

DECREE LAW CONCERNING THE MEASURES TAKEN IN THE SCOPE OF STATE OF EMERGENCY

Decree No: KHK/667

On 22/07/2016, the Cabinet chaired by the President of the Republic decided that certain measures be taken in the scope of State of Emergency pursuant to Constitutional article 121 and article 4 of State of Emergency Law no 2935 of 25/10/1983.

PART ONE Aim and Scope

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ARTICLE 1 – (1) The aim of this Decree Law is to set out the measures that are imperative in the framework of the combat against the coup attempt and the fight against terror, as well as the principles and procedures thereof, in the scope of the State of Emergency declared across the country pursuant to the Cabinet Decree of 20/07/2016 numbered 2016/9064.

PART TWO Measures pertaining to the Implementation of the State of Emergency

Measures regarding disbanded institutions and organizations

ARTICLE 2 – (1) The following structures whose attachment, affiliation or connection with the pro-Fetullah [Gülenist] Terrorist Organization (FTÖ/PDY), which has been identified to be posing a threat against national security, have been disbanded:

- a) Attached List (I): private health institutions and organizations,
- b) Attached List (II): private educational institutions and organizations as well as private student dormitories and hostels,
- c) Attached List (III): foundations and associations as well as the economic enterprises thereof,
- ç) Attached List (IV): foundation higher education institutions,
- d) Attached List (V): trade unions, federations and confederations.

(2) All movable and immovable properties as well as all forms of assets, receivables and rights, documents and papers of the disbanded foundations shall be deemed to have been transferred to the Directorate General of Foundations against no cost. Health practice and research centers of the disbanded foundation higher education institutions, and the movables and all forms of assets, receivables and rights, documents and papers belonging to all other disbanded institutions and organizations shall be deemed to have been transferred to the Treasury against no cost; immovable properties belonging to the aforementioned shall be registered to the Treasury at the land registry office, in a fashion free from all forms of restrictions and immovable liabilities. No rights can be claimed from the Treasury in connection with any debts of those, listed under paragraph 1. Procedures pertaining to the transfer shall be carried out by the Ministry of Finance or DG of

Foundations, depending on relevance, by way of getting the necessary assistance from all relevant institutions.

(3) Those private and foundation health institutions and organizations, private educational institutions and organizations as well as private student dormitories and hostels, foundations, associations, foundation higher education institutions, trade unions, federations and confederations, whose membership to or attachment or connection with the structures, entities or groups or terrorist organizations identified to be posing a threat against national security yet whose names have not been indicated under the attached list, shall be disbanded upon the proposal of a commission to be formed by the minister of the relevant ministry and the approval of the minister thereof. The provisions set out in paragraph 2 shall apply to those institutions and organizations disbanded in the scope of this paragraph herein.

(4) Students enrolled to the disbanded higher education institutions shall be placed by the Higher Education Council (YÖK) in public or foundation universities. Until they graduate, these students shall continue making the due payments that they need to pay to those foundation higher education institutions to the relevant university. YÖK shall be mandated and authorized to set out the procedures and principles governing the implementation of this paragraph; to steer implementation thereof; to take all forms of measures and to remove all hesitations that may emerge in connection with the implementation of this paragraph.

Measures regarding the members of the judiciary and those considered from this profession

ARTICLE 3 – (1) Concerning the following whose membership to, attachment or affiliation with terrorist organizations or with those structures, entities or groups whose involvement in activities against the national security has been decided by the National Security Council, a decision shall be taken [indicating] that their continuation in profession is inappropriate, and they shall be discharged from profession. Such a decision shall be taken by those as listed below:

- Concerning the members of the Constitutional Court: by the absolute majority of the Plenary of the Constitutional Court;

- Concerning the Court of Cassation chamber president and members: by the 1st presidential council of the Court of Cassation;

- Concerning the Council of State chamber president and members: by the Council of State presidential council;

- Concerning judges and prosecutors: by the plenary of the High Council of Judges and Prosecutors (HSYK); and

- Concerning the professional members of the Court of Accounts: by a commission comprising of a head of department and one member to be identified by vice-presidents and the Court of Accounts president in the lead.

The arms licenses and the special passports of those, whose duties have been terminated, shall be cancelled and such persons shall be made to vacate their public domiciles or foundation lodges within 15 days.

(2) Should they be admitted to the profession by the High Council of Judges and Prosecutors, those who have been serving as a candidate judge or a candidate prosecutor at the civil and criminal courts of first instance or at the administrative judiciary on the date this Decree Law is put into force, can be appointed as judges or prosecutors, regardless of the time they have spent as candidates, upon the proposal of the Ministry of Justice.

Measures regarding public servants

ARTICLE 4 – (1) Concerning the following whose membership to, attachment or affiliation with terrorist organizations or with those structures, entities or groups whose involvement in activities against the national security has been decided by the National Security Council:

a) Personnel subject to the Turkish Armed Forces Personnel Law dated [27/7/1967](#) and numbered 926 shall be discharged from public service upon the proposal of the relevant Force Commander, the letter to be penned by the Chief of Staff, and the approval of the Minister of National Defense;

b) Personnel subject to the Law on the Organization, Duties and Powers of the Gendarmerie dated [10/3/1983](#) and numbered 2803 shall be discharged from public service upon the proposal of the General Commander of the Gendarmerie and the approval of the Minister of Interior;

c) Personnel subject to the Law on Coast Guard Command dated 9/7/1982 and numbered 2692 shall be discharged from public service upon the proposal of the Coast Guard Commander and the approval of the Minister of Interior;

ç) Personnel attached to the Minister of National Defense shall be discharged from public service upon the approval of the Minister of National Defense;

d) Personnel subject to Higher Education Personnel Law dated 11/10/1983 and numbered 2914 shall be discharged from public service upon the proposal of the president of Higher Education Council (YÖK) and with a decision of YÖK;

e) Personnel of local administrations shall be discharged from public service upon the proposal of the board determined by --and convening under the chairmanship-- of the governor, and the approval of the Minister of Interior;

f) All personnel employed under any cadres, positions and statuses (including workers) that are subject to legislation other than Civil Servants Law dated [14/7/1965](#) and numbered 657 and those cited under article 3 of this Decree Law herein, shall be discharged from public service upon the proposal of the board created by the affiliated, attached or related Minister and chaired by the highest executive of the relevant institution or organizations, with the approval of the related minister depending on relevance;

g) Personnel employed under any cadres, positions and statuses (including workers) at other institutions not affiliated, attached or related to a ministry, shall be discharged from public service upon the proposal of the chief of the service and upon the approval of the authorized senior officer empowered to make appointments.

(2) Those, whose duties have been terminated pursuant to paragraph 1, shall not be employed in a public service again; they cannot be directly or indirectly assigned; membership of the discharged persons to any boards of trustees, boards, committees, executive boards, audit boards, liquidation committees, and similar positions shall be deemed to have lapsed. Concerning those, who fulfil the duties cited in this paragraph yet who are not public servants, shall also be subject to the provisions set out in this paragraph.

(3) The arms and piloting licenses of those, whose duties have been terminated pursuant to this article, shall be annulled and such persons shall be made to vacate their

public domiciles or foundation lodges within 15 days. Such persons cannot become the founders, partners and employees of private security companies.

(4) To the cadres and posts of those personnel, whose public services have been terminated in the scope of this article, appointments can be made without being subject to those restrictions set out under Central Administration Budget Law and other pieces of legislation, and the number of such appointments shall be determined by the Cabinet.

Measures to be taken at the investigation

ARTICLE 5 – (1) Those who have been subject to administrative proceedings due to their membership or connection or link to structures, entities or groups or terror organisations, which pose a threat to national security, as well as those who have been subjected to criminal investigation or prosecution on the same grounds, shall be immediately notified to the relevant passport unit by the institutions and bodies carrying out the proceedings. Upon such notification, passports shall be cancelled by the relevant passport units.

Investigation and prosecution proceedings

ARTICLE 6 – In view of the offences defined in Chapters Four, Five, Six and Seven, Part Four, Book Two of the Turkish Penal Code of 26/9/2004 with no: 5237, offences falling under the scope of the Anti-Terror Law of [12/4/1991](#) with no 3713, as well as collective crimes, throughout the state of emergency;

a) Pre-trial detention period shall not exceed thirty days from the moment of apprehension, excluding the compulsory period for delivering the suspect to the judge or the court nearest to the place of apprehension.

b) Apprehended military staff shall be delivered to the judicial police.

c) Within the scope of the investigations carried out, all suspects, victims and witnesses, including public officials, without any discrimination of duties and positions, shall be interrogated by the judicial police.

ç) Arrest warrants issued for military staff, shall be executed by the penal execution institutions defined in Article 111 of the Law on Execution of Penal and Security Measures of 13/12/2004 with no 5275.

d) During the interviews of remands with their attorneys, in case of any possibility of risking the security of the society and the penal execution institution, steering the terror organisation or other criminal organisations, giving orders and instructions thereto or extending secret, open or cipher messages via comments they make, upon decision by the public prosecutor;

- audio or visual recording of interviews may be conducted by technical devices,

- an officer may be assigned to be on standby to monitor the interview of the remand with his attorney,

- documents or copies thereof, dossiers given by the remand to his/her attorney or vice versa, as well as the records of their conversations which they keep, may be seized or the date and time of such interviews may be restricted.

Where it has been revealed that the interview of the remand was held for the abovementioned purposes, interview shall be immediately halted, and a report shall be issued explaining the grounds for halting the interview. Prior to the interview the parties shall be informed of this point. Where report is issued about the remand, upon the request of the public prosecutor, interview of remand with his/her lawyer may be prohibited by the peace criminal judges. Prohibition decision shall be immediately notified to the relevant bar in order to assign a new attorney for the remand. Public prosecutor may request that the attorney assigned by the bar be replaced. The assigned attorney shall be paid a fee on the basis of Article 13 of the Law on Enactment and Implementation of the Code on Criminal

Procedure of 23/3/2005 with no 5320.

e) Remands may be visited merely by their spouses, up to second degree consanguineous relatives and first degree relatives by marriage, as well as legal guardians or trustees, provided the relationship is documented. Powers of the Ministry of Justice and Public Prosecution shall be reserved. Remands shall exercise their right to communication by phone once every fifteen days, limited to the persons listed in this sub-paragraph for a maximum of ten minutes.

f) Reports issued by public officers serving at the penal execution institutions where remands are held, shall bear only the registration number instead of the clear identification of the relevant officer. Where the testimonies of the officers of the institution are required, the summons or the invitation shall be notified to the office address of the officer. In the reports of testimony and hearings concerning such persons, office address shall be included.

g) In the investigations carried out, intervenor selected pursuant to Article 149 of the Code on Criminal Procedure of 4/12/2004 with no 5271, or assigned on the basis of Article 150 thereof, may be banned from acting as intervenor where it has been revealed that s/he has been subject to investigation or prosecution due to offences listed in this article. Peace criminal judge shall take a decision on the public prosecutor's demand for ban, without any delays. Decision for ban, shall be immediately notified to the suspect and the relevant bar in order to assign a new intervenor.

ğ) In the investigations and prosecutions carried out, a maximum of three attorneys shall be allowed to be present during statement taking and at the interrogation room.

h) At criminal courts prior to the beginning of the trial, first the indictment or the document replacing the indictment shall be read out or summarized.

ı) Review of detention, appeal to detention and request for release shall be decided over the dossier.

i) In cases where the judge or the court approves, suspect or the accused may be interrogated through the use of both audio and visual communication techniques, or may be decided that s/he attends the hearings.

Pensioning for disability on active duty and other rights

ARTICLE 7 – In the calculation of the pensions to be extended to the civilians who lost their lives or disabled due to the coup attempt and act of terrorism staged on 15/7/2016 as well as due to incidents in connection to this attempt, pursuant to sub-paragraph (j), first paragraph of Article 21 of the Anti-Terror Law no 3713, sub-paragraph (h) of the same paragraph shall be taken on board, and such persons and right holders shall benefit from other rights provided in the relevant legislation to those included under the scope of sub-paragraph (h).

However total amount of dependents' pension extended to widows and orphans, shall not be less than the pension to be extended to the disabled or the deceased. Moreover, Law on In Cash Compensation and Extension of Pensions of 3/11/1980 with no 2330 shall be applicable to such persons as well as those wounded due to these actions. In such pensions, the requirement that there should be no remaining debts from premium or premium related debts, including the general health insurance premium, shall not be applicable.

(2) Retirement pensions of those falling under the first paragraph and entitled to retirement pension within the scope of the Law on Pensions Fund of the Republic of Turkey 8/6/1949 with no 5434, shall be paid on the basis of sub-paragraph (a), first paragraph of Article 21 of the Law no: 3713, provided such pensions are not less than 115 times of the highest public servant salary (including additional indicator).

From among the civilians who fall under the scope of the first paragraph yet are not entitled to retirement pension, those who are disabled to the extent that they are unable to perform the movements essential for survival and are in need of support and assistance, as well as their legal inheritors of such persons, shall be paid an additional compensation amounting to 170 times of the highest public servant salary (including additional indicator), and the other disabled persons shall be paid an additional compensation amounting to 115 times of the highest public servant salary (including additional indicator), within the scope of principles and procedures pertaining to in cash compensation, by the relevant institutions.

Easement and usufruct rights and cancellation of rental contracts

ARTICLE 8 – (1) Where the beneficiary and tenants of;

- immovable properties belonging to public administrations under the general budget indicated in the Law on Public Financial management and Control of 10/12/2003 with no 5018,

- as well as administrations under special budget, regulatory and supervisory institutions,

- social security institutions, local administrations, unions and undertakings established by such administrations,

- other public institutions, councils, senior councils and bodies established on the basis of special laws,

- public economic enterprises and their partnerships, companies and enterprises as well as other partners and foundations with more than 50% of their capitals belonging to the public,

are identified to be members of or connected or linked to structures, entities or groups or terror organisations, which pose a threat to national security, their easement and usufruct rights as well as rental contracts shall be cancelled ex-officio by the relevant institutions and bodies.

Liability

ARTICLE 9 – (1) Persons who have taken decisions and fulfilled duties under the scope of this Decree Law, shall not bear any legal, administrative, financial or criminal liabilities stemming from these duties.

Suspension of execution

ARTICLE 10 – (1) Suspension of execution shall not be ruled for at the court cases filed due to the decisions taken and procedures carried out within the scope of this Decree Law.

Entry into force

ARTICLE 11 – (1) This Decree Law shall enter into force on the date of its promulgation.

Execution

ARTICLE 12 – (1) Council of Ministers shall execute the provisions of this decree Law.

Recep Tayyip ERDOĞAN
PRESIDENT

Binali YILDIRIM
Prime Minister

The Council of Ministers