

23 FEBRUARY 2017

Constitution Venice Commission
association prohibition of torture
newspaper dismissal detention
ombudsman UN connection contact
passport confiscation Higher Education
State of Emergency
trustee television **215.Day** assembly
access to lawyer Decree Law prosecutor
membership Parliament ECtHR judge
seizure academician public servant
freedom of speech radio
company

FACT SHEET

STATE OF EMERGENCY MEASURES
IN TURKEY



insan hakları ortak platformu | HYD İHD İHGD UAÖ TÜRKİYE

Table of Contents

Declaration of State of Emergency.....	2
Suspension of the Exercise of Fundamental Rights and Freedoms.....	2
Notification to International and Regional Human Rights Mechanisms.....	3
Enactment of the Decrees Having the Force of Law by the Government and Approval by the Turkish Grand National Assembly.....	3
Scope of Emergency Decrees.....	5
Measures concerning investigations to be carried out during the State of Emergency.....	5
Dismissals and deprivation of some rights.....	7
Breakdown of Dismissals by Public Institutions.....	8
Dismissals from Higher Education Institutions.....	11
Dismissals from Ministry of Education.....	12
Dismissals from Ministry of Interior.....	12
Dismissals from Ministry of Justice.....	13
Dismissals from Judicial Organs.....	13
Dismissal Decision Procedures (Decree No:667).....	13
The Constitutional Court.....	14
Dismissals from Armed Forces (TAF).....	15
Dismissal Decision Procedures (Decree No:667).....	15
Institutions Dissolved.....	17
Press, Broadcast, Radio, Television and News Agencies Dissolved by Decrees.....	18
Associations Dissolved.....	22
Foundations Dissolved.....	23
APPOINTMENT OF TRUSTEES TO MUNICIPALITIES UNDER THE STATE OF EMERGENCY.....	24
Appeals Against Decrees by Law & Measures of the State of Emergency.....	27
Complaint Mechanism Against Measures of the State of Emergency.....	29

Declaration of State of Emergency

Following the failed coup d'état attempt on 15 July 2016, the Government of Turkey took a decision to declare a State of Emergency for three months starting from 21 July 2016 throughout the country on the basis of Article 120¹ of the Turkish Constitution. The Decree was submitted to the Turkish Grand National Assembly on the same day and was debated and approved at the 117th session of the General Assembly on 21 July 2016.

Following the declaration in July 2016, the period of State of Emergency was prolonged two times in October 2016 and in January 2017.

On 5 October 2016, the Council of Ministers took the decision to extend the duration of State of Emergency for another three months effective from 19 October 2016. Six days later, the decision was debated and approved by the Turkish Grand National Assembly at its 5th session. The decision of the Turkish Grand National Assembly was published in the Official Gazette on 13 October 2016.

On 3 January 2017, the Council of Minister took the decision to prolong the duration of the State of Emergency for another three monthd. On the same day, the decision was approved by the Turkish Grand National Assembly at its 49th session and the State of Emergency was prolonged till 18 April 2017.

Suspension of the Exercise of Fundamental Rights and Freedoms

State of Emergency is regulated in Articles 15², 119, 120 and 121 of the Constitution. These Articles also set the limits to the Government's emergency powers:

- the Government may receive and use emergency powers only in the event "of widespread acts of violence aimed at the destruction of the free democratic order established by the Constitution or of fundamental rights and freedoms" (Article 120 of the Constitution);
- The decision of declaring state of emergency shall be published in the Official Gazette and shall be submitted immediately to the Turkish Grand National Assembly for approval (Article 121³);
- In times of state of emergency, "the individual's right to life, and the integrity of his or her material and spiritual entity shall be inviolable except where death occurs through lawful act of warfare; no one may be compelled to reveal his or her religion, conscience, thought or opinion, nor be accused on account of them; offences and penalties may not be made retroactive, nor may anyone be held guilty until so proven by a court judgment" (Article 15 of the Constitution).
- In times of state of emergency, the exercise of fundamental rights and freedoms can be partially or entirely suspended, or measures may be taken, to the extent required by the exigencies of the situation, which derogate the guarantees embodied in the Constitution, provided that **obligations under international law are not violated** (Article 15 of the Constitution).

¹Turkish Constitution Article 120, "In the event of serious indications of widespread acts of violence aimed at the destruction of the free democratic order established by the Constitution or of fundamental rights and freedoms, or serious deterioration of public order because of acts of violence, the Council of Ministers, meeting under the chairmanship of the President of the Republic, after consultation with the National Security Council, may declare a state of emergency in one or more regions or throughout the country for a period not exceeding six months."

²Turkish Constitution Article 15, "Suspension of the Exercise of Fundamental Rights and Freedoms"

³Turkish Constitution Article 121. "In the event of a declaration of a state of emergency under the provisions of Articles 119 and 120 of the Constitution, this decision shall be published in the Official Gazette and shall be submitted **immediately** to the Turkish Grand National Assembly for approval. If the Turkish Grand National Assembly is in recess, it shall be assembled immediately. The Assembly may alter the duration of the state of emergency, extend the period, for a maximum of four months only, each time at the request of the Council of Ministers, or may lift the state of emergency."

Notification to International and Regional Human Rights Mechanisms

On 21 July 2016 the Secretary General of the Council of Europe was informed by the Turkish authorities in accordance with Article 15 of the ECHR that the post-coup measures may involve derogation from the obligations under the ECHR. In the following weeks several other such notifications followed, after the enactment of the subsequent emergency decree laws.

On 21 July 2016 the Secretary General of the United Nations was also notified, under Article 4 of the ICCPR, about the derogation by the Turkey from the rights provided Articles 2/3, 9, 10, 12, 13, 14, 17, 19, 21, 22, 25, 26 and 27 of the ICCPR.

On 27 September 2016, the Chair of the Monitoring Committee of the Parliamentary Assembly of the Council of Europe (PACE) requested the opinion of the Venice Commission on the overall compatibility of the implementation of the state of emergency in Turkey, in particular all subsequent decree laws, with Council of Europe standards. The Opinion of the Venice Commission was delivered on 12 December 2016.⁴

Enactment of the Decrees Having the Force of Law by the Government and Approval by the Turkish Grand National Assembly

Article 121 of the Constitution provides authority to the Council of Ministers meeting under the chairmanship of the President of the Republic, to issue decrees having the force of law (Emergency Decrees) on matters **necessitated by the state of emergency**. These decrees should be published in the Official Gazette, and should be submitted to the Turkish Grand National Assembly on the same day for approval. The time limit and procedure for their approval by the Assembly are regulated in the Rules of Procedure of the Turkish Grand National Assembly.

According to Article 128 of the Rules of Procedure of the Turkish Grand National Assembly, the debate of the decrees having the force of law, should be made immediately within **thirty days at the latest**, as a matter of priority. If the debate on the decrees having the force of law fails to be concluded in the committees, within at least twenty days, the Office of the President of the Turkish Grand National Assembly puts them on the agenda of the Plenary.

During the period between 21 July 2016 and 23 February 2017, 21 Decrees Having the Force of Law were issued by the government. Only 6 of those were debated and approved by the Turkish Grand National Assembly (see the table below).⁵

No. Of Decree Laws	Publication date in the Official Gazette	Examination by the Parliamentary Commissions (in 20 days)	Examination at the Plenary of the Turkish Grand National Assembly	Publication in the Official Gazette
DECREE NO.667	23.07.2016	Failed to conclude in 20 days (25.07.2016-15.08.2016)	18.10.2016	29.10.2016

⁴ ON EMERGENCY DECREE LAWS NOS. 667-676 ADOPTED FOLLOWING THE FAILED COUP OF 15 JULY 2016 Adopted by the Venice Commission at its 109th Plenary Session (Venice, 9-10 December 2016) [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2016\)037-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2016)037-e)

⁵ English summaries of some Decrees may be found at following links:

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806cc261>

[http://www.venice.coe.int/webforms/documents/default.aspx?pdf=CDL-REF\(2016\)067-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdf=CDL-REF(2016)067-e)

<http://www.judiciaryofturkey.gov.tr/A-Commission-to-review-the-actions-taken-under-the-scope-of-state-of-emergency-was-established->

<http://www.judiciaryofturkey.gov.tr/30-day-custodial-period-under-the-state-of-emergency-has-been-shortened-to-7-days-by-the-Decree-Law-No-684>

<http://www.judiciaryofturkey.gov.tr/30-day-custodial-period-under-the-state-of-emergency-has-been-shortened-to-7-days-by-the-Decree-Law-No-684>

DECREE NO.668	27.07.2016	Failed to conclude in 20 days (29.07.2016-19.08.2016)	08.11.2016	24.11.2016
DECREE NO.669	31.07.2016	Failed to conclude in 20 days (05.08.2016-04.10.2016)	09.11.2016	24.11.2016
DECREE NO.670	17.08.2016	Failed to conclude in 20 days (18.08.2016-17.10.2016)	Pending before General Assembly	
DECREE NO.671	17.08.2016	Failed to conclude in 20 days (18.08.2016-17.10.2016)	09.11.2016	24.11.2016
DECREE NO.672	01.09.2016	Failed to conclude in 20 days (1.10.2016-24.10.2016)	Pending before General Assembly	
DECREE NO.673	01.09.2016	Failed to conclude in 20 days (1.10.2016-24.10.2016)	Pending before General Assembly	
DECREE NO.674	01.09.2016	Failed to conclude in 20 days (1.10.2016-24.10.2016)	10.11.2016	24.11.2016
DECREE NO.675	29.10.2016	Failed to conclude in 20 days (3.11.2016-24.11.2016)	Pending before General Assembly	
DECREE NO.676	29.10.2016	Failed to conclude in 20 days (3.11.2016-24.11.2016)	Pending before General Assembly	
DECREE NO.677	22.11.2016	Failed to conclude in 20 days (28.11.2016-19.12.2016)	Pending before General Assembly	
DECREE NO.678	22.11.2016	Failed to conclude in 20 days (28.11.2016-19.12.2016)	Pending before General Assembly	
DECREE NO.679	06.01.2017	Failed to conclude in 20 days (16.01.2017-06.02.2017)	Pending before General Assembly	
DECREE NO.680	06.01.2017	Failed to conclude in 20 days (16.01.2017-06.02.2017)	Pending before General Assembly	
DECREE NO.681	06.01.2017	Failed to conclude in 20 days (16.01.2017-06.02.2017)	Pending before General Assembly	
DECREE NO.682	23.01.2017	Failed to conclude in 20 days (27.01.2017-17.02.2017)	Pending before General Assembly	
DECREE NO.683	23.01.2017	Failed to conclude in 20 days (27.01.2017-17.02.2017)	Pending before General Assembly	
DECREE NO.684	23.01.2017	Failed to conclude in 20 days (27.01.2017-17.02.2017)	Pending before General Assembly	
DECREE No. 685	23.01.2017	Failed to conclude in 20 days (27.01.2017-17.02.2017)	Pending before General Assembly	
DECREE NO.686	07.02.2017	Pending at the Commission since 15.02.2017		
DECREE NO. 687	09.02.2017	Pending at the Commission since 15.02.2017		

Scope of Emergency Decrees

The measures contained in Decree Laws issued during the State of Emergency period cover the following areas:

- Measures related to the investigations carried out
- Dismissals and deprivation of some rights
 - Measures for members of the judiciary
 - Measures related to public officials
 - Measures for military personnel
- Dissolution of institutions and organizations
- Changes to existing legislation and introduction of new legislation

In addition, Decrees stipulate that “legal, administrative, financial and criminal liabilities shall not arise in respect of the persons who have adopted decisions and fulfill their duties within the scope of this Decree Law”.

Stay of execution cannot be ordered in the cases brought as a result of the decisions taken and acts performed within the scope of this Decree Law.

Measures concerning investigations to be carried out during the State of Emergency

Measures concerning investigations under the State of Emergency were set up at Articles 5 and 6 of the Emergency Decree No 667 of 23 July 2016.

Subject	Decree No	Content
Cancellation of Passports	667	Those against whom an administrative action is taken on the ground of their membership to, or connection or contact with structure/entities, organizations, groups or terrorist organizations, which are found established to pose a threat to the national security, and those against whom a criminal investigation or prosecution is conducted for the same reason shall immediately be reported to the passport department concerned by the institution or organization that takes action. Upon this information, the passports shall be cancelled by the passport departments concerned.
Period of Custody (Article 91 of the Criminal Procedures Law)	667	The duration of the custody shall not exceed 30 days , beginning from the moment of the arrest; the necessary time for transporting the suspect to the nearest judge or court of the place where the arrest had occurred, shall not be included.
	684	There has been an amendment on the Decree No. 667 concerning the duration of custody. The duration of the custody was reduced from 30 days to 7 days. If there is a need, the public prosecutor will be able to extend the duration for another 7 days. A temporary article was also added to the Decree as follows: “Before the date of the publication of this Decree (23 January 2017), period of detention for persons taken into custody shall be maximum thirty days for crimes defined in the fourth, fifth, sixth and seventh chapters of the second chapter of the Turkish Criminal Code & crimes falling within the scope of Anti-Terrorism Law .
Access to defence council during custody	668	Consultation of lawyer with the suspect under detention can be restricted for 5 days. During this period, statement of the suspect cannot be taken.

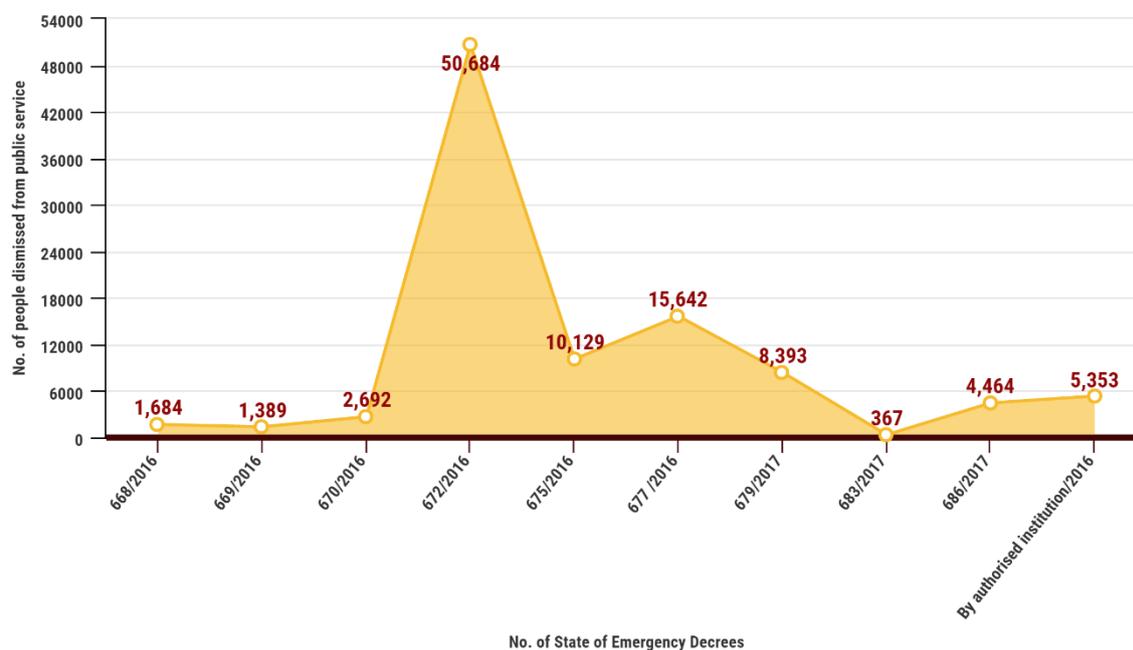
(Article 149 of the Criminal Procedures Law)		
Access to investigation file (Article 153 of the Criminal Procedures Law)	668	The power of the defense counsel may be restricted, by decision of the public prosecutor , if a review into the contents of the file, or copies taken, hinder the aim of the ongoing investigation.
Confidentiality of the Interview with the defense counsel (Article 154 of the Criminal Procedures Law)	667	<p>Where there is a risk that public security and the security of the penitentiary institution is endangered,</p> <p>By decision of the Public prosecutor</p> <ul style="list-style-type: none"> - the interviews may be recorded auditorily or audio-visually via technical devices, - the officers may be made present during the interviews between the detainee and his/her lawyer with a view to monitoring the interview, - documents or document templates and files given by the detainee to his/her lawyer or vice versa and the records kept by them concerning the interview between them may be seized, or - days and hours of the interviews may be limited upon the public prosecutor's order. - In the event that the interview of the detainee is understood to be made for the aim set out above, the interview shall be immediately ended, and this fact shall be recorded into minutes together with the grounds thereof. - In the event that such minutes are drawn up in respect of a detainee, the Office of the Magistrates' Judge could ban the detainee from interviewing with his/her lawyers, upon the public prosecutor's request. <p>Decision on banning shall be immediately served on the detainee and the relevant Bar Presidency with a view to assigning a new lawyer.</p> <p>The public prosecutor may ask for replacement of the lawyer commissioned by the Bar.</p>
Visits of Relatives of Detainees	667	The detainees may only be visited by his/her spouse, relatives of the first and second degrees and the first degree relatives-in-law and his/her guardian or trustee only where the relevant documents are submitted.
Right to communication	667	The detainees shall enjoy the right to telephone conversations for once every fifteen days and for a period not exceeding ten minutes , limited to the persons allowed.
Identity of Public Officers working in the penitentiary institutions	667	Only the registration number -instead of the clear identity- of the relevant officers shall be written on the records prepared by the public officers working in the penitentiary institutions where the detainees are held. Where it is deemed necessary to receive the statements of officers of the institutions, writ of summons or subpoena shall be sent to the relevant officer's work address. The work addresses shall be indicated in the statement records and minutes of hearings of these persons.
Restriction on the number of lawyers (Article 149 of the Criminal Procedures Law)	667	Within the scope of the investigations and prosecutions , at the most three lawyers shall be present during statement-taking and questioning periods or hearings .
Reading of the Indictment (Article 191 of the Criminal Proceedings Law)	667	Prior to the hearings before the criminal courts, bill of indictment or the document which substitutes for bill of indictment shall be read out or summarized and explained .
Motion of release by suspect or accused Article 104 of the Criminal Procedures Law	667	Review of detention, objection to detention and requests for release may be concluded over the case file.
	668	The office of the magistrate or court, whose detention order has been objected to, shall revise its order if it deems relevant; otherwise, it shall

		<p>refer, within ten days, the objection to the authority competent to examine the objection</p> <p>Requests for release shall be concluded over the case file within a maximum period of thirty days, along with a review of the detention.</p>
<p>Searches in private dwellings, business places, as well as other property closed to the public (Article 119 of the Criminal Procedures Law)</p>	668	<p>In cases where there is a peril in delay, searches in private dwellings, business places, as well as other property closed to the public, shall be conducted upon the written order of the public prosecutor</p> <p>If private dwellings, business premises or properties that are not open to the public are to be searched without the public prosecutor being present, then one member of the community council in that district or one neighbor shall be called to be present, in order to be entitled to conduct the search.</p>
<p>The search and seizure in attorneys' offices, and seizure of mail (Article 130 of the Criminal Procedures Law)</p>	668	<p>Searches and seizures can be carried out at lawyer's offices by law enforcement officers without the participation of the public prosecutor upon the order of a judge, or by the written order of a public prosecutor, in cases where there is peril in delay. The bar president or an advocate representing him/her shall be present during the search and seizure process; however, the second and third paragraphs of Article 130 of the Law no. 5271 shall not be applied.</p>
<p>Power of Interception of correspondence through telecommunication (Articles 135, 139 and 140 of the Criminal Procedures Law)</p>	668	<p>The measures of identification of communication, interception and recording, appointment of undercover investigators and surveillance by technical tools under Articles 135, 139 and 140 of the Law no. 5271 can be ordered by the judge or the public prosecutor, where there is peril in delay.</p> <p>The public prosecutor shall submit the order to the competent judge for approval <i>within five days</i>. The judge shall announce the decision within five days; otherwise the measure shall be automatically lifted.</p>
<p>Letters and documents immune from seizure (Article 126 and 127 of the Criminal Procedures Law)</p>		<p>Letters and documents communicated between the suspect or the accused and those persons capable of asserting a privilege to refrain from testimony as a witness in accordance with the provisions of Articles 45 and 46 may be seized even such items are at the hands of persons who have this privilege.</p>
<p>Power for the seizure decision (Article 127 of the Criminal Procedures Law)</p>		<p>Where a seizure was made without a warrant of a judge, the seizure shall be submitted to the judge who has jurisdiction for his approval within 5 days. The judge shall reveal his decision within 10 days from the act of seizure; otherwise the seizure shall be automatically void.</p>
<p>Seizure of immovable goods, rights and credits (Article 128 of the Criminal Proceedings Law)</p>		<p>Seizures to be made under Article 128 of the Law no. 5271 can be ordered by the magistrate's office without obtaining the report specified in the first paragraph of the same Article.</p> <p>In cases where there is peril in delay, the public prosecutor may order seizures as well.</p> <p>Seizures made without an order of a judge shall be submitted to the competent judge for approval within five days. The judge shall announce the decision within ten days following the seizure; otherwise the seizure shall be automatically lifted.</p>

Dismissals and deprivation of some rights

During period covering 21 July 2016 –23 February 2017 under State of Emergency, a total of **100,797** public servants were dismissed from public institutions and professions. Decisions of dismissals and other associated measures were lifted only for 737 individuals (out of **100,797**), and their names were struck out from the lists.

21 July 2016 - 23 February 2017: Dismissals



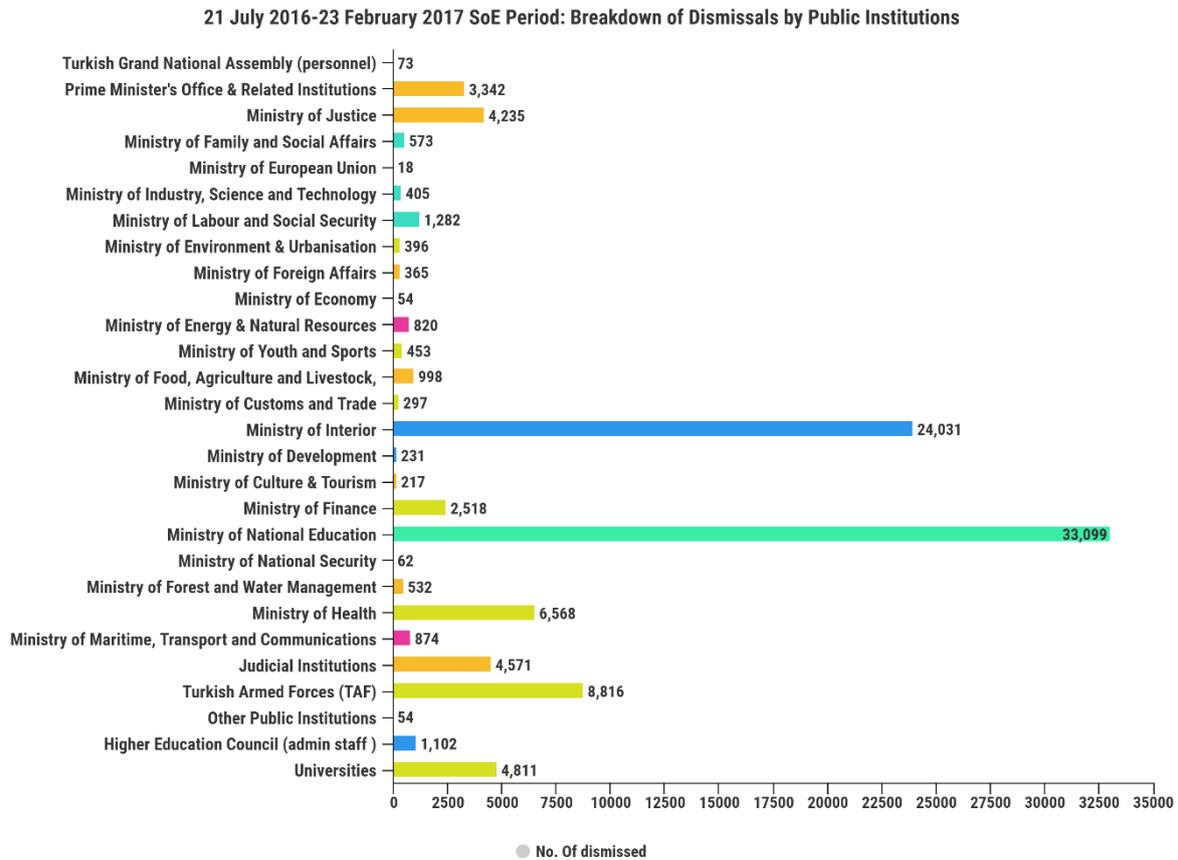
Procedures for Dismissal Decisions (Decree No:667)

Procedures identified in Decrees		
Proposed by	Approved by	Targets
President of the Council of Higher Education	Council of Higher Education	Personnel who are subject to the Law no. 2914 on Higher Education (dated 11 October 1983)
Commission that is established by the governor and meets under the chairmanship of the governor	Minister of Interior	Personnel of local administrations
Commission that is established by the relevant or related Minister and meets under the chairmanship of the highest administrator of the institution or organization concerned	Relevant Minister	Personnel, employed in all kinds of positions and status (including workers) who are subject to the Law no. 657 on Civil Servants (dated 14 July 1965) and other legislation
Chief of the department	Chief who is authorized to appoint	personnel employed in all kinds of positions and status (including workers) in other institutions that are not under the authority of, or associated with a Ministry

Breakdown of Dismissals by Public Institutions

32.8% of total dismissals are from the Ministry of National Education, 23.8 % from the Ministry of Interior, 8.8% from the Turkish Armed Forces, 6.5% from Ministry of Health, 5.9% from the Higher Education Institutions and Council, 4.5% from courts, 4.2% from Ministry of Justice and 3.3% from the

Prime Ministry's Office and affiliated institutions.



Retired Number of police dismissed from the Directorate General for Security of the Ministry of Interior reached 20,302 and only 10 of those were restored to their positions.

Additional Measures to be taken for those dismissed from public service

- shall be deprived of their positions as public officials without any need for convictions (Decree 672),
- shall not be re-employed again in public service (Decree 667),
- shall not be re-admitted to the organization in which they previously took office (Decree 672)
- they shall not, directly or indirectly, be reappointed (Decree 667);
- all kinds of membership in a board of trustees, a board, a commission, a board of management, a supervisory board or a liquidation board under the responsibility of those dismissed from service and their other tasks shall be deemed to have ended (Decree 667, 672).
- Provisions of this paragraph shall apply to those who perform a task set out in this paragraph but do not have the status of public official (Decree 667).
- Firearm licenses and pilot licenses of those dismissed from service under this Article shall be cancelled(Decree 667),
- they shall be evicted from publicly-owned lodgings or lodgings owned by a foundation in which they live within fifteen days (Decree 667, 672).
- These persons shall not be a founder, co-founder or personnel of private security companies (Decree 667).
- The periods of time to initiate an investigation laid down in the governing legislation shall not be applied during the period of the state of emergency in respect of public officials who have been suspended after 15 July 2016 on grounds of national security (Decree 669)

- Those who have been dismissed from public service may not use their titles, if any, such as ambassador, governor and professional names and titles such as undersecretary, district governor etc., and they may not enjoy the rights provided in connection with these titles and professional names (Decree 672).

New Appointments

New appointments shall be made to fill the positions of those dismissed from service under the State of Emergency. New appointments to be determined by the Council of Ministers will not be subject to any restrictions imposed by the Law on Central Administration Budget and other legislation (Decree 667).

Applications for associate professorship⁷

Decree Law No.683 issued on 23 January 2017 brought new measures for academicians concerning their application for becoming Associate Professor. In case of an academician who has been suspended from profession or who is under investigation or interrogation, procedures about their application for becoming associate professor will be suspended until the finalisation of judicial proceedings. In case the academician is dismissed or prosecuted, the application of those for being associate professor will be cancelled.

Dismissals from Ministry of Education

A total of **33,099** public servants were dismissed from the Ministry of Education. 99% of those dismissed are teachers. In only for 43cases, dismissal decisions were reversed.

Ministry of National Education	Decree No:672	Decree No: 675	Decree No: 677	Decree No: 679	Decree No 686	Total
Ministry	28163	2219	119	13	2585	33099
Cancellation of work permits by the Ministry of Education						22474

Cancellation of Work Licences

In addition to dismissals, the approval of work permits of administrators, trainers, teachers, specialist tutors, master trainers and other personnel working in institutions closed under the Decree Law No. 667 (see closed institutions) had also been cancelled. Within this scope, the number of cancelled work permits of private education institution personnel reached to **22,474**. Working licences were re-issued following the appeal of victims in only 614 cases by the Commission .⁸

Dismissals from Ministry of Interior

A total of 24,031 public servants were dismissed from the Ministry of Interior. 86 % of those are from the Directorate General for Security (police).Dismissal decisions were lifted in only 21 cases.

Ministry of Interior	Decree No:670	Decree No: 672	Decree No: 677	Decree No: 679	Decree No: 683	Decree No 686	Total
Ministry		369	347		134	49	899
General Directorate of Immigration		31			23		54
Undersecretariat of Public Order and Security		10					10
General Directorate of Local Authorities			2349				2349
General Directorate of Security	2360	7669	7586	2687		417	20719
Total							24031

Measures for Retired Staff of the Ministry of Interior

In addition to dismissals, the deprivation of ranks for retired police officers have also been regulated through Decrees. Total number of retired police who were subjected to this measure reached **1384**.

These dismissed ones, will not be reinstated to the agency where they worked or to any public service, and they will not be permitted directly or indirectly to perform these services. They will also not be able to use their professional titles and capacities, or to enjoy the rights they were provided on account of their titles and capacities. In addition, memberships of board of trustees, council, commission, administrative

⁷ a stage before becoming a full Professor.

⁸<http://ookgm.meb.gov.tr/www/calisma-izni-iptal-edilen-614-kisiye-calisma-hakki-iade-edildi/icerik/929>

board, board of supervisors and liquidation committee or their other duties shall be terminated. Gun licences, retired police identities, seamen's documents, pilot licences and passports of those shall also be cancelled. These persons cannot be a founder, partner or employee in private security services.

Dismissals from Ministry of Justice

A total of **4,235** public servants were dismissed from the Ministry of Justice.

	Decree No: 675	Decree No: 679	Total
Ministry	2534	1699	4233
Justice Academy		2	2
Total			4235

Among the dismissed, there are at least 65 forensic expert, engineer, technicians and assistants of the Forensic Institute, 23 directors of prisons, 172 teachers, sociologists, pedagogues, psychologists and other staff including drivers employed at the Cental Office of the Ministry and its provincial offices, prisons and courts throughout Turkey, 38 Nominee judges. 45% of the total dismissed are clerks of courts and 27% are execution & protection officers.

Dismissals from Judicial Organs

Between 21 July 2016 and 23 February 2017, a total of 4571 persons were dismissed from judicial organs. The persons listed in the lists attached to the Decree-Law Decree included persons who were subject to the Law No. 657 in the presidencies of the judicial institutions. Others were dismissed by the decisions of the authorised structures within the judicial organs. Only for 78 judges and prosecutors, dismissal decision was lifted.

JUDICIAL ORGANS	Decrees Having the Force of Law					Dismissal by Authorised body	Total dismissals
	672	675	677	679	686		
Constitutional Court						39	39
Judges and Prosecutors						3886	3886
Military Judges and Prosecutors						194	194
High Council of Judges and Prosecutors (administrative staff)			15				15
Presidency of the Court of Cassation (administrative staff)		183			10		193
Presidency of Council of State	83			8			91
Presidency of Court of Accounts	84	69					153
Total	167	252	15	8		3892	4493

Dismissal Decision Procedures (Decree No:667)

Decision making mechanism	Targets
Absolute majority of the General Assembly of the Constitutional Court	Constitutional Court Members
Board of the First Presidency of the Court of Cassation	Presidents of Chambers of the Court of Cassation and its members
Board of Presidency of the Coouncil of State	The Presidents of Chambers of the Supreme Administrative Court and its members
General Assembly of the High Council of Judges and Prosecutors	Judges and Prosecutors

A commission, consisting of President of a Chamber and a member to be determined by the President and Vice Presidents of Court of Accounts under the chairmanship of the President of Court of Accounts	Members of profession of the Court of Accounts
---	--

The Constitutional Court

On 4 August 2016, Two members of the Constitutional Court were dismissed by the decision of the General Assembly of the Constitutional Court. Later, on 31 December 2016, the Constitutional Court announced that **one rapporteur and 36 administrative staff** of the Constitutional Court were dismissed from the public service on the basis of an investigation carried out previously.

Presidency of Court of Cassation:

183 employees at the administrative level were dismissed.

Council of State:

91 employees including attendants were dismissed from the Council of State.

Court of Accounts:

A total of 153 employees, including 36 chief auditors, 63 expert auditors, 52 auditors and auditor assistants and 2 technicians, were dismissed from the Court of Accounts.

High Council of Judges and Public Prosecutors (HCJP)

3886 judges and prosecutors in different positions were dismissed by decisions taken with the authority given to the High Council of Judges and Public Prosecutors. Dismissed judges and prosecutors constituted 24% of the total number of judges and prosecutors⁹.

14

On 29 November 2016, the HSYK made a decision (Decision no. 2016/434) for dismissed 78 judges and prosecutors to return to their position.

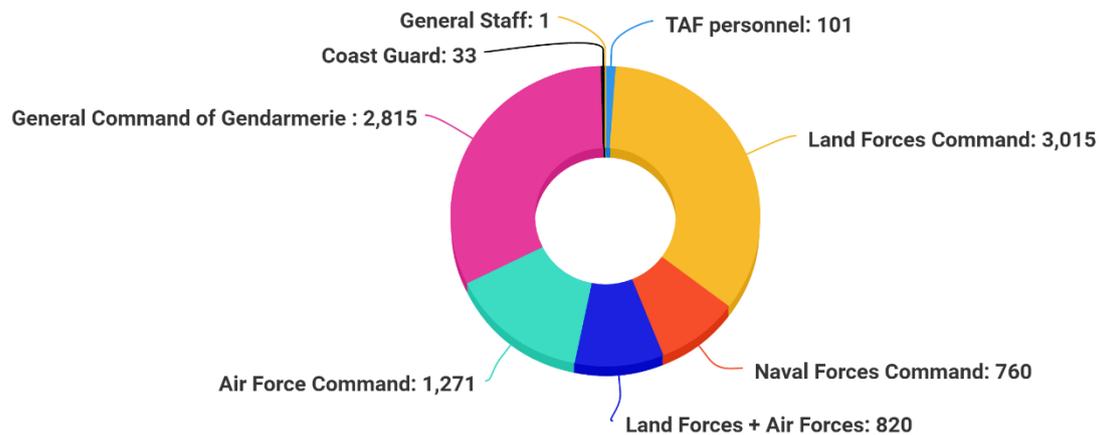
No. of HCJP Decisions	2016/426	2016/428	2016/430	2016/440		Total
Date of HCJP Decision	24.08.2016	31.08.2016	4.10.2016	15.11.2016	13.02.2017	
Judges	1499	306	36	132	151	2124
Prosecutors	895	158	22	44	55	1174
Prosecutor of Court of Cassation	1	1				2
Reporter Judge (Court of Cassation)	223	49	5	20	17	314
Reporter Judge (Council of State)	228	28	3	6	4	269
High Supervisor	1					1
Board Inspectors		1		1		2
Total	2847	543	66	203		3886
Dismissal decision lifted						78
Grand total						3808

⁹The number of prosecutors by the end of 2015 was **4622**. During the State of Emergency period 1121 prosecutors were dismissed (%24,3). The number of judges by the end of 2015 was **10382**. During the State of Emergency period 2538 judges were dismissed (%24,4). http://www.adlisicil.adalet.gov.tr/istatistik_2015/PERSONEL%20SAYILARI/1.pdf

Dismissals from Armed Forces (TAF)

In the period 21 July 2016 –23 February 2017, a total of **8,816** staff of armed forces were dismissed. Only for 41, dismissal decision was lifted.

Dismissals from the armed forces as of 8 February 2017



	EMERGENCY DECREES								By authorised body	Total
	668	669	670	672	675	677	679	686		
TAF personnel					101					101
Land Forces Command	1069	193	59			1259	435			3015
Naval Forces Command	154		23			391	160		32	760
Land Forces + Air Forces									820	820
Air Force Command	461		30			338	168		274	1271
General Command of Gendarmerie		1196		323		403			893	2815
Coast Guard			24	2			4	3		33
General Staff							1			1
TOTAL										8816

15

Dismissal Decision Procedures (Decree No:667)

Decision making mechanism	Targets
Force Commander concerned, with the recommendation of the Chief of the General Staff and by the approval of the Minister of Defence	Personnel who are subject to Law no. 926 on the Turkish Armed Forces Personnel (dated 27 July 1967)
the Commander of the Gendarmerie Forces and by the approval of the Minister of Interior	Personnel who are subject to Law no. 2803 (dated 10 March 1983) on Organization, Duties and Powers of the Gendarmerie
Coast Guard Commander and by the approval of the Ministry of Interior	Personnel who are subject to the Law no. 2692 (dated 9 July 1982) on Coast Guard Command

Additional Measures to be taken for those dismissed from public service

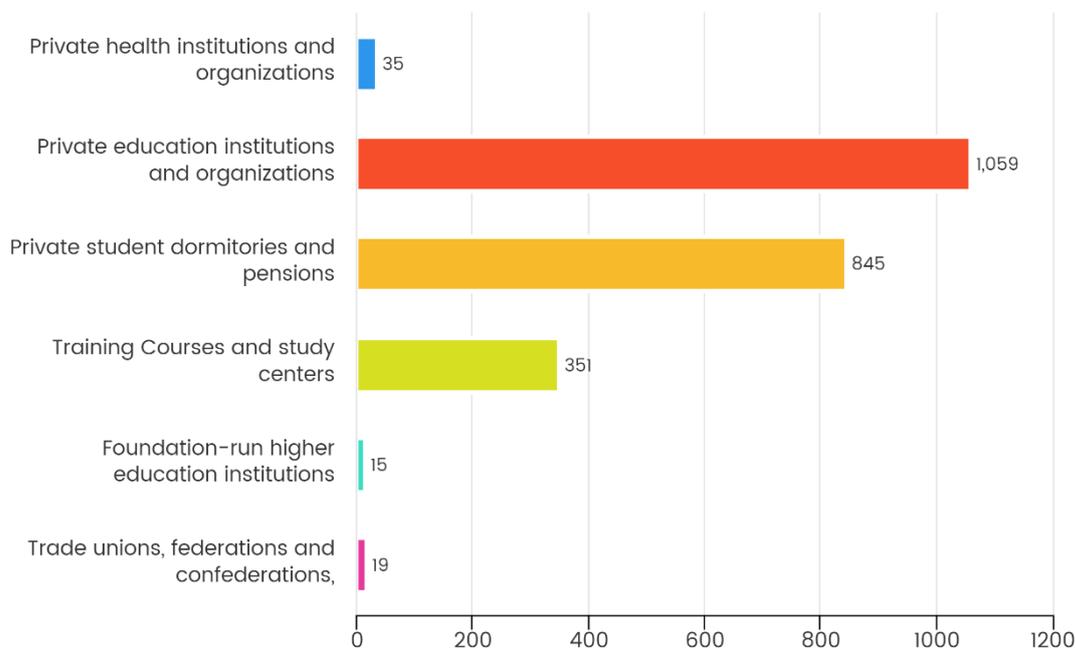
Regardless of a criminal conviction ruled, those dismissed from the army

- shall be deprived of their military ranks and public official status (Decree 669)
- shall not be readmitted to the Turkish Armed Forces and the Gendarmerie General Command (Decree 669),and the Coast Guard Command (Decree 672) ;
- shall not be employed once again in public service, assigned directly or indirectly; their membership to all kinds of boards of trustees, boards, commissions, boards of directors, supervisory boards or liquidation boards shall cease (Decree 669)
- Firearm and pilot’s licenses held by them shall be cancelled (Decree 669)
- shall be evicted within fifteen days, from public-owned lodgings in which they reside.
- shall not be a founder, cofounder or personnel of private security companies (Decree 669).
- The Ministry of National Defence shall immediately notify the relevant passport authority as regards these persons. Upon such notification, the relevant passport authorities shall cancel their passports (Decree 669).
- Their gun licenses, the documents concerning their seamanship and their pilot licenses shall be cancelled (Decree 672)

Institutions Dissolved

A total of 2324 private sector institutions were dissolved. Only 55 of those were re-opened.

Private Institutions Dissolved by Decree Law No.667



Closed Private Institutions by Decree No. 667	Decree No 667	By the Ministry of Education as of 3.11.2016	Total	Dissolution decision lifted
Private health institutions and organizations	35		35	1
Private education institutions and organizations	934	125		53
<i>Private Lycee</i>			401	
<i>Private Middle School</i>			304	
<i>Private Primary School</i>			270	
<i>Private Pre-School Institutions</i>			84	
Private student dormitories and pensions	109	736		1
<i>Dormitories for Girls</i>			393	
<i>Dormitories for boys</i>			452	
Training Courses and study centers		301		
Foundation-run higher education institutions	15		15	
Trade unions, federations and confederations,	19		19	
Total	1112	1212	2324	55

Dissolution of Institutions not listed in Annexes of Decrees

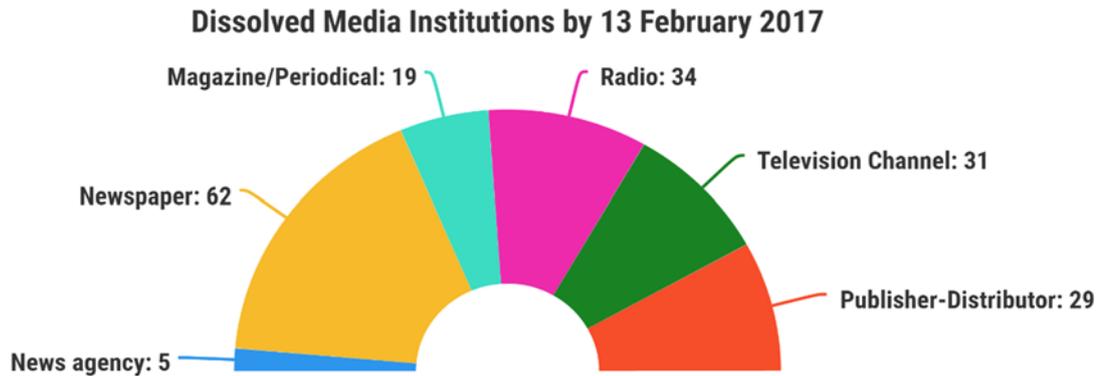
Decree Law No.667 granted relevant ministries to close Institutions not listed in Annexes of Decrees found to be members of structure/entities, organizations or groups, or terrorist organizations, found to pose a threat to national security, or whose connection or contact with them have been found to exist. These include health institutions (private and foundation-run) and organizations, private education institutions and organizations as well as private dormitories and lodgings for students, foundations, associations, higher education institutions (private and foundation-run), unions, federations and confederations.

Additional Measures to be taken for those dissolved institutions

- All movables and real estate as well as all assets, receivables and rights, and all documents and papers of foundations closed down shall be deemed to have been transferred to the General Directorate of Foundations without cost.
- Health application and research centers that belong to the foundation-run higher education institutions closed down, and all movable properties as well as all assets, receivables and rights and all documents and papers that belong to other institutions and organizations closed down shall be deemed to have been **transferred to the Treasury without cost**, and all real estate that belong to them shall directly be registered, free and clear of any restrictions and encumbrances on the immovables, in the name of the Treasury in the land registry.
- Any claim or demand related to all kinds of debts of those listed shall be made against the Treasury under no circumstances.
- The Ministry of Finance or the General Directorate of Foundations, according to its relevance, shall carry out all procedures relating to transfer by receiving necessary assistance from all institutions concerned.

Press, Broadcast, Radio, Television and News Agencies Dissolved by Decrees

A total of 180 media related institutions were dissolved. Only 20 of those were re-opened.



	Decree no: 668	Decree no: 675	Decree no: 677	By Radio-Television High Council	Decree no: 683	Other (*)	Total	Reopened
News agency	3	2					5	
Newspaper	45	10	7				62	17
Magazine/Periodical	15	3	1				19	
Radio	23		1	10			34	2
Television Channel	16			12	2	1	31	1
Publisher-Distributor	29						29	
Toplam	131	15	9	23			180	20

Dissolution Decision

Private radio and television organizations, newspapers, journals, publication and distribution companies found to be a member of structure/entities, organizations or groups, or terrorist organizations, which are

established to pose a threat to national security, or whose connection or contact with them are found to exist and not listed in Annexes of Decrees, shall be closed down upon the proposal of the commission to be established in relevant ministries and with the approval of the Minister.

Transfer of assets and properties

Movable properties and all kinds of assets, claims and rights, documents and instruments belonging to the associations and media organs closed within the scope of the first paragraph shall be deemed to be transferred to the **Treasury free of charge**.

Immovable properties of these institutions and organizations shall be ex officio registered in the title deed in the name of Treasury being free and clear of all kinds of restrictions and right of encumbrance.

Any right or claim cannot be demanded from the Treasury on account of any kind of liabilities of such institutions and organizations.

All actions pertaining to such transfer shall be performed by the Ministry of Finance by means of receiving necessary assistance from all institutions

News Agencies Dissolved

News agencies which are closed by the competent institutions under the Decree Law no 668 (3)		
Cihan Haber Ajansı	Muhabir Haber Ajansı	SEM Haber Ajansı,
News agencies which are closed by the competent institutions under the Decree Law no675 (2)		
Dicle Haber Ajansı	Jin Haber Ajansı	

Newspapers Dissolved

Newspapers which are closed by the competent institutions under the Decree Law no 668 (45)			
Adana Haber Gazetesi	Batman Postası Gazetesi	Gediz Gazetesi	Son Nokta Gazetesi
Adana Medya Gazetesi	Batman Doğu Gazetesi	Zafer Gazetesi (Reopened by Decree No 679)	Merkür Haber Gazetesi
Akdeniz Türk Gazetesi	Bingöl Olay Gazetesi (Reopened by Decree No 675)	Hisar Gazetesi (Reopened by Decree No 679)	Millet Gazetesi
Şuhut'un Sesi Gazetesi (Reopened by Decree No 679)	İrade Gazetesi	Turgutlu Havadis Gazetesi	Bugün Gazetesi
Kurtuluş Gazetesi (Reopened by Decree No 675)	İskenderun Olay Gazetesi	Milas Feza Gazetesi	Meydan Gazetesi
Lider Gazetesi (Reopened by Decree No 675)	Ekonomi	Türkiye'de Yeni Yıldız Gazetesi (Kapatma kararı kaldırıldı KHK 679)	Özgür Düşünce Gazetesi
İscehisar Durum Gazetesi (Reopened by Decree No 675)	Ege'de Son Söz Gazetesi (Reopened by Decree No 675)	(Reopened by Decree No 675)	Taraf Gazetesi
Türkeli Gazetesi (Reopened by Decree No 679)	Demokrat Gebze Gazetesi	Urfa Haber Ajansı Gazetesi	Yarına Bakış Gazetesi
Antalya Gazetesi	Kocaeli Manşet	Ajans 11 Gazetesi	Yeni Hayat Gazetesi
Yerel Bakış Gazetesi	Bizim Kocaeli	Yeni Emek Gazetesi	Zaman Gazetesi
Nazar	Haber Kütahya Gazetesi	Banaz Postası Gazetesi	Today's Zaman Gazetesi
Batman Gazetesi (Reopened by Decree No 679)			
Newspapers which are closed by the competent institutions under the Decree Law no 675 (10)			
Özgür Gündem Gazetesi	Batman Çağdaş Gazetesi (Reopened by Decree No 679)	İdil Haber Gazetesi (Reopened by Decree No 679)	Urfanatik Gazetesi (Reopened by Decree No 679)

Azadiya Welat Gazetesi	Cizre Postası Gazetesi	Kızıltepe'nin Sesi Gazetesi (Reopened by Decree No 679)	
Yüksekova Haber Gazetesi	Güney Express Gazetesi	Prestij Haber Gazetesi (Reopened by Decree No 679)	
Newspapers which are closed by the competent institutions under the Decree Law no 677 (7)			
Express Gazetesi	Dağyeli Gazetesi	İpekyolu Gazetesi	Yedigün Gazetesi
Türkiye Manşet	Akis Gazetesi	Son Dakika Gazetesi	

Magazines/Journals Dissolved (18):

Magazines/Journals which are closed by the competent institutions under the Decree Law no 668 (14)			
Akademik Araştırmalar Dergisi	Ekolife Dergisi	Gül Yapağı Dergisi	Yeni Ümit
Aksiyon, Asya Pasifik (PASIAD) Dergisi	Ekoloji Dergisi	Nokta	Zirve Dergisi
Bisiklet Çocuk Dergisi	Fountain Dergisi	Sızıntı	
Diyalog Avrasya Dergisi	Gonca Dergisi	Yağmur Dergisi	
Magazines/Journals which are closed by the competent institutions under the Decree Law no 675 (3)			
Özgürlük Dünyası Dergisi	Tiroj Dergisi	Evrensel Kültür Dergisi	
Magazines/Journals which are closed by the competent institutions under the Decree Law no 677 (1)			
Habereksen Dergisi			

Radios Dissolved (34):

Radios which are closed by the competent institutions under the Decree Law no668 (23)			
Aksaray Mavi Radyo	Esra Radyo	Radyo Aile Rehberi	Radyo Nur
Aktüel Radyo	Haber Radyo Ege	Radyo Bamteli	Radyo Şimşek
Berfin FM	Herkül FM	Radyo Cihan (İstanbul)	Samanyolu Haber Radyosu
Burç FM	Jest FM	Radyo Fıkıh	Umut FM (Reopened by Decree No 675)
Cihan Radyo	Kanaltürk Radyo	Radyo Küre	Yağmur FM (Reopened by Decree No 675)
Dünya Radyo	Radyo 59	Radyo Mehtap	
Radios which are closed by the competent institutions under the Decree Law no 668 (10)			
Rengin Radyo	Radyo Karacadağ	Patnos FM	Gün Radyo
Özgür Radyo	Özgür Güneş Radyosu	Doğu Radyo	Yön Radyo
Ses Radyo	Radyo Dünya (Adana)		
Radios which are closed by the competent institutions under the Decree Law no 677(1)			
Batman FM			

Television Channels Dissolved (30):

Television channels closed by the competent institutions under the Decree Law no668 (16)			
Bariş TV	Hira TV	MC TV	Samanyolu TV
Bugün TV	Irmak TV	Mehtap TV	SRT TV (Reopened by Decree No 675)
Can Erzincan TV	Kanal 124	Merkür TV	Tuna Shopping TV
Dünya TV	Kanaltürk	Samanyolu Haber	Yumurcak TV
Television channels closed by the competent institutions under the Decree Law no668 (12)			
İMC TV	Van TV	Jiyan TV	Mezopotamya TV

Hayat'ın Sesi TV	Van Genç TV	Azadi TV	Birlik Medya TV
Özgür Gün TV	TV 10	Denge TV	Zarok TV
Television channels closed by the competent institutions under the Decree Law no683 (2)			
On4	Kanal 12		
Other			
Med Nuçe TV: It was removed from the satellite by the French satellite company Eutelsat with the official request of Turkey.			

Publishing Companies Dissolved (29):

Publishing companies closed by the competent institutions under the Decree Law no668 (29)			
Altın Burç Yayınları	Işık Akademi	Kuşak Yayınları	Ufuk Basın Yayın Haber Ajans Pazarlama
Burak Basın Yayın Dağıtım	Işık Özel Eğitim Yayınları	Muştu Yayınları	Ufuk Yayınları
Define Yayınları	Işık Yayınları	Nil Yayınları	Waşanxaneya Nil
Dolunay Eğitim Yayın Dağıtım	İklim Basın Yayın Pazarlama	Rehber Yayınları	Yay Basın Dağıtım Pazarlama, Reklamcılık
Giresun Basın Yayın Dağıtım	Kaydıracık Yayınları	Sürat Basın Yayın Reklamcılık Eğitim Araçları	Yeni Akademi Yayınları
Gonca Yayınları	Kaynak Yayınları	Sütun Yayınları	Yitik Hazine Yayınları,
Gülyurdu Yayınları	Kervan Basın Yayıncılık	Şahdamar Yayınları	Zambak Basın Yayın Eğitim Turizm
GYV Yayınları			

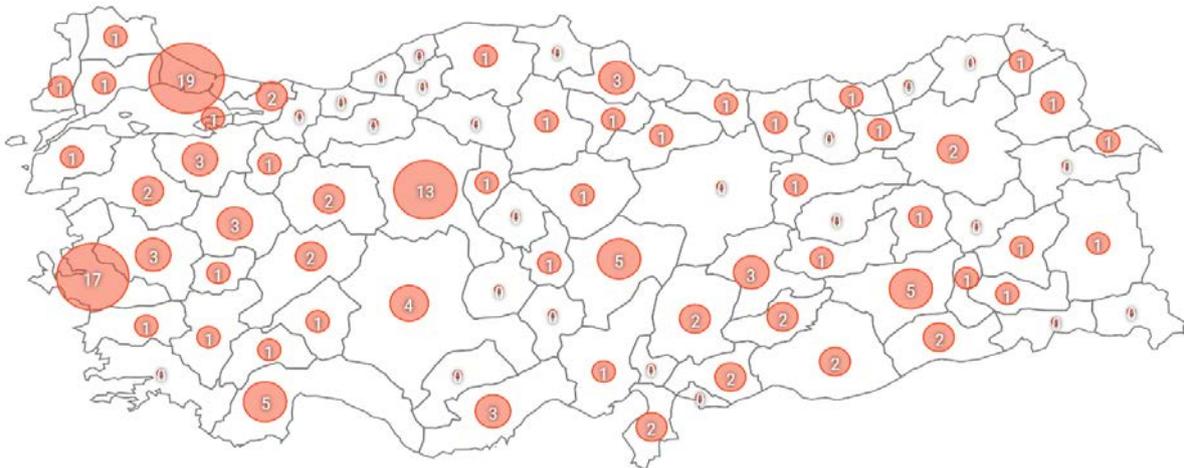
Foundations Dissolved

On July 23, 2016, the Decree Law No. 667 included a list of 104 foundation. According to the information published on 22 November 2016 in the website of the General Directorate of Foundations¹⁰, 37 new foundations were also dissolved. Only 19 of foundations were re-opened.

Currently the number of dissolved foundation is 122.

Foundations closed by list of attached Decree No. 667	Foundations closed by General Directorate of Foundations (based on 667 Nolu KHK)	Total	Re-opened Foundations
104	37	141	19

Breakdown of Foundations Dissolved by provinces

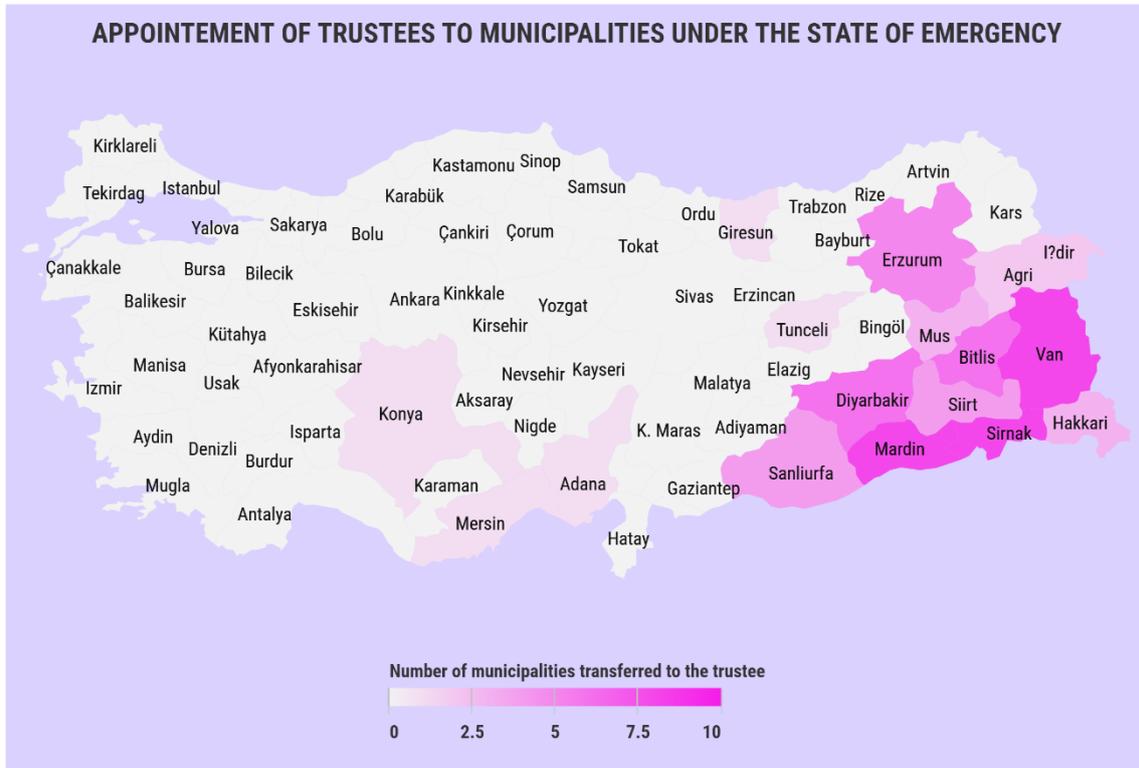


All movable and immovable properties, assets, rights and receivables of the closed charitable foundations are transferred to the **General Directorate of Foundations**, whilst all assets, rights and receivables of the remaining institutions and/or organizations have been transferred to the Treasury, without any consideration.

¹⁰ See <http://www.vgm.gov.tr/db/dosyalar/duyurular10222.pdf>

APPOINTMENT OF TRUSTEES TO MUNICIPALITIES UNDER THE STATE OF EMERGENCY

The number of municipalities to which the trustee was assigned reached to 80. Three of those were ruled by the Justice and Development Party (AKP), 1 by the Nationalist Movement Party (MHP) and 76 by the Party of Democratic Regions (DBP).



24

Deputy Governor of Diyarbakir who is also trustee of Diyarbakir Greater Municipality was appointed to the Union of Southeast Anatolian Municipalities (GABB) as trustee by the Ministry of Interior on 27 January 2017. GABB's presidency was previously carried out by Gültan Kışanak who is under pre-trial detention since 31 October 2016.

List of Municipalities transferred to Trustees by 23 February 2017				
PROVINCE	DISTRICT	Political Party	Appointed Trustee	Date of Appointment of Trustee
Adana	Pozantı	MHP	Member of Municipal Council (MHP)	11.9.2016
Ağrı	Diyadin	DBP	Subgovernor	11.9.2016
Ağrı	Doğu Beyazıt	DBP	Subgovernor	24.1.2017
Ağrı	Tutak	DBP	Sub governor	11.1.2017
Batman	Beşiri	DBP	Subgovernor	11.9.2016
Batman	Gercüş	DBP	Subgovernor	11.9.2016
Batman	İkiköprü	DBP	Subgovernor	11.9.2016
Batman	Merkez	DBP	Deputy Governor	11.9.2016
Bitlis	Ovakışla	DBP	Subgovernor	3.11.2016
Bitlis	Merkez	DBP	Governor	27.11.2016
Bitlis	Güroymak	DBP	Subgovernor	28.11.2016
Bitlis	Hizan	DBP	Subgovernor	23.12.2016

Bitlis	Mutki	DBP	Subgovernor	23.12.2016
Bitlis	Yolalan	DBP	Subgovernor	23.12.2016
Diyarbakır	Silvan	DBP	Subgovernor	11.9.2016
Diyarbakır	Sur	DBP	Subgovernor	11.9.2016
Diyarbakır	Hani	DBP	Subgovernor	5.10.2016
Diyarbakır	Büyükşehir	DBP	Etimesgut (Ankara) Subgovernor	1.11.2016
Diyarbakır	Kayıpınar	DBP	Subgovernor	8.12.2016
Diyarbakır	Yenişehir	DBP	Subgovernor	8.12.2016
Diyarbakır	Kulp	DBP	Sub Governor	23.1.2017
Diyarbakır	Bismil	DBP	Sub Governor	4.2.2017
Diyarbakır	Kocaköy	DBP	Sub Governor	7.2.2017
Diyarbakır	Lice	DBP	Subgovernor	20.9.2016
Elazığ	Karakoçan	DBP	Subgovernor	31.1.2017
Erzurum	Aşkale	AKP	Vice Mayor from AKP (by election)	11.9.2016
Erzurum	Hınıs	DBP	Subgovernor	11.9.2016
Erzurum	Karayazı	DBP	Subgovernor	6.12.2016
Erzurum	Karaçoban	DBP	Subgovernor	28.12.2016
Erzurum	Tekman	DBP	Subgovernor	6.1.2017
Giresun	Çamoluk	AKP	Member of Municipal Council from AKP	11.9.2016
Hakkari	Merkez	DBP	Deputy Governor	11.9.2016
Hakkari	Çukurca	DBP	Subgovernor	7.12.2016
Hakkari	Yüksekova	DBP	Subgovernor	12.12.2016
Iğdır	Hoşhaber	DBP	Deputy Governor	11.9.2016
Iğdır	Tuzluca	DBP	Subgovernor	11.9.2016
Konya	Ilgın	AKP	Member of Municipal Council from AKP	11.9.2016
Mardin	Dargeçit	DBP	Subgovernor	11.9.2016
Mardin	Derik	DBP	Subgovernor	11.9.2016
Mardin	Mazıdağı	DBP	Subgovernor	11.9.2016
Mardin	Nusaybin	DBP	Subgovernor	11.9.2016
Mardin	Büyükşehir	DBP	Vali	17.11.2016
Mardin	Kızıltepe	DBP	Subgovernor	6.12.2016
Mardin	Artuklu	DBP	Subgovernor	13.12.2016
Mardin	Ömerli	DBP	Subgovernor	6.1.2017
Mersin	Akdeniz	DBP	Subgovernor	18.12.2016
Muş	Bulanık	DBP	Subgovernor	11.9.2016
Muş	Varto	DBP	Subgovernor	11.11.2016
Muş	Malazgirt	DBP	Subgovernor	2.12.2016
Siirt	Eruh	DBP	Subgovernor	11.9.2016
Siirt	Merkez	DBP	Deputy Governor	17.12.2016
Siirt	Baykan	DBP	Subgovernor	20.12.2016
Siirt	Veysel Karani	DBP	Subgovernor	23.12.2016
Siirt	Gökçebağ	DBP	Subgovernor	6.2.2017
Şırnak	Cizre	DBP	Subgovernor	11.9.2016
Şırnak	Silopi	DBP	Subgovernor	11.9.2016
Şırnak	İdil	DBP	Subgovernor	21.9.2016
Şırnak	Beytüşşebap	DBP	A member of AKP	23.9.2016
Şırnak	Merkez	DBP	Deputy Governor	5.11.2016
Şırnak	Sirtköy	DBP	İdil Subgovernor	8.11.2016
Şırnak	Kumçatı	DBP	Deputy Governor	6.1.2017
Şırnak	Uludere	DBP	Subgovernor	27.1.2017
Şırnak	Findık	DBP	Subgovernor	18.1.2017
Şırnak	Görümlü	DBP	Subgovernor	10.2.2017
Tunceli	Merkez	DBP	Deputy Governor	17.11.2016
Urfa	Suruç	DBP	Subgovernor	11.9.2016
Urfa	Halfeti	DBP	Subgovernor	23.12.2016

Urfa	Viranşehir	DBP	Subgovernor	6.1.2017
Urfa	Bozova	DBP	Subgovernor	6.1.2017
Van	Edremit	DBP	Subgovernor	11.9.2016
Van	Erciş	DBP	Subgovernor	11.9.2016
Van	İpekyolu	DBP	Subgovernor	11.9.2016
Van	Özalp	DBP	Subgovernor	11.9.2016
Van	Büyükşehir	DBP	Governor	17.11.2016
Van	Çatak	DBP	Subgovernor	6.1.2017
Van	Muradiye	DBP	Subgovernor	17.1.2017
Van	Başkale	DBP	Subgovernor	22.1.2017
Van	Gürpınar	DBP	Subgovernor	3.2.2017
Van	Bahçesaray	DBP	Subgovernor	17.02.2017

Legal Amendments made by Decree No.674 concerning municipalities

All rules and practices related to municipal bodies are regulated through Municipal Law no. 5393.

Amendments in 38th, 39th and 40th articles of this law are as follows:

- If a mayor, deputy mayor or member of municipal council is suspended from their post “due to crimes related to terror or of aiding and abetting terror organizations”, trustees substituting them can be made to metropolitan municipalities and city municipalities by Ministry of Interior and by governors to other municipalities (districts). The only eligibility criteria for trustees is to be entitled to be elected.
- This amendment can also be applied retrospectively to those mayors, deputy mayors or members of municipal councils who are subject to ongoing investigations and/or prosecutions. Trustees will replace investigated/ prosecuted mayors, deputy mayors or members of municipal council within 15 days.
- After trustee appointments, “Budgetary tasks and accounting transactions of municipalities can be carried out by revenue offices or the fiscal directorate on the approval of the governors's office”
- After trustee appointments, the municipal council cannot hold meetings without approval of appointed trustees.
- After trustee appointments, authority of municipal council, municipal board and commissions within municipal councils can be transferred to officially appointed municipal board member.
- In municipalities and affiliated bodies, “if the governor’s office determines negligence of duty that negatively affects the fight against terrorism and violent incidents”, those services can be taken under the authority of the governor’s office by official institutions which are under mandate of the government. Expenditures for delivering these services will be costed to the budget of the municipality “without being subject to any monetary and budgetary limitations”.
- In municipalities and affiliated bodies, “if the governor’s office determines resources of municipalities are used to support terrorist activities and violent incidents directly or indirectly”, movable properties of municipalities can be seized by the governor or subgovernor’s office. In this case, personnel in charge can be dismissed and can only go back to work on the orders of the office that dismissed those.

Appeals Against Decrees by Law & Measures of the State of Emergency

The Constitutional Court has rejected the main opposition Republican People's Party (CHP)'s appeal for the annulment of decree laws issued by the government since the declaration of a state of emergency after the failed July 15 coup attempt.

The court rejected the appeal on the grounds of non-competence on the basis of the 3rd sentence of the first paragraph of Article 148 of the Constitution which reads as "... no action shall be brought before the Constitutional Court alleging unconstitutionality as to the form or substance of decrees having the force of law issued during a state of emergency, martial law or in time of war".

Decrees Appealed by CHP	Articles appelaed for annulment	Decision of the Constitutional Court (Date/No/Official Gazette)
Decree no 668	A- 1. Phrase " <i>and some institutions and organisations</i> " of the Article 1 B- (1), (2), (3), (4) & (7) paragraphs of Article 4 C- Articles 5., 6., 7., 10., 11., 12., 13., 14., 15., 16., 17., 18., 19., 20., 21., 22., 23., 24., 25., 26., 27., 28., 29., 30., 31., 32., 33., 34., 35., 36. ve 38.	No. Of Decision: 2016/159 Date of Decision: 12.10.2016 Official Gazette No. 29878 dated 4.11.2016 -
Decree no 669	A- Article 1 B- Articles: 5., 6., 7., 8., 9., 10., 12., 13., 14., 15., 16., 17., 18., 21., 22., 23., 24., 25., 26., 27., 28., 29., 30., 31., 32., 33., 34., 35., 36., 37., 38., 39., 40., 41., 42., 43., 44., 45., 46., 47., 48., 49., 50., 51., 52., 53., 54., 55., 56., 57., 58., 59., 60., 61., 62., 63., 64., 65., 66., 67., 68., 69., 70., 71., 72., 73., 74., 75., 76., 77., 78., 79., 80., 81., 82., 83., 84., 85., 86., 87., 88., 89., 90., 91., 92., 93., 94., 95., 96., 97., 98., 99., 100., 101., 102., 103., 104., 106., 107., 108., 109., 110., 111., 112. & 11 C- Article 20 Ç- last sentences of paragraphs No.1 & 2 of the Article 105	No. Of Decision: 2016/160 Date of Decision: 12.10.2016 Official Gazette No. 29878 dated 4.11.2016
Decree no 670	Paragrphs (7), (9) & (10) of the Article 10	No. Of Decision: 2016/164 Date of Decision: 2.11.2016 Official Gazette No. 29882 dated 8.11.2016
Decree no 671	A- Articles of 2., 5., 7., 8., 9., 10., 11., 15., 16., 20., 21., 22., 23., 24., 25., 28., 29. & 30.	No. Of Decision: 2016/165 Date of Decision: 2.11.2016 Official Gazette No. 29882 dated 8.11.2016

27

Appeals to the Council of State

The Fifth Chamber of the Council of State by refusing the appeals made by dismissed people from public authorities ruled that such disputes entered into the jurisdiction of the administrative courts. It has also been specially stated that the actions taken by OHAL Decrees in these resolutions are at law.

Decisions summarized in the website of the Council of State are listed below.

Zihni/Turkey (application no. 59061/16)

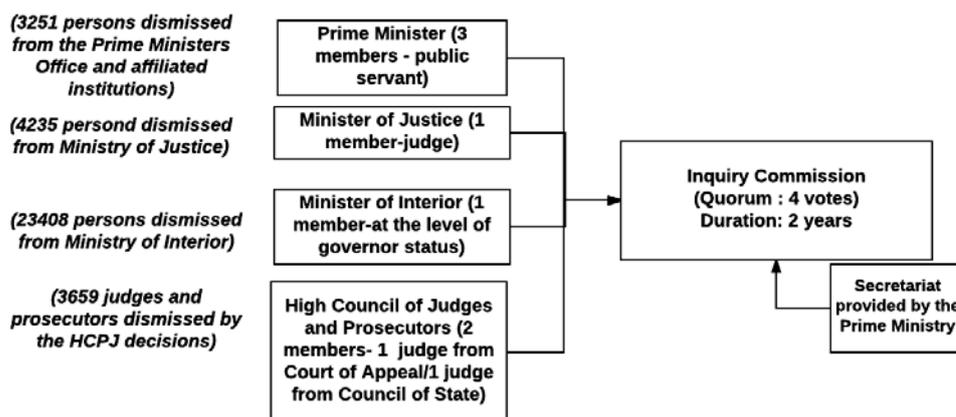
In its decision in the case of Zihni v. Turkey, the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final. The case concerned the dismissal of a teacher from his duties by a legislative decree issued by the Council of Ministers in the context of the state of emergency introduced after the attempted coup d'état of 15 July 2016. The Court noted that Mr Zihni had lodged his application without having first brought proceedings before the national courts. It therefore rejected the application for non-exhaustion of domestic remedies (Article 35 §§ 1 and 4 of the Convention). The Court noted that there were no special circumstances in the present case absolving Mr Zihni from the obligation to make use of the domestic remedies available to him under Turkish law, namely an administrative action and an individual appeal to the Constitutional Court. The Court also considered that the fact that the Constitutional Court had ruled on the constitutionality of a law, in the context of a challenge to constitutionality, did not prevent members of the public from lodging an individual appeal before that court against specific decisions taken in application of that particular law's provisions. The Court further noted that the Constitutional Court, which had received thousands of individual appeals, had not yet ruled on whether it had jurisdiction to examine the appeals lodged against the measures taken under the legislative decrees.

Complaint Mechanism Against Measures of the State of Emergency¹¹

Following the proposal made by the Secretary General of the Council of Europe as well as the Venice Commission concerning the creation of an independent ad hoc body for the examination of individual cases of dismissals, subject to subsequent judicial review, the Government issued a Decree Law No: 685 concerning the establishment of a Inquiry Commission on 23 January 2017.

The Structure of the Commission

According to the Article 1(2) of the decree law no.685, "The commission consists of 7 members, three of whom are public officials appointed by the Prime Minister, one member appointed by the Minister of Justice from among judges and prosecutors serving in administrative units of the Ministry and also related and connected units of the Ministry, one appointed by the Minister of Interior from among the heads of civilian administration, two appointed by the HCJP from among the rapporteur judges serving in the Court of Cassation and the Council of State."



¹¹Please see an assessment of the Decree No 685 by Assoc.Prof. Kerem Altıparmak published on 31 January 2017 at bianet. <http://bianet.org/bianet/toplum/183186-ohal-komisyonu-etkili-bir-hukuk-yolu-mu>

The Commission will consist of seven members and will decide by majority vote. Abstentions are prohibited.

Duration of the Commission

The mission of the Commission is two years and it is possible to extend it for one year every time. Members will be elected for two years. If its term of office is extended, the same members can be reassigned or new members can be elected.

Termination of the duty of the Commission Members:

According to the Article 4: “ In case of administrative investigation on grounds of membership, affiliation with, connection or link with a terrorist organization, any formation, structure, group which determined by the National Security Council to perform activities against national security, the membership of the members shall be terminated by the commission”.

Secretariat Services:

According to the Article 12 “the secretariat services will be provided by the Prime Ministry’s office. For this purpose, sufficient number of personnel will be allocated to the commission”.

Working Procedures

According to Article 13 of the emergency decree law: “The principles and procedures as to the applications and working of the commission shall be determined by the Prime Ministry and declared upon a proposal of the commission”.

According to Article 9, further, “the commission shall examine the applications over the files in line with the evidence submitted in the application”.

Decisions (Article 10)

The Commission will decide by majority vote. Abstentions are prohibited.

According to the article 9 of the decree law the Commission shall either reject or accept the application as a result of its examination. The provisions of the acceptance decision are listed in Article 10 as the following:

“Article 10-(1) In case of the acceptance of the applications, filed by the dismissed public officials, the decision shall be informed to the State Personnel Presidency. The appointment proposals of these officials shall be made by the State Personnel Presidency to the staff and positions in line with their former status and titles in institutions other than those they were employed before, excepting those officials for whom this is not possible. (...)

(2) In case of acceptance of the application, filed by the closed institutions, the provisions of the concerned decree law shall be cancelled.”

Appeal against Commission’s Decisions (Article 11)

Members of the judiciary dismissed from the profession by HCJP and high courts on the basis of Decree Law No. 667 are granted the right to file a lawsuit at the Council of State within 60 days from the finalization of the decision, and from the date of publication of the Decree Law No. 685 in the case of decisions finalized previously. The provisions of this decree-law may also apply in respect of those who have already filed a lawsuit previously and even those for whom a decision has already been taken.

On the other hand, those who would like to appeal against the decisions of the Commission will be able to file cancellation proceedings at Ankara administrative courts to be designated by the High Council of Judges and Prosecutors.

