



Strasbourg, 22 July 2016

Ref : JJ8187C
Tr./005-191

NOTE VERBALE

The Secretariat General of the Council of Europe (Treaty Office) presents its compliments to the Ministry of Foreign Affairs and has the honour to enclose a copy and a translation of a Note verbale from the Permanent Representation of Turkey to the Council of Europe, dated 21 July 2016 and transmitted to the Secretary General of the Council of Europe on 21 July 2016, concerning Article 15 of the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5).

This information is transmitted in pursuance of Resolution (56) 16 of the Committee of Ministers.

The Secretariat General of the Council of Europe (Treaty Office) avails itself of this opportunity to renew to the Ministry the assurances of its highest consideration.

Encl.



Note to all member States.
Copy Turkey.

COPY (*)

Annex to the Notification JJ8187C Tr./005-191
dated 22 July 2016
ETS No. 5 - Article 15

PERMANENT REPRESENTATION OF TURKEY
TO THE COUNCIL OF EUROPE

Strasbourg, 21 July 2016

Dear Secretary General,

I communicate the following notice of the Government of the Republic of Turkey.

On 15 July 2016, a large-scale coup attempt was staged in the Republic of Turkey to overthrow the democratically-elected government and the constitutional order. This despicable attempt was foiled by the Turkish state and people acting in unity and solidarity. The coup attempt and its aftermath together with other terrorist acts have posed severe dangers to public security and order, amounting to a threat to the life of the nation in the meaning of Article 15 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

The Republic of Turkey is taking the required measures as prescribed by law, in line with the national legislation and its international obligations. In this context, on 20 July 2016, the Government of the Republic of Turkey declared a State of Emergency for a duration of three months, in accordance with the Constitution (Article 120) and the Law No. 2935 on State of Emergency (Article 3/1b). The English translation of relevant articles of the Turkish Constitution and the Law No. 2935 on State of Emergency, as well as the decision No. 2016-9064 of the Council of Ministers, are attached to this letter.

The decision was published in the Official Gazette and approved by the Turkish Grand National Assembly on 21 July 2016. Thus, the State of Emergency takes effect as from this date. In this process, measures taken may involve derogation from the obligations under the Convention for the Protection of Human Rights and Fundamental Freedoms, permissible in Article 15 of the Convention.

I would therefore underline that this letter constitutes information for the purposes of Article 15 of the Convention. The Government of the Republic of Turkey shall keep you, Secretary General, fully informed of the measures taken to this effect. The Government shall inform you when the measures have ceased to operate.

Please accept, Mr Secretary General, the assurances of my highest consideration.

(signed) **Erdoğan İşcan**
Ambassador
Permanent Representative

Mr Thorbjørn JAGLAND
Secretary General
of the Council of Europe
Strasbourg

(*) *Declaration registered by the Secretariat General on 21 July 2016 - Or. Engl.*

TRADUCTION (*)

Annexe à la Notification JJ8187C Tr./005-191
du 22 juillet 2016
STE n° 5 - Article 15

LA REPRESENTATION PERMANENTE DE LA TURQUIE
AUPRES DU CONSEIL DE L'EUROPE

Strasbourg, le 21 juillet 2016

Je communique la notification suivante du Gouvernement de la République de Turquie.

Le 15 juillet 2016, une tentative de coup d'Etat de grande envergure a été organisée dans la République de Turquie pour renverser le gouvernement démocratiquement élu et l'ordre constitutionnel. Cette tentative ignoble a été déjouée par l'Etat turc et des personnes agissant dans l'unité et la solidarité. La tentative de coup d'Etat et ses conséquences ainsi que d'autres actes terroristes ont posé de graves dangers pour la sécurité et l'ordre public, constituant une menace pour la vie de la nation au sens de l'article 15 de la Convention de sauvegarde des Droits de l'Homme et des Libertés fondamentales.

La République de Turquie prend les mesures nécessaires prévues par la loi, conformément à la législation nationale et à ses obligations internationales. Dans ce contexte, le 20 juillet 2016, le Gouvernement de la République de Turquie a déclaré un état d'urgence pour une durée de trois mois, conformément à la Constitution (article 120) et la Loi n° 2935 sur l'état d'urgence (article 3/1b). La traduction anglaise des articles pertinents de la Constitution turque et la Loi n° 2935 sur l'état d'urgence, ainsi que la décision n° 2016-9064 du Conseil des ministres, sont joints à cette lettre.

La décision a été publiée au Journal Officiel et approuvée par la Grande Assemblée Nationale turque le 21 juillet 2016. Ainsi, l'état d'urgence prend effet à compter de cette date. Dans ce processus, les mesures prises peuvent impliquer une dérogation aux obligations découlant de la Convention de sauvegarde des Droits de l'Homme et des Libertés fondamentales, admissible à l'article 15 de la Convention.

Je voudrais donc souligner que cette lettre constitue une information aux fins de l'article 15 de la Convention. Le Gouvernement de la République de Turquie vous gardera, Monsieur le Secrétaire Général, pleinement informé des mesures prises à cet effet. Le Gouvernement vous informera lorsque les mesures ont cessé de s'appliquer.

Je vous prie, Monsieur le Secrétaire général, d'agréer l'assurance de ma haute considération.

(signé) **Erdoğan İscan**
Ambassadeur
Représentant Permanent

M. Thorbjørn JAGLAND
Secrétaire Général
du Conseil de l'Europe
Strasbourg

(*) *Déclaration enregistrée auprès du Secrétariat Général le 21 juillet 2016 - Or. angl.*

CONSTITUTION OF THE REPUBLIC OF TURKEY (EXTRACTS)

Articles 15, 119, 120 and 121 of the Constitution of the Republic of Turkey

IV. Suspension of the exercise of fundamental rights and freedoms

ARTICLE 15- In times of war, mobilization, martial law, or a state of emergency, the exercise of fundamental rights and freedoms may be partially or entirely suspended, or measures derogating the guarantees embodied in the Constitution may be taken to the extent required by the exigencies of the situation, as long as obligations under international law are not violated.

(As amended on May 7, 2004; Act No. 5170) Even under the circumstances indicated in the first paragraph, the individual's right to life, the integrity of his/her corporeal and spiritual existence shall be inviolable except where death occurs through acts in conformity with law of war; no one shall be compelled to reveal his/her religion, conscience, thought or opinion, nor be accused on account of them; offences and penalties shall not be made retroactive; nor shall anyone be held guilty until so proven by a court ruling.

III. Extraordinary administration procedures

A. States of emergency

1. Declaration of state of emergency because of natural disaster or serious economic crisis

ARTICLE 119- In the event of natural disaster, dangerous epidemic diseases or a serious economic crisis, the Council of Ministers meeting under the chairpersonship of the President of the Republic may declare a state of emergency in one or more regions or throughout the country for a period not exceeding six months.

2. Declaration of state of emergency because of widespread acts of violence and serious deterioration of public order

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

3. Rules regarding the states of emergency

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

The financial, material and labour obligations which are to be imposed on citizens in the event of the declaration of state of emergency under Article 119 and the manner how fundamental rights and freedoms shall be restricted or suspended in line with the principles of Article 15, how and by what means the measures necessitated by the situation shall be taken, what sorts of powers shall be conferred on public servants, what kinds of changes shall be made in the status of officials as long as they are applicable to each kinds of states of emergency separately, and the extraordinary administration procedures, shall be regulated by the Act on State of Emergency.

During the state of emergency, the Council of Ministers, meeting under the chairpersonship of the President of the Republic, may issue decrees having the force of law on matters necessitated by the state of emergency. These decrees shall be published in the Official Gazette, and shall be submitted to the Grand National Assembly of Turkey on the same day for approval; the time limit and procedure for their approval by the Assembly shall be indicated in the Rules of Procedure.

LAW No. 2935 OF 25 OCTOBER 1983 ON STATE OF EMERGENCY

Article 3 – Declaration of State of Emergency

The Council of Ministers assembled under the chairmanship of the President shall declare a state of emergency;

(a) Whenever there is in existence one or more natural disasters, dangerous epidemic diseases or serious economic crisis;

(b) whenever there appear serious indications resulting from widespread acts of violent which are aimed at destroying the free democratic order or fundamental rights and freedoms, or violent acts causing serious deterioration to public order, after consultation with the National Security Council,

in one or more regions or throughout the country for a period not exceeding six months.

The state of emergency decision shall be published in the Official Gazette and immediately be submitted for approval of the Turkish Grand National Assembly. If the Turkish Grand National Assembly is in recess, it shall be summoned to meet immediately. The Assembly may amend the duration of the state of emergency. On a request from the Council of Ministers, the Assembly may prolong the duration each time for a period not exceeding four months, or it may terminate the state of emergency.

The Council of Ministers after declaring a state of emergency in accordance with provision (b) above, shall also consult the National Security Council before making a decision on questions related to the prolongation of the duration, alternation of the scope, or the termination of the state of emergency.

The reasons for the decision to declare a state of emergency, its duration and scope shall be broadcasted on Turkish radio and television and, if the Council of Ministers deems it necessary, also disseminated through other media.

COUNCIL OF MINISTERS' DECISION No. 2016-9064

Decision no: 2016/9064

It has been decided on 20 July 2016 by the Council of Ministers that; pursuant to Article 120 of the Constitution and Article 3 § 1 (b) of the Law on the State of Emergency (Law no. 2935), a nationwide state of emergency be declared from Thursday, July 21, 2016 01:00 for a period of ninety days, taking into account the recommendation dated 20 July 2016, no. 498 of the National Security Council.

Recep Tayyip ERDOĞAN
President

Prime Minister and Members of the Cabinet