

DECREE-LAW NO. 694
ON CERTAIN AMENDMENTS TO BE MADE
UNDER THE STATE OF EMERGENCY

ARTICLE 74/2- “With the exclusion of Turkish citizens, detainees or sentenced persons can be extradited to any other country or exchanged with the detainees or sentenced persons in another country upon the request of Minister of Foreign Affairs, by the proposal of the Minister of Justice and the approval of the President as required by national security and national interests; upon the presence of assurances that they will not be punished due to their race, ethnic origin, religion or citizenship, be subjected to degrading punishment or treatment or be subjected to torture and ill-treatment.”

ARTICLE 80- “The following Article 13/C has been added to Law No. 2992 following Article 13/B.

“Department of Human Rights

ARTICLE 13/C- The following are the duties of the Department of Human Rights on condition that the duties and authorisations given to the Ministry of Foreign Affairs by the Law No. 1173 on the Conduct and Coordination of the International Relations dated 5/5/1969 and Law No. 6004 on Establishment and Duties of the Ministry of Foreign Affairs dated 7/7/2010 are reserved:

- a) To follow up the applications lodged with the European Court of Human Rights against the Republic of Turkey in cooperation with the Ministry of Foreign Affairs, to request information, documents and opinion regarding those applications from all concerned organisations and institutions, to draft observations and send representatives to the hearings when necessary.
- b) To employ the methods of friendly settlement and unilateral declaration when necessary.
- c) With the exception of the judgments which are executed by the Ministry of Foreign Affairs, to carry out actions regarding the execution of the violation judgments given by the European Court of Human Rights with respect to the Republic of Turkey, to communicate the judgments to the authorities concerned, to follow up the process for the elimination of the violation and take necessary measures.
- d) To submit observations of the Ministry with respect to the individual applications sent to the Ministry by the Constitutional Court, if deemed necessary.
- e) To make the just satisfaction payments awarded by the European Court of Human Rights against the Republic of Turkey as well as compensations and expenses awarded as a result of friendly settlements and unilateral declarations or reconciled by the parties in accordance with Article 41 of European Convention on Human Rights, on the condition that judgments which are executed by the Ministry of Foreign Affairs are reserved.
- f) To make the compensation payments awarded by the commission established in accordance with the Law No. 6384 on the Settlement of Some Applications

Lodged with the European Court of Human Rights by Means of Paying Compensation dated 9/1/2013.

g) To notify the relevant institutions and organisations for the assessment of the issue of recourse.

h) To carry out works for the elimination of human rights violations on issues within its purview.

i) To prepare projects regarding human rights in cooperation with the relevant institutions and organisations and to organise national and international symposiums, seminars and training activities.

j) To ensure the translation of judgments and decisions given by the European Court of Human Rights on the Republic of Turkey and against other countries, which are seen necessary, into Turkish and to compile and archive said decisions.

k) To follow up scientific studies related to the European Convention on Human Rights and its implementation, to carry out activities for the communication of books, articles, reports, guidebooks and case laws to the practitioners and to carry out statistical studies.

l) To carry out any other duties stated in the laws and given by the Ministry.

ARTICLE 136- The following article has been added to the Law No. 5235 on the Establishment, Duties and Jurisdiction of First Instance Judicial Courts and Regional Courts of Justice dated 26/9/2004.

“Change of jurisdiction

ADDITIONAL ARTICLE 1- In case of a change in the competence of regional courts of justice in accordance with Article 25, a decision of non-competence cannot be given on the grounds that the competence of the regional courts of justice has been changed as of the decision date during the appeal assessment of the decisions given by courts of first instance before the date determined on the Official Gazette for the implementation of the said change. In the event that the cases which had been subject to the appeal assessment before the change of jurisdiction are again subject to the appeal assessment, the said cases shall be concluded by the regional court of justice which carried out the first assessment.

In case the competence of regional courts of justice are changed under Article 25, a decision of non-competence cannot be given on the grounds that the competence of the regional courts of justice has been changed in investigations commenced by the Office of Chief Public Prosecutor and in the prosecutions conducted in the regional courts of justice before the date determined on the Official Gazette for the implementation of said change. The criminal cases to be filed following the investigation shall be heard in the regional court of justice of the same place.”

ARTICLE 141- The phrase “five years for the offenses determined in Sections 4, 5, 6 and 7 of Second Volume Part 4 of the Turkish Criminal Code No. 5237 and for the offenses within the scope of the Anti-Terror Law No. 3717 dated 12/4/1991” has been added to Paragraph 2 of Article 102 of the Law No. 5271 following the phrase “three years”.

ARTICLE 142- The following sentences have been added to Paragraph 3 of Article 139 of the Law No. 5271:

“In the event that it is necessary for the investigator to be heard as witness during the prosecution, he/she shall be heard in the absence of the persons entitled to appear at the hearing or by altering his/her voice or appearance. In this case, Article 9 of the Witness Protection Act No. 5726 dated 27/12/2007 shall be implemented by analogy.”

ARTICLE 145- The Paragraph below has been added subsequent to Paragraph 5 of Article 158 of the Law No. 5271, amending subsequent paragraph numbering accordingly.

“(6) In the event that it is clearly understood, without requiring a probe, that the act subject of the denunciation or complaint does not constitute a crime, or if the denunciation or complaint is in abstract and general nature, it shall be decided that there is no need for an investigation. In that case, the person complained of cannot be referred to as a suspect. The decision of non-investigation shall be notified to the denouncer or the complainant, where available, and an objection may be made against the decision in accordance with Article 173. If the objection is accepted, the Chief Public Prosecutor’s Office shall commence the investigation process. The procedures in line with this paragraph hereby and the decisions made shall be recorded in a special system. These records may only be seen by the public prosecutor, judge or the court.”

ARTICLE 146- The Paragraph below has been added to Article 161 of the Law No. 5271:

“(9) The authority to investigate or prosecute a parliamentary member, who allegedly committed a crime before or after the elections, rests with the Chief Public Prosecutor of Ankara and the Assize Court of Ankara. The investigation shall be conducted in person by the Chief Public Prosecutor or his/her deputy. The Chief Prosecutor or his/her deputy may request from the local Public Prosecutor, the conduct of the investigation partly or in whole. Where its delay is deemed prejudicial, the public prosecutor at the place where the crime was committed shall gather the necessary evidence and, if necessary, shall make a request to the criminal magistrate located in the same place, for decisions to be taken.”

ARTICLE 148- The Paragraph below has been added to Paragraph 3 of Article 216 of the Law No. 5271:

“During this stage, the non-appearance of the defense lawyer shall not constitute an impediment to the announcement of the verdict.”

ARTICLE 150- The statement “within a year as of ...” set out in the Paragraph 1 of the Provisional Article 7 of the Law No. 5275 has been changed to “as of 31.12.2020”.

ARTICLE 151- The following Provisional Article has been added to the Law No. 5275.

“PROVISIONAL ARTICLE 8- Except for the disciplinary penalties and measures taken for the sentenced persons and detainees of the offences defined in the Fourth, Fifth, Sixth and Seventh of the Fourth Chapter of Second Volume of the Law No. 5237 and Article 220 of the Law No. 5237, the offences committed against sexual inviolability, the corresponding offences under the former Turkish Criminal Code No. 765 and those falling into the Law No. 3713 and those imposed on sentenced persons and detainees falling within

the Paragraph 3 of Article 9 of this Law; the disciplinary penalties and measures taken due to the acts carried out before the date of 1/8/2017 as per Articles 39 to 46 of this Law shall be revoked regardless of the conditions of period and decision stated in Article 48 on condition that the execution has been carried out and upon the good conduct decision to be taken by the administration and monitoring board. The provisions of Article 55 are reserved.”

ARTICLE 169- The following sub-paragraphs have been added to Paragraph 1 of Article 3 of the Law No. 6458 on Foreigners and International Protection dated 4/4/2013.

“z) Inadmissible passenger: any person arriving at border gates to enter or transit through the country but not allowed to enter or transit through the country due to not being eligible for the qualifications stipulated in the legislation.

aa) Carrier: natural or legal owners of land, air, sea and railway vehicles carrying foreign passengers or commercial land, air, sea and railway operators;

ARTICLE 170- The following sub-paragraphs have been added to Paragraph 1 of Article 98 of the Law No. 6458.

“ç) Taking necessary measures in order to prevent the transportation of inadmissible passengers,

d) Covering the expenses of food, accommodation and emergency health needs of inadmissible passengers until they are returned,

e) Making the required notifications regarding inadmissible passengers,”

ARTICLE 197- The following Paragraph has been added subsequent to Paragraph 1 of Article 4 of the Decree Law on the Establishment of the Inquiry Commission on the State of Emergency Measures, other paragraphs have accordingly been renumbered and the following sentences have been added subsequent to the second sentence of the existing Paragraph 2 of the same Article.

“(2) Conduct of an investigation about the commission members regarding the offences stated in sentence (d) of the Paragraph 1 is subject to authorisation by the Prime Minister.”

“The period of office of the members shall be taken into account for promotion and retirement as well and promoting procedures shall be applied in due time without any other procedure. The period of office of the members including the judges and prosecutors shall be deemed completed effectively in their own institutions or professions.”

ARTICLE 199- The statement of “and to the Commission” was added subsequent to the statement of “to the Prime Ministry” to the Paragraph 1 of Article 11 of the Decree Law No. 685.