place of crime, time, timeout etc. determined by heavy crime,
- If one of the crimes is forgiven, the perpetrator should be punished for the other crime.

MULTIPLE DIFFERENT CRIMES WITH SINGLE ACTION TO MAKE INTELLECTUAL INTEGRATION MUST BE CREATED.

A CRIME INTRODUCTION AND THE SIMPLE AND HEAVY CASES OF THE CRIME ASSESSED.

**Ex:** A shot at B in order to kill A, but B is not fast, B is not B hitting C behind. As of this incident, there are two sequences in the middle and acknowledge the existence of two movements. is required. Again, the first action is the crime of attempting to kill against B. There is also a crime against killing against C. So crimes are of the same type. That's why the idea is poisoning it is not possible to apply.

**SPECIAL FORMATS OF CRIME**

**ATTEMPT**

Initiative TCK article 35: “A **person directly refers to a crime that he intends to commit. due to the initiative if it cannot start execution and complete it for reasons that are not in its possession is responsible** ”. Again in case of an attempt, the penalty to be imposed is the **severity of the danger and the**

The item to be determined is regulated by considering the **incoming damage** . Your crime was committed in case of attempt a less punishment than that.

**CONDITIONS REQUIRED for an attempt:**

- Must be a crime that can be committed deliberately (Attempted Crimes Not Possible)
- Enforcement actions will not leave room for doubt and suspicion with CONVENIENT VEHICLES will be started in a way,
- The outcome that the perpetrator wants to realize is not accomplished with UNREASABLE REASONS it will be. (The perpetrator will have done everything for the outcome)

As in the old law, the Law No. 5237 abolished the MISSING-FULL THERAPY separation instead.

It regulates that a penalty will be determined according to the WEIGHT of the DANGER and the DAMAGE TO THE SQUARE.

**Example:** Fail X fired Y to kill him and injured him. Injured Y removed

He was rescued by being operated in the hospital. In this case, X killed with intent to kill, but death

It did not occur with REASONS (medical intervention in time) NOT INCLUDED. The action of X deliberately attempts to kill is the crime.

**For example:** Ahmet fired at Cemil to kill, but the bullet did not hit Cemil. This

In this case, death did not occur due to reasons that Ahmet did not have (not hitting). Ahmet in it constitutes the crime of attempting to intentionally kill the action.

The stages of the crime will begin with the idea of perpetrator committing a crime.

**The emergence of the idea of crime → Preparatory Movements → Beginning of Execution Movements → Enforcement**

**Completion of Movement → Occurrence of Results.**

The undertaking appears after the completion phase of the executive movements.

**To exemplify these stages of crime:**

Fail Erkunt killed Berkday, who was hostile to them because of the land dispute.

It is think . **(Stage 1)**

Erkunt purchased a GLOCK weapon from a friend and followed Berkday.

It began.

On the day of the incident, he started following Berkday after work and followed until he left his house . **(EVRE 2)**

When he came to a dark place, he pulled his gun **(EVRE 3)**

and fired four shots at Berkday from behind. **(STAGE 4)**

However, death did not occur because Berkday was using a steel vest. **(STAGE 5)**

**THANKS, BUT IN THE OFFENSES OF MOVEMENT AND RESULTS**

**MAY (DISTANCE OFFENSES). THERE IS NOT POSSIBLE IN SURGICAL CRIMES.**

**EXAMPLE:** Insult is a sudden crime. Action and consequence occur simultaneously in insult crime

For this reason, it is not possible to attempt an insult.

**For example:** Deliberate injury is a crime where movement and outcome can be separated. Therefore deliberately

It is possible to attempt an injury crime.

SOME CRIME TYPES IN THE LAW LIKE TO BE COMPLETED, EVEN IF THE SITUATION STAYED

PENALTY are. THESE SITUATIONS ARE EXCEPTION TO THE ENTERPRISE. THESE CRIMES TCK

310 M., assassination of the President (m. 310) and the crime of violating the Constitution with algebra and violence (m. 309),

Crimes committed against the indivisible integrity (art. 302) are punished as if they were attempted.

This type of crime is called DEFENSE TYPE OFFENSES.

**VOLUNTARY DISCLAIMER:**

The volunteer gives up voluntary acts of execution or completes the crime by his own efforts or preventing the realization of the result.

**Voluntary abandonment is a PERSONAL REASON that lifts the punishment. Voluntary abandonment of the crime as well as after the completion of enforcement actions  
It is possible.**

**VOLUNTEER VASING IS NOT POSSIBLE AFTER THE CRIME IS COMPLETED. Crime  
After completion, EFFICIENT REFRIGERATION IS THE SUBJECT:**

**For example:** Thief A returned the stolen items to the landlord, who was upset the next day. In this case there is no voluntary abandonment. Because the crime is completed.

**For example:** The opponent A has ambushed in front of his house to kill C and watch the time he comes It began. When C came in front of his house, A pulled out his gun and, meanwhile, towards C's daughter's father. he saw that he was running and gave up sadness to this situation. In this case, A volunteer gave up. Because while there is no obstacle reason, he did NOT start enforcement actions or shoot.

**Ex:** Thief H went to his mansion to rob the house of a wealthy businessman Hulusi and but when he was about to enter the house, he saw a police car in front of the house. It's a good day to steal theft, thinking that he was not theft and that the police would catch him comfortably gave up doing. In this case, there is no voluntary abandonment. H's action attempted the theft crime. Because there is no voluntary abandonment.

Voluntary withdrawal is to stop committing a crime with free will.

**In case of voluntary withdrawal, the offender is not punished for the crime he wants to commit. But volunteer  
If the actions until the time he gives up constitute a crime, only the punishment is given for that crime.**

**For example:** If he obtained unlicensed guns to kill or entered his opponent's house, voluntary abandonment is not punished for killing and theft crimes but carrying unlicensed weapons and Penalty for violating housing immunity.

#### **VOLUNTEER DISCHARGE IN PARTICIPATION**

In a situation where multiple people come together to commit a crime, one of them  
If the volunteer gives up, the offender is not punished, but:

**If the crime was committed despite all the efforts of the volunteer who gave up, and the volunteer who gave up  
even if it could not be processed due to any other reason than his zeal  
Ship.**

**Ex:** A and B entered the innocent's house to steal. That innocent is very poor seeing A gave up committing crime and returned. B said, "Even if it is poor, it will be There is something." He continued the action.

In this incident: Despite A's every effort (reported to the Police, etc.), if the crime was committed or B while he was committing the crime, the pan was tapped by the landlord, and he was unable to commit the crime. If caught, A will benefit from voluntary withdrawal provisions. The action so far was only It is responsible for violating its immunity. He is not responsible for the crime of theft, because volunteer gave up.

#### **EFFICIENT REGULATION**

**After the crime is completed with all elements, the perpetrator's return from advancing on the path of crime  
called effective regret . Effective regret is only after the crime is completed, in the context of certain crimes  
WHAT IS A PERSONAL REMOVAL?**

**For example:** Ilayda wants to inform Yasemin that she is jealous of her beauty. Jasmine at work KEZZAP poured on his face one day early. (Deliberately hurt) Seeing Jasmine suffering Ilayda was very upset and regretted what she did. He immediately helped Jasmine wash her face with water and by making the first intervention in a nearest hospital, leaving scars on your face - less scars caused it to remain. In this case, since the crime was completed with the act of throwing charity, Yasemin's next action is EFFICIENT REGULATION.

**For example:** A day when he travels alone to injure Verasettin, who is hostile to them. He watched him and approached him with a stick in his hand one night and hit him until he got his resentment. More then he saw that Verasettin was suffering and was very upset about this situation and took him to the hospital and prevented heavy results from occurring. In this case, there is effective regret.

### SPECIAL SITUATIONS ON THANKS

- 1- If the perpetrator asked for more, he received less;** in this case, not an attempt but a completed crime has. For example: If A wants to steal five phones from his cell phone, 2 of them stole in this case. There is a crime of theft, not an attempt.
- 2- In case of the offender who committed the first crime in chain crimes while he committed the second crime:** he is punished for the first crime he has completed. Ex: A first day at a white goods shop 5 washing machine stole. On the second day, 2 laundries from the same shop yesterday He came to buy his machine more but was caught stealing these machines. In this case punishment is given for the first crime he has completed, not the attempt, and the chain crime provisions apply.
- 3- Continuous Crime (Continuous Crime):** The perpetrator was caught while the interruption continues in these crimes. If it is not an attempt, a completed crime is in question. Ex: A to force V to sign a deed he caught it and forcibly closed it in a room. V a day later by friends of the situation Upon learning, he was saved from the room in which he was closed. In this case, a processed person There is a crime of deprivation of liberty. There is no attempt. This crime freedom restriction is realized at the first time it is made.

### NON PROCESSABLE CRIME ENTERPRISE

The crime does not have a material issue although it is intended by the perpetrator, or the name of a crime that cannot be committed due to the unfitness of the vehicle used.

It is given.

**For example:** A has argued with neighbor B the day before and wants to kill him. The next day in the garden He fired two shots against him while lying on his stomach. However, post-mortem autopsy one day B It was first established that he died from a nightly heart attack and was already dead during the action of A. This A cannot be punished in this case. Because the issue of crime is impossible. A dead person cannot be killed a second time.

**For example:** Since it is not possible to kill someone with a water gun (THE ABSOLUTE OF THE VEHICLE INVALIDITY) The crime of killing or attempting to kill with a water pistol cannot be committed.

**For example:** The blank gun is a convenient tool for threat crime, while it is a convenient tool for killing crime It is not.

**PENALTY is NOT given to the perpetrator because of the crime that cannot be committed.**

### So-called crime

As a crime in the law of the act that the offender intends to perform or takes There is a so-called (mefruz) crime when it is not defined. The perpetrator thinks he committed a crime, whereas a there is no crime.

**For example:** The situation of anyone who steals his own sheep, thinking that he is stealing his neighbor's sheep. Person He thinks he committed the crime of theft, but the action is not a crime because he steals his own sheep.



**For example:** In out-of-marriage partnerships, one thinks that he committed an adultery crime, but adultery is a crime in law.

In this case, there is a crime because it is not defined. Because adultery is not a crime.

### CAUSALITY LINK (PROVINCE LINK)

In order for a verb to constitute a crime, there is a causal link between the movement and the result.

is required. So the result should come out due to the movement. Causal link results with movement

The cause is the result relationship.

The offender is responsible if the outcome occurred due to the action. If there is a proper causal link, the perpetrator is responsible for the result it caused. When the event is considered as a whole, the result is the result of the movement.

The perpetrator is responsible for this result.

**For example:** Fail F injured his friend R, who had a land dispute between them. R to the hospital  
112 Ambulances died due to an accident while being lifted. In this case, the movement of F with death  
cause and effect relationship has been cut between. F is responsible for death because the causal link has been cut  
It is not. The movement of F only resulted in injury and is only responsible for the injury.

**For example:** Fail Veli argued with his wife and his wife was depressed due to this discussion one day later and the mouse  
suicide with venom. Fail because there is no cause and effect relationship between the parents' action and the outcome of death  
The parents' movement did not result in death. The parent is not responsible for the death consequence. (Suicide  
did not force and encourage suicide).

**Ex:** Fail Zehrettin argued with his classmate Memnun and stabbed him. 5 months apart  
undergoing surgery Satisfied not healed and injuries caused by stabbing  
He has died. In this case, death is the result of stabbing, since the causal link is not cut. Therefore  
Zehrettin is responsible for the killing offense. In the same event due to physician error in Satisfied surgery  
If he had died, the causal link would have been cut and Zehrettin would not be responsible for the death.

### SPIRITUAL ISSUE (DEFICIENCY - ISNAD CAPABILITY)

In order for an action to be accepted as a crime, the action's ability to commit a crime, that is, the defect  
it must be carried out by someone with a talent. From the point of view of the conclusion,

If the perpetrator does not have flaws, or if the perpetrator is flawless, punish the perpetrator in accordance with the principle of perfect crime and punishment.  
It will not be given.

**Defect : Knowingly by someone with a verb's isnad ability (flaw ability) and  
it is done voluntarily and at least knowingly.**

A person who does not have the ability to commit a crime (defect ability) will not be punished if he has committed a crime. for example  
Children under 12 years old and full mental patients do not have flaws. But their action is crime  
preserves its quality. Penalties are not given only for personal impunity.

**Isnad ability (defect ability) MUST BE AT THE TIME OF THE CRIME.**

**Crime:** The movements in the law, in a manner that is illegal by a person with flaws,  
it is done knowingly and willingly or at least knowingly.

Imperfection occurs in two ways: **KAST and TAKSİR** .

**KAST is the NAME in the penal code. The penalty for deliberate crimes is the rule.  
THE EXPRESSION EXCEPTION IS A REGULATION. If the negligence of a crime is not regulated by law  
the perpetrator is not punished for this crime. If there is a crime law in TAKSİR, a penalty is given.**

**For example:** crimes like property damage, human trafficking crime, fraud in official documents.

Although it is processed by negligence, it is not possible to punish it. Because damaging the negligent property in the law,  
Negative human trafficking, fraud in the negligent documents.

However, as negligence injury is regulated by the negligence killing law, death by negligence or  
If the injury is caused, the perpetrator is responsible and the offender is punished under these articles.

The occurrence of the crime depends on the existence of the caste. Knowing the elements of the legal definition of a caste crime and is willingly realized. There are two types of caste in the law.

- **Direct Caste (Caste):** The direct caste of doing an action on purpose and by asking for its result is called. The lawmaker if knowing that a criminal offense would.... These crimes are only possible if they are included in the statement. can be processed directly by caste.

**Ex:** If A shot at B for the purpose of killing and caused the death of B, then his action did it on purpose. He also knows and wants the outcome of the movement. The imperfection of A is direct intent.

**CRIMES THAT CAN ONLY BE PROCESSED CAN BE TREATED WITH POSSIBLE CASTES. But a crime if the word "BILK" is included, this crime cannot be committed by possible caste.**

**For example:** It is a crime to know how to use fake documents. This crime cannot be committed by possible caste.

- **Possible Caste:** One's prediction that the elements in the legal definition of crime can be realized however, there is a potential caste if it actually operates. In this case, requiring aggravated life imprisonment from twenty years to twenty-five years in crimes requiring life imprisonment for crimes up to prison terms; in other crimes, the basic punishment is reduced from one third to half.

Possible Caste is the caste that the perpetrator **says**, regardless of the outcome, **and accepts the result. Perpetrator ACTION WILL CONTINUE WITH THE RESULT AND ACCEPTANCE OF THE RESULT.**

For example: Even though he saw that the red light was on and the pedestrians were passing, a person who acted with POSSIBLE KAST.

**POSSIBLE KAST IS A GENERAL DISCOUNT.**

**Ex:** When shooting at his opponent, he saw his friend next to him and he would hit him too. The intention of anyone who fires his gun by saying "IF IT WILL GO" POSSIBLE KAST.

**BY YARGITAY: Shooting in the air with guns at weddings and crowded places and a THERE IS POSSIBLE MUSCLE in case of death of the person.**

As a rule, the criminal law thinks of the person who commits a crime, that is, for what purpose he commits a crime. do not look. The important thing is to do the crime and act. But the law There are also crimes that the perpetrator punished for some specific purposes. The general intent of the legislator **EXCLUSIVE** to the situation where the offender (other than knowing and asking) seeks to have a special purpose It is called **KAST**.

**Ex:** Migrant Smuggling crime In order to obtain a direct or indirect financial benefit if it is processed, it will be punished. When committed for any other purpose, no migrant smuggling crime occurs. In this case, special There is caste.

If the victim of the crime to be committed is certain, it means Direct Caste. But the victim is not certain In this case, Indirect Caste is in question.

**Ex:** Fail K opponent came to H's barber shop and a grenade to kill him It has taken. In this case, its main purpose is to kill H. The intent to H is directly intent. But the bomb

If the customers inside are also dead because of this, the caste against the customers is indirect (Informal There is an unspecified caste.

The perpetrator plans to commit a crime and maintains his commitment to commit a crime for a long time and is absolute as it does its best to achieve the result and not to leave the result to chance and absolute If he coldly committed the crime in order to obtain it, then there is the **DESCRIPTION OF THE DESIGN. Premeditation In this case called YARGITAY, the perpetrator is committing a crime in a COLD STATE. UNJUSTED DRIVING IN CRIMES COMMITTED BY THE DESIGNING CART according to YARGITAY NOT APPLY.**

The appearance of a new caste after the perpetrator's offense is called the **ADDED KAST**. In this case, a new caste is added to the caste of the perpetrator and a new crime appears.

**For example:** The doctor forgot scissors in the patient's abdomen in the operation. But this situation later

Although he learned, he did not report the situation to the patient and his patient died.  
The doctor's first action is injury by negligence. But despite learning about her mistake, she reoperates the patient  
If he does not, he is now RESPONSIBLE FOR NOT KILLING:

**Ex:** A man who fights with his friend is injured and leaves him at the scene, turning around  
He heard M lying on the ground insulting his mother while he was about to be on the ground with anger.  
killed the underlying M. In this case, while the case at the first moment is intentional to injure, it appears after the insult  
Casting is intent to kill. In this case, the killing intent is the ADDED MAST.

## 2- CASH

There are two types of negligence in the Turkish Criminal Code. **CASH (UNCONSCIOUS CASH) and CONSCIOUS CASH.**

**Article 22 - (1)** Verbs committed by negligence shall be punished in cases where the law clearly states.

**(2) Due to the violation of the obligation of negligence, attention and care, a behavior is The result stated in the legal definition is carried out unforeseen.**

**(3) Despite the fact that the person does not want the expected result, if the result occurs there are conscious negligence;** In this case, the penalty for negligent crime is increased from one third to one half.

**(4) The penalty to be imposed for the crime committed by negligence is determined by the fault of the perpetrator.**

**(5) In crimes committed by more than one person negatively, everyone is due to their own fault. becomes responsible. The penalty of each perpetrator is determined individually according to his / her fault .**

**(6) The result of the negligent act, exclusively the personal and family status of the offender In terms of being a victim of a punishment that makes it unnecessary, punishment is not given ;** The penalty to be given in a deliberate negligence can be reduced from half to six.

**CASH (CONSCIOUSNESS CASH):** There are two elements of caste; TO KNOW and WANT. One  
If anyone performs a knowingly and willingly movement and death occurs, he deliberately moved.

The part that separates caste and taxi is **whether or not it is desired.**

In negligent crime, the act is done knowingly and willingly, the result is known but it is NEVER WANTED.

**The negligence also predicts the outcome of the movement and is known in advance but never NOT required.**

**For example:** In the event that a doctor causes the patient's death by making a wrong intervention to the patient:  
He performs the intervention (movement) on the patient knowingly and willingly. The doctor did the wrong intervention  
time knows that the patient will die, predicts, but never asks THE PATIENT TO DIE.

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**For example:** A, who hunts in the forest, thinks that there is a partridge behind the bushes.  
fired his rifle but stood behind the bush that he thought was partridge, causing M's death  
It has been. In this case, KILLING (UNCONSCIOUS POSITION) KILLING IS THE SUBJECT.

**Due to a move made from these explanations WITHOUT KNOWING or UNWANTED If it is not desired, the result is TAXY CRIME.**

## 3- CONSCIOUS POSITION:

The act of the perpetrator is knowing, FORECASTING FORCE but continues to act but never  
does NOT want a time. The perpetrator predicts the outcome, but act with the thought that it is NOT AVAILABLE  
It is. The result has no desire to happen.

**Example:** As soon as he approaches the red light, he does not decrease his speed and although he sees pedestrians somehow  
I do not **slow down** by saying I will save (**predicts the result and continues the action**) and a person  
the ability to drive, even though the driver of the death or driving fast on a crowded street  
and if someone who trusts the brake of the vehicle causes death in an accident,

There is a negligence.

**The difference between conscious negligent and negligent is here. In the taxi, the outcome is just KNOWN. But IT WILL ALSO TAKE ADDITIONAL TO THE KNOWLEDGE OF THE RESULT in conscious taxiing. FORECASTING AND CONTINUING THE MOVEMENT.**

Anyone who continues to drive even when night sleep comes is going to sleep and crash. KNOWS but continues to act. This person is negligent. But the same person is overly alcoholic and too fast In this case, Conscious Negligence is in question. Because now predicts the outcome but continue the action It is.

**Although he did not stop at the red light and saw the pedestrians (NETICE PREPARED CURRENTLY CONTINUE TO MOVE)** relying on being a master driver, until they arrive The one who continues the move saying "I will pass" PREVESES THE HIGHWAY but will take action continues. In this case, the result is not wanted by any means, continue the action by saying "IT IS NOT AVAILABLE" It is.

CONSCIOUS CREDITS should be determined because in case of conscious negligence, the penalty is from 1/3 to half. It increased. **A GENERAL REASON WHICH INCREASES THE CONSCIOUS CREDIT PENALTY.** Therefore the nature of the concrete incident, the nature of the action, the situation of the victim, the nature of the crime scene, the statements of the accused, the accused professional qualifications are determined by taking into account such factors as witness statements.

As special knowledge is needed in professional matters, the expert should be consulted. But Since there is no FINAL EVIDENCE FROM PENALTY JUDGMENT, the expert explained the reason for the judge. may make a decision contrary to his view. For this reason, the EXPERT REPORT IS NOT THE JUDGE.

#### **A CRIME HOSTED AS A RESULT**

**TCK Article 23 - (1)** The formation of a verb, heavier than it is meant, or another result in the event that the person is responsible for this, in this regard , **at least he must act with negligence .**

Crime aggravated by the outcome: "Harmful or dangerous beyond what is necessary for the existence of crime In the event of a consequence, crimes whose penalties are aggravated are called crimes that are aggravated by their consequences. ".

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Therefore, if an excessive result has occurred from the implied result, in terms of the second result of the offender **The obligation to act at least ATTENTIONAL has been adopted. If the perpetrator in terms of secondary outcome (heavier than what is meant), even a grade of TAKSİR If the spiritual element cannot be mentioned, the perpetrator will not be responsible for the aggravated consequence.**

*When a more severe result than the result predicted by the perpetrator occurs, whether it is predictable or not. If it is accepted that the offender can predict the outcome, the offender, will be held responsible for the serious consequences.*

Based on these explanations; **only by acting out of the heavy consequence that takes place, with movement Instead of establishing a causal link between the worsening result and holding the perpetrator responsible for the result; ingravescient at least in terms of whether the outcome can be foreseen by the perpetrator and the actual result It is imperative to investigate the existence of a spiritual element at the degree of TAKSİR.**

#### **EXAMPLES:**

1- Someone who punches someone; predicting that anyone with whom he punched may die / to be able to foresee, in accordance with objective principles, the normal flow of life and each of them. there will be a claim that does not fall. A person who acts effectively with a fist to someone; **punched probable (unofficial) of these results if the person's jaw or teeth are broken**

**While it is possible to say that he has a caste, it is TAKSİR in terms of the result of death of the same person. It is not possible to accept the responsibility even in the degree of.**

2- The lung that hits someone's neck, head, heart over a hard object quickly or if the victim has died as a result of the actual act of anyone who has been subject to a severe blow to his vital organs such as the heart. The perpetrator is deemed to have TAKSİRLİ responsibility in terms of the death result. Because **this** **It can be predicted that a violent blow to vital areas could lead to the death of the victim.**

#### **REASONS THAT REMOVE OR REDUCE THE DISCLAIMER NOT INCLUDED IN THE LAW**

The causes that eliminated or reduced the defect were described above. These reasons are imperative mood, unjust provocation, age, mental illness, deaf and mute, alcohol, drugs and temporary causes influence, order, error, error ...

In addition to this, **ACCIDENT and INCIDENTAL AND EXPENSIVE REASON** (Earthquake, Flood etc. No way reasons that cannot be prevented) also removes the defect, but these two issues in **TURKISH PENAL LAW NOT REGULATED.**

#### **FAIL AND VICTORY**

**FAIL:** An offender / person who has the ability to commit a crime is called a perpetrator. According to TCK, the perpetrator It can be a **LIVING REAL PERSON.** The principle of crime and punishment requires this.

Anyone who is under suspicion of crime during the investigation is called **SÜPHELİ.**

Criminal suspicion in the prosecution (**PHASE OF THE ACCOUNTING ACCEPTANCE**) Anyone under it is called **SANIK.**

Anyone whose conviction is finalized is called **JUDGED.**

#### **PARTICIPATION**

A multi-offender crime if a crime specified in the penal code is committed by more than one offender, if only one person commits a crime, there is a single offender.

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**For example:** Fighting crime is a crime that can be committed by at least two perpetrators, while theft crime is a single offender It is a crime.

**For example:** Bribery is a crime that obliges anyone who takes a bribe and gives a bribe is a very perpetual crime type.

Participation according to TCK: “ **Every person who performs the act in the legal definition of crime together one is held responsible as the perpetrator.** “Each person who commits a crime together is a primary material offender. This people are people who process it (affiliate).

**The Affiliate WAS MORE THAN ONE SINGLE FAULT OFFER BY ONE processing. The Affiliate is an Institution that Extends PENAL LIABILITY.**

Participation TERMS:

- There must be more than one perpetrator.
- The execution of the crime must begin (**ATTENTION TO THE EXECUTIVE MOVEMENT OF THE CRIMINAL ATTENT MUST be started**) and the crime agreed on all partners is the same Must be. (Affiliate is not only available for completed crimes. **PARTICIPATION IS ALSO POSSIBLE FOR CRIME STAYED IN THE STAGE.**
- **The perpetrators should contribute to the crime committed. There must be a verb control over the subject of crime.** For example: The act of anyone who smiles at a crime of murder is not an affiliate. This action is crime As there is no actual control over the subject, participation cannot be counted.

- Affiliate can be processed not only with ACTIVE movements, but also with NEGOTIATED MOVEMENTS ( Ex. Participation of the security guard who agreed with the thief by not locking the night safes is a neglected movement. )
- Joining the crime, as if the crime was committed as if it could be before crime MAY. (ex: A's friend B who is passing through when the victim A is injured. aid to A by holding the victim's arms to the victim at the time of the offense is an affiliate. )
- The participating person knowingly and willingly participated in the Crime. Before committing a crime or AN AGREEMENT ON CRIME WHEN THE CRIME IS COMMITTED.

**If the perpetrators act unaware of each other, IT IS NOT SUBJECT TO THE PARTNER . Ex: to B**

There is no mention of the participation between A and C, who give the poison unannounced. Because the perpetrators commit a crime It does not have a common purpose.

**COMPLETED (COMPLETED CRIME- NETICLE FINISHED CRIME) PARTNER IT IS NOT POSSIBLE.**

**For example:** B's action, which hides the item stolen by a thief, participates in the crime of theft. It is not a crime to hide the crime stuff. Because the crime was committed. It is not possible to participate in the crime. However, if this assistance was promised before committing a crime, and thus the perpetrator's decision of crime If it is strengthened, then SUBSIDIARY IS THE SUBJECT.

### **TYPES OF CRIME PARTICIPATION**

KINDS OF PARTICIPANTS ON CRIME IN THE COMMITMENT OF THE ACTION

It is determined by taking into consideration (DOMINATIONS).

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There are three types of words: Participation **ACTIVITY (ADMINISTRATOR), REDUCTION, HELP**

It is concerned.

### **ACTIVITY TOGETHER**

The actions envisaged in the legal definition of crime are carried out by more than one person. In this case, each person is responsible as FAIL (FAIL TOGETHER - COMMON FAIL). In this case each perpetrator establishes COMMON JUDGE on the subject of crime. **For example:** Two people have another deliberately committing the crime of injury.

**For example:** Five people, who have had the **PARTNERSHIP WILL BETWEEN** , shoot with a Gun against a victim. and the victim died as a result of these movements. In the investigation after crime, lethal blow even if it is not clear who is due to the bullet from his weapon and even some offenders hit the victim the perpetrators have **COMMON JUDICIARY ON THE CRIME EVERY PERIOD IS COMPLETED FOR THE CRIMINAL KILLING CRIME. IT IS RESPONSIBLE.**

**If there was no willpower among the perpetrators, For example: A and B simultaneously against victim M but they give enough poison to kill without knowing each other and two poisons IF IT COMBINED TO DEATH, then the will to participate among the perpetrators is promised. both perpetrators are RESPONSIBLE FOR KILLING. If each perpetrator If he gave enough poison to kill, both perpetrators are now responsible for deliberate killing.**

### **INDIRECT ACTIVITY**

In the case of using someone else as a tool in the offense, the name **INDIRECT ACTIVITY** It is given. A person who uses another as a vehicle is **RESPONSIBLE AND A CRIME OWN IT TAKES PENALTY AS PROCESSED.**

**Ex: When** someone who teaches a mental patient to kill someone commits a crime of killing a mental patient the one who teaches killing is responsible INDIRECTLY.

**For example:** Notary, misrepresentation and having a fake power of attorney without knowing the fake power of attorney Not the organizing notary, but the organizer. ACTIVE INTERMEDIATE due to the fraud in the document State.

**For example: By** showing the landowner as the owner of moving by yourself, the sale of this property to someone else If it is carried out, the official document is forged. In this case, indirect agency promise It is concerned.

**Anyone who is used as a vehicle in indirect agency is NOT punished.**

**PEOPLE THAT HAVE NO DEFECT ABILITY (mental illness, crime commitment) a child who is not capable) FAILE EVEN IF USED AS A VEHICLE THE PENALTY TO BE GIVEN IS INCREASED FROM 1/3 TO SEMI.**

**SPECIAL CRIME:** Some crimes are committed only by people of a certain nature The crimes foreseen are called crime. For example: Anyone who commits fraud in official documents He may be a PUBLIC OFFICIAL.

*PARTICIPATION TO EXCLUSIVE CRIMES IS POSSIBLE. BUT AFFILIATES RESPONSIBLE OR ASSISTANT WITH RESPONSIBLE.*

abetting

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**A person who has no decision to commit a crime is called committing crime.**

**For example:** Giving a lot of money to kill the opponent A, killing B and the opponent H if it is agreed, A is the perseverance. In this case, both A and B are responsible for deliberate killing.

- The person who persuades someone else to commit a crime is punished with the punishment of the crime committed .
- In the case of persecution of crime by using the influence arising from the relationship between the superior and subsoil, the punishment of the persecutor is increased from one third to half.

**In the event that children are committed to crime, in order to increase the penalty according to the provisions of this paragraph The existence of the relationship between the parent and the subsoil is not sought.**

- If the persecutor is unclear, the **perpetrator or other** **From** twenty to twenty five years instead of aggravated life imprisonment **about his accomplices** , Instead of life imprisonment, a sentence of up to fifteen to twenty years can be imposed. In other cases The penalty to be imposed can be reduced by a third.

**THE DIFFERENCE BETWEEN THE INTELLIGENT AND INDIRECT FAIL:**

- A person who commits a crime is punished alongside anyone who praises him. But indirect no offender is punished in the offense.
- While the perpetrator acts with his free will in persecution, someone who commits a crime in indirect agency is unaware that it works.
- He knows that he committed the name of the crime-bearer. However, in indirect agency, the offender is in crime does not know that it is used.

**IS THE RESPONSIBLE RESPONSIBLE if he commits a crime other than the crime that has been persecuted ?**

- ANOTHER (Different of Legal Nature) for the crime he has agreed with the persecutor If the crime has been committed, then the persecutor will not be responsible. Ex: On theft crime If the perpetrator who was persecuted while understood was committed a sexual assault crime, No way.
- **If the perpetrator is in the attempt stage, Azmettiren is also responsible for the attempt. Fail to replace most** If he committed less, he will be responsible for the crime that caused the perseverance.
- **If the perpetrator made a deviation in crime while committing a crime, it is also due to this deviation.**

It is responsible. Ex. Fail B was instigated by A to kill C. In this case, the perpetrator  
If B killed D instead of C while committing a crime, then due to the killing of D

The persevering becomes responsible.

## HELP

A person who has committed a crime has participated in a crime by providing the facilities listed in the law.  
no one is called the assistant. AIDS AND CARRIERS ONLY ON THE LAW  
MAY BE SUBJECT TO.

The person who assists the penalty of the crime committed is given at half rate. Helping Material and spiritual  
can.

### Financial Aids:

Providing vehicles (providing crime tools), Financial aid to anyone committing crime (taking food, eating  
supply etc.). **IF THERE WAS NO CRIME WITHOUT THESE AIDS, THEN THEN  
NOT PROCESSING AND PROCESSING - THE COMMON ACTIVITY IS THE SUBJECT.**

**For example:** If the crime could not be committed without the scout's scouting, it is not about helping.  
It is responsible for PROCESSING. If help is indispensable, the condition of working together is in question.

### Spiritual Aids:

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**Incentives;** The decision of the person **who thinks about** committing crime but **who has** not yet made a final decision  
to provide. Ex. You better do it, you do well do it keep going.

**Strengthening Crime Decision;** To direct a person who **has decided to** commit a crime to enforce  
It is halide. For example: The day is bass trigger this day or if you don't hit it now it means it hits you later.

**Promises to Help:** He will help the perpetrator commit a crime before committing a crime  
That is to say. Ex. If you get caught, I will look after you in the prisoner. It takes you two days to passport abroad  
I missed it.

**Guiding:** Making suggestions about how to commit a crime before committing a crime. Ex.  
Get home here. Hit it. If you stab a knife, there will be no prosperity again. Squeeze there when you pass that way  
like nobody can get caught.

THERE ARE NO HELP FORM other than these. These states are counted limitingly.

## A CRIME OTHER THAN THE CRIME PARTICIPATED BY THE CRIME PARTNERS PROCESSING

**If a partner commits a crime other than an affiliate agreement, they will only commit this different crime.  
the perpetrator becomes responsible.**

**For example:** If A, B, C entered D's house for theft but killed BD inside, A, C  
not responsible for killing.

**Ex:** A agrees with journalist B to insult BUSINESSER C at the newspaper corner B  
However, if journalist B is in İFTİRA with the act of defamation, A will not be responsible for the slander.

## PARTICIPATION RULES FOR PARTICIPATION

- A deliberate and unlawful act is sufficient for participating in the crime.

Every person who participates in the processing of the crime, considering the personal reasons that prevent the punishment of the other  
without penalty, he is punished according to his own imperfect act. (A from his father's pocket where he lives in the same residence

B and C are not penalized for personal impunity, while B and C are fined  
gets. A and 11-year-old B and A-19-year-old agreed to kill C

whereas A will not be punished for personal impunity, B will not be affected and will be punished.



- In specific crimes, only the person who has the nature of special agency can be the perpetrator. Participation in these crimes is possible. However, other persons participating in the execution of these crimes are held responsible as an aid.

In order to be held responsible for the participation in the crime , at least it must have reached the stage of enterprise .

#### **Voluntary Discharge in Crimes Committed**

For the crimes committed as an affiliate, only the partner who gave up voluntarily, the voluntary abandonment benefits from the provisions.

Crime;

- a) The voluntary waiver has not been processed for any other reason than the diligence it has made ,
- b) The voluntary withdrawal has been processed despite all efforts ,

In their cases, voluntary abandonment provisions are applied.

The volunteer who gave up on the basis of the crimes committed until the voluntary withdrawal is responsible.

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The volunteer who gave up has done his best to avoid the crime being committed.

**WILL.**

#### **VICTIMS**

Material and financial rights deprived of their rights, which are legally protected due to a crime committed by the offender. Many more damages due to the fact that damages to the spiritual integrity and against the outcome of the crime the real or legal person who sees is called a victim .

The adjective of victimization is not only for the person against whom the outcome occurred, but for the relatives of this person. may also be involved. However, in these cases, criminal law is not a victim of these people.

Gives the name GOREN.

#### **SANCTIONS**

Sanctions and SECURITY MEASURES that can be applied in exchange for crime

d. Penalty and penalty substitute security measures are set only by LAW. (Lawfulness Principle

)

No one can be punished for a verb where the law is not expressly criminal and security measures not applicable. Apart from the penalties and security measures written in the law, hükmoluna not. (TCK art. 2)

The penalties stipulated in the Turkish Criminal Code are of two types:

- Prison Term.

**- Judicial Fines.**

Only a prison sentence can be foreseen for a crime, a judicial fine with imprisonment  
As can be envisaged, only judicial fines can also be envisaged alone.

**Prison penalties**

Prison sentences under the Turkish Criminal Code: **Aggravated Life Imprisonment, Life Imprisonment His sentence and the term of imprisonment were termed .**

**Aggravated Life Imprisonment:** It is a lifelong sentence with frequent security measures.

**Life imprisonment:** It is a life sentence imposed.

**Term Imprisonment:** It is a prison sentence of 1 month to 20 years.

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**Short-Term Prison Term:** 1-year or LESS-TERM Prison sentence short-term prison term is called the penalty.

**OPTIONS FOR SHORT-TERM Prison Criminals**

The drawbacks of imprisonment of **less than 1 year in** prison at the execution institution (negative sides), these penalties can be translated into the alternative sanctions listed below. But this translation is subject to the JUDGMENT of the Judge.

Option sanctions:

- **FORENSIC MONEY CRIMINAL - FORENSIC MONEY CRIMINAL BY DAY -**  
less than 5 days unless specified, not more than 730 days and according to the economic situation of the perpetrator 20-100 Ytl per day is paid to the state treasury. The judge can install this amount in installments.  
The installment period does NOT exceed 2 years and the number of installments cannot be less than 4).
- The damage suffered by the victim or the public, such as return, prior to the crime or compensation to be completely eliminated,
- If necessary, accommodation for at least two years in order to obtain a profession or art.  
continue to an educational institution that also has the opportunity,
- Going to certain places for half to one time of the sentence, or  
banned from doing certain activities,
- The attention and care required by abuse of rights and powers it provides  
In the event that a crime has been committed by violating its obligation; sentence of sentence to get back the relevant driver's license and license documents for a period of half to a multiple.  
to be banned from doing profession and art,
- **For half to one time of the sentence imposed and voluntarily**  
it can be translated into a job that is useful to the public.

The person who is ruled one of the option sanctions is in accordance with the requirements of this sanction.

if he acts, this sentence will not be executed and the consequences of this conviction for the individual it will not appear. Because: "The **actual conviction in practice is translated according to the provisions of this article. is a judicial fine or measure .** "

Where prison sentences and judicial fines are an option in the definition of crime, prison terms if he was sentenced; this penalty is no longer converted into a judicial fine.

**Thirty days sentenced , provided that he was not previously sentenced to prison ; and with less term imprisonment ;**

Those who have not completed the age of eighteen or have completed the age of sixty-five at the time of their actual processing A sentence of one or less years in prison , from alternative sanctions in the first paragraph translated into one. (THE JUDGE MUST HAVE A DISCRIMINATION AUTHORITY)

The sentence imprisoned for negligent crimes is also long term (MORE THAN 1 YEAR MORE) though; this penalty, a penalty of negligence in case of other conditions translatable. However, this provision does not apply in a deliberate negligence.

**Within thirty days despite the notification made by the public prosecutor's office after the sentence was finalized Failure to start or continue to fulfill the requirements of the option sanction**  
**In the absence of a judgment, the court issuing the full sentence of the short-term prison sentence in whole or in part. decides, and this decision is executed immediately, and the PRIVATE PRISON IS NOT THIS Sanctions THE Prisoner will be the prisoner.**

### **DEFER (TECİL)**

According to the Turkish Criminal Code, **DEFER** is no longer a Conditional Amnesty, it is **an EXECUTION.**

#### **Requirements for Postponement:**

- The person has been sentenced to 2 years or less (if the perpetrator committed the crime If he / she has not completed the age of 18 or has reached the age of 65, the period is 3 YEARS. )

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- PURCHASED MORE THAN 3 MONTHS FOR A PRE-ORDER CRIME  
IT WILL NOT BE.

- Again after the crime, the crime again caused by the regret he showed during the trial process an opinion must be formed in court that it will not work.

**CONDITIONING THE SEND TO CONDITION: Postponement of the sentence, the victim or the public on condition that the damage is fully remedied by return, prior to the crime or compensation. held. In this case, the sentence continues to be imposed at the execution institution until the condition is met. It is. In case the condition is fulfilled, the convict is released immediately from the execution institution upon the decision of the judge.**

An inspection of the **convict whose sentence has been postponed**, not less than one year, but not more than three years duration is determined. The lower limit of this period cannot be less than the sentence period.

#### **During the audit period;**

- a) Convicts who do not have a profession or art continue an education program for this purpose.  
not to,
- b) The convict of a profession or an art owner, in a public institution or specifically the same profession or working under the supervision of someone else who performs the art for a fee,
- c) To provide convicts under the age of eighteen to acquire a profession or art for the purpose of continuing to an educational institution that also has the opportunity to accommodate

#### **DECISION CAN BE MADE.**

The court may appoint an expert to guide the convict during the period of the inspection. The court, considering the personality and social situation of the convict, it can also decide whether to undertake any obligation or assign an expert.

### **COMMISSIONING OF DEFER**

During the convict's audit period:

- **a deliberate crime (NOT A TAXIOUS CRIME) OR,**
  - **insisting not to comply with the obligations imposed on him, despite the warning of the judge in case of; The decision to impose the suspended sentence partially or wholly at the execution institution**
- It is given.**

**DETERMINED BY DEFER, Audit period is in accordance with obligations or in good condition If it is passed, the penalty is considered executed. (PERSON IS PRISONED AND TAKES CRIMINAL SAYILIR. )**

### **SECURITY CATALOG**

**Security measures for REAL PEOPLE in the Turkish Criminal Code are of three types:**

- Deprivation of using certain rights,
- Goods confiscation,
- Profit confiscation.

**IF SAFETY MEASURES FOR THE LEGAL PERSONS: CANCELLATION OF ACTIVITY PERMIT. This permission For crimes committed by abuse, the activity permit can be revoked. If there are conditions, legal entities**

### Deprivation of Certain Rights:

People, **because of the crimes he had committed intentionally** as a result of legal conviction to imprisonment;

- **Undertaking a permanent, permanent or temporary public office** ; In this context, Turkey  
From membership of the Grand National Assembly or under the supervision and supervision of the State, province, municipality, village or their  
employment in all civil servants and services subject to appointment or selection by institutions and organizations

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of being,

- **From** election and election capacity and using other political rights,
- **From** custody right; from serving as guardianship or trustee,
- Manager of foundations, associations, unions, companies, cooperatives and political party legal entities, or being an auditor,
- Subject to the permission of a public institution or professional institution that is a public institution.  
lacking performing the profession or art as a self-employed or trader under his own responsibility  
Left.

THESE RIGHTS ARE ONLY WHEN THE CRIMINAL CRIME IS COMMITTED  
USED. NOT FORBIDDING FOR LIFE.

**The execution of the prison sentence he is convicted for the crime he committed cannot use these rights until it is completed**

→ However, the **subordinate of the convict whose sentence was postponed or released conditionally**  
**There is no restriction on custody, guardianship and trustee powers.**

→ Self-employed person under his responsibility about the person whose prison sentence was postponed  
or the enforcement measure deprived of being a merchant.

→ **Persons whose short term imprisonment has been postponed or who have not completed the age of 18 at the time of the actual act**  
**ABOUT THE RIGHTS OF THE RIGHTS ABOUT THE APPLICATION.**

→ Violation of the obligation of attention and care required by a particular profession or art or traffic arrangement  
therefore , **in case of condemnation of negligent crime** committed , **not less than three months and more than three years**,  
it can be **decided** to ban the execution of this profession or art or to withdraw the driving license .

The prohibition and revocation **comes into force with the finalization of the provision and the duration is starts to work from the beginning.**

### ITEMS OF FIGHT

**(1) Used for the purpose of committing a deliberate crime , provided that it does not belong to a third party , or the confiscation of the item that is allocated to the crime or that consists of the crime .**

*Goods, public safety, public health or general morality prepared for use in crime*  
*In case it is dangerous in terms of confiscation .*

(2) Elimination, disposal, consumption of the goods covered by the first paragraph, or  
In case the confiscation is made impossible in another way; the amount of money as much as the value of this item  
the confiscation is decided.

(3) The confiscation of the goods used in crime will have more severe results compared to the crime committed.  
and therefore it may not be judged to be confiscated when it is understood that it would be unfair.

(4) Production, possession, use, transportation, purchase and sale of goods, confiscation  
It is.

(5) When only some parts of something need to be confiscated, this part without harm to all of them.  
if it is possible to separate it, only the confiscation of this part is decided.

(6) Regarding the goods with more than one stakeholder, only the share of the person who participated in the crime  
is confiscated.

### GAIN FIGHT

**Article 55 - (1)** Obtaining the crime or the subject of the crime or committing the crime  
material benefits provided for and the result of the evaluation or transformation of these  
the confiscation of economic earnings is decided. The decision to confiscate according to the provision of this paragraph  
For the material benefit should not be returned to the victim of the crime.

(2) The goods or material interests subject to confiscation cannot be seized or delivered to their authority

## SAFE SAFETY MEASURES FOR CHILDREN

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**Article 56** - What are the safety precautions specific to children and how they will be applied? shown in the law. (CHILD PROTECTION LAW)

## SAFETY MEASURES SPECIFIC TO MENTAL PATIENTS

**Safety for the purpose of protection and treatment** about the person who has a mental illness at the time of the act measure is ruled. **Mental patients who have been ruled on security measures, high security They are taken under protection and treatment in health institutions.**

The mental patient, who has been ruled on the security measure, by the institution's health institution that the danger to the public has disappeared or decreased significantly in the report. can be released upon the decision of the court or judge.

**Security measures for people who are addicted to alcohol, drugs or stimulants that commit a crime treatment in a healthcare facility specific to alcohol or drug or stimulant addicts**  
**It is decided to be taken under.** Treatment of these people, alcohol or drugs or stimulants it continues until they get rid of their addiction. These people, when the health institution of the institution where they are located, It can be released upon a report to be issued in the direction of a court or judge.

## REPEAT (ON REPEAT) AND SPECIAL DANGEROUS OFFENSERS IN CRIME

**A new crime is committed** after the sentence for the previously committed crime is finalized  
**In case, ( NEED NOT BEING OF A KIND IS NO CRIME. ANOTHER CRIME IS PROCESSED DE)**  
*repetition provisions apply. For this, the penalty does not have to be executed .* **Your first punishment IT IS ENOUGH TO BE FINALIZED.**

(2) Repetition provisions, due to previously committed crime;

a) **In case of imprisonment for more than five years , this sentence was executed five years from the date ,**

b) **In case of imprisonment of five years or less, or a judicial fine, this sentence Three years from the date of execution ,**

**It is not applied due to crimes committed after passing.**

**In the case of repetition, in the article of the law related to the next crime, the jail sentence was If fines are foreseen, imprisonment is sentenced.**

Repeated provisions between deliberate crimes and negligent crimes and military crimes and other crimes only  
It does not apply. Deliberate killing, deliberate injury, looting, fraud, drugs or stimulants manufactured and its trade and excluding fraudulent crimes in money or precious stamp; foreign country  
The judgments given by the courts are not based on repetition.

**Recurring due to crimes committed by persons who have not completed the age of eighteen at the time of the actual act provisions are not applied.**

The punishment, which is ruled again, is sentenced according to the execution regime specific to the duplicates. **Due to repeat PENALTY OF THE FAIL IS NOT INCREASED .** In addition, after the execution of the sentence about the repeat offender a measure of freedom is applied.

Rejection of the execution regime specific to the **repetitions and** probation measure after the execution of the sentence **a criminal, a person who is a criminal offender or a member of an organization, is also enforced on the criminal.**

**EXTRAORDINARY**

**the foreigner sentenced to the sentence , benefiting from conditional release and in any case execution of his sentence after its completion, the Internal Affairs Office will be promptly assessed in relation to its deportation proceedings. It is reported to the Ministry.**

#### **DETERMINATION AND INDIVIDUALIZATION OF THE PENALTY**

In the concrete case, the BASIC PENALTY is determined first. Then over the basic punishment BEFORE DISCOUNTS ARE DISCOUNTED. Then, first, TEŞEBBES is the last REASON DISCOUNT REASONS are applied and the result is determined as a penalty.

#### **OFFSET**

**ARTICLE 63 - (1)** The result of restricting personal liberty that occurred before the judgment became final . The periods spent due to all the situations that give birth are deducted from the imprisonment sentence. Forensic money In the event that the sentence is imposed, a penalty will be deducted for one hundred Turkish Liras one day.

**THE OFFER IS MADE ONLY FOR A JUDICIARY.**

#### **REDUCTION OF CASE AND PENALTY**

##### **DEATH OF DEFENDANT OR ITS LIABILITY**

In the event of the death of the accused, the public case is decided to be dropped. However, by nature The lawsuit about the goods subject to confiscation and material interests continues and their confiscation It can be sentenced.

The death of the convict removes jail and judicial fines that have not been executed yet. But, The provision related to confiscation and trial costs, which was finalized before death, is executed.

#### **AMNESTY**

In the case of general amnesty (GENERAL AFFA, the Turkish Grand National Assembly shall decide), the public case falls, the sentenced penalties it disappears with all its results.

With special amnesty (PRIVATE AFFA, THE PRESIDENT MAKES THE DECISION - HOSE , **CONTINUOUS DISEASE - IN CASE OF DISABILITY** ) the prison sentence may be terminated at the execution institution or execution The period to be withdrawn at the institution may be shortened or converted into a judicial fine.

Rights deprivations, which are related to the penalty or specified in the provision, continue their effect despite private amnesty.

**WITH PRIVATE AFTER: FORENSIC MONEY PENALTIES DO NOT END .**

**NOT THE NUMBER OF OFFENSES AND OFFENSES COVERED BY AFFIN , IT IS DETERMINED BY RESULTS .**

**AFTER GENERAL:** AFFA CURRENT PENALTIES ARE REMOVED FROM THE JUDICIARY REGISTRY AND AFFA DAMAGED PRIVILEGES CANNOT BE BASED ON TIRE.

**PRIVATE AFTER :** PENALTY IS ALWAYS BASED ON TIRERRY AND PRESENTS ITS PRESENCE IN THE FORENSIC REGISTRY.

**GENERAL AND SPECIAL AMOUNTS CANNOT BE PURCHASED FOR FOREST CRIMES. FOREST BURNING, INSPECTION AND SHARPENING ACTIONS ARE INCLUDED FOREST CRIME .**

#### **CASE AND PUNISHMENT TIME**

##### **CASE TIME**

CASE in the event that no public action is filed within the time stipulated by the law  
The time that requires the case not to be opened and the case to drop, if opened, is called the case timeout.

**CASE OF TIME OF CASE TIME STOP OR CUT OFF**

Investigation and prosecution, permission or decision or resolution to another authority  
in cases where it depends on the outcome of a required issue; permission or decision or issue  
about the perpetrator of crime whose solution has been decided to be illegal by law or by law  
The trial timeout ceases until this decision is lifted.

**Regarding a crime;**

- 1- Taking a statement or questioning one of the suspects or suspects before the prosecutor,
- 2- Making an arrest warrant for one of the suspects or suspects,
- 3- Arrangement of indictment regarding crime,
- 4- Making a conviction, even if some of the defendants are concerned,

**In case, the case is timed out.**

When the litigation expires, the timeout period begins to process again. Case cuts out of time  
If more than one reason is found, the timeout period is due to the date of the last reason for the cut.  
starts to process again.

In the event of a discontinuation, the duration of the limitation period shall not exceed the maximum amount of time determined in the Law regarding the crime.  
lengthens until half.

**PENALTY TIME**

After the time stated in the law, the penalty cannot be executed.  
issuing periods are called the penalty timeout.

**CUTTING OF PENALTY TIME**

The law enforcement by the competent authority for the execution of the conviction  
**The catching of the convict for notification or for this purpose will** cut the penalty expiration.

A person convicted of a crime is a **deliberate** person whose **upper limit requires more than two years' imprisonment.**  
**If he commits a crime** , the penalty expires.

**PENALTY TIME AND THEIR RIGHTS**

The duration of the rights deprivations that are connected to the penalty or specified in the provision until the penalty expires.  
continues.

**TIME TO FIGHT**

**The confiscation provision is not executed after 20 YEARS after finalization.**

**COMPLAINT**

A person authorized to investigate and prosecute crimes within 6 months  
If there is no complaint, no investigation and prosecution can be made.

Providing that the **verb and the perpetrator are known**, provided that **the** period of time has not expired, **or**  
**It starts from the moment it is learned .**

*The complaint must be made to the chief prosecutor's office and law enforcement authorities. Made to the governor or district governor  
applications are sent to the chief public prosecutor.*

Unless the victim gives up on the complaint, the trial continues.

**Don't give up complaint drops the case. However, do not give up but WHEN THE PROVISION IS FINAL  
IT CAN BE DONE .** Once the sentence is finalized, the complaint cannot be dispensed with.

To give up the complaint about a single perpetrator in crimes committed as an affiliate ALL INTERESTS  
FROM COMPLAINTS GIVES RESULT OF THE DISCLAIMER.

**PRE-PAYMENT**

**Excluding offenses within the scope of reconciliation , only requiring a judicial fine or law the perpetrator of crimes not exceeding the upper limit of the prison sentence stipulated in Article 3;**

- a) If the judicial fine is fixed, this amount, if not the lower limit,
- b) It will be found over twenty Turkish Lira per day in exchange for the lower limit of the prison sentence.

The amount of

c) If a judicial fine is envisaged along with the prison sentence, for the prison sentence, the paragraph (b) of this paragraph the lower limit of the judicial fine and the amount to be determined according to the **investigation expenses**,

**If he pays within ten days following the notification to be made by the public prosecutor's office, case is not opened.**

## **CRIMINAL ACCOUNTING LAW COURSE NOTES**

Criminal proceedings started with the receipt of the crime news and as a result of the trial, a It refers to the process until the verdict. A set of material for filing a criminal case and formal conditions must be found. These conditions are called CASE REQUIREMENTS.

THE CASE CANNOT BE OPENED WITHOUT THE CIRCUMSTANCES. THE ACTION IS REJECTED IF IT IS OPENED. IF THIS OCCURS OUT DURING THE JUDICIARY, THE CONDITION IS NOT REALIZED A FALL DECISION IS MADE.

### **CASE REQUIREMENTS**

**1- NOTIFICATION AND COMPLAINTS:** In crimes subject to the public trial, that is, the crimes that the state conducts research The investigation starts automatically after the crime situation is learned by the relevant authorities. However, in the Law, the complaint of the victim is absolutely necessary for the crimes that are followed by the victim. is required. Investigation cannot be started without a complaint.

Authority to report and complain: It can be made to the Chief Public Prosecutor's Office or law enforcement authorities. Complaints and notifications made to the governorship or district governorship or courts to the relevant Chief Public Prosecutor's Office Sent. Turkish embassy in relation to the crimes committed abroad and to be followed in the country and Consulates can also be reported.

Notices and complaints can be made in writing or verbally. Made for a crime followed by a public trial procedure if it appears that a follow-up to complaints related crime in the criminal prosecution of this case **VICTIMS EXPRESSLY** As long as they do not give up the **complaint, the trial continues.**

In the crimes that follow up with the complaint of the victim, the victim offender or the offender is known or He must complain within 6 MONTHs from the time he is learned. However, the learning time out of the perpetrator and verb cannot exceed the duration.



duration is foreseen. If the lawsuit is not opened within this lawsuit period, it will no longer be related to that action. The case will not be filed. These times are deserving times. For example: processed under the press law learning of the crime-related action related to the crime or handing over the printed work to the relevant authority From 2 days onwards, the case must be filed within 2 MONTHS. This period is the time lowering. Now this The case cannot be opened after the deadline has passed.

**3- FINAL PROVISION:** An action has already been taken about an action and finally a judicial body If judged by, a second trial can no longer be made about the same action. A crime is only a It is not possible to make a second trial as a reflection of the penalty rule. If it's filed, disclaimer is required. However, if new and serious evidence of previous reasoning was found, judgment can be made.

**4- PERMISSION:** In some crimes, it is necessary to get permission from certain authorities in order to proceed. For example, for civil servants to be tried for crimes they committed for their duties, It is necessary to obtain a prosecution permit from the authorities.

**5- REQUEST:** In order to prosecute crimes that are subject to the demand of certain people, judgment cannot be made without anyone's request. Ex. In crimes committed abroad against Turkey For the foreigner to be tried, the Minister of Justice must have a request. If there is no demand, don't judge made.

**6- NO CASE OF OPENED :** If there is an ongoing trial about an action, this A second lawsuit cannot be opened due to the existence of the trial. Finding an existing trial is a case It is an obstacle.

**7- PRE-PAYMENT:** For the crimes subject to prepayment, judgment cannot be made without prepayment. First of all, the case cannot be filed before the public prosecutor tries the prepayment way. If the lawsuit has been filed The indictment must be returned.

With the opening of the criminal case, the stage of investigation has passed from the investigation stage.

**With the acceptance of the indictment, the prosecution phase is started .**

In the criminal case that was opened at this stage,  
JUDGMENT TERMS.

### JUDGMENT TERMS

**1- PREPARATION OF THE DEFICIENT:** To know the perpetrator and the act in order to file a criminal case, and their It is sufficient to take part in the indictment. However, the prosecution that will start after the acceptance of the indictment The first and perhaps the most important element for the trial is the preparation of the defendant.

Judging before the defendant is present is possible in three situations:

- **Obstruction:** If the **accused cannot be found** despite all calls and notifications, **in** this case It is concerned. In this case, judgment can be made but no judgment can be made.

- **Absence:** It refers to the situation that the **accused did not come** to the **hearing** . In this case, to reach the accused and even forced to bring. However, the accused cannot be reached in any way from the situation of strangeness.

**In case of absence, if the defendant has already been questioned and the court If it is not obligatory, a trial may be held in the absence of the accused.**

- **Smuggling:** In order to ensure that the prosecution against him is inconclusive, stored or located abroad and therefore cannot be reached by the court It is a person. Prosecution can be made against illegal suspect.

However, firstly, the state of smuggling should be determined and decided. **More of the fugitive**  
If the query has not been made before, the conviction cannot be made. However, if the query has been made before,  
kinds of decisions can be made.

**ACCORDING TO THE EVIDENCE PROVIDED ABOUT THE DEFICIENCY  
IF YOU HAVE A QUESTION, IF THE SITUATION OF A DECISION IS MADE  
GOVERNMENT MAY BE PROVIDED IN THE CAPACITY OF EVENT .**

**INQUIRY INQUIRY FOR THE DECISIONS OF JUSTICE**

It is MANDATORY.

**2- THE DEFENSE IS NOT A MENTAL PATIENT :** A person suffering from mental illness after committing a crime  
Even if a lawsuit has been filed against him, no trial can be made.

If the perpetrator is a mental patient while committing a crime, then he / she removes the defect under the general provisions or  
There is a reason that reduces and an assessment is made according to general provisions. But don't judge  
What is necessary in terms of mental illness is the occurrence of mental illness after committing a crime.

**3- NON-PROVISIONAL LEGAL IMMUNITY :** A deputy (or outside  
Even if a lawsuit has been filed against the appointed minister), the trial cannot be carried out. First of all, the deputy  
its immunity needs to be removed.

However, in case of crime requiring heavy punishment and before elections  
IN THE 14th ARTICLE OF THE CONSTITUTION WITH THE REGISTRATION OF THE INVESTIGATION STARTED  
cases can be judged. (With these two exceptions, parliamentarians cannot be held, arrested, and  
THE INTERPRETATION OF THE DEPUTY FOR JURISDICTION.  
THAT SHOULD BE REMOVED BY THE TGNA.

**4- THE EXPECTATION OF THE EXPECTIVE ISSUE :** The work of the court that carried out the trial  
during the course of his / her area of expertise (eg in relation to the determination of the actual age of the accused)  
If a lawsuit has been filed in another court), it sends the matter to the relevant court.  
Until this court is concluded, the trial cannot be conducted. However, if no lawsuit has been filed in another court  
the criminal court can decide according to the provisions of the criminal law.

The conditions of the judgment must be found as a whole. **Before these conditions are ok  
judgment cannot be made. If these conditions do not exist as a whole, by the court  
STOP DECISION is made.**

If it becomes impossible that the condition expected to be completed will not be fulfilled (eg.  
Decision making, understanding that the mental illness of the accused will not improve ...) therefore **FALLING  
DECISION** is made.

**PRINCIPLES RIGHTING THE CRIMINAL ACCOUNTING**

**PRINCIPLES OF THE CRIMINAL JURISDICTION**

**1- THE NON-CASE TIMELINE PRINCIPLE:** The possibility of proceedings, the prosecution stage  
In order to begin, an indictment must be prepared by the Prosecutor C. and a lawsuit must be filed. Indictment  
It is not possible for a court to deal with any case before it is prepared.

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**2- DIRECT DIRECTLY - FACE SURFACE:** All the evidence in the criminal trial is without means  
and to listen to the defendant witnesses and other persons without intermediaries. Judge  
both the material evidence and the witnesses must directly see, hear and examine in person.

**3- REQUIREMENT FOR REQUEST :** After receiving the crime report or complaint, the public  
C. The prosecutor should follow the incident, reach the evidence and  
having to investigate and have to file a lawsuit if he or she finally reached sufficient suspicion of prosecution  
it is a result of its obligation.

## PRINCIPLES RELATED TO HUMAN RIGHTS

**1- LAW STATE:** The main principle in crime investigation and crime prosecution is the state of law. Judgment act in accordance with the constitutional and laws of the state of law principles when judging the organs should. Indeed, the principle of the rule of law is that of those who set the rule and the law enforcement it is a principle that obliges them to follow the rules themselves.

**2- RESPECTING HUMAN HONOR AND ITS RESIDENCE:** The main element of the criminal proceedings is to be suspect / defendant. together this person is more than a meaningless subject in the hands of judicial bodies, if it is guilty / suspicion of crime they have certain rights just because they are human and even if they are below, it is an entity that has to. For this reason, even if he commits a crime, humanity is suitable for his honor and dignity. must be treated. All transactions are in accordance with human dignity and dignity within the rules of law. should be. Indeed, the right to remain silent and the prohibition of reliance on evidence obtained through prohibition procedures They are reflections.

**3- MERAM EXPRESSION PRINCIPLE:** The suspect or defendant defends himself and proves his innocence indicates that the right of defense can not be restricted under any circumstances.

**4- INDEPENDENT AND UNIQUE JUDGE PRINCIPLE:** The order, instruction of the judge without being under any pressure making decisions according to the conscience of the conscience in accordance with the Constitution and laws and it is the principle that expresses a judgment without holding any of the parties of the case superior.

**5- The suspect is benefited :** No one's guilt until his guilt is fixed by a court decision. It is the principle that states that it cannot be considered guilty.

Based on this principle, in order for a conviction to be made, the accused has committed the crime. It is obligatory to reach a 100% opinion. Even if it is 1%, the decision of acquittal is evaluated in favor of the suspect. It should be given. Because the main thing is innocence and the preservation of innocence even if there is a 1% chance.

## CRIMINAL COURT ORGANIZATION

Courts are divided into three. These are first-instance courts, appellate courts and appeals court (YARGITAY).

**1- FIRST GRADE COURTS :** First instance courts of criminal proceedings Magistrates' Criminal, First Instance Criminal and Assize Courts. First instance courts geographical situation of each province center and regions taking into account the opinion of HSYK (High Council of Judges and Prosecutors) considering the workload ESTABLISHED BY THE MINISTRY OF JUSTICE.

The courts of first instance are lifted with the recommendation of the Ministry of Justice and HSYK DECISION.

The Magistrates and Criminal Courts of First Instance are SINGLE JUDGES. IF THE AGIR CRIMINAL COURT THREE The judge.

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## At hearings held in CRIMINAL AND CRIMINAL COURTS A REPUBLIC PRESIDENT IS FOUND.

**COURT OF CRIMINALS :** 2 YEARS (included) and below prison sentences and judicial with these penalties It looks at fines and only issues related to judicial fines and security measures. also In the absence or workload of the public prosecutor, SULH PENALTY Judge WHOLE AUTHORIZED TO DO THE INQUIRY.

**COURT OF PRIMARY CRIMINALS :** The court is the main officer . Magistrate punishment and heavy punishment Criminal courts of first instance shall take care of all the works except the duties of the courts.

**HEAVY CRIMINAL COURT:** Without prejudice to the situations that the laws also assign,

Aggravated life, life and crimes that require more than 10 YEARS,  
It looks for qualified fraud, fraudulent bankruptcy, fraud in the official document.

**2- ATTORNEY (SECOND GRADE) COURTS:** Although there is a law, it is still an appeal courts have not been established. The procedure of establishment and removal is the same as in the courts of first instance. This When the courts are established, they will conduct a proof and compliance examination.

*As a rule, the upper jurisdiction that can be applied against the courts of first instance will be appeal.* This Once the courts are established, YARGITAY will become a case law.

**3- YARGITAY: Provided** by civil and criminal courts and not given to other authorities in the law it is the place of final review of the terms and decisions. It is the appeal court of civil and criminal courts.

In addition, **YARGITAY PRESIDENTS AND MEMBERS, YARGITAY C. Chief Prosecutor and his deputy** **The authority that will carry out the trial for the PERSONAL crimes it committed is the JUDICIARY.** This It should be noted that people are tried in YÜCE DIVAN for their crimes related to their duties.

## **PERSONS IN CRIMINAL ACCOUNTING**

**A- HÂKİM: It is in** charge of making a decision about dispute by evaluating claims and defenses and the authorized person is called a judge. While there is only one judge in the Criminal Courts of First Instance and the Assize Court The court has three judges (collective court).

The judge must be independent and impartial.

**Independence: It** refers to the fact that judges do not take orders from anyone. *No organ authority or the authority and person cannot give orders and orders to courts and judges in the exercise of judicial power, circular send, advise or suggest.* (Constitution Art. 138) About an ongoing lawsuit The Parliament cannot be interviewed, questioned or made any statement.

Media organs, again, with the start of the prosecution until the judgment becomes final It was regulated that the judge and the court could not publish opinions about their judgments, decisions and procedures.

*Judges cannot be dismissed, they cannot retire before the age of 65 unless they want them, MONTHLY, BENEFIT, and other FEATURES, albeit due to the abolition of the court or staff*  
**CANNOT BE EXTRACTED FROM THE RIGHTS.**

**Impartiality: It** means that the judge is equidistant and objective to the parties of the trial. This A number of arrangements have been made for the purpose. The first of these is that the judge in some cases is forbidden. In this case, it is predicted that the judge will not be impartial and although no one will request it is obligatory to hesitate on its own.

## **CONDITIONS FOR THE JUDGE TO BE PROHIBITED TO TAKE THE CASE:**

Judge;

- a) If he was damaged by the crime,
- b) Marriage, guardianship or trustee with the suspect, defendant or victim even if he gets up later (relationship has not been counted !!!!)
- c) If the suspect, defendant or victim is a superintendent or subcommittee of blood or beech relatives,
- d) If there is a connection between the suspect, defendant or victim to adoption,
- e) If there is a third degree blood relativity between the suspect, the accused or the victim,
- f) Even if the marriage has ended, beech with suspect, defendant or victim, including second degree

if he has a relativity,

g) In the same case, the public prosecutor's office, judicial law enforcement, suspect or defendant's defense, or acting as a victim representative,

h) If he was heard as a witness or expert in the same case,

The judge cannot do his duty.

**Again, cases where they cannot participate in the proceedings in order to ensure impartiality** clearly It is regulated in the Code of Judgment.

#### **THE JUDGE THAT CANNOT PARTICIPATE IN THE JUDICIARY**

*- The judge participating in a decision or judgment will be issued by the supreme court of jurisdiction. can not participate in a decision or judgment. (the judge of the Supreme Court, who ruled in the court of first instance, can not participate in the appeal of the decision he made in the court of first instance when he was appointed)*

*- The judge who has served in the same stage of the investigation (eg. if the criminal judge has done so and then this judge is assigned to the court to prosecute), cannot work during the prosecution phase .*

*- In case of renewal of the trial, the judge who served in the previous trial, the same job can not afford.*

These enumerated, and trial RED killer cases can not judges **itself he has to hesitate**. However, if the judge is not afraid, the parties may also reject the judge in such cases.

#### **THE JUDICIARY CAN BE TAKEN AT EVERY STAGE OF THE JUDICIARY AND CAN BE REJECTED .**

If it has not been withdrawn, C. SAVCISI, Suspect, accused or advocate, participant or deputy may reject the judge.

Suspected of **the impartiality of the judge**, except when the **judge** is forbidden to look at the case **In such cases** , the refusal of the judge may be requested.

**Prohibited situations are restricted by law, but their objectivity is suspected. states are not counted.**

For example, if the judge's fiancé is a defendant, in this case, although there is no prohibited reason, There is a suspicion and the judge can be denied.

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**In cases where the impartiality of the judge is suspected, the request for rejection depends on the duration .** *In these cases, the first before the interrogation of the defendant in the court of jurisdiction, the Regional Court of Justice (İSTİNAF) should hear until the review report of the judge in charge is read and in other cases until the review begins A rejection request must be made.*

If the reason for rejection was later discovered or learned, the trial or investigation will end and A rejection request must be made within 7 days of finally learning. Refusal request of the judge to the court to which he belongs. A judge whose denial is denied cannot participate in the conversation about the rejection request.

#### **THE REQUESTED DISCLAIMER UNTIL THE DECISION ON REQUEST A REFUND IT CAN ONLY DO JOBS IN THE DELAY.**

**Rejection request:** *if it has not been done within due time, the reason for rejection and no evidence is shown, and the rejection request is if it is made to extend, it is turned down.*

**When it was decided to accept the rejection request, due to the delay The trial is repeated, except for the procedures.**

Provisions regarding the refusal of the judge are also applied to the Clerk and the Expert.

## AUTHORITIES OF THE COURTS (JUDGES)

### 1- AUTHORIZATION FROM MATERIAL CARE (TASK)

It is the rules that show which court will take care of a crime. So crime, peace, or heavy punishment the rules of duty or article to the rules for determining which of the courts to look for In terms of authority rules are called.

The duties of the courts are determined by **LAW**.

- The authority (duty) in terms of matter relates to **public order** .

- *It can be put forward at every stage of the court* . (Even in the appeal phase)

- *The judge must take into account spontaneously, the parties also serve at every stage of the court. they can appeal* .

- When there is a dispute between the courts regarding the duty, the officer will **share** the court **the court in charge** determines.

**After the acceptance of the indictment; when the work exceeds or is beyond the duty of the court that has heard the case If it is understood that the court remains, the court sends the job to the court in charge with a decision.**

To **appeal** against the decisions of non-jurisdiction in the courts within the judicial justice

**You can go.**

### NON-DECISION OF IMMUNITY

Since **the legal nature of the crime has changed at the hearing, the decision of non-jurisdiction is made by betting. cannot be sent to a lower court** . But if the crime is in the post of the upper court, the file is top SENT TO THE COURT.

### PROCEDURES OF NON-DUTY JUDGES OR THE COURT

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Except for those who cannot be renewed (such as the witness who died is dead, mentally ill except for cases), the proceedings by the non-commissioned judge or court are null and void. Because the task it concerns public order.

If there is a connection between crimes or perpetrators, there is a connection. And in cases of connection **THE CASE IS OPENED IN THE HIGH COURT OF JOINT DUTIES.**

*At each stage of the prosecution phase, the consolidation of linked criminal cases or separation can be decided by the high duty court.*

### 2- AUTHORIZATION FROM GROUND CARE:

Rules indicating where (geographically) the court or judge will take care of a crime authority rules in terms of location. Authority appeals in terms of location at the **beginning of the hearing and THE CLAIM MUST BE DONE BEFORE READING.**

The jurisdiction **of the crime lies with the court where the offense is committed** .

- *The last enforcement action was carried out in the undertaking* , the interruption of uninterrupted crimes *occurred* and

*In chain crime, the court where the last crime is committed is authorized.*

- If the crime was committed with a printed work published in the country, the authority *is the place of publication of the work belongs to the court. However, if the same work is printed in more than one place, the crime is the publishing center of the work. The court where the work is printed for this crime is also authorized.*

- The work of the insult, whose investigation and prosecution is based on the complaint, *the settlement of the victim If it is distributed in its place or place, that place court is also authorized* . The victim is where the crime was committed If there is a prisoner or convict outside, the court of that place is also authorized.

- In the visual or audio broadcasts, *the provision of the third paragraph of this Article is applied. Audiovisual if the broadcast was heard or seen in the victim's settlement and residence, It is authorized.*

**If the place where the crime is committed is not clear, following the order below**

#### **AUTHORIZED COURT DETERMINED**

- **Where the crime was committed is unclear** , where the suspect or the accused **was caught, if not settlement court is authorized.**

- Turkey on the suspect or the accused **or settlement where the most recent address in Turkey the ground court is authorized.**

- If the *court cannot be determined in this way*, **the place where the first procedural procedure was carried out court is authorized.**

#### **PROCESSED BY SEA, AIR AND RAILWAY VEHICLES OR THESE VEHICLES AUTHORITY IN CRIMES**

Crime, the Turkish flag on a ship or a vehicle capable of transporting such powers **outside Turkey If while processing , the court in the Turkish port or port of the ship's first stop** It is authorized.

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- **REGISTERED** for aircraft and railway vehicles that have the right to carry the Turkish flag.  
**THE COURT OF THEIR PLACE OR THE FIRST FLOOR COURT**

- In sea, air or rail vehicles or crimes committed with these vehicles within the country,  
**the court where they first arrived is also authorized.**

- The pollution of the environment is excluded from the Turkish land waters by a ship carrying a foreign flag.  
If the processing of **the crime committed at or near the ship where the first port of call in Turkey the court where it is located is authorized.**

If a *positive or negative disagreement occurs* between several judges or courts , the **partner the court of higher jurisdiction determines the competent judge or court** .

#### **NON-AUTHORITY CLAIM**

The defendant, the **allegation of unauthority, was questioned at the trial in the courts of first instance, the district courthouse from the start of the investigation in the courts and the trial report in hearings reports before reading.**

The decision on the claim of non- **jurisdiction before the interrogation of the accused in the courts of first instance, the region just before the start of the examination in court proceedings, trial works is given before the review report is read.** After these stages, it can not be claimed that there is no courts like this cannot decide on this issue ex officio.

An **appeal** may be **filed** against non-authorization decisions .

## TRANSFER OF THE CASE

The competent judge or court is unable to fulfill his duty for legal or actual reasons

If found; **the higher court is to the same court as elsewhere in the case decides to transplant.**

The prosecution of officials who authorized and carried out where the court found **the public security** **If it is dangerous, the Minister of Justice asks the Supreme Court to transfer the case .**

## PROCEDURES OF NON-AUTHORIZED JUDGMENT OR THE COURT

Transactions made by an unauthorized judge or court, only due to unauthorizedness  
It does not count. These procedures are valid as a rule.

A judge or court, even if not competent, in cases where there is a delay in delay, the jurisdiction performs the necessary operations in it.

DUTY BETWEEN DIFFERENT JURISDICTIONS (FORENSIC-ADMINISTRATIVE-MILITARY JURISDICTION)  
CONFLICT the **Dispute Tribunal** 's SOLVE.

DUTY BETWEEN THE LAW AND THE CRIMINAL COURT IN THE FORENSIC JUDICIARY  
CONFLICT the **SUPREME COURT** of SOLVE.

THE YARGITAY APARTMENTS BETWEEN THE DUTIES OF THE **YARGITAY YARGITAY**  
**GENERAL ASSEMBLY ÇÖZER.**

## B- SAVCI

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The crime notice-complaint started the investigation after being notified and the subject of the investigation within this scope is responsible for collecting evidence in favor of and against the suspect and finally reaching sufficient suspicion of crime. and anyone who filed a lawsuit on behalf of the public before the competent court. **Prosecutors are fully independent like judges**  
**It is not.**

The prosecutor represents and follows this on behalf of the state after filing a lawsuit. **Your indictment by the court WITH THE ACCEPTANCE OF THE INTERMEDIATION STEP BEGINS, THE PUBLIC CASE HAS BEEN OPENED HAPPENS. After this stage, the suspect is now called SANIK.**

## C- SANIK

Suspect to anyone suspected of crime during the investigation phase, crime during the prosecution phase  
Anyone under suspicion is called SANIK.

The right to learn the accusation about the accused, the right to remain silent, to investigate evidence in his favor has the right to request, the right to interpret assistance, the right to report relatives.

The accused cannot exercise the right to silence only about identity information. ID must say their information. It can exercise its right to remain silent in all other questions and matters. **This the right to remain silent is not absolute and unlimited. Saying information about the identity of the accused has to .**

## D- VICTIMS AND COMPLAINTS

**A real or legal person whose right to damage a legally protected act is a crime.**  
The victim is called. Along with the victim, the relatives (spouse, etc.) who suffered from the act deemed as a crime also who are victims of crime in criminal proceedings,  
It is called.

**Complaints to the competent authorities for crimes where the victim's complaint is mandatory for their follow-up**



anyone found is called a complainant .

## E- FINANCIAL RESPONSIBLE AND PARTICIPATED

Substantive and financial after the judgment is finalized and finalized the person who will be affected by the results of the judgment or bear the responsibility, MALEN It is called RESPONSIBLE.

The victim, in the first-instance trial of the real and legal persons who are damaged by crime and the financial officer PARTICIPATE in their involvement in the public case by declaring that they are complaining until the judgment is rendered, those who are involved in this way are called PARTICIPANTS.

- Participation is by petition or oral application,

- Notifications after the time of joining are also made to the PARTICIPANT.

- **NO PARTICIPATION during the appeal phase .**

- **Joining DOES NOT STOP THE CASE.**

- **FROM THE PARTICIPANT REPUBLICAN ATTENDED TO THE APPROACH CAN APPLY.** (There is no obligation to appeal with the C. Prosecutor.)

- If the participant **gives up or dies, the PARTICIPATION END.**

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- *Heirs can participate in the case to follow the participant's rights .*

## F- WITNESS

*Witnesses who have received information about the five sensory organs and investigations and prosecutions called .*

Testimony is **mandatory in** criminal proceedings . FORCE about the witness who did not comply with the call MAKING A DECISION.

*The President may hesitate to testify at his own discretion. Statement in case he wants to testify can be taken at home or send in writing .*

## WITHDRAWAL

The following people may be reluctant to testify:

a) Suspect or **fiancee of the** accused .

b) Suspect or **spouse's spouse** even if there is no marriage bond .

c) **Superso or subspecies from** suspect or defendant's blood **relativity** or beech relationship .

d) **Blood of the** suspect or accused , **including third degree**, or **beech** relatives, **including second degree** .

e) Those who have a **child** bond with the suspect or the accused .

The importance of avoiding testimony due to age, mental illness, or weakness those who are unable to understand **can be heard as witnesses with the consent of their legal representatives.** If the legal representative is a suspect or a defendant, they cannot decide on their reservations.

**For those who can hesitate to testify, before they rest, is reported .** These people may **always be afraid of testimony while resting.**

## WITHDRAWN FROM THE INTELLIGENCE DUE TO VOCATIONAL AND CONTINUOUS OPERATIONS

Those who can hesitate to testify because of their profession and their constant occupations, and the issues and conditions of fretting  
It is as follows:

a) Lawyers or trainees or their assistants, due to their adjectives or the judiciary in which they are imposed  
The information they have learned due to their duty.

b) Physicians, dentists, pharmacists, midwives and their assistants and all other medical professions  
or their art members learn about their patients and their relatives due to these adjectives.  
informations.

c) The consultants and notaries commissioned in financial affairs serve due to these adjectives.  
information they learn about people.

**Members of the profession other than those listed in paragraph A (Lawyer and his assistants) are suspicious or  
CANNOT BE REFUGEEED FROM THE INTELLIGENCE IF THE DEFENDANT SHOWS IT .**

However, the lawyers and assistant attorneys listed in item A are **suspicious** on matters related to the judiciary.  
**or if the defendant shows consent, he may withdraw from witness .**

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## WITNESS ABOUT STATE SECRET INFORMATION

**Information on a crime phenomenon cannot be kept confidential against the court as a State secret.**  
Its disclosure may harm the State's external relations, national defense and national security; constitutional  
The information that can create a danger in the order and foreign relations is considered as a state secret.

In case the information subject to testimony has the characteristics of State secret; **witness, just court judge  
or by his delegation, even without a clerk .** The judge or the head of the court, then,  
from these witness statements, only the information that could clarify the crime was recorded  
Registers.

**Testimonial about state secret, with crimes lower than five years in prison  
is applied in relation.**

In the case of the testimony of the President, the nature of the secret and notification to the court  
appreciates itself.

## WITHDRAWAL FROM ILLUSTRATION TO ITS OWN OR ITS relatives

*The witness had not been asked any questions which might have caused him or his relatives to be prosecuted.  
may hesitate to answer .* The witness is informed in advance that he may refrain from responding.

**If the case of refusal to testify is concerned, the C. Prosecutor and the Judge should notify this to the concerned.  
has to .**

## FEEDS WITHOUT FEEDS

**The following people rest without swearing :**

a) Those who **have not completed the age of fifteen** during rest .

b) **The quality and importance of the oath because they do not have the power to distinguish  
Those who can not comprehend.**

c) **For the crimes subject to investigation or prosecution,  
Suspect, accused or convicted of favoritism or destroying, hiding or changing crime evidence  
the ones .**

If someone who has the right to hesitate to testify does not hesitate and says that he will testify, then the **witness the judge will decide whether to swear . Even if the witness is offered an oath WITHDRAWAL. This issue is reported to him.**

The provisions regarding the refusal to testify are also applied to the EXPERT. Suspicious or an EXPERT who is in a situation that requires refraining from testimony with the accused may be afraid of being an expert. In such a case, the expert can be rejected.

### **G- EXPERT**

For the subjects whose solution requires a profession and art expertise, Anyone who helps with technical issues is called an expert.

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- **However, it is possible to solve with general and legal knowledge required by the profession of judges. The expert cannot be heard on the issues .** (Which crime is the action, whether it is intent or negligence, qualified on matters such as whether it has entered into situations ..)

- Judges the expert. *The Prosecutor may appoint an expert at the investigation stage.*

- The expert must give his report within **3 months** . In mandatory cases, the period can be extended once.

- In the expert report, the legal assessments to be made by the judge cannot be made. (Whether the crime has occurred, whether the offender can be punished or whether he is caste or negligent can not write. )

- The expert can be rejected and the expert report can be challenged.

- The expert is paid a fee commensurate with his study and travel expenses.

## **PROTECTION MEASURES**

### **1-CAPTURE AND DETENTION**

The arrest warrant is issued by the judge as a rule. However, in the cases listed below, citizens, law enforcement and public prosecutor can also decide and arrest arrest.

In cases mentioned below, **may be temporarily capture by everyone:**

*a) Encountering the person while committing the crime.*

*b) The probability of the person being watched to escape due to a criminal act or his identity immediately lack of possibility to determine .*

As a result of the capture made in this way, it was delivered to the police or in accordance with the second paragraph The public prosecutor was immediately informed about the person and the incident caught by the officers and his order The process is carried out in line.

**Law enforcement officers require an arrest warrant or arrest warrant, and in cases where there is objection in its delay; Immediate application to the public prosecutor or his chiefs If they are not able to do so, they have the power to catch .**

**Although its investigation and prosecution depend on the complaint, it does not committed against those who are incapable of managing themselves due to their illness, disability or weakness**

**In the case of red-hand, the arrest of the person is not dependent on the complaint .**

**The law enforcement will prevent it from escaping while it is caught, causing harm to itself or others.  
After taking the measures, he immediately notifies the captured person of his legal rights .**

Due to the fulfillment of the transaction subject to the capture order,  
by the court, judge or public prosecutor in case of disappearance (death of the person, etc.)  
Immediate refund of the arrest warrant is requested.

## **CUSTODY**

If the arrested person is not *released by the Public Prosecutor's Office*, he was detained to complete the investigation.  
*can be decided to take .*

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**The period of detention is compulsory to be sent to the nearest judge or court instead of the arrest.  
Except for the period, it cannot exceed 24 hours from the moment of capture .**

Mandatory period **more than 12 hours** to be sent to the nearest judge or court of arrest  
**no. (UP TO 36 HOURS).**

Detention means that this measure is mandatory for investigation and that the person has committed a crime.  
depends on the presence of signs that can think.

Difficulty in collecting evidence or large number of suspects in crimes committed collectively  
because of; **The public prosecutor's detention period will not exceed one day at a time, three days  
can be ordered in writing to be extended. In this case, the total length of detention in collective crimes is EN  
IT HAS MORE 4 DAYS.**

The public prosecutor regarding the arrest, detention and extension of the detention period  
against the written order, the **arrested person, defense counsel or legal representative, spouse or first or second  
To the degree of blood, the magistrate can apply to the magistrate judge to ensure immediate release.**

About the person released after the detention period expired or the decision of the magistrate judge  
The decision of the public prosecutor unless new and sufficient evidence about the verb causing the arrest has been obtained  
Unless otherwise, capture cannot be performed for the same reason.

**If the detainee is not released, the magistrate will be sent to the magistrate  
are removed and interrogated. The counsel is also present in the query. (MANDATORY REPUBLIC)**

Investigation or prosecution upon arrest warrant issued by the judge or court  
If the person caught in his / her phase cannot **be brought before a judge or court within 24 hours at the latest,  
within the same period, the nearest magistrate is brought before the judge** ; if not released, the competent judge  
or arrested to be sent to the court as soon as possible.

## **CAPTURE AND NOTIFICATION OF THE DETENTION**

When the suspect or defendant is caught, detained, or prolonged detention,  
A relative or a person determined by the public prosecutor is informed without delay.

If the foreigner who is arrested or taken into custody does not object in writing, his situation,  
is notified to the consulate of the state of which he is a citizen.

## **CAPTURE ORDER AND ITS REASONS**

About the suspect who has not received a call or made a call during the investigation phase,  
Upon the request of the public prosecutor , **arrest warrants can be issued by the peace judge.**  
Also, in case of objection to the refusal of the arrest request, arrest warrant by the appeal authority  
editable.

**Public prosecutors and law enforcement officers on detainees or convicts who fled their institution they can issue a capture order .**

**During the prosecution phase , the arrest warrant for the fugitive accused ex officio or by the public prosecutor It is arranged by judge or court upon request.**

In the arrest warrant, the person's explicit spouse, when known, is caught with his identity and the crime charged shows where to send.

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## 2- ARREST

**Finding of cases showing strong suspicion of crime and a reason for arrest**

**In case of arrest**, the decision to arrest the suspect or the accused can be made.

**If the importance of the work is not measured by the expected penalty or security measure, an arrest warrant cannot be issued.**

**A reason for arrest can be assumed if :**

a) *Concrete facts that raise the suspicion of suspect or defendant's escape, hiding, or escaping if any .*

b) *Behavior of the suspect or accused;*

*1. Destroying, hiding or changing the evidence,*

*2. Attempt to exert pressure on witnesses, victims or others,*

If there is a strong suspicion about his matters, there is a reason for his arrest.

**THE CREATION OF A CRIME IN THE SOCIETY IS NOT A REASON FOR ARREST.**

(IN THE OLD LAW, THE REASON FOR THIS STATE ARREST)

There is also a reason for arrest in cases where there are some crimes listed in the law.

It is counted.

**ARRESTED BY THE JUDGE. EVEN IF ALL THE TERMS OCCUR**

**NOT TO APPLY THE ARREST MEASURE AND TO PROCEED THE SUSPICIOUS WITHOUT PROPERTY**

**You can leave it FREE.**

**OFFENSES THAT CANNOT BE ARRESTED:**

**Only requiring a judicial fine or an upper limit of imprisonment not more than one year**

**Arrest warrant cannot be issued for crimes .**

**ARREST DECISION**

**Magistrate on the request of the public prosecutor to arrest the suspect during the investigation phase**

**The prosecutor's request by the judge to arrest the accused in the prosecution phase**

**the court decides upon it or ex officio .**

These claims are absolutely justified and indicate that judicial control practice will be insufficient. legal and actual reasons are included.

When asked to arrest, the suspect or defendant, either by himself or by the bar association, benefits from the assistance of an advocate to be appointed. (MANDATORY REPUBLIC)

If no arrest warrant is issued, the suspect or accused is immediately released.

**PERIOD DURING DETENTION**

- The period of detention is 1 year at most for jobs that are not included in the duty of the heavy criminal court. But this period can be extended for another 6 MONTHS by showing the justifications when necessary. (MAXIMUM 1.5 YEARS IS HAPPENING )

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- The period of detention is 2 years at most for the duties of the Heavy Penal Court. This time, in compulsory cases, it can be extended by showing its justification; extension period cannot exceed 3 YEARS in total. (EN MORE THAN 5 YEARS )

Suspect or suspect release at all stages of the investigation and prosecution phases  
You may ask.

By the judge or the court the continuation or release of the detention of the suspect or accused the decision is made. The rejection decision can be challenged.

**NOTIFICATION OF THE CONDITIONS OF THE ARRESTED TO THE NEAR**

To any **relatives of the detainee or from** any decision regarding the extension of the arrest **or A person determined by the judge's decision is informed without delay .**

Also, **with the condition not to jeopardize the purpose of the investigation , the arrested an It is also allowed to report to someone close to or to a person he / she designates .**

Arrest situation when suspect or suspect is foreign, **not to oppose in writing In case it is notified to the consulate of the state of which it is a citizen .**

**INVESTIGATION OF IMPACT**

During the investigation phase, at the time of the suspect's detention, and **no later than 30 DAYS** As to whether the continuation **of the** detention in terms of **periods would** be required, the public prosecutor the decision by the magistrate judge upon taking into account the provisions of Article 100  
It is given.

Examination of the detention by the suspect within the period stipulated in the above paragraph. may also be requested.

**3- JUSTICE CONTROL**

**UPPER LIMIT 3 YEARS or less** in case of suspect arrest reasons  
**In the investigation carried out for a crime requiring punishment ,** the judiciary was judged instead of being arrested.  
It can be decided to take it under control.

**In cases where the prohibition of arrest is foreseen in the law (1 YEAR POWER PAPER PRISON CRIMES REQUIRED AND CRIMES REQUIRED ONLY FORENSIC MONEY PENALTY), provisions on control may apply.**

Judicial control means that the suspect is subject to one or more of the obligations shown below.  
It includes:

- a) **Not being able to go abroad. (Applicable in all crimes)**
- b) To apply regularly to the places determined by the judge within the specified periods.
- c) Regarding the calls of the authority or persons specified by the judge and professional occupations when necessary

d) Not being able to use all kinds of vehicles or some of them and if necessary, pens and receipts delivering the driver's license in return.

e) Especially in order to get rid of drugs, stimulant or volatile substances and alcohol dependence, Subject to treatment and examination measures, including hospitalization and acceptance.

**f) Taking into account the monetary status of the suspect, the amount and once or at once payment terms in multiple installments, an assurance to be determined by the judge at the request of the public prosecutor deposit the amount. (Applicable in all crimes)**

g) Failure to carry or carry a weapon, if necessary, the weapon of receipt. to hand over to the judicial trust in return.

h) Upon the request of the public prosecutor, the amount and payment period will be determined by the judge connecting money to real or personal security to secure the rights of the victim of crime.

i) Sentenced to fulfill family obligations and to pay in accordance with judicial decisions. give assurance that he will pay child support regularly.

The time spent under judicial control is offset from the penalty by counting the reason for limiting personal freedom. can not. **HOWEVER, TO A TREATMENT INSTITUTION IN THE SUSPECT E IF IT IS INVESTED, THE PERIOD OF JURISDICTION THAT WILL BE PROVIDED AS A RESULT OF THE Trial IT IS DOWNLOADED.**

**About those released due to the period of detention stipulated by law Provisions regarding judicial control may be applied without requiring the term condition in the first paragraph.**

**JUSTICE CONTROL DECISION AND THE AUTHORITIES TO DOMINATE**

Suspect, the request of the public prosecutor and the **decision of the magistrate judge of the investigation phase can be taken under judicial control at every stage .**

Forensic officers and control by the competent judicial authorities, **each of prosecution can be ruled.**

Appeals can be **filed** against decisions regarding judicial control .

**NOT TO FOLLOW MEASURES**

About the suspect or defendant who does not intentionally follow the judicial control provisions, Regardless of the duration of the imprisonment that can be imposed, the **competent judiciary immediately arrested It can give.**

**Showing a certain assurance from the suspect or accused to the court during the judicial control process It may be requested.** In this way, in the execution of the judgment in the procedural procedures of the person or still or later under control it is guaranteed to be ready to fulfill other obligations it can be taken.

**If the person does not fulfill these obligations and is not present, the assurance will go to the state treasury. revenue is recorded .**

**Assurance to be demonstrated by the suspect or defendant (GUARANTEE-GUARANTEE):**

a) **The suspect or accused can be taken in or under the execution of the judgment in all procedural proceedings. availability to fulfill other obligations.**

b) Making payments in the order shown below:

*1. The costs incurred by the participant, the damages caused by the crime and the bring; if the suspect or defendant is being prosecuted for not paying child support debts debts.*

*2. Public expenses.*

*3. It is also a guarantee for fines .*

#### 4-SEARCH AND MANAGEMENT

**REASONABLE DOUBT (COMMAND)** that it can be caught or evidence of crime can be obtained  
SUSPICATION SENSED AGAINST EVENTS - If there is doubt in the ordinary course of life);  
the top of the suspect or accused, his belongings, his residence, his workplace or other places belonging to him may be sought.

**The suspect or** in order to obtain the accused or evidence of a crime can be captured, **other a person's superior, belongings, residence, workplace or other places belonging to him** can be searched.

#### SEARCH FOR THE NIGHT

**Calls cannot be made in the house, workplace or other closed places at night .** Night: the sun  
It is the time period starting 1 hour after sunset and up to 1 hour before sunrise.

*Was caught or detained by cases that are in the act of offense or delay  
in order to recapture the person who has escaped, or the detainee or convict,  
or other closed areas can be searched.*

#### SEARCH DECISION

**In cases where there is a drawback to the judge's decision or delay, the public prosecutor shall:**  
**In cases where the public prosecutor cannot be reached, law enforcement officers with the written order** of the law enforcement official  
they can search.

However, search in **residential, workplace and closed areas that are not open to the public, judge decision  
or in case of delay, it can be done with the written order of the public prosecutor.**

**THE COLLEGE MANAGER'S ORDER IS OPEN TO THE HOUSING, AT WORK AND TO THE PUBLIC  
SEARCHES CANNOT BE MADE IN NON-FIELD.**

The search results made with the written order of the law enforcement officer are immediately reported to the Chief Public Prosecutor.

**Searching for residences, offices or other closed places without the public prosecutor ready  
In order to do this, two people are kept from the old age committee or neighbors .**

**The search to be made in the military areas, with the request and participation of the public prosecutor,  
fulfilled by the authorities.**

#### WHAT CAN BE READY IN CALL



*The owner of the places to search or the possession of the item can be present in the search; if he is not found a representative or one of his distinguished relatives or a person sitting with him or neighbor is ready . The person's lawyer cannot be prevented from being present during the search .*

**DOCUMENT OR AUTHORIZATION AUTHORIZATION**

Authority to examine the documents or papers of any person whose search process is applied, **Cumhuriyet It belongs to the prosecutor and the judge .**

**THE COLLEGE DOES NOT HAVE THE AUTHORITY TO REVIEW DOCUMENTS AND PAPERS.**

The document that is understood not to be related to the crime subject to investigation or prosecution, or The papers are returned to their respective people.

**LETTERS, DOCUMENTS**

Letters and documents between the suspect or the accused and those who may be reluctant to testify; **THIS It cannot be confiscated as long as it is in the hands of anyone .** If these letters are in the hands of the suspect, this can be seized.

**AUTHORIZATION TO MAKE ELKOYMA DECISION**

**In cases where there is a drawback to the judge's decision or delay, the public prosecutor shall:**  
**In cases where the public prosecutor cannot be reached, law enforcement officers with the written order of the law enforcement official, perform seizure process.**

The seizure procedure without the judge's decision shall be **approved by the judge in charge within 24 hours. It presented. The judge announces his decision within 48 hours of seizing; otherwise seizure It gets up on its own.**

The seizure process to be carried out in military affairs, ... With the request and participation of the public prosecutor, fulfilled by the authorities.

**The values that can be applied to seizure are counted in the law .** This count is a limited count. In other words, values and items other than those mentioned cannot be confiscated. These are **immovables, land, sea and air means of transportation, accounts in banks and other credit institutions, valuable documents, real and legal all kinds of receivables before the persons, the share of partnership in the company, the contents of the safe deposit, other assets income .**

(ACCEPTED ABOUT THIS COULD PUT DECISION BUT JUDGE EL. C.  
THE ATTORNEY AND LAWNSHIP CANNOT MAKE A HANDS ABOUT THESE NUMBERS. )

**SEARCH IN LAW OFFICES**

Lawyers' offices are only related to the COURT DECISION and the EVENT SPECIFIED IN THE DECISION. **SEARCHING MAY BE MADE IN THE INSPECTION OF THE REPUBLICAN PROVIDER . Bar in search its head or a lawyer to be appointed is also available.**

**5-TRAILER DETERMINATION FOR COMPANY MANAGEMENT**

Reasons for strong suspicion that the crime is being committed within the framework of a company's activity if it is necessary to reveal the existence and material truth; **investigation (C. SAVCISI) and during the prosecution process, the JUDGE or the COURT will relate to the conduct of company affairs. may appoint trustee.**

**6-CHECKING THE COMMUNICATION THROUGH TELECOMMUNICATION**

In an investigation and prosecution for a crime, the **STRONGEST** indicating that the crime was committed  
**The existence of suspicious causes and the possibility of obtaining evidence in another**  
**IF NOT AVAILABLE , KEEP CALM OR PREVIOUSLY IN THE DELAY**  
**C. PROSECUTORS cases of the decision** communication through telecommunications suspect or accused **identified**  
**can be listened to, recorded, and signal information can be evaluated.**

**The public prosecutor submits his decision immediately to the judge's approval, and the judge shall decide his decision no later than 24 hours.**  
**gives in.** If the period expires or is decided contrary to the judge, the measure  
He is **immediately removed** by the prosecutor .

**The communication of the suspect or the accused with those who may be afraid of testimony cannot be recorded.**  
**In the event that this situation is understood after the recording takes place, the recorded records are destroyed immediately.**

**The decision of caution can be made for a maximum of 3 months; this period may be extended ONCE.**

**However, in ORGANIZATIONAL CRIMES, the judge should NOT be more than 1 MONTH EVERY TIME.**  
**It may decide to extend the time over several times.**

**THIS MEASURE ONLY FOR CATALOG OFFENSES IN THE LAW**  
**APPLICABLE. NOT APPLICABLE TO ALL OFFENSES.**

WHEN THIS MEASURE IS APPLIED, there is no decision to prosecute the suspect  
**Public prosecutor to** apply it in case it is given or if the judge disapproves  
**is immediately terminated by** . In this case, the records regarding the determination or listening made Republic  
Under the supervision of the prosecutor , **the situation is determined in minutes by destroying it within 10 days.**

*In case the records regarding detection and listening are destroyed, the end of the investigation phase*  
*The Chief Public Prosecutor's Office, the reason, scope, duration and result of the measure within 15 days at the latest.*  
informs the related person in *writing* .

**TO HAVE A STRONG CRIME Suspect And Obtain Evidence At Another Time**  
**CATALOG NUMBERED ONLY IN THE LAW IF THE OPPORTUNITY IS NOT AVAILABLE**  
**ABOUT THE OFFENSES :**

- HIDDEN INVESTIGATOR ASSIGNMENT

- MONITORING WITH TECHNICAL VEHICLES ( *RESIDENCE CANNOT BE FOLLOWED IN MONITORING WITH TECHNICAL TOOLS* )  
DONE.

**COMPENSATION BECAUSE OF PROTECTION MEASURES**

COMPENSATION REQUEST

During a criminal investigation or prosecution;

a) *Except the conditions specified in the laws , arrested, arrested, or continued detention.*  
*decided,*

b) *Not brought before a judge during the statutory detention period,*

c) *Instead of reminding the legal rights or requesting to enjoy their reminded rights*  
*arrested without being brought ,*

d) *Although he was arrested in accordance with the law, he was not brought before the trial court within a reasonable time.*  
*and who have not been convicted during this period ,*

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e) *After being caught or arrested in accordance with the law, he / she will be prosecuted.*  
*are not determined or acquitted,*

f) He is a prisoner and his periods in detention and detention are more than the duration of his sentence.  
or because the penalty stipulated in the law for the crime it committed is only a fine,  
punished by punishment,

g) The reasons for arrest or detention and the accusations against them in writing, or  
not immediately explained in cases where it is not possible,

h) Those whose arrests or arrests are not reported to their relatives,

i) The search decision about him was made in an unspecified manner,

j) To the goods or other assets, if the conditions are not met, they are seized or protected.  
the necessary precautions are not taken or the property or other assets are used out of purpose or  
not returned on time,

**Persons may request any material and moral damages from the State .**

#### **CONDITIONS OF REQUEST FOR COMPENSATION**

**3 MONTHS** from the notification to the **relevant person that the** decision or provisions have been finalized **and in any case, decision or**  
**Claims for compensation can be made within 1 YEAR following the date of finalization of the provisions.**

Prompt, the place where the injured resides is in the heavy criminal court,  
If the court of compensation is related to the transaction and there is no other heavy penal office in the same place,  
the closest place is decided in the high criminal court .

The state, due to the compensation it has paid, to the requirements of its duty in relation to the protection measure.  
Recourse to public officials who abuse their duties by acting in violation.

#### **PEOPLE WHO CANNOT REQUEST COMPENSATION**

The following are the compensation of the persons arrested or arrested in accordance with the law  
they cannot ask :

a) Those who have been detained and detained from another convict.

b) If it does not qualify for compensation, it came into effect later and brought in favor arrangements.  
those who, as required by law, have become eligible to seek compensation.

c) A place to prosecute for reasons such as general or private amnesty, giving up complaints, and compromising  
that the lawsuit has been decided to be dismissed or the case has been dropped or the public action has been temporarily suspended or the public  
those whose case has been postponed or dropped .

d) Decided that there was no room for punishment due to the lack of flaw ability  
given.

e) Reporting that he committed a crime or participated in the crime with an unrealistic statement before the judicial authorities.  
Those who caused their detention or detention .

## Stages of Criminal Procedure

Criminal procedure is divided into two phases. The first is the investigation phase, and the second is prosecution phase.

### 1- INVESTIGATION PHASE

After the action deemed to be a crime,

It is not possible to proceed to the trial stage immediately upon notification. The public prosecutor's office who received this notification / complaint is a crime, investigates the criminal and criminal evidence and prepares an investigation file.

**As a rule, this investigation phase is hidden.**

**The public prosecutor directly addresses the law enforcement personnel performing the judicial law enforcement duty. He is the first-degree supervisor of these personnel in relation to ordering and fair law enforcement. Judicial If law enforcement personnel are alleged to have committed a crime during this task, DIRECTLY investigated DOES THE RIGHT REPUBLIC PROVIDER.**

Public Prosecutor **verbal order provided that it is written later in a hurry**

**It can give.** To take action to interfere with freedom of persons (eg Telephone listening, arrest, judicial control, capture etc. In these cases, the **Public Prosecutor SULH CEZA APPLY TO THE JUDGE.**

**As mentioned above, the work of the Public Prosecutor is high, If the public prosecutor cannot be contacted, the Magistrate's Court judge will also can do their own transactions.**

If **sufficient SUFFICIENT** has been reached as a result of the investigation of the crime , the Republic A CLAIM IS PREPARED by the Prosecutor. The indictment prepared was sent to the authorized and authorized court It presented.

The public prosecutor should include all information, name, address, and evidence that are required by law in the indictment. must place. **The public prosecutor has a situation not only against the perpetrator but for his favor IF IT HAS TO BE DETERMINED AT THE CLAIM.**

If there is an active regret or personal impunity as a reason for removing the punishment, SAVCI THE CASE CAN DECIDE THAT IT IS NOT THE PLACE TO PROVIDE WITHOUT OPENING. In these cases, the case no need to open it.

Again, if the crime following investigation is due to the **complaint and its upper limit is 1 year IF IT REQUIRES A DOWN CRIMINAL OR LESS PENALTY C. Prosecutor WITH 5 YEARS DURATION CAN DELAY THE OPENING OF THE PUBLIC CASE.**

**IF FAIL; If it does not intentionally commit a crime within 5 years, it will be prosecuted. DECIDES THAT IT IS NOT .**

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**If the public prosecutor has not been able to find sufficient evidence , that the crime was committed by the offender If he / she has not reached sufficient suspicion and is convinced that the crime has not occurred, it is a place to prosecute. DECIDES THAT IT IS NOT .**

Against this decision, **those who suffer from crime are the closest place within 15 DAYS HEAVY CRIMINAL THE COURT MAY OBTAIN OBJECTION .**

The indictment submitted by the public prosecutor to the court is evaluated by the court. **15 days No indictment in which no decision has been taken is ACCEPTED.**

If the court thinks the indictment is incomplete, the **REPUBLIC OF THE REPUBLIC RETURNS TO YOUR ADVICE . C. The Prosecutor before the decision of the nearest heavy criminal court can appeal.**

**RETURN THE CLAIM FOR THE COURT OF LEGAL LEGAL QUALIFICATION ERROR**

**CAN NOT.** So even if he does not agree with the C. Prosecutor about what crime the action is, he cannot return the indictment for any reason. (The C. Prosecutor wrote that the action was theft, and the Court said, if he thinks the action is fraud, it is a qualification error. For this reason, the indictment cannot be returned. )

**PUBLIC CASE WILL BE LAUNCHED WITH THE ACCEPTANCE OF THE CLAIM AND The prosecution phase begins. THE SUSPECT OF THE SUSPECT IS NO MORE .**

**2- RACING STAGE**

A hearing is held during the prosecution phase. **The first thing to be done in the hearing was called to the court Whether the defendant and his or her representative are readily available.**

Except for the cases written in the law (absence, evasion, absence), the **accused is ready Trial cannot be held without any. The presence of the defendant is a TRIAL It is a MUST.**

Defendant who does not come despite the call or is not required to come to the hearing (POVERTY) If a query has been made before, it can be completed in the absence of a lawsuit.

**Defendant alone or in cases where judicial fines or security measures will be awarded Even if he does not come, a hearing can be held.**

If the fugitive **has been questioned before**, JUDGMENT DECISION CAN BE MADE. **if If the question is not made, decisions other than convictions can be made.**

ACCORDING TO THE EVIDENCE COLLECTED ABOUT THE DEFICIENT; **AN OUTSIDE THE COURT IF THEY DECIDED TO BE DECIDED, EVEN IF THE QUESTION WAS NOT MADE MAY BE FINISHED IN CASE OF ACTION.**

**GIVEN TO THE DEFENDER WHO IS READY BEFORE THE TERM .**

**DIRECT QUESTIONS (2008 KPSS QUESTION)**

- *Judge / s*
- *The public prosecutor;*
- *Defense,*

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- *Attorney attending the hearing as a proxy; to the accused, the attendant, the witnesses, the experts and the hearing* they can directly raise questions **to other people called in** accordance with the discipline of the hearing. Defendant and participant may also raise questions through the head of the court or a judge. **If you pay attention, don't ask questions directly It is a method foreseen only for the LAWYERS involved in the proceedings.**

**As a rule, hearings are public.** (OPENING PRINCIPLE). However, in the following cases, hearings can be done secretly:

- *Unethical situations,*
- *situations that are objectionable in terms of public safety,*

**Judge to attend the hearing, C. SAVCISI, OFFICER Clerk, acceptance of compulsory defense DUTY MUST HAVE FINDING DIRECTORS .** (At the hearing in the Criminal Courts of Peace C. The prosecutor is not found. C. Prosecutors are found in the Criminal and High Criminal Courts of First Instance. )

**COMPULSORY REPUBLIC (CONDITIONS ASSIGNED BY A LAWYER):**

A lawyer appointed by the state without seeking the request of SANIK- SUSHELI in the cases listed below benefits are provided.

- *Deaf, dumb and inability to express themselves,*
- *Defendants under 18,*
- *Those who have a **lower limit of crime committed more than 5 years .***

- In these cases, a lawyer appointed by the state provides legal aid to the suspect. The defense's fee is covered by the state. Besides these, **ARREST and INQUIRY** It is mandatory to have a lawyer **DURING IT .**

**Statement taken by law enforcement without a defense, suspect before a judge or court or the judgment cannot be taken as a basis unless verified by the accused .**

**EVIDENCE OF THE CRIME LOADED TO THE DEWANT**

The crime charged can be proved by the evidence that has been taken in accordance with the law. Unlawful No judgment can be made based on the evidence seized. Unlawful evidence: **lawful EVERY KIND OF EVIDENCE that has not been obtained is PROHIBITED EVIDENCE.**

**PROHIBITED PROCEDURES FOR EXPRESSION AND INQUIRY**

**Taking statements :** an investigation by the **suspect's law enforcement officers or public prosecutor** to be heard about crime,

**Interrogation:** Investigation or prosecution of the **suspect or accused by the judge or court** to be heard about crime,

The statement of the suspect and the accused must be based on his free will. Preventing this *bad behavior, torture, drug abuse, tiring, deception, algebra or threats, using some tools physical or mental interventions* cannot be made.

**An unlawful benefit cannot be promised.** If the statements obtained through prohibited methods **were given with consent** **Even it can** not be considered as evidence.

**The need to re-test the suspect or defendant in relation to the same incident** **When it occurs, this can only be done by the public prosecutor. In this case,** **CANNOT RECEIVE.**

**TYPES OF DECISION IN CRIMINAL JURISDICTION**

**1 - THE DECISION OF THE OPERATION IS GIVEN AS FOLLOWS:**

- a) *The verb charged is not defined as a crime in the law,*
- b) *It is constant that the charged crime was not committed by the accused,*
- c) *The offender has no caste or negligence in terms of the crime charged,*
- d) *Despite the fact that the charged crime was committed by the accused, the reason for compliance with a law in the incident*

There,

e) *The fact that the charged crime was committed by the accused is not fixed .*

## **2 - THE DECISION WHICH THE DEFECT IS NOT INCLUDED, IS NOT A PLACE FOR PUNISHMENT**

a) age, mental illness or deaf and mute state in connection with the charged crime or finding temporary reasons,

b) The crime charged is unlawful but by fulfilling the binding order or obligation processing under the influence of the state or algebra or threat,

c) **Crossing the border due to excitement, fear and rush in legitimate defense ,** ( EXCLUSIVE IS GIVEN IN LEGAL DEFENSE. HERE EXCEEDING THE LIMIT IN THE LEGAL DEBATE AFOREMENTIONED )

d) Making a mistake that eliminates the defect,

In their case, it is decided that there is no room for punishment due to the absence of a fault.

## **3- THERE IS NO PLACE TO GIVE PENALTY**

Although the verb committed continues to be a crime;

a) Effective regret,

b) the existence of the cause of personal impunity,

c) Mutual insult,

d) Lack of unfair content of the act, Therefore, in cases where the offender is not punished, punishment It is decided that there is no place to give.

## **4- COURT**

**If the committed crime is fixed (it will be 100% conviction), about the accused a conviction is made.**

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If it is fixed that he committed the crime, he will be sentenced to a certain sentence or In addition to conviction, security measures are **governed . ( SECURITY TOGETHER WITH JUDICIARY) MEASURES MUST BE DOMINATED )**

Due to the same act, if there is a previous sentence or a lawsuit filed for the same accused **DISCLAIMER OF THE CASE .**

Presence of fall causes stipulated in the Turkish Criminal Code, or investigation or prosecution In the event that it is understood that the condition will not come true, the **case is decided to drop.**

However, an investigation or prosecution is contingent but the requirement is yet If it is understood that it does not happen; **STOP DECISION is made to wait for realization. To this decision objectionable.**

**In cases where an acquittal decision can be taken immediately, there is no room for stopping, falling or giving punishment. decision cannot be made.**

The decision of non-jurisdiction for a judicial authority other than a judicial justice has been given in terms of legal remedy counted.

## **5- DECISION TO RETURN THE DISCLOSURE OF THE PROVISION**

The sentence imposed at the end of the trial due to the crime imposed on the accused, **2 years or less if it is a term prison term or a judicial fine**; the court decided to release the announcement of the verdict mentioned. (JUDGED BY THE JUDGE)

**Deferring the announcement of the verdict, a legal conclusion about the defendant established expresses not giving birth.**

In order to decide to leave the announcement of the verdict back;

- a) The defendant has **not been convicted of an intentional crime** before ,
- b) **Considering the personality characteristics of the defendant and his attitudes and behaviors at the hearing by the court to be convinced that he will not commit a crime again** ,
- c) The **damage** suffered by the victim or the public through the committing of the crime , **just like the return, before the crime to be completely eliminated by bringing or compensation,**
- d) **It should not be a crime subject to compromise .**

If the perpetrator does not commit a deliberate crime within the prescribed 5-year audit period, **CASE** after 5 years **THE DECISION IS FALLED** . Since the sentence was not announced within this 5-year period, it has no negative effects.

## **COMPROMISE**

**A Turkish Criminal Code, which is applied only in the types of crime determined by the law. method. Regulated in laws other than TCK;** Its investigation and prosecution depends on the complaint except the ones; **to reconcile in relation to crimes in other laws To be able to go, there must be a clear provision in the law .**

Even if its investigation and prosecution is dependent on the complaint, it includes **effective regrets. Reconciliation cannot be made for crimes against sexual immunity.**

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In case the crime subject to investigation is subject to consensus, upon **the prosecutor or his order The law enforcement officer proposes to reconcile with the suspect to the victim or victim of crime.**

If the suspect, the victim or the victim of crime is a minor, the offer of compromise is legal. is made to the representatives. The public prosecutor should also announce the compromise proposal through notification or clams. Can.

The suspect, the victim or the victim of crime, **after being offered a compromise If he does not report his decision within three days, he is deemed to have rejected the offer.**

If a compromise proposal is made, the nature of the compromise and acceptance of the compromise or The legal consequences of his refusal are explained.

Not to be present at the address included in the investigation file or to the dormitory to the victim, the victim of crime, the suspect, or their legal If the representative cannot be reached, the investigation is concluded without any settlement.

For a crime that caused more than one person to be victimized or harmed In order to reach a settlement, all **victims or victims of crime agree to compromise. should.**

Proposal or acceptance of the settlement, **related to the crime subject to investigation preventing the collection of evidence and the application of protection measures (Search, Arrest, etc.) is not .**



If the suspect and the victim or victim of crime accept the offer of reconciliation, the **Republic** **the prosecutor can carry out reconciliation himself, or a lawyer as a conciliator** **You can ask for the appointment from the bar or a reconciliation among those who have studied law can appoint .**

The cases determined by this Law that the judge cannot look at the case and the reasons for their rejection are conciliatory. It is taken into consideration regarding the assignment.

The conciliator must **submit a copy of the documents** in the file **at the latest 30 (** concludes conciliation procedures **within thirty) days .** The public prosecutor should not exceed this period of **twenty days. can extend it longer .**

**If reconciliation remains inconclusive, reconciliation cannot be attempted again.**

If the suspect fulfills his act as a result of reconciliation, he will prosecute him. it is decided that there is no place.

**If reconciliation is reached, the case for compensation cannot be opened due to the crime subject to the investigation; The lawsuit filed is deemed to be waived .**

**If the suspect fails to fulfill its performance, the reconciliation report or document is dated 9/6/1932. and the documents that have the nature of an obligation written in article 38 of the Execution and Bankruptcy Law numbered 2004. counted .**

**Statements made during the negotiations, any investigation and it cannot be used as evidence in prosecution or litigation .**

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Timeout and case between the settlement proposal and the submission of the conciliator's report opening times DO NOT process. Regarding the decisions to be taken as a result of reconciliation, legal remedies can be applied.

#### **RECONCILIATION BY THE COURT**

**That** the crime subject to prosecution is within the scope of reconciliation **after the public action is filed** If it is understood , **reconciliation is done by the court .**

#### **LAWS OF LAW**

There are two types of appeals. These are the usual way of appeal and the way of extraordinary appeal.

#### **THE PERSONS THAT CAN PROVIDE THE LAWS :**

- *C. SAVCISI*

- *Suspect or defendant*

- *Attending,*

- *Defense of these.*

- *LAW REPRESENTATIVE AND WIFE OF THE Suspect or Defendant.*

#### **1- ORDINARY LAWS**

**A- OBJECTION:** MADE IN 7 DAYS to the Supreme Court of the Deciding Court.  
The application is the process of auditing the decision. Law on which transactions can be filed  
It is counted.

**B- ATTORNEY:** After the courts of appeal were established ( YEARS IN 2008  
NOT TO BE ESTABLISHED) As a rule it can be applied against the decisions of the first instance courts.  
the legal remedy is İSTİNAFT. İstinaf REGIONAL JUSTICE COURTS FIRST BY APPLICATION  
SUPERVISION OF THE GRADE COURT DECISIONS)

**C- APPEAL:** FIRST GRADE COURT DECISIONS BY YARGITAY  
INSPECTION-INSPECTION. 7 DAYS FROM THE DISCLOSURE OF THE PROVISION  
APPLICATION TO THIS WAY.

## 2- EXTRAORDINARY LAWS

### PREPARED LAWS AGAINST FINAL DECISIONS .

**A- DIVISION OF THE BENEFIT OF THE LAW :** Without going through an appeal investigation, it is against the final law  
seen against decisions **CLAIM WITH THE REPUBLIC OF THE SUPREME COURT OF THE MINISTRY OF JUSTICE**  
**The Chief Prosecutor applies to the relevant Jurisdiction for the appeal of the decision.**

**B- YARGITAY PRESIDENT OF THE REPUBLIC : OBJECTIVE :**  
DECISION OF YARGITAY PENALTY GENERAL ASSEMBLY within 30 days against unlawful decisions  
It is the application of the YARGITAY REPUBLIC ATTORNEY FOR THE INVESTIGATION.

### C- RENEWAL OF THE JUDICIARY

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A case that resulted in a finalized sentence, in favor of the convict in the following cases  
reappears through the renewal of the trial:

- a) If the falsehood of a document used in the hearing and affecting the provision is understood.
- b) A witness or expert who has been heard by giving an oath, is convicted to affect the judgment  
if it is understood that he or she has been making false testimony or voting against it.
- c) One of the judges who participated in the judgment, except for the fault caused by the convict, shall be punished against him.  
has failed to perform their duties in a manner that requires their prosecution or punishment.
- d) Criminal provision is based on a judgment of the court of law and this provision is finalized.  
if it was abolished by another provision.
- e) New events or new proofs are presented but they are presented alone or previously  
the law including the acquittal of the defendant or a lighter sentence when taken together with the evidence  
If it qualifies to be convicted upon the implementation of the provision.
- f) Criminal provision, **Convention for the Protection of Human Rights and Main Freedoms, or its annex**  
**that the protocols are infringed and that the judgment is based on this violation, the European Human**  
**It was determined by the final decision of the Court of Rights .** In this case, the renewal of the trial,  
**It can be requested within 1 YEAR** from the date on which the European Court of Human Rights judgment becomes final . ( This  
the judgment will be made on applications filed with the European Court of Human Rights after 4.2.2003  
applied about decisions.)

**THE FIRST DECISION-MAKING JUDGMENT IS REFURBISHED**  
**CANNOT PARTICIPATE IN THE JUDICIARY .**

**THE REPLACEMENT OF THE JUDICIARY WILL NOT BE ACCEPTED**

**In order to change the penalty, within the boundary included in the same article of the law.**  
**The renewal of the trial is unacceptable .**

**If there is another way to make sure that the error can be fixed,**

**He can not go.**

**TO THE COURT OF THE JUDGMENT, WHICH REQUESTS THE REFUND OF THE JUDICIARY PRESENTATIONS. THE RENEWAL OF THE JUDICIARY DOES NOT delay the execution of the provision .**

The sentence given in the re-trial is a heavier punishment than the first one.  
CAN NOT CONTAIN.

#### **JUDGMENT EXPENSES**

Attorneys' fees to be paid according to fees and tariff, investigation and prosecution  
All kinds of expenditures made by the State Treasury in order to carry out the trial in its phases and payments made by the parties are trial expenses.

**The judgment and decision shows to whom the trial costs will be charged.**

#### **RESPONSIBILITY OF THE DEFICIENT**

**In the event that he is sentenced to punishment or security measures, all trial costs will be Installed.**

**In cases where the announcement of the verdict is suspended and the sentence is postponed, the expenses will be It is loaded.**

