

Reference: C.N.580.2016.TREATIES-IV.4 (Depositary Notification)

INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS
NEW YORK, 16 DECEMBER 1966

TURKEY: NOTIFICATION UNDER ARTICLE 4 (3)

The Secretary-General of the United Nations, acting in his capacity as depositary, communicates the following:

The above action was effected on 2 August 2016.

(Original: English)

2016/11235663

New York
21 July 2016

Excellency,

I hereby communicate the following notification of the Government of the Republic of Turkey.

On 15 July 2016, a large-scale coup attempt was staged in the Republic of Turkey to overthrow the democratically-elected government and the constitutional order. This despicable attempt was foiled by the Turkish state and people acting in unity and solidarity. The coup attempt and its aftermath together with other terrorist acts have posed severe dangers to public security and order, amounting to a threat to the life of the nation in the meaning of Article 4 of the International Covenant on Civil and Political Rights.

The Republic of Turkey is taking the required measures as prescribed by law, in line with the national legislation and its international obligations. In this context, on 20 July 2016, the Government of Turkey declared a State of Emergency for a duration of 90 days, in accordance with the Turkish Constitution (Article 120) and the Law No. 2935 on State of Emergency (Article 3/1b). The English translation of the relevant articles of the Turkish Constitution and the Law No. 2935 on State of Emergency, as well as the Decision No. 2016-9064 of the Council of Ministers, are attached to this letter.

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The decision was published in the Official Gazette and approved by the Turkish Grand National Assembly on 21 July 2016. In this process, measures taken may involve derogation from obligations under the International Covenant on Civil and Political Rights regarding Articles 2/3, 9, 10, 12, 13, 14, 17, 19, 21, 22, 25, 26 and 27, as permissible in Article 4 of the said Covenant.

I would therefore underline that this letter constitutes information for the purposes of Article 4 of the Covenant. The Government shall inform Your Excellency when it terminates the above-mentioned derogation.

Please accept, Excellency, the assurances of my highest consideration.

(Signed) Y. Halit Çevik
Permanent Representative

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Decision no. 2016/9064

It has been decided on 20 July 2016 by the Council of Ministers that; pursuant to Article 120 of the Constitution and Article 3 § 1 (b) of the Law on the State of Emergency (Law no. 2935), a nationwide state of emergency be declared from Thursday, July 21, 2016 01:00 for a period of ninety days, taking into account the recommendation dated 20 July 2016, no. 498 of the National Security Council.

Recep Tayyip ERDOĞAN
President

Prime Minister and Members of the Cabinet

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Articles 15, 119, 120 and 121 of the Constitution of the Republic of Turkey

IV. Suspension of the exercise of fundamental rights and freedoms

ARTICLE 15 – In times of war, mobilization, martial law, or a state of emergency, the exercise of fundamental rights and freedoms may be partially or entirely suspended, or measures derogating the guarantees embodied in the Constitution may be taken to the extent required by the exigencies of the situation, as long as obligations under international law are not violated.

(As amended on May 7, 2004; Act No. 5170) Even under the circumstances indicated in the first paragraph, the individual's right to life, the integrity of his/her corporeal and spiritual existence shall be inviolable except where death occurs through acts in conformity with law of war; no one shall be compelled to reveal his/her religion, conscience, thought or opinion, nor be accused on account of them; offences and penalties shall not be made retroactive; nor shall anyone be held guilty until so proven by a court ruling.

III. Extraordinary administration procedures

A. States of emergency

1. Declaration of state of emergency because of natural disaster or serious economic crisis

ARTICLE 119 – In the event of natural disaster, dangerous epidemic diseases or a serious economic crisis, the Council of Ministers meeting under the chairpersonship of the President of the Republic may declare a state of emergency in one or more regions or throughout the country for a period not exceeding six months.

2. Declaration of state of emergency because of widespread acts of violence and serious deterioration of public order

ARTICLE 120 – In the event of serious indications of widespread acts of violence aimed at the destruction of the free democratic order established by the Constitution or of fundamental rights and freedoms, or serious deterioration of public order because of acts of violence, the Council of Ministers, meeting under the chairpersonship of the President of the Republic, after consultation with the National Security Council, may declare a state of emergency in one or more regions or throughout the country for a period not exceeding six months.

3. Rules regarding the states of emergency

ARTICLE 121 – In the event of a declaration of a state of emergency under the provisions of Articles 119 and 120 of the Constitution, this decision shall be published in the Official Gazette and shall be immediately submitted to the Grand National Assembly of Turkey for approval. If the Grand National Assembly of Turkey is in recess, it shall be immediately assembled. The Assembly may alter the duration of the state of emergency, may extend the period for a maximum of four months each time at the request of the Council of Ministers, or may lift the state of emergency.

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The financial, material and labour obligations which are to be imposed on citizens in the event of the declaration of state of emergency under Article 119 and the manner how fundamental rights and freedoms shall be restricted or suspended in line with the principles of Article 15, how and by what means the measures necessitated by the situation shall be taken, what sorts of powers shall be conferred on public servants, what kinds of changes shall be made in the status of officials as long as they are applicable to each kinds of states of emergency separately, and the extraordinary administration procedures, shall be regulated by the Act on State of Emergency.

During the state of emergency, the Council of Ministers, meeting under the chairpersonship of the President of the Republic, may issue decrees having the force of law on matters necessitated by the state of emergency. These decrees shall be published in the Official Gazette, and shall be submitted to the Grand National Assembly of Turkey on the same day for approval; the time limit and procedure for their approval by the Assembly shall be indicated in the Rules of Procedure.

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Law No. 2935 of 25 October 1983 on State of Emergency

Article 3 – Declaration of State of Emergency

The Council of Ministers assembled under the chairmanship of the President shall declare a state of emergency;

(a) Whenever there is in existence one or more natural disasters, dangerous epidemic diseases or serious economic crisis;

(b) Whenever there appear serious indications resulting from widespread acts of violent which are aimed at destroying the free democratic order or fundamental rights and freedoms, or violent acts causing serious deterioration to public order, after consultation with the National Security Council,

in one or more regions or throughout the country for a period not exceeding six months.

The state of emergency decision shall be published in the Official Gazette and immediately be submitted for approval of the Turkish Grand National Assembly. If the Turkish Grand National Assembly is in recess, it shall be summoned to meet immediately. The Assembly may amend the duration of the state of emergency. On a request from the Council of Ministers, the Assembly may prolong the duration each time for a period not exceeding four months, or it may terminate the state of emergency.

The Council of Ministers after declaring a state of emergency in accordance with provision (b) above, shall also consult the National Security Council before making a decision on questions related to the prolongation of the duration, alternation of the scope, or the termination of the state of emergency.

The reasons for the decision to declare a state of emergency, its duration and scope shall be broadcasted on Turkish radio and television and, if the Council of Ministers deems it necessary, also disseminated through other media.

11 August 2016



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