



# FACTSHEET: TURKEY – THE STATE OF EMERGENCY DISMISSALS AND THE INQUIRY (APPEAL) COMMISSION

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## EMERGENCY DECREES and DISMISSALS

The Turkish Government enacted thirty-two Emergency Decrees (ED) between 2016-July and 2018-July. Seventeen of these EDs targeted certain real and legal persons. With these Emergency Decrees, a total of 131,922 measures were taken. More precisely,

- 125,678 individuals were dismissed from public service,
- 3,213 retired officers were stripped of their ranks and medals; and
- 2,761 legal persons were closed down and their assets were confiscated without compensation.

Individuals who were sanctioned under the ad hominem emergency decrees were indefinitely and permanently dismissed from public service. They also:

- shall be deprived of their ranks, titles;
- shall not be re-admitted to the organization in which they had previously held office;
- may not be re-employed and assigned, either directly or indirectly, to any public service;
- shall be evicted from public residences or foundation houses; and
- moreover, their passports, seamanship or pilots' licenses, shall be cancelled.

## 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'.

## 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'.

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)

Turkish Courts consistently render judgments 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 DISMISSALS

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.

## THE INQUIRY (APPEAL) COMMISSION 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	126,300	As of 26 December 2019, the Commission, which consists of seven members, delivered 98,300 decisions within twenty four months, that is to say, the Commission delivered 196 decisions per a working day.
Appeals accepted	9,600	
Appeals dismissed	88,700	
Appeals pending	28,000	

%90.24 of appeals have been dismissed Inquiry commission has, so far, considered 98,300 appeals. Of those, 88,700 (% 90.24) were dismissed, and only 9,600 (% 9.76) appeals were accepted.

## 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.