

What does the Draft on Preventing the Financing of the Proliferation of Weapons of Mass Destruction Bring for the Associations?

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On the morning of December 17th, Turkey's civil society woke up with the news of the draft presented to the Parliament on the evening of December 16, 2020. Although its name mentions weapons of mass destruction, only six of the 43 articles in the proposal are related to it. In other words, it is difficult to establish a quantitative relationship between the name of the draft and the things it regulates. Nevertheless, the proposal amends seven articles of Turkey's Law on Associations that directly control associations and four articles of the Law on Fundraising, which regulates the activities of the associations. So it would not be hard to claim that the draft includes motives other than what is stated in its general justification section.

Associations that do not function under the law on fundraising are unlikely to be affected by the regulations proposed in this draft. However, the seventh article of the draft authorizes the courts to block access to the URLs where fundraising activities are carried out such as crowdfunding sites used for gender reassignment processes, or websites used by associations as their sole means of fundraising.

The administrative fine of 700 TL imposed on those who fundraise without permission, is increased to 10,000 - 200,000 TL for those who hold unauthorized fundraising activities on the internet and to 5,000 - 100,000 TL for those who hold unauthorized fundraising activities on physical mediums.

As stated, the main regulatory area of the draft is the law on associations. Associations and foundations with headquarters abroad are directly covered with this draft. When assessed together with the proposed amendments below, it is clear that this holds a meaning other than emphasizing the "preexisting situation". Funds and grants distributed by the representatives of associations located abroad will also be subject to special supervision under this law.

The draft prohibits those convicted of crimes within the scope of the law on the prevention of the financing of terrorism and the crime of laundering of earnings from production and trade of drugs or stimulants, from taking part in the bodies of the associations other than the general assembly, in other words in the executive, supervisory or disciplinary boards of the associations.

Another important regulation brought to the civil society with the draft is that the audits carried out by the Ministry of Internal Affairs are now evolving into routine audits.

Associations can now be inspected by the Civil Society Relations Directorates or directly by the Ministry of Internal Affairs auditors. However, these are not periodic audits, but audits that are performed upon a specific decision or complaint. If the draft passes as law, the audits will become a yearly routine, and not being audited will be the exception. And the duration of this exception will by no means exceed three years. Considering the state policy to spread and encourage hate speech, it is not hard to claim that from now on, LGBTI+ associations will be audited regularly every year.

Moreover, public officials other than the Ministry of Internal Affairs officials and association auditors will be able to conduct this audit. This will mean that anyone with the title of a public officer, including the police,

gendarmérie, and nightguards, will be able to carry out such an audit. Also, an expert can be assigned to this audits.

Another feature of Article 13 of the draft, which changes Article 19 of the Law on Associations, is that it automatically enables an audit on the association which is in a partnership with the audited association. Therefore, if an association grants a grant to another association, or if any joint activity has been declared, all associations related to the audited association can be audited.

Authority to Cease the Activities of Associations

The draft eliminates the presumption of innocence once again as in other laws, by adding Article 30/A to the Law on Associations. Accordingly, if an investigation has been launched against association executives for crimes covered by the law on the prevention of the financing of terrorism and the crime of laundering of earnings from production and trade of drugs or stimulants, the Minister of Interior will have the authority to suspend these executives or cease the activities of the association. Note that not a conviction, but even the launch of an investigation based on a report prepared by a law enforcement officer appointed by the Minister of Internal Affairs, will constitute the reason for the suspension or the cease of activities. Such a decision will have to be submitted for the judge's approval within 24 hours.

According to this, for example, the Minister of Internal Affairs can give the order to initiate an investigation against the director of an association by citing the terrorist propaganda and the financing allegation, which is a special form of this crime, and stop the activities of the related association.

The limits of sentences are also increased with this draft in cases of violation of the notification rules regarding the funds received from abroad or granted

to institutions abroad. Accordingly, the prison sentence of up to three months is changed to a minimum of three months up to one year. The draft also brings changes to some other laws, but these are the articles that carry importance in sense of associations.