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# LAW ON ASSOCIATIONS AND FOUNDATIONS' RELATIONS WITH PUBLIC INSTITUTIONS AND AUTHORITIES

Law No : 5072

Date of Enactment : January 22, 2004

Official Gazette : Date: January 29, 2004 Number: 25361

## ***Scope and Purpose***

### **Article 1-**

The purpose and scope of this Law is to set forth the relations of *associations* established to support public services or personnel and *foundations* established in accordance with the Turkish Civil Code with *public institutions and authorities*.

Any foundations and associations established by law shall not fall within the scope of this Law. However, the principles and procedures applicable to the activities of such foundations shall be subject to a regulation to be issued by Directorate General of Foundations.

## ***Basic Principles***

### **Article 2-**

a) Foundations and associations shall not have the same name as any public institutions and authorities. Moreover, they shall not conduct their activities within buildings and premises of public institutions and authorities and shall not use tools and equipment of public institutions and authorities.

b) Foundations and associations shall not take receive any payment by way of any fee, donation, contribution or any other form of payment from real and legal persons for any services provided by public institutions and authorities.

c) No real or legal persons may request from any foundations and associations within the scope of this Law to provide tools, equipments, documents, forms and similar materials otherwise used by public institutions and authorities.

d) Civil servants shall not be appointed to any role within the organs of any foundations and associations regulated by this Law by way of using their titles as civil servant.

e) Civil servants assigned duty in the organs of foundations and associations shall not receive any payment for the performance of any duties, including any salary or participation fee for such duty.

f) Civil servants shall not be involved in aid collection and shall not accept any donations.

g) No allowance, aid or any other fund shall be transferred from the budgets of public institutions or authorities to foundations and associations within the scope of this Law.

h) No public institutions or authorities may withhold any funds for the benefit of foundations or associations within the scope of this Law from the personnel wages and fees by collecting at source.

i) Foundations and associations embodied within the public institutions and authorities making any tender or foundations and associations that are established for any purpose relevant to such public institutions and authorities carrying out such tender and any companies holding more than half of the capital of such foundations and associations shall not participate in any tenders to be launched in accordance with Law Public Tender Law No 2886.

### ***Penalties***

#### **Article 3-**

Civil servants and managers of foundations and associations acting in contravention of any principle regulated under Article 2 of this Law shall be subject to imprisonment for a term of three to 12 months, provided that such acts do not constitute any other crime. Moreover, managers of foundations and associations acting in contravention of Article 2 of this Law shall be dismissed from their duties.

In the event that any contravention of Article 2 of this Law results in the prevention of curtailment of a public service or any public service is delayed as a result of an obligation imposed on a person to make a donation to an association or foundation falling within the scope of this Law; or to obtain materials to be used from the association or foundation in order to provide services, the penalty imposed in accordance with this Article 3 shall be increased by a multiple of 1.5 .

Any foundations and associations whose constitutional documents contravene this Law shall be liquidated. The assets of such association or foundation shall be transferred to the Treasury and the Directorate General of Foundations. The provisions of the first paragraph of this Article 3 shall be applied to foundations and associations.

#### **Supplementary Article 1- (Amended by Article 35 of Law No 5917 on June 25, 2009)**

Technology Development Foundation of Turkey, which is established as per international treaty concluded between Turkish Republic and International Bank for Reconstruction and Development on April 5, 1991 approved by Council of Minister's decision dated June 14, 1991 and numbered 91/1939, shall constitute a foundation established by law as of its establishment date.

#### **Provisional Article 1 –**

Foundations and associations established before the enforcement date of this Law, shall ensure their charters and association of foundations are amended to reflect the provisions of this Law until December 31, 2005. (1)

Foundations and associations which have not amended their charters or articles of foundations to reflect this Law within six months or whose acts contrary of this Law are determined shall be liquidated. The assets of such association or foundation shall be transferred to the Treasury and the Directorate General of Foundations. Moreover, the provisions of first paragraph of Article 3 of this Law shall be applied to managers who have not brought the association or foundation's charter or articles of foundation in line with this Law within the specified period.

**Provisional Article 2- (Amended by Article 24 of the Law No 5234 on September 17, 2004)**

The usage rights of foundations and associations established before the enforcement date of this Law on their titles regarding public institutions and authorities and titles of civil servants stated in the charter or articles of foundation are reserved.

**Entry into Force**

**Article 4** –This Law shall enter into force upon its promulgation.

**Enforcement**

**Article 5** – The provisions of this Law shall be enforced by the Council of Ministers.