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## LEGISLATION OF REPUBLIC OF TURKEY IN THE SPHERE OF LAW ENFORCEMENT ACTIVITY

### Introduction

Legislation of the Republic of Turkey in the sphere of law enforcement activity is a system of laws and regulations that regulate social relations in the sphere of state and social legal norms protection by specially authorized bodies by applying legal measures. Turkish legislation in this sphere, so as legislation of other countries is aimed to provide protection of rights of citizens and social peacekeeping.

Throughout history of Turkey, the state provided law and order, security and protection of its country and nation. The basis of independence and sovereignty of each state is provision of security and social order. So, for preservation of law and order and security of citizens special structures are organized (government bodies, services and structures). After adopting the police statute of the Ottoman Empire on the 10th of April, 1845, the structure named «police» was created [1, p. 14-15]. The statute was a document that set objectives and duties of the police that performed military functions at that moment.

After 1846, legal police began to form for uniting security forces in the country. Henceforth by 1879, police forces have been organized from Istanbul to rural areas [1, p. 10-12].

In 1879, the Ministry of police was created to provide security in Istanbul but in 1885 one of its functions became provision of security of the whole country. Besides that in 1898 civil police, inspectorial, secret and equestrian police were established; in 1889 marine police was formed. But after declaration of the Second Constitutional Era police surveillance was annihilated [2, p. 121-123].

During the Second Constitutional Era (1909-1923) instead of the annihilated police surveillance on 22nd of July, 1909 General Directorate of Security Organizations of Turkish national police, according

to the law «On organization of Main Department of Security of Istanbul and the province»; in 1913 the Ministry of Interior Affairs adopted Instructions that set the objectives of the Directorate [2, p. 124].

In 1934 after organization of the Grand National Assembly of Turkey the basis of contemporary Security agency was formed, the Law «On authorities and duties of the police» was adopted [3]. This law regulates legal relations in the sphere of social law and order and social security, thereby having reinforced the authorities and duties of the police in performing their functions during mass events.

In 1937 the Law «On security organizations» that sets the rights, duties and authorities of police officers was adopted. Until present, this law has been one of the basic laws in the sphere of regulation of law enforcement service. The last alterations and additions in the active law «On security organizations» were made in November, 2013 [4].

In 1980 a so-called period of planned development and changes has begun for Security organizations (police). During this period several new ministries were created to perform various duties in the sphere of security. Along with the Main Security Department newly created ministries and provincial departments the police gained new standards. Departments of provincial police were reorganized in compliance with the population growth, social and economic changes and changes in crime structure [5, p. 171-172].

### Main part

When considering the regulatory base of Turkish law enforcement system, it should be mentioned that regulations of the basic law of the country take precedence over all. Thus, the clause 2 of the Constitution declares that the Republic of Turkey is a democratic, secular and social state, formed on

legal regulations; it is based on the concept of public tranquility, national solidarity and justice; it respects human rights, devoted to Atatürk nationalism and based on main principles, set by the Constitution [6]. According to the clause 5 of the Constitution, the state provides independence and integrity of the Turkish nation, non-divisibility of the country, the republic and democracy; welfare, peace and individual and public success; rises against political, economic and social hindrances of basic individual rights and freedoms in a way that does not comply with principles of justice and social state based on legal provisions' recognition; provides all necessary conditions for material and mental development of an individual [6]. Without a doubt, competent government and law enforcement bodies perform protection of constitutional rights and freedoms of citizens, legal interests of legal entities and the state.

Considering the hierarchy of regulations of law enforcement activity, it should be mentioned the Law of the Republic of Turkey «On procedures and principles of development of legislature regulation», which is a basis for bills and resolutions of the President having full legal force, government resolutions and their addendums and other regulations [7].

Unlike Kazakhstan, Turkey does not have a specific law that regulates social relations, connected with entering, serving and separating from law enforcement duty and sets the legal status, material support and social protection of law enforcement officers in the Republic of Turkey. It cannot be said that such legislature regulation is fully absent but the problem of Turkish legislation is that the normative legal base that regulates the above-listed provisions is in the same as it was in Kazakhstan before adopting the Law «On law enforcement service» in 2011 [8].

Besides that, another important aspect in the Law of Republic of Kazakhstan «On law enforcement service» should be mentioned. This is allocation of certain services and structures to law enforcement bodies. In Turkish legislation there is no strict concept of «law enforcement bodies» and which bodies relate to them. Due to this there is a need to consider the legal base regulating activity of law enforcement bodies of the Republic of Turkey from the point of view of which government bodies are authorized to perform enquiry and investigation of crimes and delinquencies.

Without a doubt, Turkish police is one of the basic law enforcement bodies of law and order of the state and social security provision and they have a special place in the hierarchy of law enforcement

services authorized to investigate crimes. The police is followed by general (gendarmerie and the coastguard) and special (National Intelligence Service, Agency of Public Safety, customs services, road police etc.) law enforcement services, activity of which is aimed to exercise their authorities in certain spheres of law and order and security provision.

According to the mentioned above the laws «On authorities and duties of the police» and «On security organizations» are active regulations that are the basis of the functions, rights and duties of general structures of the law enforcement structure. In 1980 when the structure of Turkish police decided to separate the authorities, the lawmakers had to develop and adopt new laws that would serve to qualified legal regulation of the law enforcement structure activity.

Reorganization of the law enforcement system into general and specific structures provided clear differentiation of their functional duties and subordination to certain senior government bodies.

The General Directorate of national police, General gendarmerie command and Coastguard command were allocated to the structure of general law enforcement bodies that, in their turn, are part of the general structure of the Ministry of Internal Affairs. The activity of the Ministry of Internal Affairs of the Republic of Turkey in coordination of the activity of state law enforcement bodies in provision of intrastate security and social order is performed in compliance with the Law «On the Ministry of Internal Affairs» [9].

In 1982 in order to protect and provide security of Turkish coast and territorial water, provide life and property security in the sea, prevent all types of counterfeiting afloat, perform search and rescue operations within the area of responsibility, prevent sea water area a coastguard service was formed in Republic of Turkey. Activity of this law enforcement service is regulated according to the Law «On coastguard command» [10].

In 1983 the Law of the Republic of Turkey «On organization, duties and authorities of gendarmerie» was adopted, altered and added in 1988. According to this Law, gendarmerie bodies prevent crimes, detect, arrest and transport delinquents, pass evidences in criminal cases to corresponding bodies, detect and investigate cases of counterfeit, provide security of the Penal institutions department, provide observation of military laws and rules of the country and other duties, prescribed by regulations [11].

According to the provisions of the Law «On police higher education» [12], in Turkey in higher

educational institutions, police academies and its departments perform training of future police officers and officers of other law enforcement structures. This law regulates organizational and legal duties and authorities of higher educational institutions, entry for education into law enforcement educational institutions, principles of education and personnel training and other provisions, concerning training of personnel for law enforcement bodies.

There are also other laws that regulate social relations in the field of personal aspects of law enforcement service of Turkey, e.g. Law «On public officers» [13], Law «On gendarmerie staff» [14], Law «On staff of military forces of Turkey» [15]. From the first sight, such laws are considered to be too old-fashioned, but they are active after amendments according to contemporary legislature regulation. However, I consider that experience of the Republic of Kazakhstan would contribute to making the legal regulator more efficient, e.g. regulations of Law «On law enforcement service» [8] that regulates the general procedure of entry for education into law enforcement educational institutions of Kazakhstan, i.e. entrance requirements, application rules, selection of candidates for law enforcement service in Kazakhstan are unified for all law enforcement educational institutions.

Further we will consider the regulatory base of specific law enforcement bodies that perform their activity in separate directions and fields.

Activities of National Intelligence Service of Turkey are regulated by Law «On National intelligence activity and National Intelligence Service», according to which the service performs the following functions and objectives [16]:

- collection and processing of intelligence information on foreign states and Turkish emigrant organizations and centers;
- working out Kurd, Armenian, Greek and other terrorist and extreme organizations;
- intelligence activity from the territory of the country in neighboring states;
- performing counterintelligence activity among ethnic Turks temporarily living abroad;
- cooperation with foreign secret services.

The next law enforcement structure is the Agency of Public Order and Security performance of which is regulated by law «On organization, duties and authorities of the Agency of Public Safety» which to some extent duplicates functions of National Intelligence Service, police and gendarmerie. Nonetheless, in 2010 the Government makes a decision to create a new independent structure that according to policy and strategy in the sphere of

antiterrorism has to provide coordination of various organizations, including Ministry of Internal Affairs in order to form organizational and legal authorities and responsibilities connected with principles of state regulation.

The main directions of the Agency's activity is solving problems in the sphere of antiterrorism and problems concerning security of the state system. In a short period of functioning of the Agency researches of policy and strategy in the sphere of terrorism prevention are conducted, their implementation is controlled, strategic information on potential terrorist threat is analyzed and activity of security agencies and intelligence services in preventing terrorist attacks are coordinated successfully [17].

One of the specialized law enforcement structures is the customs service of Turkey responsible for assistance in implementation of trade policy, observation of customs legislation and other legislation controlled by customs agencies, fulfilling customs operations and custom control, observation within their competence of measures of customs tariff regulation, prohibitions and limitations concerning goods transferred through customs border, prevention and suppression of crimes and delinquencies in compliance with the law, co-operation with customs and other agencies of foreign states and international organizations in compliance with international treaties of the Republic of Turkey and performance of other functions required by the Customs law [18].

Law «On road traffic» regulates traffic rules, requirements and control of their observation by corresponding organizations, their legal authorities and responsibility, procedures of submission and extension of driving licenses and other provisions and legal rules that provide traffic order and security on roads of the Republic of Turkey [19]. Most of the scope of work in this sphere is performed by the Department of Traffic Operation (road police) that is a part of the structure of General Directorate of national police.

Further we believe it is necessary to pay attention at prosecution bodies that provide supervision and justice of the activity of law enforcement and government bodies. Besides that, the public prosecutions department of Turkey is authorized to initiate criminal cases, control preliminary investigations and appear before the court as a prosecutor.

Prosecution bodies are an integral part of the judicial power and are subject to the Department of Justice in performing their administrative duties. Prosecutors working at administrative posts in

justice bodies are subject to the same rules as other prosecutors. Law «On status of judges and prosecutors» [20] sets the legal status, functions, rights and duties of prosecutors; moreover, all prosecutors are appointed and removed from their posts by the President under recommendation of the Department of Justice.

### Conclusion

In conclusion, it should be mentioned that one of the main advantages of legal regulation of law enforcement of Kazakhstan is adoption of Law «On law enforcement service» that has significantly improved regulation of social relations in the sphere of provision of the legal status of law enforcements officers. Before adopting this law there was a lot of criticism from law enforcement forces but also this had some advantages. As a result, this legal instrument appeared to show efficiency of adopted legal rules and provisions; moreover, it has shown necessity of its existence, this was also noted by many countries of CIS and Europe.

The reviewed regulatory base of the law enforcement system of Turkey leads to a conclusion that to some extent there is a similarity with the legal basis of the law enforcement system of Kazakhstan.

The legal base of law enforcement system of the Republic of Turkey is based on laws and other regulations that control various spheres of the activity law enforcement bodies, including specific laws consisting of legal provisions of entry on duty and career growth, social-legal status of officers, their retirement and material support, functions, rights and duties of police, gendarmerie and other security agencies.

Moreover, in performing their legal functions law enforcement bodies have to apply the law, which provides legal responsibility of persons who committed crimes or delinquencies. This aspect was carried over for consideration in the conclusion part because importance and significance of legislation in the legal state are dependent on applying legal rules listed in a special legal code that provides criminal, administrative, disciplinarian and other types of responsibility. Let's shortly review each type of the listed types of legal responsibility according to the Turkish legislation.

Criminal and criminal procedure legislation of Turkey has a deep historical sense that is mostly

based on European systems of criminal and criminal procedure law (France, Italy and Germany). In order to create modern legal instrument in this field of legislation with the help of many political and legal reforms and recommendations of human rights organizations Turkey managed to form its own system of criminal and criminal procedure legislation. Whereby, in 2004 new Criminal Code [21] and Criminal procedural code [22] aimed at efficient legislative regulation of aspects connected with criminal responsibility and criminal procedure actions of authorized bodies were adopted.

The Criminal Code of Turkey provides for both criminal and administrative responsibility in form of administrative fines; this is determined first of all by the fact that Turkey is a part of continental law system that took legislature epigones of European states as a basis of the national legislation and also by the fact that rules of the Criminal Code include crimes and minor offences.

Besides that, according to Law «On administrative procedures» [23], in Turkey, there is a separate system of bodies the main function of which is to review and settle administrative disputes. This is also a reminiscence of applying experience of European countries. The system of administrative courts is managed by the State council which is the highest Cassation institution of administrative law. Its duties, besides reviewing and settling administrative disputes, include consultation of the Government on draft laws, studying drafts of statutes, agreements and conventions and other functions according to Law «On administrative procedures». Territorial administrative councils and tax pre-action committees review and deal with complaints on actions of civil servants of governing bodies.

Speaking about legal regulation of disciplinarian responsibility of law enforcement officers the Law «On some disciplinarian penalties of civil servants of government bodies» should be mentioned [24]. According to its provisions disciplinarian responsibility will be sued to civil servants of government bodies (excluding military police officers and military men) for breach of official duties including pilferage of state property, extortion, bribery, fraud, forgery and other types of delinquencies that provide disciplinarian penalties.

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Бұл ғылыми мақаланың мақсаты болып Қазақстан Республикасы және Түркия Республикасы құқық қорғау органдарының қызметтерін салыстырмалы-құқықтық талдау жүргізу үшін Түркия құқық қорғау қызметінің нормативтік құқықтық негізін кешенді талдау болып табылады. Ғылыми зерттеу шеңберінде «Қазақстан Республикасында және Түркия Республикасындағы құқық қорғау қызметінің үлгісі: салыстырмалы-құқықтық талдау» тақырыбында баспаға бірнеше ғылыми мақала жариялануы жоспарланған.

Мақалада құқық қорғау қызметінің қағидаларын, құқық қорғау органдарының ұйымдастырылуын және әрекет етуін айқындайтын нормаларды құрайтын Түркия Республикасының құқық қорғау қызметі саласындағы негізгі нормативтік құқықтық актілер қарастырылады.

**Түйін сөздер:** құқықтық негізі, Түркияның заңнамасы, нормативтік құқықтық актілер, құқық қорғау қызметі

Целью данной научной статьи является комплексный анализ нормативно-правовых основ правоохранительной деятельности Турции для последующего сравнительно-правового анализа деятельности правоохранительных органов Турецкой Республики и Республики Казахстан. В целом в рамках научного исследования запланировано опубликование в открытой печати ряда научных статей на общую тему «Модель правоохранительной службы в Республике Казахстан и Республики Турция: сравнительно-правовой анализ».

В статье рассматриваются основные нормативные правовые акты в сфере правоохранительной деятельности Турецкой Республики, которые содержат нормы, определяющие принципы правоохранительной деятельности, организацию и функционирование правоохранительных органов.

**Ключевые слова:** правовая основа, законодательство Турции, нормативные правовые акты, правоохранительная деятельность

The purpose of this article is a complex analysis of regulatory basis of law enforcement activity in Turkey for further comparative-legal analysis of activity of law enforcement bodies of the Republic of Turkey and the Republic of Kazakhstan. Generally, scientific articles on the scientific research topic «Model of law enforcement service in the Republic of Kazakhstan and the Republic of Turkey: comparative law analysis» is planned for publishing.

The article concerns basic laws and regulations in the sphere of law enforcement activity in the Republic of Turkey containing regulations that define the principles of law enforcement activity, organization and functioning of law enforcement bodies.

**Keywords:** legal basis, legislation of Turkey, laws and regulations, law enforcement activity

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