

## INFORMATION ON THE TERRORIST ATTEMPT ON 15 JULY 2016 AND THE INVESTIGATIONS CONDUCTED AGAINST THE JUDGES AND PUBLIC PROSECUTORS

### 1. General information

The Fethullah Gülen Terrorist Organization ("FETÖ") is a terrorist organization founded by Fethullah Gülen and aiming to overthrow the Government of the Republic of Turkey or prevent it from performing its duties partially or completely by using force, violence or other illegal methods, to exert pressure on, undermine or direct the state authority, to create an alternative authority, and thus to seize the state authority.

In accordance with its aims, FETÖ is carrying out its activities as cell-type structures in various public institutions, particularly within the judicial institutions, the Turkish Armed Forces and Police. The public officials who are members of the organization use their positions and authorities, equipments and the personnel of the institution they work in line with the aims of the organization.

FETÖ has so far carried out a great number of illegal acts appearing to be legal. In this regard, the acts of the organization include wiretapping the communications of the politicians from the ruling and opposition parties, in particular the President, the Prime Minister, the members of the Government, businessmen and high-ranking bureaucrats and using them in line with the aims of the organization; ensuring the employment of the members of the organization in the public institutions by manipulating the entrance exams held by such institutions as well as ensuring the delivery of orders of release in respect of the detained members of the organization by other unauthorized judges who are members of the organization.

On 15 July 2016 FETÖ carried out a terrorist attempt under the leadership of its military members within the armed bureaucracy in order to overthrow the democratically-elected government of the Republic of Turkey. This foiled terrorist action is the most important act revealing the danger posed by FETÖ.

The members of FETÖ bombed the Turkish Grand National Assembly, the Office of the Presidency, and the public institutions using the helicopters, planes and tanks which they had seized by stabbing their commanders in the back. They also opened fire on the citizens who took to the streets in order to protest against the coup attempt.

The police, the public prosecutors, and other elements of the armed forces immediately took necessary measures to foil the attempt of the members of the terrorist organization to stage a coup outside the chain of command of the Turkish Armed Forces.

Above all, it was the Turkish nation who thwarted the plot. They displayed a historic solidarity as they took to the streets and remained defiant. They stood bravely in front of the tanks and stood by democratic order. The Turkish people are still continuing to stand guard of democracy in the streets and squares of all the cities, particularly Istanbul, Ankara and Izmir.

The terrorists tried to broadcast their message by taking over studios of the state TV (TRT) and raiding private media outlets. Yet the plotters' attempt to control the media did not last long. It must be noted that the Turkish media also played a key role in defeating the coup attempt. Moreover, they attacked the satellite control unit to block broadcasting of media outlets.

Throughout the process, all the political parties, the Members of the Turkish Grand National Assembly and the people stood firmly by democracy, democratic politics, democratic institutions and the Constitution. A Joint Declaration in defence of democracy was issued during the extraordinary meeting of the General Assembly on the 16<sup>th</sup> of July.

During the operations held within the scope of the investigations initiated following the terrorist attempt to stage a coup, more than 10,000 members of FETÖ have been taken into custody so far. The operations still continue. Some members of the organization whose statements had been taken within the scope of the investigations confessed that the terrorist attempt in question had been carried out by FETÖ<sup>1</sup>.

Unfortunately, more than 246 of our citizens and security officers, including very close friends of the President, were martyred and more than 2,500 were wounded as a result of the terrorist action.

Our President, our Prime Minister, our Government, the Members of the Turkish Grand National Assembly and the Turkish people all together defeated this coup attempt and stood by democracy and rule of law.

Although the coup attempt in question was lead by the members of FETÖ within the armed forces, there is strong suspicion that other members of the organization within the state bureaucracy supported the attempt in one way or the other. Furthermore, there is still a possibility of a new coup attempt.

Therefore, a state of emergency was declared across the country by the decree of the Council of Ministers in accordance with Article 120 of the Constitution upon the recommendation of the National Security Council to promptly defeat the terrorist organization with all its elements and to take the necessary steps in the most effective and expeditious manner for the purpose of eliminating this serious threat to democracy, rule of law and rights and freedoms of our people. This state of emergency came into effect on 21 July 2016 at 1 a.m. and will last for 90 days. It was approved by the

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<sup>1</sup> <http://www.hurriyet.com.tr/ve-orgeneral-akaran-yaveri-40155810>

Turkish Grand National Assembly during the extraordinary meeting held on 21 July 2016. The aim of that declaration is not to restrict the freedom of people but to enhance the efficiency and mobility of the Government.

Moreover, on 21 July 2016 the Secretary General of the Council of Europe was informed by the Turkish authorities that Turkey derogated from the European Convention on Human Rights ("the Convention") under Article 15 of the Convention since there is a general threat threatening the life of a nation.

## **2. Suspension of the judges and prosecutors from office and investigations conducted**

FETÖ has been especially organized within the judicial institutions for decades. By way of producing false evidence in the investigations into the issues such as Ergenekon initiated in 2007 and Balyoz and military espionage initiated thereafter, dismissal operations started against the persons that are not members of the organisation within the armed forces. It was found established by the judgments of the Court of Cassation that false evidence had been produced in those investigations. The power that FETÖ obtained in the judiciary due to the operations in question reached its peak with re-structuring of the High Council of Judges and Prosecutors in 2010. They infiltrated the Council and appointed members of the organisation were to critical positions in the judiciary.

On 7 February 2012 the judges and prosecutors that are the members of FETÖ unlawfully issued an arrest warrant in respect of the Undersecretary of the National Intelligence Organisation while the President scheduled a surgery operation and just about to undergo the operation. The judges and prosecutors initiating the investigations against the Government on 17-25 December 2013 are also the members of this organisation.

On the other hand, it was recommended to the Government by the Resolution of the National Security Council dated 30 October 2014 that FETÖ was an organisation to be fought against, and accepted by the Resolution of the National Security Council dated 29 April 2016 that FETÖ is a terrorist organisation. Furthermore, it was also pointed out in the indictments prepared as a result of various investigations conducted throughout the country that FETÖ is a terrorist organisation.

For these reasons, the relevant authorities had been carrying out researches in order to identify the members of FETÖ before the failed coup attempt. As a consequence of the terrorist act committed with the purpose of staging a coup on 15 July 2016, suspension procedures and disciplinary have been initiated with the purpose of removing the members of FETÖ terrorist organisation that infiltrated into the state bureaucracy, mainly the judicial institutions, through structuring as cells.

In this respect, on 16 July 2016 investigations have been initiated and arrest warrants have been issued in respect of the members of FETÖ in the High Council of Judges and Prosecutors, the Constitutional Court and the other high courts by the Chief Public Prosecutor's Office of Ankara and in respect of its members taking office as judges and prosecutors in court-houses by the relevant Chief Public Prosecutor's Office with the charges of being an accomplice in the attempt of overthrowing the government and the legislative organ, attempting to abolish the Constitution, fomenting an armed insurrection and establishing an armed organisation.

### **Members of the High Council of the Judges and Prosecutors**

On 16 July 2016 the Plenary Assembly of the High Council of Judges and Prosecutors terminated the memberships of 5 members affiliated with the FETO in the extraordinary session by virtue of the report prepared by the assigned investigator.

Pursuant to the reference to the Law no. 2802 with respect to the membership requirement prescribed by Article 18 § 1 (a) of the Law no. 6087 on the High Council of Judges and Prosecutors, the decision for the termination of membership was rendered on the ground that the requirement to be elected as a member of the High Council of Judges and Prosecutor are failed. This provision includes the condition of "not being under investigation for a criminal offence to be punished with more than 3 month imprisonment" prescribed in order to be a judge or a prosecutor under Article 8 (h) of the Law no. 2802. In this decision, it was concluded that continuation of those members' memberships would impair the respectability, impartiality and credibility of the judiciary.

### **Judges and Prosecutors**

On 16 July 2016, in the extraordinary session, the 3<sup>rd</sup> Chamber of the High Council of Judges and Prosecutors granted authorization to launch an investigation against a number of judges and prosecutors for being accomplice of attempt of overthrowing the government and the legislative organ, attempting to abolish the Constitution, fomenting an armed insurrection and establishing an armed organisation.

On the same day, investigations were initiated and arrest warrants, custody orders and search warrants were issued in respect of the members of the above mentioned terrorist organisation among judges and prosecutors countrywide.

After examining the document concerning the authorization to initiate investigations, the Inspection Board of the High Council of Judges and Prosecutors that took action in view of the gravity

of the coup attempt requested that 2735 judges and prosecutors, in respect of whom authorization to initiate investigations was granted, be suspended from office for three months on the grounds that there exists strong criminal suspicion that they involved in the alleged offences and the security of the investigation and influence and respectability of the judiciary power must be protected.

The 2<sup>nd</sup> Chamber of the High Council of the Judges and Prosecutors decided the 2735 judges and prosecutors in question to be suspended from office for 3 months.

The investigations initiated in respect of the suspects are still being carried out by both the Inspection Board of the High Council of Judges and Prosecutors and the Chief Public Prosecutor's Offices of the provinces.

1352 judges and prosecutors have been detained so far. 312 judges and prosecutors have been released on the condition of judicial control. 366 judges and prosecutors are currently under custody.

### **Members of the Constitutional Court and the Other High Courts**

Within the scope of the investigation initiated by the Chief Public Prosecutor's Office of Ankara, investigations have been initiated and arrest warrants and orders of custody have been issued in respect of 2 members of the Constitutional Court, 140 members of the Court of Cassation and 48 members of the Supreme Administrative Court for being an accomplice in the attempt of overthrowing the government and the legislative organ, attempting to abolish the Constitution, fomenting an armed insurrection and establishing an armed organisation. 2 members of the Constitutional Court, 4 members of the High Council of Judges and Prosecutors and 106 members of the Supreme Administrative Court and the Court of Cassation in total have been detained so far.

In the event that suspects are caught red-handed while committing a crime foreseen severe punishment, the investigations in respect of the members of the high courts must be directly conducted pursuant to provisions of the Code of Criminal Procedure (Article 16 § 1 of the Law on the Establishment and Rules of Procedure of the Constitutional Court; Article 46 § 1 of the Law on the Court of Cassation and Article 46 § 1 of the Law on the Court of Cassation on the basis of Article 82 § 1 of the Law on the Supreme Administrative Court).

As the suspects have been caught red-handed while committing a crime requiring severe punishment in the jurisdiction of assize courts, the investigations in respect of them are directly conducted under the above mentioned provisions.

The rule of law, democracy and human rights are founding fundamental principles of the Republic of Turkey. Therefore, proceedings are carried out by independent and impartial courts in line

