



Armed Organization Offences in Turkish Criminal Law

Erdem Sağar

Faculty of Business, Law and Social Sciences, Brandenburg University of Technology Cottbus, Senftenberg,
Germany

<http://orcid.org/0000-0003-2711-7439>

<http://dx.doi.org/10.18415/ijmmu.v11i10.6249>

Abstract

As long as there has been law, there have been offences, and as long as there have been offences, there have been criminal enterprises. The state has always struggled with these organizations to protect its citizens. Accordingly, offences related to criminal enterprises are regulated under Article 220 of the Turkish Penal Code. However, some criminal enterprises differ in that they directly target the state's existence and the organs that sustain it. In such cases, the state must first protect itself to protect its citizens. To do so, it must punish organizations that target the state's organs and existence, along with their activities. As an expression of this resolve, Article 314 of the Turkish Penal Code considers it a offence to establishing, managing, being a member of an armed organization; committing an offence on behalf of armed organization without being a member; aiding and abetting an armed organization knowingly and willingly without being in structure of that; making propaganda for an armed organization. In this study, the aim is to introduce these offences, classified as armed organization offences in Turkish Criminal Law, to the doctrine.

Keywords: *Armed Organization; Criminal Enterprise; Armed Organization Offences; Turkish Criminal Law; Decisions of the Turkish Court of Cassation*

Introduction

The history of criminal enterprises dates back to the origins of law itself. Offences have existed as long as law has, and criminal enterprises have existed as long as there have been offences. This has forced legal authorities, who aim to protect the legal order, into a relentless struggle against criminal enterprises.

In fact, there are such organizations that carry out their activities with the motive of threatening the future existence of the state. These formations, which are called armed organizations in Turkish criminal law, are organized with the aim of committing specific offences against the Republic of Turkey itself and its organs¹. Given the danger these organizations pose to the Republic of Turkey, the legislator

¹ The Turkish criminal law terms translated into English in this article are based on the Turkish Penal Code, available on the website of the European Commission for Democracy through Law (Venice Commission) CDL-REF(2016)011 Opinion No. 831/2015. This document is available at the link [https://www.venice.coe.int/webforms/documents/?pdf=CDL-REF\(2016\)011-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-REF(2016)011-e). In addition, the foreign relations terminology guide prepared by the Translation Department of the Ministry of Foreign

has introduced the offence of “Armed Organization” in Article 314 of the fifth part titled “offences against the constitutional order and its functioning” of the fourth chapter titled “offences against nation and state and final provisions” of the second book of the Turkish Penal Code (TPC). Article (Art.) 314 of the TPC states:

- “(1) Any person who establishes or manages an armed organization with the purpose of committing the offences listed in parts four and five of this chapter, shall be sentenced to a penalty of imprisonment for a term of ten to fifteen years.*
- (2) Any person who becomes a member of the organization defined in paragraph one shall be sentenced to a penalty of imprisonment for a term of five to ten years.*
- (3) Any person who commits an offence on behalf of an armed organization, although he is not a member of that organization shall also be sentenced to a a penalty of imprisonment for a term of five to ten years. However, the penalty to be imposed may be reduced by one half according to nature of committed offence*
- (4) Other provisions relating to the forming of an organization in order to commit offences shall also be applicable to this offence”*

In this study, in line with the provision of Article 314 of the TPC, it is introduced the offences covered by this article and the legal interests protected by this offences, the objective elements (*actus reus*) and subjective elements (*mens rea*) of armed organization offences, the justification in armed organization offences, the qualified versions of armed organization offences, the special appearance forms of armed organization offences, and the effective remorse in armed organization offences, respectively. Moreover, this study is supported by judicial decisions from Turkish courts². Thus, it is aimed to provide the reader with a general perspective on armed organization offences.

1. The Legal Interest Protected by Armed Organization Offences

In the doctrine, different opinions have been put forward regarding the legal interests protected by these offences. According to Evik and Yaşar/Gökcan/Artaç, since the phrases “*the purpose of committing the offences listed in parts four and five of this chapter*” in the article refer to offences against the security of the state and offences against the constitutional order and the functioning of this order, it can be said that mentioned offences aims to protect the security of the state and the constitutional order (Evik 2006: 105; Yaşar, Gökcan & Artaç 2010: 8534). According to Kitapçioğlu Yüksel, TPC Art. 314 also protects public security and public peace as safeguarded by TPC Art. 220, which includes general provisions about criminal enterprise offences. This is because Art. 314 is a special provision of Art. 220 (Kitapçioğlu Yüksel 2023: 299).

In my view, concepts such as constitutional order, state security, public order and public peace are closely related to each other. However, while public security or peace faces the danger of being disrupted by the commission of any offence, the situation is different for constitutional order and state security. These concepts are more serious interests affecting the future existence of the state, in populist

Affairs of the Republic of Turkey is another source used for the translation of Turkish criminal law terms. This guide is available at the link “<https://www.mfa.gov.tr/dis-iliskiler-terminolojisi.tr.mfa>”.

² There are two numbers in the decisions of the Turkish Court of Cassation: the case number, in Turkish, esas numarası (E.) and judgment number, in Turkish, karar numarası (K.). The case number (esas numarası) is given when the file from the lower trial court is registered to the relevant criminal chamber the Court of Cassation. The judgement number (karar numarası) is given when the decision is given a ruling by Turkish Court of Cassation about file. The decisions of the Turkish Court of Cassation used in this study are written as they are used in Turkish law because of the fact that is to provide that the readers can easily find the decisions used in the study on the website “<https://karararama.yargitay.gov.tr/>”, which is the website where the case decisions of the Turkish Court of Cassation is uploaded by the Turkish Court of Cassation.

terms, the survival of the state. Therefore, I maintain that the main legal interests protected here in accordance with the reference made by Article 314 of the TPC is serious benefits such as state security and constitutional order.

2. The Objective Elements of Armed Organization Offences

2.1 The Offender

Essentially, anyone can be the offender of the offence under TPC Art. 314. However, it should be noted that TPC Art. 314 is an inclusive article in which more than one type of offence is regulated. In this context, nuances may arise in determining the offender. Thus, the offence of establishing an armed organization under TPC Art. 314 requires the presence of at least three offender united around the purpose of establishing an armed organization (Evik 2006: 112; Kavlak 2017: 328; Kitapçioğlu Yüksel 2023; 305).

On the contrary, “offence of committing an offence on behalf of an armed organization without being a member”, “offence of aiding and abetting an armed organization knowingly and willingly without being part of its structure” and “offence of making propaganda for an armed organization”, which will find an application area with the reference of TPC Art. 314/4, can be committed by a single offender. In addition to these, in these offences, offender is a person who is not included in the hierarchical structure of the armed organization (Tulay 2018: 4).

In this respect, for determining the offender, each provision being in the scope of TPC Art. 314, should be evaluated separately.

2.2 Those Affected by Armed Organization Offences and Victims of These Offences

Those affected by the offences committed under TPC Article 314 are the whole of society, living under the constitutional order guaranteed by the state. Although these individuals are not directly impacted by the commission of the offence, the disruption of the constitutional order and the endangerment of state security will undoubtedly affect their daily lives in some way and indirectly harm their legal interests. However, since these individuals are not direct victims of the offence, they cannot participate in the judicial process³ (Kitapçioğlu Yüksel 2023: 304). In such cases, prosecution is pursued by the public prosecutor on behalf of the public.

Additionally, it should be noted that some individuals may be direct victims of the offences specified in TPC Art. 314. For example, in the event of an assassination or an actual attack on the President of the Republic, the President or their relatives may have the right to initiate prosecution or participate in the lawsuit, as the President holds victim status.

2.3 Acts Constituting Offences Under TPC Article 314

2.3.1 In General

TPC Art. 314 encompasses multiple types of offences. However, before examining the specific acts constituting armed organization offences, it is important to consider objective elements that are

³ “(...) due to the nature of the offences of being a manager of an armed terrorist organization, being a member of an armed terrorist organization, membership in an armed terrorist organization, assisting an armed terrorist organization, and harboring a felon, which are imputed to the accused, and since the interveners who were not affected directly these offences do not have the right to intervention in the case and therefore do not have the right to appeal the judgment, bill of review made by their attorneys on behalf of all accused against the decision of acquittal for these offences are rejected according to Article 317 of the Code of Criminal Procedure (...)”. The Turkish Court of Cassation, 9. Criminal Chamber, 13.05.2013, 2013/1 E., 2013/7264 K.

common to all the offences regulated under this article. Therefore, it is useful to explain these elements before proceeding to the specific actions of the offences outlined in Article 314 of the TPC.

2.3.1.1 Existence of a Criminal Enterprise

To discuss the offences regulated under TPC Art. 314, it is essential first to examine the existence of a criminal enterprise. Indeed, the preamble of Article 314 states that the fundamental concept of this article is “organization”.

For criminal enterprise offences, TPC Art. 220 provides a general provision. This article and its preamble outline the requirements for the existence of a criminal enterprise. Additionally, the practices of the Turkish Court of Cassation have clarified the necessary elements for criminal enterprises defined in the TPC⁴.

According to those, for existence of criminal enterprise, at least three people must be gathered for establishing a criminal enterprise; there must be a hierarchical structure among the members of the organization⁵; they should not gather solely to commit a specific offence⁶ -otherwise, jointly-committed offences provisions shall be applied-; and tools and equipment of the criminal enterprise must be suitable to commit the intended offences⁷. (Yenidünya & İçer 2013: 800-806; Evik 2013: 677-680; Çakın 2015: 54-63; Kavlak 2017: 360-380; Demirci 2019: 75 -80; Şen & Eryıldız 2022: 81-100; Özgenç 2022: 14-19)

2.3.1.2 Existence of an Armed Organization

Weapons are a fundamental element for the offences defined in TPC Art. 314. It is seen that weapons defined in TPC Art. 6/1-f. According to this, the term “weapon” refers to firearms; an explosive; all instruments produced for the purpose of defence or attack which are capable of cutting, piercing or injuring; any instrument, not having been specifically manufactured for the purpose of attack or defence, which may be used for such purpose; a nuclear, radioactive, chemical or biological substance which has burning, corrosive, harmful, suffocating or toxic properties or is capable of causing permanent illness.

⁴ “(...) for the existence of the criminal enterprise to be acknowledged, there must be at least three members; there must be a hierarchical relationship between the members, even if loose, rather than an abstract union; there must be a factual union around the aim of committing offences, even if no offence are committed, showing continuity by its nature; and the organization’s structure, the number of its members, and its tools and equipment must be suitable for committing the intended offences (...)” The Turkish Court of Cassation, 9. Criminal Chamber, 06.05.2015, 2015/519 E., 2015/4934 K.

⁵; “(...)In the concrete case, although the number of accused was sufficient to form a criminal enterprise, it was understood that there was no hierarchical relationship, criminal division of labor, or continuity in their intent to commit offences, and therefore, the elements of the offence of “establishing a criminal enterprise to commit offences” were not formed (...)” The Turkish Court of Cassation, 18. Criminal Chamber, 01.03.2017, 2016/14925 E., 2017/2282 K.

⁶ “(...) When examining the concrete case, it is understood that although the accused were numerically sufficient to form a criminal enterprise, there was no hierarchical relationship or continuity in their intent to commit offences. Abstractly, having three or more accused is not sufficient to acknowledge the existence of a criminal enterprise, and in such a case, it can be said that there is a jointly-committed offences relationship. (...)” The Turkish Court of Cassation, 10. Criminal Chamber, 16.03.2006, 2006/565 E. 2006/3869 K; “(...) Although it was determined that the accused had a sufficient numerical majority, tools, and equipment to engage in drug trafficking within the activities of a criminal enterprise established with the intent to commit offences... given that there is doubt about the existence of a hierarchical link among some accused and the continuity of their intent to commit offences... it is necessary to accept that the charged offences are not committed(...)” The Turkish Court of Cassation, General Assembly of Criminal Chambers, 14.02.2012, 2011/10-212 E., Judgment 2012/42 K.

⁷ “(...) Establishing a criminal enterprise to commit offences is an actual endangerment crime. Although a criminal enterprise can be formed by the continuous actual union of at least two people around a specific aim to commit offences, the established criminal enterprise may not constitute an actual endangerment regarding the pursued aim. Therefore, the structure of the criminal enterprise, the number of its members, and its tools and equipment must be suitable for committing the intended offences. In this regard, for example, the mere gathering of three people may not pose an actual danger in terms of committing offences aimed at disrupting the territorial integrity of the state; however, it may be suitable for offences aimed at gaining illegal economic profit. (...)” The Turkish Court of Cassation, General Assembly of Criminal Chambers, 19.02.2013, 2012/6-1490 E., 2019/59 K.

It should be noted that the issue of who must be armed or what type of weapons qualify an organization as “armed” is debated. However, the preamble of this article leaves the determination of the weapon element to the discretion of the judge based on the specifics of the concrete case, which has led to further debates. For example, in a case reviewed under the now-abolished Law No. 4422 on Prevention of Benefit-Oriented Criminal Organizations Law, the Court of Cassation made a grammatical interpretation, stating that the expression “weapons and explosives” in Article 1 of the Law No. 4422 was in the plural form, thus requiring the presence of at least two weapons (Canak 2005: 151). In the context of TPC Art. 314, such a grammatical interpretation would mean that the presence of a single weapon, regardless of its nature, is sufficient to qualify as an armed organization.

According to the prevailing view in the doctrine, which I also support, when determining the weapon element, an assessment related to the intended offence should be made, and the nature of the weapon and the number of armed individuals should be objectively determined based on the opportune of committing the intended offence (Evik 2006: 117-118; Kitapçioğlu Yüksel 2013: 302; Tulay 2018: 5; İnce 2020: 260-261). For instance, for the offence of disrupting the unity and integrity of the state regulated in TPC Art. 302, the existence of an organization with a large number of members equipped with weapons capable of greater destruction is required, whilst the offence assassination of and physical attack towards the president regulated in TPC Art. 310 can be committed with a weapon of much lower qualified and fewer armed members.

Another requirement for the existence of an armed organization is that it must be established for the purpose of committing specific offences listed in the Turkish Penal Code. This is because TPC Art. 314/1 stipulates that in order to be considered an armed organization, the armed organization must exist for the intent to commit the offences listed in the fourth and fifth part of the fourth chapter of the second book of the TPC⁸.

2.3.2 Establishing an Armed Organization

Under TPC Art. 314/1, the acts of establishing and managing an organization are regulated as an offence together. It should be noted that the offender does not have to be both the founder and the manager of the organization for the offence to occur (Taştan 2008: 113-114; Ersan 2013: 383; Kavlak 2017: 33). The offence is completed with the establishment of the organization.

The definition of “establishing an organization” is controversial in the doctrine. Some authors, define this act as “*bringing people together and providing the means to create the organization in a way that enables it to exist as an independent entity*”. Other state that this offence shall be committed upon the completion of the legal elements such as having at least three persons, hierarchical structure, indefinite will to commit an offence, continuity and convenience (Kavlak 2017: 383; Özgenç 2022: 14; Şen & Eryıldız 2022: 131). Additionally it is also seen in the doctrine that establishing an armed organization is defined as the creation and formation of a non-existent organization (İnce 2020: 245; Yenidünya & İçer 2013, 800; Tezcan, Erdem & Önok 2017: 930)., In my view, the offence of establishing an armed organization is completed upon realizing the legal elements, and it is not necessary to create an organization that does not already exist. In fact, the Court of Cassation accepts that the act of establishing an armed organization does not necessarily require the formation of a new organization; TPC Art. 314 also applies if an initially legally established organization later deviates from its purpose and becomes an armed organization⁹.

⁸ see. section of “The subjective Elements of Armed Organization Offences”

⁹ “(...) It is the formation of a new organization with the aim of committing offence or the transformation of an existing legal organization into a criminal enterprise (...)” The Turkish Court of Cassation, 16. Criminal Chamber, 19.02.2013, 2016/7162 E., 2017/4786 K.

The offence of establishing an armed organization is an offence that can be committed through various methods¹⁰. Forming the executive and decision-making bodies of the organization, bringing together the people who will form the organization, providing money, weapons, equipment or materials necessary for the organization's establishment are examples of such acts. However, these actions are examples, and the determination of the founders will depend on the extent of their support during the establishment of the organization (Yılmaz 2022: 154; Ünlü 2013: 74). Kavlak stated that the intensity of this support should be evaluated based on whether the support given is "essential and indispensable" for the establishment (Kavlak 2017: 384). In other words, if the organization would not have been established without the offender's support, it should be considered essential and indispensable, and the offender should be prosecuted for establishing an armed organization (Kavlak 2017: 384).

The relevant legal provision does not specify a required number of founders for the offence of establishing an armed organization; it only requires that there must be three people for the existence of an organization. Thus, it is possible to have one or more founders, provided that a hierarchical structure is maintained.

Another controversial point is whether this offence is an instantaneous crime or a continuous crime (*Delictum Continuum*). Likewise, while a group of authors in the doctrine argue that this offence is an instantaneous crime (Evik 2013: 673; Şen & Eryıldız 2022: 133; Sezer 2022: 39; Kitapçıoğlu Yüksel 2023: 309), whilst other authors claim that this offence is a continuous crime (Dursun 2008: 22; Seçer 2012: 155; Ersan 2013: 326; Ünlü 2013: 32; Çakın 2015: 60; Demirci 2019: 57; İnce 2020: 249). Similarly, it is seen that the Court of Cassation has not reached a consensus on whether the act of establishing an organization is an instantaneous crime or a continuous crime. In my view, the offence of establishing an armed organization is an instantaneous crime and is completed upon the completion of the legal conditions required for the existence of the organization. That is to say, it is not the act of establishing an organization that continues, but the existence of the organization¹¹ (Şen & Eryıldız 2022: 133).

2.3.3 Managing an Armed Organization

Another type of offence listed in TPC Art. 314 is managing an armed organization. An organization requires management and direction due to its own existence (Dursun 2008: 191). The person responsible for this is referred to as the manager¹². Various definitions have been proposed in the doctrine regarding what constitutes managing an organization. Generally, it can be said that what is meant by managing an organization refers to the initiative and decision-making power in matters that are vital for the realisation of the organization's objectives, such as taking a place at the top of the hierarchical structure of the organization and maintaining its disciplined structure, ensuring coordination between the members of the organization, directing the members of the organization by giving orders and instructions,

¹⁰ In Turkish criminal law, offences that can be committed in any method call for "*serbest hareketli suçlar*". Legislator has not limited commission of these types offences with specific acts in the article regulated such offences.

¹¹ "(...) Committed offence which is establishing and joining a criminal enterprise with the aim of committing offences by accused is considered a continuous offence (...)" The Turkish Court of Cassation, 16. Criminal Chamber, 07.03.2017, 2015/6443 E., 2017/995 K.; "(...) The offence of establishing a criminal enterprise to commit offences is a continuous crime. A continuous crime is one that shows continuity and is progressing. The offence is completed with the establishment of the criminal enterprise and continues as a continuous crime from that moment onward (...)" The Turkish Court of Cassation, 16. Criminal Chamber, 22.02.2016, 2015/7619 E., 2016/876 K.

¹² The practices of the Court of Cassation indicate that whether a person is a manager or not will be determined according to his/her influence on the members of the organization. (Çakın 2015: 66) "(...)taking into account that the offenders will be qualified as managers or members according to their position in the criminal enterprise, the offender who directs and manages the criminal enterprise will be considered as a manager while the offender who is included in the hierarchical structure of the criminal enterprise in line with the aims of the criminal enterprise will be accepted as a directly member of the criminal enterprise(...)" The Turkish Court of Cassation, General Assembly of Criminal Chambers, 09.04.2015, 2015/4 E., 2015/108 K.

deciding on the offences that the organization aims to commit, and determining the general strategy (Evik 2004: 252; Yenidünya & İçer 2013, 806; Ersan 2013: 384; Tezcan, Erdem & Önok 2017: 931; Kavlak 2017: 386). As a matter of fact, it is seen in the practices of the Court of Cassation that managing an organization is perceived in this way¹³.

The offence begins with the offender's acceptance or appointment as an organization manager and ends with his/her dismissal or resignation (Kitapçioğlu Yüksel 2023: 310). In other words, managing an organization and accordingly having the title of manager is a continuous situation. Therefore, the offence of managing an organization may be considered a continuing crime (Çakın 2015: 67; Özgenç 2022: 21; Ünlü 2013: 100).

TPC Art. 220/5, which is a general norm in terms of offences of criminal enterprises, states that the managers of the organization will also be responsible as offenders for the offences committed within the scope of the organization's activities. Considering the reference in TPC Art. 314/4, there is no doubt that this provision shall be applied to the manager of an armed organization. However, this provision has been criticised in the doctrine. One view is that, this provision is a reflection of the theory of "indirect perpetration through organized power structure" developed by Claus Roxin in German law with reference to the offences committed by military forces during the Nazi period (İsfen 2006: 53-55; Çakın 2015: 67-69; Tulay 2018: 1248-1250; Tulay 2019: 95-103; Yılmaz 2022: 102-103). However, there is no conditions required for the liability of the manager in the context of the theory in question are not included in the provision of the law (Tulay 2018: 1248-1250; Tulay 2019: 95-103). Namely, while the preamble of the mentioned article assumes only that the existence of the organization fulfils the "substitutability criterion" required for the application of the theory, the provision of the article does not include any records regarding the other conditions of the theory (Tulay 2018:1248-1250; Tulay 2019: 95-103). This has led to criticism that the provision overly extends the theory's application, allowing for objective criminal responsibility by punishing the manager without assessing their intent or control of actions with the phrase "*all offences*" in the provision. (Tulay 2018:1248-1250; Tulay 2019: 95-103).

In another opinion, it is stated that in order to talk about the criminal liability of the manager, the manager should at least participate in committed offences as a joinder. However, since there is not such an inscription in TPC Art. 220/5, that the regulation with this situation is contrary to the principles of no punishment without fault (*nulla poena sine culpa*) and "individuality of criminal responsibility" (Evik 2006: 128; Kitapçioğlu Yüksel 2023: 311).

2.3.4 Being a Member of an Armed Organization

TPC Art. 314/2 criminalizes being a member of an armed organization. Therefore, it is important to clarify what constitutes being a member of an armed organization. There are various opinions in the doctrine on this issue. Some authors argue that a person who adopts the aims of the organization and provides tangible or moral support to the organization for this purpose is a member of the organization

¹³ "(...) If the offender is hierarchically above the members of criminal enterprise, can perform a wide range of criminal division of labor, has the authority to direct and manage the members of criminal enterprise, plays a role as a motivator, inhibitor, or stopper in the organization and execution of organizational activities, and can supervise these activities, they will be considered a manager. Managing an organization requires administering it in line with its objectives, giving orders and directives, and having the authority to make decisions and take initiative within the organization. It involves ensuring the organization's existence, effectiveness, and development, setting its goals, and determining its programs and strategies. However, those who only organize the people of a specific offence within the framework of the activities of the organization, and those who plan and direct the people of this offence cannot be considered as organizational managers. Since it is not possible for each manager to manage the entire organization in such criminal enterprise, it should be determined by taking into account that whether the regional, provincial and district managers of the organization are managers or not by considering the intensity of the organizational activities in their areas of responsibility (...)" The Turkish Court of Cassation, General Assembly of Criminal Chambers, 25.01.2022, 2019/9-532 E., 2022/46 K.; "(...) A manager of criminal enterprise is someone who organizes and coordinates collective activities, either partially or completely at a higher level (...)" The Turkish Court of Cassation, 6. Criminal Chamber, 20.03.2017, 2014/9 E., 2017/661 K.

(Çakın 2015: 70; Evik 2013: 687; Tezcan, Erdem & Önok 2017: 931). Conversely, there is also a view inspired by Italian criminal law that only tangible support is required for membership and that a person who provides moral support is not a member of the organization (Evik 2013: 684; Ersan 2013: 386). When the practices of the Court of Cassation are examined, it is seen that such a distinction is not made and the person who makes any tangible or moral support to the organization is accepted as a member of the organization¹⁴.

Merely providing tangible or moral support to an organization is not sufficient for a person to be punished under TPC Art. 314/2. This support must also occur within the organization's hierarchy (Taştan 2008: 115-116; Yenidünya & İçer 2013: 807; Kavlak 2017: 398; İnce 2020: 152). If the offender does not belong to the organization's hierarchy, they shall not be held responsible under TPC Art. 314/2 for being a member. Instead, they may be charged with "committing an offence on behalf of an armed organization without being a member" under TPC Art. 314/3 or "offence of aiding and abetting an armed organization knowingly and willingly without being part of its structure" under TPC Art. 220/7, as referenced in TPC Art. 314/4.

In practice, the concept of "organic link" is examined to determine whether a person is part of the organization's hierarchy. This link is crucial in indicating that the person has established a relationship with the organization at a level that qualifies them as a member, according to the Court of Cassation¹⁵. The determination of this link is made by the judge based on the specifics of each case¹⁶ (Şen & Eryıldız 2022: 150).

Another important issue is the continuity of the will to be a member of the armed organization. Accordingly, the will of being a member of the organization should not be such that it includes the will to commit a specific offence, but should be continuous (Evik 2004: 301; Yenidünya & İçer 2013: 807). However, it is controversial whether this element of will is mutual or not. According to some authors in the doctrine, while it is possible for a person to become a member of an organization with a unilateral will (Ersan 2013: 386; Çakın 2015: 71; Özgenç 2022: 22), others allege that in order to become a member of an organization, the will submitted by the person who wants to become a member must be reciprocated by the organization, that is, it must be explicitly or implicitly approved (Evik 2013: 687; Yenidünya & İçer 2013: 807; Kavlak 2017: 402-403). It is observed that there is an ambiguity in the practices of the Court of Cassation on this issue¹⁷. In my view, the criminal enterprise cannot know that a person is at its

¹⁴ "(...) A person who joined the DHKP/C in 1991-1992, participated in organizational activities, distributed leaflets, given instruction for hanging banners, wanted high school students to improve themselves by handing out books and magazines belonging to the criminal enterprise, took on a code name, and improved their courage, who had not yet joined the criminal enterprise by providing them with political and ideological awareness, for participation in urban actions (...)" The Turkish Court of Cassation, General Assembly of Criminal Chambers, 16.09.2001, 2001/125 E., 2001/128 K.

¹⁵ "(...) An organic link is most significant element of membership, as it is a dynamic, transitional, effective link that keeps the offender open to orders and instructions and determines their hierarchical position. In assisting the criminal enterprise or committing offences on behalf of the criminal enterprise, there are orders or instructions from the criminal enterprise's managers or other members. However, the distinguishing feature in determining membership is that the member is ready to fulfill any orders and instructions given within the criminal enterprise's hierarchy with a sense of submission, without questioning, and performs them accordingly (...)" The Turkish Court of Cassation, 16. Criminal Chamber, 20.12.2017, 2017/1862 E., 2017/5796 K.

¹⁶ According to the practices of the Turkish Court of Cassation, it is observed that the element of organic link appears in different ways depending on the characteristics of each specific case. "(...) who entered the illegal Hezbollah organization in 1991, participated in house meetings and did training work, gave a curriculum vitae report to the organization and thus declared that he was ready to perform the tasks to be assigned by establishing organic link with the criminal enterprise (...)" The Turkish Court of Cassation, General Assembly of Criminal Chambers, 16.09.2001, 2001/125 E., 2001/128 K.; "(...) The accused's activities and actions which demonstrate continuity and variety such as taking and teaching organizationally-oriented classes, armed patrols, and being official of organization's publishing house constitute the offence of being a member of an armed organization (...)" The Turkish Court of Cassation, 18. Criminal Chamber, 09.06.2008, 2007/9258 E., 2008/7446 K.

¹⁷ "(...) Being a member of an criminal enterprise is a matter of actual participation, and it is not necessary for the approval of the criminal enterprise's managers for someone to become a member; it is possible to attend the organization with unilateral

disposal without being aware of the existence of that person. In other words, even if the person has the desire to join the organization, membership cannot be mentioned in such a case on account of the fact that the armed organization may not know that mentioned person whether is be at their service or not. Therefore, I advocate that for existence of membership, the criminal enterprise must explicitly or implicitly approve the membership declaration.

Notifications of membership and the organization's approval are not subject to any requirement as to form.

The status of membership is an continuous situation, just like the title of managership. In this respect, it can be stated that offence of being a membership of an armed organization is one of the continuous crimes.

2.3.5 Committing an Offence on Behalf of an Armed Organization Without Being a Member

Before Law No. 7499, dated 12.03.2024 came into force, a person who committed an offence on behalf of an armed organization without being a member was punished according to TPC Art. 220/6 in line with the reference in TPC Art. 314/3.

TPC Art. 220/6 stipulates that a person who commits an offence on behalf of an criminal enterprise without being a member shall also be punished for the offence of being a member of the organization in addition to the offence committed. Since this type of offence involves the punishment of the offender twice for a single act, it has been heavily criticized in the doctrine under the headings of “contradiction to the principle of individuality of criminal responsibility”, “contradiction to the principle of no penalty without law (*nulla poena sine lege*) and “incompatibility with criminal policy” (Evik 2013; 691; Yenidünya & İçer 2013: 809; Tulay 2018; 7; Şen & Eryıldız 2022: 133). Finally, since the European Court of Human Rights (ECHR) shares a similar approach with doctrine, the Turkish Constitutional Court abrogated this offence type (Turkish Constitutional Court 26/10/2023, 2023/132 E., 2023/183 K.)

Later, with Article 10 of Law No. 7499, dated 02.03.2024, TPC Art. 220/6 was amended. It states that the person who commits an offence on behalf of a criminal enterprise without being a member of which he/she is not a member shall not be criminally liable for membership of the criminal enterprise. Furthermore, with the Law No. 7499, offence of committing an offence on behalf of an armed organization without being a member was regulated as a separate offence under TPC Art. 314/3. Additionally, the provision in Article 314/3 of the TPC referring to TPC Art. 220 was moved to TPC Art. 314/4.

However, this situation has given rise to some problems. Because while TPC Art. 220/6 states that “the offence of committing an offence on behalf of a criminal enterprise without being member “shall only be applied in terms of armed organizations”, TPC Art. 314/3 regulated “the offence of committing an offence on behalf of an armed organization without being member”. In this case, it is necessary to distinguish between the concept of armed organization in TPC Art. 220/6 and the concept of armed organization in TPC Art. 314/3.

declaration of intention(...).” The Turkish Court of Cassation, 16. Criminal Chamber, 20.04.2015, 2015/1069 E., 2015/840 K.; “(...) *It is not possible that membership in a criminal enterprise can be solely through a unilateral declaration of intention. (For membership in a criminal enterprise) there must be an explicit or implicit acceptance by the criminal enterprise's management (...).*” The Turkish Court of Cassation, 16. Criminal Chamber, 05.07.2019, 2019/521 E., 2019/4769 K.; “(...) *According to principles which are determined in entrenched judicial decisions, mere interest in an armed organization, seeking a basis to attend, attempting to contact individuals who could connect one to the armed organization, and traveling to another region with the sole purpose of joining the armed organization without meeting or interacting with armed organization members, is not sufficient to constitute the offence of membership in an armed organization (...).*” The Turkish Court of Cassation, General Assembly of Criminal Chambers, 10.06.2008, 2007/9270 E., 2008/164 K.

Before the annulment decision of the Constitutional Court, in order for TPC Art. 220/6 to be applied, the organization had to be an armed organization within the context of TPC Art. 314. (Tulay 2018; 7) Because the offence of committing an offence on behalf of an armed organization without being a member was not regulated independently. Therefore, it was understood from the phrase of “shall only be applied in terms of armed organizations” that the mentioned armed organizations are the armed organizations in scope of TPC Art.314, they are not criminal enterprises using weapons. That is to say, TPC Art. 220/6 could not applied to the crimined enterprises using weapons (Tulay 2018; 7). However, with the amendment made by Law No. 7499, TPC Art. 314/3 “committing an offence on behalf of an armed organization without being a member” was accepted as a separate offence. In this respect, the phrase of “armed organization” in TPC Art. 220/6 has become applicable to criminal enterprise that are armed but do not pursue the objectives of TPC Art. 314/1.

2.3.6 Aiding and Abetting an Armed Organization Knowingly and Willingly Without Being Part of Its Structure

With the reference of TPC Art. 314/4, the offence of aiding and abetting a criminal enterprise also be applicable to armed organizations. Although the text of the article states that the offender is a person who is not a member of the armed organization, it is clear that a person who is included in the hierarchy of the armed organization and aids and abets it will be held responsible for the offence of membership, since the activity of assisting arises from the essence of membership in the organization (Tulay 2018: 676-677; Tulay 2018: 1252; Kitapçioğlu Yüksel 2023: 320).

In order for this offence to occur, it is sufficient to aid and abet an armed organization only once (Tulay 2018: 1253). If aiding and abetting is provided more than once with different intents, the offender must be punished for each offence separately. If the aiding and abetting has reached a certain intensity and continuity, the possibility of membership in the armed organization should also be considered¹⁸ (Kitapçioğlu Yüksel 2023: 320).

The fact that the act of aiding and abetting has achieved a result is not important for the formation of the offence; it is sufficient for the offence to have the potential to realize the result¹⁹. (Şen & Eryıldız 2022: 289)

In addition, the aids and abets made must contribute to the armed organization in order to achieve the purpose of the armed organization (Tulay 2018: 676-677). If the aids and abets provided to the manager or member contributes to the realization of the armed organization’s purpose, it can be said that this offence has been committed due to indirect aids and abets to the organization (Tulay 2018: 676-677). If what is done is not related to the armed organization but is a normal assist to the member or manager, such as giving food to the member or manager, the assists made is not evaluated within the scope of this offence²⁰.

¹⁸ According to an opinion in the doctrine, in order to extince of offence of aiding and abetting an armed organization knowingly and willingly without being part of its structure, the aids and abets must not have attained a continuity (İnce 2020: 255).

¹⁹ “(...) As stated in the decision of the General Assembly of Criminal Chambers dated 31.10.2012, 2012/1234 E., 2012/1285 K., it is not necessary for the assistance to actually attain the criminal enterprise or produce results, and each offender will be responsible for carrying out their own act within the scope of the task assigned by the criminal enterprise or undertaken voluntarily (...)” The Turkish Court of Cassation, 16. Criminal Chamber, 12.09.2019 E., 2019/7004, 2019/5220 K.

²⁰ The Turkish Court of Cassation requires that the aids and abets provided must serve the criminal enterprise’s purpose for this offence to be considered. “(...) The offender who commits the act of assistance must not be included in the hierarchical structure of the organization, must know that assisted organization is an armed terrorist organization within the scope of Article 314 of the TPC, the assists must be had qualification serving the purpose of the organization, and the person being assisted must be an manager or member of the organization. It is not necessary for the assistance to be actually utilized. It is sufficient for the offence to be completed that the assistance is made available to the organization and that the organization has the opportunity to make use of it (...)” The Turkish Court of Cassation, 16. Criminal Chamber, 26.09.2018, 2017/3180 E., 2018/2858 K.

The offence in question is essentially a special form of jointly-committed and constitutes a special provision compare to TPC Art. 39 (Tulay 2018: 683; Tulay 2018: 1253). However, this does not mean that jointly-committed is not possible for mentioned offence, and anyone who assists the offence of aiding and abetting to an armed organization is punished according to the general provisions on jointly-committed offences (Tulay 2018: 683; Tulay 2018: 1253). For example, a person who assists a person who is going to sell weapons only once to an armed organization loading the weapons on a truck may be responsible under the general provisions on jointly committed offences in accordance with TPC Art. 39.

2.3.7 Making Propaganda for an Armed Organization

The last type of offence to be considered with reference to TPC Art. 314/4 is the offence of making propaganda for an armed organization. Accordingly, a person who makes propaganda for an armed organization in a way that legitimizes, praises, or encourages its methods involving force, violence, or threats, or encourages resorting to such methods, shall be punished. The purpose of regulating these acts as an offence is to prevent the actions of an armed organization from being perceived as “legitimate, necessary and essential” by the public, supporting the actions of the armed organization, and the possibility of new members joining the armed organization (Kavlak 2017:437).

As can be seen, three different actions are included in the provision of the law: legitimising, praising and encouraging methods involving force, violence or threats. Namely, the offence in question is an offence involving alternative acts. At the same time, mentioned offence is an abstract endangerment crime and an instantaneous crime (Zeybek 2011: 56). Therefore mentioned offence is completed with making one of the alternative acts. Moreover, propaganda acts do not need to be perceived by the addressees for the offence to be considered complete.

The only thing to be noted here is that the propaganda activity must be carried out in a way that legitimises, praises, encourages the methods of the armed organization involving force, violence or threats, or encourages the use of such methods²¹. That is to say, this offence does not constitute in the case of propaganda is not includes these types of activities of the armed organization²².

Furthermore, although not explicitly stated in the article, these acts must be carried out by persons who are not members of the organization because of the fact that such acts are generally encountered within the scope of the standard activities of the armed organization²³ (Tulay 2018: 1254; Yılmaz 2022:

²¹ “(...) However, according to the final version of the article, all these activities must be conducted in a such a manner that “in a way that legitimises or praises methods of criminal enterprise involving force, violence or threats, or encourages resorting to such methods”. Thus, the new version of the article sets a limit on the manner of conducting propaganda. Propaganda must be conducted in a way that legitimises or praises methods of criminal enterprise involving force, violence or threats, or encourages resorting to such methods. In this case, any act of propaganda will not suffice to constitute this offence; only propaganda acts that have the alternative qualities listed in the article will constitute a offence. It is a issue that whether the propaganda has these qualities or not will be evaluated by the judge in each specific case (...)” The Turkish Court of Cassation, 16. Criminal Chamber, 20.10.2020, 2020/1484 E., 2020/5143 K.

²² Before the amendment made by the Law No. 6459 dated 30.04.2013 on Amending Certain Laws in the Context of Human Rights and Freedom of Expression, the propaganda for the criminal enterprise and its purposes was accepted without limits as a offence. In line with the criticisms in the doctrine and the directives of the European Court of Human Rights (ECHR), this provision was limited as “in a way that legitimises or praises its methods of criminal enterprise involving force, violence or threats, or encourages resorting to such methods” based on aim of the adaptation to ECHR standarts.

²³ “(...) Within the entire case file, it has been determined from the examination of the accused ...’s communication detection and technical surveillance records that he adopted the ideology of the ... terrorist organization, that a large number of organizational books and documents were found during the reconnaissance of his house, that he obtained and distributed books used for recruitment and propaganda purposes for the organization, that he engaged in activities aimed at establishing the ... structure of the organization, and that he continuously contacted other members of the organization; when it is considered that the accused., who it has been understood from his actions and activities that he established an organic link with the organization, the decision of acquittal in writing is judged instead of improsement sentence from membership of armed organization has required decision of reversal” The Turkish Court of Cassation, 16. Criminal Chamber, 20.04.2015, 2015/106 E., 2015/840 K.

214). Therefore, the provision of the article implies that these acts must be performed by a person who is not a member of the hierarchical structure of the organization. Otherwise, this person shall be held liable the offence of membership regulated under TPC Art. 314/2.

3. The Subjective Elements of Armed Organization Offences

When TPC Art. 314 is examined, it is seen that the first provision of the paragraph punishes the activities of establishing and managing an organization “*with the purpose of committing the offences listed in parts four and five of this chapter*”. If the wording of the law is interpreted, it can be said that the legislator seeks a special intent (*dolus specialis*) with the phrase “*with the the purpose of*”.

In my view, this special intent is also relevant to other armed organization offences. Therefore, the subjective element for all offences regulated under TPC Art. 314 is the special intent to commit the offences listed in the fourth and fifth parts of the fourth chapter of the second book of the Turkish Penal Code.

The offences listed in the fourth and fifth part of the fourth chapter of the second book of the Turkish Penal Code are as follows; disrupting the unity and integrity of the state (TPC Art. 302); alliance with the enemy (TPC Art. 303); incitement to war against the state (TPC Art. 304); benefitting for performing activities against the fundamental national interests (TPC Art. 305); recruitment of soldiers against a foreign state (TPC Art. 306); destruction of military facilities and conspiracy which benefits enemy military movements (TPC Art. 307); material and financial aid to enemy states (TPC Art. 308); violation of the constitution (TPC Art. 309); assassination of and physical attack towards the president (TPC Art. 310); offence against a legislative body (TPC Art. 311); offences against the government (TPC Art. 312); armed revolt against the Government of Turkish Republic (TPC Art. 313); supplying arms (TPC Art. 315); agreement to commit an offence (TPC Art. 316).

At this point, it is also useful to distinguish armed organizations from terrorist organizations. Although Article 3 of the Anti-Terror Law No. 3713 states that the offences under Article 314 of the TPC are considered as terrorist offences, this does not mean that any armed organizations are also terrorist organizations. This is because Article 7 of Law No. 3713 specifies that, unlike armed organizations, terrorist organizations must have a special intent concerning the use of force and violence through methods such as pressure, menace, mobbing, intimidation, or threat.

4. Justification in Armed Organization Offences

Within the scope of these offences, various circumstances of justification may come into question. To illustrate, a crime investigator who participated in the armed organization performing his duties according to TPC Art. 24 should be judged under the justification provisions (Tulay 2018:1256). Furthermore, the expressions of a journalist using the freedom of communication and press should be evaluated according to the justification provisions regulated in TPC Art. 26²⁴.

²⁴ “(...)In addition, the photograph included in the news shared by the applicant should also be evaluated. First of all, it should be remembered that the photograph in question was not the applicant’s choice, but was included in the news he shared. Secondly, there is no doubt that sharing a photograph of members of a terrorist organization wearing uniforms and holding weapons in a way that legitimizes, praises, or encourages the use of force, violence, or threat by the terrorist organization constitutes the offence of making propaganda for terrorist organization. Contrary to this, the photograph included in the news should not be evaluated independently from the news content in which it is used in the concrete case. In other words, in the light of the explanations made above, considering that there is no encouragement to violence in the language used in the news, when evaluated together with the way using purpose of mentioned photograph with its context and its usage style it can be said that the it is not to legitimize, praise or encourage the terrorist organization’s methods involving force, violence or threats, but - as is common in national publications - to lend salience and credibility to the news as a reporting technique. As a matter of the fact that It is observed that similar photographs to the one in the news are frequently used in national print and visual

5. Qualified Versions of Armed Organization Offences

Under TPC Art. 314, since being armed is an element of the offence, TPC Art. 220/3 shall not be applicable based on the reference in TPC Art. 314/4. However, TPC Art. 220/8 stipulates that making propaganda for a criminal enterprise through the press and broadcasting is considered a qualified version. Therefore, in the event that propaganda for an armed organization is made through the press and broadcasting, this qualified version shall be applied in accordance with reference to TPC Art. 314.

6. Special Appearance Forms of Armed Organization Offences

6.1 Attempt in Armed Organization Offences

Under TPC Art. 314 many offences applicable to armed organizations have been established. In this regard, the concept of attempt must be examined separately for each offence.

Different views on attempts for armed organization offences have been presented in the doctrine (*See*. Evik 2006: 124-125; Yenidünya & İçer 2013: 821-822; Tulay 2018: 686-687; Tulay 2018: 1257-1258; Yılmaz 2022: 221-228; Kitapçıoğlu Yüksel 2023: 326-327). I maintain that an attempt is possible for all types of offences covered under TPC Art. 314, provided that the action can be distinguished from the result (Tulay 2018: 1257). Examples of attempts related to armed organization offences include: the arrest of individuals planning to establish an armed organization when law enforcement notices the transport of materials suitable for the organization from customs; someone who fails to endure a beating required to join the armed organization within 36 seconds; someone who is caught by law enforcement on the way while going to teach a bomb-making device to the armed organization; someone who is apprehended during the printing of posters used for propaganda purposes for the armed organization.

6.2 Jointly Committed in Armed Organization Offences

The jointly-committed offences is important in terms of organized crimes. Because, in fact, while every criminal enterprises is an jointly-committed offence, not every jointly-committed offence is an criminal enterprises (Tulay 2018: 1257). This means that if the jointly-committed offence is arised with the objective and subjective elements regulated in TPC Art. 314 and TPC Art. 220, the special provisions regulated for criminal enterprise and armed organization shall be applied, not the general provisions on jointly-committed offences (Tulay 2018: 1257).

Various opinions have been presented in the doctrine regarding the relationship between jointly-committed offences and criminal enterprise offences. One opinion asserts that it is not possible to distinguish between joinders and members, as joinders will have assisted the organization in some manner. Therefore, the special provisions of membership should be applied to joinders (Özgenç 2022: 26-27). Conversely, another view suggests that the nature of this contribution can be determined based on whether the joinders are included in the hierarchical structure of the organization or not, and general participation provisions can be applied to the joinders (Parlar & Hatipoğlu 2005: 1397; Evik 2013: 688).

In my view, whether a person is a joinder or not can be determined by evaluating both their inclusion in the hierarchical structure of the organization and the nature of their contribution. Firstly, for the general jointly-committed offences provisions to apply, the person must not be part of the organization's hierarchy. Otherwise, the person will be liable for the offence of membership in or management of the armed organization, rather than for the general provisions on jointly-committed offences. Secondly, the contribution must not reach the intensity that characterizes offence of aiding and abetting a criminal enterprise knowingly and willingly without being part of its structure, as regulated in

media organs. (...)" The Turkish Constitutional Court, Ömer Faruk Gergerlioğlu, 01.07.2021, Application No. 2019/10634, §169

TPC Art. 220/7. In other words, if it is clear from the nature of the contribution that the person is not aiding and abetting the armed organization knowingly and willingly, the general provisions on jointly-committed offences can be applied. For example, a person who informs a poor individual that they can earn income by becoming a member of an armed organization can be evaluated under the general provisions on jointly-committed offences. However, if the contribution is intended to aid and abet an armed organization knowingly and willingly, then the offence of aiding and abetting an armed organization knowingly and willingly without being part of its structure shall be applicable.

6.3 Aggregation of Armed Organization Offences

TPC Art. 220/4 regulated that the offender shall be held separately responsible for the offences committed within the framework of the activities of the armed organization. In accordance with TPC Art. 314/4, the offender shall be held separately responsible for not only his/her acts under TPC Art. 314 but also the offences committed within the framework of the armed organization.

Under TPC Art. 315, it is regulated as an offence that manufacturing, purchasing, transporting, storing, or importing arms knowing that they are to be used in the activities of armed organization. However, in this situation, the offence of aiding and abetting an armed organization knowingly and willingly without being part of its structure, as regulated in TPC Art. 220/7 with reference to TPC Art. 314, may be applicable. It is a fact that TPC Art. 315 is a special provision compared to TPC Art. 220/7. Therefore, if the acts mentioned above is a judgement topic, offender shall be punished from only TPC Art. 315 according to principle of special provisions precedence (*Lex specialis derogat legi generali*) (Tulay 2018: 1259).

7. Effective Remorse in Armed Organization Offences

While TPC Art. 221 provides for effective remorse for the offences under TPC Art. 220, which deals with general provisions for criminal enterprise offences, it does not offer a similar regulation for offences under TPC Art. 314. However, through the practices of the Court of Cassation, offences under TPC Art. 314 have been included within the scope of TPC Art. 221, allowing offenders of armed organization offences to benefit from this regulation (Kitapçioğlu Yüksel 2023: 332). In the doctrine, it is argued that since it is not possible to evaluate Article 220 of the TPC separately from TPC Art. 221, TPC Art. 221 should be applied to armed organizations in line with the reference made in TPC Art. 314/4 (Tulay 2018: 1260).

It is arguable that it is not appropriate to apply the effective remorse provisions of TPC Art. 221 in terms of armed organizations. This is because there is no reference to Article 221 under Article 220 of the TPC, and there is no such reference to Article 221 in Article 220 of the TPC. Namely, there is no chain of references from Article 314/4 of the TPC to Article 220 of the TPC and from Article 220 of the TPC to Article 221 of the TPC. The reason for this is that the legislator wanted to punish the grave danger posed by armed organizations against the security of the state and the constitutional order by not subjecting it to any reduction. In this respect, I allege that the effective remorse provisions in Article 221 of the TPC should not be applied to Article 314 of the TPC.

Conclusion

Considering the threat to the existence of the Republic of Turkey, the legislator has criminalized the acts of establishing, managing, being a member of an armed organization; committing an offence on behalf of armed organization without being a member; aiding and abetting an armed organization knowingly and willingly without being part of its structure; making propaganda for an armed organization in TPC Art 314.

In order for this provision to be applicable, the organization and the offender must have certain elements different from the criteria specified in TPC Art. 220, which is a general provision on criminal enterprise offences. As a matter of fact, while the armed is accepted as qualified versions for criminal enterprise offences in TPC Art. 220/3, the arming is an objective element of the offence in terms of TPC Art. 314. In addition, for an armed organization to exist, the offender must act with a specific intent to commit offences regulated in the fourth and fifth parts of the fourth chapter of the second book of the Turkish Penal Code.

The most significant evaluation made in research is about effective remorse. Although, in terms of offences regulated in TPC Art. 314, TPC Art. 220 shall be applied with reference to TPC Art. 314/4, this may not valid in terms of TPC Art. 221 on account of the fact that there is no reference ordered to applying TPC Art. 221. However, Court of Cassation practices and doctrinal interpretations have included TPC Art. 314 within the scope of TPC Art. 221. This research suggests that this interpretation is incorrect and the will of the legislator to punish the grave danger posed by armed organizations against the security of the state and the constitutional order by not subjecting it to any reduction is ignored.

References

- Canak E. (2005) Suç işlemek amacıyla örgüt kurma ve çıkar amaçlı örgütlenme suçları, Vedat Kitapçılık.
- Çakın, Ö. (2015) Suç işlemek amacıyla örgüt kurma suçu (TCK md.220) (Publication No. 413744) [Master dissertation, Ankara University]. YÖK Tez Merkezi.
- Demirci, E. (2019) Suç işlemek amacıyla örgüt kurma suçu (TCK m.220) (Publication No.550216) [Master dissertation, Çankaya University]. YÖK Tez Merkezi.
- Dursun, İ. (2008) Suç işlemek amacıyla örgüt kurma suçu (Publication No. 239971) [Doctoral dissertation, Marmara University]. YÖK Tez Merkezi.
- Ersan, A. (2013) Suç işlemek amacıyla örgüt kurma (TCK md. 220), İstanbul Üniversitesi Hukuk Fakültesi Mecmuası, 71(1), 381-409.
- Evik V. S.(2004) Çıkar amaçlı örgütlenme suçu, Beta.
- Evik, V. S. (2006) Silahlı örgütlenme suçu, Galatasaray Üniversitesi Hukuk Fakültesi Dergisi, (1), 101-133.
- Evik, V. S. (2013) Suç işlemek amacıyla örgütlenme suçu, Marmara Üniversitesi Hukuk Araştırmaları Dergisi, 19(2), 667-697.
- İnce, K. (2020) Türk ceza hukuku'nda örgütlü suçluluk ve silahlı terör örgütü, Erciyes Üniversitesi Hukuk Fakültesi, 15(1), 241-269.
- İsfen O. (2006) Yeni Türk Ceza Kanunu'nda organize hakimiyet mekanizmalarına dayalı dolaylı faillik kuramı (TCK m. 220/5) Hukuki Perspektif Dergisi, (7), 59-86.
- Kavlak C. (2017) Suç işlemek amacıyla örgüt kurma suçu, (3rd Ed), Seçkin Yayıncılık.
- Kitapçıoğlu Yüksel, T. (2023) Silahlı örgütlenme suçu (TCK m.314), Ankara Üniversitesi Hukuk Fakültesi Dergisi, 72(1), 295-342.
- Özgenç, İ. (2022) Suç örgütleri, (14th Ed.) Seçkin Yayıncılık.

- Parlar, A. & Hatipoğlu M. (2005). Açıklamalı-İçtihatlı Özel Ceza Kanunları ve Uygulaması (2nd Ed.). Seçkin Yayıncılık.
- Seçer V. (2012) 5237 sayılı TCK. nun 220. maddesi gereğince suç işlemek amacıyla örgüt kurma suçu (Publication No. 327568) [Master dissertation, İstanbul Kültür University]. YÖK Tez Merkezi.
- Sezer, M. (2022) Suç işlemek amacıyla örgüt kurma suçu (TCK 220) (Publication No. 726949) [Master dissertation, Turkish National Police Academy]. YÖK Tez Merkezi.
- Şen E. & Duymaz E. (2023, December 15) TCK m.220/6'nın iptali hakkında değerlendirmeler ve kanunilik ikilemi. <https://sen.av.tr/tr/makale/TCK-m.220/6%E2%80%99n%C4%B1n-iptali-hakkinda-degerlendirmeler-ve-kanunilik-ikilemi> .
- Şen, E. & H. S. Eryıldız (2022), Suç örgütü, (5th Ed), Ankara: Seçkin Yayıncılık.
- Taştan, M. (2008) Silahlı örgüt kurmak, yönetmek ve silahlı örgüte üye olmak suçu, Terazi Hukuk Dergisi, 3(20), 113-119 .
- Tezcan, D., M. R. Erdem & R. M. Önok (2017) Teorik ve pratik ceza özel Hukuku, (15th Ed.), Seçkin Yayıncılık.
- Tulay M. E. (2018). Türk ceza hukukunda silahlı örgüt suçu. İ. Özgenç, M. Koca, İ. Üzülmez, M. E. Alşahin (Eds.), Prof. Dr. Mehmet Emin Artuk'a Armağan (1241-1264). Seçkin Yayıncılık.
- Tulay, M. E. (2018) Örgüt üyesi olmamakla birlikte örgüt adına suç işlemek, Sosyal Bilimler Dergisi/The Journal of Social Science, (26) 1-9.
- Tulay, M. E. (2018), Suç örgütüne yardım etme suçunun özel görünümlü iştirak olarak kabul edilmesi. F. Yenisey, İ. Özgenç, A. Nuhoglu, A. Sözüer, F. Turhan (Eds), Dr. Dr. h.c. Silvia Tellenbach'a Armağan (673-687). Seçkin Yayıncılık.
- Tulay, M. E. (2019) Suç örgütü liderinin cezai sorumluluğuna ilişkin hukuki analiz ve öneriler (TCK m. 220/5), Türkiye Adalet Akademisi Dergisi, 89-106.
- Ünlü, Ö. (2013) Suç işlemek amacıyla örgüt kurma suçu: TCK m.220 (Publication No. 332655) [Master dissertation, Çankaya University]. YÖK Tez Merkezi.
- Yaşar, O., Gökcan H. T. & Artuç, M. (2010) Yorumlu-Uygulamalı Türk Ceza Kanunu VI, Adalet Yayınevi
- Yenidünya, A. C. & İçer, Z. (2013) Suç işlemek amacıyla örgüt kurma suçu, Marmara Üniversitesi Hukuk Araştırmaları Dergisi, 19(2), 797-828.
- Yılmaz, A. Ç. (2022) Suç işlemek amacıyla örgüt kurma suçu (TCK M.220) (Publication No. 332655) [Doctoral dissertation, Yeditepe University]. YÖK Tez Merkezi.
- Zeybek, M.(2011) Örgütlü suçluluk ve suç işlemek amacıyla örgüt kurma suçu (TCK m. 220). (Publication No. 280489) [Master dissertation, Akdeniz University]. YÖK Tez Merkezi.

Copyrights

Copyright for this article is retained by the author(s), with first publication rights granted to the journal. This is an open-access article distributed under the terms and conditions of the Creative Commons Attribution license (<http://creativecommons.org/licenses/by/4.0/>).