

INFORMATION NOTE ON THE DECREE-LAW NO. 684 OF 23 JANUARY 2017 ON SPECIFIC REGULATIONS UNDER THE STATE OF EMERGENCY

Aim

The Decree-Law was enacted with a view to making specific regulations under the state of emergency.

Regulations in the judiciary

It was decided that the maximum length of period of custody would be 30 days during the state of emergency and limited to this period for the offences of terror and coup attempt through Decree-Laws Nos. 667 and 668. The Decree-Law has regulated that this period cannot exceed seven days as from the moment of arrest save for the period for bringing the suspect before the nearest court, but this period may be extended not more than 7 days by public prosecutor's decision in compulsory situations such as difficulty in collecting evidence or high number of suspects. The same procedure shall also apply to arrest warrant. Moreover, it has also been confirmed that this period cannot exceed 30 days under any circumstances for those previously taken into custody.

It must be indicated at this point that the period of custody in respect of the offences other than the abovementioned offence types during the state of emergency and the offences in question at the end of the state of emergency is 1 day and, in the event of extension due to compulsory conditions, maximum of four days.

Moreover, the provision in the Decree-Law No. 668 which prescribes that the suspect's right to interview with his/her lawyer can be restricted for a period of 5 days by the public prosecutor's decision during the state of emergency, has been repealed.

To that effect, the general investigation provisions in Article 154 § 2 of the Code of Criminal Procedure shall be applied from now on. Accordingly, upon the request of the public prosecutor, the suspect's right to interview with his/her lawyer might be restricted for 24 hours by a judge decision, and his/her statement cannot be taken during this period.

Assessment and Conclusion

As inferred from the measures which are briefly explained above, it is aimed at decreasing the custody period of 30 days, which is currently not applied in actual terms, to 7 days in order to harmonize this period with the actual state, by taking into consideration the constructive demands and the recommendations of the Council of Europe within the scope of the fight against FETÖ and other related terrorist organizations. Moreover, the provision which prescribes that the interview of those taken into custody with their lawyers can be restricted for a period of five days is repealed. Turkey has also displayed its will to improve the freedoms as the threats have decreased.