

**DECREE-LAW NO. 682 DATED 23 JANUARY 2017 ON GENERAL DISCIPLINARY PROVISIONS OF LAW ENFORCEMENT**

**Scope**

**ARTICLE 2** – (1) This Decree-Law shall include the following;

- a) Officials from all ranges working in Directorate General of Security,
- b) Officers, non-commissioned officers, warrant officers, contracted non-commissioned officers, specialised gendarmes, specialized sergeants, and contracted privates and the officials from other ranges working in the General Command of Gendarmerie and Coast Guard Command.

(2) The provisions of the Disciplinary Code of Turkish Armed Forces no. 6413 dated 31/1/2013 shall apply to the ranks and files who are assigned to the General Command of Gendarmerie and Coast Guard Command.

**Characteristic of acts requiring disciplinary penalty and that of disciplinary punishments**

**ARTICLE 4** – (1) Indiscipline may occur intentionally or by negligence.

(2) More than one of the disciplinary penalty defined in this Decree-Law shall not be given due to the same act.

(3) If an act constitutes more than one indiscipline, the severe disciplinary penalty shall be imposed.

(4) The fact that an act has an administrative sanction within the other laws shall not constitute an impediment to imposing disciplinary penalty under this Decree-Law.

**Exercise of discretion**

**ARTICLE 6** – (1) Disciplinary supervisors or disciplinary boards authorized to impose disciplinary penalty under this Decree-Law shall exercise discretion as to disciplinary penalty proportionately, fairly and equitably.

(2) Discretion shall be truly justified.

(3) The following issues shall be taken into consideration during the exercise of discretion;

- a) How a person has breached discipline,
- b) Date and place of indiscipline,
- c) Gravity of the negative effect of indiscipline upon the service,
- ç) Gravity of the damage or danger that has occurred,
- d) Gravity of the offence committed by personnel either intentionally or by negligence,
- e) Previous disciplinary situation of the personnel who have breached discipline,
- f) Honest confession and repentance shown by the personnel who have breached discipline.

(4) Any administrative authority shall not take a decision or employ practices that would result in the removal of discretion as to disciplinary penalty, except for the decisions given by the competent authorities upon appeal.

**Disciplinary penalty**

**ARTICLE 7** – (1) Disciplinary penalties to be imposed on the personnel shall be as follows:

- a) Warning Penalty: Written notice for the personnel to warn them to be more careful during the execution of their duties or in their acts.
- b) Reprimand: Written notice for the personnel to inform them of their wrongful acts during the execution of their duties.
- c) Deduction from salary: Deduction from the gross salary of the personnel, on whom disciplinary penalties are imposed, up to fifteen days excluding salary increase and compensation considering the gravity of the act. The penalty shall be imposed by the unit that provides the salary of the

personnel by deducting it. Deduction from the salary shall be made from full Turkish Lira and pennies shall not be taken into consideration.

- d) Short-term suspension: Suspension of the personnel grade for four, six or ten months.
- e) Long-term suspension: Suspension of the personnel grade for twelve, sixteen, twenty or twenty four months.
- f) Dismissal from profession: Dismissal of the personnel from public service in a way not to work in Directorate General of Security, General Command of Gendarmerie and Coast Guard Command any more.
- g) Dismissal from the public service: Dismissal of the personnel from the public service in a way not to be appointed to any public service any more.

(2) With regard to the penalties to be given to the personnel, whose works were found positive during their former service in the institution and received assessment points of good or very good levels, the penalty with a degree lower than envisaged may be given.

(3) In the implementation of (c), (d) and (e) sub-paragraphs of the paragraph 1, higher and lower levels of the penalty shall not be considered as heavy or light sentence.

(4) The provisions of this Decree-Law shall not constitute an obstacle for the implementation of the provisions on dismissal from profession regulated by the laws of contracted officers, contracted non-commissioned officers and specialized sergeants as well as contracted privates.

(5) Those, who have been punished with another disciplinary penalty other than dismissal from public service or profession, may apply to the superior having the authority to make appointment and demand the removal of their disciplinary penalty from their personal files after five years as of the implementation of warnings and reprimands and after ten years as of the implementation of the other penalties. If the behaviours of the related person within these time periods are considered as his/her demand are rightful, the penalty in question shall be removed from his/her personal file.

### **Dismissal from Public Service**

**ARTICLE 9** – (1) The provisions of the Law no 657 shall be applied regarding the actions about which the penalty of dismissal from public service will be given and about the authority to give this penalty. In addition, the personnel committing the actions below shall be punished by dismissal from public service:

- a) Taking part in any activity for damaging independence of the country, destroying its unity and endangering national security, or participating in any movement, group, foundation, association or similar organizations operating through similar activities, and providing assistance to them or having affiliation with these structures.
- b) Committing torture.

### **Aggravating Circumstances**

**ARTICLE 10** – (1) If the State or people were damaged or service was delayed or cancelled because of not obeying the orders of superiors, penalty of dismissal from profession may be applied according to the level of this damage or heaviness of the situation.

(2) If leaving the place of duty took long or in a way that would cause negligence of duty or gave damage to the State or people, penalty of dismissal from the profession may be given considering the nature and the gravity of the situation or the degree of damage.

(3) If illegal practices carried out on written papers, documents and records paved the way for damage to the State or people or delay, halt or disruption of service, penalty of dismissal from profession may be applied according to the level of this damage or gravity of the situation.

(4) If not coming to guard duty or behaving in violation of guard instruction paved

the way for damage to the State or people, penalty of dismissal from the profession may be applied according to the nature and gravity of the situation.

(5) Penalty of dismissal from the profession may be given for causing the death of someone with his/her weapon considering the way of commission of the offence, gravity of the situation or the degree of damage.

(6) Penalty of dismissal from the profession may be given for injuring someone due to negligence, unwariness or recklessness considering the way of commission of the offence, gravity of the situation or the degree of damage as well as the importance and value of the subject of the action.

(7) The firing of guns in residential areas paved the way for damage to the State or people, penalty of dismissal from profession may be applied according to the nature and gravity of the situation.

(8) If sleeping on duty paved the way for damage to the State or people, penalty of dismissal from the profession may be applied according to the essence and gravity of the situation.

(9) Penalty of dismissal from the profession may be inflicted if one does not fulfil the duty committed to him/her by making various excuses and this causes disruption of the actual service or a public damage.

(10) If the act of toleration or negligence during the acceptance and fulfilment of the duty damages the State or persons or causes a delay, halt or disruption of the service, a heavier penalty may be inflicted according to the gravity of situation or level of the damage.

(11) A penalty of twenty-four-month long term suspension may be inflicted for the act of intentional injury by means of weapon according to the way of committing the offence, gravity of situation or level of the damage.

(12) If the act of negligence of supervision and investigation tasks causes a delay, halt or disruption of the service or damages the State or persons, a penalty of four-month short term suspension may be inflicted according to the gravity of situation or level of the damage.

(13) If the acts, determined in this Decree-Law and imposed a sanction through a disciplinary penalty, are committed during a port visit abroad or outside of the Turkish territorial waters by the personnel of Coast Guard, a penalty of monthly deduction from salary, short-term or long-term suspension may be inflicted for the acts requiring a penalty of warning, reprimand considering the heaviness of the occurring damage and danger; a penalty of dismissal from profession may be inflicted for the acts requiring a penalty of monthly deduction from salary, short-term or long-term suspension considering the heaviness of the occurring damage and danger.

### **Imposing penalty of dismissal from the profession on the basis of disciplinary penalty points**

**ARTICLE 12** - (1) The following situations shall be regarded as making a habit of indiscipline and the penalty of dismissal from the profession on the personnel is inflicted by the authorized disciplinary boards:

a) Receiving twenty disciplinary points within the last one year before the date of the last disciplinary penalty becomes final, or twelve or more disciplinary penalties in total from at least two different disciplinary superiors.

b) Receiving forty disciplinary points within the last five years before the date of the last disciplinary penalty becomes final, or twenty-five or more disciplinary penalties in total from at least two different disciplinary superiors.

(2) If more than one disciplinary penalty are inflicted within the scope of the same disciplinary file, the point of the highest one shall be assessed.

(3) The procedure for calculating the penalty points within the scope of Paragraph 1 is shown for the personnel of the Directorate General of Security in the annexed Table (1), and for the personnel of the General Command of Gendarmerie and Coast Guard

Command in the annexed Table (2).

(4) The provisions in special laws regarding the annulment of the contracts of the contracted personnel shall be reserved.

**Right to defence**

**ARTICLE 31** - (1) A disciplinary penalty cannot be inflicted by disciplinary superiors or disciplinary boards without taking one's defence.

(2) Defence is requested from the relevant person by the disciplinary superior or the chair of the authorized disciplinary board or one of the board members assigned by the chair. Duration for the defence cannot be less than seven days. The personnel, who does not submit his/her defence within this duration, shall be considered that he/she has waived his/her right to defence.

(3) The personnel, on whom a disciplinary investigation is carried out, shall have the right to examine the investigation document as from the date when defence is requested from him/her in accordance with Paragraph 2.

(4) The personnel, on whom a dismissal from the profession or dismissal from public service is requested, shall have the right to examine the investigation document, call witnesses, and oral or written defence before the disciplinary board himself or through his/her lawyer.