

DECREE WITH FORCE OF LAW NO. 674 – 1 SEPTEMBER 2016

**SOME ARTICLES OF THE DECREE-LAW NO. 674 OF 1 SEPTEMBER 2016
ON THE MEASURES TAKEN UNDER THE STATE OF EMERGENCY**

ARTICLE 3- The following Subparagraph has been added to Paragraph 1 of Article 8 of the Law no. 2659 on the Forensic Medicine Institution, dated 14 April 1982:

"g- Computer Forensics,"

ARTICLE 4- The following Article 22 (A) has been added subsequent to Article 22 of the Law no. 2659:

"Duties of the Computer Forensics Specialization Department:

ARTICLE 22 (A) – To conduct the required examinations with respect to informatics-related matters as requested by the courts, judges' examinations, researches and analyses on information systems which have data collecting, processing, storing and transmitting functions and on all kinds of digital and electronic material, and to establish the results of the examinations, researches and analyses in a report."

ARTICLE 9- The following Subparagraph has been added subsequent to Subparagraph (3) of Paragraph (3) of Article 34 of the Law no. 5235 on the Establishment, Duties and Authorization of the First Instance Judiciary Courts and Regional Courts of Justice, and the other Subparagraphs have been accordingly continued:

"4. To assign members from other chambers according to seniority and order on the basis of relevance in the event that a chamber cannot convene with its own members on account of legal or factual reasons,"

ARTICLE 11- The expression "examined and subsequently communicated together with written opinions in respect thereof" in sub-paragraph (4) of Article 40 § 1 of the Law no. 5235 has been replaced with the expression "hearings on the merits".

ARTICLE 12- The expression "to examine the files to communicate those files together with their written opinions in respect thereof to relevant department" in paragraph (1) of Article 41 § 1 of the Law no. 5235 has been replaced with the expression "to attend

ARTICLE 13- The expression "and appointment of trustee" added following paragraph 9 of Article 128 of the Code of Criminal Procedure (Law no. 5271) of 4 December 2004, and accordingly the following paragraph has been added to Article in question.

"(10) In the event that immovable properties, rights and receivables, which have been seized under this Article, are required to be administered, a trustee may be appointed so as to ensure management of values of those assets. In such cases, the provisions of Article 133 shall apply by analogy."

ARTICLE 16- The following sentence has been added to paragraph 1 of Article 92 of the Law no. 5275 on the Execution of Penalties and Security Measures dated 13 December 2004. "In the event that it is considered that those who have been detained for or convicted of the offences listed under paragraph 2 of Article 9 may endanger the order of the penitentiary institution and public security, that members of terrorist organizations or other criminal organizations may provide opportunities for activities and communication in accordance with purposes of their respective organizations and that there are security risks with regard to roads, penitentiary institutions in which they would be held, exam centres or schools, Chief Public Prosecutors shall be entitled to impose restriction on their temporary leave from such institutions."

Transfer of powers of trustees and liquidation

ARTICLE 19- (1) Powers of the trustees who have been serving in companies in respect of which it was decided that a trustee be appointed under Article 133 of the Code of Criminal Procedure (Law no. 5271 dated 4 December 2004) on account of their membership, affiliation or connection to terrorist organizations prior to the date of entry into force of this Article shall be transferred by a judge or a court to the Savings Deposit Insurance Fund, and with such transfer, powers of those trustees shall be terminated.

(2) Following the date of entry into force of this Article and during the period of the state of emergency, in the event that it is decided that a trustee be appointed to a company under Article 133 of the Code of Criminal Procedure on account of its membership, affiliation or connection to terrorist organizations or that it is decided that a trustee be appointed in respect of assets under Article 13 of this Decree-Law, the trustee to be appointed shall be the Savings Deposit Insurance Fund.

(3) With the exception of the companies which have been closed down pursuant to Decree-Laws put into effect under the state of emergency declared throughout the country by the Decree no. 2016/9064 of the Council of Ministers (dated 20 July 2016) and which have been transferred to the Directorate General of Foundations or the Treasury, in the event that it is established by the Savings Deposit Insurance Fund that the current situation of the companies falling under the scope of the first and the second paragraphs cannot be sustained due to their financial conditions, shareholding structures or other problems, or the market conditions, the Savings Deposit Insurance Fund may decide that those companies or their assets, or the assets specified under Article 13 of this Decree-Law be sold or dissolved and liquidated. Procedures as to sales and liquidations shall be carried out by the Savings Deposit Insurance Fund.

Powers of the Savings Deposit Insurance Fund with regard to sales and liquidation

ARTICLE 20- (1) Powers vested in the Savings Deposit Insurance Fund with regard to the companies, whose management, control and shareholder rights, except for dividends, have been taken over by the Savings Deposit Insurance Fund in accordance with the Banking Law no. 5411 of 19 October 2005 and the assets of those companies shall be exercised by analogy in the sales or liquidation procedures carried by the Savings Deposit Insurance Fund in its capacity as the trustee under this Decree-Law without taking into account whether those companies or their owners are indebted to the Fund and whether their assets are subjected to the Fund's levy. Those who are assigned or

Article shall avail themselves of the provisions of Article 127 of the Law no. 5411. The liquidation committee assigned by the Fund Board so as to carry out the procedures concerning companies *locus standi* in respect of judicial acts and actions. The amounts to be obtained from the sales of the companies to which the Savings Deposit Insurance Fund has been appointed as trustee or of the assets of those companies shall be deposited into an interest bearing account until the proceedings are concluded with a definitive judgment.

(2) In the event that it is decided that assets of a company be sold via the commercial and economic integrity sales method, the Fund Board shall be entitled to pay off the debts belonging the previous periods out of the tender price or make the tender winner pay them off on the condition that those debts were incurred by virtue of an actual asset or service relation between that company and persons who had no membership, affiliation or connection to the FETÖ/PDY terrorist organization.

(3) The provisions of this Article shall also apply in the event that assets which belong to the closed down institutions, organizations, private radio and television stations, newspapers, magazines, publishing houses and distribution channels, or assets which belong to the companies (to which those are attached) and have been taken over by the Treasury are transferred by the Ministry of Finance to the Savings Deposit Insurance Fund so as to ensure their sales and liquidation. The amounts obtained as a result of sales of the transferred assets shall be transferred to the Ministry of Finance.

ARTICLE 23- The expression “and those, who are engaged in all kinds of education and training institutions and health organizations as well as foundations, associations or companies abroad, which are established as having membership, affiliation or connection to terrorist organizations, or who are established as working in these places by the Ministry of Internal Affairs” added to Paragraph 1 of Article 22 of the Passport Law (no. 5682, dated 15 July 1950) following the Internal Affairs”

ARTICLE 38- The following paragraph has been added subsequent to Paragraph 1 of Article 45 of the Municipality Law (no. 5393, dated 3 July 2005).

"However, where a mayor or a deputy mayor or a council member is suspended from duty or detained or banned from public service or his/her position as a mayor or member of council terminates due to the offences of aiding and abetting terrorism and terrorist organizations, a mayor or a deputy mayor or a council member shall be assigned by the authorities listed in Article 46. It is obligatory that person to be assigned should be eligible. If a member of the municipal council, who has been suspended from duty or detained, resigns, the provisions of this Paragraph shall apply. Under this paragraph, in municipalities, to which a mayor or a deputy mayor is assigned, it may be ensured that budget and accounting works and proceedings are carried out by the revenue office or revenue department upon approval of the governorship. The municipal council shall municipalities. Duties and powers of municipal councils, committees and commissions shall be exercised by members of committee laid down in Article 31."

ARTICLE 39- Following paragraphs have been added to Article 57 of the Law no. 5393.

"However, where it has been established by the governorship that disruption of service in a municipality or its affiliated entities affects or will affect negatively the fight against terrorism or violent activities, the Governorship shall perform the service concerned or have it performed through the Investment Monitoring and Coordination Department, the Provincial Special Administration or state institutions and organizations. Upon request of the governorship, amounts corresponding to expenditures incurred or to be incurred shall be cut down from the share of the entity concerned and transferred to the institution and organization concerned by the Ministry of Finance or the Bank of Provinces Corporation (*İller Bankası Anonim*). Amounts transferred to public entities under the centralized administration budget shall be associated with the budgets of these entities. Needs under this paragraph shall be obtained pursuant to the procedure set out in Article 22 of the Public Procurement Law (no. 4734, dated 4 January 2002) without being subject to monetary and budget constraints. Where the governorship establishes that resources of a municipality or of its affiliated entities are benefitted with a view to directly or indirectly providing support to terrorism and violent activities, movable properties of the municipality or its entity concerned, which have been used to provide support to terrorism and violent activities, shall be confiscated by the highest civil administration officer. Where personnel of the municipality or of its entity, who have been found responsible under this paragraph, are suspended from duty by the governor or district governor, their reinstatement shall be carried out only by the authority that has carried out suspension procedures."

ARTICLE 40- The following Transitional Article has been added to the Law no. 5393. "TRANSITIONAL ARTICLE 9 – Assignment to the position of a mayor, a deputy mayor or a council member, who has been suspended from duty before the entry into force of this Article due to an investigation or prosecution conducted against him/her for the offences of aiding and abetting terrorism and terrorist organizations, shall be carried out within fifteen days in accordance with the procedure set out in paragraph 2 of Article 45 by the competent authorities listed in Article 46, even if an action has been taken against that person under subparagraph (b) of paragraph 1 of Article 45."