



PERMANENT MISSION OF THE REPUBLIC OF TÜRKİYE
TO THE UNITED NATIONS OFFICE IN GENEVA

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The Permanent Mission of the Republic of Türkiye to the United Nations Office in Geneva and other International Organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the Joint Communication from Special Procedures dated 12 February 2025 (Ref: OL TUR 1/2025), has the honour to enclose herewith the information note provided by relevant Turkish authorities.

The Permanent Mission of the Republic of Türkiye avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 4 July 2025



Encl: As stated.

Office of the High Commissioner for Human Rights
Palais Wilson
Rue des Pâquis 52
1201 Geneva

INFORMATION NOTE IN REPLY TO THE JOINT COMMUNICATION FROM THE SPECIAL PROCEDURES

(Reference: OL TUR 1/2025)

1. With reference to the joint letter of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association dated 12 February 2025, regarding the legislative proposal titled “*Bill on Amendments to the Notary Law and Certain Other Laws*”, the Government would like to submit its observations herein below.

2. The Government would like to emphasize that the legislative proposal subject to the present communication, namely Article 339/A titled “*Offences Against Security of State or Political Interests*”, was drafted and submitted in line with the Turkish Constitution (hereinafter, “the Constitution”) and the principles of international human rights law, but then removed from the proposal text at the discretion of the deputies of the Grand National Assembly of Türkiye (GNAT). According to Articles 7¹, 87² and 88³ of the Constitution, legislative power is vested in the GNAT on behalf of the Turkish nation, and the deputies are authorized to introduce bills. Therefore, whether the said legislative proposal will be reconsidered or not still remains at the discretion of the GNAT.

3. The correct version of the draft text of the said Article as adopted by the Justice Commission of the GNAT is as follows:

“*Offences Against Security of State or Political Interests*”

¹ VII. Legislative power

ARTICLE 7- Legislative power is vested in the Grand National Assembly of Türkiye on behalf of Turkish Nation. This power shall not be delegated.

² II. Duties and powers of the Grand National Assembly of Türkiye

A. General

ARTICLE 87- (As amended on October 3, 2001; Act No. 4709, and on May 7, 2004; Act No. 5170, and on April 16, 2017; Act No. 6771) The duties and powers of the Grand National Assembly of Turkey are to enact, amend, and repeal laws; to debate and adopt the budget bills and final accounts bills; to decide to issue currency and declare war; to approve the ratification of international treaties, to decide with the majority of three-fifths of the Grand National Assembly of Turkey to proclaim amnesty and pardon; and to exercise the powers and carry out the duties envisaged in the other articles of the Constitution.

³ B. Introduction and deliberation of bills

ARTICLE 88- (As amended on April 16, 2017; Act No. 6771) Deputies are empowered to introduce bills.

Article 339/A - (1) Those who commit an offence against the security of the State and its domestic or foreign political interests in line with the strategic interests of or upon the instructions of a foreign state or organization shall be sentenced to imprisonment for a term of three to seven years. (2) If such an act is committed during wartime or endangers the State's war preparations, combat effectiveness or military actions, the perpetrator shall be sentenced to imprisonment for a term of eight to twelve years. (3) The penalty to be imposed shall be increased by up to one-fold if the offence is committed by units that are of strategic importance in terms of national security and by those who work in institutions and organizations that perform projects, facilities and services. (4) Conducting a prosecution for this offence is subject to the permission of the Minister of Justice.

4. The statement of the purpose of the proposal is summarized in the following paragraphs:

4.1. “The said legislative proposal stipulated to introduce a new offence within Part 7 of the Turkish Penal Code (TPC) titled “*Offences Against State Confidentiality and Espionage*”. In general, in Part 7 of the TPC, the destruction, damaging, acquisition and publication of documents or certificates relating to the security and domestic or foreign political interests of the State are designated as punishable offence. In addition, committing such acts for the purposes of political or military espionage is also subject to punishment. Apart from the acquisition or publication of documents and information, no punishment is envisaged in the said part of the TPC for other acts directed against the security and domestic or foreign political interests of the State. The proposal in question aimed to regulate the commission of a crime for the purposes of espionage as a separate crime, thus to enable Türkiye’s fight against espionage to be more effective.

4.2. The concept of “Security of the State” stands for the protection of State’s existence and not exposing it to various dangers. It is clear that the actions which may endanger the existence of the State violate the security of the State. It should be borne in mind that there is a strong link between domestic and foreign political interests of the State and its security. The State’s interest relating to the economy, military, national defence, public health, public security and order, culture, technology, transportation, critical infrastructure, cyber space and energy are included in the concept of the “domestic and foreign interests of the State”. Consequently, it was proposed that acts committed against such interests and for the purposes of espionage constituting a crime be the subject of this new offence.

4.3. The proposal suggested that in order for the commission of the offence, the perpetrator is required to act in line with the interests of or upon the instructions of a foreign state or organization. In this regard, foreign organizations are classified as those that were not duly established according to Türkiye's domestic law. Such organizations might have the nationality of a foreign state, or on the contrary, might not be the national of any state.

4.4. It is important to note that if the crimes laid down between Articles 326 and 339 of the TPC have been committed, the offence in question will not apply. The issue of concurrent punishment is therefore prevented.

4.5. As regards the second paragraph of the said proposal, it should be borne in mind that the decision to declare war can only be taken by the GNAT, pursuant to Article 92 of the Constitution. Therefore, such a decision of the GNAT will be taken into consideration to confirm whether the said offence is committed in the course of wartime.

4.6. The State's combat effectiveness means all power, strength, capabilities and facilities of the State in terms of war. Whether the State's war preparations, combat effectiveness or military actions has been put in danger will be decided by the judicial authorities, taking the into consideration the circumstances surrounding the situation.”