



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

NOV 16 2018

The Honorable Bob Corker
Chairman
Committee on Foreign Relations
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This letter presents the views of the Department of Justice on S. 3248, the “Turkey International Financial Institutions Act.” Most significantly, the bill raises a constitutional concern related to the conduct of foreign affairs.

1. Authority to Conduct Foreign Affairs, Including Diplomacy (Various Provisions)

Several provisions of the bill would raise constitutional concerns by interfering with the President’s constitutional authority to conduct foreign affairs, including diplomacy. These provisions should be deleted or made precatory in order to eliminate these concerns. If the bill were enacted in its current form, we would not treat these provisions as constraining the President’s exclusive authorities. These provisions include the following:

- Section 2 would set out a congressional finding that “it is the policy of the United States Government that the voice and vote of the United States in international financial institutions” shall advance the policies set out in 22 U.S.C. § 262d.
- Section 3 would state that it “is the policy of the United States — (1) to oppose any effort by a foreign government to detain United States citizens for political leverage; and (2) to contest the pattern of the Government of Turkey of arbitrary detention of and denial of freedom of movement” to U.S. citizens and locally employed staff at the U.S. mission in Turkey.
- Section 4 would require the Secretary of Treasury to instruct the U.S. Executive Director of the World Bank Group and The European Bank for Reconstruction and Development to use “the voice and vote of the United States” to oppose assistance to Turkey and to instruct the U.S. Executive Director of all other international financial institutions “to work with other key donor countries to develop a coherent policy to future engagements with and lending to” Turkey; it also would require a briefing to

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the Congress on the efforts of the U.S. Executive Directors. Although the provision provides for a very limited waiver and exceptions, insufficient discretion is provided to the Executive Branch with respect to these policies and thus the constitutional issues are not resolved.

2. Assistance on Cultural Property Matters

We do not understand the bill as affecting assistance that the FBI provides to Turkey on cultural property matters.

Thank you for the opportunity to present our views. We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this letter.

Sincerely,



Prim F. Escalona
Principal Deputy Assistant Attorney General

cc: The Honorable Robert Menendez
Ranking Member