

TURKISH CRIMINAL PROCEDURE CODE

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SECTION TWO

Conciliation and Confiscation

CHAPTER ONE

Conciliation

Conciliation¹

Article 253 – (Amended: 6/12/2006-5560/Art. 24)

(1) There shall be an attempt to conciliate between the suspect and the victim or the real or legal person of private law, who suffers damages from the following offences:

- a) Offences that are dependent on complaint for investigation and prosecution,
- b) The following offences in the Turkish Penal Code regardless of dependency on a complaint:
 1. Deliberate bodily injury (except third paragraph; Article 86, Article 88),
 2. Tortuous bodily injury (Article 89),
 3. **(Added: 24/11/2016-6763/Art. 34)** Threat (Article 106, paragraph 1),
 4. Violation of inviolability of abode (Article 116),
 5. **(Added: 17/10/2019-7188/Art. 26)²** Violation of the freedom to work and labour (Article 117(1), 119 (1)(c)),
 6. **(Added: 24/11/2016-6763/Art. 34)** Theft (Article 141),
 7. **(Added: 17/10/2019-7188/Art. 26)²** Abuse of Trust (Article 155),
 8. **(Added: 24/11/2016-6763/Art. 34)** Fraud (Article 157),
 9. **(Added: 17/10/2019-7188/Art. 26)²** Purchasing or accepting property acquired through the commission of an offence,
 10. Kidnapping and forcibly keeping a child (Article 234),
 11. Disclosure of information or documents in the nature of a trade secret, banking secret or customer privacy (except fourth paragraph, Article 239).

c) **(Added: 24/11/2016-6763/Art. 34)** Provided that the victim or the person injured by the offence is a natural or private legal entity, offences that require imprisonment or a judicial fine with an upper limit not exceeding three years in terms of juvenile delinquents pushed to offences.

(2) Except for the offences that are investigated and prosecuted upon a claim, for offences that are included in other statutes, there must be a special provision in that statute in order to apply the way of conciliation.

¹ While the title of this Article was “reconciliation”, it was changed as it was inserted in the text with Article 34 of the Law No. 6763 dated 24/11/2016, and sub-clauses (3), (5) and (6) were added to clause (b) of the first paragraph of the same article to follow the existing sub-clauses (2) and (3) and other sub-clauses were succeeded accordingly.

² With Article 26 of the Law No. 7188 dated 17/10/2019, sub-clauses were added respectively to come after the present sub-clauses (4), (5) and (6) of the clause (b) and the clause numbers were succeeded accordingly.

(3) Even if the investigation and prosecution is dependent on a claim, (...) ¹, it cannot be resorted to conciliation in offences against sexual inviolability. **(Added sentence: 26/6/2009-5918/Art. 8)** In case an offence within the scope of conciliation is committed against the same victim with another offence not included in this scope, the provisions of conciliation shall not apply. ^{1, 4}

(4) If the offence subject to investigation is subject to conciliation and there is sufficient suspicion for filing a public lawsuit, the file shall be referred to the conciliation bureau. The conciliator appointed by the bureau shall propose conciliation to the suspect and the victim or the injured party. If the suspect, the victim, or the person who suffered from the offence is a minor, the proposal of conciliation shall be made to their legal representatives. The conciliator may also make the mediation proposal by means of an explanatory notification or rogatory letter. In cases where the suspect, the victim or the person who suffered damages from the offence does not notify their decision about the conciliation within 3 days after the proposal of conciliation, it shall be considered that s/he refused the conciliation. ²

(5) In cases where a proposal for conciliation was made, the nature and legal consequences of accepting or refusing the conciliation shall be explained to that person.

(6) If the victim, the person who suffered damages from the offence, the suspect or their legal representatives cannot be reached because s/he is not present at the address that was declared to the official authorities or is outside of the country or for any other ground, then the investigation shall be concluded without referring to conciliation.

(7) In order to refer to conciliation for the offences where more than one person was victimised or was damaged, it is required that all of the victims or persons who suffered damages from the offence accepted the conciliation.

(8) The proposal of conciliation, or the acceptance of conciliation, does not hinder the collection of evidence of the offence that is under investigation nor the application of the measures of protection.

(9) **(Repealed: 24/11/2016-6763/Art. 34).**

(10) The grounds of exclusion of the judge because of circumstances determined in this Code, shall also be considered while appointing the conciliator.

(11) The appointed conciliator shall be given a copy of each document included in the case file that are deemed appropriate by the public prosecutor. The public prosecutor shall remind the conciliator of the requirement of complying with principles of the confidentiality of the investigation. ³

(12) The conciliator shall conclude the transactions of conciliation within 30 days the latest after receiving the copies of the documents included in the file of investigation. The public prosecutor may extend this period for a maximum of 20 days. ^{3, 4}

¹ With article 34 of the Law dated 24/11/2016 and numbered 6763, the phrase "offences with effective repentance clauses" in this paragraph was removed from the text of the article.

² With the article 34 of the Law No. 6763 dated 24/11/2016, the phrase "in case of, upon the instruction of the public prosecutor or judicial law enforcement officer" in this paragraph was amended as "and in case of sufficient suspicion for to file a public lawsuit, the case shall be referred to the conciliation bureau. The phrase "Conciliator appointed by the bureau" was amended as "Conciliator" and the phrase "Public prosecutor" was amended as "Conciliator".

³ With article 34 of the Law No. 6763 dated 24/11/2016, the phrase "Public prosecutor" in this paragraph was amended as "Conciliation bureau".

⁴ With article 26 of the Law No. 7188 dated 17/10/2019, the phrase "against the same victim" was added to the third paragraph to come after the phrase "committed" and the phrase "maximum of twenty more days" in the twelfth paragraph was amended as "twice at most, not exceeding twenty days each time".

(13) The conciliation negotiations shall be conducted confidentially. The suspect, the victim, the person who suffered damages from the offence, the legal representative, the defender, or the representative may be present during the conciliation negotiations. In cases where the suspect, the victim or the person who suffered damages from the offence or her/his legal representative, or representative does not attend the conciliation negotiation personally, s/he shall be considered as if s/he did not accept the conciliation.

(14) The conciliator may consult the public prosecutor about the procedure to follow during the conciliation negotiations; the public prosecutor may give directions to the conciliator.

(15) At the end of the conciliation negotiations, the conciliator shall prepare a report and submit it to the public prosecutor, together with the copies of the documents that were handed over to her/him. If the conciliation occurs, the details of the kind of conciliation agreement shall be clearly explained in the report that shall include signatures of the parties. **(Added sentence: 24/11/2016-6763/Art. 34)** The conciliation bureau shall submit the investigation file, report and if any, the written agreement to the public prosecutor.¹

(16) The suspect and the victim or the person who suffered damages from the offence may apply to the public prosecutor the latest until the date the indictment was filed, and produce the document that states that they settled their dispute, even if the proposal of conciliation was previously refused.

(17) If the public prosecutor establishes that the conciliation was achieved with the free will of the parties, and the act is in conformity with law, then s/he shall put his seal and signature under the report or the document and keep it within the investigation file.

(18) If the conciliation remains inconclusive, the way of conciliation cannot be applied again.

(19) If, at the end of the conciliation, the suspect fulfils the act at once, the decision of non-prosecution shall be rendered. If the performance of the act is postponed to a future date, or to instalments, or is subject to continuity, the decision on postponing the filing of public lawsuit shall be rendered, without checking the requirements that are listed in Article 171. During the duration of the postponement, the time limit shall not be in place. If the requirements of conciliation are not be fulfilled after the decision of the postponing the filing of public lawsuit, the public lawsuit shall be filed, without stipulating the requirements that are mentioned in Article 171/4. In cases where the conciliation is achieved, it cannot be filed a claim for compensation for the offence under prosecution; if there is a pending lawsuit, this lawsuit shall be considered as withdrawn. If the suspect fails to fulfil the act, the conciliation report or the document shall be considered one of the documents that is listed in Article 38 of the Enforcement and Bankruptcy Law dated 9/6/1932 and numbered 2004.

(20) The remarks made during the conciliation negotiations cannot be used as evidence in any investigation and prosecution, or in any case.

(21) The time limit and the trial period, which is the condition for prosecution, do not run from the date when the first conciliation proposal is made to a suspect, victim or person injured by offence, until the date when the conciliation attempt fails, and the conciliator prepares her/his report and submits it to the conciliation bureau.¹

(22) **(Amended first sentence: 24/11/2016-6763/Art. 34)** The fee of the conciliator shall be paid according to the tariff designated by the Ministry of Justice. The fee of the conciliator and other expenses of conciliation shall be considered as trial expenses. In cases where the conciliation is accomplished, these payments shall be compensated by the State Treasury.

¹ With Article 34 of the Law No. 6763 dated 24/11/2016, the phrases "to the public prosecutor" in these paragraphs were amended as "to the conciliation bureau".

(23) Regarding the decisions rendered at the end of the conciliation, the legal remedies which are foreseen in this Code are applicable.

(24) **(Amended: 24/11/2016-6763/Art. 34)** A conciliation bureau is established within each Chief Public Prosecutor's Office and a sufficient number of public prosecutors and staff are appointed. Conciliators are appointed from the conciliator lists determined by the Ministry of Justice, which include lawyers or those who have studied law. The conciliator sends the report, the minutes and the written agreement, if any, to the bureau. At the end of the conciliation process, the investigation files are concluded by the public prosecutors working in the conciliation bureau.

(25) **(Amended: 24/11/2016-6763/Art. 34)** Qualifications, training, examination, duties and responsibilities, supervision of conciliators, qualifications and supervision of persons, institutions and organizations that will provide training as well as registry of conciliators, organisation of the conciliator and training institution lists, working rules and principles of the conciliation bureaux to be established under the Chief Public Prosecutor's Office, conciliation proposal and negotiation procedure, conciliation agreement and other issues to take place in the report and the rules and principles concerning other procedural matters shall be regulated according to the regulation issued by the Ministry of Justice.

Conciliation by the court¹

Article 254 – (Amended: 6/12/2006-5560/Art. 25)

(1) In cases where it becomes evident after the public lawsuit is filed that the offence under the prosecution is under the scope of the conciliation, then the conciliation proceedings shall be referred to the conciliation bureau for execution under the rules and principles as specified in Article 253.

(2) In cases where the conciliation is fulfilled, the court shall decide to dismiss the case if the defendant fulfils her/his act at once. If the fulfilment of the act is delayed for a later date, or the payment is due on the instalment plan, or has the nature of continuity, then the decision on delaying the pronouncement of the judgment shall be rendered, without checking the requirements in Article 231. During the period of postponement, time limits do not run. In cases where, after the decision on delaying the pronouncement of the judgment is rendered, the requirements of conciliation are not fulfilled, the court shall announce the judgment, without checking the requirements that are mentioned in Article 231/11.

Conciliation in cases where there is more than one offender

Article 255 – (1) In offences that are committed by more than one person, only the reconciling person shall benefit from conciliation, whether there is affiliate connection between them or not.

¹ With Article 35 of the Law No. 6763 dated 24/11/2016, the phrase "conciliation proceedings" in the first paragraph of this article was amended as "prosecution file, conciliation proceedings" and the phrase "according to it, it shall be conducted by the court." was amended as "shall be referred to the conciliation bureau for execution."