

DECREE WITH FORCE OF LAW NO. 670 – 17 AUGUST 2016

SOME ARTICLES OF THE DECREE-LAW NO. 670 OF 17 AUGUST 2016 ON THE MEASURES TAKEN UNDER THE STATE OF EMERGENCY

Aim and scope

ARTICLE 1- (1) With this Decree-Law, it is aimed to take certain necessary measures within the framework of the attempted *coup* and the fight against terrorism within the scope of the state of emergency that was declared throughout the country by the Decree of the Council of Ministers no. 2016/9064, dated 20 July 2016.

Measures regarding public personnel

ARTICLE 2- (1) The following persons who have membership, affiliation or connection to the Fetullahist Terrorist Organization (FETÖ/PDY), which was established as posing a threat to the national security, have been dismissed from office without the need for any other procedure to be carried out:

- a) Persons whose names are cited in the annexed list no. 1 have been dismissed from public service.
- b) Persons whose names are cited in the annexed list no.2 have been dismissed from the Turkish Armed Forces.
- c) Persons whose names are cited in the annexed list no. 3 have been dismissed from the Coast Guard Command organization.
- ç) Persons whose names are cited in the annexed list no. 4 have been dismissed from the Turkish National Police organization.

No separate notification shall be served on the persons in question. Procedures shall also be carried out in respect of them pursuant to the provisions of private laws.

(2) Regardless of a criminal conviction ruled, those who have been dismissed pursuant to Paragraph 1 from public service, the Turkish Armed Forces, the Coast Guard Command organization and the Turkish National Police organization shall be deprived of their ranks and/or public official status; they shall not be readmitted to the organization they took office in, they shall not be employed once again in public service and they shall not be assigned directly or indirectly. Their membership and other assignments to all kinds of boards of trustees, boards, commissions, boards of directors, supervisory boards or liquidation boards shall cease. The provisions of Article 4 shall also be applied in respect of them. Firearm licenses, seamanship certificates and pilot's licenses held by them shall be cancelled and these persons shall be evicted within fifteen days, from public or foundation-owned houses in which they reside. These persons shall not be a founder, partner or personnel of private security companies. The relevant Ministry or institutions shall immediately notify the relevant passport authority as regards these persons. Upon such notification, the relevant passport authorities shall cancel their passports.

Sharing of personal data

ARTICLE 3- (1) During the state of emergency period, with respect to persons, who are inspected and investigated under Articles 3 and 4 of the Decree-Law no. 667 of 22 July 2016 on Measures Taken under the State of Emergency, as well as their spouses and children, except for those regarded as falling within the scope of client secrets under the Banking Law no. 5411 of 19 October 2005, all kinds of information and documents including those related to interception of communication through telecommunication which are required by the competent boards, commissions or other authorities shall be provided by all the public and private institutions and organizations without delay.

(2) All kinds of information found on the Asya Participation Bank, which was transferred to the Savings Deposit Insurance Fund and whose license to perform banking activities was revoked, regarding the personnel of public institutions and organizations as well as their spouses and children, or all kinds of information regarding this Bank found on the Savings Deposit Insurance Fund, the Banking Regulation and Supervision Agency or the Presidency of Financial Crimes Investigation Board shall be provided without delay if it is requested by the institution or organization where the concerned personnel take office. The restriction set out in Paragraph 1 of Article 73 of the Law no. 5411 shall not be applied to these proceedings.

Use of certain titles

ARTICLE 4- (1) Those who have been dismissed from the civil service pursuant to Articles 3 and 4 of the Decree-Law no. 667 cannot use titles they had such as ambassador or governor and also professional titles and capacities they held such as president or member of a high court, undersecretary, judge, prosecutor, district governor et cetera and cannot enjoy the rights provided in connection with those titles, professional titles and capacities.

Measures related to transfer procedures

ARTICLE 5- (1) As regards all kinds of movable and immovable properties, assets, receivables and rights as well as documents and letters (assets taken over) of institutions, organizations, private radio and television stations, newspapers, magazines, publishers and distribution channels that are closed pursuant to the Decree-Laws put into effect under the state of emergency declared throughout the country by the Decree of the Council of Ministers (dated 20 July 2016, no. 2016/9064) and that are transferred to the General Directorate for Foundations or the Treasury; the General Directorate for Foundations, in so far as foundations are concerned, and the Ministry of Finance, in so far as others concerned, shall be authorized to determine all kinds of procedures, to determine the scope, to administrate, to pursue lawsuits and to start executive proceedings as well as to carry out all other procedures related to all kinds of receivables, bonds, cheques and other valuable papers, including advance, to determine obligations and liabilities that are related to the assets taken over and are certificated through ledgers, registers or documents that substantiate the conviction and to pay these obligations and liabilities within a reasonable period by making use of these assets, providing that it does not exceed the value of the assets taken over, that it does not impose a financial burden, that it does not result from bailment and that it concerns real commodity and service relationship with persons who do not have membership, affiliation or connection to the Fetullahist Terrorist Organization (FETÖ/PDY), to terminate or make payment of goods and service costs that have been undertaken and guaranteed but have not been provided by the

closed institutions and organizations, to renounce collecting claims and receivables as well as undertakings and guarantees that are established as uncollectible or as providing no benefit in collecting and pursuing, to carry out all kinds of peace-related procedures, to reimpose and recover restrictions, which were imposed due to obligations resulting from credit or real commodity and service relationship related to the assets taken over and were lifted before, under the same conditions as they were lifted in order to ensure that credits or obligations are paid, to take into account pledges of securities, to determine and remove the limits of the restrictions imposed on the assets taken over, to decide on the annulment and continuation of agreements including leasing, to take all kinds of necessary measures for management, assessment and disposition of assets taken over, to transfer, if required, assets taken over to public institutions and organizations, which are deemed appropriate, for their liquidations or sales, to return assets that are found not to fall within the scope of transfer, to determine the scope of assets to be taken over if closed institutions belong to natural persons, to eliminate hesitations, to provide guidance on the application, to establish procedures and principles for the conduct of all these actions.

(2) Cash and other liquid assets from the assets taken over under this Article shall be monitored in trust accounts, and other assets shall be monitored in memorandum accounts. The amount corresponding to the disposed assets that are monitored in the memorandum accounts shall be transferred into the trust accounts. Obligations decided to be paid shall be paid from these trust accounts, and the remaining balance shall be recorded as revenue to the budget.

(3) The activities of the companies, which are associated with the closed down institutions, organizations, private radio and television stations, newspapers, magazines, publishers and distribution channels, shall be terminated and their trade registries shall be cancelled *ex officio*. Their assets other than the ones that have been taken over, shall be regarded as having been transferred to the Treasury without charge. The trustees, who have been previously appointed to such companies, can be assigned as liquidation officers or liquidation officers can be appointed to the companies in question. The Ministry of Finance shall have the authority to establish the procedures and rules regarding the application of this Paragraph and to apply them also in respect of the assets taken over in this manner in Paragraph 1.

(4) Those who have a claim with respect to the obligations and liabilities which can be subjected to determination within the scope of Paragraph 1 shall apply to the relevant administration with the ledgers, registers and documents that substantiate the conviction within the sixty days prescription period running from the date of entry of this Article into force. With respect to the closure procedures, which shall be carried out subsequent to the date of entry of this Article into force, the sixty days period shall start running from the date of closure.

(5) In the payment of obligations the following order shall be taken as a basis; tax obligations arising from the real asset itself, pledged receivables, employees' social security contributions, obligations such as taxes, duties, charges, surcharges and interests required to be paid to public administrations, obligations resulting from energy, communication and water use, obligations not exceeding five hundred Turkish liras regardless of their type and the others.

(6) Education institutions built on the immovable properties that belonged to the foundations closed pursuant to the provisions of the Decree-Law no. 667 and whose possessions were transferred to the General Directorate for Foundations can be allocated to the public institutions and organizations without charge and to the legal persons subject to the private law in return for the payment of their values.

(7) Public institutions and organizations, natural and legal persons and unincorporated organizations are obliged to provide information and documents to be requested under this Article within fifteen days. In this respect, those requested to provide information and documents cannot be relieved of this obligation on the basis of the written provisions in the special laws.

Public Personnel Selection Examination of 2010

ARTICLE 6- (1) Appointment processes of the personnel appointed in accordance with or on the basis of the general ability and general knowledge test in the Public Personnel Selection Examination held on 10-11 July 2010 shall continue being valid. However, appointments of the persons that are determined to have unlawfully obtained the exam's questions and/or the answers before it is held or during the exam shall be annulled.

Measures concerning financial crimes

ARTICLE 7- (1) The seven working days period referred to in Paragraph 1 of Article 19/A of the Law no. 5549 on Prevention of Laundering Proceeds of Crime Revenues (dated 11 October 2006) shall be applied as thirty working days during the course of the state of emergency in respect of persons, institutions and organizations that are considered to be a member of, or have relation, affiliation or connection with terrorist organizations, structures/entities, or groups established by the National Security Council as engaging in activities against the national security of the State.

Re-taking of statement

ARTICLE 8- (1) As regards the offences defined in Fourth, Fifth, Sixth and Seventh Sections of Fourth Chapter of Second Volume of the Turkish Criminal Code (Law no. 5237) dated 26 September 2004 and the offences falling within the scope of the Anti-Terror Law no. 3713 of 14 April 1991, when a need for re-taking of statement of a suspect with regard to the same incident arises, this procedure may be carried out by Public Prosecutor or by law enforcement officers upon the written order of Public Prosecutor during the course of the state of emergency.

Awarding compensation

ARTICLE 9- (1) On the basis of the records of hospitals and health care organizations consulted for treatment, the persons not carrying the conditions for monthly pensions under Paragraph 1 of Article 21 of the Law no. 3713 among the public officials and civilians who were injured during the coup attempt and terrorist action carried out on 15 July 2016, and those injured while trying to be helpful and beneficial to ensure that further actions of this attempt be revealed, prevented to be effective or eliminated, shall be awarded compensation five times more than the amount to be established in accordance with the degree of disability

and injury within the scope of the basis and procedures prescribed by the Law no. 2330 on Monetary Compensation and Monthly Pensions dated 3 November 1980 by the Compensation Commission of the Ministry of Interior upon the related governor's proposal.

(2) With regard to one person who may be the one that has benefitted from the right of compensation under Paragraph 1, or his/her spouse and one of his/her children (if he/she does not have a spouse or children, he/she or his/her mother, father or one of his/her siblings); the provisions on employment in Additional Article 1 of the Law no. 3713 shall be applied.

Amended or abolished provisions

ARTICLE 10-

...

(4) The following sentence has been added to Paragraph 1 of Article 8 of the Decree-Law no. 667.

"In these circumstances, all kind of immovable properties, receivables and rights, documents and records along with buildings, structures and facilities built on the immovable properties, apart from buildings, structures and facilities present on the contract date and belonged to the related institutions and organizations shall be regarded as transferred to the Treasury without charge as from 23 July 2016."

(5) The expression of "seamanship certificates" has been added after the expression of "firearm licenses" in Paragraph 2 of Article 2 of the Decree-Law no. 668 on Measures to Be Taken under the State of Emergency and Arrangements Made on Certain Institutions and Organizations dated 25 July 2016.

(10) Paragraphs 3 and 4 of Article 107 of the Decree-Law no. 669 have been amended as follows. Also, the following paragraphs have been added after Paragraph 4 of this Article. Other articles have been accordingly continued.

"(3) Among the personnel who were transferred;

a) With respect to those who receive their salaries according to the Law no. 657 on Public Officers, in the event that the total net amount of the payments (this amount is taken as a fixed value) of monthly indicator, additional indicator, monthly enhancement, basic salary, increase, compensation and additional payment or healthcare services compensation made on the basis of their cadres in the last month before the transfer is more than the total net amount of the monthly indicator, additional indicator, monthly enhancement, basic salary, increase, compensation and additional payment made from circulating capital; the difference between two amounts shall be paid to them as compensation until the making up of difference, without subjecting to any tax and cut.

b) In the event that the net amount of circulating capital additional payment which is paid in their new cadre to which they were assigned following the transfer is less than the net amount of healthcare services compensation calculated on the basis of the old cadre as from the date of transfer (this amount is taken as a fixed value); those who receive their salaries according

to the Higher Education Personnel Law no. 2914 shall be provided with the difference between two amounts as compensation, without being subjected to any tax and cut.

c) Those who receive their salaries according to the Law no. 926 on Turkish Armed Forces Personnel shall be paid their monthly and financial rights (including the additional payments or healthcare services compensation) in the same way on the basis of their ranks and grades and the elements of monthly and financial rights on the date of the transfer (except for amount of appointment and the payments made in return for actual work). In the event that total net amount of their monthly and financial rights which they receive in this way is less than the total net amount of monthly and financial rights they may receive on the basis of their new positions following the transfer and the total net amount of circulating capital additional payment calculated on the basis of the new position titles to which they were appointed; the difference between these amounts shall be paid as compensation, without being subjected to any tax and cut. On the conditions that the highest rank is the senior colonel for commissioned officers and sergeant major with two grades for the non-commissioned officers and that the generals and admirals remain in their current cadres; the procedures concerning their ranks, promotions and seniority and retirement procedures including age limit and compensation for lack of cadre shall be made in accordance with the provisions of the Law no. 926. However, upon their wish, they may work until the age limit set up for the public officials so long as they benefit from the financial and social rights of the cadre to which they were appointed. Additional Article 3 of the Law no. 209 of 4 January 1961 and Additional Article 3 of the Law no. 5510 of 31 May 2006 shall not be applied to the personnel falling under this subparagraph.

ç) Contracted officers shall continue to take office as contracted officers in the same way and to receive salary in the framework of the relevant legislative provisions; they shall not be provided with separate payments such as additional payments and circulating capitals.

(4) Transferred personnel and the retired ones shall benefit from the social facilities affiliated to the Turkish Armed Forces, the Coast Guard Command and the Gendarmerie General Command and from the right to bearing and possessing arms, as is the case with the personnel with counterpart ranks. The membership of the members of the Armed Forces Trust and Pension Fund (OYAK) shall continue as long as they are subject to the provisions of Paragraph 3; the mentioned right of those who benefit from the actual service period increase shall continue, in accordance with sub-paragraph (c) of Paragraph 3, as long as they receive salary in line with the Law no. 926 on the basis of the provisions on the date of the transfer.

(5) The provisions of Paragraphs 3 and 4 shall be implemented as long as the relevant persons remain in the cadres of the institutions to which they were transferred in accordance with this Article.