

LAW ON STATE OF EMERGENCY

FIRST SECTION

General Provisions

Purpose:

Article 1 – The purpose of this Law is to determine the provisions to be applied in cases of declaration of state of emergency and under states of emergency with its procedures under the following circumstances:

- a) Natural disaster, dangerous epidemics or severe economic depression,
- b) The emergence of serious manifestations of widespread acts of violence aimed at destroying the free democratic order established by the Constitution or fundamental rights and freedoms, or serious disruption of public order due to acts of violence.

Scope:

Article 2 - This Law involves the provisions as to how to restrict or suspend the fundamental rights and freedoms, how and in what way the necessary measures required by the state will be taken, what powers will be afforded to public service officials, what changes will be made in the status of officials and extraordinary administration procedures, as regards the monetary, property and labour obligations to be introduced for the citizens in cases of disaster, dangerous epidemics or severe economic crisis which are subject to the declaration of a state of emergency, and to be applied separately for each type of state of emergency.

Declaration of state of emergency

Article 3 – the President

may declare state of emergency in one or more regions or throughout the country for a period not exceeding six months after consultation with the National Security Council under following conditions: ⁽¹⁾

- a) when one or more of natural disasters, dangerous epidemics or severe economic depression is occurred,

¹By Article 84 of the Decree-Law no. 700 dated 2 July 2018, the expression of “the Committee of Ministers convened under the chairmanship of the President” in this paragraph was amended as “the President”.

b) when significant 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 appear or public order is seriously disrupted due to acts of violence.

The decision on the state of emergency shall be published on the Official Gazette and shall be submitted immediately to the Turkish Grand National Assembly for approval. If the Turkish Grand National Assembly is in recess, it shall be assembled immediately. The Assembly may alter the duration of the state of emergency. It may extend the period, for a maximum of four months each time, at the request of the President, or may lift the state of emergency. ⁽²⁾

The President shall consult with National Security Council before rendering decisions on extending its duration, altering its scope or lifting it after the declaration of the state of emergency pursuant to Article 3 § 1 (b) of this law. ⁽¹⁾

Reasons for the declaration of the state of emergency, its region and duration are announced via Turkish Radio and Television and other tools in cases where the President deemed necessary. ⁽¹⁾

Decree-Law: ⁽³⁾

Article 4- During state of emergency, the President may issue decree-laws on issues required by the state of emergency regardless of restrictions and procedures in Article 91 of the Constitution. These decree-laws shall be published in the Official Gazette and submitted to the Turkish Grand National Assembly on the same day for approval.

SECOND SECTION

Obligations and Measures to be taken

FIRST SECTION

The Obligations and Measures to be taken in Natural Disasters and Dangerous Epidemics

Article 5- In the event of a declaration of a state of emergency on account of natural disasters and dangerous epidemics; the money, which are needed and cannot be immediately provided, as well as all kinds of movable and immovable goods and works to be done to rescue the victims

² By Article 84 of the Decree-Law no. 700 dated 2 July 2018, the expression of “the Committee of Ministers convened under the chairmanship of the President” in this paragraph was amended as “the President”.

³(2) By Article 84 of the Decree-Law no. 700 dated 2 July 2018, the expression of “the Committee of Ministers convened under the chairmanship of the President” in this paragraph was amended as “the President”.

of the disaster and to compensate the damage and loss incurred shall be provided through monetary, goods and working obligations.

Monetary obligation

Article 6- In the event of a declaration of a state of emergency on account of natural disasters and dangerous epidemics, the necessary expenditures shall be primarily provided from the public resources and donations. In the event that sufficient money for the expenditure of urgent and vital necessities cannot be provided from public resources in a timely manner, the facilities of credit institutions in the region shall be utilized. In the implementation of monetary obligation, it shall be taken into account that the services and activities of the institutions shall not be hindered.

Goods obligation:

Article 7- Public institutions and organizations as well as legal and natural persons within the region where a state of emergency has been declared on account of natural disasters and dangerous epidemics shall be obliged to provide land, building lands, buildings, facilities, tools, equipment, food, medicine and medical equipment, clothing and other goods to be requested from them or imposed on an obligation. To this end; first of all, departments with general and annexed budget, the state economic enterprises and organizations and their affiliated establishments and local administrations in that region shall be applied. In cases where the needs are not sufficiently and in a timely manner fulfilled from these sources, the obligations shall be imposed on private organisations and natural persons in the region by taking into account their means and resources. If compulsory items such as food, clothing, tools, equipment, medicines and medical equipment cannot be provided within the regional boundaries, they shall be provided from the nearest regions by way of application of the provisions of this Law.

Obligation to work:

Article 8 - All citizens between the ages of 18 and 60 in regions where a state of emergency has been declared due to natural disasters and hazardous epidemics are obliged to carry out the work assigned to them due to the state of emergency. In assignments; the provisions of the labour law concerning the prohibition of employment, the age, sex, health, profession, occupation and social status of the persons to be employed, as well as the family and relatives in need of care, are taken into consideration. In meeting the needs of workers and in transferring

of workers between organizations, the Employment Agency is utilised. When deemed necessary, the daily working hours may be increased in day and night works of the workplaces, according to the nature of the works and the degree of need. The provisions of the Weekend Holiday Law, the Law on National Holidays and General Holidays, the Lunch Break Law may not be applied partially or completely. In the implementation of the obligation to work, the duties and services of the institutions and the professional activities of the obliged parties are taken into consideration.

Measures to be taken:

Article 9 – In the declaration of the state of emergency due to natural disasters and hazardous epidemics, the following measures may be taken, taking into account the issues which require the declaration of a state of emergency:

- a) Prohibiting settlement in certain parts of the region, restricting entry to and exiting certain settlements, evacuating certain settlements or transferring to other places,
- b) Suspending education in public and private education and training institutions of all degrees and closing student dormitories temporarily or indefinitely,
- c) Inspecting casinos, restaurants, beer houses, boozers, club houses, taverns, discotheques, bars, dancing, cinemas, theatres and similar entertainment venues, clubs and other game halls, hotels, motels, campings, holiday villages and similar accommodation facilities and determining their opening and closing time, limiting them, closing them when necessary and using these places according to the necessities of the state of emergency,
- d) Limiting or removing the annual leave of the personnel responsible for the execution of the emergency services in the region,
- e) Making use of all communication tools and equipment within the borders of the region and temporarily seizing them for this purpose, where necessary,
- f) Demolishing buildings that pose a danger, destroying movable and immovable properties and food items, as well as crops, that are harmful to public,
- g) Controlling, limiting or, where necessary, prohibiting certain food items, animals and animal feeds and animal products to be taken out of the area or to be brought into the region,
- h) Organising the distribution of essential items deemed necessary,

I) Taking the necessary measures for the production, sale, distribution, storage and trade of food items and goods and all kinds of fuels necessary for nutrition, heating, cleaning and lighting, as well as medications, chemicals, tools and other things used in the protection of health, treatment and medicine, goods and materials used in construction, industry, transport and agriculture, other goods, tools, equipment and all kinds of materials necessary for the public; seizing and controlling such places when necessary, and shutting down the workplace for those who refuse to sell, those who hide, smuggle, sell goods at excessive prices, stop or slow down the production of such goods, taking into account the manner or nature of the act committed, unless it is vital to do so with respect to the location of the workplace,

j) Taking measures regarding land, sea and air traffic, registering or prohibiting the entry and exit of transport vehicles to and from the region.

THIRD SECTION

Organs and Practice

PART ONE

Organs

Coordination:

Article 12 – (As amended on 21 April 1988 by Article 1 of the Law no. 3432)

In the declaration of the state of emergency, the coordination is provided by the Presidency or by the Deputy President or the ministry to be assigned by the President.⁴

For this purpose, the State of Emergency Coordination Board shall be established, which consists of the representatives of the ministries involved in the issue which caused the declaration of the state of emergency. In addition, a unit may be appointed for the same purpose within the central institutions of the ministries participating in this Board, or a special unit may be formed.

The establishment and working principles of the State of Emergency Coordination Board shall be indicated in the regulation to be issued.

The provisions of Article 10 shall be reserved in the declaration of the state of emergency due to the severe economic crisis.

State of emergency board and bureaus:

⁴ With Article 84 of the Decree Law no. 700 dated 2 July 2018, the expression “The Prime Ministry or ... to be assigned by the Prime Minister” was changed as “the Presidency or by the Deputy President ... assigned by the President”.

Article 13 - Reserving the duties of the organisations and units of the Governorships, in the regions where a state of emergency has been declared, a regional state of emergency board shall be established under the chairmanship of the regional governor in order to monitor, evaluate and make recommendations regarding the events requiring the declaration of a state of emergency and the implementation of the measures, in which the governors of the provinces to be appointed and the executives of other public institutions, the garrison commander or a representative to be appointed will participate as members.

If the regional governor deems it necessary or if a state of emergency is declared in a province, a state of emergency office shall be established in the provincial centres and districts. Provincial offices shall be chaired by the provincial governor or the deputy governor to be appointed by him, and district offices shall be chaired by district governors.

Except for the personnel working in the judiciary and administrative judiciary, as well as the military, public officials deemed appropriate by the chairpersons may be employed in these boards and offices with their own staff during the state of emergency.

The establishment, meeting, decision-making and operating procedures and principles of the emergency state boards and offices shall be determined by a regulation.

Implementation of the state of emergency:

Article 14 - Duties and authorities in the implementation of the state of emergency shall be undertaken by: a) The governor of the province, where the state of emergency includes one province,

b) The regional governor, where the state of emergency includes multiple provinces affiliated to the governorship of the region

c) The regional governors, where the state of emergency includes provinces falling under the jurisdiction of more than one regional governor or covers the whole country, with the coordination and co-operation to be provided by the Presidency ⁽⁵⁾,

The necessary procedures are carried out by such persons. Regional governors may delegate some or all of their duties and powers to the governors of the provinces in which a state of emergency has been declared.

⁵ (1) With Article 84 of the Emergency Legislative Decree no. 700 dated 2 July 2018, the phrase “by the Prime Ministry” in this sub-paragraph has been changed to “by the Presidency”.

Announcement and fulfilment of the obligation:

Article 15 - Announcements shall be made for general obligations by means of all kinds of publications, in writing for specific obligations when necessary, and in urgent cases, verbally to be confirmed later in writing. Upon this announcement, the obliged persons are obliged to deliver the money, movable and immovable property subject to the obligation to the officials within the prescribed time and in the requested manner, and if they are subject to working obligation, they must be ready to work on the specified day and time.

Determination and payment of the obligation:

Article 16 - A document shall be given to those concerned in return for the goods received or used and the works performed. Upon the application of people, who were obliged to provide goods and to work, to the relevant authorities with these documents, the price, rent, fee or compensation for the goods purchased or the work performed shall be determined and appraised by the emergency board or offices according to the local market or sales price and shall be paid in accordance with the procedure. In cases where payments are made with delay or in instalments, these receivables shall be paid together with their legal interest. Those concerned may apply to the judicial jurisdiction in accordance with the general provisions to the appraised object price, rent, fee or compensation.

Goods that would be taken temporarily:

Article 17 - Vehicles and other goods taken for a temporary period shall be returned to the persons concerned when the obligation expires. Article 16 and the matters relating to the implementation of this Article shall be set out in a regulation.

Return of properties belonging to public institutions:

Article 18 - Temporarily used movable and immovable property and non-consumed goods of general and supplementary budget departments, state-owned enterprises (kamu iktisadi devlet teşekkülleri) and organizations and their affiliated institutions and institutions belonging to local administrations shall be returned. No price, fee, rent or compensation shall be paid for these.

Exceptions:

Article 19 - Paragraphs (b), (d) and (e) of Article 9 and paragraph (c) of Article 11 of this Law shall not apply to judicial and military institutions, judges, prosecutors and military personnel.

In imposing obligations and taking measures, the privileges granted by international law to diplomatic missions and their members and the provisions on legislative immunity shall be reserved.

SECTION FOUR

Request for Help

Request for help in the event of natural disasters and epidemics/pandemics:

Article 20 - The regional governors in whose territories a state of emergency has been declared pursuant to sub-paragraph (a) of Article 3 § 1 of this Law shall have recourse to the governorships of the surrounding regions should it become apparent that the “Emergency Rescue and Relief Organisations” in their own administrative divisions will not be able to meet the need.

Regional governors may request assistance from the highest military command in the region in case of sudden and extraordinary events or until the assistance sent by the nearby regional governorships arrives.

The above-mentioned requests of the regional governor shall be fulfilled immediately by those concerned.

Request for force:

Article 21 - The regional governors in whose territories a state of emergency has been declared pursuant to sub-paragraph (b) of Article 3 § 1 of this Law shall endeavour to prevent and suppress any social disturbances and incidents that may arise in their regions with the forces under their command and the law enforcement forces allocated for this purpose.

However, if they are still unable to prevent incidents, or if they do not consider it possible to prevent them, or if they cannot implement the measures they have taken with these forces, or if they do not consider it possible to implement them, they shall have recourse to the governorships of the surrounding regions and request assistance to utilise the law enforcement forces of that region and the forces allocated for this purpose. In such a case, the Ministry of Interior shall be informed as well.

If all these measures are not deemed sufficient or in case of sudden and extraordinary events, the regional governor may request assistance from the highest military command in the region. The above-mentioned requests of the regional governor shall be fulfilled without delay by those concerned.

If the regional governor requests assistance from military units, the following provisions shall apply.

a) In cases of emergency, this request for assistance may be orally made, provided that it is subsequently submitted in the written form.

b) The military force, the size of which is determined by the military command and which is requested for possible incidents, shall be deployed at an appropriate place to deal with the incidents expeditiously, by also obtaining the opinions of the relevant provincial governor.

The military force, which is requested for sudden and extraordinary incidents, shall immediately perform the duties assigned by the regional governor, under the responsibility of its own commander and in accordance with his orders and instructions, by exercising the powers set out in the Internal Service Law of the Turkish Armed Forces and the powers held by the law enforcement officers in ensuring general security.

c) The principles concerning cooperation and coordination, order and command between the security forces and the military force sent for assistance shall be determined by the regional governor and the highest-ranking military commander in the region. However, where the security forces and the military unit sent for assistance perform certain duties together, the command and control shall be undertaken by the commander of the assigned military unit and the most senior commander of the military units.

(d) The expenses required by the circumstances where military force is used shall be made from the allowance included in the budget of the Ministry of Interior, without waiting for a payment order.

The provincial governors' requests for assistance and forces:

Article 22 - a) The governors of the provinces where a state of emergency has been declared in accordance with Article 3(1)(a) of this Law shall file a request for assistance by exercising their powers vested by the existing laws on these matters.

b) The governors of the provinces where a state of emergency has been declared in accordance with Article 3(b) of this Law shall make an effort to prevent and suppress the incidents and the possible social incidents together with the law enforcement officers under their command. Where the provincial governors are unable to prevent the incidents or do not consider it possible to prevent these incidents, or where they are unable to implement their measures with these forces or do not consider it possible to implement them, they shall apply to the regional governor to which they are affiliated. The law enforcement forces sent as assistance shall come under the command of the provincial governor.

The provincial governor may request the nearest military command to send assistance in case of sudden and extraordinary incidents or in order for it to perform duties until the forces to be sent by the regional governor arrive. The provincial governor shall also notify this situation to the regional governor and the Ministry of Interior.

The requests of the provincial governor, which are explained above, shall be fulfilled by the relevant authorities without delay.

Where the provincial governor requests assistance from the military units, provisions of Article 21 shall be applied. In this case, the duties and powers of the regional governor shall be performed by the provincial governors.

Power to use firearms:

Article 23 - Law enforcement forces, special law enforcement forces and members of the armed forces assigned following the declaration of a state of emergency shall be authorized to use weapons in the event that any of the conditions and circumstances requiring the use of weapons under the law are met in the performance of their duties.

In the event that a state of emergency is declared pursuant to subparagraph (b) of Article 3 of this Law, members of the security forces that shall be authorized to use weapons may fire directly and without hesitation at the target if the order to surrender is not obeyed or if there is an attempt to respond with weapons or if the security forces are acting in self-defense.

The provisions of paragraphs V and VI of Article 87 of the Turkish Armed Forces Internal Service Law No. 211 and the provisions of Article 3 of the Law No. 1481 on the Prevention of Certain Acts Interfering with Public Order shall apply to all personnel who use weapons. They shall also be investigated without detention.

Orders issued by the regional governor and the provincial governor pursuant to this article regarding the use of arms by the aforementioned officials to protect State authority and the security of life and property shall be announced by appropriate means.

FIFTH SECTION

Jurisdiction, Procedural and Penal Provisions

Jurisdiction and procedure in a state of emergency:

Article 24 - In places where a state of emergency has been declared, cases other than offenses falling within the jurisdiction of state security courts and military courts shall be tried in the judicial jurisdiction.

The investigation and prosecution of those who commit the offenses specified in this Law shall be carried out in accordance with the Law No. 3005 on the Legal Procedure on Flagrant Offences, regardless of the place and time.

Criminal provisions:

Article 25 – a) In the areas where a state of emergency is declared on account of natural disasters, dangerous epidemic diseases or severe economic crisis;

1. Persons who act contrary to the measures adopted by the regional governor or the provincial governor within the framework of the powers conferred by this Law or other laws, who do not obey the orders, who do not satisfy the requests, who intentionally give false information concerning their identities or who refrain from giving information in this regard shall be additionally punished by imprisonment for up to three months, even if their act constitutes another offence.

2. Persons who spread or convey unfounded and exaggerated rumours and news in such a manner as to arouse panic and excitement among the public for a special purpose shall additionally be punished by imprisonment for three months to one year and by a heavy fine of minimum five thousand Turkish liras, even if their act constitutes another offence. If the perpetrator commits the act in collusion with a foreigner, the term of imprisonment shall not be less than one year and the amount of heavy fine shall not be less than thirty thousand Turkish liras. If these offences are committed through the press and media outlets, the penalties to be imposed on the perpetrator and those responsible shall be doubled.

b) In the areas where a state of emergency is declared pursuant to Article 3 § 1 (b) of this Law;

1. Persons who act contrary to the measures adopted by the regional governor or the provincial governor within the framework of the powers conferred by this Law or other laws, who do not obey the orders, who do not satisfy the requests, who intentionally give false information concerning their identities or who refrain from giving information in this regard shall be additionally punished by imprisonment for one to six months, even if their act constitutes another offence.

2. The penalties to be imposed on persons who act contrary to subparagraph (a) (2) shall be doubled.

Article 26 – (repealed on 18 November 1992 by Article 31 of the Law no. 3842)

SIXTH SECTION

Various Provisions

Powers of local administrations

Article 27 - With the decisions rendered by the bodies of local administrations in cases required by the state of emergency, the regional governor may decide that all disposals or those relating to certain matters shall become effective upon his approval in the provincial center, or upon the approval of the provincial governor if he is appointed, and upon the approval of the district governors in the districts.

In the event that a state of emergency is declared in a province, the governor of the province shall be authorized to take such a decision.

Injury, disablement and death ⁶(1)

Article 28 - Principles and methods concerning the monetary compensation to be awarded and pension to be paid in case of death or disablement of persons assigned or obliged to work due their duties or their services even after the completion of their duties or injuries or illness they endured in the process and the monetary compensation to be awarded in case of injury in the process are calculated and paid in line with the provisions of the Law no. 2330 on Monetary Compensation and Pension Payments dated 3 November 1980.

Overtime pay: ⁷(1)

Article 29 - After the declaration of state of emergency, regardless of the public service, cadre grade and hour limitation, and having regard to the characteristics of the event and nature of the duty, overtime pay for every extra hour within the scope of overtime may be paid in line with the decision of the President in the amount and under the principles to be determined by the President. These payments are not subject to any tax, except for the stamp tax.

Provisions the Law on Allowances no. 6245 are reserved.

⁶ (1) With the amendment made by Article 1 of the Law no. 6462 dated 25 April 2013, the expression “getting handicapped” (sakatlanma) in the title, and the expression “getting handicapped” in the first paragraph (sakat kalmaları) were changed as “disablement” (engelli hâle gelmeleri).

⁷ (1) By Article 84 of the Decree-Law no. 700 dated 2 July 2018, the expression of “by the Committee of Ministers” in the first paragraph of this article was amended as “by the President” and the expression of “the Committee of Ministers” was amended as “the President”.

Allowance ⁸(2)

Article 30 - The President is entitled to increase general budget allowances up to 5% in order to cover the costs incurred within the scope of the state of emergency, the Ministry of Finance is entitled to register these allowances to the current or new arrangements of the budgets of administrations involved in the general budget and administrations with annexed budget and to take measures to ensure that these allowances are immediately used.

Announcement of decisions:

Article 31- Among the decisions issued in accordance with this Law, those obliged to be published or requested to be published by the competent authorities, shall be announced to public through Turkish radio and television, the Official Gazette as well as the press and media outlets of local administrations free of charge. The requests of competent authorities on publication shall be primarily fulfilled without delay.

Imposition of a disciplinary sanction:

Article 32 – The regional governor and, if assigned or already in charge, the provincial governor shall be authorised to directly impose and apply disciplinary sanctions of warning, reprimand and reduction in salary on all the personnel serving in the respective areas and subject to the Law on Civil Servants, except for judicial and military personnel, if they neglect or do not fulfil the duties entrusted to them by this Law or do not comply with the measures adopted, in view of the gravity of the situation and irrespective of whether such acts entail a disciplinary sanction in the disciplinary legislation applicable to them.

The regional governor and the provincial governor may impose a sanction of reduction in salary on the public officers falling outside the scope of the first paragraph and other officers, except for judicial and military personnel, by between one-thirtieth and one-eighth of their monthly gross salary on account of their aforementioned acts.

The fact that the decision on stay of execution shall not be delivered:

Article 33 – (As amended on 9 April 1990 by Article 4 of the Decree Law no: 413; As abolished on 9 May 1990 by Article 12 of the Decree-Law no:424.; As amended on 09 May

⁸ (2) By Article 84 of the Decree-Law no. 700 dated 2 July 2018, the expression of “the Committee of Ministers” in this article was amended as “the President”.

1990 by Article 2 of the Decree-Law no: 425; Annulled by the decision of the Constitutional Court dated 10 January 1991 with no. E.1990/25, K.1991/1.)

Regulation: ⁹

Article 34 - The regulation to be issued in accordance with the relevant Law shall be put into force by the President.

Additional Article 1- (it has been introduced by Article 2 of the Law no. 3076 dated 14 November 1984 and Article number continued accordingly). Amended on 09 April 1990 by Article 5 of the Decree-Law no:413; Abolished on 09 May 1990 by Article 12 of the Decree-Law no: 424; Amended on 09 May 1990 by Article 3 of the Decree-Law no:425; Annulled by the decision of the Constitutional Court dated 10 January 1991 with no. E.1990/25, K.1991/1).

Additional Article 2 – (Added on 9 April 1990 by Article 5 of the Decree-Law no:413; Abolished on 9 May 1990 by Article 12 of the Decree-Law no. 424)

Additional Article 3 – (Added on 9 April 1990 by Article 5 of the Decree-Law no: 413; Abolished on 9 May 1990 by Article 12 of the Decree-Law no. 424)

Additional Article 4 – (Added on 9 April 1990 by Article 5 of the Decree-Law no: 413; Abolished on 9 May 1990 by Article 12 of the Decree-Law no. 424)

Additional Article 5 – (Added on 9 April 1990 by Article 5 of the Decree-Law no:413; Abolished on 9 May 1990 by Article 12 of the Decree-Law no. 424)

Additional Article 6 – (Added on 13 April 1990 by Article 3 of the Decree-Law no:421 Abolished on 9 May 1990 by Article 12 of the Decree-Law no. 424)

Additional Article 2 – (Added on 18 May 1990 by Article 1 of the Decree-Law no:427; Abolished on 24 May 2007 by Article 12 of the Law no: 5668)

Additional Article 3 – (Added on 18 May 1990 by Article 1 of the Decree-Law no: 427; Abolished on 24 May 2007 by Article 12 of the Law no. 5668)

Provisional Article 1- (it is the provisional Article of the Law no. 2935 and Article number continued accordingly).

⁹ By Article 84 of the Decree Law no. 700 dated 2 July 2018, the expression "by being prepared under the coordination of the Ministry of Interior, with the participation of the relevant ministries and published in the Official Gazette within three months following the publication of the Law, the Council of Minister" in this Article has been amended as "the President".

The duties and powers granted to regional governors by this Law shall be performed by provincial governors until the regional governorship organisation is established and takes office.

Entry into Force:

Article 35 – This Law shall enter into force on the date of its publication.

Execution:

Article 36 – The provisions of the hereby Law shall be executed by the Council of Ministers.