TURKEY: NO COUNTRY FOR THE PURGE VICTIMS!

The Badge Attached To The Purge Victims

36 / OHAL / KHK
I. INTRODUCTION

According to official statements¹, during emergency rule (2016-2018), the Turkish Government enacted 32 emergency decrees, under which:

- 125,678 individuals were dismissed from public service;
- 3,213 retired officers were stripped of their ranks and medals; and
- more than 2,671 legal persons and 4,911 entities were closed down² and their assets were confiscated and transferred to the Treasury without any compensation.³

Purported justification for emergency decrees

The emergency decrees justified the measures that enabled sanctions on individuals and legal persons for:

- having “membership, affiliation, relationship or connection (cohesion) with” the outlawed Gulen Movement/Structure;
- having “membership of, affiliation, link or connection with terrorist organizations or structures, formations or groups established by the National Security Council (NSC) to perform activities against the national security of the State”; or
- having been considered “to be a member of, or have a relationship, connection or contact with terrorist organizations or structures/entities, organizations or groups, established by the NSC to engage in activities against the national security of the State.”

The emergency decrees targeted individuals and legal persons in an ad hominem nature by annexing lists of names of the sanctioned individuals and legal persons. However, apart from the above-mentioned general reasoning, the emergency decrees presented neither an individualized justification nor an explanation of, or reasoning for why those particular people/entities were sanctioned. Likewise, the emergency decrees did not provide definitions of “membership, relation, connection, contact, affiliation, link”, or the assessment criteria used to determine that public servants be dismissed and legal persons closed down.⁴

Individuals who were sanctioned under the ad hominem emergency decrees were indefinitely and permanently dismissed from public service. Under these emergency decrees⁵, they also:

³ “Turkey’s Ad Hominem Emergency Decrees – Measure or Penalty? (Post 1 of 2)” IACL-IADC Blog (17 December 2019)
(i) shall be deprived of their ranks and their positions as public officials;  
(ii) may not use their titles, if any, e.g., ambassador, governor, etc;  
(iii) shall not be re-admitted to the organization in which they had previously held office;  
(iv) shall be stripped of rank (for the already retired public servants), and of combat medals;  
(v) may not be re-employed and assigned, either directly or indirectly, to any public service;  
(vi) may not become the founders, partners and employees of private security companies;  
(vii) shall be evicted from public residences or foundation houses; and  
(viii) moreover, their passports, gun licenses, seamanship or pilots' licenses, shall be cancelled.

Besides the direct consequences, mentioned above,

- Turkey’s High Election Board decided (2019/2363, 10 April, 2019) that the dismissed public servants could not be elected to offices within local administrations, e.g., as mayor, alderman or mukhtar (local elected administrator for villages).

Furthermore, as far as certain professions and sectors are concerned, a dismissal actually results in the prohibition of the right to work in the private sector, as well as in the public sector:

- Namely, the Ministry of National Education refuses to issue a working license for a dismissed teacher, and this is necessary to work in private educational institutes.
- Likewise, the Ministry of Justice refuses to issue a lawyer’s license to dismissed judges, prosecutors and law school academics.
- Furthermore, a dismissal under an emergency decree is registered in all the official databases, which means that any private-sector employer, who might otherwise hire a dismissed civil servant, avoids hiring them.  

This report will explain the indirect consequences of being dismissed under an emergency decree, and will show how these consequences surround every angle of daily life regardless of whether the person in question is subject to investigation or prosecution.

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6 Turkey's Recent Emergency Rule and Its Legality Under the ICCPR and the ECHR, VUB-IES, LLM Thesis.
II. DEPRIVATIONS CAUSED BY THE STATE OF EMERGENCY DECREES

i. The purged civil servants cannot be a foster family

Since the purge victims were dismissed with the assumption of having “membership, affiliation, relation or connection (cohesion) to terrorist organisations or a group which is dangerous for national security, they cannot be a foster family. If they are already a foster family, their child is taken back by the relevant public authority.7

ii. The purged civil servants cannot be lawyers

Pursuant to the Law No.1136, under the condition of having no criminal record, every Turkish citizen who has the bachelor's degree in law, has the right to be admitted to an internship with a view to becoming a lawyer.

However, the Ministry of Justice has been barring the purged law academics, judges and prosecutors, from starting an internship as a lawyer and from being a lawyer. The dismissed

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law academic, Cenk Yigiter, and the dismissed jurist, Levent Maziliguney, are two of hundreds of victims.

iii. The purged civil servants cannot be mayors, aldermen or mukhtars (local elected administrator for villages).

Turkey’s High Election Board decided that the dismissed public servants who were elected as mayors, members of a city council (alderman) or mukhtars could not hold the office, although their candidacy was already approved prior to the election. (High Election Board, Decision No: 2019/2363, 10 April 2019.)

iv. The purged civil servants cannot be accountants

Those who apply to undertake exams for the professions of accountant and financial advisor have to sign an affidavit saying that they are not dismissed from public service under an Emergency Decree. (The mentioned affidavit in the website of the Chamber of Accountants and Financial Advisors)

v. The purged civil servants cannot work as architects, engineers, laboratory worker, or as technicians in building inspection companies

With its decision, dated 16 April 2018, and numbered 67634, the Ministry of the Environment and Urban Planning prohibited the purged civil servants from working as architects, engineers, laboratory workers, technicians in building inspection companies.
vi. The purged civil servants are blacklisted in the databases of the Employment and the Social Security Agencies with the code 36/OHAL/KHK

In databases of the Employment and the Social Security Agencies, the purge victims are blacklisted with the code 36/OHAL/KHK. In these databases, it is also written that this person was dismissed under an Emergency Decree.

Every employer in the private sector who would hire a purged civil servant can see the registry entry saying he/she was dismissed by the Government due to an Emergency Decree. Such a warning constitutes a very important obstacle for the employment of the person, because employers are afraid of hiring those persons who are blacklisted by the Government.

vii. The purged civil servants cannot attend vocational courses

Those who are blacklisted with the code 36/OHAL/KHK are not accepted on vocational courses and employment projects. Under the instruction (dated 01 August 2017 numbered 28025) of the Turkish Employment Agency, the dismissed public servants are not accepted on vocational courses and employment projects.
viii. The purged civil servants cannot work in private educational institutions

Under the Emergency Decrees, 6021 academics and 34,288 teachers were dismissed from the public sector. The Directorate of Private Educational Institutions for the Ministry of National Education prohibited these academics and teachers from working in private educational institutions.

Given the fact that driving courses come under the oversight of the Ministry of National Education, the purged civil servants cannot work as a driving instructor either. Likewise, the purged teachers and physiotherapists cannot work in private rehabilitation centers.

Even if they have been acquitted, they cannot work in private educational institutions.

Two documents (below) show that a purged teacher is denied the license that is needed
to work in private educational institutions, although the Prosecutor’s Office has dropped the investigation against her.

ix. The purged civil servants cannot work as an on-site (workplace) doctor or as an occupational safety specialist

Under Art. 9 of Decree Law no. 673, the purged civil servants cannot work as an on-site (workplace) doctor or as an occupational safety specialist. The Ministry of Labour and Social Security, under Decree Law 673 (Art. 9), cancelled the licences of the purged civil servants and has been refusing to issue new ones.

x. The purged civil servants who work as veterinarians cannot have an artificial insemination certificate and cannot perform their profession duties in agricultural support programs.

xi. The purged public servants cannot have passports and travel documents.

Through the Emergency Decree Laws and Law no. 7188, the Minister of the Interior cancelled the passports of the purged public servants, their spouses and children. In December 2017, the Turkish Government announced that 234,419 passports had been

\[8\] Revocation of some powers : Art. 9 – (1) Among the persons, institutions or organizations empowered within the scope of Article 12 § 1 (i) and (m) of the Law no. 3146 on Structure and Duties of Ministry of Labour and Social Security dated 9 January 1985, the powers of those have membership of, affiliation, link or connection with terrorist organizations or structure/entities, organizations or groups established by the National Security Council as engaging in activities against the national security of the State shall be revoked by the approval of the Minister of Labour and Social Security upon the proposal of the commission established by the Minister of Labour and Social Security.

https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806a2e37
revoked. Subsequently, 20,000 more public servants were dismissed, and the passports of these people and their spouses were cancelled. Those who previously had no passports were subjected to a passport ban. Hence, it is estimated that some 500,000 individuals are deprived of the freedom to leave the country.⁹

xii. The purged civil servants cannot work as sailors

Purged civil servants cannot work as sailors. The Ministry of Transportation do not give a Seaman’s Identity Card to the purged civil servants, even though they have completed all of the necessary courses and training successfully.

xiii. The purged civil servants are denied the license needed to run businesses.

It is also widely reported that some mayors are refusing to give business licenses to the purged civil servants. For instance, the Municipality of Anamur refused to give a business license to a purged public servant on the grounds that he failed to pass a security investigation.

xiv. The database of the General Directorate of the Land Registry (TAKBIS) includes a list of suspicious people, which consists of those dismissed under emergency decrees. Those included on this list cannot participate in real estate transactions, either as a party (vendee or vendor) or as a witness.
xv. Upon an instruction by the Ministry of Justice, the Union of Turkish Public Notaries produced a list of suspicious people which consists of those dismissed under emergency decrees. People included in this list cannot carry out any procedure as notaries other than giving a power of attorney. This means they cannot carry out hundreds of legal procedures, including selling their cars or signing construction contracts.

xvi. The database for the Social Relief Program (SOYBIS) includes the list of those dismissed under emergency decrees. Disabled people whose first caregivers (such as parents, sons, daughters, sons-in-law and daughters-in-law) are dismissed under emergency decrees cannot benefit from social care funds.

For instance, Burcu Aktas, who is 70% disabled, is denied benefits for disabled persons because his father is a purged public servant. Likewise, Asli Kir, whose first
care giver, Emine Ozlu, is married to a purged public servant, is denied benefits for disabled persons.

xvii. Those dismissed under emergency decrees, and their spouses and children, cannot benefit from the General Health Insurance for people with low income and from the social rights offered to disabled people.

The purged public servants, who lost their jobs, pension rights, and who cannot find a new job because they have been blacklisted, are denied the right to benefit from the General Health Insurance for people with low incomes and those social rights offered to disabled people.

For instance, Zehra Dogramacioglu, who is a purged doctor and suffers from cancer, and her daughter, who suffers from Down Syndrome, are denied benefits from the General Health Insurance for people with low incomes and those social rights offered to disabled people.¹⁰

¹⁰ https://www.dw.com/tr/%C7%8Crkivede-khh%C4%B1lar-bize-veba%C4%B1-muamelesi-yap%C4%B1r%C4%B1yorlar/a-5052070
The purged public servants cannot open bank accounts and are discriminated against in financial transactions and procedures.

Insurance companies, because of a circular sent to them by the relevant public authority, do not pay compensation to those purged public servants, which they obliged to pay under the insurance policies that they issued. For instance, Aksigorta
A.S and Doga Sigorta A.S did not pay the compensation which they were obliged to pay to claimants, on the grounds that they were purged under emergency decrees.

xx. The purged public servants are discriminated against in business development and incentive credits

The Organization for the Development of Small and Medium Enterprises does not provide incentive credits to legal and real persons who are affiliated with the purged public servants.

xxi. The purged public servants are discriminated against in relation to mandatory military services
Under Law no. 7179, mandatory military service is for a period of twelve-month. Yet, those who have graduated from a bachelors' program perform mandatory military service for six months, rather than twelve. However, the purged public servants cannot benefit from this privilege.

xxii. The purged academics are discriminated against in academic publishing

It has been widely reported that Turkish academic journals do not publish articles written by the purged academics. Associate professor Gül Köksal is one of the many victims of this practice.¹¹

¹¹ https://barisicinakademisyenler.net/node/757
III. CONCLUSION

In conclusion, it would not be an exaggeration to say that emergency decrees have significantly dented the sacked officials’ ability to earn their livelihood in a decent way. Enacted between 2016 and 2018, the emergency decrees do not include any provision on their duration, time limit, or due date for the measures or sanctions that are laid down therein. Moreover, all emergency decrees were approved by the Turkish Parliament. Having received the approval of the Parliament, emergency decrees are qualified as ordinary and permanent law. Thus, ad hominem measures or sanctions against more than 125,000 legal and real persons, have acquired the qualification of being part of permanent law.

The official end of emergency rule in 2018 summer, in this regard, only serves to obscure the nature of their lasting presence in legal domain and in social life given their lifelong consequences. The situation has even gotten worse for many purge victims given the lack of measures to acquire legal remedy on domestic realm and in the front of ECHR. For the fear of being overwhelmed by the inundation of trove of applications from Turkey, the Strasbourg-based court urges Turkish applicants to exhaust the domestic channels. But for observers and experts, this seems to be an implausible option given the dismal state of legal affairs and rule of law inside Turkey.

To dodge international criticism, the Turkish government set up a seven-member commission, dubbed as OHAL Commission, to deal with reviewing the applications by the dismissed public workers. Out of 125,000 so applications so far now, the Commission has only restored a small number (9.6%) of public servants to their posts. The Commission faces credible charges of slow-walking the review process. It never offers a plausible and convincing explanation for its refusals when it simply dismissed a file submitted by a public workers. This foot-dragging and shambolic working leave purge victims increasingly disenchanted and disillusioned.

This report only offers a brief glimpse into the ever-widening plight of purge victims in the post-coup era as emergency decrees have substantially shut down the prospect of a decent living within the boundaries of Turkey. What amplifies their agony is the fact that the sacked workers are also denied travel abroad after their passports have been automatically revoked following dismissals. This lifelong travel ban hardens their suffering. In dozens of cases, authorities refused to waive the ban for countless terminally-ill people. The only and rare exception for this collective practice was the cancer patient Professor Haluk Savas who was briefly allowed for medical treatment abroad. What enabled his brief overseas travel on medical grounds was a concerted public pressure.

As the bulk of findings in this report attest, entire layers of daily life are under ever-growing grip of prohibitive mindset that denies the most basic components of livelihood to the dismissed officials. Even opening a bank account becomes a difficult challenge as laws are tailored to made inaccessible to them. Military service whose structure is clearly defined in laws is imposed on purge victims in different way, in clear departure from the procedure. The list of bans or practices, as documented by the report, illustrates the depth of agony and sufferings inflicted on sacked workers as private companies increasingly collaborate with authorities or act in fear of political backlash to deny the basic services to people in the post-coup era. To sum up, the emergency rule, more than one and a half year after its end, remains to be in place with dire consequences for its targeted population. This reality, often overlooked and ignored by observers, needs to be taken into account when analyzing the state of political and legal affairs in Turkey.
HRD is a non-profit and independent civil society organization campaigning to defend human rights and to help people facing persecution all around the world and with a special focus on Turkey. HRD was established in 2018 Köln/Germany, by Turkish lawyers, former bureaucrats and entrepreneurs who are political-asylum seekers in Germany and Europe.

HRD is preparing reports concerning human rights violations, establishing contacts to other Human Rights NGO’s and stakeholders, State Officials and regional as well as international organizations.

HRD is also giving legal advice to victims, initiating litigation procedures on behalf of the victims and preparing official petitions and communications to the relevant UN Human Rights Mechanisms.

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The Arrested Lawyers Initiative (ALI) is a human rights group, founded in 2016. The ALI is based in Brussels, makes advocacy for lawyers persecuted due to exercising their profession. The ALI has produced more than 10 reports and factsheets which have been cited by the UN High Commissioner and Special Rapporteurs, the European Parliament, the US State Department and various NGOs.

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