



Law and Emergencies: A Comparative Overview

The Minerva Center for the Rule of Law under Extreme Conditions

January, 2016

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Emergency Laws and Regulations in Turkey: Executive Summary

Legislative Framework

The general regulation of states of emergency in Turkey appears in the Constitution (1982), which provides for the declaration of states of emergency in four cases: 1) natural disasters, 2) dangerous epidemic diseases, 3) serious economic crises, and 4) widespread acts of violence and serious deterioration of public order. The Constitution also allows for the declaration of martial law and states of war. Besides the Constitution, extensive reference to states of emergency can be found in the State of Emergency Act 1983, which regulates all of the powers, procedures, rights and responsibilities that apply to various states of emergency. Besides the aforesaid general arrangements, numerous laws can be found both in primary and secondary legislation (regulations/decrees) concerning the management of states of emergency. As for legislation on terrorism, there is also the Law on Fight against Terrorism 1991 that establishes the framework for criminal liability in a range of situations connected to terror and the various criminal procedures.

Declaration of Emergency

The powers and terms of the declaration, as specified in the Constitution, differ according to the relevant situation. Concerning natural disasters, epidemics and economic crises, the power to declare a state of emergency in the country or some of its provinces is vested in the Council of Ministers headed by the President.¹ The declaration must immediately be submitted for approval to the Grand National Assembly of Turkey, which is the legislative branch.² A state of emergency may not exceed six months.³ But the Grand

¹ The Constitution of Turkey 1982, Article 119.

² Id. Article 121.

³ Id. Articles 119-120.

National Assembly may change the length of the state of emergency and at the request of the Council of Ministers may extend it for a maximum of four months at a time.⁴ It may also lift the state of emergency. Concerning acts of violence and deterioration of public order, the power to declare a state of emergency is vested in the Council of Ministers, headed by the President, after consulting the National Security Council.⁵ The decision must be ratified by the Grand National Assembly of Turkey, with the state of emergency not exceeding six months.⁶ However, the Grand National Assembly may amend, end or extend the period by up to four months at a time.⁷ As for war, the power to declare war is vested, generally, in the Grand National Assembly of Turkey. If the country is under sudden armed aggression, the Grand National Assembly of Turkey is adjourned or in recess, and it thus becomes imperative to decide immediately on the use of armed forces, the President of the Republic can decide on the use of the Turkish armed forces.⁸ The power to declare a state of “martial law,” due to a number of exigencies specified in the Constitution, is vested in the Council of Ministers, headed by the President, after consulting the National Security Council, subject to the approval of the Grand National Assembly. A state of emergency may not exceed six months. The Grand National Assembly of Turkey has the power to shorten or lengthen the period of martial law for a period that does not exceed four months at a time or end it if it so deems necessary.⁹ In the event of a state of war, the limit of four months does not apply.¹⁰

Legal Powers

In general, the Constitution does not enumerate many powers related to emergency, but during a state of emergency (and during the

⁴ Id. Article 121.

⁵ Id. Article 120.

⁶ Id.

⁷ Id. Article 121.

⁸ Id. Article 92.

⁹ Id. Article 122.

¹⁰ Id.

effect of martial law) grants the Council of Ministers the power to issue decrees on matters required by the state of emergency (or the existence of martial law, as the case may be). These decrees must be published in the Official Gazette and must be submitted to the Grand National Assembly of Turkey for approval. As opposed to states of “routine,” in times of emergency or martial law, these decrees may also regulate matters related to basic rights, individual rights and responsibilities and political rights and responsibilities enumerated in the Constitution. Additional powers in the Emergency Act and additional laws are detailed in the body of the review.

Rights in State of Emergency

According to Article XV of the Constitution, 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. However, the Constitution also provides a number of basic rights and liberties that are inviolable even in states of emergency: Everyone has the right to life and the right to corporeal and spiritual integrity except for death caused by actions in accordance with the rules of war. Likewise, no one may be compelled to reveal his or her religion, conscience, thought or opinion, nor be accused on account of them; the Constitution also states that offenses and penalties may not be made retroactive, nor may anyone be held guilty until so proven by a court judgment. As for the existing regulatory arrangements in Turkey (see the initial list in the body of the abstract), it is noteworthy that as a lesson from the 1999 earthquake in Turkey, the government decided in 2000 to introduce compulsory earthquake insurance. Homeowners in all urban areas of Turkey are required as part of the arrangement to purchase earthquake insurance so that they will be eligible for housing aid from the state after an earthquake occurs.¹¹

¹¹ N. Emel Ganapati, Disaster Management Structure in Turkey: Away from a Reactive and Paternalistic Approach, in *DISASTER MANAGEMENT HANDBOOK 282* (JACK PINKOWSKI ed., 2008).

Emergency Laws and Regulations in Turkey: Synopsis

Introduction

Modern Turkey is a constitutional republic with a parliamentary democratic regime, comprised of 81 provinces. It was established in 1923, after the demise of the Ottoman Empire, by Kemal Ataturk, who introduced widespread social, legal and political reforms. Turkey draws its civil law system from a number of European law systems (especially the Swiss Civil Code). The present Turkish Constitution was enacted in 1982 and has since undergone a number of amendments.

Turkey is a member of the European Court of human rights, even though it declared a number of derogations from the European human rights convention it ratified.¹²

1. The Legislative Framework

The general regulation of states of emergency in Turkey is enshrined in the Constitution (1982), which provides for the declaration of states of emergency in four cases: natural disasters, dangerous epidemic diseases, economic crises, widespread acts of violence and serious deterioration of public order. The Constitution also discusses martial law and states of war.

Besides the Constitution, extensive reference to states of emergency can be found in the State of Emergency Act 1983, which regulates all of the powers, procedures, rights and responsibilities that apply during various states of emergency¹³.

Besides the aforesaid general arrangements, numerous laws can be found both in primary and secondary legislation (regulations/decrees) concerning the management of states of emergency, including:¹⁴

- The Civil Defense Law of 1958, which is concerned with states of enemy assault, natural disasters and major fires. The General Directorate of Civil Defense was established and its powers were determined by virtue of this law.

¹² Turkey, *The World FactBook*, <https://www.cia.gov/library/publications/the-world-factbook/geos/tu.html> (last visited 12/24/2015).

¹³ References to this law and its wording throughout this document are based on the translation found in Legislationline, noting it is not an official translation. State of Emergency Act (October 1983), www.legislationline.org/documents/id/6974 (last visited 12/24/2015).

¹⁴ Extracted from the tables that appear in Derin N. Ural, Emergency Management in Turkey: Disasters Experienced, Lessons Learned, and Recommendations for the Future, in *Comparative Emergency Management: Understanding Disaster Policies, Organizations, and Initiatives from Around the World*, 5-7 (David A. McEntire ed.); See also [FN 11, Ganapati \(2008\)](#), 294-297.

- The Disaster Law, or the Law on Measures and Assistance to be Put into Effect Regarding Disasters Affecting the Life of the General Public, was first enacted in 1959 and has undergone a number of amendments since. The law provided the legal framework for management, relief and reconstruction after states of emergency. The law deals, among other things, with establishing the rights of disaster victims, the principles to decide the impact of states of emergency, building codes for buildings in disaster-struck areas and more.
- The Extraordinary Situation Law of 1983 is concerned with the instructions that should be put into effect when it is necessary to declare a state of emergency in cases of grave violation of public order because of epidemics, serious economic recessions and widespread terrorism.
- Decree with the power of law on Acceptance of Decree on Organization of Prime Minister's Office from 1999. On the basis of this decree the General Directorate of Emergency Management was established and its powers were determined. On 2009 changes were made in the organizational structure of the Turkish government concerning disaster management. In December 2009, based on Law no. 5902, a new department of "Disaster and Emergency Management Presidency (DEMP)" was established under the Prime Minister's office, putting an end to the operation of the three emergency management agencies that were operating up to that point: the General Directorate of Disaster Affairs, the General Directorate of Civil Defense and the Turkey Emergency Management General Directorate, also called the General Directorate of Emergency Management. The new department replaced those departments and most of their obligations were transferred to it.¹⁵
- The Construction/Development Law of 1985, that sets forth the regulations and procedures for preparing urban master plans, private building licensing and building use.
- The Municipality Law of 2004, which grants municipalities, by primary legislation, powers concerning the different stages of emergency management (including emergency preparation and emergency management and relief powers). Before the 1999 earthquake, the municipalities' powers were limited only to emergency mitigation.¹⁶
- Regulations on Emergency Response Organizations and Planning Principles for Disasters, 1988. These regulations concern the establishment of central and provincial organizations and set forth the basic principles of emergency management programs.¹⁷

¹⁵ *A New Change in the Disaster Management Structure of Turkey*, Republic of Turkey Prime Ministry, Policy paper, Disaster and Emergency Management Presidency, http://www.preventionweb.net/files/12840_anechangeEN.pdf (last visited 12/24/2015)

¹⁶ FN 11, Ganapati (2008), 292

¹⁷ The regulation specifies the obligations of governors, military organizations and affiliates that manage emergency services and Red Cross emergency relief

- Decree on Basic Principles Related to Disasters Affecting the Life of the General Public, 1968. The Decree describes the basic criteria that need to be taken into account when declaring a disaster (the number of casualties, number of damaged buildings, damage to agricultural crops and so on).
- As for legislation on terrorism, there is also the Law on Fight against Terrorism, 1991, which establishes the framework for criminal liability in a range of situations connected to terror and the various criminal procedures.

Turkey inherited from the Ottoman Empire its tradition of dealing with states of emergency, characterized by retroactive response, centralism and hierarchy, and the ad hoc examination of each case per se. Over the years, Turkey's approach to disaster management changed from retroactive response to a more proactive approach. The first approach is reflected in the first disaster law enacted following the earthquake in Erzincan in 1939, which provided victims with financial aid, tax reliefs and construction materials, among other things, but made no reference to readiness or mitigation of a future disaster.

Turkey eventually adopted a more proactive approach of prevention, preparation and management of states of emergency. For example, following a series of floods and earthquakes, the Precautions for Prevention of Floods and Underground Waters Law, 1943 was enacted as well as the Law on Precautions to be Taken Before and After Earthquakes, 1944. Likewise, because of the urgent need for an emergency-response organizational structure, the Civil Defense Law was passed, by virtue of which the General Directorate of Emergency Management was established, as well as several other laws concerning the institutional-organizational system to treat states of emergency. The changes are also reflected in a less paternalistic approach, expressed by a number of organizational reforms, such as transferring some of the emergency management powers (such as construction inspection powers), which were traditionally concentrated by the state and the central government, to the responsibility of private companies and bodies, as well as recognition of the importance of nongovernment organizations, especially volunteer search and rescue groups.¹⁸

2. Declaration of a State of Emergency: A Table of Analysis

programs. The regulation regulates the establishment and powers of emergency relief organizations, "in order to provide, as quickly as possible, in case of emergency, first aid to the disaster area and its victims, by planning the state's resources before the disaster occurs" (FN 14, Ural).

¹⁸ FN 11, Ganapati (2008), 288-292.

Situation	Definition of an “emergency”	Who may declare the state of emergency and under what conditions?	Statutes that come into force during emergency	How does a state of emergency end?
Natural disasters, epidemics and economic crises	<p>There is no article in the Constitution that defines state of emergency. But the definition of state of emergency can be learned from the articles that grant powers to declare a state of emergency. According to the Constitution, a state of emergency can be declared because of a natural disaster, a dangerous epidemic disease or a serious economic crisis.</p> <p>* The State of Emergency Act uses the same “definitions.”</p>	<p>The Council of Ministers, under the chairmanship of the President, may declare a state of emergency in one or more regions or throughout the country</p> <p>The declaration must be published in the Official Gazette and shall be immediately submitted for approval to the Grand National Assembly of Turkey, which is the legislative branch.</p>	<p>The study found no emergency laws that go into effect in an emergency.</p>	<p>A state of emergency will not exceed six months. But the Grand National Assembly may change the length of the state of emergency and at the request of the Council of Ministers may extend it for a maximum of four months at a time. Likewise, it may lift the state of emergency.</p>

Situation	Definition of an “emergency”	Who may declare the state of emergency and under what conditions?	Statutes that come into force during emergency	How does a state of emergency end?
Acts of violence and disruption of public order	<p>A state of emergency can be declared when there are “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.”</p> <p>* The State of Emergency Act uses the same “definitions.”</p>	<p>The Council of Ministers, under the chairmanship 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</p> <p>The declaration shall be published in the Official Gazette and shall be immediately submitted for approval to the Grand National Assembly of Turkey.</p>		<p>Under the Constitution, a state of emergency will not exceed six months. But the Grand National Assembly may change the length of the state of emergency and at the request of the Council of Ministers may extend it for a maximum of four months at a time. Likewise, it may lift the state of emergency.</p> <p>The State of Emergency Act adds to these conditions that the Council of Ministers, after declaring a state of emergency, must consult the the National Security Council before deciding to extend, expand or lift the state of emergency.</p>

Situation	Definition of an "emergency"	Who may declare the state of emergency and under what conditions?	Statutes that come into force during emergency	How does a state of emergency end?
War	There is no definition in the Constitution.	<p>According to the Turkish Constitution, the Power to authorize the declaration of a state of war in cases deemed legitimate by international law and except where required by international treaties to which Turkey is a party or by the rules of international courtesy to send Turkish Armed Forces to foreign countries and to allow foreign armed forces to be stationed in Turkey, is vested in the Turkish Grand National Assembly.</p> <p>If the country is subjected, while the Turkish Grand National Assembly is adjourned or in recess, to sudden armed aggression and it thus becomes imperative to decide immediately on the deployment of the armed forces, the President of the Republic can decide on the mobilization of the Turkish Armed Forces.</p>	The study found no emergency laws that go into effect at a time of declaration of war.	The Constitution does not set time limits for a state of war.

Situation	Definition of an “emergency”	Who may declare the state of emergency and under what conditions?	Statutes that come into force during emergency	How does a state of emergency end?
Terrorism events	<p>The Turkish Constitution does not specifically address terrorism events and definitions of terrorism can be found in the Law on Fight Against Terrorism (see table of powers below).</p> <p>There is a definition of "offenses with a terrorist objective": the law requires that the offense be committed "within the activities of a terrorist organization," and lists a number of actions that are considered offenses with a terrorist objective, including "offenses that are connected to events that led to the declaration of a state of emergency, when committed in areas where a state of emergency was declared under article 120 of the Constitution," which is about the declaration of states of emergency on account of widespread acts of violence and deterioration of public order (see definition above).</p>	<p>There is no reference to it in the Constitution but in certain cases Article 120 of the Constitution, on states of emergency on account of widespread acts of violence and deterioration of public order, may be relevant (see above).</p>		

The Turkish Constitution also provides for the declaration of a state of “martial law.” The Council of Ministers, under the chairmanship of the President of the Republic, after consultation with the National Security Council, “may declare martial law in one or more regions or throughout the country for a period not exceeding six months, in the event of widespread acts of violence which are more dangerous than the cases necessitating a state of emergency and which are aimed at the destruction of the free democratic order or the fundamental rights and freedoms embodied in the Constitution; or in the event of war, the emergence of a situation necessitating war, an uprising, or the spread of violent and strong rebellious actions against the motherland and the Republic, or widespread acts of violence of either internal or external origin threatening the indivisibility of the country and the nation.” This

decision shall be published immediately in the Official Gazette, and shall be submitted for approval to the Turkish Grand National Assembly, on the same day. The Turkish Grand National Assembly may, when it deems necessary, reduce or extend the period of martial law - for a maximum of four months each time - or lift it. In the event of a state of war, the limit of four months does not apply.

3. Legal Powers

* Because of space limits and the nature of this document, we cannot discuss all of the powers listed in the various emergency laws, therefore we will focus on the main powers cited in the Constitution, the State of Emergency Act and the relevant articles.

In general, the Constitution does not enumerate many powers related to emergencies, but during a state of emergency (and during the effect of martial law) grants the Council of Ministers the power to issue decrees on matters required by the state of emergency (or the existence of martial law, as the case may be). These decrees must be published in the Official Gazette and submitted to the Grand National Assembly of Turkey for approval.

As opposed to states of “routine” (in which the Grand National Assembly of Turkey may also empower the Council of Ministers to issue decrees), in times of emergency or martial law, these decrees may also regulate matters related to basic rights, individual rights and responsibilities and political rights and responsibilities in the Constitution.

Situation	Powers	who is the power conferred to	power exercised vis-a-vis	Conditions to be met when exercising the power
Natural disasters or dangerous epidemics	<p>The State of Emergency Act (henceforth in this table: the Act) establishes the state's duty to take measures to rescue the victims of a natural disaster, to provide necessary monetary relief and any kind of property, whether real estate or chattel, required for damage repair and to do everything possible to meet financial and material undertakings, and so on. The Act states a number of measures that can be taken considering the events for which a state of emergency was imposed:</p> <p>(a) Prohibition of people from residing in certain localities in the concerned region; restriction of entry into and departure from certain areas; evacuation of certain areas and transfer of people to other areas;</p> <p>(b) Suspension of training at all levels of official and private education and training institutions; closure, permanently or temporarily, of student dormitories (except for the civil judiciary, military institutions, judges, prosecutors and military employees).</p> <p>(c) Control and limitation of the opening and closing times, and if necessary the closure and requisition by the state, of various public places (for instance, casinos, restaurants, holiday villages, etc.).</p> <p>(d) Limitation or suspension of annual vacation leave of personnel in charge of carrying out the services required under the state of emergency in a region (except for the civil judiciary, military institutions, judges, prosecutors and military employees).</p> <p>(e) Requisitioning, and if necessary, seizure of all communication media and instruments within the region (except for the civil</p>	<p>The duty of and authority for implementing states of emergency shall belong to:</p> <p>(a) the governor of a province, if the state of emergency covers one province;</p> <p>(b) the regional governor, if the state of emergency is declared in more than one province administratively connected to a regional governance;</p> <p>(c) the regional governors, with co-ordination and co-operation being provided by the office of the Prime Minister, if the state of emergency is declared throughout</p>	<p>People and property.</p>	<p>See specification above on declaration of state of emergency in this category.</p>

Situation	Powers	who is the power conferred to	power exercised vis-a-vis	Conditions to be met when exercising the power
	<p>judiciary, military institutions, judges, prosecutors and military employees).</p> <p>(f) Demolition of unsafe buildings, destruction of real estate and personal property which threaten public health, and of articles of food and other products which are deemed to be unhealthy;</p> <p>(g) Control, limitation and if necessary prohibition of the entry into or carrying out of the affected region of certain articles of food, animals, animal fodder or animal products;</p> <p>(h) Regulation of the distribution of essential goods;</p> <p>(i) Requisition and control of: essential supplies of food and oil used in cooking, heating, cleaning and lighting; medicines, chemical materials, goods and materials used in construction, industry, transportation and agriculture; and closure of workplaces which are not of vital importance to the region;</p> <p>(j) Control of land, sea and air traffic, and the restriction or prohibition of the transportation of vehicles into or out of the region.</p> <p>The law further provides that governors of regions where a state of emergency is declared may apply to other regional governors in their area if urgent rescue and aid organizations under their jurisdiction cannot satisfy the needs of emergency relief.</p> <p>Furthermore, regional governors, when faced with urgent emergency situations, may request aid from the highest military commandership in their region. Regional governors may request aid according to the power provided to them by the existing legislation. In urgent cases, a regional governor may request the aide of the closest military commandership. The law adds that public institutions and persons within the region where a state of</p>	<p>the country or in provinces within the jurisdiction of more than one regional governor.</p>		

Situation	Powers	who is the power conferred to	power exercised vis-a-vis	Conditions to be met when exercising the power
	<p>emergency is declared can be compelled to provide land, buildings, establishments, instruments, materials, food, medicines and medical supplies in order to fulfil the obligations imposed on them. If such necessities as food, clothing, instruments, materials, medicines and medical supplies cannot be provided from within the limits of the region, they can be requisitioned from the nearby regions in accordance with the provisions of the Act.</p> <p>The law adds that all citizens between 18 and 60 years of age, who are resident within the region where a state of emergency is declared, are obliged to perform the duties imposed on them under the state of emergency. If it is deemed necessary, the working hours, both during day and night, in work places may be increased in accordance with the nature and level of manpower needs. The application of provisions of the Law on Weekend Holidays, the Law on National Festival Days and General Holidays, and the Law on Midday Rest may be totally or partially suspended.</p>			
Economic crises	<p>The State of Emergency Act provides that whenever a state of emergency is declared due to a serious economic crisis, the Council of Ministers may issue decrees having the force of law to direct markets in goods, capital and services as they affect tax, monetary, credit, rent, remuneration and price policies; and to determine, regulate and implement every kind of measure and obligation in relation to labour so as to regulate and improve the economy.¹⁹</p> <p>The law provides for the establishment of the State of Emergency</p>	<p>The State of Emergency Co-ordination Council on Economic Affairs</p> <p>The powers of the regional or provincial governors, as mentioned above in the context of natural</p>	People and property	See specification above on declaration of state of emergency in this category.

¹⁹According to Article 10(1) of the Act.

Situation	Powers	who is the power conferred to	power exercised vis-a-vis	Conditions to be met when exercising the power
	<p>Co-ordination Council on Economic Affairs and grants the Council of Ministers the power to authorize the related Ministries or the Council to implement the decisions taken by it by virtue of the power conferred by decrees having the force of law.</p> <p>The powers of the regional or provincial governors, as mentioned above in the context of natural disasters and epidemics, are valid also in the case of economic crises.</p>	disasters.		
Acts of violence and deterioration of public order	<p>In addition to the powers mentioned above concerning states of emergency on account of natural disasters or epidemics, the law provides a number of additional powers that may be exercised in this type of emergency:</p> <p>(a) Imposition of a limited or full curfew;</p> <p>(b) Prohibition of any kind of assembly or procession or movement of vehicles in certain places or within certain hours;</p> <p>(c) Authorization of officials to search persons, their vehicles or property and to seize goods deemed to have evidentiary value (except for soldiers and judges);</p> <p>(d) Imposition of obligation to carry identity cards by those living in or entering regions which are declared to be under a state of emergency;</p> <p>(e) Prohibition of, or imposition of obligation to require permission for, the publication (including issuance of reprints and editions) and distribution of newspapers, magazines, brochures, books, etc.; prohibition of importation and distribution of publications published or reprinted outside regions declared to be under a state of emergency; confiscation of books, magazines, newspapers, brochures, posters and other publications of which publication or dissemination has been banned;</p>	See above under "Natural disasters or dangerous epidemic."	People and property.	See specification above on declaration of state of emergency in this category.

Situation	Powers	who is the power conferred to	power exercised vis-a-vis	Conditions to be met when exercising the power
	<p>(f) Control and, if deemed necessary, restriction or prohibition of every kind of broadcasting and dissemination of words, writings, pictures, films, records, sound and image bands (tapes);</p> <p>(g) Taking or increase of special security measures for internal security of banks and sensitive public and private establishments;</p> <p>(h) Control and, if deemed necessary, suspension or prohibition of the exhibition of all kinds of plays and films;</p> <p>(i) Prohibition of the carrying or conveying of all types of weapons and projectiles, including those licensed by the state;</p> <p>j) Prohibition, or the imposition of a requirement to obtain prior permission, for the possession, preparation, manufacture or conveying of all types of ammunition, bombs, destructive materials, explosives, radioactive materials and corrosive, caustic or ulcerating chemicals and all kinds of poisons, suffocating gases and other similar material; and confiscation of, or demand to submit [to the state], goods, instruments and tools used in the preparation or manufacture of the aforesaid items;</p> <p>k) Prohibition of persons or groups of persons believed to be disrupting public order or public security from entering the concerned region, expulsion of such persons or groups from the region, or imposition of a requirement on them to reside in or enter specified places in the region;</p> <p>(l) Prohibition, restriction or regulation of the entry [of people] into and exit from establishments or institutions deemed essential for the security of the region;</p> <p>(m) Prohibition of, postponement of, or imposition of a requirement to obtain permission for, assemblies and demonstrations in both enclosed and open spaces; regulation of</p>			

Situation	Powers	who is the power conferred to	power exercised vis-a-vis	Conditions to be met when exercising the power
	<p>the time and place of permitted assemblies and demonstrations; and supervision, and if deemed necessary dispersal, of all kinds of permitted assemblies;</p> <p>(n) Postponement of, or imposition of a requirement to obtain permission for, the retrenchment of labour for periods exceeding three months, except in cases of termination or cancellation of labour contracts at the request of workers, dismissal on grounds of immoral behavior or breach of good faith, retrenchment on health grounds, or normal retirement.</p> <p>(o) Suspension of the activities or associations for periods not exceeding three months, after considering each individual case;</p> <p>(p) Postponement of decisions to enforce strikes and lock-outs for up to a maximum of one month;</p> <p>(q) Planning and execution of operations, in so far as they may be necessary, beyond the borders of Turkey to capture or incapacitate persons who, having carried out [disruptive] actions in Turkey, have sought refuge in a neighboring country, subject to certain conditions in the law. This power shall only extend to an emergency declared under Article 121 of the Constitution, referring to declaration of a state of emergency on account of a natural disaster, dangerous epidemic or severe economic crisis as well as disruption of public order and violence.</p> <p>The law grants general powers to regional governors, when faced with urgent emergency situations or until aid sent to them by other nearby regional governors reaches them, to request aid from the highest military commandship in their region. If the governor of a province is faced with urgent and extraordinary circumstances or needs to take urgent measures pending the</p>			

Situation	Powers	who is the power conferred to	power exercised vis-a-vis	Conditions to be met when exercising the power
	<p>arrival of forces requisitioned by him as above, he may demand aid from the nearest military commandership. In cases involving a state of emergency declared in accordance with this Act, the custody periods prescribed in the Code of Criminal Procedure may be doubled on a written request made by the Public Prosecutor [to] a civil or investigation court judge if damage is likely to result from any delay.</p>			
War	<p>The Constitution provides that if the holding of new elections is found impossible because of war, the Turkish Grand National Assembly may decide to defer elections for a year.</p>			
Terrorism events	<p>The Law on Fight Against Terrorism 1991 includes different definitions of terrorism (“terrorism,” “terrorist offender,” “terrorist offenses” and “offences committed with terrorist aims”). The law defines terrorism as “Any criminal action conducted by one or more persons belonging to an organization with the aim of changing the attributes of the Republic as specified in the Constitution, the political, legal, social, secular or economic system, damaging the indivisible unity of the State with its territory and nation, jeopardizing the existence of the Turkish State and the Republic, enfeebling, destroying or seizing the State authority, eliminating basic rights and freedoms, damaging the internal and external security of the State, the public order or general health.”</p> <p>A “terrorist offender” is “any person, who, being a member of organizations formed to achieve the aims specified under Article 1, in concert with others or individually, commits a crime in furtherance of these aims, or who, even though does not commit</p>			

Situation	Powers	who is the power conferred to	power exercised vis-a-vis	Conditions to be met when exercising the power
	<p>the targeted crime, is a member of the organizations.”</p> <p>Furthermore, the law says “persons who, not being a member of a terrorist organization, commit a crime in the name of the organization, are also considered as terrorist offenders and shall be punished as members of such organizations.”</p> <p>“Terrorist offences” are defined simply by referral to the relevant articles in the Turkish Penal Code.</p> <p>The law includes many procedural provisions for investigation and trial.</p> <p>For an example, in cases where the aim of the investigation may be endangered, only one relative of the detainee or the apprehended person shall be notified about his or her situation by order of the Prosecutor. Furthermore, the authorization of the defense lawyer to investigate the contents of the file and make copies of them may be limited upon the request of the Prosecutor and by the decision of a Judge, if this could endanger the aim of the investigation.</p> <p>The law also provides that only one defense lawyer may be present during the interrogation of the suspect by the security forces; The suspect may only receive the assistance of one defense lawyer during the detention period. The right of a suspect in detention to consult a lawyer may be limited for twenty-four hours upon a request of the Prosecutor and by the decision of a Judge; however, he or she cannot be interrogated during this period.</p>			

In addition to the aforesaid powers, the Decree on Emergency Assistance Organization and Planning Related to Disasters from 1988 grants a number of powers to regional and provincial governors, which may be executed within 15 days of the disaster. The powers include the following:

1. Recruitment and assignment of tasks to men ages 18-65 (except for soldiers and judges);
2. Requisitioning private and public land, buildings, vehicles (including animals), equipment or any other public need (for instance, food, medicine and clothing);
3. Using the necessary equipment for emergency communication and marshalling emergency aid, such as telephones, radios and television stations.²⁰

As for the powers given at this stage of emergency preparation, Turkish municipalities must by law establish aid and rescue committees which are obligated to prepare for and respond to emergencies. These committees are required by law to conduct emergency preparedness training and exercises in the units involved in this stage of response and rescue.²¹

²⁰ FN 11, Ganapati (2008), 303.

²¹ Id. 293.

4. Rights in a State of Emergency

Under the Turkish Constitution, in states of “routine,” fundamental rights and freedoms may be restricted only by law and in conformity with the reasons mentioned in the relevant articles of the Constitution without infringing upon their essence. These restrictions shall not be contrary to the letter and spirit of the Constitution and the requirements of the democratic order of the society and the secular republic and the principles of proportionality.

However, according to Article XV of the Constitution, 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.

However, the Constitution also provides a number of basic rights and liberties that are inviolable even in states of emergency: everyone has the right to life and the right to corporeal and spiritual integrity except for death caused by actions in accordance with the rules of war.

Likewise, no one may be compelled to reveal his or her religion, conscience, thought or opinion, nor be accused on account of them. The Constitution also states that offences and penalties may not be made retroactive, nor may anyone be held guilty until so proven by a court judgment.

5. Regulation

Following are initial data culled from secondary sources that we examined (literature and articles):

Legislation through licensing:

The regulation of licensing for private construction and use of buildings is in the Development/Building Law. The law is concerned among other things with the preparation, enforcement and updating of development plans and uniform development of urban areas.²²

²² FN 3 above, p. 5. Derin N. Ural

The 2001 Law on Building Inspection is about the powers of building inspection firms and inspection committees. The Decree on Design Principles for Building in Disaster Regions establishes the principles for the design of buildings to withstand earthquakes.²³

Regulation through insurance:

Following the August 17, 1999 earthquake, the Turkish government changed its organizational structure and adopted a less paternalistic approach. The state decentralizes some of the powers it held and actually transferred part of the burden that was upon it concerning the management and response to emergencies to nongovernment organizations, private companies and households. Furthermore, following the earthquake the state enacted obligatory earthquake insurance; Homeowners in all urban areas of Turkey are required as part of the arrangement to purchase earthquake insurance so that they will be eligible for housing aid from the state after an earthquake occurs.²⁴ Two pieces of legislation are pertinent: the Decree on Working Procedures and Principles of Natural Disasters Insurance from 2001, which outlines the responsibility and principles of the administration for natural disaster insurance (under the auspices of the Treasury), and the 1999 Decree with Power of Law on the Obligatory Earthquake Insurance, which set forth the requirement to ensure against earthquakes and define it.²⁵ The World Bank provided Turkey with the technical and economic assistance to create the “Turkish Catastrophe Insurance Pool (TCIP).”²⁶

Criminal liability:

The State of Emergency Act establishes the criminal liability of anyone who disobeys orders or does not carry out the requirements of such orders, or who provides false proof of identity or refuses to provide proof of identity when demanded, depending on the different states of emergency. Where a state of emergency has been declared on account of a natural disaster, dangerous epidemic disease or serious economic crisis, such an individual is liable (in addition to the punishment prescribed for such actions in ordinary criminal law) to imprisonment for up to three months; Anyone who does the aforementioned where a state of emergency has been declared on account of acts of violence or disruption of public order, as defined by law, is liable (in addition to the punishment prescribed for such actions in ordinary criminal law) to imprisonment for between one and six months.

²³ FN 11, Ganapati (2008), 294 and 296.

²⁴ Id. 282 and 292.

²⁵ Id. 294-295.

²⁶ *Turkish Catastrophe Insurance Pool*, GFDRR, January 2011 http://www.gfdrr.org/sites/gfdrr.org/files/documents/DFI_TCIP_Jan11.pdf (last visited 12/24/2015)