

I. SUBJECT:

The Law No. 5188 Regarding Private Security Services (the "Law") which establishes the legal basis and procedures about the private security services, and which covers the subjects related with the granting of private security permits, and licensing and audit and supervision of the persons and companies giving these services has been promulgated in the Official Gazette issue 25504 dated June 26, 2004, and all the articles of the Law have become effective as of the date of its promulgation, save for article 19 (Criminal Offenses and Penalties) and article 20 (Administrative Offenses and Penalties), which shall become effective nine months after the promulgation of the Law, as of March 26, 2005.

Upon promulgation, this Law repeals and supersedes the Law No. 2495 dated 22.07.1981 about Protection and Security of Certain Institutions and Organizations.

This Memorandum aims at providing brief information about the new Law.

II. PROVISIONS OF THE LAW:

1. Purpose and Scope of the Law:

The Law, which establishes the legal basis and procedures related with performance of the private security services in supplementation of the public security as a whole, covers the issues related with:

- granting private security; and
- licensing and audit and supervision of persons and companies providing private security services.

2. Private Security Commission:

Decisions related with private security set forth by the Law will be taken by the Private Security Commission (the "**Commission**") to be presided by a Deputy Governor who will be assigned by the Governor, and to be comprised of a representative each of the Provincial Police Department, the Provincial Corps of Gendarmerie, the Chairmanship of the Chamber of Commerce, and the Chairmanship of the Chamber of Industry.

A representative of the person or organization submitting an application for a private security permit, or for termination and abolishment thereof, shall participate as a member to the relevant meeting of the Commission.

3. Private Security Permit:

According to the Law, persons may be guarded by armed personnel, private security units may be established within establishments and institutions, or security services can be commissioned to private companies, subject to authorization of the Governorship upon decision of the Commission.

In the case of meetings, concerts, stage performances and similar activities, and urgent needs for transportation of money or valuables, private security permit may be granted solely by the Governor without any need for a decision of the Commission.

Taking into consideration the need for protection, guard and security, provision of the security service by personnel to be employed for this purpose, establishment of private security units within the companies and organizations, or commissioning this service to private security companies will be allowed upon demand of the persons and organizations. The fact that a

special security unit is already established within an organization will not hinder such organization to seek further security services from private security companies in case of need.

The persons and organizations, in their applications with the governorship for private security permits, shall set forth the subject of the private security service, the way by which such services will be offered, the number of maximum personnel with which such services will be performed and the quantity and quality of the necessary guns and equipment.

After necessary examination is conducted by the governorship on the demand for the private security services, the Commission shall determine whether or not to grant a private security services permit; the method for the provision of private security services; maximum number of the private security personnel to perform the private security services; and the maximum number of guns and equipments to be possessed or carried for such purposes by such personnel.

Decisions of the Commission on whether or not to grant a private security services permit are submitted to the approval of the governor. A Private Security Services Permit Certificate is issued to the persons and organizations to whom/which such permit is given.

List of the private security personnel employed in the private security units and copy of each private security financial liability insurance policies are delivered to the governorship within fifteen days as of the date the personnel commences employment.

As per the provisions of Law, organizations having established private security units in their bodies by obtaining permission for private security or having had the companies offer private security services may terminate the private security practices, with at least one month prior application, by decision of the Commission and upon consent of the Governor.

4. Private Security Companies:

Engagement of companies in the field of private security is subject to a permission of the Ministry of Interior Affairs.

In order for the operation license to be granted to a company, the shares of this company must be registered (written to the name) and its field of activity must be restricted solely with guarding and security services.

Private security companies are required to notify the establishment of their branches in writing to the Ministry of Interior Affairs and to the relevant Governorship within one month, and also to notify the transfer of their shares to the Ministry of Interior Affairs within one month.

Establishment of private security companies in Turkey by foreigners, and engagement of foreign companies in private security services in Turkey are subject to reciprocity, i.e. the recognition of the same right to Turkish citizens in the home country of the relevant foreigners. Pursuant to the Regulation Regarding the Implementation of the Law for Private Security Services published in the Official Gazette issue 25606 dated October 7, 2004, engagement of foreign companies in private security services in Turkey, the existence of a foreign shareholder in a company to be established in Turkey or the employment of persons of foreign origin as professional trainer in a private security training institution shall be subject to the principles of reciprocity as specified in the Law. The question of whether or not there is reciprocity in this area shall be inquired through the Ministry of Foreign Affairs.

The founders and managers of the private security companies are required to be (i) Turkish citizens, and (ii) save for the negligent offences, must not to be sentenced to heavy imprisonment or imprisonment for a period longer than six months, or, even though he benefited from a legal amnesty, not being convicted of crimes against the personality of state, or crimes of embezzlement, subornation, bribery, theft, swindling, breach of confidence, falsification, fraudulent bankruptcy, smuggling other than for own use and consumption, intriguing official

public tenders and purchases, disclosing State secrets, making insinuating remarks to women, molestation, sexual molestation, rape, kidnapping and detaining small girls, women or children, inciting to prostitution, acting as an intermediary in prostitution, using drugs, or drug smuggling.

In addition to these requirements, Managers of a private security company should:

- be graduates of a college or university of four years study,
- not be barred from public rights, and
- have completed with success a private security basic training course comprising theoretical and practical training, as well as gun training with a total duration of one hundred and twenty course hours.

In the event of loss of the qualifications sought for the founders and managers of private security companies, this failure should be corrected, or the founder(s) or manager(s) causing this failure should be replaced within two months; or otherwise the company's operation license is cancelled.

A written agreement should be executed for the guarding and security services to be provided by the private security companies to third persons and organizations. The name, title, address of the person or the organization to benefit from the private security services and scope of the services, number of the personnel, term of the service as well as other matters provided in these agreements. A copy of the service agreement should be delivered to the governorship by the related private security company AT LEAST ONE WEEK PRIOR TO commencement of such guarding and security services.

Additionally, the list of the private security personnel and a copy of each private security financial liability insurance policy must be delivered to the governorship by the relevant company within FIFTEEN DAYS as of the date the personnel commences employment.

5. Supplementary Measures:

Public administrators are authorized to supervise and audit the private security measures taken in public places such as airports, ports, customs, railway and other stations, and in places where mass activities such as sport contests and stage performances are held, and request additional measures to be taken where public security necessitates.

The powers vested to Governors and District Governors by the Provincial Administration Law no. 5442 are reserved and not affected by the provisions of this Law for the sake of public security. Private security units and private security personnel are obliged to abide by and fulfill the orders of the public administrator and the head of the police or gendarmerie force during enforcement of such vested powers.

6. Private Security Personnel:

6.1. Powers of the Private Security Personnel:

The powers of the private security personnel are:

- a) Ensuring that the people wishing to enter to the site they are to guard and secure, pass through the metal detectors, and searching them by manual metal detectors, and having their belongings pass through X-ray detectors or similar other security systems;
- b). In the case of mass activities such as meetings, concerts, sport contests, stage performances and similar other activities, and in funerals and wedding ceremonies; asking for identification of the visitors or participants, ensuring that they pass through the metal detectors,

searching them by manual metal detectors, and having their belongings pass through X-ray detectors or similar other security systems;

c). Capturing in the meaning of Article 127 of the Criminal Procedures Law no. 1412¹ and searching in proportion to the cause of capture;

d) Capturing and searching, in their assignment area, the people for whom a warrant of capture, a warrant of arrest or a criminal sentence is issued;

e) Entering the work places and residences in their assignment area in cases of natural catastrophes such as fire and earthquake, or in cases where help is requested;

f) Asking for identification card, ensuring the people pass through metal detectors, searching these people by manual metal detectors and having their belongings pass through X-ray detectors or similar other security systems at public transportation buildings and facilities such as airports, ports, railway or other stations;

g) Retaining the objects and articles constituting a crime or which may be evidence of a crime found during the search, or articles which, though not of criminal nature, can be hazardous, on the condition of informing police or gendarmerie immediately;

h) Retaining the abandoned or found articles;

i) Capturing a person in order to protect him from a present and imminent danger threatening his body or health;

j) Protecting the place of incident and the evidences of crime, and for this purpose, capturing according to and in the meaning of the Article 157 of Criminal Procedures Law²; and

k) Using force in the meaning of the Article 981 of Turkish Civil Law³, Article 52 of the Code of Obligations⁴, or Subparagraphs (1) and (2) of first Paragraph of Article 49 of Turkish Criminal Code⁵.

6.2. License to Possess and Carry a Gun:

The Commission shall determine the numbers and features of the fire arms that can be possessed depending on the nature of the guarding and security services.

However, employment of gunned private security personnel is not allowed in education and training institutions, health centers, businesses engaged in fortune games, and public places where alcoholic beverages are served. Private security personnel can not be armed when on duty in activities such as private gatherings, sport contests, or stage performances or similar other activities.

Guns and equipment to be employed in guard and security services shall be provided by the related individual or organization. Private security companies can not purchase and possess fire guns. However, license for purchase, possess/use, and carry guns can be granted to private security companies for the purposes of transportation of money and valuables, and temporary guard and security services; and to institutions giving private security education and training for the purpose of use in the trainings with guns, by a decision of the Commission and upon approval of the Governor.

6.3. Area of Assignment:

Private security personnel can enforce the powers listed in 6.1 only within the duration and area of their assignment.

Private security personnel can not take their guns outside the area of their assignment. In cases where a route is embedded in the definition of the assignment; such as when a person accused of a committed crime or a person strongly suspected of committing a crime is followed, when preventive measures are taken against attacks from outside, during the transportation of money and valuables, while guarding a person, and during funerals; such route is deemed as the area of assignment. In compulsory conditions, the area of assignment can be extended by a decision of the Commission.

Incidents which necessitate use of force and capture are informed to the police by the fastest means; and the person captured and the goods held are handed over to the police.

6.4. Qualifications to be sought in Private Security Personnel

Private security personnel should possess the following qualifications:

- a) To be a Turkish citizen
- b) To be a graduate of high school or an equivalent school
- c) To be over the age 18
- d) Save for the negligent offences, not to be sentenced to heavy imprisonment or imprisonment for a period longer than six months, or, even though he benefited from a pardon, not being convicted of crimes against the personality of state, or crimes of embezzlement, subornation, bribery, theft, swindling, breach of confidence, falsification, fraudulent bankruptcy, smuggling other than for own use and consumption, intriguing official public tenders and purchases, disclosing State secrets, making insinuating remarks to women, molestation, sexual molestation, rape, kidnapping and detaining small girls, women or children, inciting to prostitution, acting as an intermediary in prostitution, using drugs, or drug smuggling
- e) Not to be barred from public rights
- f) Not to have a handicap bodily or mentally preventing the performance of the assignment
- g) To complete successfully the private security basic training consisting of one hundred and twenty course hours on theoretical and practical training, and gun training.

6.5 Work License:

A security investigation is carried out by the Governorship for the people to be employed as private security personnel, and as manager in private security companies and in institutions giving private security training. Those who get a positive resulting report from this investigation are given a work license (permit) by the governorship valid for a period of five years on condition that they complete the private security basic training of one hundred and twenty course hours consisting of theoretical and practical training as well as gun training. The security investigation for the private security personnel who will not carry a gun is sufficed to cover only the registrations and archives. Security investigation and exploration of archive are completed within one month.

The work license will be effective for five years as of the date of issuance of the identification card. At the end of this period, a recent health report, legal registry record and private security renewal training certificate are sought from the private security personnel for the renewal of the work license. Before renewal of the work license, records of the private security personnel are examined and a security investigation is carried out.

The renewal of the work license is annotated on the identification card.

The work license is cancelled in case of disqualification for any of the conditions set for employment as a private security personnel.

As for those who are retired from the police forces and those who resigned from the police forces by their own will after at least five years of active service, the private security basic training is not required for a period of five years after retirement or resignation.

6. 6. Notification of the Private Security Personnel to the Governorship:

Persons, organizations and companies shall notify the Governorship of the private security personnel employed or dismissed/resigned for any reason within FIFTEEN DAYS. In case of conduct of the private security services by companies, persons and organizations shall not have a separate notification liability.

6. 7. Identification:

Private security personnel are given an identification card by the governorship. The identification card states the name and surname of the security personnel holding the card, and whether he is licensed to carry a gun or not.

The identification card is attached to the bearer's collar throughout the duration of his assignment, such that everybody within the area of assignment can see it. The security personnel not holding the identification card on them can not use the powers vested to them as listed in 6.1. In case of loss of the identification card, the employer shall promptly notify the governorship.

6.8. Attire:

Private security personnel wear uniforms in the area and within the term of their assignment.

A name, sign or logo identifying the company is written on the uniform. The uniform and complementary elements of the uniform as well as the equipment to be used by the private security companies are approved by the Ministry of Interior.

The Commission may grant permission for working in civil dresses when considered necessary depending on the peculiarity of the assignment and business.

6.9. Training:

The graduates of the existing security departments or higher vocational schools of the universities, or of those security departments or higher vocational schools that may be launched within the universities in the future shall be exempt from the requirement of the private security basic training (not from the gun training) for a period of five years after graduation.

The private security training can be given by the Ministry of Interior against payment, or can be given by private training institutions with the permission of the Ministry. The founders and managers of the institutions to give private security training are also required to be citizens of Turkish Republic, to be graduates of at least high school or equivalent schools (the managers to have further completed four years of higher education), not to be barred from public rights, and to have completed successfully a private security basic training of at least one hundred and twenty course hours consisting of theoretical and practical training as well as gun training.

Additional subjects may be included by the training authority to the training program according to the characteristics of the enterprise and facilities in which the private security personnel are to be employed.

Those employing private security personnel are liable to maintain the physical adequacy of the personnel during term of office.

Upon expiration of the five year work license, the private security personnel are asked to deliver private security renewal training certificate for renewal of the work license. Furthermore, it is obligatory that administrators of the private security companies and private training institutions have renewal training and submit their renewal training certificates the Ministry of Interior once every five years.

The renewal training consists of sixty hours of training.

Private security renewal training certificate is issued to those having succeeded in both written and practical examinations after the renewal training. The applicants for the examination are required to deliver the private security renewal training attendance list.

The personnel having completed private security basic training are subjected to written and practical examinations. In order to accept the candidates to the examination, the candidates are asked to deliver training course attendance list.

6.10. Compensation:

Compensation within the frame of the amounts and principles set forth in the employment contract or in the collective labor contract is paid to the private security personnel who are wounded or disabled, or to the statutory heirs of such personnel who die during the execution of the duties and assignments listed under the law. However, in case a judgment for the payment of a higher compensation is given by a court in accordance with the general provisions of the Law, the amounts paid under the employment contract or the collective labor agreement are deducted from this amount.

The compensation to be paid under the provisions of the first paragraph is not associated with and does not preclude payment of other compensations to be paid under the Labor Law no. 4857.

The highest of the compensation stated in the employment contract, or the compensation stated in the collective labor contract, or the compensation calculated according to the provisions of the Law 2330 on Cash Compensation and Salary Payments will be paid to the private security personnel who are wounded or disabled, or to the statutory heirs of the private security personnel who die during the execution of the assignments listed in the law in public institutions and organizations.

7. Bans and Punitive Provisions:

7.1. Ban to Employ Outside the Assignment:

Private security personnel can not be employed outside the guarding and security services stated under the Law.

7.2. Ban to Strike:

Private security personnel can not participate to strikes.

7.3. Ban to Dismiss:

Private security personnel can not be dismissed due to lockout.

7.4. Criminal Offences and Penalties:

a) Up to six months of imprisonment and a heavy fine of six billion Turkish Liras are inflicted upon persons, or managers of companies, who employ private security personnel without obtaining a private security license to be granted by decision of the Commission and upon consent and authorization of the governorship pursuant to the Law.

b) Up to one year of imprisonment and a heavy fine of twenty billion Turkish Liras are inflicted upon the founders and managers of the companies that have private security operations without obtaining the license of the Ministry of Interior pursuant to the Law, and upon the managers of companies and organizations that establish a private security unit without the permission to be granted by decision of Commission and upon consent and authorization of the governorship under the Law, and upon the managers of the companies and institutions that give private security training without due permission to be granted by the Ministry pursuant to the Law. Persons thus punished lose their qualification to become a founder and manager in private security companies and in institutions that give private security training.

c) Persons, institutions, organizations or companies that employ persons who are not granted a work license by the governorship pursuant to the law, are inflicted to a heavy fine of three billion Turkish Liras for each person thus employed. They are inflicted to a heavy fine of six billion Turkish Liras per person employed and an additional imprisonment of up to six months if and when such employment includes carrying a gun.

d) Persons, or managers of institutions, organizations and companies which employ private security personnel without making the private security financial liability insurance set forth by the Law, are inflicted to a heavy fine of three billion Turkish Liras for each person they employ.

e) Persons, or managers of institutions, organizations and companies which falsely publicize or advertise that they are giving private security service or private security training without obtaining the operation license set forth by the Law are inflicted to an imprisonment of up to six months and a heavy fine of ten billion Turkish Liras.

7.5. Administrative Offenses and Penalties:

a) Private security companies that fail to inform the governorship in writing about the private security service to be provided to other persons, companies and organizations at least one week prior to the commencement of such service are inflicted to an administrative fine of one billion Turkish Liras for each failure of notice.

b) Persons, or managers of institutions, organizations or companies that fail to implement the additional measures requested by the public administrators pursuant to the Law are inflicted to an administrative fine of two billion Turkish Liras.

c) Private security personnel who breach the ban to participate a strike, who use their fire guns contrary to the Law or outside their area of assignment, and who let others use their private security cards are subject to an administrative fine of one billion Turkish Liras, and their work license is cancelled. Such persons can not work as private security personnel thereafter.

d) An administrative fine of two billion Turkish Liras is inflicted upon the persons, or managers of institutions, organizations or companies which fail to take actions for remedying the defects and deficiencies detected in the supervision and audit carried out for private security services by the Ministry of Interior and by the governorships.

e) Persons, or managers of institutions, organizations or companies which employ the private security personnel in fields other than the guarding and security services are inflicted to an administrative fine of one billion Turkish Liras for each such employment.

f) The employers of the private security personnel who fail to inform the governorship of the recruitment or termination of employment for whatsoever reason of the private security

personnel within fifteen days thereafter are inflicted to an administrative fine of one billion Turkish Liras.

g) The decisions of administrative fines under this Article are taken by the highest ranking public administrator of that place. Such decisions are communicated to the interested parties pursuant to the provisions of the Notification Act no. 7201. Objections to the fines imposed under this Article can be made to the competent local administrative court within no later than seven days of receipt of the notice thereof. Objection does not hinder the enforcement of the penalty. The objections are finalized within the shortest time possible through examination of documents, except where otherwise deemed necessary. Judgments taken upon objection by the local administrative court can be appealed in the regional administrative court. Judgments of the Regional Administrative Court are in any case final. Administrative fines imposed pursuant to the Law are collected by the Ministry of Finance upon a notice of the related governorship or district governorship, in accordance with the provisions of Law no. 6183 about Collection Procedures of the Public Receivables.

8. Alarm Centers:

Permit for the setting up of an alarm center and for tracking is given by the governorships. A security inquiry is conducted regarding administrators of the companies which are understood to satisfy the necessary qualifications following the examination of the information and documents regarding the application to be filed with the governorship for the setting up an alarm system and tracking.

In the event that the results of the inquiry are positive, a Permit for the Setting up an Alarm System and Tracking" is issued. The permits for the Setting up of Alarm Systems and Tracking given by the competent authorities before the date of entry into force of the Law shall be in force for the relevant periods.

Alarm centers consider the alarms given during the continuous tracking and monitoring through the alarm systems and notify technically approved alarms to the police forces in the relevant zone as soon as possible.

9. Financial Liability Insurance for Private Security:

Natural persons and private security companies have to take out and maintain financial liability insurance for private security for the purpose of indemnification of the possible damages to third parties that may be inflicted by the private security personnel employed by them. The principles and procedures of this financial liability insurance for private security are determined by the Undersecretariat of Treasury.

Financial liability insurance for private security under this Article will be taken out from insurance companies authorized to work in the related insurance branch in Turkey. These insurance companies are obliged to sell and make financial liability insurance for private security. Insurance companies rejecting to comply with this obligation are fined to eight billion Turkish liras by the Treasury Undersecretary. The provisions of the second paragraph of article 20 are applied for the collection and objection procedures for this fine.

10. Supervision and Audit:

The Ministry of Interior and governorships may at any time supervise and audit the private security companies, private security forces and private training institutions to determine whether or not the provisions of the Law and the regulation regarding enforcement of the Law are fulfilled; whether or not there are banned practices and behavior; and whether or not an activity outside the purpose is conducted.

During the supervision; the validity of the operation license and the work licenses of the personnel; whether financial liability insurance are executed for the private security personnel;

whether agreements regarding guarding and security services provided to the third parties are duly drafted and whether such agreements are timely notified to the governorship; whether the responsibility zone is considered; whether the guns and equipment are licensed and whether they are duly protected; whether the records and notebooks are duly kept and retained; whether the training services are conducted in accordance with the provisions of the Regulation regarding enforcement of the Law; whether other provisions of the Law and the Regulation are adopted; and whether activities outside the purpose are conducted shall be examined.

Any failure or deficiency determined as a consequence of the supervision are notified in writing to the relevant person, organization, institution and company; and minimum seven days are given to the same for remedy of such failure or deficiency. In case of failure in remedy at the end of this period or in case of determination of the any practices constituting crime as a consequence of the supervision, then the penalties set forth in Articles 7.4 and 7.5 above shall apply.

Additionally, operation license of the private security companies and private security training institutions is cancelled by the Ministry of Interior if they are found out to be operating outside their purpose or if they are found out to have engaged in any criminal activity. The founders and managers of the companies or institutions whose operations are so cancelled lose their qualification to become founders and managers in any and all private security companies and institutions giving private security training.

11. Status For the Purposes of the Criminal Code:

Private security personnel are considered as civil servants (public officers) for the purposes of the Turkish Criminal Code.

Those who offend them by reason of performance of their duties are punished as if they have offended a Civil Servant.

12. License Fees:

Private security companies and institutions to give private security training are required to pay ten billion Turkish Liras as License Fee in order to obtain operation license, and private security personnel are required to pay two million Turkish Liras as license fee in order to get work license, and these license fees are deposited to the Fiscal Department.

13. Valuation Rate Applicable for Fines:

Heavy fines imposed for criminal offenses stated in the Law, administrative fines imposed under the Law, administrative fines imposed upon the insurance companies due to the breach of the obligation to make the financial liability insurance for private security and the amounts to be paid as license fees stated in the Law will be increased annually according to and over the valuation rate to be determined pursuant to Tax Procedures Law no. 213.

14. Employment of Disabled and Previously Convicted Persons:

In determination of the number of the disabled and previously convicted persons to be employed by the private security forces and private security companies as per Article 30 of the Labor Law dated 10/6/2003 and numbered 4857, the private security personnel shall not be taken into account.

15. Regulation:

The Law states that the regulation for the implementation of the Law shall be prepared by the Ministry of Interior within three months of the publication of the Law. Accordingly, the relevant Regulation Regarding the Implementation of the Law for Private Security Services has been published in the Official Gazette No. 25606 and dated October 7, 2004.

16. Repealed Law:

This Law repeals and supersedes the Law About Protection and Security of Some Institutions and Organizations, no. 2495, dated 22.07.1981.

17. The Status of the Private Security Organizations Founded According to the Law no. 2495:

Private security departments and companies established so as to offer private security services as per the provisions of Law no. 2495 in the body of the public organizations and institutions as well as entities and companies affiliated to the same are considered to have obtained private security license upon notification to the governorship and they may offer private security services in the work places and facilities of the entities and companies affiliated to the same organizations and institutions for which private security license is obtained. The private security personnel employed in accordance with the Law No. 2495 regarding Protection and Security of Certain Institutions and Organizations and who continue to fulfill the conditions anticipated in this law are considered to have obtained license to work until June 26, 2009.

Those having established private security organizations in their own bodies as per the provisions of the Law No. 2495 may terminate the private security activities by decision of the Commission and upon consent by the governor; on the condition that they apply at least one month prior to the termination.

18. Effective Date of the Law:

Articles 19 and 20 of the Law shall be effective after nine months following the publication of the Law, while the remaining articles become effective on the date of its publication.

Footnotes

1. Criminal Procedures Law no. 1412

Article 127

If the person witnessed during committing a crime or the person chased after due to a witnessed crime is expected to escape, or if it is not possible to determine the identification of such person, anyone may capture him temporarily even in the absence of an arrest warrant. In cases which require the issuance of an arrest warrant but it is not possible to reach the public prosecutor or superiors immediately for issuance of an arrest warrant, and if it is considered that any delay may cause damages; the police may capture the suspect temporarily.

If a witnessed crime, prosecution of which is normally subject to complaint, is committed against small children or against people who are not capable to manage themselves due to physical or mental diseases or injuries, the capture of the suspect is not subject to complaint.

Witnessed crime (flagrante delicto) means the crime in progress.

The crime committed by a person who is captured after being chased by the Police, or by the person harmed by the crime or by others due to the crime just committed, or the crime committed by a person who is captured together with goods or traces which prove that the crime is just committed will also be considered and treated as witnessed crime (flagrante delicto).

2 Criminal Procedures Law no. 1412

Article 157

The police officer is empowered to keep under arrest the people who maliciously violate the arrangement after he started his work in the place of incident or the people who behave in contrary to the measures he took within his powers, until termination of the proceedings. Provided, however, that this period of arrest can not exceed twenty four hours.

3. Turkish Civil Law no. 4721

Article 981

The possessor may repel any kind of attempt of burglary or attack by use of force.

The possessor is free to defend his possession by expelling the illegal occupier in case of immovable properties, and by taking back from the hands of the aggressor during execution of the crime or while the aggressor is running away in case of movable properties. But the possessor must avoid using force in excess of the amount justifiable by the incident.

4. Code of Obligations no. 818

Article 52

In cases of lawful self-defense, no compensation is required to be paid for the harms done to the person or belongings of the aggressor.

The Judge determines equitably the amount of compensation payable by a person who has damaged properties of others for the sake of protecting himself or another person from a loss or from an imminent hazard.

If a person, in order to protect his rights, compulsorily resorts to forced measures because of the absence of timely intervention of the government as appropriate for the situation and location, or because of the lack of any other instruments which would prevent the damage to his rights or undo the difficulties before the use of his rights; in that case, the person is not charged with an exemplary damage.

5. Turkish Criminal Code no. 765

Article 49

The perpetrator of the actions in following cases is not punished:

- 1) By way of executing a command of law or an order given by a competent authority where its implementation is obligatory; or
- 2) Due to an obligation arising from an absolute necessity to repel an unjust attack targeting the life and chastity of one's own or another person; or
- 3). As a result of an obligation to protect one's own and others from a heavy and definite hazard which he consciously does not let happen and no other means of preservation exists.

If the order given by the competent authority referred in Paragraph one above is contrary to the law, the penalty for the resulting crime is judged upon the authority who gave the order.

<http://www.mondaq.com/article.asp?articleid=32545>