

STATE OF EMERGENCY

- State of Emergency is a measure permitted by the Turkish Constitution and regulated by relevant national legislation. The Constitution includes explicit provisions on the State of Emergency and provides necessary safeguards through setting out clear conditions, rules and procedures for the declaration of the State of Emergency as well as the general principles to be observed during the State of Emergency.
- State of Emergency is also a practice permissible under international human rights law, including European Convention on Human Rights. Article 15 of the ECHR provides the Member States with the right to take measures derogating from their obligations under the Convention, in public emergency situations.
- In order to fight effectively against the FETO terrorist organization which poses a grave threat to survival and security of our state through its clandestine infiltration to state mechanisms, the Council of Ministers of Turkey decided on 20 July 2016 that a nationwide state of emergency be declared as from July 21, 2016 for a period of ninety days, pursuant to Article 120 of the Constitution and Article 3 § 1 (b) of the Law on the State of Emergency (Law no. 2935).
- The Council of Ministers took this decision in its meeting under the chairmanship of President Recep Tayyip Erdoğan, in view of the recommendation dated 20 July 2016, no. 498 of the National Security Council. The decision was endorsed by the Turkish Parliament on 21 July 2016.
- The purpose of the State of Emergency is to take required measures in the most speedy and effective manner in the fight against FETO terrorist organization in order to save our nation from this raving terror network and return to normalcy as soon as possible.
- In this process, utmost care will continue to be shown to uphold our democracy and the fundamental rights of our citizens with the rule of law, as always.
- Turkey is not the only country who resorted to declare State of Emergency in such circumstances. Many democratic countries did the same when facing similar or even against limited security threats. France, a member of the EU and the Council of Europe (CoE), also declared State of Emergency on 14th November 2015 and has extended it until the end of January 2017.
- During the period until 15th July 2016 when Turkey faced the coup attempt, the Turkish government carried out its counter-terror operations against PKK and DAESH terrorist organizations in severe conditions without declaring a State of Emergency. The Government spared no effort to carry out the measures within the context of the regular norms and standards of the European Human Rights regime.

- Yet, in the face of FETO terrorist military coup attempt against the national security and this terrorist organization's infiltration into the state organs as well as in several sectors, both in public and private, such as health, education, academia, business etc, the declaration of the State of Emergency had to be resorted to eradicate this terrorist network in these structures in a most speedy and effective manner.
- The Republic of Turkey is fully aware of its obligations related to democracy, human rights, the principle of rule of law and international conventions in this process and as in the past, due respect will be shown to fundamental rights and freedoms and the principle of supremacy of law will be strictly observed.
- Although the State of Emergency has been declared for a period of 90 days, all extraordinary measures will be terminated once the result in the fight against the FETO terrorist organization will be successfully attained.
- As clearly stated by Foreign Minister Mevlüt Çavuşoğlu in his article published in Newsweek recently, we are determined to fight these enemies of our democracy with democracy. Turkey as one of the founding members of the Council of Europe, which represents the most advanced standards and norms in democracy, human rights and the rule of law, has the necessary will and assets to do so. What we need from our friends, partners and allies is solidarity, understanding as well as constructive cooperation in this process.
- The democratic resolve of our people together with the state has saved the democratic regime against this terrorist campaign. The Turkish people coming from all segments of the life and regardless of their political affiliations took to the streets on the night of 15th of July. The political parties did the same in defending democracy at the parliament against the bombs. This democratic spirit gladly continues even after the coup attempt was foiled.
- While resolutely fighting the FETÖ under state of emergency, the Government is now also taking concrete steps to further the reform process in the field of human rights, rule of law and democracy as manifested in the ongoing works for constitutional reform. This process has gained impetus as the political parties at the Parliament joined the efforts in a constructive manner.

DEROGATIONS IN ACCORDANCE WITH ARTICLE 15 OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS AND ARTICLE 4 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR):

- Once the declaration of State of Emergency was declared, Turkey duly resorted to the right of derogation from the obligations in the European Convention on Human Rights (ECHR) and the International Covenant on Civil and Political Rights (ICCPR).
- Indeed, relevant articles of these Conventions (Article 15 of the ECHR and Article 4 of the ICCPR) permit the Contracting Parties to take measures derogating from their obligations under the Conventions in extraordinary circumstances.
- A **derogation is not a suspension of rights**. It may bring certain limitations to the exercise of certain rights under required conditions.
- These provisions allow States to take necessary measures without delay for the protection of human rights in cases of emergency threatening the life of the nation.
- Many countries have also made use of this flexibility allowed by the ECHR and ICCPR.
- Currently, France has declared that it may restrict its obligations under both international conventions.
- **As regards ECHR:**

[ARTICLE 15/ Derogation in time of emergency

1. In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.

2. No derogation from Article 2, except in respect of deaths resulting from lawful acts of war, or from Articles 3, 4 (paragraph 1) and 7 shall be made under this provision.

3. Any High Contracting Party availing itself of this right of derogation shall keep the Secretary General of the Council of Europe fully informed of the measures which it has taken and the reasons therefor. It shall also inform the Secretary General of the Council of Europe when such measures have ceased to operate and the provisions of the Convention are again being fully executed.]

- Contracting parties to the ECHR are able to take these measures to the extent strictly required by the conditions of the situation, provided that such measures are not inconsistent with its other obligations under international law.
- Moreover, this right is not permissible for certain articles, including those related to, right to life, prohibition of torture, prohibition of slavery, and prohibition from punishment without law.
- While taking the measures under Article 15, the States parties naturally continue to be subject to the supervision of the European Court of Human Rights (ECtHR).

- The measures that may be resorted to by Turkey in necessary circumstances, will certainly be in line with the principle of proportionality laid down in the ECHR and compatible with our adherence to the rule of law.
- The Republic of Turkey is fully aware of its obligations under international conventions and acts in full respect for democracy, human rights, the principle of rule of law in this process and as always, due respect will be shown to fundamental rights and freedoms and the principle of supremacy of law will be strictly observed.

As regards ICCPR;

[ICCPR/ Article 4

“1 . In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

2. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.

3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.”]

- As is the case with the ECHR, derogation to ICCPR does not mean suspension of rights. It may bring limitations to the exercise of permissible rights under required conditions.
- **(Joint statement of a number of UN Special Rapporteurs and Independent Experts claiming that : “The invocation of Article 4 is lawful only if there is a threat to the life of the nation, a condition that arguably is not met in this case”):**
- ICCPR entails official proclamation of public emergency that threatens the life of the nation.
- As stated, Turkey declared nationwide State of Emergency, in the face of terrorist coup attempt committed by FETO members. This violent attempt clearly created a public emergency, as it aimed to abolish our constitutional order and severely threatened the life of our nation.
- Exigencies that form threat to the life of the nation can **only** be determined by the relevant state party, in accordance with the international law. As expressed before, our nation faced such a threat and consequent public proclamation has been made by our Government. This proclamation cannot be questioned. Frankly, “expertise” of UN rapporteurs falls far short of making such statements. This attitude clearly intrudes code

of conduct for UN rapporteurs to follow. Meanwhile, our country will continue its open and constructive dialogue with the relevant UN organs, as always.

THE DECREES WITH FORCE OF LAW NO. 667/668/669/670/671

- A Decree with Force of Law (Decree Law) is a legal measure enacted in the context of Turkey's State of Emergency. So far, such five Decrees have been published in the Official Gazette on 23 July, 27 July, 31 July and 16 August respectively (No. 667, 668, 669, 670 and 671).
- The Decrees aim to facilitate the measures to fight the FETÖ in a most speedy and effective manner. It is a response to the violent coup attempt and ensuing public concerns, in the face of an emergency threatening the life of the nation.
- Supervision of the European Court of Human Rights naturally continues to apply.
- **(Stay of execution)** To avoid interruptions in the fight against terrorism within the context of the Decree Law, in taking the required measures in the most speedy and effective manner, stay of execution orders cannot be ruled during the state of emergency period. Nevertheless, a stay of execution against such measures can still be ruled once the state of emergency period is over, if the conditions still exist.
- **(Dismissals)** FETÖ is a terrorist network that has infiltrated into state organs for the purpose of taking over the legitimate democratic regime and the constitutional order. It is a matter of urgency to take prompt measures to remove such persons from public institutions.

Within this framework, the Decrees allow that public officials who are established/found to be members of or affiliated to or in contact with the terrorist organization be dismissed from public service.

ONGOING INVESTIGATIONS

- The Public Prosecutors are investigating the severe crimes committed by the coup plotters on 15th July, as well as those who are linked to the FETÖ. However, these investigations are limited to those who supported the FETÖ terrorist organization during or before the coup plot.
- In the face of the tragic events unfolded on 15th July, judicial authorities carry out all necessary legal measures to disclose any support to the bloody coup. There can be no exemption from the criminal investigations and the related measures.
- The rule of law is guaranteed by our Constitution. Our country is party to major international conventions on human rights, in particular the European Convention on Human Rights. Ongoing investigations and prosecutions are undertaken by the independent judiciary.

- Rights of suspects are under protection within the limits of the State of Emergency

(INVESTIGATIONS AGAINST JUDGES AND PROSECUTORS)

- The judges and prosecutors who are being investigated have been suspended from office on the grounds of the existence of strong criminal suspicion for their involvement in the alleged offences.
- The Inspection Board of the High Council of Judges and Prosecutors took this decision with a view to protecting the investigations from any possible influence as well as ensuring the credibility of the judiciary.
- Indeed the relevant authorities had been investigating about FETO even before the foiled coup attempt. Fabricating evidence in the investigations for the Ergenekon and Balyoz cases, as well as the military espionage case initiated thereafter had already been linked to some FETO members within the judiciary.
- The investigations initiated in respect of the suspects are in progress.
- Proceedings are being carried out in accordance with our legislation and our international obligations.

(ALLEGATIONS REGARDING THE INVESTIGATIONS AGAINST “JOURNALISTS”:

- On 15th July the terrorist coup plotters raided major press/media establishments, both state and private ones, and forced these media organs to spread their illegal messages. They also attacked satellite control centers in order to cut TV broadcasting all around the country. Therefore, it is evident that independent press and media organizations were among the primary targets of the terrorists.
- However, their attempt to control the media did not last long and they faced a solid resistance especially from the private media organs. Under this critical environment, free and pluralistic Turkish media played a vital role in the prevention of the coup attempt as a deterrent force against the plotters.
- The Public Prosecutors are investigating these severe crimes committed by the coup plotters as well as those who are linked to FETO. Within this framework, a number of journalists are also being investigated. However, these investigations are limited to those who supported the FETO terrorist organization during or before the coup plot.
- It is clear that the alleged acts attributed to these people, if proven, cannot be considered within journalistic work. In the face of the tragic events unfolded on 15th July, judicial authorities consider it worthwhile to prosecute any support to the bloody coup, regardless of the profession of the supporters as such acts constitute crime.

- The work of journalism does not provide these people exemption from the criminal investigations and the related measures.
- If ruled guilty by the courts in due judicial process they would be naturally convicted not because of their profession as journalist, but because they used their profession in the service of committing crimes in respect of terrorist coup attempt and/or being linked to the FETO terrorist organization.
- In fact, judicial authorities had been investigating about a number of journalists even before the foiled coup attempt. The charges included fabricating false evidence for the investigations of the Ergenekon case and other publicly renown cases, as well as similar illegal acts in the service of the FETO terrorist organization.
- The rule of law is guaranteed by our Constitution. Our country is party to major international conventions on human rights, in particular the European Convention on Human Rights. Ongoing investigations and prosecutions are undertaken by the independent judiciary.
- Rights of all suspects are under protection in accordance with the rules of the state of emergency as permitted by the constitution and the European Convention on Human Rights.

CLOSURE OF CERTAIN MEDIA INSTITUTIONS

- In accordance with the Decree dated 27 July 2016 (No. 668), private-run radio and television institutions, newspaper, magazine, publishing companies and distribution channels which belong to, connect to, or contact with the Fetullah Gülen Terrorist Organization (FETO), which pose a threat to the national security, have been closed down.
- Majority of these establishments were subject to criminal investigations prior to the terrorist coup attempt and legal sanctions were taken for many. In the context of the said investigations, a number of Criminal Magistrates' Offices indicated that those press and media organizations made publications by order of the founder and the executives of the FETO in order to achieve illegal goals of the organization.
- Many companies were also charged with carrying out false transactions aimed at financing a terrorist organization concealing the financial resources of the organization and transferring funds abroad.

CLOSURE OF CERTAIN PRIVATE EDUCATION INSTITUTIONS

- In accordance with the Decree dated 23 July 2016 (No. 667), *legal private entities* which belong to, connect to, or contact with the Fetullah Gülen Terrorist Organization (FETO), which pose a threat to the national security, have been dissolved.
- In this context, a number of private education institutions, including universities have been closed down.
- With a view to protecting the right to education, it has been prescribed that students registered in those institutions shall be placed at other universities by the Council of Higher Education.
- For the academics and other personnel that worked at those institutions, the Council of Ministers is entitled to establish the procedure and principles concerning their transfer to other institutions. Thus necessary measures will be taken in order to protect their right to work and other ensuing rights.

ALLEGATIONS OF TORTURE/HUMAN RIGHTS VIOLATIONS

- We strongly reject groundless allegations that question our commitment to eliminate all acts of torture or inhuman treatment.
- Turkey is party to both the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment since 1988 and the European Convention For the Prevention of Torture and Inhuman or Degrading Treatment or Punishment since 1989. Turkey has a constructive cooperation with their respective international monitoring organs namely UN Committee Against Torture and European Committee For the Prevention of Torture.
- Turkey is also party to UN Optional Protocol to the Convention Against Torture (OPCAT) and designated Human Rights and Equality Institution as the National Prevention Mechanism accordingly.
- Our Government has adopted a “zero tolerance policy against torture” back in 2003 and in line with this policy, relevant measures have been continuously taken.
- The success of the reforms achieved in relation to the relevant legislation were acknowledged by the European Committee for the Prevention of Torture as early as 2004.
- Moreover, the statute of limitations with regard to the offence of torture, was fully abolished in 2013, thus enabling more effective investigation. This is a ground-breaking development under the scope of the zero tolerance policy against torture.
- Turkey’s full commitment to take effective legislative, administrative, judicial and other measures to prevent acts of torture, as defined in the Conventions to which Turkey is party, continue unabated.
- The Republic of Turkey firmly upholds the principle of the rule of law. Despite the extraordinary circumstances our nation has gone through, arrest and detention

procedures are being conducted in accordance with the national legislation that is compatible with international human rights standards.

• **Claims raised by Amnesty International dated July 24th**

- Our Ministry of Justice has issued a statement on 25th July, rejecting those allegations. Our Minister of Justice further clarified that such claims are baseless.
- We would have expected these human rights NGOs to equally uphold principles of democracy and the rule of law, by openly condemning raving atrocities committed against our democratic institutions and the Constitutional order along with civilian people.
- Statements starting with a few sentences of condemnation against the coup and then continuing with pages of homework for coup plotters' human rights do not make sense for our public due to their insufficient emphasis on Turkish people's great struggle for defending its democracy.
- Presidency of our Republic was attacked, our Parliament was bombed, our citizens were crushed under the tanks and subjected to barbaric attacks, whereas press/media establishments were raided. The terrorist plotters also attempted to assassinate our President.
- Statements and comments, ignoring all this violence and perpetrated crimes against our common values of the civilized world, constitute a blatant bias and prejudice.
- In that regard, we cannot accept these speculative comments and unfounded allegations.
- We attach importance to transparency in our measures. Recently the Ministries of Justice and Interior have met with representatives of AI to explain the measures and exchanged views with them in a frank manner.

DEATH PENALTY

- Despite the numerous terrorist attacks that we have endured in the past, our country has never compromised the standards of democracy and human rights. We will continue to strongly uphold these standards.
- Capital punishment was long removed from the domestic legislation. Similarly, Turkey is party to relevant international instruments concerning the abolition of the death penalty.

[Turkey became party to Protocol No.6 and No.13 of European Convention of Human Rights, in 2003 and 2006 respectively. (Protocol 13 prohibits the death penalty in all circumstances, even during war).

In March 2006 Turkey ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming among others at the abolition of death penalty.]

- We are fully aware of our international obligations as well as the existing national legislation.
- On 15 July, the Presidency of our Republic was attacked, our Parliament was bombed, our citizens were crushed under the tanks and subjected to barbaric attacks, and press/media establishments were raided.
- Faced with such raving atrocity, the expectation for reinstating the death penalty, as voiced by the people should be seen as a reflection of the strong reaction they have felt against these treasonous crimes.
- This will naturally be assessed prudently, in its due course, through all possible channels including the Parliament.
- Conclusions of the democratic debate that can be carried at a time ripe, shall be decisive.
- [Muhatapların tutumuna göre: In this regard, we note with concern the prejudging and speculative comments and statements, before this debate has even not advanced. It is not right to draw hasty conclusions starting from false assumptions.]
- [Muhatapların tutumuna göre: Meanwhile making statements with threats on this issue have negative effects on Turkish nation. We expect our international partners to wait for the conclusions of the democratic debate.]

VISIT OF THE SG OF THE COUNCIL OF EUROPE

- Secretary General of the Council of Europe (CoE), Thorbjorn Jagland, paid a visit to Turkey on 3-4 August to show solidarity to Turkey, founding member of the organisation.
- He was received by the President, Speaker of the Parliament and Prime Minister. He had meetings with the Ministers of Foreign Affairs, Interior, Justice and EU Affairs. He also had contacts with the leaders of political parties represented in the parliament.
- During his visit, SG gave clear messages of solidarity and support to Turkey and Turkish democracy.
- He condemned in the strongest terms the bloody terrorist coup attempt, as he did in his previous statements. He indicated that any attempt to overthrow democratically elected government is unacceptable.
- Jagland is the first leader from European institutions visiting Turkey following the coup attempt, to show his solidarity and support to Turkish democracy. We expect this to provide necessary guidance to other European leaders.

- SG pointed out that international community and in particular some European partners failed to grasp the gravity of the threat facing Turkey.
- This message of the SG has shown the urgency for European institutions, first and foremost, for EU, to make self-criticism as to their failure to stand up for democratic values when it comes to Turkey.
- We hope that our European partners will pay due attention to the messages of SG Jagland.
- All the meetings with SG were held in a very open, sincere and cooperative atmosphere. Our authorities answered the questions of the SG in a very frank manner. In fact, this is the manner that we always pursue in our cooperation with the Council of Europe.
- During the meetings, we reiterated that we will maintain our cooperation with CoE unabated. We also underlined our determination to take all the measures under State of Emergency within the limits of law and our international obligations.
- SG also expressed the full support of the CoE in this process, through technical cooperation, if necessary.
- As the Chairperson of the Committee of the Ministers of the CoE, Foreign Minister of Estonia Marina Kaljurand will also visit Turkey on 24 August 2016.

VISIT OF THE DELEGATION FROM OSCE PARLIAMENTARY ASSEMBLY

- OSCE Parliamentary Assembly President Christine Muttonen (MP, Austria) together with a delegation of the Parliamentary Assembly visited our country between 16 and 17 August 2016.
- In her statement pursuant to the visit, Muttonen expressed that “last month’s attempted coup was possibly the clearest attack on democracy we have seen in the OSCE in modern times.”
- It is also important that the delegation reiterated their absolute condemnation of the terrorist coup attempt and expressed solidarity with our elected leaders who have demonstrated strong will to safeguard democratic institutions.