

## **INFORMATION NOTE REGARDING THE ARRANGEMENTS MADE IN THE JUDICIAL FIELD BY THE DECREE LAW NO. 696 DATED 24 DECEMBER 2017**

### **MINISTRY OF JUSTICE OF THE REPUBLIC OF TURKEY DEPARTMENT OF HUMAN RIGHTS**

#### **a. Arrangements made under the Code of Criminal Procedure No. 5271**

1. With an amendment to Article 104, it is now possible to appeal against all decisions - not only rejections - that may be given by courts regarding the release of the suspect or the accused.
  2. With an amendment to Article 129, upon the instruction of the Public Prosecutor, law enforcement officers are enabled to open envelopes and packages on the spot in order to prevent any irreparable damages, taking into consideration the characteristics of the crimes of storage of hazardous substances without permission, production and trade of narcotic substances, possession of unlicensed weapons and illicit trafficking of historical artifacts.
  3. With Article 140/A, a legal basis is provided for regulating the procedures and principles regarding the implementation of the protection measures defined in Articles 135 to 140 through the by-law.
  4. With an addition to the third paragraph of Article 19 of Law No. 6758, Savings Deposits Insurance Fund, in addition to the board of directors of the company, is now enabled to transfer and liquidate the legal entities whom legal trustees have been appointed within the scope of an investigation conducted by the courts should there be a suspicion of affiliation with terrorist organizations.
- In order to enable the conclusion of criminal proceedings within a reasonable time;*
5. With an amendment to Article 188, continuation of the trial has been enabled in cases where obligatory defense is accepted even when the defense lawyer fails to attend the hearing without an excuse.
  6. With an amendment to Article 209, it has been provided particularly regarding crimes committed collectively that information and documents stipulated in the Article and gathered during the prosecution are to be explained in the hearing rather than reading them.
  7. With an amendment to Article 280, the authority of the regional courts of appeal for quashing decisions has been restricted. By stating that the judgment of the court of first instance was delivered without reasoning or through the restriction of the right to defense, the regional court of appeal has been obliged to fulfill the duty by means of holding a hearing without referring the file to the court of first instance.
  8. With an amendment to Article 282, it has been provided, particularly regarding crimes committed collectively, that evidence and documents gathered during the preliminary trial, expert and inspection reports - if drafted - are to be explained in the hearing before the regional courts of appeal instead of reading them.
  9. In order to conduct the appeal proceedings more effectively and within a reasonable time, with an amendment to Article 299, the obligation to examine the appeal of the judgments

regarding an imprisonment of 10 years or more with the hearing upon the request of the accused or the intervening party is terminated. If the criminal chamber of the Court of Cassation considers it appropriate, appeal proceedings may be conducted with hearing.

#### **b. Arrangements regarding Law No. 5275 on the Execution of the Sentences and Security Measures**

10. With an amendment to Article 116, in case of the death or severe illness of the detainee's relatives, compassionate leaves shall be granted by the Office of the Chief Public Prosecutor also during the prosecution, with a view to accelerating the process and not to aggrieve the detainees.

11. Through the Additional Article No. 1 to Article 103, detainees or convicts who fall within the remit of the Anti-Terror Law – with the exception of juveniles and pregnant women - are required to wear the attires provided them by the administration of the penitentiary institution, when they are being taken out of the institution to attend a hearing. A proportional disciplinary penalty is provided for those acting contrary to the arrangement. With the said arrangement, it is aimed to prevent the terrorist propaganda and to enable judges, public prosecutors who perform judicial duties and experts and witnesses to reach the truth in an independent and impartial manner without being influenced by probable pressures, and therefore it is aimed to secure the public order. This arrangement will be effective on the date the by-law regarding this article enters into force.

12. In order to avoid increasing the excessive workload of closed penitentiary institutions; except for those convicted of terror crimes, crimes committed within the scope of organizational activities and crimes committed against sexual immunity; the schedule of the execution of the sentences in the open penitentiary institutions for those convicted of intentional crimes with a total of three years or less prison sentence, negligent crimes with a total of five years or less prison sentence and those subjected to coercive detention during the execution of judicial fine has been extended until 31 December 2022.

#### **c. Other Arrangements**

13. It has been provided that the disciplinary officer to be appointed to the military troops of which disciplinary boards were established within their organization, shall be among the members of the legal corps. Furthermore, during disciplinary proceedings, the disciplinary officer who considers that the matter also constitutes a crime is obliged to notify the matter the relevant Office of the Chief Public Prosecutor.

14. On the other hand, with regard to the civilians who acted to protect the democracy during the terrorist coup attempt; all those individuals who acted with the aim of suppressing the coup attempt and the terrorist activities that took place on July 15, 2016 and actions that can be deemed as the continuation of these, shall be immune from any legal, administrative, financial or criminal responsibilities, without having regard to whether they held an official title or were performing an official duty or not.

15. With an amendment to the Law of the Court of Cassation, the members of the General Assembly of the Civil and Criminal Chambers are enabled to be assigned permanently on the General Assemblies due to the heavy workload and in addition, a more effective legal domestic remedy has been established within the Court of Cassation by increasing the number of the members of the Court of Cassation.

16. In order to enable the prompt settlement of the disputes arising out of the final judgments of the civil or criminal chambers of the regional courts of appeal, it has been ensured that these disputes are settled by the relevant civil or criminal chambers of the Court of Cassation instead of the General Assembly of Criminal and Civil Chambers.

**d. Assessment and Conclusion:**

17. As explained briefly above, measures taken with the decree-laws are intended for the continuity of the State and the restoration of the public order; and in particular in the judicial field, measures have been taken in order to increase the effectiveness and efficiency of trial within reasonable time. As such, rather than interfering with the freedoms of individuals, these arrangements are for extending these freedoms.

18. The Government continues to take measures to the extent required by the state of emergency for ensuring the establishment of public order at the level of human rights.