

# FACTSHEET: TURKEY - STATE of EMERGENCY DISMISSALS & INQUIRY COMMISSION (October - 2019)

## EMERGENCY DECREES and DISMISSALS

The Turkish Government enacted thirty-two Emergency Decrees within the two-year state of emergency regime. Seventeen Emergency Decrees targeted certain real and legal persons, and adopted permanent measures relating to them. With these Emergency Decrees, **125.678 individuals** were dismissed from public service.

## A DISMISSAL ENTAILS LIFE-TIME DEPRIVATION

Those who were dismissed under the Emergency Decree shall not be re-employed, either directly or indirectly, to any public service, can not travel abroad, shall not be elected as mayor or member of city council.

## %91,2 of appeals have been dismissed

Inquiry commission has, so far, considered 92.000 appeals. Of those, 83.900 (% 91,2) were dismissed, and only 8.100 (% 8,8) appeals were accepted.

## JUSTIFICATION for DISMISSALS

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

- having 'membership, affiliation, relation or connection (cohesion) to' the Gulen Movement/Structure which was outlawed by the Turkish Government, or
- having 'membership of, affiliation, link or connection with terrorist organizations or structures, formations or groups which have been established by the NSC to perform activities against national security of the State'.

## Definition of the 'Cohesion / Connection' made by the Ankara Regional Appeal Court:

"Connection (cohesion) i.e. to moving as conjoined to one another, voluntarily submitting, facing the same direction, interpreting circumstances from the same viewpoint, conducting oneself with suggestions, instructions and directions of an organization or structure, and in doing so anticipating worldly or unworldly gains; as well as communication i.e. establishing voluntarily or involuntarily and for personal gains, one's own course of action by taking into account messages one receives either through personal contact or through the press, mass media or social media." (Decision No: 2019/246, 24 April, 2019)

## WHAT IS COHESION / CONNECTION?

Turkish word '*iltisak*' which can be translated to English as 'cohesion' or 'connection' was not defined by the Emergency Decrees though it was the essential reason for the dismissals.

For the first time, Ankara Regional Administrative Court defined term of 'the connection'.

Turkish Courts consistently adjudge that if an individual has connection with the Gulen Movement/Structure or another organizations or structures, formations or groups which have been established by the NSC to perform activities against national security of the State, dismissing him or her is legal **even the Court acquits him or her.**

## THE CRITERIA APPLIED for DISMISSAL

According to Venice Commission, 'dismissals lists' were produced on the basis of a combination of various criteria, namely, (i) having an account in the Bank Asya, (ii) using the messenger application ByLock, (iii) police or secret service reports, (iv) analysis of social media contacts, (v) donations made to certain legal persons, (vi) web-sites visited, (vii) being resident in student dormitories belonging to "parallel state" structure, (viii) sending children to schools associated with the Gulen Movement, (ix) subscription to Gulenist periodicals, (x) information received from colleagues from work or neighbors, (xi) being a manager or member of a trade union or association linked to the Gulen Movement, (xii) membership of a left-leaning teachers' union, named Egitim-SEN, also constituted a reason for dismissal.

## INQUIRY COMMISSION on STATE of EMERGENCY MEASURES and ITS FORMATION

On 23.01.2017, the Turkish Government issued the Decree Law no. 685 establishing the Inquiry Commission on the State of Emergency Measures which was tasked with carrying out an assessment of, and rendering a decision on state of emergency measures. Under the Decree Law, the Commission consists of seven members: (i) **three members** are assigned by the Prime Minister, (ii) **two members** are assigned by the Minister of Justice and the Minister of the Interior, (iii) **two members** are assigned by the Council of Judges and Prosecutors.

## STATISTICS on the COMMISSION'S WORK

The number of applications submitted to the Commission	126.200	As of 25 October 2019, the Commission, which consists of seven members, delivered 92,000 decisions within twenty two months, that is to say, the Commission delivered more or less 4,182 decisions a month, and 190 decisions per a working day.
8,100 appeals were accepted	% 6,41	
83,900 appeals were rejected	% 66,49	
34,200 appeals are pending	% 27,10	

## INTERNATIONAL REACTIONS

Many International organization criticized the Commission's praxis and formations. For instance, Amnesty International described decisions of the Commission as a rubber stamp for the government's arbitrary dismissals finding innocuous activities as evidence of 'links' with proscribed groups.

The International Bar Association, the Law Society of England and Wales, the Bar Human Rights Committee of England and Wales criticized formation and praxis of the Commission for lack of independence and not ensuring the fundamental due process principles.



The Arrested Lawyers Initiative is a human rights organization consists of lawyers across the Europe.

[www.arrestedlawyers.org](http://www.arrestedlawyers.org) - @ArrestedLawyers - 25 October 2019, Brussels.