

WHEN STATE OF EMERGENCY BECOMES

# THE NORM

THE IMPACT OF EXECUTIVE DECREES  
ON TURKISH LEGISLATION

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# INTRODUCTION

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**S**ince the State of Emergency (OHAL) was declared in Turkey on July 20, 2016, a total of 30 State of Emergency Executive Decrees (KHK) **comprising 1194 articles in aggregate, were issued, leading to over 1000 amendments in national legislation.** Most of these amendments, which are in no way related to the reasons prompting the declaration of the State of Emergency, introduced changes in order to restructure state-society relations in such diverse areas as national defense, internal security, state personnel regime, economy and social security, administrative structure, education and health. The current report will analyze all the executive decrees issued until date under the State of Emergency with a view towards shedding light on the profound and dramatic changes that these are meant to bring about in the country's political, social and economic structures and relations.

In Turkey, there have always been heated debates when governments strive to run the country through executive decrees that by-pass the legislature, as such attempts raise concerns over compliance with constitutional law and democratic norms. Nonetheless, taking into consideration the huge scope and the aforementioned immense impact of the executive decrees issued under the State of Emergency, it can be suggested that the country is now facing a whole new situation that goes far beyond the debates around the executive decrees issued in the 1990s, for instance.

Furthermore, Turkey can be said to be on the verge of a whole new era that radically diverges from the previous ones especially in political terms, given that the Constitutional Court has declared itself to be unauthorized in pleas against the State of Emergency executive decrees, thereby placing these executive decrees outside of judiciary oversight, and that following the referendum on the presidential system in April 2017, crucial changes revising the state's architecture were also added to the legislation through executive decrees. The purpose of the current work is precisely to present a panorama of these legal changes that future studies and analyses on the nature of this new epoch would necessitate.

In addition to these critical amendments in legislation, the government used State of Emergency executive decrees to impose various harsh sanctions on public sector employees, associations and foundations, media outlets, companies and municipalities, including dismissal, closure, seizure of property, and appointment of special administrators (dubbed *kayyum*) without the need for any judiciary ruling. Under the State of Emergency, in place since over 17 months and already extended five times, 115,516 public employees were dismissed from public duty for life. As of December 24, 2017, a total of 5822 academics were expelled from 117 universities, including 386 academics who had signed the petition issued by Academics for Peace.

The government has blocked judicial appeal against measures introduced by State of Emergency executive decrees: With the Executive Decree 685, State of Emergency Measures Review Commission has been set up as the only legal organ that natural and legal persons can appeal to against measures affecting them. The commission was launched on May 22, 2017, receiving more than 102 thousand applications until date. The European Court for Human Rights declared the State of Emergency Measures Review Commission as an efficient domestic legal avenue, and thereby refused 12,600 appeals it received against measures introduced through





**Executive decrees issued until date closed down**

**49 private health institutions, 2271 private education institutions including private student dorms and boarding houses, 146 foundations, 1427 associations, 15 foundation-owned higher education institutions, and 19 trade unions.**

executive decrees.

**Executive decrees issued until date closed down 49 private health institutions, 2271 private education institutions including private student dorms and boarding houses, 146 foundations, 1427 associations, 15 foundation-owned higher education institutions, and 19 trade unions.** The newspapers, magazines, publishing houses, distribution companies, private radios and TV channels closed down by executive decrees, on the other hand, number 148 as of September 30, 2017, while the closure decisions for 26 more such outlets were later rescinded. Out of the press and media outlets thus closed down, **71 are private radios and TVs, and 77 are newspapers, magazines, publishing houses, and distribution companies.**

**According to a report by the Securities Deposit Insurance Fund (TMSF) for the period July-September 2017, special administrators were placed at the head of a total of 1022 companies whose total assets approach TL 47 billion. A total of 49,928 people were employed by the said companies.**<sup>1</sup>

These measures introduced by State of Emergency executive decrees and placing severe restrictions on individual rights and freedoms, have been documented in detail in Human Rights Joint Platform's "State of Emergency Information Report."<sup>2</sup> As such, the current study will limit itself to changes and additions made by State of Emergency executive decrees in the form of so called "omnibus laws".

**The study analyzes 30 State of Emergency executive decrees issued until date, classifying the amendments to legislation under specific categories, and listing the changes / additions / eliminations introduced by these orders.** In order to make sure that the content of these amendments are fully understood, technical details that may confound the reader have been left out; comments were added to clarify the true nature of these changes and the judiciary / political / institutional transformations that they introduce. The commentary and analysis have nevertheless been restricted since the main objective of the study is to present a comprehensive and inclusive documentation of legal amendments and innovations brought about by these executive decrees.

This study aims to conduct an analysis of the structural change that the State of Emergency executive decrees are meant to bring about in Turkey's administrative structure and legal regime, and thereby facilitate the understanding of how the government deploys state of emergency methods to restructure the political, legal and social institutions.

<sup>1</sup> Security Deposit Insurance Fund's Quarterly Activity Report (01.07.2017-30.09.2017): <http://www.tmsf.org.tr/uc.aylik.rapor.tr>

<sup>2</sup> Human Rights Joint Platform, State of Emergency Information Report: <http://www.ihop.org.tr/2017/09/18/ohal-guncellenmis-durum-raporu/>

# 1. DEFENSE AND SECURITY

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Defense and security is the first area being restructured through State of Emergency executive decrees. In defense, very profound changes were carried out as we will mention below, and vast numbers of staff were expelled from the Turkish Armed Forces. Furthermore additional measures were introduced stipulating that “soldiers expelled from the Turkish Armed Forces are deprived of their military rank and offices without the need for judicial ruling, these individuals cannot be reinstated in the Turkish Armed Forces, return to public service employment, nor assume direct or indirect roles in public service; their memberships in any board of trustees, boards, commissions, executive committees, audit boards, liquidation boards etc. are deemed to have been terminated. Their firearm licenses and pilot licenses are cancelled, and they are evacuated within 15 days from the public houses or foundation-owned houses they dwell in. These individuals cannot become the founders, partners or employees of privately held security companies. Immediate notifications are made about these individuals to the relevant passport units of the Ministry of National Defense. Their passports are withdrawn by the said units upon receiving such notice.” (Executive Decree 668 Article 2; Executive Decree 669 Article 2). Furthermore the following measures were also introduced: “Individuals expelled from Turkish Armed Forces, Gendarmerie General Command, General Directorate of Security and public office can no longer use any professional titles and ranks that they used to hold, such as ambassador, governor, undersecretary, district governor etc. and can no longer enjoy the rights associated with these titles and ranks” (Executive Decree 677 Article 1); and “Department heads and members of the Military Court of Appeals and the Military High Administrative Court, as well as military judges are deprived of their military ranks without the need for a verdict of conviction” (Executive Decree 678 Article 21).

## 1) Ministry of National Defense

The measures in the field of defense are aimed at strengthening the Ministry of National Defense (MSB) and the minister. The laws mentioned below introducing changes to the system of defense feature clauses that contribute to such a strengthening. Naturally, in this respect, various amendments were made to the *Law no. 1325 on Structure and Organization of the Ministry of National Defense*. Chief among these are the following: The Army, Navy and Air Force commanders were subordinated to the Minister of National Defense, and the President and Prime Minister were granted the power to give direct orders to these force commanders. The Ministry of National Defense’s organizational structure was revised in line with these new powers, its central organization was expanded with the addition of a provincial organization in the countryside, and its organizational structure was differentiated from those of the General Staff and Armed Forces. The duties and powers of the Minister of National Defense came to include the education in military schools, recruitment of personnel, military industry services, inspection and investigation. In another important amendment, National Intelligence Organization (MİT) was authorized to conduct security investigations on the staff of the Ministry of Defense and in related institutions, as well as of military personnel active in or outside troops.

Army, Navy and Air Force Commands have been subordinated to the authority of the Minister of National Defense. A further addition specifies that “The President and Prime Minister, when they deem it necessary, can receive direct information from and give direct orders to the Force Commanders and their subordinates. The orders given are carried out without seeking the approval of any other authority” (Executive Decree 669 Article 36).

As for the organizational structure, previous stipulations such as “the Ministry regulates it in coordination with the General Staff” and “they are nominated from among the Turkish Armed Forces institutions and personnel” were removed. The new wording reads, “Staff positions for the Turkish Armed Forces are determined by the Minister of National Defense and appointments and assignments to these positions are made by the Minister of National Defense”. Institutions that report to the Ministry are listed, the number of undersecretary deputies has been set at 5, and the creation of a provincial organization has been given a start with the new expression “central and provincial organization”<sup>3</sup>. (Executive Decree 669, Article 35; Executive Decree 676 Article 58; Executive Decree 694 Article 38, Executive 696, Article 26). The positions in the Ministry’s central organization have been associated with specific ranks in the Turkish Armed Forces (Executive Decree 674 Article 47).<sup>4</sup>

The following were placed under the power of the Minister of National Defense: “education in military schools (war schools and noncommissioned officer vocational colleges)”; conscription during times of peace or war as well as “employment of personnel”; running not only “military industry services” as before but rather “military industry services including military factories and shipyards” (Executive Decree 669 Article 37). The minister’s authorities came to include the execution of “inspection, analysis and investigation functions” (Executive Decree 676 Article 59). In connection to the latter, a Presidency of Inspection Board was established to “inspect, analyze and investigate all the activities, accounts and transactions of the subordinate Force Commands, the agencies and institutions associated and related with the Ministry’s organization, and any companies where these agencies and institutions or the Turkish Armed Forces Foundation hold an at least 50% stake jointly or separately, upon the order or approval of the Minister, on behalf of the Minister,” (Executive Decree 694 Article 39).

The Ministry will conduct the security investigations and archive research of personnel in all the associated and related institutions with the intermediation of the Undersecretariat of National Intelligence Service and General Directorate of Security (Executive Decree 690 Article 10). A further article was added to the law, specifying that the intelligence investigations regarding the staff serving in the Ministry’s central and provincial organizations and any associated and related institutions will be conducted by the Undersecretariat of National Intelligence Service. As such, the latter can now run any inspection on the personnel of the Ministry and

3 A similar provision concerning the provincial organization was introduced with the Executive Decree 669, Article 9 which amended Law no. 1453 on Salaries of Military Officers and Functionaries.

4 An undersecretary is considered to be equal with a four-star general, National Defense University President with lieutenant general, deputy undersecretaries, President of the Inspection Board and general directors with major generals, assistant general directors and independent department heads with brigadier general, and department heads with colonel. In the same article it is also said that “Individuals appointed to these positions can benefit from public housing and military social facilities just like the officers of their same rank do. The same principle applies in the organization of military protocol procedures.”

of Turkish Armed Forces -both in or outside of troops-, in the scope of its intelligence generating activities or security investigations. The practical implementation of these articles will be determined by a regulation which shall be issued by the President (Executive Decree 694 Article 41).

It has been stated that the Ministry is authorized to issue all kinds of by-laws, regulations and communiqués in order to fulfill its duties and authorities and that it can delegate its authorities to subordinates at any level (Executive Decree 690 Article 11).

An additional article was introduced, concerning the education of military students in war schools, faculties and colleges; the personal rights of military students, expulsion of military students, procedures concerning those expelled, issues to be outlined in regulations, military students' right to resign, pocket money, awards etc. as well as the articles removed from the Law on Turkish Armed Forces Personnel (Executive Decree 669 Article 41, Executive Decree 696 Article 27-28).

Various provisions were introduced in order to meet the Ministry of National Defense's demand for new staff, resulting from the restructuring and expulsions. The transfer of Ministry personnel to other agencies, the appointments or transfers to inspector positions at the Ministry, and appointments to the positions of National Defense Expert and Armed Forces Expert were simplified (Executive Decree 676 Article 60-61, Executive Decree 694 Article 42). It was made possible to employ retired commissioned and noncommissioned officers at the Ministry and its departments for recruiting military students (Executive Decree 678 Article 18), and the remuneration was set for those employees from other public agencies delivering this same service (Executive Decree 681 Article 52). It became possible to employ at the Ministry not only the personnel of other public agencies but also judges and prosecutors (Executive Decree 669 Article 38). It was stated that, alongside the current personnel, new appointments may be made via executive decree to positions deemed necessary (Executive Decree 669 Article 42).

Military factories and shipyards can now engage in commercial relations with public agencies as well as natural and legal persons including foreigners, without compromising their main duties. (Executive Decree 678 Article 17, Executive Decree 696 Article 31). Military Factory and Shipyard Operations Corp. (ASFAT A.Ş.) has been established in order to run such operations (Executive Decree 696 Article 29). With additional and temporary articles added to the law, certain provisions were made as regards security investigations: It has been stipulated that those accepted to basic military training or military schools, whose security investigations later yield a negative result will not have to pay compensation (Executive Decree 696 Article 29). Furthermore, it was indicated that the appointments to the National Defense Specialist and Armed Forces Specialist positions as mentioned by the Executive Decree 671 will have to be preceded by a security investigation. Also, those students who have joined the National Defense University but whose security investigation results have come in as negative will also be returned to the schools that they were previously enrolled at (Executive Decree 696 Article 30).

## 2) General Staff

An important dimension of the amendments in the field of defense is the limitation of the powers of the Chief of General Staff. All laws introducing legal changes in



**Military factories and shipyards can now engage in commercial relations with public agencies as well as natural and legal persons including foreigners, without compromising their main duties.**

**(Executive Decree 678 Article 17).**

defense include articles contributing to the said legislation, but the major changes were made in the *Law no. 926 on Turkish Armed Forces Personnel* and *Law no. 1324 on the Duties and Powers of the Chief of General Staff*. Accordingly, one no longer has to have served as Force Commander to become Chief of General Staff. The Chief of General Staff is from now on the commander of the Armed Forces only during war, but not in peace. The General Staff's organization, structure and positions have been redefined. Chief of General Staff's duties, powers and responsibilities have first been radically restricted, and then some of these were restored to legislation although the powers of the Minister of National Defense remain in place. Comprehensive changes to the Law no. 926 brought a wide array of limitations to the powers of the Chief of General Staff, ranging from the appointment of force commanders to the overseas leaves of commissioned and noncommissioned officers. The same goes for the powers of force commanders.

Firstly, due to an amendment to the Law no. 926, it is no longer necessary to have served as Army, Navy, Air Force Commander to become Chief of General Staff (Executive Decree 669 Article 27). Later, it was realized that the same amendment had to be made in the Law no. 1324, and this law has also been revised. Furthermore, the Chief of General Staff will be appointed from among four-star generals and admirals (it used to be generals and admirals), as previously, upon the nomination of the Council of Ministers and the final decision of the President (Executive Decree 671 Article 8).

While the previous legislation talked about the organization, structure and positions of the Armed Forces, the new amendment restricted this definition by replacing it with General Staff, and indicated that in peace time, the force commands will stay outside this organization and will be featured among the positions and structure of the Ministry of National Defense. While previously the Chief of General Staff was the Commander of the Armed Forces during both peace and war, the new executive decrees first removed the expression "during peace and war" (Executive Decree 669 Article 33) but then restored the word "during war" (Executive Decree 671 Article 9).

As for the Law no. 1324, the article defining the Chief of General Staff's duties, powers and responsibilities, initially, an executive decree removed the statement that functions such as intelligence, operations, organization, training, education and logistic services -except procurement- are to be performed by bodies that report to the Army, Navy and Air Force Commands and General Staff. A new stipulation stated that the Chief of General Staff had to communicate her / his suggestions on training and education services in military schools to the Ministry of National Defense, which will be in charge of the said services. (Executive Decree 669 Article 34). Later this article was again amended in a way that restored many of these duties and powers. "The Chief of General Staff decides on the staffing, intelligence, operations, organization and training principles and priorities, as well as the basic programs for preparing the Armed Forces for war, with the powers of the Ministry of National Defense remaining in place" (Executive Decree 671 Article 7).

The Law no. 926 has been amended a number of times, replacing the expressions Chief of General Staff / General Staff with Minister / Ministry of National Defense. Likewise, Gendarmerie General Command and Coast Guard Command have



been separated from the Turkish Armed Forces and subordinated to the Ministry of Interior, and the necessary amendments were made in the said law. Furthermore, since military high schools were closed down and the National Defense University and Gendarmerie and Coast Guard Academy have been established, the Chief of General Staff's previous prominent role in military education policies has been reduced (Executive Decree 681 Article 12-52).

With an amendment to the Law no. 926, the Minister of National Defense is now in charge of appointments to commissioned officer positions. Now the Minister of Interior and Minister of National Defense -instead of the force commanders as before- are to approve the promotions of sub-lieutenants, colonels and noncommissioned officers. As such, the force commanders have been deprived of their promotion powers, and the General Staff has been completely left out of the process (Executive Decree 681 Article 17).

The old text of the Law no. 926 read "The generals and admirals are promoted to higher positions upon the demand of force commanders, the suggestion of the Chief of General Staff, an official letter by the Minister of National Defense, the signature of the Prime Minister and approval of the President", while the new text states that promotions to the rank of brigadier general /commodore, and promotions of generals and admirals to the next rank shall take place upon an executive decree signed by the Minister of National Defense (or the Minister of Interior for officers in the Gendarmerie and Coast Guard) and Prime Minister, and approved by the President (Executive Decree 681 Article 17).

While the Law no. 926 previously stipulated that general and admiral positions in the Turkish Armed Forces are determined by the Chief of General Staff, it now states that these positions will be regulated by the Minister of National Defense after consultation with the Chief of General Staff (Executive Decree 681 Article 21).

The same law used to state that a four-star general's two-year stint as Force Commander could be extended for additional one-year terms (until the age limit), upon the suggestion of the Chief of General Staff and an official letter of the Minister of National Defense, through an executive decree signed by the Prime Minister and approved by the President. The new text left out the part that read "suggestion of the Chief of General Staff", thereby bypassing her / him in the extension of the term of office of force commanders (Executive Decree 681 Article 21).

Following another amendment to the law, it is now the Minister of National Defense, and not the Chief of General Staff as before, who determines which faculties, colleges and vocational colleges candidates must graduate from in order to become regular noncommissioned officers (Executive Decree 669 Article 28).

### 3) Supreme Military Council

Amendments to the *Law no. 1612 on the Structure and Duties of the Supreme Military Council* changed the composition of the Supreme Military Council to the favor of civilian members, and reduced the frequency of its meetings. The powers and influence of the Chief of General Staff and the Deputy Chief were restricted, while those of the Prime Minister and Minister of National Defense were expanded.

Supreme Military Council's membership structure was also changed. At the present, the Supreme Military Council consists of the Prime Minister, Chief of Gen-



**Amendments to the Law no. 1612 on the Structure and Duties of the Supreme Military Council changed the composition of the Supreme Military Council to the favor of civilian members, and reduced the frequency of its meetings. The powers and influence of the Chief of General Staff and the Deputy Chief were restricted, while those of the Prime Minister and Minister of National Defense were expanded.**



eral Staff, Deputy Prime Ministers, Minister of Justice, Foreign Minister, Minister of Interior, and Minister of National Defense, as well as the force commanders. The latest amendment added the Ministers of Justice, Foreign Affairs and Interior to the Council, while removing the Army Commanders, General Commander of the Gendarmerie, Commander of the Navy as well as the four-star generals and admirals in the Armed Forces. In the absence of the Prime Minister, the Chief of General Staff can no longer preside over the Supreme Military Council meeting (Executive Decree 669 Article 45).

Previously, the Supreme Military Council used to convene twice a year, but the new amendment brought this down to once a year. The Chief of General Staff was deprived of her / his previous power to convene the Council during the rest of the year (Executive Decree 668 Article 4/4).<sup>5</sup>

Supreme Military Council's duty of "expressing an opinion on other issues related to the Armed Forces when deemed necessary....", which used to be exercised by "the Prime Minister, Chief of General Staff or Minister of National Defense", is now limited to only the Prime Minister (Executive Decree 669 Article 46).

Supreme Military Council's secretary general used to be the Deputy Chief of General Staff. The new amendment redefined this position as secretariat, and stipulated that the Ministry of National Defense will be in charge of this service (Executive Decree 669 Article 48). Those unable to attend the meeting will now communicate their excuse to the "Council Secretariat", instead of to the "Council Secretary General" as before (Executive Decree 669 Article 47). Issues to be disclosed to the public used to be disseminated by the Secretary General; now however, the "Ministry of National Defense" will do so. The timing and method for ending this confidentiality will no longer be stipulated by the bylaw, but rather a regulation (Executive Decree 669 Article 49). As such, actions and procedures concerning the Supreme Military Council's management, *modus operandi* and secretariat services, which used to be regulated by the bylaw of the Supreme Military Council, will now be regulated by a regulation to be issued by the Prime Minister's Office (Executive Decree 669 Article 50).

#### **4) Gendarmerie General Command**

Aside from the subordination of the Force Commands to the Ministry of National Defense, the most important change concerning the military forces was the subordination of the Gendarmerie General Command and Coast Guard Command to the Ministry of Interior. Following comprehensive changes to the *Law no. 2803 on the Structure and Powers of the Gendarmerie*, the gendarmerie has been defined not as a military force, but as a general law enforcement force. In terms of definition, subordination, structure, organization, positioning, duties, area of responsibility, staffing, promotions, discipline and investigation, supervision and regulatory procedures, its connection to the Turkish Armed Forces and General Staff has been either completely severed or limited to times of military mobilization and war. Accordingly, the powers of the Chief of General Staff and other military figures have been restricted. Gendarmerie General Command has been subordinated to the Ministry of Interior and the Minister of Interior has become the chief authority in

<sup>5</sup> Furthermore, a temporary additional clause has shifted the Supreme Military Council meeting from August to July in 2016.

the aforementioned issues. Besides, various practical measures were taken to fill the lack of personnel following expulsions from the Turkish Armed Forces and the restructuring process.

#### **a.) Definition and Subordination**

The gendarmerie forces are now defined as “an armed, general law enforcement force”, whereas they used to be defined as “an armed, military security and law enforcement force” (Executive Decree 668 Article 5).

Gendarmerie General Command used to be conceived as a part of the Turkish Armed Forces, and was subordinate to the General Staff in terms of its duties associated with the Armed Forces, training and education, and to the Ministry of Interior in terms of security and enforcement; now, it reports exclusively and wholly to the Ministry of Interior (Executive Decree 668 Article 6).

The gendarmerie will now report to the force commands only during times of military mobilization and war, while this used to include martial law and whenever deemed necessary by the General Staff<sup>6</sup> (Executive Decree 668 Article 10).

#### **b.) Appointment**

Although there was no previous provision to this effect, the law now reads “General Commander of the Gendarmerie is appointed from among those at the rank of general” (Executive Decree 668 Article 8). Furthermore an additional clause was introduced, saying “In the Gendarmerie Services Class, one four-star general position and four Deputy General Commanders of the Gendarmerie positions have been added” (Executive Decree 668 Article 21).<sup>7</sup>

The new provision stipulates that the appointments of the General Commander of the Gendarmerie, Deputy General Commanders of the Gendarmerie and provincial gendarmerie commanders will be made through joint decree. The Chief of General Staff will no longer have the power to make suggestions to these positions. The other commissioned officers, noncommissioned officers and specialists will be appointed by the Ministry of Interior. The appointment of officers between the ranks of sub-lieutenant and colonel were made by the General Commander of the Gendarmerie, and this is no longer the case. (Executive Decree 668 Article 14).

#### **c.) Structure, Organization and Positioning**

The new provision states that regarding structure, organization and positioning, the opinion of the General Staff is to be taken only at times of military mobilization and war, and that the Ministry of Interior is fully in charge otherwise. The old text demanded “compliance with the principles of Turkish Armed Forces” in terms of structure and staffing, and required the opinion of the Chief of General Staff on the gendarmerie’s structure, staffing and positioning, and her / his approval at times of military mobilization and war (Executive Decree 668 Article 7).

#### **d.) Duties and Area of Responsibility**

As for the gendarmerie’s military duties, the previous provision that read “To fulfill the duties required by military laws and regulations, and the orders given by the General Staff” has been changed to “To fulfill the duties required by laws”, thus

<sup>6</sup> Since the expression ‘martial law’ was removed from the circumstances necessitating subordination to the force commanders, it was also removed from articles concerning structure, staffing, positioning, special duties of the gendarmerie and procurement (Executive Decree 674 Article 31).

<sup>7</sup> Executive Decree 668 Article 21 also defined other positions for the Gendarmerie and Coast Guard Academy and Gendarmerie General Command, which were later removed with Executive Decree 676 Article 41-42.



In applications for specialist sergeants, candidates now have to be younger than 28, sign a five-year contract, and will be considered to have completed their military service after a three-year stint as specialists (Executive Decree 694 Article 56).

ending the General Staff's role in this regard (Executive Decree 668 Article 9).

The gendarmerie's military duties, performed upon the demand of the military command and the approval of the civilian authority, were reworded as follows: "Furthermore, gendarmerie contingents fulfill the military duties assigned to them upon the demand of the General Staff and approval of the Minister of Interior; and at the province level, upon the demand of the garrison commander and the approval of the province governor" (Executive Decree 668 Article 10).

The gendarmerie's area of duty and responsibility was amended as "Upon the decision of the Minister of Interior, the entirety of a province or district can be defined as the area of duty and responsibility of the police or the gendarmerie." (Executive Decree 668 Article 11). It has been decided that limits of the areas of duty and responsibility of the police or the gendarmerie in a province or district are to be designated by a commission presided over by the district governor in districts and the governor or deputy governors, and including representatives of the gendarmerie and police (Executive Decree 694 Article 52).

The local civilian authorities and judiciary and military officials can no longer make verbal requests from the gendarmerie in cases of emergency. The Minister of Interior has been given the authority to assign temporary duties to police, gendarmerie and coast guard staff of every rank (Executive Decree 668 Article 12).

#### **e.) Staff: Resources, Promotions, Basic Rights and Applicable Legislation**

To the Law no. 657 on Civil Servants, a new section entitled VIII - GENDARMERIE SERVICES CLASS was added, right after the section VII - SECURITY SERVICES CLASS (Executive Decree 668 Article 22).

In cases not specified by the legislation, Law on Civil Servants has to be taken into account. Nomination and promotion to positions of commissioned and noncommissioned officer, which were previously carried out according to the Law on Turkish Armed Forces Personnel, will now be approved by the Minister of Interior. However, promotions from the position of colonel to brigadier general, and promotions of generals to the next rank will be performed via joint decree. If their services are required, colonels can be kept in duty until the age of 60 and generals until the age of 65, upon the approval of the Minister of Interior. The Gendarmerie General Command can no longer obtain personnel from the Force Commands with the approval of the General Staff (Executive Decree 668 Article 13).

It was stated that the civil servants in the Gendarmerie General Command's service classes, with the exception of the Gendarmerie Services Class, will benefit from the financial and social rights enjoyed by their peers<sup>8</sup> in the Turkish Armed Forces (Executive Decree 671 Article 30).

A temporary clause added to the law specifies that the Gendarmerie General Command's demand for military conscripts is met by the Ministry of National Defense for a period of three years, as per Law no. 1111 on Military Service; however, this period can be extended if considered necessary by the Ministry of Interior, upon a decision of the Council of Ministers (Executive Decree 669 Article 111). The obligatory tenure of commissioned and non-commissioned officers was extended from ten to fifteen years. It was decided that those who complete the pilot training program have to serve 3 rather than 8 years (Executive Decree 694 Article 57). An additional clause canceled any personnel procurement activities and status

<sup>8</sup> This regulation was initially defined as "will additionally benefit" (Executive Decree 669 Article 110) but was finalized as above.

transition procedures which were incomplete as of the date of the executive decree (Executive Decree 674 Article 32). Besides, an amendment to the Article 18 of the *Law no. 3466 on Specialist Gendarmes*, revised the age requirement for transition from the position of specialist gendarme to noncommissioned officer as being less than 31, whereas it used to be 28 (Executive Decree 680 Article 63). All these are, as indicated above, measures to facilitate efforts to recruit new personnel.

In applications for specialist sergeants, candidates now have to be younger than 28, sign a five-year contract, and will be considered to have completed their military service after a three-year stint as specialists (Executive Decree 694 Article 56).

Depending on domestic security policies and changing security requirements, colonels and higher ranking officers can now be retired with joint decree upon the payment of a compensation for lack of available positions, before the completion of the necessary waiting period (Executive Decree 694 Article 53).

A clause added to the law defines the monetary rewards to be given to those who have been of great service and benefit. Furthermore, the attorney fees of those staff members who find themselves in the position of defendant in a court case while performing their duties and services, may be covered by a special fund in the Gendarmerie General Command's budget (Executive Decree 680 Article 47).

In the *Law no. 657 on Civil Servants*, the Article 122, paragraph 1 on the appreciation of achievements and superior achievements, and awards was amended to remove the expression "except the Gendarmerie General Command and Coast Guard Command" from the sentence concerning the powers of the Ministry of National Defense. This is a natural result of the subordination of the Gendarmerie General Command and Coast Guard Command to the Ministry of Interior (Executive Decree 680 Article 36).

#### **f.) Supervision and Regulation Functions**

The Ministry of Interior and local civilian authorities were given the right to supervise and regulate the activities of the gendarmerie (Executive Decree 668 Article 18).

While the relevant regulations were previously drafted under the responsibility of the Ministry of Interior, together with the other ministries, the new provision granted this power exclusively to the Ministry of Interior (Executive Decree 668 Article 17).

The power to carry out the regulatory and supervisory procedures concerning this law has been given to the Ministry of Interior. In case new needs related to organization, personnel, training and other issues arise because of the provisions of the executive decree, Council of Ministers is authorized to take the necessary measures upon the suggestion of the Ministry of Interior (Executive Decree 668 Article 19).

#### **g.) Discipline, Investigation and Punishment**

The new provision concerning the disciplinary and investigative measures stipulates that gendarmerie personnel can be put on trial as per the Law on the Structure and Trial Procedures of Military Courts only for crimes arising from a military duty that they have been assigned. In the previous piece of legislation, provisions of the Military Criminal Law applied in military crimes as well; however, this provision was abrogated. The previous text also authorized the province and district gendarmerie commanders in civilian duties, and this power was also abrogated (Executive Decree 668. Article 15).

Provisions that referred to the Law on Turkish Armed Forces Personnel and Law on the Structure and Trial Procedures of Military Courts in cases of suspension, recall and dismissal were also removed (Executive Decree 668 Article 20).

A temporary clause added to the law states that, until a specific law on disciplinary issues is drafted, the discipline crimes and punishment of the gendarmerie personnel will be managed according to the disciplinary code of the police force, and that the provisions of the Law no. 657 on Civil Servants will apply in other matters (Executive Decree 668 Article 21).

Issued after these separate provisions, the Executive Decree 682 is entitled “Executive Decree on the General Disciplinary Provisions for Law Enforcement”, and consists of 39 articles which elaborate on breach of discipline, punishment, disciplinary supervisors and boards, disciplinary investigation procedures and related matters for the staff of General Directorate of Security, Gendarmerie General Command and Coast Guard Command.

A new provision reads that, even in cases of postponement of punishment, deferment of the announcement of the verdict, or remission of punishment etc.; the Gendarmerie General Command -upon the approval of the Minister of Interior- will dismiss any of its commissioned officers, noncommissioned officers, contracted officers, contracted noncommissioned officers, specialist gendarmes and specialist sergeants who have a prison sentence for one year or more for crimes against the security of the state, crimes against the constitutional order and its functioning, crimes against national defense, crimes concerning state secrets and espionage, embezzlement, extortion, bribery, defamation, theft, fraud, forgery, abuse of trust, fraudulent bankruptcy, collusive tendering, smuggling etc. (Executive Decree 694 Article 55).

#### **h.) Principles of Procurement**

The gendarmerie procures all of its necessities, guns, ammunition etc. from its own budget at the standards which used to be set by the Ministry of National Defense and are now designated by the Ministry of Interior. It benefits from the Defense Industry Support Fund in line with the procedures and principles that apply to the Turkish Armed Forces; however, in cases of martial law, military mobilization, war, and assigned military duty, the Ministry of National Defense meets these needs in line with the standards of the Force Command in charge (Executive Decree 668 Article 16).

The following phrase was added to the sentence concerning the procurement of all kinds of necessities, guns and ammunition: “The necessities of the Gendarmerie General Command are communicated by the Ministry of Interior directly to the Undersecretariat of Defense Industry. These necessities are evaluated by the Ministry of Interior according to its security priorities” (Executive Decree 676 Article 17, Executive Decree 696 Article 49). A separate paragraph was added to the same article, stating that the transfer at a charge or no charge of any redundant or non-standard materials belonging to the gendarmerie will be carried out according to the law that regulates the same matters for the General Directorate of Security, and that the rights and benefits enjoyed by the Turkish Armed Forces in this context will apply to the gendarmerie as well (Executive Decree 680 Article 45). Furthermore, the exemption and exceptions from various taxes, duties, fees and warehouse expenses granted to the Ministry of National Defense and Turkish Armed Forces with various laws have been extended to the Gendarmerie General Command as well (Executive Decree 690 Article 21).

#### **i.) Other**

An added clause stipulates that the Gendarmerie General Command can estab-



lish shift dormitories, congress centers, social facilities, cafeterias, moral training centers and canteens according to a regulation to be issued by the Ministry of Interior (Executive Decree 676 Article 18).

A temporary clause added states that the Gendarmerie General Command's ongoing training and partnership efforts with other countries are to be managed by the Ministry of Interior in line with the principles set out in military collaboration agreements and protocols (Executive Decree 676 Article 19 and Executive Decree 690 Article 22).<sup>9</sup> An article was added to the Law no. 2918 on Highway Traffic, setting forth the duties and powers of the Gendarmerie General Command's traffic related branches (Executive Decree 696 Article 50).

## 5) Coast Guard Command

The comprehensive changes in the Gendarmerie General Command were more or less applied to the Coast Guard Command through amendments to the *Law no. 2692 on Coast Guard Command*. Coast Guard Command has been defined not as a military force, but as a general law enforcement force. In terms of definition, subordination, structure, organization, positioning, duties, area of responsibility, staffing, promotions, discipline and investigation, supervision, regulatory procedures, and procurement, its connection to the Turkish Armed Forces and General Staff has been either completely severed or limited to times of military mobilization and war. Accordingly, the powers of the Chief of General Staff and other military figures have been restricted. The Coast Guard Command has been subordinated to the Ministry of Interior and the Minister of Interior has become the chief authority in the aforementioned issues. Besides, various practical measures were taken to overcome the lack of personnel following expulsions from the Turkish Armed Forces and the restructuring process.

### a.) Definition and Subordination

Previously, the Coast Guard Command used to be defined as “an armed security force”, part of the Turkish Armed Forces' staff and structure. At times of peace, it was subordinate to the Ministry of Interior in terms of duties and services. It was subordinated to the Naval Forces Command fully or partially during a State of Emergency, and fully and directly at times of war -at the behest of the Chief of General Staff. The new provision defines the Coast Guard Command as “an armed, general law enforcement force”, which reports to the Ministry of Interior. At times of military mobilization and war,<sup>10</sup> those sections of the Coast Guard Command designated by the Council of Ministers become subordinate to Naval Forces Command, while the remaining sections continue to fulfill their regular duty (Executive Decree 668 Article 23; Executive Decree 674 Article 26).

Coast Guard Command's participation in training and drills planned by the Naval Forces Command is now subject to the approval of the Minister of Interior (Executive Decree 668 Article 28).

The Articles 6, 9, 10, 11, 16, 20, 21/A, 21/B and 22 of the law have been abrogated. These articles used to refer to the General Staff in terms of staff and structure and the Law no 926 on Turkish Armed Forces Personnel; authorize the



**The comprehensive changes in the Gendarmerie General Command were more or less applied to the Coast Guard Command through amendments to the Law no. 2692 on Coast Guard Command.**

<sup>9</sup> Interestingly, the expression “by the Ministry of Interior” had been forgotten in the first Executive Decree, and was added in the second.

<sup>10</sup> Martial law was also mentioned here with Executive Decree 668, but later removed by Executive Decree 674.



Coast Guard Command in transfers of duty and service location; refer to the Law no. 211 on Turkish Armed Forces Internal Service Law in terms of the chain of command; authorize the Naval Forces Command or other educational institutions of the Turkish Armed Forces in terms of training and education; they also included an article on the relations with other institutions; authorized a separate law for the staff's basic rights; two paragraphs of an article on disciplinary punishment elaborated elsewhere; and articles distinguishing between judiciary and administrative duties (Executive Decree 668 Article 35).

#### **b.) Promotion**

The new provisions states that the Coast Guard Commander will be appointed from among the admirals (Executive Decree 668 Article 26). Previously, the Coast Guard Commander was appointed upon the request of the Naval Forces Commander, suggestion of the Chief of General Staff, official letter of the Minister of Interior<sup>11</sup>, through a joint decree signed by the Prime Minister and approved by the President. The appointment of the admirals in the Coast Guard Command staff used to be regulated by the Law no. 926 on Turkish Armed Forces Personnel. The new amendments stipulate that the appointments of the Coast Guard Commander, her / his deputies, Coast Guard regional commanders and admirals are to be carried out via joint decree. With the exception of the admirals, the department heads at the Coast Guard Command are now appointed by the Minister of Interior. In brief, the Naval Forces Commander and Chief of General Staff no longer have a role in these appointments. The other commissioned officers, noncommissioned officers, civil servants, and specialist sergeants and privates will be appointed by the Ministry of Interior, rather than by the Coast Guard Command as was the case before. (Executive Decree 668 Article 27; Executive Decree 674 Article 28).

#### **c.) Area of Duty and Responsibility**

The latest amendment to the law reads that the Coast Guard Command's areas of duty, bases, staff and positioning are to be regulated exclusively by the Ministry of Interior. Previously, it was necessary to receive the opinion of the General Staff. Now, the opinion of the General Staff is necessary only in cases where the Coast Guard comes under the command of the Naval Forces Command and only for the contingents concerned (Executive Decree 668 Article 24).

In an article under the section on areas of duty and positioning the phrase "military personnel subordinate to the command" was changed to "law enforcement personnel" (Executive Decree 671 Article 29).

With an amendment to the second article of the *Law no. 2911 on Meetings and Demonstrations*, the Coast Guard Command is now considered to be one of the civilian authorities with a role in implementing the said law in its areas of duty (Executive Decree 680 Article 50).

#### **d.) Staff: Resources, Promotions, Basic Rights and Applicable Legislation**

To the *Law no. 657 on Civil Servants*, a new section entitled IX - COAST GUARD SERVICES CLASS was added, right after the section VIII - GENDARMERIE SERVICES CLASS (Executive Decree 668 Article 25), as regards the Coast Guard Command's commissioned and noncommissioned officers.

Law on Civil Servants applies to the basic rights of the Coast Guard Com-

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<sup>11</sup> The following phrase in the old text was also removed: "In case the Minister of Interior does not issue an official letter, the Chief of General Staff sends his request to the Prime Minister in writ. The Prime Minister communicated his decision to the Minister of Interior in writ."

mand personnel; as for their nomination and appointment, monthly remuneration and other financial and social rights, the provisions of the Law no. 926 on Turkish Armed Forces Personnel apply, depending on their rank and status (Executive Decree 668 Article 26). As for specialized sergeants, Law no. 3269 on Specialized Sergeants, and for contracted sergeants and privates the Law no. 6191 on Contracted Privates and Sergeants are in force (Executive Decree 674 Article 27).<sup>12</sup>

Nomination and promotion to positions of commissioned and noncommissioned officer will be carried out upon the approval of the Ministry of Interior. However, promotions of colonels to the position of commodore, and promotions of admirals to the next rank will be realized via joint decrees. Senior officers whose waiting period in the rank is complete or who are about to be retired due to lack of available positions yet whose services are needed, can be kept in their position with the approval of the Minister of Interior - colonels until the age of 60, and admirals until the age of 65. When deemed necessary, the Minister of Interior can shift any personnel temporarily among the General Directorate of Security, Coast Guard Command and Gendarmerie General Command; allocate or transfer their guns, ammunition, equipment, vehicles and other movables or immovables to one another, free-of-charge. The same article also defines a number of monetary and in-kind payments such as ‘public security compensation’ for overtime work (Executive Decree 668 Article 26).

An additional clause specifies that, depending on domestic security policies and changing security requirements, colonels and higher ranking officers can now be retired with joint decree upon the payment of a compensation for lack of available positions, before the completion of the necessary waiting period (Executive Decree 694 Article 49).

Temporary additional clauses have allocated two more Commodore / Coast Guard Deputy Commander positions to the Coast Guard Services Class (Executive Decree 668 Article 36; Executive Decree 676 Article 39). Furthermore, until the Coast Guard Command becomes self-sufficient in personnel recruitment and training, the Ministry of Interior can request from the Ministry of National Defense admirals, commissioned and noncommissioned officers to serve in commander positions there (Executive Decree 668 Article 36).

Another temporary clause added regulates the demand for personnel. Accordingly, the Coast Guard Command’s demand for military conscripts, whether privates or sergeants, will be met by the Ministry of National Defense for a three year period as per the Law no. 1111 on Military Service. However, this period can be extended if deemed necessary by the Ministry of Interior, and upon a Council of Ministers resolution (Executive Decree 669 Article 112).

Another temporary clause has canceled the personnel procurement activities and status transition procedures which were incomplete as of the date of the executive decree (Executive Decree 674 Article 29).

In the *Law no. 657 on Civil Servants*, the Article 122, paragraph 1 on the appreciation of achievements and superior achievements, and awards was amended to remove the expression “except the Gendarmerie General Command and Coast Guard Command” from the sentence concerning the powers of the Ministry of National Defense. This is a natural result of the subordination of the Gendarmerie General Command and Coast Guard Command to the Ministry of Interior (Execu-

<sup>12</sup> Executive Decree 668 had also mentioned Law no. 3466 on Specialist Gendarmes, but this was later removed by Executive Decree 674, which instead added the status and law for contracted privates and sergeants.



**Regulatory measures" were taken to close down the War Academies, Military High Schools and Noncommissioned Officer Preparation Schools (Executive Decree 669 Article 104)**

tive Decree 680 Article 36).

#### **e.) Supervision and Regulation Functions**

An amendment stipulates that the Coast Guard Command's actions and procedures are to be supervised and inspected by the Ministry of Interior, civilian authorities, and the command's senior officers. In the relevant paragraph, the previous phrase "with regards to duties other than military ones" was removed and the word "governors" was replaced with "civilian authorities". (Executive Decree 668 Article 33).

The regulation to outline the activities and operations of the Coast Guard Command was previously to be issued "jointly by the Ministries of National Defense and Interior after receiving the opinion of the General Staff"; however, the new text states that this regulation is to be "prepared by the Ministry of Interior and put into effect by the Council of Ministers" (Executive Decree 668 Article 32).

An additional clause has authorized the Ministry of Interior in resolving any questions concerning the application of the law and conducting regulatory and guiding actions to this end. Furthermore, in case the executive decree leads to new demands in terms of structure, personnel, training etc., the required legislation is to be submitted by the Ministry of Interior and approved by the Council of Ministers (Executive Decree 668 Article 34).

#### **f.) Records, Discipline, Investigation and Punishment**

The Coast Guard Commander's records chief used to be the Chief of General Staff, and the records procedures for the personnel in the Coast Guard Command were conducted according to the principles of the Turkish Armed Forces. This piece of legislation titled 'Records Superiors' was abrogated, and replaced with an article titled 'Assessment Report', stating that the governors are in charge of issuing assessment reports for Coast Guard commanders, to be taken into consideration during appointment, promotion, compensation and transfers. The content and principles of these reports are to be designated by a regulation to be issued by the Ministry of Interior (Executive Decree 668 Article 30).

As for disciplinary and investigative procedures, the Coast Guard Command staff's trial according to military laws and at military courts has been redefined or limited. Formerly, the text read "*Law no. 353 on the Structure and Trial Procedures of Military Courts* applies when they commit military crimes, or crimes against soldiers, in military locations or during military service or duty." Now the scope of the said law has been limited to "the crimes arising from any assigned military duties" (Executive Decree 668 Article 31).

An additional clause stipulated the following: "Until a specific law on disciplinary issues is drafted, the discipline crimes and punishment of the Coast Guard personnel will be managed according to the disciplinary code of the police force, and that the provisions of the Law no. 657 on Civil Servants will apply in other matters. The civilian authorities and the chain of superiors constitute the disciplinary authority for the Coast Guard staff. The Minister of Interior, can impose an ex officio disciplinary sanction on any personnel at any rank of the Coast Guard Command. The punishment of workers and contracted / temporary personnel is carried out according to the provisions of the contract in force" (Executive Decree 668 Article 36).

Issued after these separate provisions, the Executive Decree no 682 is entitled

“Executive Decree on the General Disciplinary Provisions for Law Enforcement”, and consists of 39 articles which elaborate on breach of discipline and punishment, disciplinary supervisors and boards, disciplinary investigation procedures and related matters for the staff of the General Directorate of Security, Gendarmerie General Command and Coast Guard Command.

#### **g.) Principles of Procurement**

The new legislation states that the Coast Guard Command “meets all of its necessities, guns, ammunition etc. from its own budget at the standards set by the Ministry of Interior.” The former phrase “according to the standards of the Naval Forces Command and in line with a plan jointly drawn up with the Naval Forces Command” was removed. However, in cases of military mobilization and war<sup>13</sup>, the Ministry of National Defense meets these needs in line with the standards of the Force Command in charge (Executive Decree 668. Article 29; Executive Decree 674 Article 26). Furthermore, the following phrase was added: “The necessities of the Gendarmerie General Command are communicated by the Ministry of Interior directly to the Ministry of National Defense. These necessities are evaluated by the Ministry of Interior according to its security priorities” (Executive Decree 676 Article 14).

A separate paragraph was added to the same article, stating that the transfer at a charge or no charge of any redundant or non-standard materials belonging to the Coast Guard Command will be carried out according to the Law no. 4645 that regulates the same matters for the General Directorate of Security, and that the rights and benefits enjoyed by the Turkish Armed Forces in this context within the scope of the Law no. 3212 will apply to the gendarmerie as well. (Executive Decree 676 Article 41).

#### **h.) Other**

An added clause stipulates that the Coast Guard Command can establish shift dormitories, training and congress centers, cafeterias, canteens and moral training centers, and that the principles and procedures concerning these facilities will be outlined in a regulation to be issued by the Ministry of Interior (Executive Decree 676 Article 15).

A temporary clause added to the law states that the Coast Guard Command’s ongoing training and partnership efforts with other countries are to be managed by the Ministry of Interior in line with the principles set out in military training and collaboration agreements and protocols (Executive Decree 676 Article 19 and Executive Decree 690 Article 20).

### **6) Military Schools**

The amendments introduced through executive decrees in the field of military education are part of a fundamental effort to enhance the powers of the Ministry of National Defense over Turkish Armed Forces and the powers of the Ministry of Interior over the Gendarmerie General Command and Coast Guard Command -separated from the Turkish Armed Forces through executive decrees-, in short, to increase the powers of the civilian authorities. In line with this basic goal, the General Staff and Force Commands have a fairly limited role in determining the faculty members,

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<sup>13</sup> Executive Decree 668 also mentioned martial law in this context, but this was later removed by Executive Decree 674.

The dean can make demands from the war school command concerning administrative measures and support services meant to ensure the smooth functioning of education and training. Such demands are met at once (Executive Decree 694 Article 95).

student body, and education policies of the new military education institutions, namely National Defense University, and Gendarmerie and Coast Guard Academy. The Ministry of National Defense plays a much larger role in the case of the National Defense University, and the Ministry of Interior in the Gendarmerie and Coast Guard Academy. As such, the goal here is to ensure that the said institutions operate under civilian authorities. In this scope, “regulatory measures” were taken to close down the War Academies, Military High Schools and Noncommissioned Officer Preparation Schools (Executive Decree 669 Article 104). Another newly added phrase reads “Students of military high schools, noncommissioned officer preparations schools, war schools, faculties, colleges and noncommissioned officer vocational colleges (including the gendarmerie) are to be enrolled at convenient civilian schools.” Furthermore, it was stipulated that “Military students who will graduate as of August 30 are not to be appointed as commissioned or noncommissioned officers. They will be given diplomas from those faculties and universities which will be determined by the Higher Education Council according to the points that they receive on the date that the university entrance exam takes place”. (Executive Decree 669 Article 105).

The new provisions are described below in detail, including those concerning the aforementioned newly established institutions.

#### **a.) National Defense University**

##### *Purpose, Scope and Managerial Organs*

National Defense University has been established, comprising “a) Institutes set up to raise staff officers and provide postgraduate education, b) Army, Navy and Air Force War Schools, c) Noncommissioned officer vocational colleges” (Executive Decree 669 Article 5). Furthermore, *Law no. 6756 on the Amendment and Adoption of the Executive Decree on the Implementation of Certain Measures under the State of Emergency and Establishment of the National Defense University* has been amended to subordinate to the Presidency of the National Defense University, the foreign language schools and other defense-related colleges (Executive Decree 690 Article 16). In this respect, the authority to decide which postgraduate institutes will be established in which disciplines, and the mode, duration and curricula of these institutes now belongs to the Ministry of National Defense, whereas previously it depended on the suggestion of the related force command and the approval of the General Staff” (Executive Decree 669 Article 78).

As regards the goal of the National Defense University’s education plans and programs, the following phrase has been added to the *Law no. 4566 on War Schools* concerning the legal persons in charge of drafting and implementing the said programs: “The education plans and programs blending education in scientific disciplines with the basic military and physical training in a harmonious fashion according to the methods and principles of modern education are drafted by the deans’ offices in line with the opinions and suggestions of the National Defense University’s Higher Advisory Board, taking into account the needs of the forces. The plans and programs thus drafted come into force upon a resolution of the National Defense University Senate and approval of the Minister” (Executive Decree 694 Article 90).

An amendment to the related article of the same law stipulated that the Higher Council of Education and Training, which is the “highest instance to discuss and



settle any issues that may arise in the education and training programs of the war schools (...)” will operate according to the principles set by the Ministry of National Defense, and transferred to the Ministry of National Defense such powers previously entrusted to the force commands and General Staff (Executive Decree 669 Article 54-55).

Changes to the same law removed the “Turkish Armed Forces” part of the expression “Turkish Armed Forces War Schools” in the first two articles concerning objective and scope; in the article on definition, the expression “under the structure of the Force Commands” was replaced with “by the Ministry of National Defense” (Executive Decree 669 Article 52-53). As such the schools’ institutional ties with the Turkish Armed Forces were cut off and they have now been attached to the Ministry of National Defense. Indeed, the old text that read “the War Schools’ staff and structure are designed by the force commands in question and approved by the General Staff” was replaced with the phrase “the War Schools’ staff and structure are designated by the Ministry of National Defense” (Executive Decree 669 Article 55). Likewise, under the heading “Duties”, the phrase “training regular officers and civilians, upon the approval of first the force commands and then the General Staff” was replaced with “if the Ministry of National Defense deems necessary” (Executive Decree 669 Article 56).

A provision was added to this law, stating that the War Schools and Non-commissioned Officer Vocational Colleges will operate under the structure and supervision of National Defense University, according to their own laws (Executive Decree 669 Article 7). In this respect, in the phrase “war schools’ education, training, administration and other activities are supervised by the force commands in question and the General Staff”, the names of these institutions were replaced with “Ministry of National Defense” (Executive Decree 669 Article 74).

The War Schools’ administrative services related to education and training will from now on be performed by “a) War School boards, b) War School commander, c) Dean, d) Commander of the student contingent” (Executive Decree 694 Article 92). The war schools’ boards are the following: a) Administrative Board consists of the dean, deputy deans, war school commander, two department heads chosen by the dean, commander of the student contingent and the staff officer, chaired by the president or a deputy president that the former will assign b) Education Board consists of the deputy deans and department heads chaired by the dean. If the dean deems it necessary he may invite the school commander and commander of the student contingent to the meeting as well, c) Discipline Board consists of the war school commander, dean, commander of the student contingent, deputy deans and the discipline officer, chaired by the president or a deputy president that the former will assign. It has been stipulated that the dismissals issued by the board authorized to decide on the disciplinary actions and punishments concerning students will come into effect only after the suggestion of the President and the approval of the Minister of National Defense (Executive Decree 694 Article 93).

According to the new amendment, the war school commander, as a soldier who reports to the president, is responsible for the management, supervision and control of the military education and all other efforts conducted at the war school -with the exception of the education and training activities conducted by the dean and the related administrative activities. She / he submits the budget proposal of the

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**The dean and the commander of the school are not superiors or subordinates of one another, they occupy the same rank (Executive Decree 694 Article 95).**

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war school to the administration board (Executive Decree 694 Article 94).

The dean, who reports to the president, is in charge of conducting the education and training, research, organizations and publication activities at the war school. The dean can make demands from the war school command concerning administrative measures and support services meant to ensure the smooth functioning of education and training. Such demands are met at once (Executive Decree 694 Article 95).

The dean and the commander of the school are not superiors or subordinates of one another, they occupy the same rank (Executive Decree 694 Article 95).

The main objective of the amendments to the *Law no. 4752 on Noncommissioned Officer Vocational Colleges* is to enhance the control of Ministry of National Defense and thus of the civilian administration over military education, in line with the purpose of the establishment of National Defense University. Furthermore, since the National Defense University is an educational institution that graduates personnel for the Turkish Armed Forces, a number of changes have been made to wording due to the separation of the Gendarmerie General Command and Coast Guard Command from the Turkish Armed Forces. In this scope for instance, in the heading “definitions”, the expressions Gendarmerie General Command and Coast Guard Command were removed from the definition of academic departments. Subsequently, the purpose of the department has been described as “raising personnel to meet the needs of the Turkish Armed Forces” (Executive Decree 669 Article 82).

The duty of the said schools has been described as “raising regular noncommissioned officers in line with the principles outlined in the Article 5 and the duties and responsibilities of the force commands” (Executive Decree 694 Article 113).

Other amendments gave authority to Ministry of National Defense instead of General Staff, force commands, Gendarmerie General Command and Coast Guard Command as before, in determining their staff and structure (Executive Decree 669 Article 83). Likewise, the departments heads of the Noncommissioned Officer Vocational College are no longer to be soldiers, and the power to design the education program has been given to Ministry of National Defense instead of General Staff, force commands, Gendarmerie General Command and Coast Guard Command as before (Executive Decree 669 Article 82). Similar changes have been made in the provisions concerning other organs of the Noncommissioned Officer Vocational College, and its purpose and principles. Parallel amendments were made to the old text in the sections of “basic principles” (Executive Decree 669 Article 84), “Higher Honorary Board” (Executive Decree 669 Article 85), and “Supervisory Board” (Executive Decree 669 Article 86). Furthermore, the supervision of the Noncommissioned Officer Vocational College has also been entrusted to the Ministry of National Defense through a similar amendment (Executive Decree 669 Article 103).

The organs of the Noncommissioned Officer Vocational Colleges are similar in structure, duties and responsibilities to the War Schools. Indeed, the organs of the said academies consist of “a) College boards, b) College commanders, c) College principals, d) Commander of student contingent or regiment” (Executive Decree 694 Article 114) and the duties and authorities of the boards and administrators are regulated in similar fashion (Executive Decree 694 Article 114-117). Furthermore, “The college commander, who reports to the president, is responsible for the man-

agement, supervision and control of the military education and all other efforts conducted at the war school -with the exception of the education and training activities conducted by the college principal and the related administrative activities.” (Executive Decree 694 Article 116). The college principal, “who reports to the president, is in charge of conducting the education and training, research, organizations and publication activities at the war school” (Executive Decree 694 Article 117).

The college commander and the college principal are not superiors or subordinates of one another, they occupy the same rank (Executive Decree 694 Article 117).

#### *Provisions concerning managerial appointments*

The basic purpose of the appointments concerning the National Defense University and associated institutions is to enhance the influence of civilians over military education and training by means of the Ministry of National Defense. In this respect, it is remarkable that the managers -except the school commanders- are appointed by managers who are themselves appointed by the Ministry of National Defense, or directly by the Ministry of National Defense. Besides, the school commanders are no longer the top managers as was the case prior to the executive decree. Civilian oversight of the military education system was enhanced through the appointment of the university president by the President of the state, and by granting significant powers to the deans, department heads, and noncommissioned officer school principals, who are civilians of equal rank to the school commanders, appointed by the Minister of National Defense. Below are listed the important details concerning the appointment procedure.

National Defense University’s president is appointed by the President of the state, from among three candidates nominated by the Minister of National Defense and approved by the Prime Minister. Furthermore, no more than four deputy presidents are appointed by the Minister of National Defense (Executive Decree 669 Article 5).

The institute principals will be appointed by the Minister of National Defense (Executive Decree 669 Article 6) and will no longer be soldiers (Executive Decree 669 Article 60).

In the new provision, war school deans are appointed by the Minister of National Defense for three-year stints and will be civilians, whereas they had to be soldiers as per Law no. 926 on Turkish Armed Forces Personnel. The same change applied to the deputy deans (Executive Decree 669 Article 58-59).

War School commanders will continue to be appointed as per the provisions of the Law no. 926 on Turkish Armed Forces Personnel (Executive Decree 694 Article 94).

Noncommissioned Officer Vocational College commanders will continue to be appointed as per the provisions of the Law no. 926 on Turkish Armed Forces Personnel (Executive Decree 694 Article 116).

Noncommissioned Officer Vocational College principals will be civilians, appointed for three-year stints by the Minister of National Defense, and reappointed after the end of the said period (Executive Decree 694 Article 117).



**National Defense University’s president is appointed by the President of the state, from among three candidates nominated by the Minister of National Defense and approved by the Prime Minister. Furthermore, no more than four deputy presidents are appointed by the Minister of National Defense (Executive Decree 669 Article 5).**

### *Education and Training Staff and Principles of Student Enrolment*

#### Principles Concerning Education and Training Staff

The purpose of executive decree amendments to the principles and procedures governing the determination of the National Defense University's and associated institutions' education and training policy, faculty members, and student enrolment is also in keeping with the basic underlying goal of enhancing the authority of civilians over military education and training. It is remarkable in the sense that the Ministry of National Defense has been given vast powers over the principles and procedures for determining military education and training policies, staff appointments and student enrolment. Furthermore, with the closure of military high schools, the enrolment of students from other high schools and equivalent institutions has become a very critical piece of legislation. The details of Executive Decree provisions are presented below.

A new provision states that the Higher Education Council will be in charge of the basic rights of the National Defense University faculty members, and the basic rights of the military members of faculty will be managed as per the Law on Turkish Armed Forces Personnel (Executive Decree 669 Article 8).

The salaries of the civilian faculty members of the National Defense University have been determined through an amendment to the Article 8 of the *Law no. 6756 on the Amendment and Adoption of the Executive Decree on the Implementation of Certain Measures under the State of Emergency and Establishment of the National Defense University*. A separate amendment to the Article 8/A of the same law has elaborated on the disciplinary procedures concerning these civilian faculty members. Accordingly, the latter are subject to the same provisions that apply to the civil servants serving in the Ministry of National Defense and Turkish Armed Forces. Furthermore, the contracted or appointed faculty members are subject not only to disciplinary provisions as listed in the Law on Civil Servants dated 14/7/1965 and numbered 657, but also those found in the Law no 2547 on Higher Education (Executive Decree 694 Article 177-178).

Changes have been made to the *Law no. 4566 on War Schools*, section "Faculty Members", as regards the appointments of assistant professors, associate professors, and full professors.<sup>14</sup> Accordingly, the vacant assistant professor positions in the war schools are announced by the university president's office. Candidates to these positions submit their files to the deans' offices. The candidates who are considered by the deans' offices to meet the requirements, have to pass a foreign language exam and then a written scientific assessment process. The successful candidates are appointed upon the university president's suggestion and the Minister's approval. (Executive Decree 694 Article 98).

To be promoted to Associate Professorship, candidates have to "meet the requirements for promotion listed in the Law no. 2547, and if they are Turkish Armed Forces personnel, they have to possess an outstanding quality certificate. War School deans' offices report to the university president's office the number of

**Noncommissioned Officer Vocational College principals will be civilians, appointed for three-year stints by the Minister of National Defense, and reappointed after the end of the said period (Executive Decree 694 Article 117).**

<sup>14</sup> The appointments of assistant, associate and full professors had previously been regulated by Executive Decree 669, ensuring that the Ministry of National Defense would have an important say in the announcements of and appointments to vacant positions. Executive Decree 694 preserved the dominant position of the Ministry of National Defense in these appointments, but also granted powers to the president and other administrators, which are in turn appointed by the Ministry of National Defense.

associate professorship positions they require. the president's office announces the vacant positions that it deems necessary. Candidates to these positions submit their files to the president's office. The candidates who are considered by the president's office to meet the requirements, have to pass an examination and then a written scientific assessment process as required by law. The successful candidates are appointed upon the university president's suggestion and the Minister's approval." (Executive Decree 694 Article 99).

To be promoted to Professorship, candidates have to "meet the requirements for promotion listed in the *Law no. 2547 on Higher Education*, and if they are Turkish Armed Forces personnel, they have to possess an outstanding quality certificate. War School deans' offices report to the university president's office the number of associate professorship positions they require. the president's office announces the vacant positions that it deems necessary. Candidates to these positions submit their files to the president's office. The candidates who are considered by the president's office to meet the requirements, have to pass an examination and then a written scientific assessment process as required by law. The successful candidates considered to be academically proficient are appointed upon the university president's suggestion and the Minister's approval." (Executive Decree 694 Article 100).

Principles and procedures for the appointment of assistant, associate and full professors to noncommissioned officer vocational colleges have been amended just like those governing appointments in the war schools, and in line with changes to the Articles 15, 16 and 17 of the *Law no. 4752 on Noncommissioned Officer Vocational Colleges* (by Executive Decree 694 Article 118, Executive Decree 694 Article 119, Executive Decree 694 Article 120 respectively). Furthermore, their basic rights have been amended much like those in the war schools.

An amendment to the Article 40 in the "Basic Rights" section of the *Law no. 4566* took the authority to determine the principles governing the additional course fees of the faculty members from the "force commands in question" and gave it to the "Ministry of National Defense" (Executive Decree 669 Article 79). Furthermore in the section titled "retirement age limit", the power to extend the terms of office of general / admiral members of faculty until their age limit has been shifted from the General Staff to the Ministry of National Defense (Executive Decree 669 Article 65).

Another amendment to the said law took the power to appoint or assign faculty members outside the war schools (Executive Decree 669 Article 66), to appoint civilian members of faculty (Executive Decree 669 Article 67), to appoint lecturers and teaching assistants (Executive Decree 669 Article 68-69), and to appoint students of foreign nationality from the General Staff and Force Commands and gave it to the Ministry of National Defense. The appointment of foreign faculty members now passes through the request of the dean's office, designation of the university president's office and the approval of the Minister (Executive Decree 694 Article 102).

General Staff and Force Commands are no longer authorized to set the procedures and principles for supervision activities as was the case with the *Law no. 4566* (Executive Decree 669 Article 80).

An amendment to the same law regulated the issue of the education of faculty

members in Turkey and overseas (Executive Decree 694 Article 103). Furthermore, it was stipulated that, the university president's suggestion and the minister's approval are necessary for faculty members to be assigned to other public agencies; the president's suggestion and the minister's approval are necessary for the long term assignment of faculty members to overseas research duties; and the the dean's suggestion and the president's approval are necessary for the long term assignment of faculty members to domestic research duties (Executive Decree 694 Article 105-106).

An amendment to Article 35 concerning supervision of Law no. 4566 authorized the university president's office with conducting the scientific supervision of faculty members (Executive Decree 694 Article 108).

An addition to Article 40 concerning basic rights of the same law reads that "Furthermore, disciplinary punishment defined in the higher education legislation applies to the contracted or appointed faculty members involved in the cases of breach of discipline provided in Law no. 657 on Civil Servants and the Law no 2547, that require disciplinary action" (Executive Decree 694 Article 110).

#### Principles and Procedures for Student Enrolment

An additional clause was added to the *Law no. 6756 on the Amendment and Adoption of the Executive Decree on the Implementation of Certain Measures under the State of Emergency and Establishment of the National Defense University*, stating that "From the date of the publication of this article until 31/12/2020, the requirements for acceptance to the institutes are determined by the force commands in consideration of the needs and personnel of force commands" (Executive Decree 694 Article 179).

In the *Law no. 4566 on War Schools*, under the section "Requirements for Entrance to War Schools", the phrase "their main student source is military high schools" was replaced with "their main student source is the graduates of high schools and equivalent schools" (Executive Decree 669 Article 76). Besides, the following phrase was removed from the old text: "When necessary, students who are graduates of civilian high schools identified by relevant Force Commands and approved by General Staff, and fulfill the conditions to be listed in the regulation, may also be accepted to war schools" (Executive Decree 669 Article 76).

The following temporary article was added to the same law: "Temporary article 4- In the year following this article's coming into effect, recruitment activities may be carried out to enrol students from the relevant departments of universities, especially those universities that provide pilot training, to the first, second and third year classes of the Air Force War School. The procedures and principles concerning their transition to the Air Force War School are determined jointly by the Ministry of National Defense and Higher Education Council" (Executive Decree 671 Article 15).

The following "temporary article 5" was added to the same law: "In the year following this article's coming into effect, recruitment activities may be carried out to enrol students from the relevant departments of universities to the first, second and third year classes of the War School. The procedures and principles concerning their transition to the War School are determined jointly by the Ministry of National Defense and Higher Education Council" (Executive Decree 676 Article 67).



The following provision was added as regards the graduate students of military schools: “As of the issuance date of this Executive Decree, civilian students studying at the War Schools and the closed War Academies are placed by the Higher Education Council in institutes which are suitable to their conditions. The Higher Education Council has the authority and duty of setting the principles and procedures concerning the application of this article, orienting its application, taking any measures and resolving any issues that may arise” (Executive Decree 677 Article 5).

An amendment was made to the article regulating education at undergraduate level, with the addition of the phrase “Those who fail at the preparation class are placed by the Measurement, Selection and Placement Center in a higher education institution depending on the grade they received in the year they took the university entrance exam.” The expression, “by the Ministry of National Defense” was replaced with “by the University President’s office” (Executive Decree 694 Article 109).

In the *Law no. 4752 on Noncommissioned Officer Vocational Colleges*, change was made to the section “student source” to replace the expression “graduates of Noncommissioned Officer Preparation Schools, and the graduates of civilian high schools and equivalent schools designated by the Force Commands to which the Noncommissioned Officer Vocational Colleges report, by the Gendarmerie General Command and Coast Guard Command, and approved by the General Staff” with the expression “its student source are graduates of high schools and equivalent schools” (Executive Decree 669 Article 100).

The following “Temporary Article 4” was added to the same law: “In the year following this article’s coming into effect, recruitment activities may be carried out to enroll students from the relevant departments of universities to the first, second and third year classes of the noncommissioned officer vocational colleges. The procedures and principles concerning their transition to these schools are determined jointly by the Ministry of National Defense and Higher Education Council” (Executive Decree 676 Article 68).

#### **b.) Gendarmerie and Coast Guard Academy**

After the Gendarmerie General Command and Coast Guard Command were severed from the Turkish Armed Forces and subordinated to the Ministry of Interior, the Gendarmerie and Coast Guard Academy was established as a separate entity since the personnel training activities also had to be detached from the Turkish Armed Forces. Upon its establishment, the duties and powers given to the General Staff, Force Commands and Ministry of National Defense in the old text were transferred to the Ministry of Interior’s and Gendarmerie and Coast Guard Academy’s administrative organs. What follows is a detailed list of amendments in this respect.

To the *Law no. 2803 on Gendarmerie Structure, Duties and Powers*, the section “Gendarmerie and Coast Guard Academy” and the article 13/A were added:

Under the umbrella of the Ministry of Interior, Gendarmerie and Coast Guard Academy has been established to meet the Gendarmerie’s and Coast Guard’s demand for commissioned and noncommissioned officers and other personnel, deliver education and training at college, undergraduate and postgraduate level, and conduct scientific research and publication activities. This tertiary education institution comprises faculties, institutes, noncommissioned officer vocational colleges,



education and research centers and various courses.

Its structure, duties and operational procedures are determined by a regulation which will be issued by the Ministry of Interior after receiving the opinion of the Higher Education Council.

The Academy's President and Vice Presidents are appointed by the Minister of Interior, and can be soldiers or civilians (Executive Decree 669 Article 113).

**The Academy's President and Vice Presidents are appointed by the Minister of Interior, and can be soldiers or civilians (Executive Decree 669 Article 113).**

The requirements of Gendarmerie and Coast Guard Academy are to be met from the Gendarmerie General Command's budget (Executive Decree 674 Article 30).

"The basic rights and salaries of the Academy's faculty members from the Gendarmerie Services Classes and Coast Guard Services Classes are regulated in line with the provisions of Law no. 926. The faculty members under this scope are paid either the university salary calculated according to the Law no. 2914 Article 12, or the Turkish Armed Forces service fee, whichever is greater." (Executive Decree 680 Article 44).

Additions have been made to the Article 13/A of the same law. Chief among these is that those students who succeed in the basic military education and also in the law enforcement education are to be deployed in the relevant branches upon the demand of the Gendarmerie General Command and Coast Guard Command, and the approval of the Ministry of Interior. Furthermore, the Academy can sign protocols with other higher education institutions as regards classes and branches not present in the Academy, educate students on its behalf in other tertiary education institutions, and reach protocols with relevant tertiary education institutions in areas which require specialization. The students educated in this way will possess the same basic rights and liabilities with those at the Academy itself (Executive Decree 676 Article 16-19).

The deans of the faculties under the umbrella of Gendarmerie and Coast Guard Academy are responsible for conducting undergraduate education and training at the Academy, reporting to the Academy President; and the Minister of Interior will be in charge of the appointment of these deans. The Academy's faculty members who are not regular soldiers will have the same basic rights as those outlined in the Law on Higher Education Council and Law on Higher Education Personnel, and their disciplinary procedures will be same as those for the civil servants assigned to the same institution (Executive Decree 694 Article 54).

Additions to the *Executive Decree 190 on General Staffing Procedures*, Article 3 entitled "Exceptions" have stipulated that appointments to the Gendarmerie services class and Coast Guard services class and the employment by the Gendarmerie General Command, Coast Guard Command and Gendarmerie and Coast Guard Academy of contracted officers, contracted noncommissioned officers, specialist sergeants, contracted privates and privates will be subject to the limitations outlined in the central government's budget law (Executive Decree 676 Article 44).

#### **c.) Transfer of Gülhane Military Medical Academy and Military Hospitals**

Training hospitals under the Gülhane Military Medical Academy, the Turkish Armed Forces Rehabilitation and Care Center, military hospitals, dispensaries and similar health units, as well as the health clinics under the Gendarmerie General Command

have been transferred to the Ministry of Health, complete with their rights and duties, assets and liabilities, contracts and commitments, movables and vehicles. The immovables allocated to them have also been allocated to the Ministry. Gülhane Military Medical Academy's tertiary education units have been transferred to the Health Sciences University, complete with their rights and duties, assets and liabilities, contracts and commitments, movables and vehicles (Executive Decree 669 Article 106).

It has been stipulated that the commissions to be formed in order to carry out the transfer procedures will determine which personnel will be transferred to Turkish Armed Forces, Health Sciences University and other tertiary education institutions, the Ministry of Health and its affiliates. (Executive Decree 669 Article 107).

The students of the above mentioned institutions are to be transferred to the educational institutions to be determined by the Higher Education Council. (Executive Decree 669 Article 108). It has been stipulated that, of those students who did not begin their specialty in medicine or minor specialty training at the Gülhane Military Medical Academy, those whose services are required will first complete their two-year service in their contingent, institution or headquarters, and then undergo specialty in medicine or minor specialty training at the Health Sciences University on behalf of the Ministry of National Defense or Ministry of Interior. Those from the branches not deemed necessary will be appointed to research assistant position at the relevant universities, if they are classified as transferred personnel. Previously all such personnel used to be appointed as research assistants (Executive Decree Article 122).

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**At the heart of the amendments to the Law no. 926 on Turkish Armed Forces Personnel, is the urge to restructure the institutions so as to reorganize the relations between civilians and soldiers.**

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## **7) Military Personnel Regime**

### **a.) Amendments to the Law no. 926 on Turkish Armed Forces Personnel**

At the heart of the amendments to the Law no. 926 on Turkish Armed Forces Personnel, is the urge to provide solutions to the urgent needs created by the huge earthquake within the military due to the coup attempt of July 15 (filling the vacancies created by expulsions, strengthening the army's weakened military capacities, restoration of its self-confidence etc.), and to restructure the institutions so as to reorganize the relations between civilians and soldiers.

An amendment to the law stipulates that the Supreme Military Council President can decide to place those whose services are required at a higher rank under the assessment of the Supreme Military Council, regardless of their required waiting period in their current rank (Executive Decree 668 Article 4). This clause introduced flexibility in rank promotions so as to remove deficiencies in staffing.

A comprehensive amendment has been passed concerning military students. Students enrolled at various military schools have been taken out of the scope of the personnel law, and of the purposes section of the said law (Executive Decree 669 Article 21-22). As such this law now binds commissioned and noncommissioned officers only. The military students were also deprived of their right called "right to demand implementation", which used to allow them to demand the implementation to themselves of all regulations and bylaws issued on the basis of the said law (Executive Decree 669 Article 23). With the exception of certain cases provided for by the laws, bylaws and regulations, military students were removed from all such

**After an amendment to the Law on Military Service, the summons and conscription announcements of the Ministry of National Defense, which were previously disseminated only via Turkish Radio and Television Corporation, will now also be disseminated by other nationwide TV and radio channels as obligatory broadcasts (Executive Decree 694 Article 3-4).**

provisions, e.g. the article concerning the impossibility to terminate the position of commissioned officer, noncommissioned officer and military student, article concerning retirement, article on what issues are to be regulated by the regulation, the entrance requirements, duties and responsibilities of military students, as well as the article on the timing of the payment of salaries (Executive Decree 669 Article 24-26, 29).

Articles on the procedures concerning education, the basic rights of military students, expulsion of military students, actions concerning those expelled, military students' right to resign and the pocket money of military students at the war schools, faculties and colleges were removed from the personnel law. Also, military students were taken out of those articles concerning overseas permissions and awards (Executive Decree 669 Article 32).

The appointments of commissioned officers between the ranks sub-lieutenant and colonel and of noncommissioned officers used to be conducted by the Force Commands, whereas now they are to be carried out upon the suggestion of the Force Commands and the approval of the Minister of National Defense (Executive Decree 669 Article 30).

As regards the foundation of the Gendarmerie and Coast Guard Academy, in the article regulating the salary payments at the first appointment that read "However, at the first appointments those of commissioned and noncommissioned officers who have just graduated from Turkish Armed Forces schools...", the phrase 'Turkish Armed Forces' was replaced with the phrase 'military' (Executive Decree 669 Article 31).

A number of amendments were made to recruit pilots from the outside, in order to fill the gap created after the expulsions of pilots in the air force. A provision added to the Law on Turkish Armed Forces Personnel specifies that female and male graduates of four-year engineering faculties or colleges can apply to become regular officers if they are younger than 33, meet the requirements for sub-lieutenants and pass the exams, and that, individuals with commercial pilot license or air freight pilot license will be given priority. (Executive Decree 671 Article 3, Executive Decree 676 Article 55) Furthermore, even if they fail at the military pilot training (flight training for pilot candidates), they can be employed in another class of the Turkish Armed Forces if deemed necessary (Executive Decree 671 Article 3).

Furthermore pilot officers who had previously resigned or been discharged from the Turkish Armed Forces for any reason as well as individuals from other classes with commercial pilot license or air freight pilot license and at least 1000 hours of flying experience can be reinstated as pilots if they meet the requirements for flight and if their application is deemed appropriate, upon the suggestion of the force commander and the approval of Minister of National Defense, until 31/12/2020 (the deadline which had been extended before by Executive Decree 690 Article 9 was once again extended until 2020 by Executive Decree 696 Article 23) and thereby return to the Turkish Armed Forces. They will be deemed to be pilots as per Law no. 2629 on Flight, Parachute, Submarine, Diving and Frogman Services Compensation. The period they spent outside the force will be included to their rank waiting period, and their flight hours outside the force -if documented- will be counted as flight service period. Upon their reinstatement to the Turkish Armed

Forces, for one time only, they will be immediately appointed to the ranks that they peers hold even if they lack the rank requirements listed in the same law, and will be considered to have joined the force at the same time with their peers (Executive Decree 671 Article 6; Executive Decree 676 Article 56).

Furthermore, officers who have stopped flying for any reason can rejoin the pilot training program in case they apply in one year and meet the requirements for flight, upon the approval of the Force Command in question. Those who succeed in pilot training will have an obligatory service period of fifteen years, starting from the day they started training. For those who fail in pilot training, the training period will also be included in their obligatory service period (Executive Decree 671 Article 6). The obligatory service period for those who complete the pilot training program used to be three times the training period, whereas now it has been fixed at eight years (Executive Decree 671 Article 4).

Also to fill the deficiency of pilots in the Air Force Command, a new category called reserve pilots was created. An addition was made to the Law on Turkish Armed Forces Personnel to ensure that when a necessity arises out of a crisis or an operation, force commands can meet their pilot needs from outside their regular personal, among war-ready pilots. As such, those who had previously served as pilots at these commands and later resigned, can be declared obligatory reserve pilots. If they qualify as aviators, such individuals can thus be appointed as reserve pilots upon the suggestion of the Force Command and the approval of the Ministry of National Defense. The provision stipulates that these reserve pilots will undertake task flights with certain planes in various regions and at specific intervals, and at the same time they will undergo refreshment and war preparation training (Executive Decree 678 Article 16).

Other amendments were made to the legislation, concerning the salaries of students of reserve officer schools, those undergoing basic military education to become noncommissioned officers or commissioned officers (Executive Decree 671 Article 5).

Another newly added clause reads “noncommissioned officers who as of this date have completed their seventh year in service but have not past their tenth year will be given the right to the apply to the next exam for transition from noncommissioned to commissioned officer status in case they fulfil the other requirements outlined in article 109” (Executive Decree 676 Article 57). Later, the requirements were further relaxed with another additional amendment, and those past their fourth year also became eligible for application to the transition exam (Executive Decree 694 Article 37). This amendment has been passed to meet the army’s urgent demand for commissioned officers, many of whom were expelled from the force after the coup attempt.

An amendment was made to the article in the law which regulated the recruitment of faculty or college graduates as regular commissioned officers, stipulating that “Age and other entrance requirements of those who will be assigned directly to the Special Forces Command will be determined by the Ministry of National Defense after receiving the opinion of General Staff”. This practice differs from the case in other classes. For instance, graduates of 4-year faculties or colleges who apply from the outside to become a regular commissioned officer have to be younger

**Ministry of National Defense and Ministry of Interior were given the power to approve the recruitment of specialist privates and sergeants, and the General Staff's authority to approve staffing was taken away (Executive Decree 676 Article 64).**

than 27, and those who completed their postgraduate studies have to be younger than 32. Besides, the test period for those directly assigned to the Special Forces Command as officers will be two years (versus one year in other military classes) (Executive Decree 678 Article 13).

Furthermore, it has been stipulated that those directly assigned to Special Forces Command as commissioned officers will undergo Special Forces Command training regardless of their military class, those who fail -with the exception of health-related reasons- will be discharged from Turkish Armed Forces and will have to pay back the state's expenditures -outside of their salaries- with interest, those who fail for health-related issues will repeat their training next year and if they fail again will be appointed by the force commands to positions in line with their military class and rank, and those appointed to positions outside the Special Forces Command will also undergo the training of their new military class (Executive Decree 678 Article 14). Similar provisions were introduced as regards the noncommissioned officers appointed directly to the Special Forced Command. (Executive Decree 696 Article 21)

Those appointed to the Special Forces Command as noncommissioned officer will undergo a two-year test period (versus one year in other military classes); their age and other entrance requirements will be determined by the Ministry of National Defense after receiving the opinion of General Staff (Executive Decree 678 Article 15).

Found under the section "definitions" in the law, the expression "Forces War Academies" has been replaced with "National Defense University Institutes". This should be interpreted as an effort to establish National Defense Institutes after the failed coup attempt (Executive Decree 681 Article 12).

In the Law no. 926, under the section "sources and training", it is stipulated that a regulation will be issued to determine the procedures and principles concerning the education of those who will be trained on behalf of the Ministry of National Defense in various undergraduate and postgraduate schools, their military education, as well as the measures to be taken during these educations." The old text included the expression "students who want to study on behalf of the Armed Forces". This amendment can be seen as a measure for bringing military education under the control of the Ministry of National Defense (Executive Decree 681 Article 13).

The expression "by the Turkish Armed Forces when required by General Staff" was removed from the Article 14 entitled "training at faculties and colleges"; as such, this amendment took away the General Staff's power over appointments to commissioned officer positions (Executive Decree 681 Article 14). This provision concerning the graduates of four-year faculties and colleges who are to become commissioned officers – found in Executive Decree 678 – stated that those who will join Special Forces Command as commissioned officers will be selected by the Minister of National Defense after receiving the opinion of the General Staff. The amendment to the law has made it possible for the graduates of all faculties, colleges and vocational colleges -and not just those selected by the General Staff- to become regular noncommissioned officers (Executive Decree 681 Article 25).

The law was amended, so that acceptance to the position of noncommissioned officer now requires the approval of the "Minister of National Defense", and not as



before, the suggestion of the force commander in question, General Commander of the Gendarmarie, Coast Guard Commander and the request of the Chief of General Staff. In the same article, the Force Command was bypassed in rank promotions as well, which now depend on the approval of the Minister of Interior and Minister of National Defense (Executive Decree 681 Article 26).

The General Staff has been deprived of its right to accept as valid the excuses of those who were unable to apply to the exam for transition from noncommissioned officer to commissioned officer positions due to their operational duties, although they meet the requirements necessary for application (Executive Decree 681 Article 28).

An amendment has been made to the section “the liabilities of commissioned and noncommissioned officers”, to extend the obligatory service period of regular commissioned and noncommissioned officers -during which they cannot resign- from 10 to 15 years starting on their date of appointment. This amendment is probably in response to the lack of personnel owing to the dismissals following the coup attempt (Executive Decree 681 Article 29).

With an amendment to the law’s section dubbed “overseas permissions”, the power to authorize General Staff generals and admirals who will travel abroad for education or other reasons was transferred to the Ministry of National Defense (Executive Decree 681 Article 38). According to the old text, commissioned and noncommissioned officers assigned to a foreign country or an international institution could be granted up to 5 years of unpaid leave, upon the consent of the General Staff and the approval of the Minister of National Defense (for the General Commander of the Gendarmerie and Coast Guard Command, the Ministry of Interior was responsible); here, the expression “General Staff’s consent” was replaced with “General Staff’s opinion” (Executive Decree 681 Article 44).

With an amendment to the Law no. 926, it has become impossible for those noncommissioned officers who have completed faculties or colleges on their own behalf to apply for becoming a regular commissioned officer in their own military class or in similar classes where there is need for officers (Executive Decree 690 Article 7).

Additions to the law regulated the procedures for appointment as noncommissioned officers, that is taking office as a noncommissioned officer (Executive Decree 690 Article 8).

In the article regulating the promotion procedures for colonels, generals and admirals, in the phrase “An assessment score is given according to the principles provided in the Officer Records Regulation”, the expression Officer Records was replaced by Supreme Military Council (Executive Decree 691 Art 4). The subsequent article, stipulating that the Supreme Military Council should abide by Officer Records Regulation principles in promotion principles, has been removed (Executive Decree 691 Article 5).

Executive Decree 696, Articles 19-25 also made changes to the law. Accordingly, there are various changes concerning military training, the basic rights of imprisoned or dismissed commissioned officers, noncommissioned officers appointed directly to Special Forces Command, military judges and prosecutors, and the basic rights of pilot officers.

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**An addition has been made to the Law no. 5607 on Anti-Smuggling stipulating that a premium shall be paid to the Army and Naval Forces personnel who participate in anti-smuggling missions (Executive Decree 690 Article 12).**

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### **b.) Changes to the Law no. 1111 on Military Service**

Amendments to the Law on Military Service also seem to be mainly designed to redefine civilian-military relations.

The Executive Decree 669 has transferred the military hospitals to the control of Ministry of Health. Accordingly, an amendment to Law no. 1111 on Military Service has stipulated that the health check of conscripts will be conducted by their family doctor, if not, by a single doctor at the closest health clinic. The health clinics and health boards designated by the Ministry of Health were granted the authority to issue all sorts of health reports about the conscripts. All checks and controls in this regard have been declared free of charge (Executive Decree 674 Article 45; Executive Decree 676 Article 48). In the law text, all occurrences of the word “military hospital” were replaced by official health institution, health boards authorized by Ministry of Health, etc. (Executive Decree 676 Article 49-52).

An article added to the Law on Military Service stipulates that the relevant articles of the law will apply to the male children (from the same father) of those martyred while resisting the coup attempt of July 15 and ensuing events, even though they were not under the obligation of doing so. As such, one of the male children or brothers of those killed during July 15 will be exempt from military service (Executive Decree 678 Article 12).

Another amendment to the law stipulates that, the biological children and all whole brothers of those civilians who have lost their lives during their military service in events that fall under the scope of the Law no. 3713 on Counterterrorism or who were killed in a terrorist attack, will not be conscripted unless they themselves volunteer; and that, once under military service, they can be discharged whenever they wish. The same rules will apply for the biological children and one whole brother of civil servants (including security guards) (Executive Decree Article 1).

In the section titled “sergeants and privates taking leave of their contingent for change of air”, the procedures and principles governing the granting of additional leaves to sergeants and privates with an excellent record have been redefined. The difference between the old and new texts is that, owing to the separation of the Gendarmerie General Command and Coast Guard Command from the Turkish Armed Forces, the authority to determine the related procedures and principles has been extended to include not only the General Staff but also the force commands (Executive Decree 680 Article 24).

The following article was included in the said law: “Those military conscripts who have membership, affiliation or relation to terrorist organizations or structures, formations and groups deemed by the National Security Council to engage in actions against the state’s national security, and are capable of military service, -including draft evaders and those who do not present one of the excuses mentioned in this law- will be drafted according to the summons and conscription procedures determined by the Ministry of National Defense” (Executive Decree 691 Article 2).

After an amendment to the Law on Military Service, the summons and conscription announcements of the Ministry of National Defense, which were previously disseminated only via Turkish Radio and Television Corporation, will now also be disseminated by other nationwide TV and radio channels as obligatory broadcasts (Executive Decree 694 Article 3-4).

Another amendment to the law specifies that military conscripts assigned aboard will have to pay the transfer fees and other fees for their payments in foreign currency or make a transfer to special foreign exchange accounts (Executive Decree 696 Art 2.)

**c.) Amendments to the Law no. 211 on Turkish Armed Forces Internal Service** Changes to the Law on Turkish Armed Forces Internal Service have augmented the powers of civilian superiors, allowing them to inflict disciplinary punishment. After the transfer of military hospitals to the Ministry of Health, changes were made for the necessary adaption process. Furthermore a provision was passed to prevent the ill-treatment of military students.

The article, which allowed for the establishment of military hospitals to deliver health services by the General Staff in consideration of military needs, has been abrogated (Executive Decree 669 Article 109). As is known, all military hospitals have been transferred to the Ministry of Health. Expressions concerning military hospitals and treatment in military hospitals were removed from the law.

Turkish Armed Forces personnel whose class or status had been changed previously due to health reasons can now undergo another health check if they apply in one year (Executive Decree 669. Article 11).

Provisions were added to the law as regards punishments for military students (Executive Decree 669 Article 10).

In the Article 115, the second and third phrases of paragraph (a) have been removed. The removal of these sentences allows civil servants to inflict punishment as well (Executive Decree 676 Article 53). In continuation of this amendment, the Article 19 was changed to oblige subordinates to abide by the orders of military superiors with or without uniform, as well as of civilian superiors (Executive Decree 681 Article 3).

Since the Coast Guard and Gendarmerie were separated from the Turkish Armed Forces, these commands have been taken out of the scope of the law (Executive Decree 681 Article 1-8).

**d.) Law no. 2629 on Flight, Parachute, Submarine, Diving and Frogman Services Compensation**

In order to fill the vacancies owing to expulsions and early retirements in the Flight, Parachute, Submarine, Diving and Frogman Services, which require special talent, significant increases were made to the compensation in these categories.

With an amendment to the related article of the law, a compensation has been set for extra flying hours (for jet pilots etc) (Executive Decree 671 Article 12).

Large increases have been made in the compensations of pilots, weapons system officers, navigation officers, tactical coordination officers, flight crew, mission staff, paratroopers, submarine specialists, ADS pilots, divers and frogmen (Executive Decree 676 Article 62-63).

Furthermore, a paragraph has been added to the law for relaxing the obligatory jumping and diving services of paratroopers, submarine specialists, divers and frogmen (Executive Decree 681 Article 53-54).

Most recently, a provision has been added to the law as regards the compensa-

**An amendment to the Law no. 2920 on Turkish Civil Aviation has stipulated that those dismissed from the Turkish Armed Forces by a court or disciplinary board before having completed their obligatory service period designated by Law no. 926 on Turkish Armed Forces Personnel cannot enjoy the privileges and benefits provided by their authorization certificate until the rest of their obligatory service period is over (Executive Decree 671 Article 14).**

tion for jet pilots, and the application of the law's provisions to the personnel of the Coast Guard Command and Gendarmerie General Command (Executive Decree 696 Art 38-40).

#### **e.) Amendments to the Law no. 3269 on Specialist Sergeants**

First of all, in order to fill vacant positions, increases were made to the service age limits. Ministry of National Defense and Ministry of Interior were given the power to approve the recruitment of specialist privates and sergeants, and the General Staff's authority to approve staffing was taken away. Later, various amendments have been made in issues such as transition of specialist sergeants to noncommissioned officer. Another change to the law enables specialist sergeants, who could previously serve until the age 45, to serve until 52 (Executive Decree 676 Article 64).

A temporary clause added to the law stipulated how the Article 4, paragraphs 2 and 3 of the Executive Decree 667 will be applied to those "specialist sergeants whose contracts were terminated due to their membership, connection or relation to the 'Fethullah Gulen Terrorist Organization / Parallel State Organization' (FETÖ / PDY) which is deemed to be a threat to national security" (Executive Decree 676 Article 65). The paragraph 2 stipulates that they will not ever again be employed in public service directly or indirectly, whereas paragraph 3 stipulates that their firearm and pilot licenses will be canceled, they will abandon any public housing within 15 days, and they cannot work for any private security company.

An article added to the law gave those specialist sergeants who have completed their seventh year in service but have not past their tenth year the right to the apply to the next exam -after the publication of the amendment- for transition to noncommissioned officer status in case they fulfil the other requirements outlined in article 15 (Executive Decree 678 Article 19). The previous text stated that they had to have completed their fourth year in service but not past their eighth year.

Another amendment to the law gave the authority to approve the recruitment of specialist corporals and sergeants to the Ministry of National Defense and Ministry of Interior. The old text designated the General Staff as the institution in charge of approving staffing. Furthermore aside from the Ministry of National Defense, the Ministry of Interior was also added to the law text since the Gendarmerie General Command and Coast Guard Command have been subordinated to the Ministry of Interior (Executive Decree 681 Article 60).

Due to the separation of Coast Guard Command from Turkish Armed Forces (Executive Decree 681 Article 61) and the closure of military hospitals, changes were made to the wording (Executive Decree 681 Article 62). In transitions from the position of specialist sergeant to that of noncommissioned officer, the General Staff no longer has the power to select the sergeants who have graduated on their own behalf from a faculty, college or vocational college. Plus, the expression "Schools designated by the force commands, Gendarmerie General Command or Coast Guard Command to which the noncommissioned officer vocational colleges are subordinate, and approved by the General Staff" was removed, so that it is now enough to be a graduate of high schools or equivalent schools. Furthermore the obligatory service periods of those who have transitioned from the position of specialist sergeant to that of noncommissioned officer has been increased to 15 years

(Executive Decree 681 Article 63).

An amendment removed the expression “if required by the General Staff”, from the phrase that used to read “if required by the General Staff, primary school graduates who have received a certificate of high achievement in classes, disciplines and fields that necessitate specialization” can be appointed as specialist sergeants (Executive Decree 681 Article 65).

Most recently, an amendment has been made to the same law, specifying that individuals who were discharged less than 5 years before or regular soldiers younger than 28 can apply for specialist sergeant positions. Previously these figures were 3 years and 25. Furthermore, in the same article on acceptance to the position, various changes were made concerning the basic rights of specialist sergeants. (Executive Decree 696 Article 63)

#### **f.) Other Amendments to the Basic Rights of Those Working for Turkish Armed Forces and Affiliated Organizations, the Gendarmerie General Command and Coast Guard Command**

These amendments have two main purposes: To limit the powers of the General Staff so as to increase the authority of the government over the army, and to overcome the lack of personnel which rose after the coup attempt.

An amendment to the *Law no. 2920 on Turkish Civil Aviation* has stipulated that those dismissed from the Turkish Armed Forces by a court or disciplinary board before having completed their obligatory service period designated by Law no. 926 on Turkish Armed Forces Personnel cannot enjoy the privileges and benefits provided by their authorization certificate until the rest of their obligatory service period is over (Executive Decree 671 Article 14).

An amendment has been made to the relevant article of the *Executive Decree 675* concerning the procedures and principles governing the compensation which will now be paid to the commissioned and noncommissioned officers, specialist gendarmes, civil servants, workers, specialist sergeants and contracted sergeants and privates, and military conscripts dispatched overseas individually or as a contingent upon a resolution of the Turkish parliament. It is possible to say that this provision meets the needs created by Turkey’s Euphrates Shield operation inside Syria. In the operation area, not only security personnel but also civil servants and workers are employed for purposes of assistance, service and reconstruction activities (Executive Decree 676 Article 66).

Changes were made to the *Law no. 4678 on Contracted Commissioned and Noncommissioned Officers to be Employed by Turkish Armed Forces*, with the Executive Decree 681, Articles 66-71.

The power to extend the contracts of contracted commissioned officers was taken from the General Staff and given to the Ministry of National Defense and Ministry of Interior (Executive Decree 681 Article 66).

An amendment has been made to extend the obligatory service period -during which they can’t resign- of contracted commissioned officers who have become regular commissioned officers, from 10 to 15 years starting on their date of appointment (Executive Decree 681 Article 67).



In the section entitled “Noncommissioned officer sources”, the phrase that “the departments and disciplines are determined by the General Staff” was removed (Executive Decree 681 Article 68).

Those who transition from contracted noncommissioned officer to regular noncommissioned officer position cannot resign in the 15 years -and not 10 years as previously- after becoming a noncommissioned officer (Executive Decree 681 Article 69).

The contracted commissioned and noncommissioned officers who have completed their 12th year in service on the date when the amendment came into force were given the right to apply to the first exam for transition to regular commissioned and noncommissioned officer positions if they meet the other requirements (Executive Decree 681 Article 71).

With an amendment to the *Law no. 5335 on the Amendment of Certain Laws and Executive Decrees*, the pilots employed as per the additional Article 36 of the Law no. 926 on Turkish Armed Forces Personnel and the retired commissioned and noncommissioned officers who work in the Ministry of National Defense and associated units for services concerning the recruitment of personnel and military students will now be exempt from the provision that states “those who have retired from and receive pensions from a social security institution cannot be employed in any position or duty unless their pensions are terminated” (Executive Decree 681 Article 73). As such, the retired commissioned and noncommissioned officers whose services are needed in the aforementioned categories can continue being employed without the termination of their pensions.

An addition has been made to the *Law no. 5607 on Anti-Smuggling* stipulating that a premium shall be paid to the Army and Naval Forces personnel who participate in anti-smuggling missions (Executive Decree 690 Article 12).

An addition has been made to the *Law no. 1325 on the Structure and Organization of the Ministry of National Defense* regulating payments to the military preparation class students of war schools, universities and colleges (Executive Decree 694 Article 40).

Changes to the *Law no. 6191 on Contracted Sergeants and Privates* stipulate that in order to become a contracted sergeant or private, “the results of the candidate’s security investigation must be positive, or in case the result of that investigation has yet to be received, their archive investigation’s result must be positive” and that the contract will be terminated if the “security investigation yields negative results”. Such personnel will be given “a ten-day leave upon the death of a parent, spouse, child or sibling, a seven-day leave in case they get married, and a ten-day leave if their spouse gives birth”. Furthermore, if the force command in charge of their staffing position changes, they will be relocated by the Ministry of National Defense or Ministry of Interior (previously the General Staff held this authority). Besides, the premium indicators chart found in the same law has also been revised (Executive Decree 694 Article 164-167).

With an amendment to the Law no. 3466 on Specialist Gendarmes, the obligatory service period of specialist gendarmes has been increased from 10 to 15 years. Provisions were passed about the compensation that they will have to pay if they resign before the end of this period, with the exception of health reasons etc.

(Executive Decree Article 67-68).

An amendment to the Law no. 4678 on the Contracted Commissioned Officers and Non-Commissioned Officers to be Employed at the Turkish Armed Forces, has stated that those who have become invalid in the scope of the Law on Counterterrorism can extend their contract if they meet specific requirements (Executive 696 Article 75).

Social security and financial rights related changes have been made to the Law no 6191 on Contracted Sergeants and Privates. Furthermore, all sick leaves will be deducted from monthly salaries with the exception of inpatients, those with long-term diseases, and those wounded during counterterrorism efforts or in border contingents (Executive 696 Article 110).

### **8) Military Justice**

In the field of military justice, Executive Decree 694 Article 203 has abrogated the Law on Military Judges, Law on Military Court of Appeals, Law on Military High Administrative Court. This indeed was a natural result of the Referendum on the Revision of the Constitution dated April 16, 2017 and the abrogation of the Military Court of Appeals, Military High Administrative Court and other military courts. Judges assigned to these courts were transferred to the staff of Ministry of National Defense. Certain limited amendments were made to the *Law no. 6413 on Turkish Armed Forces Disciplinary Procedures* as a natural result of the subordination of the Gendarmerie General Command and Coast Guard Command to the Ministry of Interior. Together with minor amendments to other laws, the jurisdiction of military justice has been restricted dramatically.

The old text of the *Law no. 353 on the Structure and Trial Procedures of Military Courts* used to read “military courts which will exercise judiciary power on behalf of the Turkish Nation are established at the levels of corps, army (or their navy and air force equivalents), force commands and General Staff, by the Ministry of National Defense”. The new text reads “military courts which will exercise judiciary power on behalf of the Turkish Nations are established and terminated by the Ministry of National Defense after receiving the opinion of the Force Commands, in due consideration of the structures and geographical locations of military contingents, and the workloads of courts”. As such, courts will no longer be established at the levels of corps, army, force command and General Staff, and instead focus will be on the geographical location of military contingents and the workload of courts. Furthermore the following provision was also abrogated: “Upon the suggestion of Force Commands, and the General Staff’s direct or indirect request, the Ministry of National Defense can establish or remove military courts at the level of other detachments or military institutions” (Executive Decree 668 Article 4).

First, amendments were made by the Executive Decrees 668 Article 4, 669 Articles 12-20, 671 Articles 1-2 and 676 Article 54 to the Law no. 357 on Military Judges. Later, the *Law no. 357 on Military Judges* was abrogated by the Executive Decree 694, Article 203.

First, minor amendments were made by the Executive Decrees 669 Articles 43-44 and 671 Articles 10-11 to certain articles of the Law no. 1602 on Military High Administrative Court. Subsequently, Executive Decree 694 abrogated the *Law on Military High Administrative Court*.

An amendment to the Article 21 of the same law has defined what it means to turn lack of discipline into a habit and clarified how the dismissal procedure will follow (Executive Decree 690 Article 14).

*Law no. 926 on Turkish Armed Forces Personnel's* previously abrogated Article 46 was rewritten to introduce provisions on the military courts serving at the Military Court of Appeals and Military High Administrative Court, and a new unit dubbed "legal services department or unit" was created under the umbrella of the Ministry of National Defense. It has been stipulated that the legal services of the General Staff and Ministry of National Defense will be delivered by this unit and department, comprising officers from the legal services class (Executive Decree 694 Article 31).

The temporary article 45 was added to the *Law no. 926 on Turkish Armed Forces Personnel*, in order to reassign the military judges of the Military Court of Appeals and Military High Administrative Court to civil and administrative justice or to the legal services staff of the Ministry of National Defense or General Staff, depending on their preferences and vested rights, and their retirement rights were regulated accordingly (Executive Decree 694 Article 36).

According to the *Law no 1632 Military Penal Code*, Article 67 designating which crimes amount to an escape to a foreign country, those on leave who went abroad without permission were previously deemed to be escapees after three days and were punished; now, however, this has been attenuated with the provision that one will be deemed an escapee "unless one is on leave" (Executive Decree 691 Article 3).

Article 39 of the *Law no 1632 Military Penal Code* was abrogated. Titled "Enforcement location of the arrest sentences by military courts, or arrest warrants and sentences for soldiers", this article used to stipulate that the prison sentences for soldiers indicated in the law text would be carried out in military prisons (Executive Decree 694 Article 203).

Amendments were made to *Law no. 6413 on Turkish Armed Forces Disciplinary Procedures*. The article allowing disciplinary superiors to double the duration of the 15-day temporary suspension has been changed to read, "if deemed necessary, this period can be doubled by the authorities listed in this paragraph or extended one year by the minister in charge" (Executive Decree 668 Article 4). An amendment was also made to the article defining the disciplinary superior, to replace "superiors in rank or seniority" with "superiors in office, rank or seniority", so as to include a civilian term in a military expression (Executive Decree 676 Article 72). It has been stipulated that personnel expelled from the Turkish Armed forces cannot utilize the certificates, diplomas etc. that they have obtained on behalf of the Ministry of National Defense and Turkish Armed Forces, and that they cannot engage in vocations associated with these documents. Other changes provide that the discipline officer has to be from the legal services class (before they used to be from the military judge class), and introduce changes concerning the authorities in charge of appointments and assignments. If during her / his investigation, the discipline officer demonstrates that a crime has been committed (before it used to read "a crime that falls in the jurisdiction of judiciary and military courts"), one copy of the relevant folder shall be sent to the public prosecutor's office in charge (previously it used to read "to the authority in charge"). (Executive Decree 696 Article 114-116).

Furthermore in the *Law no. 1325 on the Structure and Organization of the Ministry of National Defense*, the rank equivalents have been designated for those

appointed to the offices listed in the Article 1. The new text reads “according to the rank equivalents, in terms of disciplinary superiority, a chief of staff or public relations consultant can act like a colonel, and local authorities and branch managers in the provincial offices can act like lieutenant colonels when inflicting the disciplinary punishment listed in the chart in Annex-1” (Executive Decree 676 Article 73). The purpose of this provision is to provide a rank equivalent to the officials who are superiors but do not have an actual military rank, so as to allow them to impose penalties like the other superiors.

In the *Law no. 6413 on Turkish Armed Forces Disciplinary Procedures*, amendments were made to the Articles 2, 4, 7, 8, 13, 21, 29, 30, 32, 43 and 49, and the wording of the title of section 4 was changed. These concern changes made due to the separation of the Gendarmerie General Command and Coast Guard Command from the Turkish Armed Forces, and the removal from the old text of expressions such as specialist gendarme, gendarme, Gendarmerie General Command, Coast Guard Command etc. (Executive Decree 681 Article 87, 89-96). Likewise, the duty to issue the regulation which will include such applications and procedures was taken away from the joint responsibility of the Ministry of National Defense and Ministry of Interior, and given only to the Ministry of National Defense, since the Gendarmerie General Command and Coast Guard Command have been separated from the Turkish Armed Forces (Executive Decree 681 Article 97). Another amendment gave the Minister of National Defense inspection board the power to initiate an investigation when deemed necessary, thus enhancing the minister’s power over the Turkish Armed Forces (Executive Decree 681 Article 88).

The below phrase was added to the first paragraph of the Article 20 of the law so as to clarify the ambiguous concept of affiliation to terror organizations: “h) Affiliation to terror organizations: Being in a unity of action with terror organizations, assisting these organizations, employing state means and resources to aid these organizations, and engaging in propaganda for these organizations” (Executive Decree 690 Article 13).

An amendment to the Article 21 of the same law has defined what it means to turn lack of discipline into a habit and clarified how the dismissal procedure will follow (Executive Decree 690 Article 14).

Gendarmerie General Command and Coast Guard Command were removed from the article elaborating on the Higher Disciplinary Boards, thus limiting their scope to Force Commands. The membership of these boards was redefined, with the inclusion of the logistics president, the general plan and principles department president, and the legal services president (Executive Decree 694 Article 168).

## **9) Provisions on Military Forbidden Zones**

An amendment was made to the *Article 3 of the Law on Military Forbidden Zones and Security Zones*. Accordingly, the guard posts, service buildings etc. where the contingents of the Gendarmerie General Command and Coast Guard Command are positioned will automatically be deemed special security zones, and the limits of these zones will be determined by the Ministry of Interior. In case the ministry decides that it is not necessary to declare such areas special security zones, it will have to take a decision on this matter; furthermore, a regulation will be issued to

outline the necessary procedures (Executive Decree 690 Article 19).

An amendment to the same law specifies that civilian authorities will determine what crops can be grown in the areas within 200 meters to the exterior limit of the said security zones. The regulation that will determine the principles and procedures concerning the application of the same law will be drafted jointly by the Ministry of Interior and Ministry of National Defense after receiving the opinion of the General Staff, and later put into effect by a Council of Ministers resolution (Executive Decree 694 Article 46-47).

As for the bank transfer of funds necessary for meeting the needs determined by the National Intelligence Service, the phrase “the opinion of appropriateness of the Minister of National Defense” was removed and replaced with “suggestion of the Undersecretary of the National Intelligence Service and the approval of the President” (Executive Decree 696 Article 59).

#### **10) Undersecretariat of Defense Industry and Turkish Armed Forces Foundation (TSKGV)**

With additions to the Article 3 of the *Law on the Revision of the Law no. 3238 on the Establishment of the Undersecretariat of Defense Industry, and Law dated July 11, 1939 and no. 3670 on Foundation of the National Lottery Organization and Amendment of One Article of the Law dated October 23, 1984 and Law no. 3065 on Value Added Tax*; Minister of Interior and the Director General of Public Security were included in the Defense Industry High Coordination Committee, which already includes Prime Minister (Committee Chair), Chief of General Staff, Minister of State in charge of the economy, Minister of National Defense, Minister of Finance and Customs, Minister of Industry and Trade, Force Commands, General Commander of the Gendarmerie, Undersecretary to the Prime Minister, Undersecretary of the State Planning Organization, Undersecretary of Treasury and Foreign Finance (Executive Decree 676 Article 30). However, a later amendment removed the name of this committee from among the definitions section of the law and the Articles 3 and 4 on the committee and its duties were abrogated (Executive Decree 696 Article 62).

An addition to the Article 5 of the same law has included the Minister of Interior to the Defense Industry Executive Committee which already includes Prime Minister, Chief of General Staff and Minister of National Defense (Executive Decree 676 Article 31).

However, a later amendment, found in Executive Decree 696, has stipulated that the Defense Industry Executive Committee will consist of Prime Minister, Chief of General Staff, Ministers of Defense and Interior, presided over by the President, and that in the absence of the latter, the Prime Minister will chair the meeting. The committee will convene upon the invitation of the President, and not the Prime Minister, the agenda items will be determined by the President and the secretary service will be entrusted to the Undersecretariat (Executive Decree Article 55). An amendment to the Article 7 of the law subordinates the Undersecretariat of Defense Industry not to the Ministry of National Defense but to the President, and the Undersecretariat of Defense Industry personnel will be appointed with the approval of the President; however the latter can delegate this authority to the Undersecretary (Executive Decree Article 57). The duties of the undersecretariat have been expanded to include “fulfilling other duties assigned by the President” (Executive Decree Article 59). Further the additional article stipulates that, as regards the Undersecretariat of Defense Industry, all the relevant references to ‘the Minister of National Defense’ will be replaced with ‘the President’ (Executive Decree Article 61).



In the article on the duties of the committee, it was added that it will act according to the security priorities of the Ministry of Interior when procuring and manufacturing arms and equipment for Gendarmerie General Command, Coast Guard Command and General Directorate of Security, that it will determine the amount of training necessary for enhancing defense industry human resources, and that resources can be transferred from the Fund for this purpose (Executive Decree Article 56, 60). Employment of contracted personnel has also become possible (Executive Decree Article 58).

It was set forth that in ongoing projects, the firm to be contracted will be chosen by the Committee, and that the Committee can transfer this authority to its members or to the Undersecretary of Defense Industry (Executive Decree Article 59).

In the old text, any urgent needs of the National Intelligence Service and the general Directorate of Security were being procured upon “the suggestion of the Undersecretary, the opinion of appropriateness of the Minister of National Defense and the approval of the Prime Minister”; the new text removed these requirements and stated that the Undersecretary’s decision is sufficient. As for the bank transfer of funds necessary for meeting the needs determined by the National Intelligence Service, the phrase “the opinion of appropriateness of the Minister of National Defense” was removed and replaced with “suggestion of the Undersecretary of the National Intelligence Service and the approval of the President” (Executive Decree Article 59).

An added article to the *Law no. 3388 on the Turkish Armed Forces Foundation* specifies that the Foundation’s board of trustees is chaired by the President and consists of the Minister of National Defense, Deputy Chief of General Staff, Undersecretary of National Defense and Undersecretary of Defense Industry. It is also stated that this provision will enter into force without waiting for the registration of the changes in the foundation’s voucher (Executive Decree Article 65-66). A phrase added to the law stipulates that the foundation’s properties and rights can be sold off or changed for more advantageous ones upon the decision of the foundation’s decision-making bodies (Executive Decree Article 64).

### 11) Village guards

Amendments and additions were made to the *Law no. 442 on Villages*, Article 74. Accordingly, although village guards are normally active in villages, it became possible for them to be shifted to wider or interprovincial areas, upon the approval of the governor or district governor (Executive Decree 674 Article 21). Another amendment to the same article changed the expression “Temporary Village Guard” with “Security Guard”, and the expression “Volunteer Guards” with “Volunteer Security Guards” (Executive Decree 676 Article 8-9). As such, the expression “security guards” suggests that this position may become a permanent one, and the replacement of “voluntary guards” with “voluntary security guards” suggests that the voluntary guard has been turned into a sort of formal security official.

Another amendment to the same law stipulates that, in cases of investigation or inspection concerning the alleged crimes of security guards and voluntary security guards during their counterterrorism activities, the fees of at most three lawyers

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**In cases of investigation or inspection concerning the alleged crimes of security guards and voluntary security guards during their counterterrorism activities, the fees of at most three lawyers will be covered by the governors’ offices from an allowance to be established in the Ministry of Interior’s budget (Executive Decree 694 Article 1).**

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will be covered by the governors' offices from an allowance to be established in the Ministry of Interior's budget (Executive Decree 694 Article 1).

## 12) Other

Since the use of unmanned air vehicles becomes more and more widespread across the world and Turkey, and as they have to be kept under control for security reasons, the *Law no. 2920 on Turkish Civilian Aviation's* previously abrogated Article 144 was rewritten. "The responsible managers and administrators of companies marketing unmanned air vehicles have to appropriately keep the records for sold vehicles and the IDs of the buyers, and communicate to a special registry system under the General Directorate of Civilian Aviation any information on unmanned air vehicles whose weight is equal to or more than 500 grams. These records are shared with law enforcement officials to prevent possible crimes or to investigate crimes committed." In the continuation of the same article, one can find the sanctions to be imposed on those who do not comply with the obligations or flight rules determined by the Ministry of Transport, Maritime Affairs and Communications, General Directorate of Civil Aviation or superior civilian authorities (Executive Decree 674 Article 33). An amendment to the Executive Decree 375 introduced comprehensive regulations concerning the principles and procedures for the financial rights of the flight crew, pilot, technical personnel, task force / task commander in charge of unmanned air vehicles. (Executive Decree 696 Article 126)

In the *Law no. 6586 on Establishment of the National Landmine Operations Center and Revision of Certain Laws*, the name of the institution was changed into National Landmine Operations Center in both the title and articles (Executive Decree 671 Article 17-19). Another amendment to the same law stipulated that the net salary to be paid to the contracted personnel will be determined by the Minister, but cannot be more than the 150% of the first-degree National Defense Expert (Executive Decree 690 Article 15). To the *Law no. 6586*, Article 4, the phrase "as an independent department subordinate to the Ministry" was added. An amendment to Article 5 paragraphs 2 and 3 changed the expression "General Director for General Plan and Principles" as "President of the National Landmine Operations Center Department" (Executive Decree 694 Article 173-174).

An amendment to the *Law no. 1453 on Salaries of Military Officers and Functionaries* stipulated that Gendarmerie General Command and Coast Guard Command's de facto staffing positions determined for 2016 will apply until end-2016, and that the 2017 de facto staffing positions of the Gendarmerie General Command, Gendarmerie and Coast Guard Academy and Coast Guard Command will be set by the Turkish Parliament's Plan and Budget Commission by end-2016 (Executive Decree 676 Article 38).

The following phrase was added to the Article 1 of the *Law no. 4636 on Structure and Duties of the Ministry of National Defense Refueling and NATO POL Facilities Department*: "Of the Coast Guard Command and Gendarmerie General Command" (Executive Decree 674 Article. 37).

In the *Law no. 657 on the General Command of Cartography*, the expression "for the defense of the fatherland" was replaced with the more comprehensive expression "for the generation of basic domestic and overseas cartographic informa-

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**Executive Decree 190 on General Staffing Procedures, annex chart (I) provided for the recruitment of 7000 new neighborhood and marketplace guards (Executive Decree 690 Article 26). A further addition of 7500 to the same chart brought the total figure up to 14500 (Executive Decree 694. Article 16).**

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tion and geographical data for defense, security, intelligence, development, training and scientific research purposes. (Executive Decree 674 Article 42). An article was added to the same law to establish the Geographical Data Center, as a unit subordinate to the General Command of Cartography, aimed at meeting the basic geographical data needs of defense, security, intelligence and development institutions. A temporary article was added specifying that the appointments or transfers to this center and auxiliary units will not be subject to the limitations in the Central Government Budget Law (Executive Decree 674 Article 43-44).

An article was added to the *Law on the General Command of Cartography* stipulating that all information on buildings, facilities and other vertical structures jeopardizing flight safety that have been constructed, will be constructed or will be removed must be communicated to the General Command of Cartography (Executive Decree 691 Article 1).

New provisions were introduced owing to various recent food related problems in the Turkish Armed Forces, Gendarmerie General Command and Coast Guard Command (food supply and control issues, and soldier deaths due to food poisoning etc.).

An amendment to the *Law no. 5996 on Veterinary Services, Plant Health, Food and Animal Feed* provides that the Gendarmerie General Command's and Coast Guard Command's veterinary services, food, supervision and control services will be met by the Ministry of Food, Agriculture and Livestock, and in locations where this is not possible, by the relevant units of the Ministry of National Defense; the relevant principles and procedures will be determined jointly by the Ministries of National Defense, Interior and Agriculture & Livestock (Executive Decree 680 Article 76). Another amendment to the same law sets forth that the analyses on the potable and tap water utilized by Turkish Armed Forces, Gendarmerie General Command and Coast Guard Command will be conducted, as per the applicable legislation, by the laboratories of the Ministry of Health, free-of-charge (Executive Decree 690 Article 23).

Another clause was added to the relevant article of this law, stipulating that in case the official supervision and controls by the Ministry of Health reveal any nonconformity, this law's sanctionary provisions will not apply to the relevant units of the Turkish Armed Forces, Gendarmerie General Command and Coast Guard Command, and that the measures against such nonconformity will be taken by the command in charge (Executive Decree 690 Article 24).

An amendment to the *Law no. 5715 on Patient Nutrition in Turkish Armed Forces*, specifies that military students, conscripts and sergeants who were discharged by the Turkish Armed Forces' in-patient treatment centers and other official health institutions may be given sufficient provisions depending on the distance they will travel until reaching their detachment or destination (Executive Decree 681 Article 86).

Changes were made to the *Law no. 5668 on Nutrition in Turkish Armed Forces, Gendarmerie General Command and Coast Guard Command*. These provisions focus on distinguishing between the military personnel of the Turkish Armed Forces and those of the Gendarmerie General Command and Coast Guard Command. Likewise, the recently established Gendarmerie and Coast Guard Academy was

also added to the relevant articles (Executive Decree 694 Article 155-159). An addition to the same law provides that visitors who attend the oath-taking ceremony, symbolic military service and graduation will also eat from the same kitchen. (Executive Decree 696 Article 107)

In the *Law no. 4925 on Highway Transportation*, the article which listed the institutions not bound by the provisions of this law was expanded to include not only Turkish Armed Forces but also the Gendarmerie General Command, Coast Guard Command and General Directorate of Security (Executive Decree 678 Article 9).

In the *Law no. 5018 on Public Finance Management and Control*, the Gendarmerie General Command and Coast Guard Command are now mentioned separately from the Turkish Armed Forces (Executive Decree 678 Article 10).

A clause was added to the *Law no. 3359 on Basic Health Services*, specifying that those who conduct their military service as sub-lieutenant in locations jointly determined by the Ministry of Health and Ministry of National Defense can be exempted from their obligatory service to the state (Executive Decree 678 Article 25).

An amendment to the *Law no. 1219 on the Application of Medicine and Medical Sciences* has authorized those personnel who have undergone health training in the combatant units of the Turkish Armed Forces and the General Directorate of Security to engage in urgent medical interventions in the absence of health professionals, and within the limits of the emergency duties and locations of such personnel (Executive Decree 680 Article 25).

Additions and amendments were made to various articles of the *Law no. 6245 on Allowances*, due to the separation of Gendarmerie General Command and Coast Guard Command from the Turkish Armed Forces (Executive Decree 680 Article 31-34).

Likewise, the expression “Coast Guard Command” was added to the *Law no. 2893 on the Turkish Flag*, thus including Coast Guard Command among the institutions that shall hoist the flag, since it has been separated from the Turkish Armed Forces (Executive Decree 680 Article 49).

Certain articles of the *Law no. 2918 on Highway Traffic*, setting forth that the registration, documents and license plates of all Gendarmerie General Command and Coast Guard Command vehicles will be given by the General Directorate of Security, and that the license plate colors and separations used by the Gendarmerie General Command and Coast Guard Command -just like those of the General Directorate of Security- cannot be employed by other official or private institutions, and that the vehicle inspections of these three institutions will be carried out by themselves (Executive Decree 680 Article 51-62).

An amendment was made to the *Law no. 3713 on Counterterrorism* stipulating that, among the students of reserve officer schools, war schools, noncommissioned officer vocational colleges, Gendarmerie and Coast Guard Academy faculties and colleges, those who study at university faculties and colleges on behalf of Ministry of National Defense, Gendarmerie General Command and Coast Guard Command, those who used to study on their own behalf but then started studying on behalf of Ministry of National Defense, Gendarmerie General Command and Coast

Guard Command, those studying on behalf of the General Directorate of Security at the Police Academy, Police Vocational Training Centers, or university faculties and colleges, those who were studying there on their own behalf but then started to study on behalf of the General Directorate of Security, those studying at schools established by the General Directorate of Security or National Intelligence Service, those who are undergoing basic and adoption training with a view to studying on behalf of the Ministry of National Defense, Gendarmerie General Command, Coast Guard Command or General Directorate of Security; those who do not have insurance as per Law no. 5510 on Social Security and General Health Insurance, who were victimized in terrorist attacks due to their education or training, and who meet the requirements for invalidity pension, shall be provided an invalidity pension if they are alive. If they have passed away, their legal heirs will be provided an invalidity pension (Executive Decree 680 Article 64).

An amendment was made to Law on Counterterrorism, so that, in addition to those who have become invalid due to war, duty or terrorist attack, individuals who were given the right to compensation due to their actions against the July 15 coup attempt will be offered chances of employment even if they are over 45 (Executive Decree 680 Article 79).

With amendments and additions to various articles of the *Law no 5510 on Social Security and General Health Insurance*, changes were made to wording as regards Gendarmerie General Command, Coast Guard Command and associated academies (Executive Decree 680 Article 73-74).

An amendment was made to the *Law no 3359 on Basic Health Services*, so that the Ministry of National Defense is now the institution responsible for deciding whether doctors, specialist doctors and specialists in minor branches can perform their obligatory service as civil servant or contracted health personnel in public agencies that demand such services, upon the approval of the Ministry of Health (Executive Decree 680 Article 78).

Wording changes were made to the *Law no. 3212 on Sales, Donation, Transfer and Disposal of Turkish Armed Forces' Redundant Goods and Services; Conducting Overseas and Domestic Sales on Behalf of Other States; Training of Foreign Personnel*, so as to accommodate the separation of Coast Guard Command and Gendarmerie General Command from the Turkish Armed Forces, and to remove the Ministry of Interior (Executive Decree 681 Article 55-59).

An amendment was made to the *Law no. 5201 on the Supervision of Industrial Corporations Manufacturing War Equipment and Arms, Ammunition and Explosives*, so that arms that figure in the annual lists and their ammunition and spare parts can be supplied to the domestic market by manufacturing or distribution companies, upon the consent of the Ministry of Interior and the approval of the Ministry of National Defense (Executive Decree 696 Article 91)

### 13) Legislative Changes Concerning Security and Intelligence

Another provision passed concerned retired police officers. Of those who have been retired from the police force ex officio, those who have retired willingly, those who were dismissed from the profession or civil servant status as per the provisions of the General Directorate of Security Disciplinary Bylaw, and those deemed to have

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**With an addition to the Law no. 657 on Civil Servants, Article 48, candidates now also have to undergo "security investigation and / or archive check" before becoming civil servants (Executive Decree 676 Article 74).**

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resigned, individuals with membership, connection or affiliation to the terrorist organization “FETÖ/PDY” -considered to be a threat to national security- were deprived of their ranks. As such, these individuals cannot be reinstated to their previous agency or public service in general, cannot be assigned direct or indirect duties, and cannot use the professional titles and appellations that they used to hold. Their memberships in any board of trustees, boards, commissions, executive committees, audit boards, liquidation boards etc. are deemed to have been terminated. Their fire-arm licenses, retired police IDs, seaman’s IDs, pilot licenses are cancelled, and their passports are withdrawn by the relevant passport units. These individuals cannot become the founders, partners or employees of privately held security companies. (Executive Decree 686 Article 3).

#### **a.) Provisions Concerning Telecoms and Intelligence**

As telecommunication and internet are seen as strategic fields in collecting technical and instant intelligence, changes were made in order to strengthen the supervision in these fields.

Amendments were made to the *Law no. 5651 on Regulating Online Publications and Preventing Crimes Committed Thereby*; the Telecoms Communication Directorate was closed down and its powers transferred to the Information and Communication Technologies Authority (BTİK) (Executive Decree 671 Article 20-23). With the closure of the former, well known for its resolutions banning access to various web sites and social media accounts, the latter has concentrated in itself all the authority in this area, which was previously shared by other state agencies working on internal security such as Gendarmerie General Command, National Intelligence Service and General Directorate of Security.

*Law no. 2559 on Police Powers and Duties* was amended, such that, communication related action performed via telecommunication and wiretapping in the scope of the *Law no. 5271 on Criminal Procedure* will be organized centrally by a single unit under Information and Communication Technologies Authority (Executive Decree 671 Article 24). Furthermore, various clauses were added to the *Law no. 5809 on Electronic Communication*. Accordingly, the Information and Communication Technologies Authority has to implement within two hours the Prime Minister’s Office’s decisions concerning bans of access (and these decisions shall be submitted for approval to the criminal court of peace within 24 hours) (Executive Decree 671 Article 25). As such, the judge has to announce her / his verdict within 48 hours, otherwise the decision will be deemed void. Accordingly, the institution can demand information, documents, data and records from relevant agencies; it can access the archives, electronic data processing centers and communication infrastructure, and take or have taken all the necessary measures in this regard; it can request any kind of information within the scope of its mission from real or legal persons subject to private or public law; real and legal persons in this context cannot avoid fulfilling the provisions of the legislation they are subject to even by presenting a pretext, otherwise they will be subject to sanctions (Executive Decree 671 Article 25).

Another important amendment to the *Law no. 2559* stipulated that, in cases of crimes committed online, the police can access the identities of involved Internet subscribers, and conduct online investigations to allow the authorized public pros-

ecutor's office to start its investigation. Access providers, location providers and content providers are under the obligation of providing any information demanded for this reason to the law enforcement unit created to fight against such crimes (Executive Decree 680 Article 27).

Still in the Law no. 2559, the expression "in order to prevent crimes in print, the judge's verdict or in non-delayable cases a decision of the General Director of Security or the Intelligence Department Head" has been changed as "in order to prevent print or online crimes, the judge's verdict or in non-delayable cases a decision of the General Director of Security, Intelligence Department Head, or in the case of online crimes the online crimes department head". The following phrase was added to the same paragraph after where it says "communication via telecoms": "or data transferred by data traffic among internet resources via internet connection addresses" (Executive Decree 680 Article 28). Also in the same paragraph, the expression "or the communication connection" has been replaced with "the relevant internet connection address or connection".

#### **b.) Changes Concerning the Police Special Operations Department**

Due to the urgent necessities that arose in the aftermath of the July 15, 2016 coup attempt, changes were made to the *Law no. 3201 on the Police Organization* so that graduates of high schools and equivalent schools younger than 28 can apply to police training centers and police special operations in order to pass the physical aptitude exam and interview, without having to take the civil servant selection exam KPSS (Executive Decree 671 Article 26 and Executive Decree 676 Article 28). However, only four-year university graduates and two-year college graduates (the latter at most 20% of the total) can be accepted to police training centers to become police officers (Executive Decree 694 Article 14). In 2015, it was requested that the candidates had to surpass a specific threshold in KPSS.

Another amendment to the *Law no. 3201 on the Police Organization* has redefined the Police Special Operations Department as a separate department within the central organization structure, separate from other departments. (Executive Decree 694 Article 13) The Police Special Operations Department Head, deputy and manager were added to the list of vocational titles and appellations (Executive Decree 694 Article 12). Another article of Law no. 3201 was also changed such that the expression "and the Police Special Operations Department Head" was added after "Special Security Supervision Department Head" (Executive Decree 694 Article 15).

#### **c.) New Provisions on Passports and Driver's Licenses (Travel Rights)**

With amendments to the *Law on Passports* and the *Law on the Ministry of Interior's Structure and Duties*, the scope for the administrative rejection of passport issuance was expanded and passports, drivers' licenses and other documents previously issued by the General Directorate of Security started being issued by the General Directorate of Population and Citizenship Affairs.

With changes to the *Law no. 5682 on Passports*, the Ministry of Interior was granted the power to determine the required documents for passport application and the application venues (Executive Decree 676 Article 10). Furthermore the phrase in the Law on Passports which read "passports are not issued to those whose departure from the country is deemed to be a security risk by the Ministry of Interior" was not seen to be sufficient, and the following phrase was added right after it:

“passports are not issued to those who are a founder, manager or employee of any overseas education, training and health institution, or foundation, association and company which are known to have connection, links or association with terrorist organizations as determined by the Ministry of Interior” (Executive Decree 674 Article 23).

Changes were made to the *Law no. 3152 on Ministry of Interior’s Structure and Duties*. The duties of the Ministry were expanded with the addition of “conducting passport services”; while a clause added to another article introduced measures on the powers, principles and procedures concerning passports, equivalent documents and driver’s licenses (Executive Decree 676 Article 23, 25).

A temporary article added to the same law stipulates that the procedures on passports and driver’s licenses previously performed by the General Directorate of Security will be transferred to the General Directorate of Population and Citizenship within a year. The Council of Ministers has been given the power to extend this period (Executive Decree 676 Article 26).

In the context of passports and driver’s licenses in other legislation as well, all references to the General Directorate of Security were changed as General Directorate of Population and Citizenship Affairs, and any references to the local police forces were changed as local population directorates (Executive Decree 676 Article 26).

An amendment was made to the *Law no. 6749 on Revision of the Executive Decree on the Measures to be Taken Under the State of Emergency*. Accordingly, the names of those subjected to administrative sanctions or criminal investigations for membership, connection or association with structures, formations or groups deemed to constitute a threat against national security, or with terror organizations, will be communicated by the agencies running such procedures to the passport units in charge. Upon such notification, the passport units can cancel their passports (previously it read ‘shall’ instead of ‘can’) (Executive Decree 690 Article 25). Although this decision may be interpreted as a possible relaxation of passport suspensions, there is no concrete development to that effect.

#### **d.) Amendments Concerning the Possession and Licensing of Firearms**

Changes were made to the relevant articles of the *Law no. 6136 on Firearms, Knives and other Instruments*. In this scope, it has been set forth that security guards can possess only one firearm, a regulation will be issued (but not published in the Official Gazette) by the President’s Office concerning how National Intelligence Service members should enter the country with or keep their personal or official firearms, and the transfer of firearms and other such instruments seized during criminal investigations to Turkish Armed Forces, General Directorate of Security, Gendarmerie and Coast Guard Command in case these do not have to be safeguarded as evidence. Furthermore, those who have served at least one term of office as mayor, village or neighborhood headman (*muhtar*) can now be given firearm licenses. Likewise, amendments were made concerning the personal guns and ammunition of security guards. (Executive Decree 674 Article 24, Executive Decree 676 Article 12-13, Executive Decree 680 Article 30, Executive Decree 690 Article 18, Executive Decree 694 Article 21, Executive Decree 696 Article 4-5)

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Another amendment to the Law no. 3201 on the Police Organization has redefined the Police Special Operations Department as a separate department within the central organization structure, separate from other departments. (Executive Decree 694 Article 13).

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### **e.) Changes to the Law no. 2918 on Highway Traffic**

Changes to the *Law no. 2918 on Highway Traffic* include revisions on the vehicle inspection and registration services for the National Intelligence Service, Coast Guard Command and Gendarmerie General Command, as well as the authorizing of public notaries to carry out the registration procedures.

Other amendments to the *Law no. 2918 on Highway Traffic* concern the correct placement and possession of vehicle registration certificates and registration licenses, as well as sanctions that apply in cases of nonconformity (Executive Decree 676 Article 21). Furthermore, the sanctions to be imposed on those who print and distribute these licenses and certificates without authorization were outlined (Executive Decree 676 Article 21).

Executive Decree 680 introduced changes to the *Law no. 2918 on Highway Traffic*. Most of them concern the registration of vehicles that belong to Gendarmerie General Command and Coast Guard Command, which have been separated from the Turkish Armed Forces. All the occurrences of “traffic documents” were replaced with “registration documents” with the exception of “temporary traffic documents” (Executive Decree 680 Article 51-62).

It became obligatory to show one’s vehicle registration document or ownership document, as well as the obligatory financial responsibility insurance in order to receive a vehicle inspection report (Executive Decree 680 Article 53). Regardless of the driver being Turkish or not, administrative traffic fines to be inflicted on vehicles with foreign licenses will be collected without the need for prior notification. The foreign license plated vehicles will not be able to leave Turkey unless the traffic fine is collected. Traffic fines to foreign drivers driving cars with Turkish licenses will be collected from the registered owner of the vehicle (Executive Decree 680 Article 59).

In an amendment that will have an important impact on daily life, public notaries were authorized to perform the registration procedures of vehicles (Executive Decree 680 Article 61). Previously these procedures were conducted by the Traffic Registration Branch Directorates under the General Directorate of Security. Public notaries will start carrying out these procedures in 2018.

In another amendment set to have an immediate daily impact, it was stipulated that commercial vehicles carrying passengers or various items can be obliged by the Ministry of Transport, Maritime Affairs and Communications to use winter tires during certain parts of the year, depending on the weather and climatic conditions of different provinces (Executive Decree 687 Article 2).

Finally, the vehicles that belong to the Undersecretariat of National Intelligence Service can be either inspected by the National Intelligence Service itself, or alternatively, by the Ministry of National Defense, General Directorate of Security or Gendarmerie General Command if demanded by the Service (Executive Decree 694 Article 59).

### **f.) Changes to the Ministry of Interior’s Structure**

Additions to the *Law no. 3152 on Ministry of Interior’s Structure and Duties* allowed the ministry to establish its overseas organization (Executive Decree 676 Article 24).

### **g.) Provisions on Foreigners and International Protection**

Amendments to the *Law no. 6458 on Foreigners and International Protection* reflect concerns about security and an attempt to control human trafficking.

It has now become possible to deport those foreigners who are within the term of litigation or already undergoing a judiciary process, and are leaders, members or supporters of terrorist organizations, leaders, members or supporters of crime syndicates, constitute threats to the public order, safety or health, or are connected to terror groups designated by international institutions and agencies, before the end of the judiciary process (Executive Decree 676 Article 35).

Likewise, an additional clause was included in the law so as to deport at any stage of the international protection procedures those individuals who are deemed by international agencies and institutions to have connections with terror organizations or pose a threat for public safety, even if they enjoy international protection applications or international protection status (Executive Decree 676 Article 36).

General Directorate of Migration Management has been authorized to demand information on the passengers and crew of those who bring passengers to the border gates, or take passengers from border gates, and transport passengers within Turkey, before, during or after the transportation (Executive Decree 676 Article 37).

A newly added article provides for the seizure of vehicles used in trafficking migrants (Executive Decree 690 Article 6).

Articles 169-172 of the Executive Decree no 694 introduced changes to certain articles of the law. Accordingly, “unaccepted passengers” have been defined as those who arrive at border gates to enter the country or make a transit, but whose entry or transit is not accepted since they do not meet the conditions required by the legislation. “Transporters” were defined as the natural or legal persons who own the land, sea or air vehicles that carry the foreign passengers or the commercial land, sea or railway operators. As such, “transporters” are now obliged to take the necessary measures to prevent the transport of “unaccepted passengers”, to meet the nutrition, accommodation and urgent health needs of “unaccepted passengers” and to make the necessary notifications concerning “unaccepted passengers”. The amendment has also specified the sanctions that apply to the “transporters” that fail to meet these obligations (Executive Decree 694 Article 171).

Finally an addition was made to one article of the law, so that if deemed necessary, the legal counselor’s office under the General Directorate will participate in any trial or non-contentious proceeding concerning the victims of human trafficking, and will fulfill any other duties assigned by the General Director (Executive Decree 694 Article 172).

### **h.) Amendments Concerning Private Security Services**

An amendment to the *Law no. 5188 on Private Security Services* is designed to strengthen the control over the private security sector.

Issues concerning managers and security guards have been regulated (Executive Decree 680 Article 66).

In case of a public safety concern, local civilian authorities have been authorized to supervise any private security measures in locations granted private security permits, and impose further measures if they deem the existing measures to be



lacking. (Executive Decree 680 Article 67).

It has been stipulated that private security guards can exercise their powers only in the duration and location of their duty, and that they cannot take their firearms outside of their area of duty. However, included in the area of duty are all displacements for the pursuit of individuals who have committed a crime or are strongly suspected of committing a crime, for taking precautions to prevent any external attacks, and for the transportation of money, valuables or for funerals. The area of duty can be expanded when required, by a resolution of the Commission. Furthermore, the area of duty of private security guards protecting specific individuals covers the entire country when accompanying the individual under protection, and only the province when not (Executive Decree 680 Article 68).

An amendment was made to the article setting forth the requirements for becoming a private security guard, such that even if the terms provided for in the Law no. 5237 Turkish Criminal Code Article 53. have ended or even if there is a deferment of the announcement of the verdict, the following individuals cannot become private security guards: 1) those who were sentenced to prison for one year or more for a preconceived crime, 2) those convicted of crimes against the state's security, the constitutional order and its functioning, private life and sexual privacy etc., even if pardoned, 3) those being investigated of alleged crimes against the state's security, the constitutional order and its functioning, private life and sexual privacy. It was also stipulated that candidates must receive a positive result from the security investigation (Executive Decree 680 Article 69).

Amendments and additions were made to the article on the work permit. While the security investigation and archive check used to be repeated every five years, from now on it can be repeated whenever a new ID is issued or whenever deemed necessary. The IDs of those who lack or have later lost the conditions for becoming a manager or private security guard will be cancelled. With an amendment to the same article, banned from working for private security companies or units are those individuals who have membership, connections or links to structures, formations or groups deemed by the National Security Council to constitute a threat against national security (Executive Decree 680 Article 70). As such, civil servants dismissed from public duty by executive decrees or investigations cannot be employed in the private security sector.

The article setting forth the acts of security companies, managers and officials that require administrative penalty or sanction has been revised (Executive Decree 680 Article 71) The following paragraph was added to the article on supervision. "Companies whose activities fall outside the scope of their purpose or which have turned into a hotbed of crime or which have membership, connection or association with terror organizations will lose their official authorization. The founders, representatives and managers of companies which lose their official authorization in this way can no longer operate in the private security sector" (Executive Decree 680 Article 72).

#### **i.) Restoration of Neighborhood and Marketplace Guards**

Executive Decree 190 on General Staffing Procedures, annex chart (I) provided for the recruitment of 7000 new neighborhood and marketplace guards (Executive Decree 690 Article 26). A further addition of 7500 to the same chart brought the total

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**General Directorate of Migration Management has been authorized to demand information on the passengers and crew of those who bring passengers to the border gates, or take passengers from border gates, and transport passengers within Turkey, before, during or after the transportation (Executive Decree 676 Article 37).**

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figure up to 14500 (Executive Decree 694. Article 16).

**j.) Disciplinary Provisions**

Executive Decree 682 entitled “Executive Decree on General Disciplinary Measures for Law Enforcement” has 39 articles, regulating disciplinary measures and sanctions for the staff of General Directorate of Security, Gendarmerie General Command and Coast Guard Command, the disciplinary superiors and boards, investigation procedures and the like.

**k.) Provisions on Intelligence Activities**

National Intelligence Service is among the key institutions of the security apparatus. This agency was the focus of numerous debates before and after the coup attempt of July 15, and after the referendum on the transition to the presidential system, it was subordinated directly to the President with the Executive Decree no 694, without even waiting for the elections of 2019. The important amendments concerning this institution and the intelligence community amount to a veritable restructuring. The agency’s relations with the army were also revisited. Several amendments were made and additional clauses and provisional clauses were added to *Law no. 2937 on State Intelligence Services and National Intelligence Organization*.

The powers which belonged to the Prime Minister have been transferred to the President. In the law, most occurrences of the expression Prime Minister have been replaced with the President. National Intelligence Service has been subordinated to the President. The National Intelligence Coordination Board has been established as a committee to coordinate all the intelligence activities of the state, whose secretarial activities will be performed by the Undersecretariat of National Intelligence Service, and it was stated that the *modus operandi* and membership structure of this board will be set forth by a separate regulation (Executive Decree 694 Article 60-66). We understand that this regulation has already been issued, from the following phrase on the National Intelligence Service’s web site: “The board convenes every three months with the participation of the National Security Council Secretary or his Deputy, General Staff Intelligence Service President or his Deputy, undersecretaries of the ministries, authorized officials from the agencies and institutions, National Intelligence Service’s relevant department heads, and other public officials invited by the Undersecretary of the National Intelligence Service. Undersecretary of the National Intelligence Service can convene the Board to an extraordinary meeting”. Thus, the regulation has indeed been issued, but not published on the Official Gazette. But in a key area such as intelligence, the immediate entering into force of such amendments before the initiation of the presidential system in 2019 brings along significant problems.

The article on the military personnel was rephrased as the article on military and other personnel. Accordingly, the Undersecretariat of National Intelligence Service and related agencies will jointly decide on the number, ranks and titles of the commissioned and noncommissioned officers, civil servants, specialist sergeants and privates to be assigned to the Undersecretariat of National Intelligence Service each year. Before, this used to be decided on by the General Staff and the Undersecretariat of National Intelligence Service. The names of the commissioned and noncommissioned officers, civil servants, specialist sergeants and privates to be assigned in this framework will be submitted to the Ministry of Interior, Ministry of National Defense or General Staff, and they will be assigned by the Undersec-

retariat of National Intelligence Service. As regards those to be assigned to the Undersecretariat of National Intelligence Service, the permits, approvals, and other requirements stipulated by the *Law no. 926 on Turkish Armed Forces Personnel* will not be required. Previously the text used to read “a resolution of the the Council of Ministers is not required”. A provision was passed on the payments to the staff who work in other institutions but are assigned to the Undersecretariat of National Intelligence Service, and the funding thereof. Undersecretary of National Intelligence has been authorized to determine the equivalent staffing positions and duty titles of the said personnel at the National Intelligence Service (Executive Decree 694 Article 67).

The following paragraph was added to the law’s special provision on the staff: “It is essential for the identities of the National Intelligence Service personnel to be kept secret. The records of the Undersecretariat of National Intelligence Service are to be used in determining their basic and social security rights. Relevant procedures and principles are determined by the regulation to be drafted jointly by the Social Security Institution and the Undersecretariat, and approved by the President” (Executive Decree 694 Article 68).

From now on, the Undersecretary of National Intelligence Service will be appointed by the President directly; previously, she / he was appointed by the President upon the suggestion of the National Security Council and the proposal of the Prime Minister. Another amendment stipulates that the undersecretary’s deputies and the department heads can be appointed by the President upon the suggestion of the undersecretary (Executive Decree 694 Article 69).

According to a new provision, the names of those National Intelligence Service personnel who failed to adapt to the organization according to their superiors shall be communicated to the State Personnel Department, upon the suggestion of the undersecretary and the approval of the President, and they will be duly transferred to another state institution (Executive Decree 694 Article 70).

In order to meet the expenditures of the National Intelligence Service, it has been decided that a special fund will be created under the budget of the President’s Office; this used to be under the Prime Minister’s Office (Executive Decree 694 Article 71).

It has also been stipulated that the undersecretary will be responsible to the President as regards the correct allocation of the service expenditures. The undersecretary used to be responsible to the Prime Minister (Executive Decree 694 Article 72).

The models, numbers and provenance of foreign or domestic vehicles to be purchased for the National Intelligence Service will be decided on upon the approval of the President; previously the approval of the Prime Minister was required (Executive Decree 694 Article 73).

Any investigation about the Undersecretary of National Intelligence Service has to be allowed by the President (Executive Decree 694 Article 74). Before, this authority belonged to the Prime Minister. As known, the requirement for the Prime Minister to approve any investigation about the National Intelligence Service Undersecretary was introduced with a highly controversial amendment in 2012, after the Undersecretary of National Intelligence Service Hakan Fidan had been sum-

moned to court.

Another important addition to this law reads as follow: “Non-Turkish citizen detainees and convicts can be returned to another country or exchanged for detainees or convicts in another country in cases necessitated by national security and national interest, upon the demand of the Foreign Minister, the suggestion of the Minister of Justice and the approval of the President, if it is guaranteed that the individuals in question will not be subjected to punishment for their race, ethnicity, religion or nationality, sanctioned with derogatory punishment or treatment, or subjected to torture or maltreatment” (Executive Decree 694 Article 74).<sup>15</sup>

Another new provision stipulates that exposing the identity of National Intelligence Service personnel is punishable (Executive Decree 694 Article 75).

The testimony at court of National Intelligence Service’s current or previous personnel requires approval from the Undersecretary of National Intelligence Service, and the testimony at court of the Undersecretary of National Intelligence requires the approval of the President (Executive Decree 694 Article 76).

It has also been stipulated that the regulations to be issued as per the law will enter into force upon the approval of the President and shall not be published on the Official Gazette (Executive Decree 694 Article 77).

A temporary article states that any previous legislation referred to by these articles will apply until a new amendment is made, and that in all other related legislation, the expression ‘Prime Minister’s Office’ will be replaced by ‘the President’ (Executive Decree 694 Article 78).

The funds for the direct procurement of various intelligence and security related materials for the National Intelligence Service will be transferred from the Defense Industry Support Fund to the National Intelligence Service’s accounts, upon the suggestion of the Undersecretary of National Intelligence Service, the opinion of appropriateness of the Minister of National Defense and the approval of the President. Previously, the approval of the Prime Minister was required (Executive Decree 694 Article 84). Most recently, an amendment was made to the law, making it even harder for the National Intelligence Service personnel to resign: Those who resign before the completion of their fifth year in the National Intelligence Service cannot be employed as civil servant in the five years starting from the date of their dismissal. Furthermore, legal sanctions apply to those who abandon their post before the finalization of the resignation procedures. (Executive Decree Article 51-52).

In various other articles of the *Law no. 657 on Civil Servants* that designate the position authorized to decide upon certain issues regarding the National Intelligence Service and its staff, the expression “Prime Minister” was replaced by “President”. These articles concern the appointment, degree promotion and rank advancement of the National Intelligence Service personnel, determination of the additional indicators for National Intelligence Service personnel, overseas training

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15 The first result of this amendment was the liberation of two Russian agents imprisoned for organizing assassinations against Chechen opposition figures. The press reported that these Russian agents were swapped for two Crimean Tatar politicians imprisoned in Russia: Habertürk, November 29, 2017. <http://www.haberturk.com/kirim-tatari-2-siyasetci-icin-2-rus-ajan-tahliye-edildi-1733514>

of National Intelligence Service personnel, various payment rises and compensations for National Intelligence Service personnel, overtime premium for National Intelligence Service personnel, and the employment of contracted personnel at the National Intelligence Service (Executive Decree 694 Article 24-26, 28-30).

#### **l.) Changes regarding Security Investigations**

With an addition to the *Law no. 657 on Civil Servants*, Article 48, candidates now also have to undergo “security investigation and / or archive check” before becoming civil servants (Executive Decree 676 Article 74).

An addition was made to the Article 7 of the *Executive Decree 399 on the Regulation of the Personnel Regime in the State Owned Enterprises and Abrogation of Certain Articles of the Executive Decree 233*, such that “passing the security investigation and / or archive check” became a criterion for personnel to be recruited in the public sector (Executive Decree 680 Article 84).

In the first article of the *Law on Security Investigation, Restitution of the Rights of Public Employees Dismissed for Certain Reasons and not Accepted to Public Duty, and Revision of the Law no. 1402 on Martial Law*, the list of those to be subjected to security and archive check was changed from “military, General Directorate of Security” to “General Staff, Ministry of National Defense, Gendarmerie, General Directorate of Security, Coast Guard” (Executive Decree 694 Article 87).

#### **m.) Other**

Problems associated with finding lost children was a hotly debated issue for a long time. For this reason, an article was added to the *Law no. 2559 on Police Powers and Duties*. Accordingly, for the lost children to be found, the police was given the authority to keep track of the bank account used by the lost child whether belonging to the child or someone else, monitor related telecommunication activities, and evaluate signal information with the written permission of the judge of a criminal court of peace, or in non-delayable cases, with the written permission or verbal permission -to be later put into writ- of the civilian authority in charge. Such an injunction can be valid for at most a month; however, this period can be extended by a month, for only once. The decision of the civilian authority will be immediately submitted to the court for approval. The court will have to announce its decision in 24 hours the latest (Executive Decree 680 Article 26).

Wording changes were made to the *Law no. 1481 on Preventing Certain Actions Related to Security*, especially with regards to the inclusion of the Coast Guard Command to the provision that sets forth firearm utilization powers and conditions, and authorizes the General Directorate of Security and Gendarmerie General Command (Executive Decree 680 Article 37-38).

With an amendment to the *Law no. 2992 on the Revision of the Executive Decree on the Ministry of Justice's Structure and Duties*, it has been stipulated that of those individuals who have served as specialist sergeants for at least two years under the Law on Specialist Sergeants and then cancelled their contract by October 20, 2016, and are younger than 35 as of the application date for the oral exam, those who meet the requirements for becoming a Correction Officer with the exception of the age and written exam requirement can be employed as contracted Correction Officer in reserved positions, depending on the results of the oral exam organized

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before June 30, 2017 (Executive Decree 676 Article 7).

An article added to the *Law no. 3160 on General Directorate of Security Flight and Diving Services Compensation* specifies that in case pilots, flight crew and unmanned air vehicle crew belonging to the security class resign from their position, they will have to pay their training costs depending on the unfulfilled section of their obligatory service time (Executive Decree 696, Article 54)

## 2. AMENDMENTS TO THE JUDICIARY SYSTEM

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### 1. Amendments Concerning the Right to Defense Counsel and the Practice of Attorneyship

#### a.) Continuation of Trials without Defense Counsel

Executive Decree 676 Article 5 made an addition to the Criminal Procedure Code stating that in cases where the law requires defense counsel, “the trial can continue when the defense counselor abandons the trial without an excuse”. In such cases, the judge will be able to continue the trial in the absence of a defense counselor. The purpose for adding this phrase is to deter defense counselors from abandoning the court in protest. Criminal Procedure Code (CMK) stipulates that, in crimes where the lowest limit of prison sentence is more than five years, an attorney has to provide legal counsel to the suspect or defendant at every stage of investigation and prosecution. In judiciary procedures concerning such crimes, the discontinuation of the trial is a key guarantee of the defendant’s rights and interests. Executive Decree goes further, by changing the wording as “the trial can continue when the defense counselor abandons the trial without an excuse or does not come to the trial”. As such trials can continue even when the legal counselor does not come to the trial.

#### b.) Restriction of Representation by Attorney in Trial

Executive Decree 676 has made amendments to the Criminal Procedure Code with direct effect on the defendant’s rights to due process and to effective defense. First of all, the said Executive Decree’s Article 1 makes an addition to the Article 149 of the Code, stipulating that “in investigations into organized activities, at most three attorneys can be present at the trial”. As such, with the addition of this phrase, the three-attorney limit has been expanded to include not only the interrogation of the defendant as before, but also the process of investigation. As such, a defendant on trial for organized activities can be represented by at most three attorneys. It has thus become impossible for numerous attorneys to participate in political trials.

#### c.) Prohibition from Defense Counsel Duty

Secondly, Executive Decree 676 expanded the concept of prohibition from defense counsel duty in the Criminal Procedure Code.<sup>16</sup> The old text stipulated that, the attorneys who defend individuals detained or convicted for creating an organization for engaging in criminal activity, establishing and managing an armed organization, and terror related crimes, could be banned from providing defense counsel for one year in case they themselves were undergoing a prosecution for the same crimes, that is, if they were being sued, and that this period could be extended at most twice, for six months. Executive Decree 676 Art 2. stipulates that an attorney can be prohibited from defense counsel duty even if she / he undergoes a criminal investigation for these crimes. Furthermore, there does not even have to be an organic link



**Executive Decree 676 has made amendments to the Criminal Procedure Code with direct effect on the defendant’s rights to due process and to effective defense. A defendant on trial for organized activities can be represented by at most three attorneys.**

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<sup>16</sup> Prohibition of defense counsel had previously been regulated with the Executive Decree 667 Article 6.



**Executive Decree 676 Article 2.** stipulates that an attorney can be prohibited from defense counsel duty even if she / he undergoes a criminal investigation for these crimes.

between the crimes attributed to the legal counselor and the defendant / suspect. In the old text, the attorneys of only “detainees and convicts” could be prohibited from defense counsel, whereas with the Executive Decree 676 this has been expanded into “suspects, defendants and convicts”. As such, the attorney can be banned from defense counsel not only during the prosecution stage, but also during the criminal investigation on her / his client. This provision, by expanding the prohibition to include even investigations on the aforementioned crimes, violates the principle of presumption of innocence. As a result of the widespread and arbitrary application of this provision, numerous attorneys were banned from defense counsel duty and defendants and suspects in political trials have started to have great difficulty in finding lawyers to defend them.

#### **d.) Limitation of the Right to Confer with a Defense Counselor during Investigation**

Executive Decree 676 has also made changes to the defendants’ right to confer with a lawyer. Executive Decree 668 has stipulated that in certain crimes indicated in the Turkish Criminal Code, in crimes falling under the Law on Counterterrorism and crimes of organized drug manufacturing and trafficking, the public prosecutor can request that an individual under custody be prevented from conferring with a lawyer for up to 5 days. Executive Decree 676 Article 3 has then limited this period to 24 hours, and stated that the suspect’s testimony cannot be taken during this time. Although the duration of the limitation of the right to confer with a lawyer has thus been reduced with this latest amendment, the danger still continues since the suspect’s right to confer immediately with a lawyer is an important bulwark against the manufacturing of testimonies by force, in an informal and illegal manner.

#### **e.) Limitation of the Right to Confer with an Attorney in Prison**

Executive Decree 676 also introduced strict limitations to the right to confer with an attorney in prison. The Executive Decree’s Article 6 made an addition to the *Law on the Execution of Punishment and Security Measures*, specifying that the attorney meetings of those convicted of certain crimes listed in the Turkish Criminal Code and crimes falling under the Law on Counterterrorism can be recorded with audio or video devices for a period of three months upon the demand of the public prosecutor and the decision of the judge of execution; an officer can attend the meeting between the convict and attorney; the documents, files and meeting notes shared by the convict and attorney can be seized; and the days and hours of these meetings can be reduced. This period can be extended more than once, in three-month increments. This addition did not bring any limitation to the power to extend the period. In case there appears information, documents and evidence showing that the convict directs terror organizations or other criminal organizations with orders and instructions or secret, open or deciphered messages, the meetings can be ended and prohibited for a six-month period by the judge of execution. The Executive Decree stipulated that the same measures can be applied to detainees. The State of Emergency Executive Decree 667 had already introduced similar limitations for detainees. This provision is in breach of Criminal Procedure Code Article 154, which guarantees the confidentiality of a detainee’s meeting with their attorney. The Executive Decree 676 has added similar limitations for convicts to the Law on the Execution of Punishment and Security Measures.

With the Executive Decree 667 Article 6 and Executive Decree 676’s addi-

tions to the *Law on the Execution of Punishment and Security Measures*, it has become possible to sharply limit the convicts' and detainees' rights to meet with their attorneys, as well as the confidentiality and timing of such meetings. However, the chance to meet an attorney of their own is the very precondition for convicts' and detainees' access to legal advice in prison. For the protection of the right to defense, the inviolability and confidentiality of the attorney - client meeting are essential elements. Executive Decree 676 has eliminated this confidentiality, paving the ground for arbitrary interventions.

## **2. Amendments to the Power to Take Investigative Measures**

Executive Decree 668 Article 3 has significantly expanded the powers of the public prosecutor and the law enforcement officials during the investigation of crimes described in Turkish Criminal Code, Book 2, Section 4, Chapters 4-5-6-7, crimes falling under Law on Counterterrorism and collective crimes; judicial control over investigative measures has been weakened or eliminated.

### **a.) Granting Prosecutors the Power to Issue Arrest Warrants**

As per Executive Decree's Article 3(1)(a), prosecutors will be able to issue arrest warrants in non-delayable cases. However, in the regular legal regime, the issuance of arrest warrants for a person under investigation is possible only upon the demand of the public prosecutor and decision of the judge of court of peace, in case it is impossible to contact the person and summon her / him to court.

Executive Decree Article 3(1)(b) has stipulated that, in all types of crimes, suspects who are in hiding in Turkey or abroad in order to hamper an investigation about themselves and therefore are not accessible by the public prosecutors are to be deemed fugitives. Prior to this Executive Decree, the concept of fugitive existed only in the phase of prosecution (trial). Now however, fugitive status applies even during the investigation phase. With an amendment by the Executive Decree to Criminal Procedure Code 247(2)(b), a simpler procedure has been accepted for the fugitive person to be brought to the prosecutor's office or court. If under fugitive status, a person's properties, rights and receivables can be confiscated by a court order. When someone can be declared a fugitive so easily, their property can be confiscated if they are overseas and even if they are not fugitives.

### **b.) Weakening Judicial Control of Confiscation Procedures**

As per Executive Decree Article 3(1)(h), in cases of confiscations performed without a judge's decision, the confiscation can be submitted to the judge's approval in 5 days and the judge can announce her / his decision within 10 days of the confiscation. However, in the regular legal regime, it is compulsory to present the confiscation process without judicial decision to the judge within only 24 hours and the judge has to make a decision within 48 hours of the confiscation. The extension of these terms will prevent the individual from using her / his belongings for a longer time, which creates the danger of tampering with the evidence and jeopardizing the security of the evidence.

### **c.) Elimination of Controls During Search and Confiscation**

Executive Decree 668 Article 3(1)(e) specifies that it is sufficient to have one of the neighbors present while searching a residence, workplace or another indoors area. However, in the regular legal regime, at least two of the neighbors had to be in attendance. In military areas, police officers can search and confiscate items without



**With the Executive Decree 667 Article 6 and Executive Decree 676's additions to the Law on the Execution of Punishment and Security Measures, it has become possible to sharply limit the convicts' and detainees' rights to meet with their attorneys, as well as the confidentiality and timing of such meetings.**

the participation of a prosecutor; and in lawyers' offices, the police will likewise be able to conduct searches and confiscations without a court decision and participation of the prosecutor.

In the regular legal regime, it was possible to conduct searches and confiscations in lawyers' offices only if there was a court order and a prosecutor was present. Furthermore, it was not possible to seize certain items, if the lawyer objected that these related to her / his professional relation to clients. Executive Decree 688 eliminated this right of objection, removing protections over the confidentiality of the attorney - client relation. As such, police officers can confiscate items and conduct searches despite such objections.

It has also been stipulated that the correspondence and other documents between the suspect / defendant and those who can refuse to testify, may be confiscated even if the documents are in the latter's possession. In the regular legal regime, if the documents were in the presence of such individuals, they could not be seized.

#### **d.) Reformulation of the Confiscation of Immovables, Bank Accounts and Rights and Receivables**

Executive Decree's Article 3 (1)(i) introduced yet another provision on confiscation procedures: Accordingly, the immovable property obtained from crimes allegedly committed by the suspect or defendant and immovables where the crime has been committed, and associated bank accounts and all kinds of rights and receivables can be confiscated directly during the investigation, without the need for obtaining any prior report from BRSA, CMB, Financial Crimes Investigation Directorate, Undersecretariat of Treasury and Public Oversight, Accounting and Auditing Standards Institution. As per the Executive Decree, the court of peace is authorized to grant such an authority. Previously, Criminal Procedure Code Article 128/9 stipulated that such a confiscation had to be decided upon unanimously by a high criminal court. The latter provision was introduced during the corruption probe of December 17-25, 2013 in order to make it difficult to seize individual's property. The said executive decree has once again simplified this procedure.

Executive Decree's Article 3(1)(i) also gives the public prosecutor the power to confiscate in non-delayable cases. Prior to the executive decree, it was not possible for the prosecutor to order a confiscation even in non-delayable cases during the investigation phase.<sup>17</sup> It has also been set forth that a confiscation procedure without a judge's decision must be submitted to the approval of the judge in charge within five days; the judge has to announce her / his decision within ten days of confiscation; otherwise, the confiscation will be automatically deemed null and void.

#### **e.) Granting Police the Right to Examine Documents**

Executive Decree 668 Article 3(1)(g) granted law enforcement officials the right to analyze the documents and papers of the individual for whom there is a search warrant. In the ordinary legal regime, however, these could only be examined by the prosecutor or the judge.



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<sup>17</sup> It should be noted that properties allegedly obtained from crimes of laundering (Turkish Criminal Code Article 282) and financing terror (Counterterrorism Law Article 8) may be seized by the public prosecutor in non-delayable cases during the investigation phase. However, even in such cases, confiscations without a judge's decision must be submitted to the judge's approval within 24 hours and the judge must announce her / his decision within 24 hours at the latest (See Article 17/2 of the Law on Prevention of Laundering Crime Proceeds).



#### **f.) Granting Prosecutors the Right to Seize Computer Records**

As per Executive Decree 668, the public prosecutor can decide to search, copy and seize the suspect's computers, computer programs and files in non-delayable cases. Prior to this Executive Decree, as per Criminal Procedure Code Article 134/1, these procedures required a judge's ruling. The prosecutor's confiscation decision without a judge's ruling must be submitted to the approval of the judge in charge within five days; the judge has to announce her / his decision within ten days of the confiscation; otherwise, the confiscation will be automatically deemed null and void. This provision also creates the danger of tampering with the evidence and jeopardizing the security of the evidence. Furthermore, as per the Executive Decree, if the copying and back-up process takes a long time, these computers and equipment can be confiscated. The fact that the computer can be confiscated due to the long duration of the process leads to the risk that false evidence may be manufactured and uploaded to the computer.

#### **g.) Granting Prosecutors the Power of Wiretapping**

Executive Decree 668 Article 3(1)(k) grants public prosecutors the right to identify, wiretap and record any communication in non-delayable cases. The public prosecutor's decisions to this end must be submitted to the approval of the judge in charge within five days; the judge has to announce her / his verdict within the next five days; otherwise, the decision will be automatically deemed null and void.

Under the regular legal regime, in accordance with Article 135/2 of the Criminal Procedure Code, this decision could be made by the prosecutor only in non-delayable cases at the high criminal court or in the investigation stage; however such decisions had to be submitted to the court immediately, and the court had to announce its ruling in at most 24 hours. The measures to be taken had to be decided by the unanimous decision of the high criminal court.<sup>18</sup>

Executive Decree 668 thus allows a person to be wiretapped for 10 days without a court order, only with the prosecutor's decision, under the State of Emergency. Such a long period of wiretapping without a court order is a serious intervention against the confidentiality of communication.

#### **h.) Granting Prosecutors the Power to Assign Secret Investigators and Employ Technical Surveillance Measures**

Executive Decree 668 Article 3(1)(k) grants prosecutors the right to assign secret investigators<sup>19</sup> and decide on technical surveillance measures<sup>20</sup>. However, as per the Criminal Procedure Code, such decisions can only be decided upon by the high criminal court upon the demand of the public prosecutor. The latter cannot decide on such procedures even in non-delayable cases. The Executive Decree, however, stipulates that in case the prosecutor decides on such measures, this has to be submitted to the approval of the judge, who will have to announce her / his ruling in 5 days.



**Executive Decree 668 thus allows a person to be wiretapped for 10 days without a court order, only with the prosecutor's decision, under the State of Emergency. Such a long period of wiretapping without a court order is a serious intervention against the confidentiality of communication**

<sup>18</sup> The requirement of the unanimous decision of the high criminal court had been introduced during the December 17-25, 2013 corruption probe in order to make wiretapping harder.

<sup>19</sup> A secret investigator is a public officer who infiltrates a crime organization, charged with collecting evidence relating to crimes committed or to be committed within that organization. The appointment of a secret investigator is a special and confidential measure.

<sup>20</sup> Technical surveillance means that all activities of the suspect or defendant -individual or together with third persons- will be monitored by technical means or recorded by means of audio and / or video recording. Wiretapping is the most common way of technical surveillance.



**Executive Decree 694 Article 148** made an addition to the Criminal Procedure Code Article 216 specifying that “the absence of the legal counselor will not prevent the announcement of the verdict”. Making it unnecessary for the obligatory legal counselor to be present during the announcement of the verdict eliminates the legal counselor’s chance to affect the verdict in the last trial.

Finally, Executive Decree 668 Article 3(1)(n) stipulates that if the public prosecutor deems an investigative measure necessary during investigation, she / he can obtain a court order from the judge of the court of peace in charge and, when required by the investigation, demand buildings, equipment and personnel from the civilian authorities falling within the jurisdiction in question.

### **3. Amendments Concerning the Principles of Equality of Arms and Immediateness in Criminal Justice**

The principle of equality of arms requires that parties of a trial be given a reasonable opportunity to put forward their claims without a serious disadvantage vis-a-vis the other party. Furthermore, the criminal proceeding must be conducted in a contentious manner; that is, the parties should be made aware of the evidence and arguments by the opposing party and the prosecution, and be given the opportunity to respond to these.

#### **a.) Limitation of Attorney’s Right to Examine the File’s Content and Make a Copy**

The State of Emergency Executive Decree 668 Article 3(1) stipulates that the attorney’s right to examine the file’s content and get a copy can be limited upon a decision of the public prosecutor, if this could jeopardize the criminal investigation. For the legal counselor to produce a real defense against the claims concerning the suspect, to object against restrictive measures and to take legal steps, he / she has to be able to examine the content of the file and the evidence against the suspect. The limitation of these rights is tantamount to the restriction of the right to defend and to object to measures limiting personal rights.

It is seen that, in practice, the concept of the possibility of jeopardizing the investigation is usually based not on concrete but abstract claims, and a mere possibility of the lawyer to abuse these materials. If the lawyer who shall offer legal counsel to the suspect is considered to be a possible threat against the investigation, this will make it impossible for the lawyer to perform her / his profession, breaching the principle of the equality of arms to the detriment of the suspect. Furthermore, although the Criminal Procedure Code Article 153/2 specifies that the power to decide on such a restriction is only granted to the judge of court of peace upon the request of the prosecutor, Executive Decree 668 shifts this power directly to the public prosecutor.

#### **b.) Limitation of the Right to Call Witness**

Executive Decree 676 Article 4 introduced an amendment to the *Law on the Structure and Duties of First Instance Judiciary Courts and District Courts*, stipulating that the judge may reject a witness or specialist called to the trial by the defendant or participant. Previously, the law text used to set forth that, in cases where a witness or specialist was rejected, the defendant or participant nevertheless had the right to bring the said person to court and have them heard. The Executive Decree added a phrase to the relevant paragraph, granting the judge the right to reject demands made for extending the trial. However, in criminal jurisdiction, in line with the principle of “verbal proceedings”, a witness must absolutely be heard in court if this is possible. However, the latest provision creates the risk of an arbitrary rejection of a witness or expert during trial. As such, it limits a crucial component of the right of due process, which is the right of the defense to call its witnesses and have equal arms with the prosecutor’s office during jurisdiction, and the right of the participant to elaborate her / his claim.

### **c.) Limitation of the Right to Examine a Witness**

Executive Decree 694 Article 142 stipulates that if public officers assigned to the position of secret investigator<sup>21</sup> must be called as witness in court, their testimony can be heard even in the absence of the defendant and her / his attorney, or in a special location where measures will be taken to dissimulate their voice or image. As such, secret investigators can be heard as secret witnesses during court, in the absence of the defendant and her / his attorney.

As per the principle of the immediateness of evidence, the court which will reach a verdict must confront the defendant, witnesses, and all evidence one on one, and have direct contact with them. As per the principle of equality of arms, the defendant and her / his attorney must be informed about all the evidence and claims against the defendant; must have the chance to examine the witnesses and experts heard in court; and must have the possibility of disproving the claims with counter arguments. As such, the calling of a secret investigator as a witness is controversial in the context of the right to due process.

If the identity of the secret investigator has to be kept secret due to the nature of her / his duty, in cases where this investigator is heard in court, they can be heard in a way that will dissimulate their identity by technically manipulating their voice or image. However, Executive Decree 694 has made an addition to the Criminal Procedure Code, making it possible for a secret investigator to be heard in the absence of the defendant and her / his attorney and without them having the chance to respond to adverse claims and pose questions. As such, this violates the most important pillars of the right to due process, namely the principle of the equality of arms and the right to “examine the adverse witnesses”.

### **d.) Limiting the Defendant’s Right to Appear in Court**

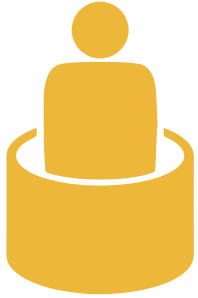
Executive Decree 694 Article 147 makes an addition to the Criminal Procedure Code Article 196, stipulating that when deemed necessary by the court, the defendant’s interrogation can be conducted outside of the court, by means of audio and visual means of communication. However, owing to the principle of immediateness of trial, the judges must listen directly to the defendant before formulating their opinion, and observe their gestures and words without intermediation. The defendant’s right to appear in court, guaranteed by the Criminal Procedure Code Article 193, is among the most important elements of the right of defense. Executive Decree has granted a huge judicial discretion to the courts, and the decision to prevent the defendant’s appearance court damages the defendant’s right to due process.

### **e.) Announcement of the Verdict in the Absence of the Legal Counselor**

Executive Decree 694 Article 148 made an addition to the Criminal Procedure Code Article 216 specifying that “the absence of the legal counselor will not prevent the announcement of the verdict”. As such even if the obligatory legal counselor is not present in court, the verdict will be considered to be pronounced if it’s announced to the face of the defendant and it will also be possible to appeal against the verdict through legal ways. The lawmaker has stipulated that representation by lawyers is

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21 Criminal Procedure Code Article 139 specifies that public officers can be assigned to secret investigator positions upon a court order, if it is strongly suspected based on concrete evidence that the investigated crime has been committed and if it is not possible to gather evidence through other means. Secret investigators submit to the court evidence against the defendant.



There will be no criminal legal, administrative or financial responsibility for those making decisions, implementing actions or measures, or assuming duties as per judiciary or administrative measures for suppressing coup attempts or terror incidents, as well as individuals taking decisions or fulfilling duties as per State of Emergency executive decrees (Executive Decree 668 Article 37).

obligatory in certain circumstances.<sup>22</sup> Making it unnecessary for the obligatory legal counselor to be present during the announcement of the verdict eliminates the legal counselor's chance to affect the verdict in the last trial, and also puts the defendant in a disadvantage in terms of utilizing the means of objection in an effective way.

#### **4. Amendments Concerning Personal Freedoms and Safety**

##### **a.) Extension of the Custody Period**

Article 6(1) of the Law on the Revision of the Executive Decree dated October 29, 2016 and numbered 674 on Measures Taken During the State of Emergency had set a 30-day custody period for the crimes described in Turkish Criminal Code's Book 2, Section 4, Chapters 4, 5, 6 and 7, crimes falling under the Law on Counterterrorism and collective crimes, during the State of Emergency. Executive Decree 684 Article 10(a) made a revision to this law, and set the custody period for the said crimes as a maximum of 7 days, and gave the public prosecutor the chance to extend this period for 7 more days. As such, the custody period is not to surpass 7+7, or 14 days. Before the State of Emergency provisions, as per Criminal Procedure Code Article 91, the custody period was limited to 24 hours after apprehension, except the time required for the individual under custody to be sent to the closest judge or court. In collective crimes, this period could be extended by the public prosecutor for a total of three days, in one-day increments, due to difficulty in collecting evidence or owing to the large number of suspects.

##### **b.) Extension of Maximum Detention Period in Terror Related Crimes**

Executive Decree 694 Article 141 made an addition to the Criminal Procedure Code Article 102. As such, in crimes described in the aforementioned chapters of the Turkish Criminal Code and in Law on Counterterrorism, which have a maximum detention period of two years, it became possible to extend this period by not three but five years. As such the aggregate maximum detention period for terror related crimes reached 2+5, or 7 years.

##### **c.) Requirement of Finalization of Compensation Verdict in Cases of Illegal Custody or Detention**

Criminal Procedure Code Articles 141 and 142 set forth the compensation for the material and moral damages inflicted on individuals by illegal apprehension, detention or continuation of detention, or on by not bringing them before court within a convenient time period. Executive Decree 694 Article 144 added two extra paragraphs to the Criminal Procedure Code Article 142, which outlines the requirements for a demand of compensation, stipulating that it is not possible to commence execution proceedings for such compensation before the verdict is final and the administrative application process is complete. Previously, as per the law and Supreme Court of Appeal (*Yargıtay*) resolutions, it was not necessary to wait until finalization of verdict to commence execution proceedings for compensation of decisions of illegal apprehension, detention or continuation of detention. The amendment introduced by the Executive Decree, however, requires the finalization of the compensation verdict and thus makes it harder to compensate for the material and moral damages inflicted by unjust apprehension, detention or continuation of detention measures.

<sup>22</sup> For these circumstances, see Criminal Procedure Code Articles 150, 91/7, 101/3, 6, 247/3,7, 74/2, 8, 204.

#### **d.) Examination of Detention by File Only**

Executive Decree 668 Article 3 (1) (ç) stipulates that demands of release or discharge concerning crimes described in Turkish Criminal Code's Book 2, Section 4, Chapters 4, 5, 6 and 7, crimes falling under the Law on Counterterrorism and collective crimes shall be settled by examining detention in thirty day intervals, by file only. Previously, Executive Decree 667 Article 6(1)(i) had already stated that the examination of detention, objection of first detention and demands of discharge can be settled by file. Executive Decree 668 turned the wording into "shall be settled", and thereby turned this from an optional to an obligatory measure: As such, all examinations of detention concerning the said crimes will be performed by file only, without leaving any discretionary power to the judge or the court. However, to be able to talk about the presence of an effective objection mechanism against as severe a limitation of personal freedoms and safety as detention, such an examination must include a trial, where the suspect, defendant, or their lawyers can have the right to be heard in person, make defense and statements, and object verbally to the causes of detention.

#### **e.) Bringing Forward Conditional Releases**

Executive Decree 671 Article 32 made an addition to the Law on the Execution of Punishment and Security Measures, shortening the duration of imprisonment in order to be eligible for conditional release in crimes committed before 1/7/2016, with the exception of certain crimes<sup>23</sup>, and extending the scope of probation. Accordingly, well-behaving convicts who have two years or less of imprisonment to be eligible to conditional release can serve the remainder of their sentence under probation.<sup>24</sup> Previously, one had to have served 2/3 of a sentence in order to be eligible for conditional release, if the other requirements were fulfilled; the new provision, however, lowers this proportion to 1/2 of the sentence. In the media it was claimed that this provision was designed to reduce the number of prisoners in prisons, and make room for those detained during the investigation against the coup attempt of July 15. Ministry of Justice announced that 38 thousand people will be eligible in the first phase. This figure is expected to rise to 100 thousand in the coming years.

#### **f) Public Prosecutors' Power of Objecting to Release Verdicts**

An amendment in Criminal Procedure Code made by Executive Decree 696 Article 93 specifies that public prosecutors can now object to all verdicts concerning the continuation of detention or release of suspects or defendants. The old wording "to rejection decisions" was replaced with "to such decisions", granting public prosecutors a power they did not have before, that is, the power to object to a court verdict for the release of a suspect or defendant.

23 "with the exception of certain crimes listed in Turkish Criminal Code dated 26/9/2004 and numbered 5237 such as deliberate murder (Articles 81, 82), deliberate injury to individuals in the direct kinship line, spouse, sibling or individuals unable to protect themselves physically or mentally, injury crimes aggravated due to their results, crimes against sexual privacy (Articles 102, 103, 104, 105), crimes against private life and the confidential aspects of life (Articles 132, 133, 134, 135, 136, 137, 138), crime of manufacturing or trafficking in drugs or other such stimulating materials (Article 188), as well as crimes described in Turkish Criminal Code's Book 2, Section 4, Chapters 4, 5, 6 and 7, and crimes falling under the Law on Counterterrorism dated 12/4/1991 and numbered 3713."

24 This period was one year in the old text of the law.





**Executive Decree 696 Article 103** has added an Annex Article 1 to the Law on the Execution of Punishment and Security Measures, specifying that those convicted or detained for crimes falling under the Law on Counterterrorism will have to wear the jumpsuits given by the penal institution management while being transported to trial.

## 5.) Amendments Concerning Prisoners' Rights

### a.) Limitations on Prisoners' Access to Visitors or Communication

Executive Decree 667 Article 6(e) has introduced sharp limitations to prisoners' right to interact with the outside world and accept visitors. Before the commencement of the State of Emergency, as per the Regulation on Visits to Convicts and Detainees, prisoners could accept one visit every week, in other words, four visits -three closed, one open- every month from their relatives. Relatives granted the right to visit prisoners by the Regulation were family members in a wider sense<sup>25</sup> and three other visitors that could be chosen by the convicts and detainees themselves. Executive Decree 668, however, has sharply limited prisoners' right to accept visits from their relatives. Accordingly, prisoners can be visited only by their spouse, blood relatives up to second degree and in-laws up to first degree, or their trustees or custodians, on condition that these relations are documented; however, all the powers of the Ministry of Justice and public prosecutor's office remain in place. As such, the scope of relatives who can visit prisoners has been restricted, and prisoners were deprived of their right to accept 3 other people of their choosing. Likewise, detainees' right to a phone call has been reduced from once a week to once every fifteen days, and is limited to only those individuals listed in the Executive Decree.

Executive Decree 696 Article 102 made a revision in the *Law on the Execution of Punishment and Security Measures*, granting to the public prosecutor the power to approve (upon the suggestion of the highest official in the prison) a detainee's visit to a family member who is fatally ill. In the old text of the law, this power belonged to the public prosecutor during the investigation phase, and to the judge or court in charge during the prosecution phase.

### b.) Limitation of Convicts' and Detainees' Right to Leave the Prison Precinct

Executive Decree 674 Article 16 made an addition to the Law on the Execution of Punishment and Security Measures specifying that the right to leave the prison precinct of those convicted or detained for crimes of terrorism and organized crime can be limited by the public prosecutor when deemed necessary. Accordingly, "in risky situations where the penal institution's order or public security may be jeopardized, members of terrorist organizations or other criminal organizations may undertake organizational activities and communications, or the host penal execution institution or examination center or school may come under risk", the public prosecutor can limit detainees' and convicts' right to leave the prison precinct. As such, strict limitations may be imposed on convicts' and detainees' right to participate in trials, access hospitals for receiving healthcare, or enter exams as part of the constitutional right to education. Since the provision talks about "risky situations", the public prosecutor is given a wide discretionary power based on an abstract threat perception.

### c) Imposition of Jumpsuits on Prisoners

Executive Decree 696 Article 103 has added an Annex Article 1 to the Law on the Execution of Punishment and Security Measures, specifying that those convicted or detained for crimes falling under the Law on Counterterrorism will have to wear

25 "Spouse, mother, father, grandfather, grandmother, child, grandchild, sibling, bride, groom, brother-in-law, sister-in-law, aunt-in-law, uncle-in-law, mother-in-law, father-in-law, grandparents of the mother-in-law, grandparents of the father-in-law, step children, parents of the grandparents, children of grandchildren, siblings' children, spouses, uncles, aunts, and their spouses."

the jumpsuits given by the penal institution management while being transported to trial. Those individuals convicted or detained for crimes of violation of the constitution, assassination or attempted assassination against the president, crimes against the legislative body or the government, as listed in Turkish Criminal Code's fifth section dubbed Crimes Against the Constitutional Order and its Functioning, Articles 309-312. will have to wear jumpsuits the color of dried almonds; whereas those convicted or detained for crimes outlined in the Law on Counterterrorism will wear grey jumpsuits. The provision will not apply to children and pregnant women; and a regulation will be issued within a month to specify how the provision will apply to the clothing of female convicts and detainees. This provision has a vast scope of application since it includes crimes described in Turkish Criminal Code Article 309-312, as well as all crimes falling under Law on Counterterrorism. It not only leads to the stigmatization of prisoners, but also violates the presumption of innocence for detainees. On the other hand, if the convicts or detainees refuse to obey by this provision, they will not be able to appear in court and thus their right to due process with trial will be violated.

Executive Decree 696 Article 101 stipulates that the refusal to wear these jumpsuits or damaging them constitute a disciplinary infraction, punishable by deprivation of access to visitors, for one to three months.

## **6. Amendments on Access to Justice and Judiciary Guarantees**

### **a.) Prohibition on Suspensions of Execution for Measures Under the Scope of State of Emergency Executive Decrees**

Executive Decree 667 Article 10 and Executive Decree 668 Article 38 specify that courts cannot issue suspensions of execution for the decisions and measures in the scope of State of Emergency executive decrees. Even if the government measures undertaken via State of Emergency executive decrees are clearly against the law, administrative courts cannot issue suspension of execution verdicts. As such, the judiciary control of the government measures realized via State of Emergency executive decrees has been sharply limited. Although Constitution Article 125 allows a limitation of suspension of execution verdicts under a State of Emergency, this can be implemented only by a law. Accordingly, the recent limitation of administrative courts' suspension of execution verdicts is clearly unconstitutional.

### **b.) Impunity for Individuals Taking Decisions as per State of Emergency Executive Decrees and Playing a Role in Suppressing Coup Attempts and Terror Incidents**

Executive Decree 667 Article 9 had previously stated that individuals taking decisions and fulfilling duties as per this executive decree will not have criminal, legal, administrative or financial responsibility for these duties. Executive Decree 668 Article 37 has further expanded this principle of impunity, specifying that there will be no criminal legal, administrative or financial responsibility for those making decisions, implementing actions or measures, or assuming duties as per judiciary or administrative measures for suppressing coup attempts or terror incidents, as well as individuals taking decisions or fulfilling duties as per State of Emergency executive decrees. Executive Decree 690 Article 52 has stipulated that members of the State of Emergency Measures Review Commission set up to examine State of Emergency measures will not have criminal, legal, administrative or financial



**Executive Decree 668** has sharply limited prisoners' right to accept visits from their relatives. Accordingly, prisoners can be visited only by their spouse, blood relatives up to second degree and in-laws up to first degree, or their trustees or custodians, on condition that these relations are documented.

**Executive Decree 694 Article 146 added a paragraph to Criminal Procedure Code Article 161, introducing a radical change to the power of investigation and prosecution over MPs. Accordingly, the authority to investigate and prosecute an MP allegedly involved in a crime either before or after their election shall belong to the Ankara Public Prosecutor's Office and the high criminal court of the same province.**

responsibility for their decisions, duties or actions.

As such, no charges can be pressed against public officials taking decisions and actions in the scope of executive decrees, and no revocation mechanism can be applied against public officials who inflict damages with their erroneous actions. Likewise, public officials who violate human rights with their decisions or actions in the scope of the State of Emergency cannot be held accountable.<sup>26</sup> Basically, these provisions have established an aegis of impunity for the State of Emergency declared on July 20, 2016, much like the impunity that the September 12, 1980 regime had created for itself with Article 15 of the Constitution of 1982.

Most recently, Executive Decree 696 has further expanded the scope of this impunity for public officials introduced by previous executive decrees and stipulated that even civilians acting to suppress the coup attempt of 15/7/2016 and ensuing events will have no legal, administrative, financial or criminal responsibility. This retrospective exoneration for the possibly criminal acts of civilians who have no official status or do not act in official duty is a clear example of impunity. Although government officials have indicated in their public or press statements that this impunity is limited to those civilians suppressing the July 15 coup attempt, the expression “ensuing events” is so ambiguous that, any actions by the opposition can be brought under its scope with the claim that these are in connection with or in continuation of the coup attempt. On the other hand, it is ambivalent who will decide on which action is a terror incident or the continuation of the coup attempt, and according to which criteria.

For individuals engaging in such actions with ambiguous limit and scope, this provision offers a criminal impunity that goes beyond the legally accepted concepts of self defense or cases of emergency indicated in the Criminal Code. In its present state, this provision is clearly in breach of the Constitution, and of the state’s obligation to investigate and prosecute all actions against the right to live and the right to physical integrity, which arise from international law.

### **c.) Prohibition of Suits Against State of Emergency Measures**

The most important provision that limits the right to seek legal remedies against State of Emergency measures is the establishment of an ad hoc review commission dubbed State of Emergency Measures Review Commission by the Executive Decree 685. Suits brought to Council of State (*Danıştay*) against State of Emergency measures had been rejected on the pretext that these had the force of law and thus did not concern administrative justice, even though the executive decrees introducing these measures were passed by the executive branch. Constitutional Court and the ECHR had also rejected applications concerning State of Emergency measures, as they considered that domestic legal remedies had not been exhausted.

Executive Decree 685 created a 7-strong review commission to examine certain measures introduced directly by State of Emergency executive decrees, con-

<sup>26</sup> The European Commission for Democracy through Law (Venice Commission) stated in its opinion on this issue that such a waiver of liability “may be understood as implying that the decree laws directly authorise and command certain actions which should be otherwise considered as ‘crimes’ under the Criminal Code of Turkey, or at least that they suggest to those committing these crimes in the exercise of their functions that they will not be persecuted,” and emphasized that “this waiver may be seen as removing any accountability for actions which are taken within the broad discretionary powers given by the decree laws to various state institutions and officials.” See The European Commission on Democracy through Law (Venice Commission), Opinion on Emergency Decree Laws N°s 667-676 adopted following the failed coup of 15 July 2016, (December 12, 2016) paragraphs 95-100.

cerning dismissal of public employees, expulsion of students from universities, closure of agencies and institutions, and the legal status of real persons and legal entities. The formation of the Commission, the duties, powers and responsibilities of its members, and procedures for application were provided for in this executive decree, which also set forth the principles of legal remedies against the Commission's decisions. The Commission will make a decision on the person or organization concerned by examining the file, without giving the latter the opportunity to learn the basis of the accusations against them, to examine the evidence, to make a verbal defense against the allegations, and to submit evidence and call witnesses. Applicants who receive a positive result will be assigned to public institutions other than those they were expelled from.

Applicants who receive a negative result can file an annulment action at Ankara courts which will be designated by the High Council of Judges. Executive Decree 690 has stipulated that dismissed individuals shall not press charges against the Prime Minister's Office, but against the institution or agency that they last worked for. Executive Decree's Article 55. added the Annex Article 1 to Executive Decree 685, listing one by one who can press charges against which institution in actions against the decisions of the Commission. As such, it will not be possible to hold accountable the real authority that decides on the dismissals. Likewise, Executive Decree 690 states that all administrative actions and files against State of Emergency measures until date would be transferred to the Commission. Executive Decree 694, Articles 197-201, on the other hand, specifies that any investigation against Commission members has to be approved beforehand by the Prime Minister; sets forth how the members' terms of office will affect their retirement and promotions; and specifies that in case the Commission gives a positive decision on the applications of faculty members expelled from universities, these individuals will be appointed mainly to universities outside of İstanbul, Ankara and İzmir established after 2006.

Many commentators expressed their concerns and criticisms against the Commission's compliance with the principles of independence, objectivity and right to due process, as well as its efficiency in preventing rights violations.<sup>27</sup> The Commission has started to accept applications almost one year after the declaration of the State of Emergency, on July 17, 2017, and has yet to reach any decision although the application deadline ended on September 14, 2017.

#### **d.) Annulment of Suits Against Higher Education Council as Regards the Grants Given to University Students Whose Villages Were Evacuated by the State**

Executive Decree 676 Article 90 has eliminated the university education grants previously given as per the Law on Counterterrorism to students whose villages were evacuated by the state or to the children of those who were killed during counterterrorism operations. As per Executive Decree 676, those who received such grants will be deemed to have renounced the suits they had brought against the Higher Education Loans and Dorms Institution in various courts, and that they cannot demand the payment of their litigation expenses or counsel fees. As such, controversies about the grants have been eliminated and the all legal remedies have been blocked.

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<sup>27</sup> See <https://bianet.org/bianet/toplum/183186-ohal-komisyonu-etkili-bir-hukuk-yolu-mu>

**e.) Urgent Notice and Adjudication in Trials Filed for the Compensation of Damages Inflicted by Certain Crimes in the Penal Code and by Terror Crimes**

As per Article 31 of the Executive Decree 671, which has been approved by the Turkish parliament and turned into Law no. 6757, Article 20/A has been added to the Law on Counterterrorism. The said article states that the immovables and vehicles of defendants and suspects can be confiscated in order to compensate for damages to real and natural persons as well as public institutions and agencies inflicted by crimes against the security of the state, crimes against the constitutional order and its functioning, crimes against national defense, crimes concerning state secrets and espionage as well as crimes falling within the scope of Law on Counterterrorism. Executive Decree 691 Article 7 has added a second paragraph to this article, specifying that in suits filed in this context, the method of urgent notice and adjudication will be employed. This method has an adverse impact on defendants' right to defend and object. Accordingly, in case a notice cannot be sent to the address of the defendant, the court can publish the summary of the writ of summons in a national newspaper, and in case the defendant does not provide a domestic address or an electronic mail address, or does not have herself / himself represented in the trial by an attorney within a month, the trial will proceed in her / his absence and a verdict can be reached. If the defendant's registered address is overseas, a single notice will be sent. As such, this new and urgent notice method has flouted the obligatory notification method required by the Law on Notifications.

**f.) Prohibition of Proceedings without Judgment in Administrative Justice**

Executive Decree no 694 added a paragraph to the Article 42 Law on Execution and Bankruptcy, stipulating that "in issues falling under administrative justice, there can be no recourse to proceeding without judgment". As such, in issues of administrative justice, it is not possible to initiate execution proceedings for pecuniary claims without a court order. A temporary article added to the same law specified that any execution proceedings without judgment initiated before the law's coming into effect will be deemed void.

**g.) Provisions on Cases Where Lawsuit Expenses and Counsel Fees Cannot be Demanded from the Administration**

Executive Decree 683 Article 5 stipulates that, courts cannot impose on the administration any lawsuit expenses and counsel fees arising from cases and proceedings filed as per the Capital Markets Law concerning measures and sanctions imposed by the administration on certain public partnerships and capital markets institutions and / or their transactions for alleged ties or contacts with terror organizations or groups acting against national security during the State of Emergency, even those before its date of effect; any such fees, even if decided upon by a court cannot be collected from the administration.

Likewise, Executive Decree 690 paragraph 56 added an expression to the Executive Decree 685 establishing the State of Emergency Measures Review Commission, specifying that applications to legal authorities made before the establishment of the Commission will be dismissed, and claimants have to cover any associated legal expenses and counsel fees. As such, any suits filed by individuals expelled from their professions with State of Emergency executive decrees or institutions closed down by such orders will be dismissed, and claimants have to cover any legal expenses and counsel fees.



h.) Non Application of Investigation Lapses in Civil Servant Discipline Law  
Executive Decree 669 Article 3 has specified that for civil servants dismissed after July 15, 2016 for national defense reasons, the investigation terms stipulated by law will not apply during the State of Emergency. Law on Civil Servants states that, the disciplinary punishment will lapse in one month after the disciplinary infraction is learned of, in sanctions such as warning, reprimand, deduction from salary, and stoppage of promotion; and it will lapse in six months, in sanctions of removal from public office. Disciplinary investigations have direct and important effects on the basic rights of public employees. The non-application of these lapses during State of Emergency keeps public employees under constant threat of investigation and undermines the principles of legal security and legal predictability.

**i) Limitation of Adjudication with Hearing in the Supreme Court of Appeal (Yargıtay)**

A revision was made by the Executive Decree 696 Article 100 to the Criminal Procedure Code, stipulating that in sentences of ten or more years of prison, the appellate review will include hearings only if the Supreme Court of Appeal approves this. Previously, as per Criminal Procedure Code Article 299, the appellate review had to include hearings if the defendant or participant demand this in their application, or could be performed ex officio. Giving the Supreme Court of Appeal the power to decide on having or not having appellate reviews with hearings in sentences of ten or more years of prison is a sharp limitation of the defendant's right to adjudication with hearing.

**7.) Amendments to the Functioning of the Judiciary System and Order**

**a.) Changes to Cassation Review**

State of emergency executive decrees also introduced a number of changes to cassation (*istinaf*) reviews. Executive Decree 674 made an amendment to the Law on the Structure and Duties of First Instance Judiciary Courts and District Courts, taking the power to “to appoint members from other departments according to seniority and order where a department cannot convene all of its members for legal or factual reasons” from the district court of justice’s panel of judges and giving it to the district court of justice’s chief judge. The public prosecutor’s responsibility of presenting an opinion on cases was ended, and this was turned into that of participating in the hearings of cases. Executive Decree 680 Article 10 has specified that, “once a decision of non-prosecution is issued for an act, it is not possible to file a public action against this act unless newly found evidence creates enough suspicion for a public action, and the criminal court of peace takes a decision to this end.”

The same Executive Decree’s Article 15 changed the title of the Law’s Article 277 from “Duty of the district court of justice’s public prosecutor” into “Notification of and response to the demand of cassation”. The old text which read, “the case file is sent by the public prosecutor’s office to the district court of justice’s public prosecutor in order to be presented to the district court of justice” was changed as “the case file is sent to the district court of justice”. The same article of the executive decree also amended the Article 297: Whereas the old text stated that, in case the district court’s verdict is appealed to, the public prosecutor of the district court of justice had to send the case file to the public prosecutor of the Supreme Court of Appeals, now, the prosecutor has been relieved of this duty and the district court of justice will send the file directly. Executive Decree Article 15, on the other hand,



## Executive Decree 696

**Article 97** has changed the title of the Criminal Procedure Code's Article 209 from 'Documents and reports that must be read out in trial' to 'Documents and reports that must be explained in trial'. As such, whereas previously, the judicial register summaries of documents, reports and other written material presented as evidence, as well as the documents on the defendant's personal and economic situation had to be read out in trial, the Executive Order has stipulated that it is sufficient to simply explain these.

removed the letter of notification of the public prosecutor in cassation reviews. As such, the role and power of the public prosecutor in cassation reviews was reduced and the cassation review was sped up.

Executive Decree 694 Article 136 added an Annex Article-1 to the Law, specifying that, in cases where the judicial locality of a district court of justice is changed,<sup>28</sup> in cassation reviews by the first instance courts prior to this change, the district court of justice authorized as of the date of decision cannot make a decision of the rejection of venue on the pretext that the judicial locality has changed.

Executive Decree 696 Article 92 made an amendment to the Law's Article 35(1) on the duties of the Panel of Judges, paragraph 3, stipulating that in cases of incompatibility between the verdicts of a district court of justice's civil department and criminal department, or with the verdicts of another district court of justice's civil department and criminal department, the Panel of Judges will demand a settlement of the issue, no longer from the "First Presidency of the Supreme Court of Appeal" but from the "Supreme Court of Appeal". Another amendment to this article specifies that such demands will be communicated to the Supreme Court of Appeal Public Prosecutor's Office in criminal cases, and to the authorized civil department in civil cases; in case the Supreme Court of Appeal Public Prosecutor's Office decides that there exists an incompatibility, it will request the authorized criminal department to reach a decision; and as per this paragraph, the criminal department's decisions to eliminate incompatibility are final.

Executive Decree 696 Article 98 introduced a change to the Criminal Procedure Code, which clarified the cases where the criminal departments of a district court of justice had to reach a new decision on a verdict reversed by the first instance court, and thus could not send the case back again. This long standing issue of controversy between district courts and cassation courts, which was hotly debated during Enis Berberoğlu's trial, has now been settled with an executive decree. Accordingly, in cases where the first instance court's verdict does not include a justification and where the right to defense is limited with a court decision, criminal cassation courts cannot send the case back to the district court in case they decide on a reversal of verdict, and instead have to initiate a proceeding and reopen the case.

Finally, Executive Decree 696 amended the Criminal Procedure Code's article on preliminary proceedings for cassation, stating that if the verdict is reversed during cassation and the case is reopened, the explanation of the evidence, documents, viewings and expert testimonies and reports will be deemed sufficient. The old text of the law stated that it was obligatory to read out these documents.

### **b.) Changes to the Investigation and Prosecution of Judges and Prosecutors**

Executive Decrees 680 and 690 made changes to the procedures for the investigation and prosecution of judges and prosecutors. Executive Decree 680 Article 1 amended the Law on Military Judges Article 28, granting the power to initiate an

<sup>28</sup> Law's Article 25 concerns the formation and judicial localities of district courts of justice. Article 25: District courts of justice are established by the Ministry of Justice upon the opinion of appropriateness of the High Council of Judges and Prosecutors in consideration of the geographical location and workload of each district.

High Council of Judges and Prosecutors is authorized to determine and change the judicial localities of district courts of justice or to remove these courts, upon the suggestion of the Ministry of Justice.

Resolutions based on the first and second paragraph shall be published in the Official Gazette.

investigation and prosecution into military judges' alleged personal crimes subject to general law "to the provincial public prosecutor of the district court of justice where the military judge is active and to the high criminal court of the same district".<sup>29</sup> The same Executive Decree's Article 7 made a similar change to the Law on Judges and Prosecutors as regards the investigation and prosecution of judges' and prosecutors' personal crimes. Prior to the Executive Decree, the power to the investigate and prosecute judges' and prosecutors' personal crimes belonged to "the high criminal public prosecutor closest to the high criminal court in whose judicial locality the suspect is located, and the power of final investigation belongs to the high criminal court of that locality".<sup>30</sup>

Executive Decree 680 Article 100, on the other hand, has revised the investigation and prosecution procedures concerning the crimes of Council of Judges and Prosecutors (HSK) members. *Law on High Council of Judges and Prosecutors* Article 38 paragraph 8, as amended by an executive decree, stipulates that the Constitutional Court in its capacity as Grand Chamber has the right to judge the professional crimes of Council of Judges and Prosecutors members, and the Supreme Court of Appeal's relevant criminal department has the right to judge their personal crimes. The old text of the paragraph did not make any distinction between their professional and personal crimes, and designated the Supreme Court of Appeal's concerned criminal department as the authority to investigate and prosecute these affairs. In case Council of Judges and Prosecutors members are caught in flagrante and have to be prosecuted by high criminal courts, Constitutional Court in its capacity as Grand Chamber will judge their professional crimes and the Supreme Court of Appeal's concerned criminal department will judge their personal crimes.

Executive Decree 680 Articles 4 and 5 made changes to the Law on the Supreme Court of Appeal, shifting the power to prosecute the personal crimes of Supreme Court of Appeal First President, first president's deputies, department heads, Supreme Court of Appeal prosecutors and their deputies from the Supreme Court of Appeal General Criminal Council to the relevant criminal department of the Supreme Court of Appeal. Executive Decree Article 15, on the other hand, introduced a similar provision for Constitutional Court members, stating that the power to prosecute the personal crimes of the members rested with the relevant criminal department of the Supreme Court of Appeal.

Executive Decree 690 revised the investigation and prosecution procedures for first instance judiciary courts, district courts of justice, administrative and taxation courts, and district administrative courts. An addition to Article 47 of *Law on the Structure and Duties of First Instance Judiciary Courts and District Courts* sets forth the authorities that can prosecute and investigate the professional and personal crimes committed by the president, department heads, judges, public prosecutor and deputy prosecutors of district courts of justice.<sup>31</sup> It has been stipulated that

29 Law on Military Judges has later been completely abrogated with the Executive Decree 694.

30 For a press commentary on this change, see <https://tr.sputniknews.com/turkiye/201701071026668524-khk-yargi-alanindaki-degisiklikler/>

31 See. (Additional paragraph: 17/4/2017 - Executive Decree - 690 Article 3) For actions which require a judge's decision at the stage of investigation, when an appeal is made against an investigation demanded by a public prosecutor, the decision will be taken by the president of the criminal department whose number follows that of the district court of justice criminal department, which has to hear the severest of the crimes in question. In case the crime falls under the jurisdiction of the criminal department with the last number, the right to examination belongs to the president of the first criminal department. In actions which require a judge's decision, appeals against the decisions given

investigations on the president, department heads and judges will be undertaken in the same manner.<sup>32</sup>

### **c.) Amendments to the Investigation and Prosecution Procedures for Governors, District Governors and MPs**

Executive Decrees 680 and 694 revised the Article 161 entitled ‘Duties and Powers of the Public Prosecutor’ of the Criminal Procedure Code. First, Executive Decree 680 Article 9 granted the power of investigation and prosecution of the personal crimes of governors and district governors to the provincial public prosecutor and the high criminal court found in the district court of justice where the defendant holds office.

Later and more importantly, Executive Decree 694 Article 146 added a paragraph to Criminal Procedure Code Article 161, introducing a radical change to the power of investigation and prosecution over MPs. Accordingly, the authority to investigate and prosecute an MP allegedly involved in a crime either before or after their election shall belong to the Ankara Public Prosecutor’s Office and the high criminal court of the same province. The chief public prosecutor can demand the public prosecutor of the place where the crime is committed to perform some or all of the investigation. In non-delayable cases, the public prosecutor of the locality where the crime is committed will collect the necessary evidence and will demand the local court of peace to take the necessary decisions.

This provision violates the Article 37 of the Constitution that guarantees legal judicial process, since it designates a central authority for judicial proceedings concerning MPs. Although according to the regular legal regime, MPs should be judged by the court of the location where the crime has taken place, this authority has been transferred to the courts of Ankara. On the other hand, the amendment separates the authorities that will collect the evidence and the authorities that will evaluate it and decide on filing a public action, since this puts the soundness of the investigation in danger.

Executive Decree 694 also adds a temporary article to the Criminal Procedure Code, specifying that courts cannot issue rejection of venue and jurisdiction decisions in cases filed against MPs until the date of effect of this article; and that prosecutor’s offices cannot issue rejection of venue decisions in investigations initiated until the same date. In other words, the executive decree, in ongoing cases against MPs, obliges the current courts to carry out the prosecution process until the end. As such, all the duty and authority principles of regular judiciary functioning have been suspended in order to swiftly finalize the ongoing trials against MPs of the opposition.

### **d.) Provisions on the Abrogated Military Justice System**

Executive Decree 694 Article 31 introduced provisions on military judges who used

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by the president shall be examined by the president of the criminal department, whose number follows right after. The decision of the department head with the last number will be examined by the president of the first criminal department. (Additional paragraph: 17/4/2017 - Executive Decree - 690 Article 3)

32 See Law on the Foundation and Duties of the District Administrative Courts, Administrative Courts and Tax Courts, Article 3/1 (Annex: 17/4/2017 - Executive Decree - 690 Article 1): Investigation and prosecution concerning the professional or personal crimes of the president, department heads or judges of the district administrative courts are to be managed in line with Article 47 of the Law dated 26/9/2004 and numbered 5235 on the Structure and Duties of First Instance Judiciary Courts and District Courts. However, in the said article, the expression ‘the closest district court of justice’ refers to the district court of justice of the province where the person in question holds office.

to serve in the abrogated Military Court of Appeals and Military High Administrative Court, and created a new unit under Ministry of National Defense, entitled “Legal services departments or units”. Law on Military Personnel’s abrogated Article 46 was rephrased, stipulating that the legal services of the General Staff and Ministry of National Defense will be met by these units and departments who will be composed of officers in the legal services class. Executive Decree 694 Article 36 added a temporary Article 45 to the Law on Military Personnel, specifying that the military judges serving in the defunct Military Court of Appeals and Military High Administrative Court will be either retired or shifted to the judiciary or administrative courts, Ministry of National Defense or General Staff’s legal services, depending on the preferences and vested rights of these military judges. Executive Decree 694, Article 203 has abrogated the Law on Military Judges, Law on Military Court of Appeals, and Law on Military High Administrative Court.

#### **e.) Amendments on Ministry of Justice’s Structure**

Executive Decree 694 Article 79 established the Human Rights Department as one of the main service units under the Ministry of Justice and added Article 13/C to the Law on Ministry of Justice’s Structure and Duties; specifying the duties of its Human Rights Department. The Department will be keeping track of applications against Turkey to the ECHR; collecting information, documents and opinions from all agencies and institutions concerning these applications; drafting the defense arguments and sending representatives to the hearings when necessary; following up on the payment of compensations decided upon by the ECHR or by friendly settlements; furthermore, formulating the Ministry’s statement on individual applications sent to the Ministry by the Constitutional Court. The same Executive Decree’s Article 172 added the following to the duties of the Legal Undersecretariat for Migration Affairs: “when deemed necessary, participating in any current or future trials or non-contentious jurisdiction concerning victims of human trafficking”.

Finally, Executive Decree 696 Article 53 has added an Annex Article 6 to the *Law on the Revision of the Executive Decree on the Ministry of Justice’s Structure and Duties*; adding two new positions for a Human Rights Department Head and deputy to the staff chart.

#### **f) Provisions on Higher Judicial Bodies**

State of emergency executive decrees have also introduced concerning higher judicial organs.

Executive Decree 680 Article 2 has abrogated Article 7 paragraph 10 entitled Civil and Criminal General Councils in the *Law on Supreme Court of Appeal*.<sup>33</sup> Article 3 of the same Executive Decree added a paragraph (f) to the Article 14 on the duties of the departments. Accordingly, in cases which the Supreme Court of Appeal has to rule upon as the first instance court, when required by the workload, the First Presidency Council can task one or more departments with only hearing such cases. In this case, the other duties of these departments may be assigned to

<sup>33</sup> The abrogated paragraph 10 was as follows: In case the Criminal General Council acts as the first instance court, the Council will meet with its minimum meeting quorum and reach a decision. In case the decisions thus reached by the Criminal General Council need to be examined, the Council will be formed of the other presidents of the Supreme Court of Appeal Criminal Departments who do not have a legal obstacle, as well as two members from each department. The examination is carried out on documents and their decision is final. In case the president cannot attend, the most senior member without an obstacle shall attend.



other departments by the First Presidency Council without waiting for the next calendar year.

With the recently released Executive Decree 696, comprehensive changes were made to the *Law on Council of State* and *Law on Supreme Court of Appeal*. Executive Decree Article 32 added a paragraph to the Law on Council of State, specifying that the health expenses of Council of State President, Council of State Public Prosecutor, Deputy President, department heads and judges, any retired officials, and their family dependents will be covered by the Council of State budget, in line with the principles and procedures that apply for the MPs in the Turkish parliament. Executive Decree 696 granted 16 more staff positions to the Council of State, which have been added to the annex chart found in the Executive Decree 190 on General Staffing Procedures. Executive Decree 696 Article 34 extended the deadline for the application of the provisions on the formation and working procedures of the Council of State Administrative Justice Department Councils -specified in *Law on Council of State*, Temporary Article 24- from “31/12/2019” until “31/12/2022”. Executive Decree Article 35 amended *Law on Council of State* Article 27, extending from 3 to 6 years the period in which the number of departments under the Council of State would be reduced from 15 to 9, as per Article 13 of the same law. Executive Decree Article 36 added a Temporary Article 28 to the *Law on Council of State*, specifying that candidates for the 16 new staff positions granted to the Council of State will be selected within six months of its date of effect, and that until this member selection takes place, the new positions will not be included in the calculation of the number of Council of State General Council members. Finally, Executive Decree 696 Article 37 abrogated the requirement of having worked 20 years as a judge or prosecutor in order to be elected to the Council of State.

Executive Decree 696 Articles 42-46 made similar changes to the Law on Supreme Court of Appeal. The health expenses of the family dependents of the Supreme Court of Appeal members will be covered by the Supreme Court of Appeal budget; 100 new staff positions were granted to the Supreme Court of Appeal, and these were added to the staff chart. Again, the period to decrease from 23 to 12 the number of Supreme Court of Appeal’s criminal and civil departments -as required by Article 5- has been reduced from six to three years. Executive Decree 696 Article 45 added the Temporary Articles 16 and 17 to the Law on Supreme Court of Appeal. Temporary Article 16 introduced new provisions on the formation and working procedures of the Supreme Court of Appeal’s Civil Law General Council and Criminal Law General Council valid until 31/12/2022. Accordingly, these general councils will be composed of twenty members who as a rule will occupy permanent positions. Prior to the Executive Order, membership in these councils were variable. The meeting and discussion quorum of these councils was set at fifteen; the decision quorum was set as two thirds of the number present in the meeting. Temporary Article 16 specified that if there isn’t a two thirds majority in the first meeting, than the decision will be reached by simple majority in the second meeting.

Temporary Article 16 added to the *Law on Supreme Court of Appeal* specifies that candidates for the 100 new staff positions granted to the Supreme Court of Appeal will be selected within six months of its date of effect; and that the First Presidency Council will be formed within 5 days following member selection; the newly formed First Presidency Council will determine which member will be assigned to

where depending on the workload and needs of the departments and designate the members of the Civil Law General Council and Criminal Law General Council; the newly granted positions will not be included in the calculation of the number of Supreme Court of Appeal's General Council until the members selection takes place. Finally, Executive Decree Article 46 removed the following from among the duties of the Civil Law General Council and Criminal Law General Council listed in the *Law on Supreme Court of Appeal*, 'Bringing a final settlement to any incompatibilities between the civil or criminal departments of district courts of justice in the same location or of different locations, through an unification of the decisions'. Finally, the Executive Decree abrogated the requirement of having worked 17 years as a judge or prosecutor in order to be elected to the Supreme Court of Appeal.

#### **g) Provisions on Becoming a Judge**

Executive Decree 680 Article 6 amended the *Law on Judges and Prosecutors*, abrogating the requirement of getting at least 70 points in the exam for judges and prosecutors in order to enter an interview. Instead, as many candidates as double the number of vacant positions will be invited to the interview, starting with the candidate who got the highest score. As such, with the elimination of a score limit in becoming judge or prosecutor, the role of the written exam which measures one's competence objectively has been reduced; the role of the interview where subjective criteria dominate has been increased. This amendment made by the Temporary Article 20 added to the law also functions retrospectively, that is it also effects candidates who entered written exams and whose results have yet to be announced.

Executive Decree 696 Article 47 amended the *Law on Judges and Prosecutors*, reorganizing the vocational training of judge and prosecutor candidates. The six-month vocational training for those who transition from attorneyship has been divided into two periods: preparation training and internship. The duration of these periods, the location of internship and other issues will be set forth in a regulation to be issued by the Ministry of Justice. The preparation training will be specified by a regulation to be issued by the Presidency of the Turkish Justice Academy after receiving the opinion of the Ministry of Justice, and will take place in the Turkish Justice Academy's Training Center.

### **8. Other Amendments Concerning the Judiciary System**

Executive Decree 680 Article 10 has amended the Criminal Procedure Code, setting forth that "once a decision of non-prosecution is issued for an act, it is not possible to file a public action against this act unless newly found evidence creates enough suspicion for a public action, and the criminal court of peace takes a decision to this end." Accordingly, after a decision of non-prosecution is issued, the prosecutor cannot file an indictment even if new evidence appears, unless the judge of the court of peace gives permission and considers that the new evidence leads to sufficient suspicion. As such the role and authority of the judge of court of peace have been enhanced in the investigation phase.

Executive Decree 690 Article 4 added Annex Article 27 / A to the *Law on Demographic Services*, specifying that the decisions of divorce issued by foreign judicial or administrative authorities can be added directly to the state register if the two parties apply jointly, without requiring an exequatur decision.

Executive Decree 691 Articles 6, 9 and 10 makes additions to the *Law on Public Notaries, Law on Arbitration in Legal Disputes and Law on Expert Witnesses*, stipulating that those with membership or connections to terror organizations cannot perform these professions.

Executive Decree 694 Article 10 has amended the *Law on the Supervision of Narcotic Drugs*, introducing judicial fines -on top of the existing prison sentences- for those individuals cultivating cannabis for producing narcotics. The Temporary Article 2 added to the Law has set forth the procedures for confiscating vehicles used in producing or trafficking narcotics.

Executive Decree 694 Article 17 has amended Article 6 of the *Law on the Settlement Through Arbitration of Legal Disputes Among Departments with General, Annexed or Special Budgets, Municipalities and Departments or Institutions Whose Capital Belongs to the State or Municipalities or Special Administrations*. Accordingly, parties can appeal to arbitration decisions in cassation courts within the two weeks of their notification of the decision. Article 6 sets forth the results of such an application for cassation. Executive Decree Article 18 has added a Temporary Article 4 to the Law, specifying that this change applies to all cases currently in arbitration, including those whose appeal process is complete as of the date of effect of the article.

Executive Decree 694 Article 137 has made additions to the Turkish Criminal Code, introducing judicial fines -on top of the existing prison sentences- for those individuals producing, importing or exporting narcotics without license or in breach of their license, and those individuals who promote the consumption of narcotics and make publications to this end.<sup>34</sup>

Executive Decree 694 Article 139. made an addition to Turkish Criminal Code Article 228, stipulating that the provision of space and facilities for gambling by means of information technologies shall be punishable with three to five years of imprisonment and judicial fines of one thousand to ten thousand days; in case the crime is committed within the scope of organized activities, the punishment will be increased by half.

Executive Decree 694 Article 145 added a new paragraph to the Criminal Procedure Code Article Article 158 on denouncement and complaint. Accordingly, Criminal Procedure Code Article 158(6) reads: “If it is clearly understood without any need for research that the act subject to denunciation and complaint is not a crime, and that the denunciation and complaint are abstract or general in nature, it will be decided that there is no need to investigate. In such a case, the person about whom a complaint has been filed cannot be deemed a suspect. The decision of non-investigation will be communicated to the person who filed the compliant or denunciation, and they can appeal this decision as per Article 173. If the appeal is accepted, the public prosecutor shall initiate the investigation procedure. Procedures and decision arising from this paragraph are to be registered in a separate system. These can only be seen by the public prosecutor, judge or the court.”

Executive Decree 694 Article 151. added temporary article 8 to the *Law on the Execution of Punishment and Security Measures*. Accordingly, with the excep-

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34 See Turkish Criminal Code Article 188 (1) and (7); Article 190 (2).

tion of those detained or convicted for certain crimes, and those subject to certain imprisonment conditions<sup>35</sup>, the disciplinary penalties and measures inflicted on actions committed before 1/8/2017 will be discontinued upon a decision of good conduct by the administration and supervision board, regardless of the term and resolution requirements of the same law's Article 48.

Executive Decree 694 Article 152. added a second paragraph to the Article 16 of the *Law on the Effect and Application of the Criminal Procedure Code*, stipulating that “non-investigation decisions on the complaints and denunciations received by the law enforcement units should be immediately sent to the relevant units in order to carry out the necessary measures and corrections”.

Executive Decree 694 Article 171. added paragraphs to the Article 102 on administrative penalty fees of the *Law on Foreigners and International Protection*, setting forth new fees in order to prevent irregular migration.

Executive Decree 694 Article 203. abolished Article 118 of the *Law on the Execution of Punishment and Security Measures*, which regulates the execution of the punishments of soldiers.

Executive Decree 696 Article 94 added a third paragraph to the Article 129 on seizure of mails of the Criminal Procedure Code, stipulating that law enforcement officials can indeed open envelopes and packages related to crimes listed in the Turkish Criminal Code such as possession or trafficking of dangerous items without a permit, and production and trafficking of narcotics, as well as crimes described in Articles 12 and 13 of the *Law on Firearms, Knives and Other Instruments*, at the behest of the public prosecutor. The second paragraph of the same Article stipulates that law enforcement officials shall not open envelopes or packages; instead, the seized envelopes and packages will be sealed and handed over to the judge or prosecutor who issued the order or decision of immediate seizure.

Executive Decree 696 Article 95 added Article 140/A to the Criminal Procedure Code, stipulating that a regulation will be issued to outline the principles and procedures concerning secret investigators and technical supervision of telecommunications as per Criminal Procedure Code Article 135-140.

Executive Decree 696 Article 97 has changed the title of the Criminal Procedure Code's Article 209 from ‘Documents and reports that must be read out in trial’ to ‘Documents and reports that must be explained in trial’. As such, whereas previously, the judicial register summaries of documents, reports and other written material presented as evidence, as well as the documents on the defendant's personal and economic situation had to be read out in trial, the Executive Order has stipulated that it is sufficient to simply explain these.

Executive Decree 696 Article 111 has amended Article 3, paragraph 2 of the *Law Amending Certain Laws for the Enforcement of Judicial Services and Law on Delay of Cases and Sentences Related to Crimes Committed via Press*. The amendment states that, with the exception of terror crimes, crimes committed within the

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35 “Those detained or convicted for crimes outlined in Law no. 5237 Book 2 Section 4 Chapters 4,5,6,7 and Article 220, crime against sexual privacy, crimes that are the counterparts of these in the abrogated Law no. 765 Turkish Criminal Code; those detained or convicted of crimes falling under the Law no. 3713 and those detained or convicted of Article 9 paragraph 3 of this law.”

scope of an organization's activities, and offenses against sexual privacy, those sentenced to 3 or less years in prison for deliberate crimes; and those sentenced to 5 or less years in prison for negligent crimes; and those under preventive detention for the collection of a judiciary penalty fee shall serve their sentences in open prisons until 31/12/2022.



## 3. ECONOMY

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The powers granted to the executive branch via State of Emergency executive decrees were also used in managing the economy. As of November 27, 2017, across Turkey, 1001 companies were seized for alleged ties to FETÖ, and special administrators were appointed to manage these. Numerous executive decrees implemented important measures concerning the management, liabilities and liquidation of these companies. Likewise the bankruptcy postponement mechanism was banned with the pretext that FETÖ-affiliated companies abuse it. Another group of provisions consisted of a number of economic and fiscal measures to delay the worsening crisis atmosphere for at least a while. Turkey Wealth Fund, which seems to have been established to serve as a guarantor for borrowing was shaped with executive decrees. New changes were introduced to the *Law on Public Tenders*, which has undergone countless changes in the last decade. *Law on Unemployment Insurance* continued being used for reasons outside of its purpose. Again, executive decrees were used to bolster the construction sector, which has become the driving engine of the Turkish economy in recent years.

### 1.) Measures and Provisions on the Seized Companies

The power to determine the principles and procedures concerning the institutions closed down with the Article 5 of Executive Decree 670 was granted to General Directorate of Foundations for foundations and to Ministry of Finance for the rest. It was determined that the cash and other liquid assets acquired from the seized institutions would be kept in escrow accounts, and the other assets would be kept in regulatory accounts. It has been resolved that, of the assets kept in regulatory accounts, the sums received for those sold off will be transferred to the escrow accounts; while the liabilities which are decided to be paid will be paid from these escrow accounts and the remaining sum will be transferred to the central budget as revenue.

Executive Decree 674 Article 19 has specified that in the companies to which a special administrator has been appointed as per Criminal Procedure Code, the powers of the special administrator shall be transferred to the Security Deposit Insurance Fund (TMSF). In case the Security Deposit Insurance Fund decides that the companies in question cannot be sustained in this manner, their assets shall be sold off or liquidated. The same Executive Decree's Article 20 has stipulated that the proceeds of these sales will be kept under interest in another account until a final verdict is reached. The paragraph two of the same article has specified that the past liabilities of these companies can be paid, if these liabilities arise from a relation of goods or services with individuals who have no membership, ties or connection the terror organization FETÖ.

Executive Decree 675 Article 9 has stipulated that in companies where natural or legal persons affiliated with the terror organization have a stake of less than 50%, Security Deposit Insurance Fund will act as a special administrator to manage and represent the stakes in question.

Executive Decree 677 Article 5 terminated the powers of the special administrators appointed previously, and the management of these were handed over to the



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**Executive Decree 684 Article 8** made changes to the *Law on the Protection of Consumers*, limiting the right to cancel the contract in prepaid house sales with the 24 months after the contract date, and increasing the compensation that applies in case the contract is canceled. As such, consumers who want to cancel their sales contract in housing projects known as 'sales from the project or the model' will face harsher conditions.

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**Executive Decree 686 Article 4** has specified that in companies, which are managed by a special administrator as per Criminal Procedure Code Article 133, any share transfer or cession by the partners will be deemed a collusive and therefore void transaction, from the date of invitation of the investigation on the partnership's shares and rights until the date of February 7, 2017.

Security Deposit Insurance Fund. Issued on the same day, Executive Decree 678 Article 37 set for that in companies where the Security Deposit Insurance Fund has become the special administrator, the personal property of partners, managers and other affiliated natural or legal third persons -who are guarantors of the company- will be used to pay the direct or indirect liabilities of the companies. Security Deposit Insurance Fund has also been authorized in selling off the properties of these guarantors.

Executive Decree 680 Article 81 has amended the provisions of the *Law on Revision of the Executive Decree on Certain Measures under the State of Emergency* on the transfer of seized companies to Security Deposit Insurance Fund. As such, in case the financial situation of such a company is deemed unsustainable, the Minister to which the Security Deposit Insurance Fund reports shall decide on the sale, closure or liquidation of these companies.

Executive Decree 683 Article 7 introduced provisions specifying that the special administrators can bring personal liability suits against the owners, board members, managers and other officials of the companies managed by special administrators, and it is not required for the general assembly or executive committee of the said company to allow for such a suit against its partners or managers. Furthermore, the partners who are suspects in an investigation or about whom a personal liability suit has been filed by the special administrator, cannot transfer or cede their shares from the date the suit or investigation or prosecution has been initiated until the date when it is finalized. As such, the partners covered by this article are prohibited from transferring their shares, and during this prohibition, Security Deposit Insurance Fund as the special administrator will exercise the representative and administrative rights that belong to the partnership's shares.

Executive Decree 686 Article 4 has specified that in companies, which are managed by a special administrator as per Criminal Procedure Code Article 133, any share transfer or cession by the partners will be deemed a collusive and therefore void transaction, from the date of invitation of the investigation on the partnership's shares and rights until the date of February 7, 2017.

Executive Decree 687 Article 1 has stipulated that revenue generated by the sale of companies seized for affiliation to and financing of terror organizations, and specially administered by Security Deposit Insurance Fund as per *Law no. 6758 on the Revision of the Executive Decree on Certain Measures under the State of Emergency* Article 19 will be transferred to the Treasury. During the sale and liquidation process, the company, shares and assets will be managed by managers appointed as per Article 10 of the *Law no. 6758*.

Executive Decree 690 Article 73 has added new paragraphs to Article 19 of the *Law on the Revision of the Executive Decree on Certain Measures under the State of Emergency*, specifying that in companies overtaken by the Security Deposit Insurance Fund and managed by administrators appointed by the Minister to whom the Fund reports, the sum remaining after the sales of assets and properties and the payment of any company liabilities can be used in the company's business. As such, it has been declared that the consent of minority shareholders is not necessary in such transactions.

Executive Decree 694 Article 180 has specified that a new company can be

established for companies who have been placed under the special administration of the Security Deposit Insurance Fund. In such cases, the consent of the partners will not be deemed necessary for the establishment of a new company. The capital of the company to be established will be provided in cash or in kind from the company managed by the Security Deposit Insurance Fund as special administrator. The Fund will become the special administrator of the newly established company without requiring a court verdict or a judge's ruling.

The same Executive Decree has stated that in companies run by the Security Deposit Insurance Fund as special administrator, the powers of the general assembly can be exercised by the Minister to whom the Fund reports, regardless of the provisions of the Turkish Commercial Code. The Minister to whom the Fund reports may transfer some or all of these powers (specified under Executive Decree 694 Article 180), to the Security Deposit Insurance Fund's President or Fund Council.

Executive Decree 694 Article 195 and 196 amended the Executive Decree 678, specifying that in the companies where the Security Deposit Insurance Fund has been appointed as special administrator, the Fund will have recourse to the personal property of any partners, managers or third party natural or legal persons -whose personal property is not under special administration- for repaying the company's direct or indirect debt. In this scope, the Fund will have recourse to the properties of such guarantors -whose personal property is not under special administration- in order to repay company debt or to meet the company's demand for capital, and sell of such property either directly or by means of a commercial or economic entity.

Executive Decree 696 Article 108 and 109 have added certain provisions to the Turkish Commercial Code, introducing certain privileges to companies run by special administrators as regards the "obligation of presentation and the right to receive information". As such, in such companies, the board of directors will not have to approve the annual report on the transactions and procedures of the year the special administrator was appointed or of preceding years. Furthermore, the provision that requires a new board of directors to be elected or old board members to return to office in case an auditor issues a negative opinion will not apply during the special administration period.

## **2.) Changes as Regards the Postponement of Bankruptcy**

Executive Decree 669 Article 4 stipulates that during the State of Emergency, stock corporations and cooperatives cannot demand a postponement of bankruptcy as per *Law on Execution and Bankruptcy*; and that such demands will be rejected by courts. Executive Decree 673 Article 10 has stipulated that during the State of Emergency it is impossible to make a demand for postponement of bankruptcy, and that such demands will be rejected immediately by courts, without conducting any research on bankruptcy. The government claimed that the justification for these bans is a strong suspicion that companies associated with FETÖ try to abuse postponement clauses.

## **3.) Provisions on the Unemployment Insurance**

Executive Decree 678 Article 26 has added a temporary article to the *Law on Unemployment Insurance*, as regards the unemployment insurance premium debts of state owned enterprises, state banks, municipalities, special provincial administra-

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**The same Executive Decree has stated that in companies run by the Security Deposit Insurance Fund as special administrator, the powers of the general assembly can be exercised by the Minister to whom the Fund reports, regardless of the provisions of the Turkish Commercial Code. The Minister to whom the Fund reports may transfer some or all of these powers (specified under Executive Decree 694 Article 180), to the Security Deposit Insurance Fund's President or Fund Council.**

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tions and affiliated companies. According to this article, the immovables belonging to the said institutions can be acquired by Social Security Institution in return for their debts. Depending on the value of the immovable, unemployment insurance premium debt can be erased following the acquisition.

Executive Decree 687 Article 3 added two new articles to the Law on Unemployment Insurance, specifying that employers will be given insurance premium support and income tax support for each person employed until 31/12/2017. According to a report issued on February 10 by the DİSK Research Institute, this provision will cost around TL 13 billion to the Unemployment Insurance Fund; whereas the Fund has paid only TL 14.2 billion to the unemployed since 2002.

#### **4.) Provisions on the Wealth Fund**

Executive Decree 680 Article 77 added an annex article to the *Law on Horse Races*, transferring all the licenses to organize horse races in Turkey, and to organize betting on domestic or overseas horse races to the Fund established as per the *Law on the Foundation of the Turkish Wealth Fund Inc. and Revision of Certain Laws*, for a period of 49 years starting on 1/1/2018.

Executive Decree 680 Article 82 amended the Executive Decree 320 on the Foundation and Duties of the National Lottery Company General Directorate, transferring the national lottery license to the Fund for 49 years as well. Right after the amendment, the Finance Minister Naci Ağbal made a statement that these two organizations will be privatized as a package via the Wealth Fund.

Executive Decree 684 Article 9 amended the *Law on the Foundation of the Turkey Wealth Fund*, enabling -by a Council of Ministers decision- the transfer to the Wealth Fund of the state's shares in commercial companies where the state or public companies have a 50% or higher stake, or the shares and assets of commercial companies that belong entirely to the state.

Council of Ministers, as per this amendment introduced by Executive Decree, transferred the entirety of Ziraat Bank, BOTAŞ, TPAO, PTT, Istanbul Stock Exchange (BİST) and TÜRKSAT, a 6.68% share in Türk Telekom, and Eti Mining Company and Tea Companies General Directorate to the Wealth Fund with a decision issued on the Official Gazette on February 5, 2017. Furthermore, Privatization High Council has decided to transfer to the Wealth Fund the shares of THY and Halkbank, which are already in the privatization scope and program.

Executive Decree 696 Article 86 added an annex article to the Law on Public Finance and Debt Management, specifying that companies transferred to the Turkish Wealth Fund or companies or sub-funds to be established by the Turkish Wealth Fund where the state or the Fund will have a stake of more than 50%, shall be under the scope of the Law on Public Finance and Debt Management in terms of the "foreign debt transfer, foreign debt loans, and the payback guarantee of the Treasury."

#### **5.) Amendments to the Law on Public Tenders**

Executive Decree 678 Article 31 added an article to the *Law on Public Tenders*, introducing some measures on public tenders for the purposes of regional development and technological advancement.

Executive Decree 684 Article 2 has stipulated that the Central Bank's procurement of technology and security related goods and services shall be exempt



from the *Law on Public Tenders*.

Executive Decree 684 Article 3 has stipulated that, banned from participating in the tenders falling under Law on Public Tenders are those individuals who are reported by the General Directorate of Security to be in relation or connection to terror organizations and affiliated natural or legal persons, as well as overseas natural or legal persons reported by the Undersecretariat of National Intelligence Service to have such connections. However, companies under the special administration of the Security Deposit Insurance Fund and those run by a special administration appointed by the Security Deposit Insurance Fund can in fact participate in public tenders.

Executive Decree 678 Article 30 added an article to the *Law on Public Tenders*, stating that those individuals who are reported by the National Intelligence Service or General Directorate of Security to be in relation or connection to terror organizations and affiliated natural or legal persons cannot join public tenders. Later, Executive Decree 684 Article 3 revised this provision to read “banned from participating in the tenders falling under Law on Public Tenders are those individuals who are reported by the General Directorate of Security to be in relation or connection to terror organizations and affiliated natural or legal persons, as well as overseas natural or legal persons reported by the Undersecretariat of National Intelligence Service to have such connections.”

Executive Decree 696 Article 83 has amended the *Law on Public Tenders*’ articles on the procurement of personnel services. Accordingly, with the exception of the Undersecretariat of National Intelligence Service, public institutions under the general budget, Higher Education Council, universities, high technology institutes, other administrations with special budgets, regulatory and supervisory agencies, social security institutions, affiliated companies with revolving funds, the central and provincial organizations of public agencies, special provincial administrations, municipalities and affiliated companies, as well as any regional administrative unions cannot procure such personnel services. The same article has also stipulated that procurement of hospital information management systems and call center services do not fall under personnel services procurement.

## **6.) Amendments Concerning the Activities of Banks and Financial Corporations**

Executive Decree 675 Article 8 has stipulated that banks, financial corporations and their personnel cannot be held responsible for providing funds, loans and other financial services to natural and legal persons who were not declared by the Ministry of Finance to have ties, connections or membership to the agencies and institutions closed down during the State of Emergency, nor to the terror organization FETÖ/PDY.

Executive Decree 684 Article 5 added a paragraph to the Law on Banking, specifying that the BRSA will be authorized to determine the principles and procedures for the sale to asset management companies of the receivables of those banks, 50% or more of whose capital belongs directly or indirectly to the state. As such, a separate procedure will apply in the sale of state banks’ assets to asset management companies, as distinct from other deposit, participation and development / investment banks.

Executive Decree 687 Article 4 added a paragraph to the Law on Banking

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**Executive Decree 687 Article 4** added a paragraph to the Law on Banking Article 160 on embezzlement, making it impossible to accuse someone of embezzlement in loan allocation and restructuring transactions. The previous description of the crime of embezzlement had been criticized by the Prime Minister Binali Yıldırım for forcing bankers to be too prudent.

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**Executive Decree 684 Article 8** made changes to the Law on the Protection of Consumers, limiting the right to cancel the contract in prepaid house sales with the 24 months after the contract date, and increasing the compensation that applies in case the contract is cancelled. As such, consumers who want to cancel their sales contract in housing projects known as 'sales from the project or the model' will face harsher conditions.

Article 160 on embezzlement, making it impossible to accuse someone of embezzlement in loan allocation and restructuring transactions. The previous description of the crime of embezzlement had been criticized by the Prime Minister Binali Yıldırım for forcing bankers to be too prudent.

Executive Decree 690 Article 67 made a change to the Capital Market Law's article entitled "measures against unlicensed capital markets activities". As such, it will be sufficient for the Capital Markets Board to apply to Information and Communication Technologies Authority to block access to the web sites of those companies that allow Turkish residents to trade in leveraged products without a license. Accordingly, measures were strengthened against Turkish residents' involvement in leveraged transactions via overseas companies.

Executive Decree 690 Article 68-71 made an amendment in the *Law on Payment and Securities Reconciliation System, Payment Services and Electronic Money Corporations*, granting the national post and telegraph directorate PTT the power to issue electronic money. Furthermore the PTT was made exempt from provisions obliging electronic money corporations to receive a license from the BRSA. It has been determined that the BRSA will lay out how the other provisions of the law will apply to the PTT.

Executive Decree 696 Article Articles 6 to 12 have made an amendment to the *Law on Turkey Vakıfbank Corporation*, introducing comprehensive changes as regards to the transfer of the Vakıfbank management and shares to the Treasury. Accordingly, the class A and B shares managed and represented by the General Directorate of Foundations will be transferred to the Treasury, according to the share price to be determined by the Council of Ministers according to the average of appraisal studies performed by three separate companies. The shares transferred to the Treasury will be represented by the Minister to whom the Undersecretariat of Treasury reports, as per the Turkish Commercial Code. Appraisal costs for calculating the share transfer price and all other expenses will be met by the bank. Class C shares belonging to the Vakıflar Bank Employees and Workers Foundation can also be transferred to the Treasury at the behest of the the Minister to whom the Undersecretariat of Treasury reports. In return the latter will be given Government Debt Securities.

### **7.) Support to the Construction Sector**

Executive Decree 674 Article 17 added an temporary article to the *Law on the Execution of Punishment and Security Measures*, stating that all plots of land belonging to the Treasury including pasture land can be used for the construction of prisons at the behest of the Ministry of Justice, regardless of the limitations in the *Law on Zoning*. According to this article, the Ministry of Justice can organize until 2020 public tenders for the construction of prisons on such plots. According to the information gathered by the journalist Çiğdem Toker (*Cumhuriyet*, September 20, 2017), after this executive decree, the Ministry of Justice completed various public tenders for prison construction worth a total of TL 3.5 billion in at least 20 provinces and districts. Later Executive Decree 694 Article 22 amended the Law on Forests, granting the Ministry of Environment and Urbanization the power to construct judiciary service buildings and prisons on forest lands belonging to the state.

Executive Decree 678 Article 28 and 29 amended *Law on the Use of Real Es-*

*tate Belonging to the Treasury and the Amendment of the Law on the Value Added Tax*, specifying that, in investment projects such as shipyards, boat manufacturing sites and slipways (except slipway for yachts) located on real estate which is the private property of the Treasury, or on real estate under the jurisdiction of the State, no adequate pay or participation fee will be charged if a preliminary permit, right of easement and / or right of use is granted to those spaces which are a part of the current facility but were used without a permit. This change has set to zero the rental terms of all shipyards on Treasury land. The shipyards were given the right to rent these areas for 49 years. Various measures were taken to ease the rent payments for shipyards and slipways. For these places, the tenants will pay a rent corresponding to one thousandth of their turnover, instead of an ‘adequate pay’.

Executive Decree 684 Article 8 made changes to the Law on the Protection of Consumers, limiting the right to cancel the contract in prepaid house sales with the 24 months after the contract date, and increasing the compensation that applies in case the contract is cancelled. As such, consumers who want to cancel their sales contract in housing projects known as ‘sales from the project or the model’ will face harsher conditions.

Executive Decree 690 Article 66 has added new provisions on ‘real estate certificates’ to the Capital Markets Law. As such, a real estate certificate has been defined as a capital market instrument with equal nominal values that represent certain independent units of a real estate project or certain area units of these independent units, issued in order to finance real estate projects which will be or are being constructed. The procedures and principles regarding the issuance of real estate certificates will be determined by the Capital Markets Board. Certain issuers may be granted exemptions from the Capital Markets Law’s principles, or different principles may apply for certain issuers.

## **8.) Changes to the Tax Law**

Executive Decree 694 Articles 83 and 131 made changes to *Law on Value Added Tax* and *Law on Special Consumption Tax* respectively, specifying that deliveries and services sales to the Ministry of Justice for national defense and domestic security purposes will be exempt from the value added tax (KDV) and special consumption tax (ÖTV).

## **9.) Other Amendments**

Executive Decree 671 Article 31 added an article to the *Law on Counterterrorism*, specifying that in order to compensate for damages inflicted on the state and private individuals due to terror related crimes, real estate and vehicles by suspects and defendants may be confiscated temporarily.

Executive Decree 678 Article 27 added an article to the *Law on the Foundation of the Turkish Development Bank Inc.*, specifying that the Turkish Development Bank will administer the Attraction Centers Program (CMP) designed to revitalize the investment climate in underdeveloped regions, increase employment, production and exports, and eliminate development disparities between regions. The bank can participate in various companies or help establish companies in provinces under the scope of the program, by means of funds transferred from the Treasury budget.

Executive Decree 696 Article 90 added an article to the *Law on Stimulating Investment and Employment and the Amendment of Certain Laws* introducing a new pro-

vision concerning the Attraction Centers Program, specifying that the Ministry of Economy will be in charge of the program. Furthermore, the Council of Ministers will determine the principles and conditions of the Attraction Centers Program's support to the private sector for manufacturing industry, call center and data center investments.

Executive Decree 696 Article 125 added an article to the Executive Decree on the State Owned Enterprises, making it easier to employ contracted personnel for jobs requiring specialization to the Mechanical and Chemical Industry Corporation (MKEK), regardless of the provisions of relevant laws.

Executive Decree 694 Article 132 has made an amendment to Law on Public Finance Management and Control, shifting from the Prime Minister's Office and relevant ministries to the President the power to decide on the allocation of the discretionary funds under the National Intelligence Service budget, the officials who will be in charge of it, the methods for keeping and closing the relevant accounts, the transfer of documents to the new officials in cases of replacement, and the expenses related to the fund.

Executive Decree 694 Article 134 has amended the *Law on TOBB and Chambers and Commodity Exchanges*, stipulating that individuals who will vote in the elections for the organs of The Union of Chambers and Commodity Exchanges of Turkey (TOBB), chambers and commodity exchanges, have to be a member for at least two-years at the date of election. The press commented that this amendment was passed to limit the influence of Osman Gökçek, who was a candidate in the elections for the Ankara Chamber of Commerce.

Executive Decree 694 Articles 162 and 163 have made an amendment to Turkish Commercial Code's articles on the establishment and management of the trade registry, specifying that the Ministry of Customs and Trade shall establish trade registry directorates that will operate in the chambers of trade and industry in the provincial centers. In chambers outside the provincial centers, the ministry can establish not only trade registry directorates but also branches affiliated to these directorates. The trade registry shall be kept by trade registry directorates and branches, under the supervision and control of the Ministry.

Executive Decree 696 Articles 69-74 have made an amendment to *Law on Sugar*. Accordingly, the Sugar Agency has been closed down with immediate effect. The duties and responsibilities of the Agency have been transferred to the Ministry of Food, Agriculture and Livestock. Accordingly the duties and responsibilities of the Ministry of Food, Agriculture and Livestock have been expanded to include taking and implementing decisions on the determination, cancellation and transfer of sugar quotas, setting the rules on sugar trade, and reporting to the Ministry of Economy its opinions on sugar trade

Executive Decree 696 Articles 76-82 have made amendments to the *Law on the Foundation and Duties of the Tobacco and Alcohol Market Regulatory Authority*, closing down the Tobacco and Alcohol Market Regulatory Authority (TAPDK). The unused funds of the authority were deemed to be cancelled. In addition, all kinds of movables, vehicle, equipment and materials as well as liabilities and receivables belonging to the institution have been transferred with immediate effect to Ministry of Food, Agriculture and Livestock.

## 4. EDUCATION

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State of Emergency Executive Decree 667 dated July 23, 2016 has closed down 15 universities in Turkey. Executive Decrees issued until date have dismissed 5,644 academics; when the employees of the closed universities are added, the aggregate figure reaches 7,800. Ensuing executive decrees further limited the autonomy of universities, sharply restricting the rights and freedoms of university employees. The supervision and oversight on national education and private education institutions have been tightened. Founded in 2016 with many privileges and described by some as a “parallel education system”, the Turkey Maarif Foundation has also been strengthened via executive decrees and given new powers

### 1.) Amendments to Higher Education

Executive Decree 674 Article 49 has added an article to the Law on Higher Education changing the employment status of research assistants under the Lecturer Training Program (ÖYP) from 33(a) to the more precarious 50(d). Such research assistants who are enrolled at a separate university or overseas, are now obliged to return to their universities at the behest of the university management within 15 days of the date of effect of this article.

Executive Decree 683 Article 4 has suspended the associate professorship application procedures of associate professor candidates who are undergoing legal investigation or prosecution, until the latter processes are finalized.

Executive Decree 676 Articles 84-86 have amended the *Law on Higher Education* specifying that public universities’ presidents will be appointed by the President from among three candidates nominated by Higher Education Council, and foundation-owned universities presidents will be appointed also by the President from among the candidates nominated by the boards of trustees and approved by Higher Education Council. In case none of the candidates are appointed within a month and the Higher Education Council does not name new candidates within two weeks, the President can make a direct appointment.

The same executive decree sets university presidents’ term in office as 4 years. At the end of this period, a president can be reappointed through the same method, however, cannot serve as a president for more than two terms in the same state university.

After this executive decree, *Law on the Amendment of the Executive Decree on the Foundation and Duties of the Ministry of National Education and Certain Laws and Executive Decrees* was passed on December 2, 2016. Accordingly, universities’ power to carry out disciplinary investigations about and impose punishment on their faculty members has now been partially transferred to the President of the Higher Education Council in her / his status as disciplinary supervisor. Furthermore, this law has stipulated that all disciplinary infractions for civil servants will apply to the faculty members of universities as well.

Executive Decree 678 Articles 23-24 have made an addition to the *Law on Higher Education*, stipulating that in case the license of a foundation-owned university is suspended temporarily, the foundation shall be run by the General Directorate of Foundations until the appointment of a special administration by the court. Furthermore, the same article will apply to the foundation-owned universities whose licenses had been suspended before this article came into effect.



**Executive Decree 683 Article 4** has suspended the associate professorship application procedures of associate professor candidates who are undergoing legal investigation or prosecution, until the latter processes are finalized.

Executive Decree 690 Articles 64-65 have stated that university presidents will obtain permission for annual leaves and overseas trips from the President of the Higher Education Council, and the other managers from their immediate superiors. Furthermore, any diplomas or degrees obtained from overseas higher education institutions, institutes and centers who are considered by the Ministry of National Education to have ties with terror organizations will not be valid in Turkey.

Executive Decree 694 Articles 44-45 have added an article to Law on Higher Education specifying that the activities and principles of higher education institutions under the Ministry of National Defense and Ministry of Interior can be determined by a separate law aside from this law. Furthermore, state universities in Turkey can now establish overseas academic units upon the suggestion of Turkey Maarif Foundation, opinion of appropriateness of the Higher Education Council and the decision of the Council of Ministers.

## **2.) National Education**

Executive Decree 668 Article 4 has added an article to Executive Decree on the Foundation and Duties of the Ministry of National Education, enabling the employment of contracted teachers via interviews in regions with a priority in development. After serving four years, contracted teachers can be granted a permanent position upon their demand, and ask for a transfer after working two more years in the same location. In transfers due to the location of one's spouse, the spouse will have to adapt to the circumstances of the contracted teacher. The details of the interview will be set forth by a regulation to be issued by the Ministry of National Education.

Executive Decree 674 Article 2 has added a temporary article to Executive Decree on the Foundation and Duties of the Ministry of National Education, specifying that those who have worked as a teacher in the preparatory schools called *dershane* and student study centers for at least six years as of 14/3/2014 will be granted a single chance to participate in an interview without having to pass through the KPSS exam. Those who succeed in the interview will be appointed to the vacant contracted teacher positions in regions of top priority in development.

## **3.) Private Education Institutions**

Executive Decree 676 Articles 77-79 have amended the *Law no 5580 on Private Education Institutions*, introducing the "private education courses". In this scope, a private education course has been defined as "an education institution where individuals can enhance their knowledge, skills, talent and experience and make use of their free time in education environments designated by the Ministry according to various scientific disciplines, within the scope of education programs in line with their education level, interests and wishes".

It was also added to the law that, outside of schools and private education courses, it is forbidden to establish private education institutions which employ face to face or remote education methods, implement some or all of the formal education curricula of primary schools and junior high schools, and organize pilot tests, placement tests and similar mass tests. Such activities cannot be carried out by municipalities, NGOs and the continuous education centers of higher education institutions either.

Executive Decree 678 Article 34 has amended the *Law on Private Education Institutions*, enabling municipalities' free-of-charge education centers to continue their activities. Executive Decree 676 had previously closed down the *dershane* run by municipalities.

Executive Decree 687 Article 5-6 has abolished the "student study and edu-



cation centers” set forth by the *Law on Private Education Institutions*. Due to the closure of the latter, the services provided by these will be now offered by the special education institutions dubbed social activity centers in the Provincial National Education Directorates and municipalities.

#### 4.) Turkey Maarif Foundation

Executive Decree 676 Articles 81-83 have amended the *Law on Turkey Maarif Foundation*, stating that Ministry of National Education has to approve the establishment of any units by public agencies and institutions outside of the Ministry of National Education, in the countries where the Turkey Maarif Foundation has established regular or non-formal education institutions.

Another provision added to the same law specifies that civil servants and teachers employed in public agencies can be assigned to the Turkey Maarif Foundation for at most two years upon the request of the latter and their own wish. The said assignments can be extended in at most three two-year increments after the first two-year term expires. Those assigned to such positions will be deemed “on monthly leave” during this duty. During the period of their overseas assignment, they will be paid a salary -that will not exceed the salary of the unmarried civil servants of 9th rank, 1st degree in permanent duty in these countries- to be decided upon by the Board of Trustees of the Foundation.

#### 5.) Student Dormitories

Executive Decree 694 Articles 19-20 have added new articles to the Annex Law to the Law on Higher Education Dorms and Cafeterias, specifying that the founders of dorms and similar institutions must now fulfil the same requirements with founder representatives and personnel. These individuals should not have any connection or membership to terror organizations or structures, formations or groups which are deemed by the National Security Council to engage in activities against the national security of the state. Furthermore, penalties will apply in case the dorms have a student profile in breach of the education level and gender criteria indicated in the dorm establishment license, house non-registered students or non-students, and lose one of the requirements for establishing a dorm.



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## 5. SOCIAL SECURITY

State of Emergency executive decrees introduced changes to social security and social policy as well. Important changes were made to the social rights of especially security personnel, village guards and village *mukhtars*; public hospitals' organization and functioning was restructured; the right to strike was limited even further.

### 1.) Social Security and Social Rights

Executive Decree 674 Article 51 has amended the Law on Counterterrorism, specifying that those deemed by governors' offices to have membership or ties to terror organizations cannot benefit from the right to employment in public institutions, granted to individuals victimized by terror.

Executive Decree 676 Article 76 has added the Article 45 / A on the employment of contracted health personnel to the Executive Decree on the Foundation and Duties of the Ministry of Health and Associated Agencies, thereby outlining the appointment conditions and basic rights of the said personnel.

Executive Decree 680 Article 29 has made an addition to the Law on the Turkish Republic Retirement Fund, specifying that an invalidity pension will be given to the relatives of the military and police school students as well as members of the Turkish Armed Forces and General Directorate of Security, killed in terror acts falling under the scope of Law on Counterterrorism, or to individuals who have become invalid due to such acts, depending on the degree of their disability.

Executive Decree 681 Articles 73-85 have introduced comprehensive changes to the Law on Social Security and General Health Insurance. Accordingly, conscripts fulfilling their military service as privates or sergeants will now have General Health Insurance with a free-of-charge c-1 (green card) status, from the date of conscription until the date of discharge. The same applies to reserve officer candidates / students from conscription until appointment as reserve officer; to military student candidates and Gendarmerie and Coast Guard Academy student candidates from the beginning of the adaptation training until their oath ceremony. Besides, foreign military personnel who are on an education and training visit to Turkey within the scope of international military education partnership agreements and their family dependents have also been included in the General Health Insurance coverage, and their premiums shall be paid by the public institutions in charge. The calculation of the General Health Insurance premiums will be based on the minimum wage. Furthermore, in order to receive health assistance, the beneficiaries will not have to have paid 30 days of General Health Insurance premiums in the last year. Executive Decree 696 Article 104 has changed the wording of the Law on Social Security Article 60 paragraph 12, adding "disciplinary punishment" to the exceptional periods left out of social security coverage between the date of conscription and date of discharge.

Executive Decree 684 Article 1 has added an article to Law on Counterterrorism, stipulating that those wounded during counterterrorism efforts will be given monthly pensions, even if they have not become invalid. These individuals will be paid a salary of between TL 1.403 and 2.149. The salary granted to those non-invalids who have social security status will depend on the total duration of their social security record. In case of death, these salaries will be passed on to their relatives



**Executive Decree 684 Article 1** has added an article to Law on Counterterrorism, stipulating that those wounded during counterterrorism efforts will be given monthly pensions, even if they have not become invalid. These individuals will be paid a salary of between TL 1.403 and 2.149.

as survivor's pension, as per Law no. 5510 Article 34, and no requirements will be made from the parents who shall receive this salary.

Executive Decree 690 Articles 27-29 have amended the Law on Villages, making it possible to give an old age pension to village guards over the age of 55 who have served in this profession for at least 15 years. To receive this pension, the village guards should not have been convicted of terror related crimes. The social security premiums of the village guards -both the part of the insuree and the part of the employer- will be paid by governors' offices.

Executive Decree 690 Articles 32-33 have amended the Law on Mukhtars' Salaries and Social Security, stating that the Bağ-Kur social security premiums of village and neighborhood mukhtars will be paid by the state as of May 1, 2017. The social security premiums of these individuals will be calculated according to the lower limit of their salary basic to premium, and paid by special provincial administrations or investment monitoring and coordination departments directly to the Social Security Institution. Likewise, this executive decree has set the mukhtar insurees' monthly salary basic to premium as thirty times the lower limit of their daily salary basic to social security premium.

Executive Decree 690 Article 37 has amended the Law on Social Security and General Health Insurance, making it possible to offer an actual service period increase from the highest bracket to not only Turkish Armed Forces members, but also to the commissioned and noncommissioned officers, reserve officers, contracted sergeants and privates who served in the Gendarmerie General Command and Coast Guard Command.

Executive Decree 694 Article 85 has added an additional article to the *Law on Basic Health Services*, specifying that the doctors, specialized doctors and family doctors employed by the Ministry of Health and associated institutions may work until the age of 72 if approved by the Ministry.

Executive Decree 694 Article 86 has amended the Law on Counterterrorism, stipulating that those who become invalid will continue to stay in domestic or overseas public housing for ten more years without paying rent. The same will apply for the widows and orphans of those who lose their lives on service.

Executive Decree 694 Article 153 added an article to the Law on Social Security and General Health Insurance, offering a 90-day actual service period increase to insurees working in specific staff positions in prisons.

Executive Decree 696 Article 128 has added "Annex Article 5" to Executive Decree on the Structure and Duties of the Ministry of Family and Social Policies, establishing the Turkey Solidarity Foundation for Martyrs' Relatives and Veterans.

Executive Decree 678 Article 35 has amended the Law on Trade Unions and Collective Bargaining, specifying that a legal strike or lockout, whether planned or already initiated, can be postponed for 60 days by the Council of Ministers if it risks disrupting general health, national defense, the public transport services of municipalities, or the economic and financial stability of banking services. As such Council of Ministers' right to postpone strikes, which used to be limited to risks against "general health, national defense", has been expanded further with this executive decree.

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Executive Decree 696 Article 112 has added an article to the Law on Trade Unions and Collective Bargaining, specifying that a "Public Collective Labor Agreements Framework Agreement" can be signed between workers' confederations and the government and employers' confederations to determine the financial and social rights of workers in public agencies and institutions.

Executive Decree 696 Article 113 has added a temporary article to the Law on Trade Unions and Collective Bargaining on how to report to the Social Security Institution the sectoral categories of the subcontractor's workers working for public institutions and organizations, which will be transferred to the permanent worker position, temporary worker position, or worker status.

## **2.) Health**

Executive Decree 694 Articles 184-194 have introduced important changes to the Executive Decree 663 dated November 2, 2012. Accordingly, the affiliate institution status of the Turkey Public Hospitals Authority and Public Health Institute has been terminated as these have been transformed into General Directorates in the central organization. On the other hand, the provincial organization of the Ministry of Health was gathered under the roof of the Provincial Health Directorate.

With the same executive decree, important changes were also made in the functioning of the public hospitals, specifying for example that chiefs of medicine would restart managing such hospitals. An administrative and financial affairs directorate, and a health care services directorate will be set up, reporting to the chief of medicine. In addition, hospitals have been divided into various groups, and the provincial health directors and presidents whose groups are abolished will be dismissed.

The said executive decree has extended contractual employment to include provincial health directors as well. Contractual employment in health will continue. The provincial health director, district health director, chief of medicine, deputy chief of medicine, president, vice president, manager, assistant manager and expert staff will all be contractual positions. Doctors can continue to work in family medicine, or health facilities affiliated to the Ministry of Health until the age of 72 if the Ministry considers it appropriate. In addition, military doctors can be assigned to the health facilities of the Ministry of Health.

Another important amendment has specified that the Ministry of Health can open and operate health institutions outside of the country for humanitarian and technical assistance purposes. Finally, the Ministry of Health has to align its organization and staff positions with the provisions of this Executive Decree, within the three months of the date of publication of this article.

## 6. ADMINISTRATIVE STRUCTURE



State of Emergency executive decrees have also introduced changes in the central and provincial administrative structures. However, the most radical changes took place in local government. Very important changes to the *Law on Municipalities* have created a “disproportionate form of administrative control”, as indicated in the March 29, 2017 report of the Council of Europe’s Congress of Local and Regional Authorities.

### 1.) Amendments Concerning Central and Provincial State Organization

Executive Decree 674 Article 22 has amended the *Law on Provincial Administration*, giving governors the power to establish systems in public spaces such as squares, highways, streets and parks for the protection of public order and safety, citizens’ lives and property, and for traffic control, and to coordinate efforts for determining, establishing and installing such systems.

Executive Decree 674 Articles 34-36 have amended the *Law on the Ministry of Interior’s Structure and Duties*, granting legal personality and special budgets to the Investment Monitoring and Coordination Departments founded to replace the special provincial administrations. Ministries and other central government agencies will be able to make all kinds of investment, construction, maintenance, repair and assistance work in the provinces via these departments. The aims of this amendment have been stated as enabling central administration agencies to undertake their provincial investments more efficiently, and solving the problems of co-financing and representation in projects carried out by development agencies, as well as in European Union projects.

Executive Decree 676 Article 32-34 has amended the Law on Public Finance Management and Control, stating that the General Directorate of Security, Gendarmerie General Command and Coast Guard Command can extend their security-related procurements impossible to complete in a single fiscal year to the following years. The Ministry of Interior was given the power to decide on such issues.

Executive Decree 676 Article 69 has amended the Law on Public Finance Management and Control, shifting the senior management title in the Ministry of National Defense from the Minister of National Defense to the undersecretary.

### 2.) Local Government

Executive Decree 674 Articles 38-39 have made additions to the Law on Municipalities specifying that a mayor or deputy mayor dismissed or convicted for aiding and abetting terror or terror groups shall be replaced by special administrators, who will be determined by the Minister of Interior in metropolitan municipalities and provincial municipalities, and by the governor in smaller municipalities.

Even in those municipalities where a special administrator has not been appointed, this executive decree has restricted the authorities of mayors and deputy mayors. In municipalities or affiliated administrations, in case the governor’s office decides that the disruption of services can or will adversely affect counterterrorism efforts, it may have the said service delivered via the Investment Monitoring and Coordination Departments, special provincial administration or public agencies and institutions.

**Executive Decree 674 Articles 38-39** have made additions to the Law on Municipalities specifying that a mayor or deputy mayor dismissed or convicted for aiding and abetting terror or terror groups shall be replaced by special administrators, who will be determined by the Minister of Interior in metropolitan municipalities and provincial municipalities, and by the governor in smaller municipalities.



Furthermore, if the governor's office decides that the means of the municipality and affiliated administrations are being used to provide indirect or direct support to terror acts or violence, such movables belonging to the municipality or affiliated administration can be seized by the most senior civilian authority in the district. If the municipality or affiliated administration staff determined to be guilty of such action are removed from public office by the governor or district governor as per this article, they may be reinstated to office only by the authority that removed them in the first place.

These amendments made in the Law on Municipalities were accepted in Parliament without any change. Afterwards, the Minister of Interior sent a communique to all governors on November 11, 2016, stating that the co-mayor system in municipalities has been declared to be illegal, and that appointments of co-mayors will be deemed to be criminal acts.

Executive Decree 678 Article 11 has added a new article to the Law on Municipalities, specifying that in municipalities hit by disaster, mass migration or terror, or in municipalities whose mayor has been replaced due to ties to terror groups, the governor or new mayor may demand another municipality to provide municipal services. The municipality whose aid is requested can deliver such services upon the permission of the Minister of Interior.

## 7. PUBLIC PERSONNEL REGIME

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Executive Decree 676 Article 75 has made an addition to the Law on Civil Servants Article 125, stating that the following offenses will also be punished by expulsion from civil service to be never reinstated again: “Being in a unity of action with terror organizations, assisting these organizations, employing state means and resources to aid these organizations, and engaging in propaganda for these organizations”

Executive Decree 680 Article 85 has made an addition to Executive Decree 399 Article 45, stating that contracted employees charged with “Being in a unity of action with terror organizations, assisting these organizations, employing state means and resources to aid these organizations, and engaging in propaganda for these organizations” shall be dismissed from state owned enterprises or affiliated partnerships.

Executive Decree 680 Article 83 has made an addition to Executive Decree 375 Article 28, stipulating that public personnel can be assigned to temporary duties in countries where the Turkish Armed Forces are active.

Executive Decree 694 Article 7 has made an addition to the Law on Interior Civil Servants, stating that one has to be younger than 45 to be appointed a civil inspector.

Executive Decree 694 Article 27 has amended the Law on Civil Servants Article 96 on withdrawal in state of emergencies. Previously, civil servants could not withdraw from duty until “their substitutes arrived to take over from them”; now, they cannot withdraw “unless their demand for withdrawal is accepted”.

Executive Decree 696 Article 17-18 has introduced changes to the Law on Civil Servants. These changes stipulate that “non-worker” personnel who has worked “for less than one year or in seasonal fashion”, and other personnel who do not have the right to transferred to other public agencies and institutions after privatization will be given a contractual employee status until they gain the right “to receive old pension or invalidity pension”.

Executive Decree 696 Article 106 has added a paragraph to Article 3 of the *Law on the Transfer of Public Employees with Worker Status to Permanent Staff or Worker Staff Positions or Contracted Personnel Status, the Employment of Temporary Workers, and Amendment of Certain Laws*, stipulating that the work periods of those who work in temporary worker positions at workplaces under the control of Ministry of Finance and Treasury for less than six months in a fiscal year, can be extended for up to 4 months by the Ministry of Finance.

Executive Decree 696 Article 127 has added temporary articles to the Executive Decree 375, allowing the transfer of the workers of subcontractor companies to permanent worker staff positions. As is known, the government had made announcements prior to the November 2015 General Elections creating an expectation of such a measure amongst the public. However, the said provision leaves out thousands of workers working at the subcontractor companies serving the special provincial administrations, municipalities, various state owned enterprises, and in-

stitutions with special budgets. Furthermore, the workers to be shifted to permanent staff positions will have to waive any past court proceedings and all past rights and acquisitions, and also accept to cover the expenses of such court proceedings themselves. Furthermore, the said workers will have to undergo a security investigation before shifting to permanent staff positions. Finally, since the said provision is being passed by an Executive Decree, the workers falling outside the scope of this article do not have the chance to go to court to demand their right to transfer.

## 8. PROVISIONS AND RESTRICTIONS CONCERNING THE MEDIA



Executive Decree 680 Articles 16-21 concerning media service providers have introduced numerous provisions on the media. Article 16 added paragraph (i) to Article 50 of the *Law on Radio and Television*, outlining the procedures for the employment of contracted personnel at TRT.

Article 17, on the other hand, added paragraph 4 to the Article 7 of the Law on the Foundation and Broadcasting Services of Radios and TVs, introducing severe restrictions to press freedoms. Accordingly, in case of a violation of the broadcasting bans and restrictions specified in the Law on the Press, the Radio and Television Supreme Council (RTÜK) shall impose a one day broadcast ban to the media services provider in question, and apply Article 32 paragraph 4. In case this violation is repeated within a year, RTÜK may impose a second broadcast ban of up to five days; a ban of up to 15 days in case of a third violation; and a permanent abrogation of the broadcast license in case of a fourth violation.

These provisions represent severe sanctions on press and media outlets. Furthermore, these provisions are not limited to the state of emergency, and are permanent. In case of a violation of the broadcast restrictions specified in the Law on the Press, the broadcast can be totally banned, broadcasting license may be abolished in a severe and disproportionate sanction, and the rights to receive and disseminate news and press freedoms -which lay the groundwork for democracy- can be severely damaged. The provision is also in breach of Article 13 of the Constitution which states that any restrictions of rights and freedoms must be proportionate.

Executive Decree 680 Article 18 has abolished the Law's Article 8 paragraph (d) on Broadcasting Service Principles which read "Terror acts, perpetrators and victims cannot be presented in a manner that serves the purposes of terror," and added the paragraph (t) which reads "Terror acts, perpetrators and victims cannot be presented in a manner that leads to consequences that serve the purposes of terror."

Executive Decree Article 19 has added the paragraph 2 to the Article 19 of the Law, authorizing the Radio and Television Supreme Council to reject license demands for reasons of national defense, protection of public order, and public interest. The paragraph 3 added to the same article states that RTÜK will reject the license applications of media services providers whose partners or chairman or board members have links or connections to terror organizations according to the National Intelligence Organization or General Directorate of Security reports.

These provisions grant vast and arbitrary powers to the Radio and Television Supreme Council in rejecting license applications by media outlets. Rejecting the license application of a media outlet in the absence of a court verdict, only on the basis of a National Intelligence Service or General Directorate of Security report on "links or connection to terror organizations" is a very severe sanction, which also goes against the principle of the presumption of innocence.

**Executive Decree 680 Articles 16-21 concerning media service providers represent severe sanctions on press and media outlets. Furthermore, these provisions are not limited to the state of emergency, and are permanent.**

**Executive Decree 687** has also abolished Article 149/A of the Law on the Basic Provisions for Elections and Voter Records, which necessitated broadcasting bans and penalties to those broadcasts breaching the principles set by the Supreme Election Board, and the principle of equality.

Executive Decree 687 has made a number of amendments designed to enhance the authority of Radio and Television Supreme Council over broadcasters. Article 8 has changed the wording of the Law's Article 26 paragraph 8 sentences 1 and 2 on frequency planning and assignment, obliging private media services providers to broadcast via radio and TV transmission stations established and / or run by a single transmission facility and operating company. The state will have a 50% stake in this single transmission facility and operating company, whose principles and authorization will be determined by the Radio and Television Supreme Council.

Executive Decree 687 Article 11 has assigned certain duties to the Radio and Television Supreme Council, Ministry of Finance and Security Deposit Insurance Fund, in order to facilitate and accelerate the sales of the licenses and assets of the radios and TVs closed by State of Emergency executive decrees. These radios' and TVs' broadcasting licenses, rights, frequency and channel assignments and similar licenses from the Radio and Television Supreme Council valid as of July 15, 2016, will be reallocated by the Radio and Television Supreme Council at the behest of the Ministry of Finance. In case these broadcasting licenses, rights, frequency and channel assignments and similar licenses are sold off, the transfer and registry procedures of the buyers will be completed within a month with immediate effect, once the necessary documents are completed and upon the notification of the Security Deposit Insurance Fund.

Executive Decree 687 has also abolished Article 149/A of the Law on the Basic Provisions for Elections and Voter Records, concerning "offenses related to private radio and TV broadcasts", which necessitated broadcasting bans and penalties to those broadcasts breaching the principles set by the Supreme Election Board, and the principle of equality. Article 149/A obliged the Supreme Election Board to impose broadcasting bans and penalties on those private radios and TVs breaching these principles. The executive decree has thus eliminated any Supreme Election Board control on broadcasting violations such as not giving sufficient air time to opposition parties.

Executive Decree 690 Articles 58-62 have made amendments to the Law on the Foundation and Broadcasting Services of Radios and TVs. Companies engaged in commercial broadcasts in Turkish or other languages towards Turkey via satellites belonging to Turkey have been brought under the jurisdiction of Turkish courts, and have been obliged to get a license from Radio and Television Supreme Council. Chat programs, friend and spouse finding programs and programs selling food supplements were banned. Radio and Television Supreme Council's sanctions on broadcasters such as administrative penalties, broadcast bans, and license cancellation have been redefined. Radio and Television Supreme Council can now offer monetary incentives to family- and children-friendly TV series in order to protect the family and support the physical, mental and moral development of the youth and children as per the principles set forth by the Ministry of Family, at an amount which will not surpass the 20% of the penalties it imposed in the previous year.



## 9. DIRECTORATE OF RELIGIOUS AFFAIRS

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Executive Decree 696 Articles 14-16 have amended the Law on the Foundation and Duties of the Directorate of Religious Affairs, stating that those serving as vice president, President of the Supreme Board of Religious Affairs, general manager, Head of Mushaf Investigation and Lecture Board, Head of Guidance and Inspection, 1st Legal Consultant and Head of Strategy Development can be appointed to permanent overseas positions without any prior requirement. Besides, in appointments to permanent overseas positions, Members of the Supreme Board for Religious Affairs, heads of department, province muftis and professors of theology will not have to take a professional proficiency exam. Their overseas capacity and competence will be determined in interviews.

# 10. CONCLUSION

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After the July 15, 2016 coup attempt, a total of 30 State of Emergency executive decrees were issued: the first was the Executive Decree 667, issued on the Official Gazette dated July 23, 2016, the last was the Executive Decree 696 issued on the Official Gazette dated December 24, 2017. Only 4 of these State of Emergency executive decrees were discussed in the Turkish Parliament and passed as law.<sup>36</sup> The others came into effect without passing through the control of the Parliament or the Constitutional Court. As such, the political and judiciary oversight on State of Emergency executive decrees has been bypassed.

These executive decrees have defined a new offense, dismissing over one hundred thousand public employees, closing down hundreds of companies, associations, foundations, trade unions, universities, schools, hospitals, TV channels and newspapers, and confiscating the assets of these entities, for membership, connections or links to terror organizations or to structures, formations or groups considered by the National Security Council to engage in actions against national security. State of Emergency executive decrees, not only took measures to limit fundamental freedoms and rights, but also made important and permanent changes to numerous laws.

A large portion of the amendments made via State of Emergency executive decrees concern defense and security. These amendments restructure military - civilian relations, ending or sharply restricting certain powers granted by various laws to the General Staff, Force Commands and other military institutions, and concentrating these powers in the hands of the Ministry of National Defense, Ministry of Interior, Prime Minister's Office and President's Office. As indicated by other commentators, these amendments, together with the constitutional changes of the year 2017, are designed to establish the President's monopoly of control over military forces. For instance Metin Gürcan<sup>37</sup> has described this process as "monopolistic civilianization", that is, "an approach that favors the concentration of power in one civilian / elected position (the president of state)". As such, it is not possible to talk about a democratic civilianization process where the powers of supervision and control are distributed among the civilian actors (such as the President, government, parliament, NGOs). Ümit Cizre<sup>38</sup> also defines the current approach as "a single party control model".

One of the most important changes in this field is the subordination of the Land, Naval and Air Force Commands to the Minister of National Defense. On the other hand, the President and Prime Minister have been granted the power to give direct orders to force commanders. Ministry of National Defense's organization structure has been separated from those of the General Staff and Turkish

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36 Executive Decree 668 issued in the Official Gazette dated July 27, 2016 has been approved with the Law dated November 8, 2016 and numbered 6755; Executive Decree 669 issued in the Official Gazette dated July 31, 2016 has been approved with the Law dated November 9, 2016 and numbered 6756; Executive Decree 671 issued in the Official Gazette on August 17, 2016 has been approved with the Law dated November 9, 2016 and numbered 6757; and Executive Decree 674 issued on the Official Gazette dated September 1, 2016 has been approved with the Law dated November 10, 2016 and numbered 6758.

37 Metin Gürcan, *Never Again! But How? State and The Military In Turkey After July 15*, İstanbul Policy Center, 2016, s. 3.

38 Ümit Cizre, "Turkey in a Tailspin: The Foiled Coup Attempt of July 15", <http://www.merip.org/mero/mero081016>, 2016.

Armed Forces. With various measures and amendments, the military schools were closed down and military education has been entrusted to the National Defense University placed under the authority and control of the Ministry of National Defense. Supreme Military Council's membership structure has been changed to include the Ministers of Justice, Foreign Affairs and Interior, and to exclude the army commanders, General Commander of the Gendarmerie, Commander of the Navy and other four-star generals and admirals of the Armed Forces. As such, civilians have come to control the Council. The meeting frequency of the Supreme Military Council has been reduced. The authority and influence of the Chief of General Staff and Deputy Chief of General Staff have been restricted, while those of the Prime Minister and Minister of National Defense have been expanded. Changes have been made in the two important institutions of defense industry, giving the President a determining role or significantly strengthening his hand. Undersecretariat of Defense Industry, which used to report to the Ministry of National Defense, has been subordinated to the President and important powers have been granted to the President in this respect. Turkish Armed Forces Foundation will now be run by a board of trustees chaired by the President. In military justice, the Law of Military Judges, Law of Military Court of Appeals, and Law of Military High Administrative Court have been abrogated. These were indeed a natural result of the abrogation of the Military Court of Appeals, Military High Administrative Court, and other military courts with the Referendum on the Revision of the Constitution dated April 16, 2017. The judges serving in these courts have been transferred to the Ministry of National Defense. Changes to the Law on Turkish Armed Forces Internal Service have enhanced the authority of civilian superiors, granting them the power to impose disciplinary sanctions.

Gendarmerie General Command and Coast Guard Command have been redefined as no longer a military or security force, but a law enforcement force, and have been subordinated to the Ministry of Interior. Their ties to the Turkish Armed Forces and General Staff have been either completely severed, or limited to military mobilization and war. Gendarmerie and Coast Guard Academy has been established under Ministry of Interior in order to meet the military education requirements of the Gendarmerie General Command and Coast Guard Command personnel.

It is no longer necessary to have served as force commander in order to become Chief of General Staff. The Chief of General Staff has been redefined as the commander of Turkish Armed Forces in war (that is, not in peace). The boundaries of the General Staff's structure, foundation, and staff positions have been redrawn, making it incapable of controlling the entire Turkish Armed Forces. First, the Chief of General Staff's duties, powers and responsibilities were radically restricted, and later some of these were returned, without limiting those of the Ministry of National Defense. However, amendments limited the powers of the Chief of General Staff, from the appointment of the force commanders right down to the approval of overseas leaves of commissioned and noncommissioned officers. The force commanders also saw their powers limited. These powers were shifted to the Ministry of National Defense, or in cases of the Gendarmerie General Command and Coast Guard Command to the Ministry of Interior.

Training hospitals of the Gülhane Military Medical Academy, and all other military health institutions have been transferred to the Ministry of Health. The higher education units of the Gülhane Military Medical Academy have been transferred to the Health Sciences University under the Ministry of Health.

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**After the July 15, 2016 coup attempt, a total of 30 State of Emergency executive decrees were issued: the first was the Executive Decree 667, issued on the Official Gazette dated July 23, 2016, the last was the Executive Decree 696 issued on the Official Gazette dated December 24, 2017. Only 4 of these State of Emergency executive decrees were discussed in the Turkish Parliament and passed as law.**

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In order to overcome the huge lack of personnel resulting from mass dismissals from the Turkish Armed Forces and to meet the demand for personnel owing to the restructuring, facilitating measures have been taken as regards personnel procurement, terms of office and age limits, etc. Furthermore, special amendments have been made to recruit new pilots, paratroopers, submarine personnel etc.

In another important amendment, the National Intelligence Service, now reporting directly to the President, has been authorized to conduct the security investigations of the personnel of Ministry of National Defense, affiliated agencies and institutions, as well as military personnel in or outside troop duty.

As for developments in the field of security, since telecoms, Internet, and technical and immediate intelligence are seen as strategically important fields, amendments have been made to strengthen the control on these areas. Presidency of Telecoms and Communication (TİB) was closed down, and Information and Communication Technologies Authority (BTİK) has been set up as the sole authority in this field. In recruitments to the Police Special Operations Department, candidates now have to go through a physical aptitude exam and interview, instead of the KPSS exam. The Police Special Operations Department has been redefined as a separate department within the central state organization. The scope of passport suspension via administrative decisions has been expanded, while the duty of issuing passports, driver's licenses etc. has been shifted from the General Directorate of Security to the General Directorate of Population and Citizenship Affairs. Ministry of Interior has been given the power to establish its overseas organization. Requirements for becoming a private security guard have been tightened, and it became possible to conduct security investigations and archive checks at any time. A total of 14,500 new neighborhood and marketplace guard positions have been opened.

National Intelligence Service, which has a crucial place in the state's security apparatus, has been subordinated directly to the President with an executive decree after the 2017 referendum, without waiting for the presidential elections of 2019. The Prime Minister's powers in this context have been transferred to the President. The Organization has been restructured so as to weaken its ties to the military.

State of Emergency executive decrees have also made structural changes in the judiciary system, affecting the defendant's right to due process in criminal justice, personal rights and freedoms, and the privacy of personal life. It has become easier to interfere with a series of rights protected by the Constitution as well as the international agreements signed by Turkey: For instance, the periods of detention and custody were extended; the public prosecutors' power to decide on investigative measures such as search, confiscation and tracking have been expanded, and the judiciary control over these powers has been limited; the right to adjudication with hearing, the right to representation by attorney, and the principle of equality of arms in justice have been restricted. Prohibition of suspensions of execution for measures under the scope of State of Emergency executive decrees, the impunity for public officials who take decisions in the scope of executive decrees, and impossibility of judicial appeal against state of emergency measures such as dismissal from public office have all sharply limited the freedom to defend one's rights, making it harder to hold public officials accountable for State of Emergency measures, and almost creating an aegis of impunity around these measures. The cassation review and various other methods of appeal have been redefined; the procedures for the investigation and prosecution of governors, district governors, MPs, judges and prosecutors have been changed radically. As such, the amendments thus passed

have limited individuals' basic rights and freedoms in a disproportionate way, and have seriously impacted the functioning of the judiciary system and judiciary guarantees.

As for the media, the regulatory authority, namely Radio and Television Supreme Council has been granted the power to impose temporary, and under certain conditions permanent broadcast bans, thereby enhancing Radio and Television Supreme Council's control over media outlets. Furthermore a new rule has been introduced as regards the media coverage of terror attacks, stipulating that such coverage should not lead to "consequences that serve the purposes of terror." The ambiguity of this expression will certainly have a deterrent effect on journalists covering political issues. Radio and Television Supreme Council has also been granted an almost unlimited discretionary power for rejecting the license applications of media outlets, for national security and public order concerns. These amendments introduce disproportionate sanctions that could create immense pressure on media outlets, that could extend even beyond the State of Emergency. Finally, another executive decree has removed Supreme Election Board's power to supervise and punish those media outlets that breach its general principles and objective broadcasting criteria, thus granting impunity to unjust and biased broadcasts during elections.

During the State of Emergency, various executive decrees have been issued touching upon corporate activities, banking sector, employment, investments and other economic issues. Over one thousand companies and commercial enterprises have been confiscated by the state until date, and important amendments have been made concerning the control of their revenues and their liquidation. The scope of the Turkey Wealth Fund's resources and finances has been expanded with executive decrees. Postponement of bankruptcy applications were banned during the State of Emergency, in an attempt to delay ongoing economic problems. With various executive decrees, the Unemployment Insurance Fund continued to be used outside of its scope, with a view to providing support to employers. A number of measures were taken with executive decrees to boost the construction sector, which has been losing steam.

State of Emergency executive decrees have also introduced comprehensive changes in social security and social policy. Radical amendments have been made to the social rights of security personnel, village guards and village mukhtars. The scope of strike bans has been expanded; it became possible to postpone a strike for economic reasons and for protecting "financial stability". Dramatic changes have also been made in the management and functioning of public hospitals.

Provisions concerning education have further strengthened the state's control and supervision over especially private education institutions and student dorms. The government assigned a special role to Turkey Maarif Foundation in the restructuring of education, by granting it new powers and authorities. On the other hand, a number of amendments were passed to limit the rights and freedoms of national education and higher education employees. On the other hand, the President's Office and Higher Education Council have been given immense powers as regards the selection of university presidents, annual leaves and overseas travel, and disciplinary investigations of faculty members, thereby further restricting universities' autonomy.

All these permanent and structural legal measures, which are unrelated to 'the restoration of public order' that was the pretext of the declaration of State of Emergency after the July 15, 2016 coup, have transformed the legal and adminis-



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**Permanent provisions which will apply after the State of Emergency ends can only be passed by law. However, the Constitutional Court reneged on this ruling in the annulment actions brought against the Executive Decrees 668, 669, 670 and 671, and unanimously declared itself to be unauthorized as regards State of Emergency executive decrees.**

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trative regime radically. Such that, large swathes of the public space, such as education, justice, internal security, national defense, economy, health, social security and public personnel regime have started being regulated and managed via State of Emergency executive decrees, issued by the government which now has a de facto monopoly on legislative power.

However, the Constitution's Article 121 (3) grants the Council of Ministers chaired by the President to issue executive decrees only in "issues necessitated by the State of Emergency" and only "during the State of Emergency". Furthermore, as a rule, the State of Emergency measures and provisions are limited to the duration of the State of Emergency. Once the State of Emergency is over, these measures must be abrogated, since the reasons prompting the declaration of State of Emergency cease to exist. In the past, the Constitutional Court ruled that, although the Constitution prohibits the judiciary control of State of Emergency executive decrees on certain issues, annulment actions can be brought against the decrees according to certain criteria. According to the Constitutional Court, State of Emergency executive decrees can introduce only "specific measures designed to eliminate the conditions prompting the declaration of State of Emergency" and shall be "limited to the issues necessitated by the State of Emergency, and the reasons and purposes of the State of Emergency."

In the same ruling, the Constitutional Court also stated that State of Emergency executive decrees can apply only during the State of Emergency: "Executive decrees on issues necessitated by the state of emergency or martial law apply only in the regions they cover and only during the duration of these. The provisions of the executive decrees cannot apply once the state of emergency ends. As such, state of emergency executive decrees cannot make amendments to laws. If the aim is to make sure that the state of emergency executive decrees and the rules therein apply outside these regions and after its duration, then such provisions must be passed by law. Because, issues that extend outside the state of emergency regions or beyond its duration cannot be issues necessitated by the state of emergency."

As is seen, permanent provisions which will apply after the State of Emergency ends can only be passed by law. However, the Constitutional Court reneged on this ruling in the annulment actions brought against the Executive Decrees 668, 669, 670 and 671, and unanimously declared itself to be unauthorized as regards State of Emergency executive decrees.

Nonetheless, the Constitution's Article 121 and European Charter of Human Rights Article 15 stating that basic rights can be limited only "as required by the exigencies of the situation" under a state of emergency are still in force. Limitations of rights and freedoms that are not related to eliminating the danger prompting the state of emergency cannot be seen as limitations required by the exigencies of the state of emergency. However, some of the executive decrees passed after the State of Emergency have granted public authorities vast powers of limiting, blocking or banning basic rights, which are totally unrelated to the declaration of the State of Emergency.

An analysis of the executive decree amendments passed after the July 15 coup attempt as listed in detail in this study reveals that the vast majority of these are not temporary, but permanent provisions going beyond the duration of the State of Emergency. A few cases in point would be the subordination of Force Commands to the Ministry of National Defense, closure of the Presidency of Telecoms and Communication (TİB) and its replacement with Information and Communication

Technologies Authority (BTİK), the permanent transformation of the criminal procedure via amendments to the Criminal Procedure Code, restructuring of the higher judiciary organs, creation of the Wealth Fund and Turkey Maarif Foundation, appointment of special administrators to replace mayors accused of aiding and abetting terror organizations, or the subordination of the National Intelligence Service to the President's Office. Passing such comprehensive measures which transform the functioning of institutions so radically and in a way that will apply after the State of Emergency as well, without any debate in the Turkish parliament which is in charge of the legislation function, and through methods normally limited to the purposes of the State of Emergency, goes clearly against the legal security principle, inviolability of the legislative power, and the principle of the separation of powers.

The European Commission for Democracy through Law (Venice Commission) emphasizes that such changes based on concepts developed in the context of the State of Emergency according to the needs of this period damage the regular legislation, which can potentially make exceptional rules permanent and damage the normal democratic political process. The Commission states that the real purpose of the State of Emergency is to restore the democratic legal order and that State of Emergency executive decrees should not make permanent structural changes in legal institutions, procedures and mechanisms, except in situations clearly set forth in the Constitution in a clear and overt manner.

Such structural changes must be carried out only in the regular legislative process, through transparent discussions and in the framework of democratic conventions. Otherwise, the State of Emergency logic and procedures will de facto become the norm. Such a situation poses huge risks for human rights, parliamentary democracy and the rule of law.

## CATEGORY EXECUTIVE DECREE LEGISLATION CONCERNED

### SECURITY

#### National Defense

668 Art. 4	Law no. 353 on the Structure and Trial Procedures of Military Courts, amendment to Art. 1
668 Art. 4	Law no. 357 on Military Judges addition to Art. 40
668 Art. 4	Law no. 5682 on Passports no. 926 on Turkish Armed Forces Personnel, amendment, addition and abrogation (Art.54, Temporary Art. 39, Temporary Art. 41)
668 Art. 4	Law no. 1612 on the Structure and Duties of the Supreme Military Council (Art.4, Temporary Art. 2)
668 Art. 4	Law no. 6413 on Turkish Armed Forces Disciplinary Procedures, amendment Art. 29
668 Art. 5-22	"Law no. 5682 on Passports no. 2803 on the Structure and Powers of the Gendarmerie, amendment, addition and abrogation (Art. 3, 4, 5, 6, 7, 8, 10, 12, 13, 14, 15,16, 17,19, 24, 25, Additional Art. 1, Additional Art. 2, Additional Art. 7, Temporary Art. 4)"
668 Art. 23-36	"Law no. 2692 on Coast Guard Command amendment, addition and abrogation (Art. 2, 3, 6, 7, 8, 9, 10, 11, 13, 15, 16, 18, 20, 21, 21/A, 21/B, 22, 23, Additional Art. 1, Additional Art. 3, Temporary Art. 7, Temporary Art. 8)"
669 Art. 5-8	Establishment of the National Defense University
669 Art. 9	Law no. 1453 on Salaries of Military Officers and Functionaries, addition to Art. 2 para. 1
669 Art. 12-20	Law no. 357 on Military Judges, amendment, addition and abrogation (Art.10, 15, 20, 21, 29, 31, Additional Art. 3, Additional Art. 10, Additional Art. 14, Temporary Art. 13, Temporary Art. 14)
669 Art. 21-32	"Law no. 926 on Turkish Armed Forces Personnel amendment, abrogation (Art.1, 2, 6, 7, 8, 12, 13, 16, 17,18, 20, 49, 68, 115, 121, 127, 135, 136, 143, 145, 146, 202, Additional Art. 22, Additional Art. 26)"
669 Art. 33-34	Law no. 1324 on the Duties and Powers of the Chief of General Staff (Art. 1, 2)
669 Art. 35-42	Law no. 1325 on Structure and Organization of the Ministry of National Defense amendment and abrogation (Art.1, 1/A, 2, 3, 4, 6, Additional Art. 1, Additional Art. 2, Additional Art. 3, Additional Art. 4, Additional Art. 5, Additional Art. 6, Additional Art. 7, Additional Art. 8, Additional Art. 9, Temporary Art. 1, Temporary Art. 2 )
669 Art. 43-44	Law no. 1602 on Military High Administrative Court, amendment (Art. 7,14)
669 Art. 45-50	Law no. 1612 on the Structure and Duties of the Supreme Military Council (Art. 2, 3, 5, 6, 8, 9)
669 Art. 51	Law on 1739 on Basic National Education amendment to Art. 58
669 Art. 52-80	"Law no. 4566 on Military Schools, amendment and abrogation (Art. 1, 2, 3, 5, 6, 7, 10, 11, 12, 13, 16, 18, 19, 20, 23, 24, 25, 26, 27, 28, 31, 32, 33, 34, 35, 36, 37, 39, 40,41)
669 Art. 81-103	Law no. 4752 on Noncommissioned Officer Vocational Colleges amendment and abrogation (Art. 1, 2, 3, 4, 5, 9, 11, 13, 15, 16, 17, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 32, 34)
669 Art. 104-105	Law no. 3563 on War Academies has been abrogated.
669 Art. 106-109	Law No. 2955 on Gülhane Military Medical Academy, Law No. 2957 on the Allocation of Revolving Funds to Certain Military Hospitals, Law No. 926 on the Turkish Armed Forces Personnel Law Art. 26, and the Law no. 211 on Turkish Armed Forces Internal Service Art. 70/A have been abrogated.
669 Art. 110-111,113	Law no. 2803 on the Structure and Powers of the Gendarmerie, amendment and abrogation (Art. 13, Temporary Art. 5, 13/A)
669 Art.112	Law no. 2692 on Coast Guard Command, addition of Temporary Art. 9
671 Art. 1-2	Law 357 on Military Judges, amendment (Art. 10,24)
671 Art. 3-6	Law no. 926 on Turkish Armed Forces Personnel amendment and abrogation (Art.14/A, 113, 143, additional Temporary Art. 92, additional Temporary Art. 93)

CATEGORY EXECUTIVE DECREE LEGISLATION CONCERNED	
671 Art. 7-9	Law no. 1324 on the Duties and Powers of the Chief of General Staff, amendment and abrogation (Art. 1, 2, 8)
671 Art. 10-11	Law no. 1602 on Military High Administrative Court amendment (Art.6, 17 )
671 Art. 12-13	Law no. 2629 on Flight, Parachute, Submarine, Diving and Frogman Services Compensation, amendment (Art.7, additional chart)
671 Art. 14	Law no. 2920 on Turkish Civilian Aviation, addition to Art. 98
671 Art. 15-16	Law no. 4566 on Military Schools, addition and abrogation (Temporary Art. 4, Art.12)
671 Art. 17-19	Law no. 6586 on Establishment of the National Landmine Operations Center and Revision of Certain Laws amendment (Art.3,4,5)
671 Art. 29	Law no. 2692 on Coast Guard Command, amendment to Art. 3
671 Art. 30	Law no. 2803 on the Structure and Powers of the Gendarmerie, amendment to Art. 13
674 Art. 21	Law no. 442 on Villages amendment to Art. 74
674 Art. 24	Law no. 6136 on Firearms, Knives and other Instruments, amendment to Art. 7
674 Art. 25	Law no. 6245 on Allowances, amendment to Art. 42
674 Art. 26-29	Law no. 2692 on Coast Guard Command, amendment (Art.2, 3, 7, 8, 15, Temporary Art. 10)
674 Art.30-32	Law no. 2803 on the Structure and Powers of the Gendarmerie, amendment (Art. 5, 8, 13/A, 19, Temporary Art. 6)
674 Art.33	Law no. 2920 on Turkish Civilian Aviation, amendment to Art. 144
674 Art.37	Law no. 4636 on Structure and Duties of the Ministry of National Defense Refueling and NATO POL Facilities Department, amendment to Art.1
674 Art.42-44	Law no. 657 on the General Command of Cartography, addition and amendment (Art.4, Additional Art. 4, Temporary Art. 3)
674 Art. 45-46	Law no. 1111 on Military Service, amendment (Art.14, 62)
674 Art. 47	Law no. 1325 on the Structure and Organization of the Ministry of National Defense, amendment to Art. 1
674 Art.48	Law no. 2629 on Flight, Parachute, Submarine, Diving and Frogman Services Compensation, amendment to Art. 12
674 Art.50	Determination of compensation indicators for pilots working for the General Directorate of Security and of Civilian Aviation
676 Art.7	Law no. 2992 on the Revision of the Executive Decree on the Ministry of Justice's Structure and Duties, addition of Temporary Art. 10
676 Art.8-9	Law no. 442 on Villages, addition and amendment (Art.74, Additional Art. 16, Additional Art. 17, Additional Art. 18, Additional Art. 19)
676 Art.14-15	Law no. 2692 on Coast Guard Command, addition (Art.15, Additional Art. 4)
676 Art.16-19	Law no. 2803 on the Structure and Powers of the Gendarmerie, addition (Art.13/A, 19, Additional Art. 8, Temporary Art. 4, Temporary Art. 7, Temporary Art. 8)
676 Art.30-31	Law on the Revision of the Law no. 3238 on the Establishment of the Undersecretariat of Defense Industry, and Law dated July 11, 1939 and no. 3670 on Foundation of the National Lottery Organization and Amendment of One Article of the Law dated October 23, 1984 and Law no. 3065 on Value Added Tax, addition of Art.3,5
676 Art.38	Law no. 1453 on Salaries of Military Officers and Functionaries, addition of Temporary Art. 1
676 Art. 39-40	Law no. 2692 on Coast Guard Command, abrogation and addition (Temporary Art. 7, Temporary Art. 11)

CATEGORY EXECUTIVE DECREE LEGISLATION CONCERNED	
676 Art.41-42	Law no. 2803 on the Structure and Powers of the Gendarmerie, abrogation and addition (Temporary Art. 4, Temporary Art. 7)
676 Art.43-44	Executive Decree 190 on General Staffing Procedures, addition (Art.3, Additional Art. 7)
676 Art.45-46	Law no. 1076 on Reserve Officers and Reserve Military Clerks, amendment (Art.6,11)
676 Art.47-52	Law no. 1111 on Military Service, (Art. 10, 14, 26, 28, 41, 86)
676 Art.53	Law no. 211 on Turkish Armed Forces Internal Service, abrogation (Art.115)
676 Art.54	Law no. 357 on Military Judges amendment to Art. 12
676 Art.55-57	Law no. 926 on Turkish Armed Forces Personnel amendment and abrogation (Art.14, addition Temporary Art. 92, addition Temporary Art. 94)
676 Art.58-61	Law no. 1325 on the Structure and Organization of the Ministry of National Defense, amendment and abrogation (Art.1, 2, Additional Art. 10, Temporary Art. 3, Temporary Art. 4, Temporary Art. 5, Temporary Art. 6, Temporary Art. 7)
676 Art.62-63	Law no. 2629 on Flight, Parachute, Submarine, Diving and Frogman Services Compensation, amendment (Art.12, additional chart)
676 Art.64-65	Law 3269 on Specialist Sergeants, amendment and abrogation (Art.5, Temporary Art. 3)
676 Art.66	Executive Decree 375, addition to Art. 28
676 Art.67	Law no. 4566 on Military Schools, addition of Temporary Art. 5
676 Art.68	Law no. 4752 on Noncommissioned Officer Vocational Colleges, addition of Temporary Art. 4
676 Art.70	Law no. 6191 on Contracted Privates and Sergeants, addition of Temporary Art. 1
676 Art.72-73	Law no. 6413 on Turkish Armed Forces Disciplinary Procedures, amendment and abrogation (Art. 3, 8)
680 Art. 29	Law on the Turkish Republic Retirement Fund, amendment to Art. 56 para. 2
677 Art. 5	Placement of civilian postgraduate students of War Schools and War Academies to other Institutes by Higher Education Council
678 Art. 9	Law no. 4925 on Highway Transportation, amendment to Art. 2
678 Art. 10	Law no. 5018 on Public Finance Management and Control, amendment to Art. 44
678 Art. 12	Law no. 1111 on Military Service, addition of Temporary Art. 54
678 Art. 13-16	Law no. 926 on Turkish Armed Forces Personnel amendment and abrogation (Art.14, 15, 68, Additional Art. 36)
678 Art. 17-18	Law no. 1325 on the Structure and Organization of the Ministry of National Defense, addition (Art. 2/A, Temporary Art. 8)
678 Art. 19	Law 3269 on Specialist Sergeants, addition of Temporary Art. 4
678 Art. 20	Law no. 5335 on the Amendment of Certain Laws and Executive Decrees, addition to Art. 30
678 Art. 21	Law no. 6749 on Revision of the Executive Decree on the Measures to be Taken Under the State of Emergency, addition to Art. 3
678 Art. 25	Law no. 3359 on Basic Health Services addition to Art. 3
680 Art. 22	Law no. 442 on Villages, addition to Art. 74
680 Art. 23-24	Law no. 1111 on Military Service, amendment (Art.10, 77)
680 Art. 25	Law no. 1219 on the Application of Medicine and Medical Sciences, amendment to Art. 3
680 Art. 31-34	Law no. 6245 on Allowances, amendments (Art.8, 15, 17, 33 )



CATEGORY EXECUTIVE DECREE LEGISLATION CONCERNED	
680 Art. 36	Law no. 657 on Civil Servants, amendment to Art. 122 para. 1
680 Art. 37-38	Law on Prevention of Certain Actions Concerning Security, amendment (Art.1, 2)
680 Art. 41-43	Law no. 5682 on Passports no. 2692 on Coast Guard Command, addition and abrogation (Art.7, 23, Additional Art. 5, Additional Art. 6)
680 Art. 44-48	Law no. 2803 on the Structure and Powers of the Gendarmerie, addition and abrogation (Art.13/A, 19, 24, Additional Art. 9, Additional Art. 10, Additional Art. 11, Additional Art. 12, Temporary Art. 9)
680 Art. 49	Law no. 2893 on Turkish Flag, addition to Art. 3
680 Art. 50	Law no. 2911 on Meetings and Demonstrations, amendment to Art. 2
680 Art. 51-62	Law no. 2918 on Highway Traffic, addition, amendment and abrogation (Art.21, 22, 24, 27, 28, 32, 35, 81,115, Additional Art. 2, Additional Art. 18, Temporary Art. 23, Temporary Art. 24)
680 Art. 63	Law no. 3466 on Specialist Gendarmes, amendment to Art. 18
680 Art. 64	Law no. 3713 on Counterterrorism, amendment to Art. 21
680 Art. 65	Law no. 4734 on Public Tenders, amendment to Art. 11
680 Art. 73-74	Law no. 5510 on Social Security and General Health Insurance amendment (Art.4, 46)
680 Art. 75	Law no. 5901 on Turkish Citizenship, amendment to Art. 29
680 Art. 76	Law no. 5996 on Veterinary Services, Plant Health, Food and Animal Feed, amendment to Art. 45
680 Art. 78	Law no. 3359 on Basic Health Services, addition to Additional Art. 3
680 Art. 79	Law no. 3713 on Counterterrorism, addition to Additional Art. 1
681 Art.1-8	Law no. 211 on Turkish Armed Forces Internal Service, addition and abrogation (Art. 1, 12, 19, 62, 69, 70, 92, 116)
681 Art. 12-51	Law no. 926 on Turkish Armed Forces Personnel amendment, addition and abrogation (Art. 3, 13, 14, 21, 24, 34, 37, 38, 41, 49, 54, 67, 68, 79, 82, 89, 109, 112, 113, 114, 116, 119, 120, 121, 124, 126, 127, 132, 134, 150, 202, Additional Art. 4, Additional Art. 10, Additional Art. 17, Temporary Art. 42, Temporary Art. 43, Temporary Art. 44, additional Temporary Art. 36, additional Temporary Art. 46, additional Temporary Art. 80, additional Temporary Art. 91, additional Temporary Art. 95, additional Temporary Art. 96)
681 Art. 52	Law no. 1325 on the Structure and Organization of the Ministry of National Defense, addition of Temporary Art. 9
681 Art. 53-54	Law no. 2629 on Flight, Parachute, Submarine, Diving and Frogman Services Compensation, addition (Art.7, Temporary Art. 8)
681 Art. 55-59	Law no. 3212 on Sales, Donation, Transfer and Disposal of Turkish Armed Forces' Redundant Goods and Services; Conducting Overseas and Domestic Sales on Behalf of Other States; Training of Foreign Personnel, amendment (Art. 2, 4, 5, 7, 8)
681 Art. 60-65	Law 3269 on Specialist Sergeants, amendment and abrogation (Art.4, 5, 10, 15, 16, Additional Art. 1)
681 Art. 66-71	Law no. 4678 on the Contracted Commissioned Officers and Non-Commissioned Officers to be Employed at the Turkish Armed Forces amendment, addition and abrogation(Art.6, 7, 8, 11, 16, Temporary Art. 1)
681 Art. 72	Law no. 5335 on the Amendment of Certain Laws and Executive Decrees, amendment to Art. 30
681 Art. 86	Law no. 5715 on Patient Nutrition in Turkish Armed Forces, amendment to Art. 4
681 Art. 87-97	"Law no. 6413 on Turkish Armed Forces Disciplinary Procedures, amendment, addition and abrogation (Art. 2, 7, 8, title of Chapter Four, 11,13, 21, 29, 30, 32, 43, 49)
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681 Art. 98	Law no. 6756 on the Amendment and Adoption of the Executive Decree on the Implementation of Certain Measures under the State of Emergency and Establishment of the National Defense University, abrogation of Art. 106 para. 7

CATEGORY EXECUTIVE DECREE LEGISLATION CONCERNED	
690 Art. 7-9	Law no. 926 on Turkish Armed Forces Personnel, amendment and abrogation (Art. 35, 82, additional Temporary Art. 92)
690 Art. 10-11	Law no. 1325 on the Structure and Organization of the Ministry of National Defense addition (Art. 2,4)
690 Art. 12	Law no. 5607 on Anti-Smuggling, addition of Art. 23
690 Art. 13-14	Law no. 6413 on Turkish Armed Forces Disciplinary Procedures, amendment and abrogation (Art.20, 21)
690 Art. 15	Law no. 6586 on Establishment of the National Landmine Operations Center and Revision of Certain Laws, amendment to Art. 6 para. 1
690 Art. 16	Law no. 6756 on the Amendment and Adoption of the Executive Decree on the Implementation of Certain Measures under the State of Emergency and Establishment of the National Defense University, amendment to Art. 5 para 2
690 Art.17	Law no. 5442 on Provincial Administration, amendment to Art. 11 para. d
690 Art. 19	Law no. 2565 on Military Forbidden Zones and Security Zones, addition of para. to Art. 3.
690 Art. 20	Law no. 2692 on Coast Guard Command, addition of Temporary Art. 12
690 Art. 21-22	Law no. 2803 on the Structure and Powers of the Gendarmerie, amendment (Art. 19 and Temporary Art. 7)
690 Art. 23-24	Law no. 5996 on Veterinary Services, Plant Health, Food and Animal Feed, addition (Art.27, 45)
691 Art. 1	Law no. 657 on the General Command of Cartography, addition of Additional Art. 5
691 Art. 2	Law no. 1111 on Military Service, addition of Additional Art. 10
691 Art. 3	Law no 1632 Military Penal Code, amendment to Art. 67
691 Art. 4-5	Law no. 926 on Turkish Armed Forces Personnel amendment and abrogation (Art.54, 57)
694 Art. 1	Law no. 442 on Villages, amendment of para. to Art. 74
694 Art. 2	Law no. 1076 on Reserve Officers and Reserve Military Clerks, addition of Additional Art. 10
694 Art. 3-4	Law no. 1111 on Military Service, amendment (Art.25, 45)
694 Art. 5-6	Law no. 1219 on the Application of Medicine and Medical Sciences, addition (Art. 28 and 45)
694 Art. 38-42	Law no. 1325 on the Structure and Organization of the Ministry of National Defense, amendment and abrogation (Art. 1, 2/A, 4 and 8)
694 Art. 46-47	Law no. 2565 on Military Forbidden Zones and Security Zones, addition and amendment (Art. 21 and 33)
694 Art. 49	Law no. 2692 on Coast Guard Command, addition to Art. 7 para. 2
694 Art. 50-51	Law no. 2802 on Judges and Prosecutors, amendment and abrogation (Art.112/A, Temporary Art. 21)
694 Art. 52-58	Law no. 2803 on the Structure and Powers of the Gendarmerie, amendment and abrogation (10,13,13/A,15, Additional Art. 13, Temporary Art. 9, Temporary Art. 10)
694 Art. 84	Law on the Revision of the Law no. 3238 on the Establishment of the Undersecretariat of Defense Industry, and Law dated July 11, 1939 and no. 3670 on Foundation of the National Lottery Organization and Amendment of One Article of the Law dated October 23, 1984 and Law no. 3065 on Value Added Tax, amendment to Art. 10 para. 2
694 Art. 87	Law on Security Investigation, Restitution of the Rights of Public Employees Dismissed for Certain Reasons and not Accepted to Public Duty, and Revision of the Law no. 1402 on Martial Law, amendment to Art. 1 para. 1
694 Art. 88-110	Law no. 4566 on Military Schools, amendment, addition and abrogation (Art.3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14,16, 17, 18, 19, 20, 24, 28, 29, 30, 31, 32, 33, 35, 37, 39, 40, 41)
694 Art. 111-130	“Law no. 4752 on Noncommissioned Officer Vocational Colleges amendment, addition and abrogation (Art., 5, 6, 7, 8, 9, 10, 11, 13, 15, 16, 17, 19, 23, 24, 25, 26, 27, 28, 32, 34, Temporary Art. 4)

<b>CATEGORY EXECUTIVE DECREE LEGISLATION CONCERNED</b>	
694 Art. 135	Law no. 5202 Defense Industry Security, amendment to Art. 11 para. 3
694 Art. 155-159	Law no. 5668 on Nutrition in Turkish Armed Forces, amendment and abrogation (Art. 1, 2, 4, 6,11)
694 Art. 164-167	Law no. 6191 on Contracted Privates and Sergeants, amendment and abrogation (Art. 3, 6, 8 and annex chart no.2)
694 Art. 168	Law no. 6413 on Turkish Armed Forces Disciplinary Procedures, amendment to Art. 13 para. 4
694 Art. 173-174	Law no. 6586 on Establishment of the National Landmine Operations Center and Revision of Certain Laws, addition and amendment (Art.4 and 5)
694 Art. 177-179	Law no. 6756 on the Amendment and Adoption of the Executive Decree on the Implementation of Certain Measures under the State of Emergency and Establishment of the National Defense University, amendment (Art. 8, 8/A and Temporary Art. 1)
<b>General Directorate of Security and National Intelligence Organization</b>	
671 Art. 20-23	Law no. 5651 on Regulating Online Publications and Preventing Crimes Committed Thereby, amendment and abrogation (Art. 2, 3, 4, 5, 6, 8, 8/A, 9/A, 10, Additional Art. 1, Additional Art. 2, Additional Art. 3, Temporary Art. 4)
671 Art. 24	Law no. 2559 on Police Powers and Duties amendment to Additional Art. 7
671 Art. 26	Law no. 3201 on the General Directorate of Security amendment and addition (Additional Art. 24, Temporary Art. 25)
674 Art.23	Law no. 5682 on Passports amendment to Art. 22
676 Art. 74	Law no. 657 on Civil Servants addition to Art. 48 para.1
676 Art.7	Law no. 2992 on the Revision of the Executive Decree on the Ministry of Justice's Structure and Duties, addition of Temporary Art. 10
676 Art.10-11	Law no. 5682 on Passports amendment (Art.17,20)
676 Art.12-13	Law no. 5682 on Passports no. 6136 on Firearms, Knives and other Instruments amendment (Art.6,7)
676 Art.20-21	Law no. 2918 on Highway Traffic amendment (Art.23,131)
687 Art. 2	Law no. 2918 on Highway Traffic addition of Art. 65/A
676 Art.23-26	Law no. 2918 on Highway Traffic amendment and abrogation (Art. 2, 3, 10, Temporary Art. 11)
676 Art.27-29	Law no. 3201 on the General Directorate of Security amendment, addition and abrogation ( Art.16, addition 24, addition 34)
676 Art.35-37	Law no. 6458 on Foreigners and International Protection, amendment (Art.53,54,98)
676 Art.74	Law no. 657 on Civil Servants, addition to Art. 48
680 Art. 26-28	Law no. 2559 on Police Powers and Duties, additions (Art.13, addition 6, addition 7)
680 Art. 66-72	Law no. 5188 on Private Security Services, amendment (Art. 5, 6, 9, 10, 11, 20, 22)
680 Art.84	Executive Decree 399 on the Regulation of the Personnel Regime in the State Owned Enterprises and Abrogation of Certain Articles of the Executive Decree 233, addition to Art. 7
682 Art. 1-39	Executive Decree on General Disciplinary Measures for Law Enforcement
686 Art.3	Measure concerning retired police officers (retirement upon own will, ex officio, or in lieu of resignation; and dismissal by Executive Decree)
690 Art. 18	Law no. 6136 on Firearms, Knives and other Instruments amendment to Additional Art. 12
690 Art.25	Law no. 6749 on Revision of the Executive Decree on the Measures to be Taken Under the State of Emergency, Art. 5

CATEGORY EXECUTIVE DECREE LEGISLATION CONCERNED	
690 Art.26	Executive Decree 190 on General Staffing Procedures, addition to annex chart (I)
694 Art. 12-16	Law no. 3201 on the General Directorate of Security amendment and abrogation (Art. 13, 16, Additional Art. 24, Additional Art. 31, Additional Art. 36)
694 Art. 21	Law no. 6136 on Firearms, Knives and other Instruments, amendment Art. 6. para. 1
694 Art. 24-30	Law no. 657 on Civil Servants, amendment (Art. 36, 43, 80, 96, 152, 178 and Additional Art. 29)
694 Art. 60-78	Law no. 2937 on State Intelligence Services and National Intelligence Organization, amendment and abrogation (Art. 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 19, 20, 21, 24, 26, 27, 29, 32, Temporary Art. 5)
694 Art.169-171	Law on Foreigners and International Protection, amendments (Art. 3, 98, 102, 108)
JUDICIARY SYSTEM	
671 Art. 32	Law no. 5275 on the Execution of Punishment and Security Measures, addition (Additional Temporary Art. 6)
674 Art.3-6, 8	Law no. 2659 on Legal Medicine Institution, amendment (8, 22, 29, 30, Temporary Art. 5, Temporary Art. 6)
674 Art.9-12	Law no. 5235 on the Structure and Duties of First Instance Judiciary Courts and District Courts amendment (Art.34, 35, 40, 41)
674 Art.13-15	Law no. 5271 on Criminal Procedure Code, amendment (Art.128, 277, 278, 280, 297)
674 Art. 16-17	Law no. 5275 on the Execution of Punishment and Security Measures, amendment (Art.92, Temporary Art. 7)
674 Art.18	Law no. 6100 on Legal Procedures, amendment (Art.344)
676 Art. 1-3	Law no. 5271 on Criminal Procedure Code, amendment (Art.149,151,154,178,188)
676 Art. 4-5	Law no. 5235 on the Structure and Duties of First Instance Judiciary Courts and District Courts amendment (Art. 178 and 188)
676 Art.6	Law no. 5275 on the Execution of Punishment and Security Measures, addition and amendment (Art.59)
676 Art.7	Law no. 2992 on the Revision of the Executive Decree on the Ministry of Justice's Structure and Duties addition of Temporary Art. 10
676 Art. 90	Law no. 3713 on Counterterrorism, amendment (Art.20,21, Temporary Art. 16)
680 Art. 1	Law no. 357 on Military Judges, amendment to Art. 28
680 Art. 2-5	Law no. 2797 on Supreme Court of Appeal amendment and abrogation (Art. 7,14, 15, 46)
680 Art. 6-8	Law no. 2802 on Judges and Prosecutors, abrogation of certain phrases in Art. 9/A para. 5, amendments to Art. 93. para. 1. and addition of "Temporary Art. 20"
680 Art. 9-13	Law no. 5271 on Criminal Procedure Code amendments (Art. 161, 172, 173, 247, 248).
680 Art.14	Law no. 6087 on High Council of Judges and Prosecutors, amendment to Art. 38. para. 7 and 8.
680 Art. 15	Law no. 6216 on the Foundation and Rules of Procedure of the Constitutional Court, amendment to Art. 17. para. 2
684 Art. 10-11	Law no. 6749 on Revision of the Executive Decree on the Measures to be Taken Under the State of Emergency, amendment to Art. 6. para. 1; Law no. 6755 on Revision of the Executive Decree on the Measures to be Taken Under the State of Emergency and Revision of Executive Decree on Amendments Concerning Certain Agencies and Institutions, amendment of Art. 3. para. 1. and addition of "Temporary Art. 1"
685 Art. 1-15	Executive Decree on the Foundation of State of Emergency Measures Review Commission (the commission, its powers, procedures, control, application procedures)
690 Art. 1	Law no. 2576 on the Foundation and Duties of the District Administrative Courts, Administrative Courts and Tax Courts, addition of Art. 3/I
690 Art. 2	Law no. 2797 on Supreme Court of Appeal, rephrasing of Art. 46 abrogated para. 6

CATEGORY EXECUTIVE DECREE LEGISLATION CONCERNED	
690 Art. 3	Law no. 5235 on the Structure and Duties of First Instance Judiciary Courts and District Courts, addition of paragraphs to Art. 47
690 Art.4	Law no. 5490 on Population Services, addition of Art. 27/A after Art. 27.
690 Art. 5	Law no. 6087 on High Council of Judges and Prosecutors, amendment and addition to Art. 38. para 9.
690 Art. 6	Law no. 6458 on Foreigners and International Protection, addition of “Additional Art. 1”
690 Art. 52-57	Executive Decree 685 on the Foundation of State of Emergency Measures Review Commission, additional provisions
691 Art. 6	Law no. 1512 on Public Notaries, addition of clause to Art. 7 para. 2
691 Art. 7	Law no. 3713 on Counterterrorism addition of clauses to Additional Art. 20/A, and amendment to para. 1.
691 Art. 9	Law no. 6325 on the Settlement Through Arbitration of Legal Disputes additional clause to Art. 20. para 2.
691 Art. 10	Law on Expert Witnesses, additional clause to Art. 10. para 1.
694 Art. 8-9	Law no. 2004 on Execution and Bankruptcy, addition of clauses to “Temporary Art. 13” and Art. 42
694 Art.10-11	Law no. 2313 on the Supervision of Narcotic Drugs, addition of clauses to “Additional Art. 2” and Art. 23
694 Art. 17-18	Law no. 3533 on the Settlement Through Arbitration of Legal Disputes Among Departments with General, Annexed or Special Budgets, Municipalities and Departments or Institutions Whose Capital Belongs to the State or Municipalities or Special Administrations, amendment of Art. 6. and addition of “Temporary Art. 4”s
694 Art. 31-37	Law no. 926 on Turkish Armed Forces Personnel, rephrasing of the abrogated Art. 46, additions and amendments to Art. 54, 113, 143 and Temporary Art. 43., and addition of three Temporary Articles
694 Art. 48	Law no. 2659 on Legal Medicine Institution, amendment to Temporary Art. 7
694 Art. 79-82	Law no. 2992 on the Revision of the Executive Decree on the Ministry of Justice’s Structure and Duties, addition to Art. 8., and addition of the “Additional Art. 5” and “Art. 13/C”
694 Art. 136	Law no. 5235 on the Structure and Duties of First Instance Judiciary Courts and District Courts, addition of Additional Art. 1
694 Art. 137-139	Law no. 5237 on Turkish Criminal Code, additions and amendments to Art. 188, 190 and 228.
694 Art. 141	Law no. 5271 on Criminal Procedure Code, addition to Art. 102. para 2.
694 Art. 142-149	Law no. 5271 on Criminal Procedure Code, additions and amendments to Art. 64, 102, 139, 140, 142, 158, 161, 196 and 216, addition of “Temporary Art. 3”
694 Art. 150-151	Law no. 5275 on the Execution of Punishment and Security Measures, amendment to Art. 7. para. 1. and addition of “Temporary Art. 8”
694 Art. 152	Law no. 5320 on the Effect and Application of the Criminal Procedure Code, addition of clause to Art. 16
694 Art.160	Law no. 6087 on High Council of Judges and Prosecutors, addition of “Temporary Art. 7”
694 Art. 161	Law no. 6100 on Legal Procedures, amendment of para. 2. clauses “ç, d, e” as “d, e, f”
694 Art. 172	Law on Foreigners and International Protection, addition of sub-clause to Art. 108. para 1. clause (ğ)
694 Art. 197-201	Executive Decree 685 on the Foundation of the State of Emergency Measures Review Commission, additions and amendments to Art. 4, 10, 11 and 12., addition of a clause to Additional Art. 1. para 1.
ADMINISTRATIVE STRUCTURE	
Central and Peripheral State Organization	
694 Art. 202	Establishment of the Sultanhanı district and municipality in the province of Aksaray, and the relevant amendment to Annex list (8)
674 Art. 22	Law no. 5442 on Provincial Administration, addition of para. to Art. 11 para (H)
674 Art.34-36	Law no. 2918 on Highway Traffic addition, abrogation and amendments to Art. 7. and 28/A, addition of “Temporary Art. 10”



CATEGORY EXECUTIVE DECREE LEGISLATION CONCERNED	
676 Art.32-35	Law no. 5018 on Public Finance Management and Control, amendment, abrogation and additions to Art. 27, 28, 35 and 53
676 Art.69	Law no. 5018 on Public Finance Management and Control, abrogation of Art. 11. para 1. clause 2
676 Art.71	Executive Decree 659 on Provision of Legal Services in Public Administrations under the Central Budget, and Administrations with Special Budget, amendment of Art. 2. para 1. clause (e)
Local Government	
674 Art.38-40	Law no. 5393 on Municipalities, addition of clauses to Art. 45 and 57, and addition of "Temporary Art. 9"
678 Art. 11	Law no. 5393 on Municipalities, addition of clauses to Art. 75
EDUCATION	
National Education	
668 Art. 4 (6)	Executive Decree 652 on the Foundation and Duties of the Ministry of National Education, addition of "Additional Art. 4". In the Executive Decree 668, Art. 4 entitled "Amended and Abrogated Provisions" in lists the amendments to various laws. See Article 4 (6)
674 Art. 1	Law no. 6721 on Turkey Maarif Foundation additions to Art. 4. para. 1
674 Art. 2	Executive Decree 652 on the Foundation and Duties of the Ministry of National Education, addition of "Temporary Art. 11"
676 Art. 77-79	Law no. 5580 on Private Education Institutions, additions to Art. 2 para 1. and addition of "Additional Art. 2" and "Temporary Art. 6"
676 Art. 80	Executive Decree 652 on the Foundation and Duties of the Ministry of National Education additions to Additional Art. 4. para. 2
676 Art.81-83	Law no. 6721 on Turkey Maarif Foundation, amendment to Art. 2. para 3.; addition of a clause to Art; addition of "Additional Art. 1"
678 Art. 34	Law no. 5580 on Private Education Institutions, amendment and additions to Additional Art. 2.
687 Art. 5-6	Law no. 5580 on Private Education Institutions amendment and additions to Art 2. and 5.
687 Art. 12	Executive Decree 652 on the Foundation and Duties of the Ministry of National Education, abrogation of Art. 12. para 1 clause (d)
694 Art. 183	Executive Decree 652 on the Foundation and Duties of the Ministry of National Education, amendment to Art. 43. para. 3.
Higher Education	
674 Art. 49	Law no. 2547 on Higher Education, addition of Additional Art. 30
676 Art.84-86	Law no. 2547 on Higher Education, abrogation and amendments to Art. 8 and 13., and addition of "Temporary Art. 72"
678 Art. 23-24	Law no. 2547 on Higher Education, amendment to Art. 11. and addition of "Temporary Art. 73"
690 Art. 64-65	Law no. 2547 on Higher Education amendment of Art. 64 para. 2, and addition of "Additional Art. 31"
694 Art.44-45	Law no. 2547 on Higher Education amendment of Art. 2 para. 2, and addition of "Additional Art. 39"
694 Art. 19-20	Law no. 5661 on Higher Education Dorms and Cafeterias, addition of clauses to Art. 1 and addition of "Temporary Art. 5"
ECONOMY	
674 Art. 17	Law no. 5275 on the Execution of Punishment and Security Measures, addition of "Temporary Art. 7"
674 Art. 19-20	Provision on the powers of special administrators and the powers of SDIF

<b>CATEGORY EXECUTIVE DECREE LEGISLATION CONCERNED</b>	
678 Art. 26	Law no. 4447 on Unemployment Insurance addition of “Temporary Art. 16”
678 Art. 27	Law on the Foundation of the Turkish Development Bank Inc., addition of “Additional Art. 1”
678 Art. 28-29	Law no. 4706 on the Use of Real Estate Belonging to the Treasury and the Amendment of the Law on the Value Added Tax, amendments and additions to Additional Art. 2. para 5. and 6.; and addition of “Temporary Art. 20”
678 Art. 30-32	Law no. 4734 on Public Tenders, additions to Art. 11 and additions of “Additional Art. 9” and “Temporary Art. 17”
678 Art. 33	Law no. 5411 on Banking, amendments and additions to Art. 134.
678 Art. 36	Executive Decree 375, additions to Additional Art. 16
678 Art. 37	Provision on collaterals by companies where SDIF has been appointed as special administrator
680 Art. 77	Law no. 6132 on Horse Races, addition of “Additional Art. 2”
680 Art. 81	Law no. 6758 on the Revision of the Executive Decree on Certain Measures under the State of Emergency, amendment to Art. 19
680 Art. 82	Executive Decree 320 on the Foundation and Duties of the National Lottery Company General Directorate, amendment to Art. 2
684 Art. 2-3	Law no. 4734 on Public Tenders, amendments to Art 3. and 11, and addition of “Temporary Art. 18”
684 Art. 5	Law no. 5411 on Banking 143. addition of clause
684 Art. 6-7	Law no. 5682 on Passports no. 6362 on Capital Markets, amendment to Art. 92 and addition of clause to Art. 94.
684 Art. 8	Law no. 6502 on Protection of Consumers, amendment to Art. 45
684 Art. 9	Law no. 6741 on the Foundation of the Turkish Wealth Fund Inc. and Revision of Certain Laws, additions to Art. 4
687 Art. 3	Law no. 4447 on Unemployment Insurance addition of “Temporary Art. 17” and “Temporary Art.18”
687 Art. 4	Law no. 5411 on Banking 160. addition of clause
690 Art. 73	Law no. 6758 on the Revision of the Executive Decree on Certain Measures under the State of Emergency additions to Art. 19.
690 Art. 66-67	Law no. 6362 on Capital Markets, addition of Art. 61A and addition of clause to Art. 99
690 Art. 68-71	Law no. 6493 on Law on Payment and Securities Reconciliation System, Payment Services and Electronic Money Corporations, addition of clause after Art. 13. para. 1. clause, listing the provisions covering the companies established thereby
694 Art. 83	Law no. 3065 on Value Added Tax, addition of the phrase Ministry of Justice after Ministry of National Defense to Article 13. para 1. clause f
694 Art. 131	Law no. 4760 on Special Consumption Tax additions to Art. 7. para 1
694 Art. 134	Law no. 5174 on TOBB, amendment to Art. 83
694 Art.132	Law no. 5018 on Public Finance Management and Control additions to Art. 24. para 4.
694 Art.162-163	Turkish Commercial Code, amendment and additions to Art. 24 and 25
694 Art. 180	Law no. 6758 on the Revision of the Executive Decree on Certain Measures under the State of Emergency, addition of clauses to Art. 19
694 Art. 195-196	Executive Decree 678 on Certain Measures under the State of Emergency, amendment to Art. 37. para. 1. and addition of “Temporary Art. 1”
<b>SOCIAL SECURITY, SOCIAL POLICY</b>	
676 Art.76	Executive Decree 663 on the Foundation and Duties of the Ministry of Health and Associated Agencies, addition of Art. 45/A

CATEGORY EXECUTIVE DECREE LEGISLATION CONCERNED	
678 Art. 35	Law no. 6356 on Trade Unions and Collective Bargaining, Amendment
680 Art. 29	Law no. 5434 on Turkish Republic Retirement Fund, amendment to Art. 56
681 Art. 73-85	Law no. 5510 on Social Security and General Health Insurance, amendments to Art. 3, 61, 63, 65, 66, 67, 69, 70, 73, 80, 87 and 88
684 Art. 1	Law no. 3713 on Counterterrorism, addition of “Additional Art.3” and “Temporary Art. 17”
674 Art. 51	Law no. 3713 on Counterterrorism, addition to Additional Art. 1.
690 Art. 27-29	Law no. 442 on Villages, addition to Art. 74, abrogation of Additional Art. 16 and 17, and addition of “Temporary Art. 4”
690 Art. 32-33	Law no. 2108 on Mukhtars’ Salaries and Social Security, additions and amendments to Art. 1. para 3, and Art. 4. para 1
690 Art. 34	Law no. 5335 on the Amendment of Certain Laws and Executive Decrees, addition of Art. 30 para 4. clause (k)
690 Art. 37	Law no. 5510 on Social Security and General Health Insurance, amendment and additions to Art. 40
694 Art. 86	Law on Counterterrorism, abrogation of Art. 21. para 1. clause i
694 Art. 86	Law no. 3713 on Counterterrorism, amendment to Art. 21. para. 1. clause b sentences 1 & 2
694 Art. 153-154	Law no. 5510 on Social Security and General Health Insurance, addition to the chart in Art. 40. para. 2 and addition of phrase to Art. 67. clause 1.
694 Art. 184-194	Executive Decree 663 on the Foundation and Duties of the Ministry of Health and Associated Agencies, amendments and addition of clauses to Art. 7, 23, 25, 35, 42 and 51.
PUBLIC PERSONNEL REGIME	
676 Art.75	Law no. 657 on Civil Servants, additions to Art. 48 para 1. and Art. 125. pars 1
680 Art. 83	Executive Decree 375 addition of para ‘ç’ to Art.28
680 Art. 85	Executive Decree 399 addition to Art. 45 para. 1
690 Art. 75	Executive Decree 375 amendment to Additional Art. 9. para 9
694 Art. 7	Law no. 1700 on Interior Civil Servants, addition of “Temporary Art. 4”
694 Art. 85	Law no. 3359 on Basic Health Services, addition of “Additional Art. 17”
THE MEDIA	
680 Art. 16-21	Law no. 2954 on Turkish Radio and Television, amendments to Art. 50
687 Art. 7-9	Law no. 6112 on the Foundation and Broadcasting Services of Radios and TVs, additions and amendments to Art. 3. and 26
687 Art. 11	Law no. 6758 on the Revision of the Executive Decree on Certain Measures under the State of Emergency, amendment to Art. 20. para. 1. and addition of clause to same Art.
690 Art. 58-62	Law no. 6112 on the Foundation and Broadcasting Services of Radios and TVs, additions and amendments to Art. 2, 6, 8, 32 and 37
OTHER	
680 Art. 39-40	Law no. 2521 on the Manufacturing, Purchase, Sale and Possession of Rifles, Handguns and Knives for Hunting and Sports, amendments to Art. 12 and 13
680 Art. 80	Law no. 5490 on Population Services, rephrasing of Art. 49. abrogated para. 3
687 Art. 10	Law no. 298 on the Basic Provisions for Elections and Voter Records, abrogation of Art. 149/A
690 Art. 63	Law no. 1322 on the Publication, Announcement and Date of Effect of Laws and Regulations, addition of “Additional Art. 1”
690 Art. 74	Law no. 6758 on the Revision of the Executive Decree on Certain Measures under the State of Emergency, amendment to Art. 45. para 1

CATEGORY EXECUTIVE DECREE LEGISLATION CONCERNED	
694 Art. 23	Law no. 7258 on Betting and Chance Games for Soccer and Other Sports Games, addition of clause to Art. 5
694 Art. 43	Law no. 2521 on the Manufacturing, Purchase, Sale and Possession of Rifles, Hanfguns and Knives for Hunting and Sports, amendments to Art. 13
694 Art. 59	Law no. 2918 on Highway Traffic, addition to Art. 35. para 5
694 Art. 133-134	Law no. 5174 on TOBB and Chambers and Commodity Exchanges, amendment to Ar. 78 and 83
694 Art. 169-172	Law no. 6458 on Foreigners and International Protection, additions and amendments to Art. 3, 98, 102 and 108.
694 Art. 175-176	Law no. 6754 on Expert Witnesses, amendments to Art. 6. and 12. whose content is not provided for
694 Art. 181-182	Executive Decree 375, addition and amendments to Art. 28.
PROVISIONS ON VARIOUS MEASURES	
667 Art. 6	New provisions on prosecution and investigation procedures, and limitations of the right to defense counsel, equality of arms, immediateness; restriction of prisoners' right to visit and communication
667 Art. 9	Aministrative, criminal, legal and financial impunity for those taking decisions and action as per executive decrees
667 Art. 10	Ban on suspension of execution verdicts for actions under the scope of the Executive Decree 667
668 Art. 3	New provisions on prosecution and investigation procedures, and limitations of the right to defense counsel, equality of arms, immediateness
668 Art. 37	Administrative, criminal, juridical and financial impunity for those who participated in the suppression of the coup attempt, took decisions to this end, or took decisions or action as per the state of emergency executive decrees
668 Art. 38	Ban on suspension of execution verdicts under state of emergency
668 Art. 4-8	Amendments to the executive decree 667 on the measures taken under the state of emergency
668 Art. 37-38	Aministrative, criminal, legal and financial impunity for those taking decisions and action as per executive decrees, and ban on suspension of execution verdicts concerning executive decrees
669 Art. 4	Law no. 2004 on Execution and Bankruptcy, amendment of Art. 179 banning demands for bankruptcy postponements
670 Art. 5	Provisions concerning the debt, liabilities and assets of institutions, establishments, private radio and TV stations, newspapers, magazines, publishing houses, etc., closed down by executive decrees, and the powers granted to the Ministry of Finance and General Directorate of Foundations in this respect
671 Art. 31	Law no. 3713 on Counterterrorism addition of 20/A
673 Art. 10	Some amendments and additions to previous executive decrees. For instance, an amendment of executive decree 669 stipulating that courts cannot postpone bankruptcies during the state of emergency
673 Art.6	The one month period for initiation of retirement as provided by Law No. 5510 on Social Security and General Health Insurance, Article 48, second paragraph does not apply during the state of emergency
673 Art. 9	As per the Law on the Structure and Duties of the Ministry of Labor and Social Security dated 9/1/1985 and numbered 3146, Article 12, para 1, clauses (l) and (m), the occupational safety-related powers of individuals, institutions and agencies which have links to terrorist organizations, shall be canceled upon the suggestion of the commission to be formed by the Ministry and the approval of the Ministry.
673 Art. 10	Addition to Article 5 of Executive Decree 667: "Passports of the spouses of individuals who are reported to the passport departments as per the first paragraph may also be canceled by the Ministry of Interior on the same date, if deemed necessary for general security purposes"
673 Art. 4	Dismissal of students with links to FETÖ / PDY who have been sent abroad as per Law no. 1416: their diplomas will not be valid in Turkey and they cannot benefit from associated rights

CATEGORY EXECUTIVE DECREE LEGISLATION CONCERNED	
674 Art.19-20	Transfer of the special administrator authority, and the Savings Deposit Insurance Fund's powers concerning sales and liquidation
675 Art.5	Broadcasting companies closed down or deprived of their license
675 Art.6	The cancellation of the procedures of contracted or commissioned officers, as well as noncommissioned officers being appointed to the force command
675 Art.8	Exemption from criminal liability for those who extended funds, loans, etc. to natural or legal persons not affiliated to FETÖ / PDY.
675 Art.9	A special administrator shall be appointed to manage the shares of natural and real persons with a less than 50% stake at companies affiliated with FETÖ / PDY
675 Art.10	Civil servants dismissed from public office or students dismissed from universities lose the state warranty for their prepaid salaries and obligatory services
675 Art.11	Special administrators and managers assigned to the closed institutions have been exempted from any liabilities and obligations associated with these institutions
675 Art. 12	If institutions and organizations with links to terror after 1/1/2014 have been transferred to third parties, such transactions will be deemed null and void
677 Art. 7	The powers of any special administrators appointed to companies previously have been terminated, and SDIF has taken over such companies.
678 Art. 37	The warranties for companies where SDIF has been appointed as special administrator
679 Art. 1	Measures concerning public personnel
679 Art. 2	Measures concerning retired police officers
679 Art. 3	Measures concerning reinstatements
679 Art. 4	Those studying abroad
679 Art. 5	Companies closed down or deprived of their license
679 Art. 6	Additions or amendments to measures taken with previous executive decrees
679 Art. 7	Date of effect
681 Art. 99	Date of effect
683 Art. 4	Those suspended for links to terror organization cannot take associate professorship exams until the ongoing investigation is finalized, and the exams of those dismissed will be cancelled
683 Art.5	Courts cannot demand the administration to pay the trial expenses or attorney fees in files brought against the administration concerning publicly-held partnerships and capital market institutions subjected to various measures for links to terrorist organizations,
683 Art. 7	Provision stipulating that no board of directors approval is necessary for files brought against the managers of special administrator-run companies, and that shares and partnerships cannot be transferred in case the special administrators brings personal liability suits against the managers of such companies, while the trial lasts
686 Art. 4	Provision invalidating all transfers and acquisitions of shares and rights of companies managed by special administrators, carried out between the date when an inquiry has been started until the date of effect of this article
687 Art. 1	Confiscated companies, partnership shares and assets: Companies to which a special administrator was appointed as per Law no. 5271 on Criminal Procedure, Article 133 and where the special administration power has been transferred to the Savings Deposit Insurance Fund as per Law no. 6758 on the Revision of the Executive Decree on Certain Measures under the State of Emergency, Article 19
689 Art. 1	Measures concerning public employees (such as dismissal from public office, termination of management, ban on the use of authority titles, cancellation of passports, etc.) for membership, connection or association with structures, formations or groups deemed to constitute a threat against national security,
689 Art. 2	Those who shall be reinstated to public office,
689 Art. 3	Measures on various agencies and institutions
689 Art.. 4	Those studying abroad as per the Law no. 1416 on Students To Be Sent Abroad for Study



<b>CATEGORY EXECUTIVE DECREE LEGISLATION CONCERNED</b>	
689 Art. 5	Addition of the phrase 'or other terror organizations' after the phrase 'FETÖ / PDY'
690 Art. 25	Law no. 6749 on Revision of the Executive Decree on the Measures to be Taken Under the State of Emergency, amendment to Art. 5. para 1
690 Art. 72	Law no. 6749 on Revision of the Executive Decree on the Measures to be Taken Under the State of Emergency, addition of clause to Art. 4
690 Art. 76	Date of effect
694 Art. 203	As of its date of effect; abrogation of Law no 1632 Military Penal Code, Art. 39, Law no. 357 on Military Judges, Law no. 1600 on Military Court of Appeals, Law no. 1602 on Military High Administrative Court and articles of some other laws

