

HRDfactsheet: 2020/3

**TURKEY:  
STATE OF EMERGENCY  
INQUIRY COMMISSION**

## **ESTABLISHMENT OF THE STATE OF EMERGENCY INQUIRY COMMISSION (SoEC)**

The Venice Commission issued Opinion No. 865/2016 on the Emergency Decree Laws No 667-676 adopted Following the Failed Coup of 15 July 2016, to respond to the circumstances within Turkey's judiciary frame.

The Opinion highlighted that the immediate reintroduction of full access to courts for all the dismissed public officials was not practicable and instead recommended consideration of the possibility of creating a temporary ad hoc body tasked with examining individual cases of dismissals of public officials and other associated state of emergency measures<sup>1</sup>.

Acting on these recommendations, Emergency Decree Law No. 685 on the creation of the State of Emergency Inquiry Commission was published in the Official Gazette dated 23 January 2017<sup>2</sup>.

### **MANDATE OF THE SoEC**

The mandate of the Commission was to review decisions on acts flowing from state of emergency decree laws taken on the grounds of membership of, or some connection or contact with, terrorist organisations or other groups "engaging in activities against the national security of the State. Article 2(1) of the decree establishing the Commission extended the scope of the Commission's powers to:

- dismissals from public service,
- the closure of private legal entities, media institutions and associations (trade unions, media outlets, educational institutions etc.),
- annulment of ranks of retired personnel,
- expulsion of students from universities.

### **COMPOSITION OF THE SoEC**

In the light of fundamental standards, the manner of appointment of Commission members raises various questions about its independence from the Executive and its impartiality. The Commission is comprised of seven members, five of whom are appointed by the Prime Minister, Minister of Justice and Minister of the Interior. The remaining two members are appointed by the Council of Judges and Prosecutors, with a Head and deputy Head elected by the Commission itself.

### **MODUS OPERANDI OF THE SoEC**

The SoEC started to accept applications on the 17th July 2017. As of 26th December 2019 126.300 applications have been submitted to the SoEC. According to the relevant regulations, the Commission examines applications on the basis of written documents in the case file, with no possibility of holding an oral hearing. Given that no individualized reasoning was provided in individuals' dismissals or the dissolution of legal entities, the plaintiffs have faced real difficulties in making meaningful and targeted submissions when filing an application to the Commission against the measures imposed on them.

Judicial review of Commission decisions is regulated by Article 11 of Emergency Decree Law No. 685 which requires the referral of such applications to the Ankara administrative courts selected by the HSK, namely Courts 19, 20, 21 and 22. These administrative courts are exclusively responsible for reviewing Commission decisions.

## DECISIONS GIVEN BY THE SoEC (As of 26th December 2019)



126.300 Submitted Applications



88.700 Rejected



98.300 Decisions



9.600 Accepted



28.000 Pending



%9,76 Positive Decision

### WHAT HAPPENED DURING THE STATE OF EMERGENCY

During the State of Emergency (SoE) the Turkish Government enacted **32 Emergency Decrees**.

17 of these Emergency Decrees were concerning real and legal persons.

With these Emergency Decrees, a total of **131.922 measures** were taken.

**The Emergency Decrees justified the measures that sanctioned real and legal persons by:**

Having; membership, affiliation, relation or connection (cohesion) to the Gülen Movement/ Structure which was outlawed by the Turkish Government or ,

Having; membership, affiliation, link or connection with terrorist organizations or structures, formations or groups which have been established by the Turkish National Security Council to perform activities against the national security of the State.

**The Criteria Applied for Dismissals**

According to the Venice Commission, the "dismissals lists" were prepared on the basis of combination of various criteria, namely;

- 1- having an account at the `Bank Asya`
- 2- using the mobile communication application `ByLock`,
- 3 - police or secret service reports
- 4 - analysis of social media contacts
- 5 - donations made to certain legal persons
- 6 - social media and internet platforms visited
- 7 - being resident in student dormitories belonging to the so called "parallel structure"

- 8 - sending their children to Gülen-affiliated schools
- 9 - subscription to Gülen-affiliated media outlets
- 10 - Information gathered from social environment
- 11- being a member of a trade/labor union or association linked to the Gülen Movement
- 12 - membership of a left-leaning teachers' union, named `Egitim-Sen`.

1 - Venice Commission, "On Emergency Decree Laws nos. 667-676 adopted following the failed coup of 15 July 2016," 12 December 2016, Opinion No. 865 / 2016, CDL-AD (2016)037, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)037](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)037)

2 - Decree Law No. KHK/685, "Emergency Decree Law No. KHK/685 on the creation of the Inquiry Commission," Published in the Official Gazette no. 29957, dated 23 January 2017.



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