

DECREE LAW ON MEASURES TO BE TAKEN UNDER THE STATE OF EMERGENCY AND ARRANGEMENTS MADE ON CERTAIN INSTITUTIONS AND ORGANIZATIONS

Decree Law no. KHK/668

On 25 July 2016 the Council of Ministers, meeting under the chairmanship of the President of the Republic, has decided to take certain measures and to make a number of arrangements on certain institutions and organizations under the state of emergency, pursuant to Article 121 of the Constitution and Article 4 of the Law no. 2935 on State of Emergency dated 25 October 1983.

PART ONE

Aim and Scope

Aim and scope

ARTICLE 1 – (1) The aim of this Decree Law is to determine the procedures and principles relating to measures that shall necessarily be taken within the scope of the attempted coup and the fight against terrorism under the state of emergency declared throughout the country by the Decree Law of the Council of Ministers dated 20 July 2016 and numbered 2016/9064, and to make arrangements on certain institutions and organizations.

PART TWO

Measures Taken under the State of Emergency

Measures taken

ARTICLE 2 – (1) Those which belong to, connect to, or contact with the Fetullahist Terrorist Organization (FETÖ/PDY), established posing a threat to the national security:

a) Military personnel listed in Annex (1) have been discharged from the Turkish Armed Forces. Additional procedures shall be carried out in respect of them pursuant to the provisions of special laws.

b) Private radio and television organizations listed in Annex (2) have been closed down.

c) Newspapers and periodicals listed in Annex (3) and their publication and distribution channels have been closed down.

(2) Regardless of a criminal conviction ruled, the military personnel discharged from the Turkish Armed Forces pursuant to subparagraph (a) of paragraph 1 shall be deprived of their military ranks and public official status and such persons shall not be readmitted to the Turkish Armed Forces; they shall not be employed once again in public service, assigned directly or indirectly; their membership to all kinds of boards of trustees, boards, commissions, boards of directors, supervisory boards and liquidation boards shall cease. Firearm and pilot's licenses held by them shall be cancelled and these persons shall be evicted within fifteen days, from the public or foundation-owned houses in which they reside. These persons shall not be a founder, co-founder or personnel of private security companies. The Ministry of National Defense shall immediately notify the relevant passport authority as regards these persons. Upon such notification, the relevant passport authorities shall cancel their passports.

(3) Movable property as well as all kinds of assets, receivables, rights and all documents and papers that belong to the newspapers, periodicals, publishing houses and private radio and television organizations closed down shall be deemed to have been

transferred to the Treasury without cost, and all real estate that belong to them shall be registered ex officio, free and clear of any restrictions and encumbrances on the immovables, in the name of the Treasury in the land registry. Under no circumstances shall any claim or demand related to all kinds of debts of these be made against the Treasury. The Ministry of Finance shall carry out all procedures relating to transfer by receiving necessary assistance from all institutions concerned.

(4) Private radio and television organizations, newspapers and periodicals, publication and distribution channels that have been found to be a member of structure/entities, organizations or groups, or terrorist organizations, which are found established to pose a threat to the national security, or whose connection or contact with them have been found to exist and which are not listed in Annexes (2) and (3), shall be closed down upon the proposal of the commission to be established by the minister in the relevant ministries and with the approval of the Minister. The provisions of paragraph three shall also apply to institutions and organizations closed down under this paragraph.

Investigation and prosecution procedures

ARTICLE 3 – (1) During the period of state of emergency, with regard to the offences enumerated under Fourth, Fifth, Sixth and Seventh Sections of Fourth Chapter of Second Volume of the Turkish Criminal Code no. 5237 dated 26 September 2004, the offences falling under the Anti-Terror Law no. 3713 dated 12 April 1991 and the collective offences;

a) Arrest warrants can also be issued by public prosecutors in cases where there is peril in delay. The period of custody imposed upon the arrest warrant issued by the judge or public prosecutor shall not exceed thirty days.

b) A suspect who has been hiding within the country or is abroad and cannot be reached by the public prosecutor's office, aiming to render the investigation in respect of him/her inconclusive, shall be declared fugitive. The second paragraphs of Articles 247 and 248 of Criminal Procedure Code no. 5271 of 4 December 2004 shall not apply in respect of such persons.

c) The office of the magistrate or court, whose detention order has been objected to, shall revise its order if it deems relevant; otherwise, it shall refer, within ten days, the objection to the authority competent to examine the objection.

ç) Requests for release shall be concluded over the case file within a maximum period of thirty days, along with a review of the detention.

d) In cases where there is peril in delay, searches can be conducted in domiciles, workplaces and non-public closed spaces, upon an order by the public prosecutor.

e) For searches to be conducted in domiciles, workplaces and non-public closed spaces without the presence of a public prosecutor, a member of the council of aldermen or a neighbor shall be made present.

f) In military zones, searches and seizures can be carried out by law enforcement officers without the participation of the public prosecutor upon the order of a judge, or by the written order of a public prosecutor, in cases where there is peril in delay.

g) The documents and papers which belong to the person concerning whom a search measure has been carried out can be examined by law enforcement officers.

ğ) Letters and documents between the suspect or defendant and persons who may be reluctant to testify under Article 45 and 46 of the Law no. 5271 can be seized, even when such are held by these persons.

h) Seizures made without an order of a judge shall be submitted to the competent judge for approval within five days. The judge shall announce the decision within ten days following the seizure; otherwise the seizure shall be automatically lifted.

i) Seizures to be made under Article 128 of the Law no. 5271 can be ordered by the magistrate's office without obtaining the report specified in the first paragraph of the same Article. In cases where there is peril in delay, the public prosecutor may order seizures as well. Seizures made without an order of a judge shall be submitted to the competent judge for approval within five days. The judge shall announce the decision within ten days following the seizure; otherwise the seizure shall be automatically lifted.

i) Searches and seizures can be carried out at lawyer's offices by law enforcement officers without the participation of the public prosecutor upon the order of a judge, or by the written order of a public prosecutor, in cases where there is peril in delay. The bar president or an advocate representing him/her shall be present during the search and seizure process; however, the second and third paragraphs of Article 130 of the Law no. 5271 shall not be applied.

j) Searches, copies and seizures regarding computers, computer programs and databases under Article 134 of the Law no. 5271 can be ordered by the public prosecutor as well, in cases where there is peril in delay. Such orders shall be submitted to the competent judge for approval within five days. The judge shall announce the decision within ten days following the seizure; otherwise the seizure shall be automatically lifted. In case the copying and backup process will take a long time, these tools and devices may also be seized. The devices seized shall be returned without delay once the process has been completed.

k) The measures of identification of communication, interception and recording, appointment of undercover investigators and surveillance by technical tools under Articles 135, 139 and 140 of the Law no. 5271 can be ordered by the judge or the public prosecutor, where there is peril in delay. The public prosecutor shall submit the order to the competent judge for approval within five days. The judge shall announce the decision within five days; otherwise the measure shall be automatically lifted.

l) The defense counsel's right to examine the contents of the case-file or take copies of the documents can be restricted by the decision of the public prosecutor, if the purpose of the investigation may be compromised.

m) The right of the suspect in custody to see a defense counsel may be restricted for five days by the decision of the public prosecutor. No statement shall be taken during this time.

n) In case the public prosecutor requires an investigation procedure during the investigations underway, a decision may also taken by the magistrate of the jurisdiction.

o) Chief public prosecutor's offices may request buildings, vehicles, tools and staff from the offices of civil administration chiefs within jurisdiction, as required by the investigation.

ö) As to the offenses enumerated under this article, in cases where it has been deemed necessary for the verification of the information received, remand or sentenced inmates may be taken from penitentiary institutions for temporary periods by the order of the magistrate's office, upon such request by the competent public prosecutor.

Provisions amended or revoked

ARTICLE 4 – (1) Article 1, paragraph one of the establishment of Military Courts and trial Procedures, no. 353, dated 25 October 1963, has been amended as follows and the second paragraph of the same article has been revoked:

“Military courts empowered to exercise judicial powers shall be established by the Ministry of National Defense by taking the opinion of the Force Commands, taking into

account the organizational structure and the geographical location of the military units and the workload of the courts and abolished by the same procedure.”

(2) The following paragraph shall be added after Article 40, paragraph two of the Law on Military Judges, no. 357, dated 26 October 1963:

“Military judges holding the positions of judicial advisor, disciplinary officer, legal advisor, director of legal affairs section, rapporteur and military prosecutors in high judiciary bodies and other relevant positions in military jurisdiction may also be given temporary powers under paragraph one.”

(3) The following sentence shall be added to Article 54, paragraph three of the Personnel Law of the Turkish Armed Forces, no. 926 of 27 July 1967, provisional article 39 of the same Law be revoked and the following provisional article be added to the same Law:

“However, those whose service at the upper rank are required by the President of the Supreme Military Council shall be included in the evaluation by the Supreme Military Council, regardless of the time-in-grade period and the appraisal requirement under Article 47 § 1.”

“PROVISIONAL ARTICLE 41 – The decisions to be taken in the Supreme Military Council, to be held in July 2016 and the promotion, appointment, commission, use of posts, retirement and discharge procedures shall be applied on 29 July 2016.”

(4) Article 4 of the Law on the Establishment and Duties of the Supreme Military Council, no. 1612, dated 17 July 1972, shall be amended as follows and the following provisional article be added to the Law:

“ARTICLE 4 – The Supreme Military Council shall convene at least once a year upon the call by the President [of the Council].”

“PROVISIONAL ARTICLE 2 – The assembly of the Supreme Military Council, which was to take place in August 2016, shall be made in the month July of the same year.”

(5) As to the Anti-terror Law, no. 3713, dated 12 April 1991;

a) Additional Article 1, paragraph six shall be amended as follows:

“Among the right holders, the appointment of elementary, middle school and primary school graduates to posts and positions titled ‘servant’; of secondary and higher education graduates, those who have attained titles for the sake of their education status to these titles provided that these have been listed in the tables annexed to the Decree Law no. 190, or otherwise to posts and positions titled ‘official’ shall be proposed by the State Personnel Agency. Appointment proposals to worker positions shall be based on the title ‘permanent worker’.”

b) Paragraph seven of Additional Article 1 shall be revoked.

c) The phrase “until the last day of March and September of every year”, contained in Additional Article 1, paragraph eight, sentence one; and the phrase “within forty-five days” in sentence two shall be revoked, and the following sentences shall be added to the same paragraph, after the second sentence:

“Public institutions and organizations shall submit their requests under this article through the DPB e-application, until the last days of the months January and July of every year. Appointment proposals by the State Personnel Agency shall be realized based on these requests. The Agency may make appointment proposals ex officio in case the requests have been insufficient.”

ç) The following provisional article shall be added following provisional article 14:

“PROVISIONAL ARTICLE 15 – Among the personnel who took office under Additional Article 1, prior to the entry into force of this article, those who have attained titles for the sake of their education status as of the date of appointment proposal made by the State Personnel Agency and provided that these have been listed in the tables annexed to the Decree Law no. 190, shall be appointed to the posts or positions associated with these titles by public

institutions and organizations without an examination being made. In case the posts attained are not present in the public institutions they have been appointed, the concerned persons may be appointed, by way of transfer, to public institutions and organizations once, following full appointment to public service, without being subject to any quota limits laid down in other laws.”

(6) The following additional article shall be added to the Decree Law no. 652 on the Organization and Duties of the Ministry of National Education, dated 25 August 2011:

“ADDITIONAL ARTICLE 4 – (1) Contracting teachers may be employed under Article 4 § (B) of the Law on Civil Servants no. 657 at formal and non-formal education institutions of the Ministry with vacant permanent positions, located primarily in provinces having the first priority in development.

(2) Contracting teachers shall be appointed in accordance with the scores made in the oral examination to be conducted by the Ministry from candidates meeting the general conditions stipulated in Article 48 of the Law on Civil Servants no. 657 and the special qualifications sought to be appointed as teachers, from candidates forming a maximum three times the number of persons to be recruited, selected in accordance with the scores made in the Public Personnel Selection Examination.

(3) Contracting teachers to be appointed as per this Article cannot be appointed to another location within four years. In cases of location changes on the ground of family unification, the spouse of the teacher employed as per this article shall be subject to this teacher. Contracting teachers shall be subject to the candidate evaluation period as applied for candidate teachers. Those contracting teachers who have completed the four-year work period pursuant to the contract shall be appointed to the teacher positions in their current locations, if they request so. Those appointed to teacher positions shall serve in their current location for at least two more years and candidacy provisions shall not apply to them.

(4) The period of service in contracting teacher positions under Article 4 § (B) of the Law on Civil Servants no. 657 by those appointed as per this article shall be taken into account in the calculation of their attained degree and grades, which shall not exceed the degrees they may attain based on their state of education. They shall be entitled to the financial and social rights brought by the positions they have been appointed to, at the beginning of the month following the day they have taken office and no deductions shall be made on the financial and social rights they have received during their previous positions.

(5) Severance pay shall not be paid to those appointed to teacher positions under this article. Except for the periods for which severance pay has been paid, the total period of service forming the basis of severance pay shall be taken into account as the total period of service to form the basis of the retirement grant to be paid under the Retirement Fund Law of the Republic of Turkey of 8 June 1949, no. 5434.

(6) The teacher positions the contracting teachers are to be appointed as per this article shall be deemed created on the date the appointment has been made, without the requirement of a further procedure, appended to the relevant sections of the tables annexed to the Decree Law no. 190 of the Ministry of National Education and the positions held by those appointed to teacher positions cancelled without the requirement of a further procedure. The posts created and positions cancelled shall be communicated within two months to the Ministry of Finance and the State Personnel Agency following the appointment, indicating their titles, class, number, degree, organization and unit.

(7) Issues relating to applications by those to be appointed as contracting teachers, the determination of those to be admitted to the oral examination, oral examination topics, the procedure and principles relating to oral examinations, their appointment and other issues on

the implementation of this article shall be stipulated in the regulation to be issued by the Ministry of National Education.”

(7) The last sentence of paragraph two, Article 29 of the Disciplinary Law of the Turkish Armed Forces no. 6413, dated 31 January 2013 shall be amended as follows: “Where necessary, this period may be extended up to two times by the authorities specified in this paragraph, and up to a year by the approval of the relevant minister.”

(8) As to the Decree Law no. 667 of 22 July 2016 on the Measures to be taken under the State of Emergency:

a) The phrase “or from the General Directorate of Foundations” shall be added following the phrase “from the Treasury” in the third sentence of paragraph two, Article 2.

b) The phrase “,by the Board of Presidents in so far as the department head and members of the High Military Administrative Court are concerned; by the Board of Presidents in so far as the department head and members of the Military Court of Cassation are concerned; by a commission, consisting of two military judges to be determined among first-degree military judges by the Minister of National Defense under the chairmanship of the Minister of National Defense in so far as military judges are concerned” shall be added following the phrase “by the Plenary Session of the High Council of Judges and Prosecutors” in paragraph one of Article 3.

c) The phrase “dismissal” contained in the last sentence of paragraph one, article 3 shall be amended as “suspension or dismissal”; the word “green” in the same sentence shall be revoked and the following paragraph be added to the same article:

“(3) The provisions of the second paragraph of Article 4 shall also apply in respect of those who have been dismissed under the first paragraph.”

ç) Article 4, subparagraphs (d) and (f) of paragraph one shall be amended as follows and the following subparagraphs be appended to the same paragraph, following subparagraph (g):

“d) The personnel who are subject to the Higher Education Personnel Law no. 2914 of 11 November 1983 shall be dismissed from public office by the decision of the Council of Higher Education upon the proposal of the President of the Council of Higher Education; regarding the personnel working at higher education institutions and higher education supreme bodies subject to the Law no. 657 shall be dismissed from public office by the decision of the University Administrative Committee at higher education institutions and of the Council of Higher Education at higher education supreme bodies, upon a proposal by the highest officer of higher education institutions and higher education supreme bodies,”

“f) The personnel employed subject to the Law no. 657 on Civil Servants of 14 July 1965 and other legislation, in every post, position and status (including workers), shall be dismissed from public office by the approval of the relevant minister, upon a proposal by the board established by the affiliated, related or relevant minister, presided by the highest officer of institution or organization concerned. The process related to those specified in Article 3 of this Decree Law shall be realized in accordance with the procedure laid down in the said article,”

“ğ) The personnel subject to the Specialized Sergeants Law, no. 3269 of 18 March 1986 shall be dismissed from public office by the approval of the Minister of National Defense, upon the proposal of the relevant Force Command,

h) The personnel subject to the Law on the Contracting Officers and Non-commissioned Officers to be employed in the Turkish Armed Forces, no. 4678 of 13 June 2001, shall be dismissed from public office by the approval of the Minister of National Defense, upon the proposal of the relevant Force Command.

PART THREE

Amendments made to the Law on the Organization, Duties and Powers of the Gendarmerie

ARTICLE 5- Article 3 of the Law no. 2803 on the Organization, Duties and Powers of the Gendarmerie dated 10 March 1983 has been amended as follows.

"ARTICLE 3- The Gendarmerie of the Republic of Turkey is the general armed law enforcement agency which ensures the protection of safety, security and public order and which discharges the duties conferred by the other laws."

ARTICLE 6- Article 4 of the Law no. 2803 has been amended as follows:

"ARTICLE 4- The Gendarmerie General Command functions under the authority of the Ministry of Internal Affairs."

ARTICLE 7- Article 5 of the Law no. 2803 has been amended as follows along with its title:

"Establishment and Organization:

ARTICLE 5- The establishment, cadres and localities of the Gendarmerie General Command shall be regulated by the Ministry of Internal Affairs. However, the opinion of the General Staff shall be sought for the regulation of establishment, cadres and localities of the units which shall be subordinated to the Force Commands during martial law, mobilization and war.

Administrative divisions shall be taken as a basis for the regulation of establishment and localities of the gendarmerie units. However, a regional organization including multiple provinces can also be provisionally established. In the exercise of his/her functions, the region commander shall be liable to the governor of the province where the regional organization is located."

ARTICLE 8- Article 6 of the Law no. 2803 has been amended as follows along with its title:

"Gendarmerie General Commander:

ARTICLE 6- Gendarmerie General Commander is the commander of the entire Gendarmerie. Gendarmerie General Commander shall be appointed from among those who hold the rank of General.

The Gendarmerie General Commander shall be responsible for administrating the organization, ensuring the enforcement of the provisions of laws and rules and the execution of orders and decisions rendered on the basis of the provisions of laws and rules."

ARTICLE 9- Article 7 of the Law no. 2803 has been amended as follows:

"ARTICLE 7- In general, the duties of the gendarmerie within its areas of responsibility are follows:

a) Civil duties:

Ensuring and protecting safety, security and public order; prohibiting, tracking and investigating smuggling; taking and applying the necessary measures to prevent crime; ensuring the external protection of penitentiary institutions and detention houses; discharging the duties which fall outside the scope of subparagraphs (b) and (c) and which are conferred on the gendarmerie by orders and decisions based on the enforcement of the provisions of other laws and rules.

b) Judicial duties:

With respect to the crimes committed, carrying out the proceedings set out in the laws and performing the relevant judicial services.

c) Military duties:

Discharging the military duties conferred by the laws."

ARTICLE 10- Article 8 of the Law no. 2803 has been amended as follows:

"ARTICLE 8- In the event of martial law, mobilization and war, the divisions of the gendarmerie units, which shall be determined by a decision of the Council of Ministers shall be subordinated to the Force Commands and the gendarmerie shall continue to discharge its regular duties with the remainder of its divisions.

Furthermore, the gendarmerie units shall also discharge the military duties conferred on them by the approval of the Minister of Internal Affairs upon the request of the General Staff and by the approval of the governor in the provinces in the event of a request made by the garrison commander."

ARTICLE 11-The following sentence has been added in paragraph 1 of Article 10 of the Law no. 2803:

"The entirety of a province or a district can be designated as the area of duty and responsibility of the police or the gendarmerie upon the decision of the Ministry of Internal Affairs."

ARTICLE 12- Article 12 of the Law no. 2803 has been amended as follows:

"ARTICLE 12- If deemed necessary, the Ministry of Internal Affairs may temporarily assign personnel in each degree between the Turkish National Police, the Coast Guard Command and the Gendarmerie General Command. The Minister of Internal Affairs may transfer this authority to the governors of the provinces.

Furthermore, the Turkish National Police, the Coast Guard Command and the Gendarmerie General Command may temporarily allocate or transfer without a cost the weapons, ammunition, equipment, vehicles and other movable and immovable properties to one another with the approval of the Ministry of Internal Affairs.

Principles and procedures on the application of this Article shall be established through the regulation put into force by the Ministry of Internal Affairs."

ARTICLE 13- Article 13 of the Law no. 2803 has been amended as follows.

"ARTICLE 13- In cases where this Law does not include any provisions, the Law no. 657 dated 14 July 1965 shall be applied in respect of all kinds of personnel procedures of personnel of the Gendarmerie Services. However, provisions related to the personnel subject to the Law no. 926 on the Turkish Armed Forces Personnel dated 27 July 1967, Law no. 3466 on Professional Gendarmerie dated 28 May 1988 and Law no. 3269 on the Professional Sergeants dated 18 March 1986 shall apply, according to the status and rank, in respect of the appointment and promotion, salary and other financial and social rights.

Procedures on appointment and promotion to the rank of commissioned and non-commissioned officer shall be performed with the approval of the Ministry of Internal Affairs. However, promotion from the rank of colonel to the rank of brigadier general and promotion from the rank of general to a superior rank shall be done through a joint decree. Those who are in a position to retire due to the expiration of the time-in-grade or lack of tenure, however, whose services are needed may continue to perform their duties with the approval of the Ministry of Internal Affairs in so far as colonels and generals are concerned until the age of 60 and 65, respectively. As regards the exercise of power of appointment and promotion, provisions on the power of recommendation, selection, receiving opinions and similar powers entrusted to other authorities other than the Ministry of Internal Affairs by the Law no. 926 and other laws shall not apply to the personnel of the Gendarmerie General Command. Promotion of professional gendarmerie and professional sergeants shall be done by the Gendarmerie General Command pursuant to their private statute.

Law no. 205 on the Military Personnel Assistance and Pension Fund dated 3 January 1961 shall apply under the same conditions to the personnel of the Gendarmerie General Command on the basis of the rank and seniority that has an equivalent in the Turkish Armed Forces.

Procedures related to recruitment, change of workplace, promotion, leave, appraisal, reward and termination of the employment contract of workers shall be carried out pursuant to the Labour Law no. 4857, dated 22 May 2003 and, if available, provisions of a valid collective bargaining agreement."

ARTICLE 14- Article 14 of the Law no. 2803 has been amended as follows.

"ARTICLE 14- Appointment of general, commissioned and non-commissioned officers and professional gendarmerie shall be made;

- a) by a joint decree in so far as the Commander of the Turkish Gendarmerie Forces, Deputy Commanders of the Turkish Gendarmerie Forces, generals and the Commanders of Provincial Gendarmerie are concerned,
- b) by the Ministry of Internal Affairs in so far as other commissioned and non-commissioned officers and professional gendarmerie are concerned.

Personnel who received special training as needed for specialization may be appointed to a certain point. Commissioned and non-commissioned officers as well as professional gendarmerie shall be appointed to the order of governorship and their employment places and change of workplace within the province concerned shall be carried out by the governor.

Commissioned officers who have the rank of a general may also be appointed to the provincial gendarmerie commands if deemed suitable in respect of the requirements of service."

ARTICLE 15 - Article 15 of the Law no. 2803 has been amended as follows:

"ARTICLE 15- Disciplinary and investigatory actions against gendarmerie personnel shall be conducted in accordance with the following procedures:

- a) Disciplinary actions shall be conducted in accordance with the provisions of private statute.
- b) Proceedings against the offenses arising from civil duties of the gendarmerie personnel shall be carried out in accordance with the provisions of the Law no. 4483 of 2 December 1999 on Prosecution of Civil Servants and Other Public Officials, without prejudice to the provisions of private statute.
- c) Provisions of fifth paragraph of Article 161 of the Criminal Procedure Code no. 5271 of 4/12/2004 shall apply to the offenses arising from judicial duties of the gendarmerie personnel.
- d) If a military duty is given to the gendarmerie personnel, the provisions of the Law no. 353 on Establishment of Military Courts and Tribunal Procedure of 25/10/1963 shall apply to the offenses arising from these duties. These offenses shall be prosecuted before military courts which are competent to prosecute the military unit personnel that gendarmerie personnel are subordinated to.

e) Proceedings against the offenses arising from personal offenses of the gendarmerie personnel shall be carried out in accordance with the general provisions."

ARTICLE 16 - Article 19 of the Law no. 2803 has been amended as follows:

"ARTICLE 19- The Gendarmerie General Command shall meet all kinds of its needs related to supply service as well as its weapons and ammunition from its own budget in accordance with the standards determined by the Ministry of Internal Affairs. However the Gendarmerie General Command shall benefit from the Defence Industry Support Fund within the procedures and principles that the Turkish Armed Forces is subject to.

In the event of martial law, mobilization and war, all kinds of needs (including excursion stocks) of gendarmerie units, which will become subordinate to Force Commands or are given military duties by the Minister of Internal Affairs or by governors shall be met by the Ministry of National Defence in accordance with the standards of these Force Commands.

ARTICLE 17 - Article 24 of the Law no. 2803 has been amended as follows:

"ARTICLE 24- The points for which a regulation is stipulated to be issued exclusively with this Law as well as the other points concerning the gendarmerie's organization, duty, competence and responsibilities, its relations with other authorities, command and control relations including the principles of working together and cooperation, promotion affairs of Gendarmerie Services Division, evaluation, rewarding, outfit (?) and the implementation of the Law shall be set out by the regulation prepared by the Ministry of Internal Affairs and enacted by the decree of the Council of Ministers"

ARTICLE 18 - The expression "concerning the other duties except for their military duties" in the first paragraph of additional Article 1 of the Law no. 2803 shall be repealed and the expression "governors" be amended as "local authorities".

ARTICLE 19 - The expression "the other duties except for their military duties" in the first paragraph of additional Article 2 of the Law no. 2803 and the expression "by taking opinion of the Turkish General Staff" in the third paragraph of the same Article shall be repealed and the following Article shall be added to the same Law.

"Provisions to be applied:

ADDITIONAL ARTICLE 7 - In cases where provisions in the other laws are contrary to this Law, the provisions of this Law shall apply.

The Ministry of Internal Affairs is authorized to remove the doubts concerning implementation of this Law and to take regulatory and directive actions in this regard.

If recent needs relating to the organization, staff, training and other points arise from the amendments made by the Decree Law which established this Article, the Council of Ministers is authorized to make an arrangement with regard to this upon the proposal of the Ministry of Internal Affairs."

ARTICLE 20- Articles 16, 17 and 25 of the Law no. 2803 have been repealed.

ARTICLE 21- The following provisional article has been added to the Law no. 2803.

"**PROVISIONAL ARTICLE 4-** a) Until a private statute is introduced in respect of the disciplinary processes, disciplinary offences and penalties of the gendarmerie personnel are governed in accordance with the disciplinary regulation of the National Police. For the other issues, the provisions of the Law no. 657 on Civil Servants shall be applied.

b) All personnel of the Gendarmerie forces shall continue fulfilling their duties in accordance with their new positions without any necessity for taking a further step in this respect. The ones concerning instructors among the existing actual cadres have been added to this Law whereas the others have been added to the chart no. 1 enclosed to the Decree Law no. 190 as a part entitled Gendarmerie General Command under the Ministry of Internal Affairs.

By opinion of the State Personnel Agency and the Ministry of Finance, and proposal of the Ministry of Internal Affairs, the Council of Ministers has been authorized to reorganize the cadre charts added to the Decree Law no. 190 in accordance with the procedure and principles of the Decree Law in question. Change of titles and degrees in the instructor cadres added to this Law may be made within the framework of the provisions of the Decree Law no. 190. Furthermore, one cadre of full general and four cadres of deputy commander of Gendarmerie forces have been created in the Class of Gendarmerie Services."

ARTICLE 22- The following sub-paragraph has been added to Article 36 of the Law no. 657 on Civil Servants dated 14 July 1965 after the sub-paragraph entitled "VII – CLASS OF NATIONAL POLICE SERVICES" and the ensuing sub-paragraphs have been accordingly continued.

"VIII – CLASS OF GENDARMERIE SERVICES

This class includes commissioned officers, non-commissioned officers and professional gendarmerie in the cadres of the Gendarmerie General Command."

PART FOUR

Amendments made to the Law on Coast Guard Command

ARTICLE 23- Article 2 of the Law no. 2692 on Coast Guard Command dated 9/7/1982 has been amended as follows:

"ARTICLE 2- The Coast Guard Command that is a general armed law-enforcement agency has been established for fulfilling the duties and services set out in this Law.

This Command is affiliated with the Ministry of Internal Affairs.

In the events of martial law, mobilization and war, the units of the Coast Guard Command determined by Decree of the Council of Ministers shall enter into the service of the Naval Forces Command while the rest of the units shall continue fulfilling their regular duties."

ARTICLE 24- The first paragraph of Article 3 of the Law no. 2692 has been amended as follows:

"Fields of duty, bases, cadres and places of assignment of the Coast Guard Command shall be governed by the Ministry of Internal Affairs. On the other hand, in the events of martial law, mobilization and war, opinion of the Turkish General Staff shall be received in the determination of cadres and location of the units to enter into the service of the Naval Forces Command."

ARTICLE 25- The following sub-paragraph has been added to Article 36 of the Law no. 657 after the sub-paragraph entitled "VIII- CLASS OF GENDARMERIE SERVICES" and the ensuing sub-paragraphs have been accordingly continued.

"IX – CLASS OF COAST GUARD SERVICES

This class includes commissioned officers and non-commissioned officers in the cadres of the Coast Guard Command."

ARTICLE 26- Article 7 of the Law no. 2692 has been amended as follows:

"ARTICLE 7- The personnel of the Coast Guard Command consists of commissioned officers, non-commissioned officers, professional sergeants, contracted sergeants and recruits, students, sergeants and recruits as well as civil servants and workers. In cases where no relevant provision is included in this Law, all the personnel affairs of those in the class of Coast Guard Services shall be governed by the Law no. 657 on Civil Servants dated 14 July 1965. However, their appointments and promotions in respect of monthly and other financial and social rights shall be regulated according to their statuses and grades in accordance with the provisions applied to the personnel subject to the Turkish Armed Forces Personnel Act no. 926 of 27 July 1967, the Law no. 3466 of 28 May 1988 on Professional Gendarmerie, and the Law no. 3269 of 18 March 1986 on Professional Sergeants.

The procedures concerning the appointment and promotion to the ranks of commissioned and non-commissioned officers shall be performed subject to the approval of the Ministry of Internal Affairs. However, the promotions from the rank of colonel to the rank of rear admiral and the promotions from the rank of admiral to a higher rank shall be carried out by a joint decree. The Coast Guard Commander shall be appointed from among the admirals. The colonels and admirals who are eligible for retirement due to the expiration of time-in-grade or lack of cadre but whose services are still required may continue to serve until the age of 60 and 65, respectively, subject to the approval of the Minister of Internal Affairs. The provisions relating to the powers of making a recommendation, selection, obtaining an opinion and similar powers conferred by the Law no. 926 and other laws on the authorities other than the Ministry of Internal Affairs, insofar as they concern the use of powers of appointment and promotion. The appointment and promotion of professional sergeants shall be performed by the Coast Guard Command in accordance with their private statute.

The provisions of the Law no. 205 on Army Solidarity Institution dated 3 January 1961 shall apply to the personnel of the Coast Guard Command under the same terms and conditions relevant for the corresponding grades and levels of seniority in the Turkish Armed Forces.

The procedures concerning the employment of the workers, their transfer to other places, promotions, permissions, rewards and termination of their employment contacts shall be governed by the Labour Law no. 4857 of 22 May 2003 and the provisions of a valid collective labour agreement, if any.

The non-military officers serving in the Coast Guard Command shall benefit from the provisions of the Law no. 2155 of 22 June 1978 on Provision of Ration Allowances to Certain Civil Servants.

In accordance with the procedures and principles to be determined by the Ministry of Internal Affairs, a security compensation for overtime work shall be paid to:

- a) Commissioned officers, non-commissioned officers, and professional sergeants who perform their duties on boats; and
- b) Commissioned officers, non-commissioned officers, and professional sergeants who perform their duties in other headquarters, units and institutions.

Such compensation shall not exceed 52% and 40%, respectively, of the highest Civil Servant salary (including the additional index) set out in the Law no. 657 on Civil Servants. No taxes and withholdings, except the stamp duty shall be deducted from such compensation.

Payments in cash and in kind made to the personnel of the Gendarmerie General Command and other institutions shall also be made to the relevant personnel of the Coast Guard Command under the same terms and conditions.

Where necessary, the personnel in any grade may be transferred by the Minister of Internal Affairs between the Turkish National Police, the Coast Guard Command and the Gendarmerie General Command for a temporary duty. The Minister of Internal Affairs may delegate such authority to the governors of provinces. The personnel appointed for a temporary duty in one of these institutions shall benefit from the additional financial rights provided to the staff serving in the relevant institution throughout the period of such temporary duty.

Furthermore, upon the Minister of Internal Affairs' approval, the Turkish National Police, the Coast Guard Command and the Gendarmerie General Command may temporarily allocate or transfer without a cost their guns, ammunitions, equipments, vehicles and other movable and immovable properties to each other.

The procedures and principles concerning the application of this article shall be determined under the regulation issued by the Ministry of Internal Affairs."

ARTICLE 27- Article 8 of the Law no. 2692 has been amended as follows:

"ARTICLE 8- Appointments of the personnel of the Coast Guard Command;

a) The Coast Guard Commander, deputies of the Coast Guard Commander, Regional Coast Guard Commanders and admirals shall be appointed by joint decree law,

b) Apart from the admirals, the Chief of Staff of the Coast Guard Command and the chiefs taking office at the headquarters of the Coast Guard Command shall be appointed by the Minister of Internal Affairs,

c) Other commissioned and non-commissioned officers, public officers, professional sergeants, contracted sergeants and recruits shall be appointed and distributed by the Minister of Internal Affairs.

The procedures concerning the change of the places of duty and service, due to service requirements or due health or other grounds, of the commissioned and non-commissioned

officers, civil personnel, professional sergeants, contracted sergeants and recruits who take office at the Coast Guard Command and who are the members of the Coast Guard shall be made in accordance with procedures and principles set out in this article.”

ARTICLE 28- The phrase “upon the consent of the Minister of Internal Affairs” has been added just following the phrase “exercises” in Article 13 of the Law no. 2692.

ARTICLE 29- Article 15 of the Law no. 2692 has been amended as follows:

"ARTICLE 15- All kinds of needs concerning the supply services and activities and guns and ammunitions required by the Coast Guard Command shall be supplied out of its own budget in accordance with standards to be set out by the Minister of Internal Affairs. However, the Coast Guard Command shall make use of the Defence Industry Support Fund within the scope of the procedures and principles which the Turkish Armed Forces is subject to.

Maintenance, repair and alteration works that cannot be performed with the available means of the Coast Guard Command shall be performed by the maintenance and repair units of the Ministry of National Defence on a priority basis. The costs of such services shall be paid out of the budget of the Command.

Exemptions and exceptions from customs, all kinds of taxes, duties, and charges and warehouses charges granted to the Ministry of National Defence and the Gendarmerie General Command by budget laws and other laws shall also apply to the Coast Guard Command.

All kinds of needs (including excursion stocks) of the coast guard units which will be subordinated to the Force Commands in cases of martial law, mobilization and war shall be supplied by the Ministry of National Defence in accordance with the standards of the Force Commands.”

ARTICLE 30- Article 18 of the Law no. 2692 along with its title has been amended as follows:

“Assessment report

ARTICLE 18- An assessment report shall be prepared in respect of the coast guard regional commanders concerning their duties by the governor of the provinces where they deploy in terms of their administrative duties at the end of each year. The assessment reports shall be taken into account in the procedures regarding promotion, rewarding, appointment and replacement of the personnel. The principles concerning the content and preparation of assessment reports shall be prescribed under the regulation issued by the Minister of Internal Affairs.”

ARTICLE 31- Article 21 of the Law no. 2692 and its title have been amended as follows.

“Disciplinary and investigation procedures

ARTICLE 21- Disciplinary actions and investigations in respect of the personnel of the Coast Guard Command shall be carried out in accordance with the following procedures.

a) Disciplinary process shall be carried out pursuant to the provisions of the private statute.

b) In the case of offences resulting from the administrative duties of the personnel of the Coast Guard Command, actions shall be taken in accordance with the provisions of the Law no. 4483 on the Trial of Civil Servants and Other Public Officials of 2 December 1999 without prejudice to the provisions of the private statute.

c) In the case of offences resulting from the judicial duties of the personnel of the Coast Guard Command, Article 161/5 of the Criminal Procedure Code no. 5271 of 4 December 2004 shall be applied.

d) In the case of personal offences of the personnel of the Coast Guard Command,

actions shall be taken pursuant to the general provisions.

e) Where the personnel of the Coast Guard Command shall be assigned military duty, the provisions of the Law no. 353 on the Establishment and Trial Procedures of Military Courts shall be applicable in respect of the offences resulting from these duties. These offences shall be tried by the competent military court given jurisdiction for trying the personnel of the military unit subordinated to the personnel of the Coast Guard Command.”

ARTICLE 32- Article 23 of the Law no. 2692 has been amended as follows.

ARTICLE 23- In addition to the matters in respect of which an exclusive regulation is considered to be issued in accordance with this Law, the duties, powers and responsibilities of the Coast Guard Command, its relations with other authorities, its command and control relations including the principles of collaboration and cooperation and the promotions of the personnel of the Class of Coast Guard Services, disciplinary superiors and boards, award, assessment, appearance and the other matters concerning the application of this Law shall be governed by the regulation issued by the Ministry of Internal Affairs and put into force with the decision of the Council of Ministers.”

ARTICLE 33- The phrase of “concerning the duties other than military duties” set out in Additional Article 1 of the Law no. 2692 has been abolished and the expression of “governors” has been amended as “local authorities”.

ARTICLE 34- The following Additional Article has been added to the Law no. 2692.

“Power to regulate

ADDITIONAL ARTICLE 3- The Ministry of Internal Affairs has been vested with the power to eliminate the hesitations regarding the implementation of this Law and to carry out regulatory and directive processes in this respect. Where new requirements concerning organization, personnel, education and other matters come up as a result of the arrangements made by the Decree Law creating this Article in the Law in question, the Council of Ministers shall have the power to make the relevant arrangements upon the proposal of the Ministry of Internal Affairs.”

ARTICLE 35- Articles 6, 9, 10, 11, 16, 20, 21/A, 21/B and 22 of the Law no. 2692 have been abolished.

ARTICLE 36- The following provisional articles have been added to the Law no. 2692.

“Transitional provisions

PROVISIONAL ARTICLE 7 – a) Disciplinary offences and penalties pertaining to the personnel of the Coast Guard Command shall be determined in pursuance of the disciplinary legislation of the Turkish National Police until a private statute is introduced concerning the disciplinary matters. Provisions of the Law no. 657 on Civil Servants shall be applied in respect of other matters.

The local authorities and relevant persons superior in rank are the disciplinary chiefs of the personnel of the Coast Guard Command. The Minister of Internal Affairs may *ex officio* impose a disciplinary punishment on personnel of every degree in the Coast Guard Command.

Workers, contracted personnel and temporary staff shall be punished in accordance with the provisions of the contract which is in force.

b) Existing actual cadres have been added to the cadres of the Coast Guard Command under the Ministry of Internal Affairs in the chart no. 1 enclosed with the Decree-Law no. 190. Moreover, two cadres for the position of Rear Admiral / Deputy Commander of the Coast Guard have been assigned in the Class of Coast Guard Services.

c) All personnel of the Coast Guard Command shall continue performing their duties according to their new positions without any necessity for taking a further step in this respect. The existing actual cadres have been added to the chart no. 1, which is enclosed with the

Decree-Law no. 190, as the section of the Coast Guard Command under the Ministry of Internal Affairs. In this respect, the Council of Ministers shall be authorized to re-arrange the cadre charts, which are added to the Decree Law no. 190, in accordance with the principles and procedures of the above-cited Decree Law upon the opinion of the State Personnel Agency and the Ministry of Finance and the proposal of the Ministry of Internal Affairs.

PROVISIONAL ARTICLE 8- The Ministry of Internal Affairs may request the fulfilment of the personnel needs for admiral, commissioned officer and non-commissioned officers to work as a commander from the Ministry of Defence until the Coast Guard Command becomes competent in the matters such as recruitment and training of the personnel.”

PART FIVE

Miscellaneous and Final Provisions

Liability

ARTICLE 37- (1) Legal, administrative, financial and criminal liabilities of the persons who have adopted decisions and executed decisions or measures with a view to suppressing the coup attempt and terrorist actions performed on 15/7/2016 and the ensuing actions, who have taken office within the scope of all kinds of judicial and administrative measures and who have adopted decisions and fulfilled relevant duties within the scope of the decree laws promulgated during the period of state of emergency shall not arise from such decisions taken, duties and acts performed.

Stay of execution

ARTICLE 38 – (1) Stay of execution cannot be ordered in the cases brought as a result of the decisions taken and acts performed within the scope of the decree laws promulgated during the period of the state of emergency.

Enforcement

ARTICLE 39 – (1) Article 37 of this Decree Law shall enter into force on the date of its publication as being valid as from 15/7/2016, and the remaining articles herein shall enter into force on the date of its publication.

Execution

ARTICLE 40 – (1) The Council of Ministers shall execute the provisions of this Decree Law.

Recep Tayyip ERDOĞAN
PRESIDENT

Binali YILDIRIM
Prime Minister

N. CANIKLI
Deputy Prime Minister

N. AĞBAL
Acting Deputy Prime Minister

N. KURTULMUŞ
Deputy Prime Minister

Y. T. TÜRKEŞ
Deputy Prime Minister

V. KAYNAK
Deputy Prime Minister

B. BOZDAĞ
Minister of Justice

F. B. SAYAN KAYA
Minister of Family and Social Policies

Ö. ÇELİK
Minister of EU Affairs

F. ÖZLÜ
Minister of Science, Industry and Technology

S. SOYLU
Minister of Labour and Social Security

M. ÖZHASEKİ
Minister of Environment and Urbanisation

M. ÇAVUŞOĞLU
Minister of Foreign Affairs

N. ZEYBEKÇİ
Minister of Economy

B. ALBAYRAK
Minister of Energy and Natural Sources

A. Ç. KILIÇ
Minister of Youth and Sports

F. ÇELİK
Minister of Food, Agriculture and Livestock

B. TÜFENKÇİ
Minister of Customs and Trade

E. ALA
Minister of Internal Affairs

L. ELVAN
Minister of Development

S. SOYLU
Acting Minister of Culture and Tourism

N. AĞBAL
Minister of Finance

İ. YILMAZ
Minister of National Education

F. IŞIK
Minister of National Defence

V. EROĞLU
Minister of Forestry and Water Affairs

R. AKDAĞ
Minister of Health

A. ARSLAN
Minister of Transport, Maritime Affairs and Communications