

INFORMATION NOTE ON THE DECREE-LAW NO. 669 OF 31 JULY 2016 ON THE MEASURES TAKEN UNDER THE STATE OF EMERGENCY

Aim

The Decree-Law has been enacted under the state of emergency with a view to taking the necessary measures with respect to the attempted coup and the fight against terrorism, and to establishing the University of National Defence.

Measures concerning the investigatory procedures against public officials

Within the scope of the state of emergency and limited to the state of emergency period, on account of the high number of public officials placed in custody or detention for offences against the safety of the State, the Constitutional order, national defence and State secrets as well as for terrorist and collective offences and due to the fact that the investigation is conducted country-wide in a multi-directional manner, it has been stipulated that the time-limits prescribed for administrative investigations which must be initiated with respect to suspension of public officials and the provisions on statute of limitations in that regard shall not be applied during the state of emergency period with a view to ensuring that the administrative investigations be concluded more soundly and to preventing unjust suffering.

Measures concerning postponement of bankruptcy

With a view to protecting the financial order and to identifying more precisely the stock corporations and cooperative communities which are considered to be in relation with the Fethullahist Terrorist Organisation (FETÖ), it has been prescribed that during the period of state of emergency and limited to this period, no request for postponement of bankruptcy can be filed.

Other Measures

The soldiers of the armed forces who are in membership, affiliation or connection with the FETÖ, which is established to pose danger against national security by the Decree-Law, have been dismissed from the Turkish Armed Forces.

It is envisaged in the Decree-Law that the University of National Defence shall be established with a view to closing down military schools which have come to the fore with trainings that pose danger against the national security, to training soldiers and to re-regulating the training in question single-handedly under the control of the civil authority.

The Gülhane Military Medical Academy and military hospitals have been transferred to the Ministry of Health with a view to ensuring the uniformity of health procedures.

The Ministry of National Defence has been vested with full authority with respect to the procedures regarding military judges' appointment, personal rights and dismissal from profession; and the disciplinary proceedings and penalties provided for in the Law No. 2802, which are applied to civil judges and prosecutors, have been made applicable to military judges as well.

With this Decree-Law, candidacy of military judge candidates has been terminated, and it has been expressed that provisions concerning the termination of candidacy provided for in the Law, which is still in force, shall be applicable.

Due to consideration that FETÖ members or contacts have infiltrated mass majority of them, War Colleges and the Gülhane Military Medical Academy have been closed down, and with a view to protecting their right to education, it has been prescribed that students registered in those institutions shall be placed at universities by the Council of Higher Education. Furthermore, due to same reasons, military high schools have been closed down as well, and the cadets shall be registered into regular high schools within the framework of the rules in force at the time they had entered into the military schools and they have provided with ability to make a choice where they want to educate.

Moreover, within the scope of the subordination of the Turkish Armed Forces to civil authority, the Army, Navy and Air Force Commands have been subordinated to the Minister of National Defence.

Conclusion

It is evident from the measures briefly explained above that with the Decree-Law No. 669 issued after declaration of state of emergency; the measures have been taken for the purpose of effective fight against the FETÖ terrorist organisation, which completely infiltrated into the State's institutions. The declaration of state of emergency and the Decree-Law No. 669 adopted within this period aim at protecting the rule of law, democracy and human rights by way of removing the members of the FETÖ terrorist organization from the State's institutions. No restriction was brought on the rights and freedoms of the public with the Decree-Law. Investigations into the structure and functioning of the State institutions and the regulations concerning public officials are in line with the aim and conditions of the state of emergency and which are necessary for the State to preserve its existence.

Furthermore, with this Decree-Law, the military higher education institutions have been subordinated to civil authority and military high schools have been closed down. Thus, it was ensured that individuals who have received civil education and who have developed a sense of civil democracy, be admitted to military higher education. Through the subordination of military institutions and organisations to civil authority, it was ensured that institutional democracy has a say in military mechanisms just as it does in other fields. Moreover, the necessary measures have been taken for the purpose of preventing unjust suffering on the part of the students registered in the military schools which have been closed down.

The rule of law, democracy and human rights will continue to remain fundamental principles of the State of the Republic of Turkey.