



LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances, the Secretary-General has the honour to communicate the following legislative texts.

TURKEY

Communicated by the Government of Turkey

NOTE BY THE SECRETARIAT

- (a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [] have been added or changed by the Secretariat.
- (b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

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LAW NO. 1918 OF 7 JANUARY 1932 ON PROHIBITION AND PENALIZATION OF SMUGGLING.
AS AMENDED BY LAW NO. 6829 OF 29 AUGUST 1956 AND
LAW NO. 2867 OF 26 JULY 1983.

PART TWO - SEARCH

Article 7 (As amended by the Law No. 2867 of 26 July 1983)

Search is permitted in all bundles, crates or other containers used for transportation where there is grounds for suspicion of their containing smuggled goods, weapons, ammunition, explosives or narcotics.

PART FOUR - PROCEDURAL PROVISIONS

Article 56 (As amended by the Law No. 6829 of 29 August 1956)

Verdicts on fines assessed hereunder and under ad hoc laws on the grounds of smuggling will be transmitted to the concerned agencies directly by the office of the public prosecutor. The verdicts will specify that the fines assessed by the customs committees are payable under a payment order to the concerned agencies pursuant to the Law on Collection of Public Claims.

Where the fine so indicated is not remitted within fifteen days from the date of notification, the collection is ensured through confiscation of the property of the convicted person pursuant to the provisions of the aforesaid Law. Where the convicted person's property which is saleable through auction cannot be found and/or the fine is not postponed in accordance therewith by the concerned agencies, the verdict will be returned to the office of public prosecutor for conversion into imprisonment.

Fines and aggravated fines will be converted into imprisonment pursuant to the provisions of Article 5 of Law No. 647 on the Execution of Sentences.

Wherever the remainder of the amount calculated through deduction of the sum corresponding to the days of imprisonment from the fine assessed is remitted, the imprisonment is terminated.

Imprisonments and alleviated imprisonments applied in lieu of fines may not exceed three years.

Fines collected by the offices of public prosecution are remitted to the concerned agencies.

Article 58 (As amended by the Law No. 6829 of 29 August 1956)

Investigation and prosecution against violators of the provisions hereof will be carried out pursuant to the provisions of the said Law without the venue restrictions in Article 1(a) of Law No. 3005 and the time restrictions in Article 4 thereof.

The offices of public prosecution will provide information on the pre-trial investigations to the agencies which are unaware of such investigations and the courts will do the same under similar circumstances to the same agencies during the trial stage (Added by the Law No. 2867 of 26 July 1983).

The existence of another infraction by the accused as determined during the trial will not be deemed as a ground for the unification of the relevant files (Rescinded by the Law No. 2867 of 26 July 1983).

Where smuggled goods, vehicles, tools and equipment are confiscated and

- (a) the accused cannot be determined,
- (b) the hearings are postponed for a certain period of time and this situation continues for more than six months,

the confiscation will become final and will be announced through appropriate means within five days.

The confiscation decision acquires finality when appeals are not made to concerned courts within fifteen days following the announcement.

Article 60 (As amended by the Law No. 2867 of 26 July 1983)

Awards will be paid to confiscators and informers in case smuggled goods are seized under the suspicion of prohibition of smuggling in conformity with the following rules:

3. In seizures of narcotics:

Totality in case of goods owned or one-half in case of goods of which the owners cannot be determined will be paid to confiscators or informers of the amount to be calculated by a fixed figure to be determined by the Council of Ministers for unit of weight of narcotics by a coefficient to be indicated in the budget laws for each year.

4. In the implementation of subarticle 3 above, the seized quantity of narcotics will be converted to the nearest entity if they are more or less than the indicated entity value.

5. One half of the award will be remitted to the confiscators and the remaining one half will be allocated to informers. Totality of the award will be paid to confiscators when the seizure takes place without information.

E/NL.1986/24

LAW NO. 2313 of 24 JUNE 1933 ON THE CONTROL OF NARCOTIC DRUGS
AS AMENDED BY LAW NO. 6123 OF 9 JULY 1953, LAW NO. 2236 OF
22 MAY 1979, LAW NO. 2370 OF 7 JANUARY 1981
AND LAW NO. 2683 OF 17 JUNE 1982.

Article 1 - Import, export and distribution within the country of the medical opium, its preparations, morphine, its salts, organic acids, its ethers derived through reaction with the alcohol roots, the salts thereof, coca leaves, raw cocaine, cocaine ecgonine, tropococaine, their salts, morphine and its salts in excess of 0.2 grammes per cent, preparations containing more than 0.1 grammes per cent of cocaine and its salts, eucodal, dicodide, dilaudide, acedicone, all chemicals in their composition and all preparations thereof are subject to the inspection and control of the Ministry of Health and Social Assistance.

Article 2 - Preparation, import, export and sale of the item defined in the Opium Convention annexed to the Law No. 2108 and referred to as opium preparation are forbidden.

Article 3 - Plantation of herbs used exclusively for the extraction of cannabis and the extraction, import, export and sale of cannabis in any manner whatsoever are forbidden.

Article 4 - Permit will be obtained by the General Directorate of Monopolies from the Ministry of Health and Social Assistance for the import of any items placed under the State monopoly from among those enumerated in the Article 1 above and data on the quantity, country of origin and means of conveyance thereof will be indicated in the application. Import permits therefore will be granted by the said Ministry upon determination of the fact that the quantity to be imported is not in excess of scientific and pharmaceutical requirements of the country.

Article 5 - Customs-clearance of narcotics will not be proceeded with until delivery of the permit for the import of narcotics. The quantity shown in the import permit will be imported in a single transaction. Permits of import not used within six months following their issue will become void.

Article 6 - A copy from each of the documents and certificates issued for the import of narcotics will be forwarded to the authority in charge of control of narcotics of the exporting country by the Ministry of Health and Social Assistance.

Article 7 - Import and sale in the country of the preparations obtained with the use of drugs referred to in the Article 1 hereof are permitted only to drugstores, pharmacists who may have established pharmaceutical business ventures and proprietors of pharmaceutical trade enterprises under ad hoc laws.

Imports by such physical and fictitious persons of the narcotics not placed under State monopoly are subject to the provisions of Articles 4, 5 and 6 hereof.

Article 8 - The export of narcotics and of preparations containing narcotics produced by plants to be established by the General Directorate of Monopolies is subject to the presentation of an import permit given by the concerned authority of the importing country to the Ministry of Finance which will thereafter issue an export permit therefor after satisfying itself as to the genuineness of the import document and to the use of such exports for health and scientific purposes.

Article 9 - Clearance from customs and loading on board of transport means of such items will not be permitted unless the permit for the export thereof is presented. Such licenses are valid for three months and the quantity shown therein will be exported in a single transaction.

Article 10 - A copy from each of the documents and certificates issued for the export of narcotics will be forwarded by the Ministry of Health and Social Assistance to the authority in charge of control and supervision of narcotics in the country of import.

Article 11 - Export of pharmaceutical preparations made with the use of narcotics referred to in the first Article hereof and those not subject to State monopoly from among the narcotics thereby may be made solely by the pharmacists holding pharmacy permits and proprietors of pharmaceutical laboratories. Provisions of the Articles 8, 9, 10 hereof will apply for the export thereof.

Article 12 - Import into Turkey of raw opium is forbidden except under the international conventions to which the Republic of Turkey is a party. The monopoly administration established for the narcotics may not export raw opium unless a licence or certificate of import issued by the concerned importing country is produced. Quantity, purchaser country and receiver of narcotics so exported and the date and file number of import licence or certificate will be forwarded within one week following the actual export to the Ministry of Health and Social Assistance which will make appropriate communications to the concerned authority of the country of import releasing the said certificate.

Article 13 - Applications for the export of raw opium to countries not releasing such licenses or certificates for a part or all thereof will not be considered. Evidence will be required for the intended medical use of narcotics to be exported and will be sought for the grant of an export permit for those indicated in the Article 1 hereof. The export permits so granted will be communicated also to the concerned health agency of the importing country.

Article 14 - Import of narcotics for re-export purposes is forbidden. Containers of narcotics in transit will be sealed by the customs authority.

Article 15 - Retail sale of narcotics within the country or use of narcotics in pharmaceutical preparations to be sold against prescription will be made solely at the pharmacies established under the relevant laws. Pharmaceutical depots may undertake wholesale trade of narcotics to pharmacies, official agencies and laboratories.

Article 16 - Pharmaceutical depots, pharmacies and pharmaceutical laboratories will obtain permits from the Ministry of Health and Social Assistance for every purchase of narcotics from the State monopoly controlling same. The said monopoly administration may not proceed with sale thereof until the presentation of the said permits which will be returned to the Ministry of Health and Social Assistance with annotations on the reverse thereof of sold quantity and date of sale.

Article 17 - Pharmaceutical depots will obtain certificates of delivery from the responsible managers of pharmacies, official agencies and pharmaceutical laboratories for each sale transaction and keep same for a period of five years.

Article 18 - Responsible managers of pharmaceutical depots are under the obligation of keeping special ledgers for their sales of narcotics, use, and purchases thereof as well as of the dates of sale and names of purchasers. Pharmacy responsible managers are under the obligation of regularly entering on their special ledgers, pursuant to the relevant provisions of the Law on the Establishment and Operation of Pharmacies, all their sales and purchases of narcotics to be designated by the Ministry of Health and Social Assistance. The form of these ledgers will be determined by the said Ministry.

Article 19 - Upon recommendation of the Ministry of Health and Social Assistance, the Council of Ministers may add to the narcotics enumerated in the first Article hereof such other chemicals and preparations as are found to be harmful through scientific research and capable to cause toxicomania.

Article 20 - (As amended by the Law No. 2683 of 17 June 1982) - Narcotics attempted to be imported without licence into the country or observed to be sold in the country without permit or held by unauthorized persons in any manner whatsoever will be seized under a warrant by the members of the police and security forces, agents of customs and monopolies, inspectors and directors of the Ministry of Customs and Monopoly and of Health and Social Assistance, medical officers of local administrations and of health centres and officials of boundary and coast guard and sanitary and quarantine departments thereof. Such items and those seized by the monopoly agents for having been manufactured without licence or attempted to be exported will be delivered as evidence to the public prosecution offices concerned, irrespective of whether their owners are known or not. Adequate quantities of samples for the qualitative analyses will be drawn from items thus seized and forwarded to authorized laboratories in accordance with the provisions applicable thereto.

Subsequent to the obtainal of the final analysis reports of such narcotics, the concerned court may resolve at any time during the hearings for their confiscation, provided that the samples have been drawn therefrom in conformity with the prescriptions applicable thereto, in case the preservation of such items is no longer considered necessary. Narcotics decided to be confiscated during the investigation and trial stages will be delivered under seal for appropriate action to the concerned local administration authorities.

Items not decided to be confiscated during the investigation or trial stages and the samples drawn therefrom will be delivered to the concerned local administration authorities subsequent to the finalization of the sentence and those with unknown owners and known nature, characteristics and quantity will be delivered thereto subsequent to the confiscation decision.

Provisions of the Article 27(f) of the Law No. 3491 on the Establishment and Duties of the Soil Products Office are reserved.

Article 21 - (As amended by the Law No. 2683 of 17 June 1982) - Narcotics decided to be confiscated will be destroyed by a team headed by an authorized official appointed for this purpose by the governor and consisting of the provincial chief public prosecutor or his aide in capacity of observer and such other officials as may be necessary and appropriate at the governor's discretion. Sampling of narcotics for analysis or for reference until the finalization of the sentence, shipment of samples for analysis, seizure and destruction of narcotics, their preservation until the finalization of the sentence, composition of the team to be present during destruction thereof, the manner in which destruction will be made and the procedure to be observed for delivery will be determined by special regulations to be prepared by the Ministry of Justice within six months from the entry into force hereof after having secured comments and opinions of the Ministries of Home Affairs and of Health and Social Assistance and the General Directorate of Soil Products Office.

Article 22 - Opium preparations forbidden as per Articles 2 and 3 hereof and cannabis will be seized wherever discovered and provisions of the Articles 20 and 21 hereof will be implemented thereto.

Article 23 (As amended by the Law No. 2236 of 22 May 1979) - Hemp planted without permit from the Ministry of Food, Agriculture and Animal Breeding for producing cannabis will be destroyed wherever discovered by the police forces under instructions of the highest-ranking local administrator upon recommendation to that effect of the agronomy engineer of the Ministry of Food, Agriculture and Animal Breeding or, in the absence of such engineer, by the concerned agricultural extension service technician.

The allocations required therefor will be placed in the budgetary funds of the Headquarters of Gendarmerie Forces. Technical equipment and vehicles needed for the destruction will be provided through these funds.

Costs chargeable to the planters in connection with the destruction will later be collected from them in conformance with the provisions of the Law on the Collection of Public Claims.

Article 24 - Proprietors and responsible managers of pharmacies selling narcotics to other than those enumerated in the Article 15 hereof or selling same without prescription will be punished under the Articles No. 403 and 406 of the Turkish Penal Code.

Article 25 - Proprietors and responsible managers of pharmaceutical depots who neglect to obtain the certificates referred to in the fifteenth Article hereof or fail to keep books referred to in the present Law will be punished with fines from one hundred to five hundred Turkish Lires by the concerned lower penal court.

Article 26 - Proprietors and responsible managers of pharmaceutical depots who are recurrently sentenced for not having kept or not properly kept the books for the narcotics or for actions in violation of the Article 27 hereof may be temporarily or permanently denied the purchase and sale of narcotics by the Ministry of Health and Social Assistance.

Article 27 - Violations enumerated in the Articles 403, 404, 405, 406, 407 and 408 of the Turkish Penal Code will be heard at specialized courts pursuant to the provisions of Law No. 1918. 1/ The specialized courts are also authorized to handle cases of slanderous accusations as per the Article 285 of the Turkish Penal Code.

Article 28 - (As amended by the Law No. 2236 of 22 May 1979) - Awards will be granted to informers and seizers in conformity with Article 60 of the Law No. 1918 on the Prohibition and Elimination of Smuggling on the basis of the fines applicable to violations indicated in Article 27 hereof and the fixed fines established in Article 23 hereof.

Article 29 - Recurrent committers of the violations to be handled in specialized courts as per Article 27 hereof may also be sentenced to banishment not less than one year in addition to the provisions applicable to recurrency in the Turkish Penal Code.

Article 30 - The present Law substitutes the Law No. 1369 of which the entry into force is governed by Article 18 of the Law No. 2253, and the Law No. 1369 is hereby rescinded.

Provisional Article - Exports of raw opium under the provisional Article of the Law No. 2253 is exempted from the provisions of Article 12 hereof provided that such exports are notified to the Ministry of Health and Social Assistance within one week thereafter by the monopoly administration responsible therefor.

Article 31 - The present Law enters into force upon its publication.

Article 32 - Implementation of the provisions of the present Law is among the responsibilities of the Ministry of Health and Social Assistance.

E/NL.1986/25

LAW NO. 3298 of 3 JUNE 1986 ON NARCOTIC SUBSTANCES

General provisions related to opium and narcotic substances

ARTICLE 1

All matters regarding the purchase, sale, manufacture, import and export of lanced or unlanced poppy capsules, raw opium, opium alkaloids presenting characteristics of morphine and medical opium, salts, esters and ethers as well as of other narcotic substances as determined by the Ministry of Health and Social Assistance are conducted on the basis of rules decided by the Council of Ministers.

The domestic cultivation of plants from which the afore-mentioned substances are derived, as well as the domestic researches on these are subject to authorization.

Other natural and synthetic substances, the use of which is harmful and brings about toxicomania as determined by the Ministry of Health and Social Assistance, can also be included into the scope of this Law by a decision of the Council of Ministers upon the recommendation of the above Ministry.

Determination of poppy cultivation areas. Obligation to obtain licence permit

ARTICLE 2

Areas where poppy will be cultivated, and opium and poppy straw will be produced are determined every year by the Council of Ministers taking due account of the agricultural and economic situation of the country, domestic needs, export possibilities and stocks. The relevant decision of the Council of Ministers will be published until 1 July of that year. In case no decision is taken in this regard, the provisions of the last Council of Ministers' decision will continue to be effective.

The provisions contained in paragraph one are not applicable to cultivation for scientific purposes by public institutions and enterprises.

Those who are to cultivate poppy in areas already determined and declared are obliged to obtain licence permits from the concerned authority. Licence permits are valid for one year of production and cannot be passed on to others.

The poppy cultivation fields of cultivators whose licence permits have been cancelled for some reason will be collected or eradicated without any compensation payment by the concerned authority and the expenses incurred will be borne by the unlicensed cultivator.

No licence will be issued to those who have been convicted according to provisions of Article 4 of this law or convicted of a smuggling offence according to the relevant provisions of the Turkish Penal Code, even if the sentence has been withdrawn due to amnesty. In case such a licence had been issued, it will be cancelled.

The licence permits of those who, after the issuance of the licence permits, have been convicted for having committed one of the offences listed in the above paragraph, will be cancelled when the sentence becomes final.

Regulation

ARTICLE 3

Other matters related to poppy cultivation, control, harvesting, processing, eradication, purchase or sale and to the application of this Law will be prescribed by a regulation.

Penal provisions

ARTICLE 4

Raw opium, opium preparation, medical opium and pharmaceutical products thereof are considered as narcotic drugs from the point of view of the application of the Turkish Penal Code.

Those who cultivate poppy in areas of poppy cultivation without procuring a licence permit or who grow poppy in excess of the area indicated on the licence permit or who cultivate in areas other than those indicated on the licence permit, will be sentenced to penalties ranging from six months to three years' imprisonment and from three thousand to fifteen thousand Lires heavy fine.

Those cultivating poppy outside the areas of cultivation will be sentenced to penalties ranging from one year to five years' imprisonment and from ten thousand to fifty thousand Lires of heavy fine.

The provisions of Article 403 and ensuing Articles of the Turkish Penal Code will be applicable to those producing raw opium without licence.

If their deeds do not fall under Article 403 and ensuing Articles of the Turkish Penal Code, cultivators delivering raw opium or poppy straws in smaller quantities than those determined on the licence permit will be sentenced to heavy fine up to three times the current basic purchase price at delivery for the missing amount. The afore-cited punishments will be doubled for those who do not deliver the total amount of the raw opium or straws they cultivated.

Muhtars (village and quarter heads) and other security forces that do not perform the supervision duties entrusted to them by the Regulation will be sentenced to heavy fine ranging from ten thousand to fifty thousand Lires.

Fines decided in application of this Article will be implemented in accordance with the provisions of the Law on the collection procedure of public credits.

Those who assist the commission of offences indicated in this Article will be convicted to half the punishments of the chief offenders. Civil servants and other functionaries who have participated in these deeds will be punished like chief offenders.

In seizures related to offences indicated in the second paragraph of this Article, the provisions of Article 60 of Law No. 1918 on the prohibition and tracing of smuggling 1/ will not apply.

Provisions which are abolished

ARTICLE 5

The Law No. 2061 of 3 July 1932 on the Sale Union of Opium Producers of Turkey is abolished.

ARTICLE 6

This Law will enter into force on the date of publication.

ARTICLE 7

The provisions of this Law will be enforced by the Council of Ministers.

1/ Note by the Secretariat: E/NL.1986/23