

DECREE WITH FORCE OF LAW NO. 671 – 17 AUGUST 2016

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

ARTICLE 1- Article 10/3 (b) of the Law no. 357 on Military Judges has been amended, and the expression of “women” has been replaced with “those having civilian background”.

ARTICLE 23 – The following provisional article has been added to the Law no. 5651.

“PROVISIONAL ARTICLE 4 - (1) The duty of the Head of the Telecommunications Communication Presidency shall terminate as of the date of entry into force of this article and the provisions of Additional Article 18 of the Decree Law no. 375 shall be applied in this regard. The duties of the heads of departments serving in the Telecommunications Communication Presidency shall terminate as of the date of entry into force of this article. Among them, those who have previously acquired the title of Communication Specialist shall be deemed to have been appointed to the position of Information Technology Specialist in the Information and Communication Technologies Authority.

(2) Among the personnel serving in the Telecommunications Communication Presidency and established to have no membership of, affiliation, link or connection with the terrorist organizations or the structures, formations or groups which have been found by the National Security Council to commit actions against the national security of the State, those serving as Communication Specialists or Assistant Communication Specialists shall be deemed to have been appointed to the positions of Information Technology Specialist and Assistant Information Technology Specialist in the Information and Communication Technologies Authority and other personnel shall be deemed to have been appointed to the relevant positions in the Authority with their existing degrees without need for any other procedure. The relevant positions shall be deemed to be created and added to the table of positions of the Authority pursuant to its specific legislation as of the date of appointment of the personnel in question, irrespective of the provisions of other laws and without need for any other procedure. The periods of time during which those who have been appointed in this manner served as a Specialist or Assistant Specialist shall be deemed to have been served in their appointed positions in the Authority.”

ARTICLE 25- The following paragraphs have been added to Article 60 of the Electronic Communications Law no. 5809 dated 5/11/2008 after the eighth paragraph and the ensuing paragraph has been accordingly continued.

"(9) Depending on one or more than grounds enumerated in Article 22 of the Constitution, the Prime Ministry shall determine the measures to be taken and notify the Authority for their implementation, in cases of exigent circumstances. The President of the Authority shall immediately notify the operators, access providers, data centres and the relevant content and hosting providers of the Prime Ministry's decision relating to the measures deemed necessary. This decision shall be immediately fulfilled within two hours at the latest as of the notification of the decision. This decision shall be submitted within 24 hours to magistrate judge for approval. The Judge shall declare his/her decision within forty-eight hours, otherwise the decision shall be automatically revoked.

(10) The Authority shall take all kinds of measures or have them taken in order to protect the public institutions and organizations as well as the natural and legal persons against cyber-attacks and to ensure deterrence against these attacks.

(11) The Authority may receive information, documentation, data, and records from the relevant authorities within the scope of its duty; it may benefit from archives, electronic data processing centres and the communication infrastructure and may contact with them and may take other necessary measures or have them taken in this regard. The Authority shall collaborate with the ministries, institutions and organizations in fulfilling the duties specified in this paragraph. In this regard, all kinds of information and documentation requested from the Authority, shall be fulfilled by the relevant ministries, institutions and organizations without delay.

The procedures and principles as well as other issues with regard to the requests for information and documentation made in accordance with this paragraph and fulfilling these requests shall, be determined by the Prime Ministry.

(12) The natural persons and private legal entities shall not avoid fulfilling the requests relating to the Authority's duties in this Article, by justifying the provisions of the legislation to which they are subject. The sanction in the second paragraph of this Article shall be imposed to those, who do not fulfil their obligations relating to the Authority's duties except for the business administrators."

ARTICLE 31- The following Article 20/A has been added to the Anti-Terror Law no. 3713 dated 12/4/1991 after Article 20.

"Imposition of cautionary injunction for compensation of damages

Article 20/A- It may be decided to add annotation in the phase of investigation, upon the request of the Public Prosecutor, by the Magistrate and in the phase of proceedings, by the Court to prevent transfer and assignment, establishing property rights, and to restrict power of disposal concerning the immovable or land, sea, or air transportation vehicles of the suspects or accused persons, with a view to compensating the damages suffered by the natural and legal persons as well as public institutions and organizations due to the offenses defined in the Second Volume, Fourth Chapter, Fourth, Fifth, Sixth and Seventh Parts of the Turkish Penal Code, and the offenses within the scope of this Code. The decision relating to immovables shall be executed by adding annotation into the land register and the decision relating to land, sea, or air transportation vehicles shall be executed by adding annotation into the registry to which these vehicles are registered. If the decision of non-prosecution is finalized or if a provisional seizure or interlocutory injunction regarding the continuation of annotation given by the civil court is not presented within a year as of the date of annotation, the annotation shall be ipso facto lifted.

ARTICLE 32- The following provisional article has been added to the Law on the Execution of Penalties and Security Measures dated 13 December 2004 and numbered 5275.

"PROVISIONAL ARTICLE 6- With respect to the offences committed before 1 July 2016, except for the offences of intentional killing (Articles 81 and 82), intentional injury and aggravated injury due to its consequences, committed against lineal consanguine, siblings and spouses or against a person who cannot defend himself physically or mentally and offences against sexual integrity (Articles 102, 103, 104 and 105), offences against privacy and

confidentiality of life (Articles 132, 133, 134, 135, 136, 137 and 138), offence of production and trade of narcotics or psychotropic substances (Article 188), which are set forth in the Turkish Criminal Code no. 5237, and the offences defined in the Second Volume, Fourth Chapter, Fourth, Fifth, Sixth and Seventh Parts of the Turkish Criminal Code, and the offences falling into the scope of the Anti-Terror Law dated 12 April 1991 and numbered 3713;

a) The term “one year” set forth in Article 105/A of this Law has been amended as “two years”;

b) The rate “two thirds” set forth in Article 107 of the same Law has been amended as “half”.