

INFORMATION NOTE ON THE DECREE-LAW NO. 670 OF 17 AUGUST 2016 ON THE MEASURES TAKEN UNDER THE STATE OF EMERGENCY

Aim

The Decree-Law no. 670 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.

Regulation on Re-taking of the Statements

In the course of the state of emergency and limited to the offences against state security, constitutional order and its functioning, national defence and state secrets, and espionage under the Turkish Criminal Code no. 5237 and the offences falling within the scope of the Anti-Terror Law no. 3713; it has been provided that the statements of the suspects on the same incident may be re-taken by the public prosecutor or law enforcement officers upon the public prosecutor's written order, with a view to determining properly the structures and establishment of terrorist organizations and to ensuring that the investigations and prosecutions be conducted more rapidly.

Measures concerning public officials

The public officials having membership, affiliation and connection to the Fetullahist Terrorist Organization (FETÖ/PDY), which has been established to pose a threat to national security, and whose names are presented in the annex of this Decree-Law have been dismissed from the profession.

It has been provided that those who were dismissed from profession under the Decree-Law no. 667 may not use their titles, professional titles and capacities, and may not enjoy the rights granted in relation to these titles, professional titles and capacities.

Measures concerning sharing of personal data

Being limited to the duration of the state of emergency; all kind of information and documents including interception of communication through telecommunication (call records) which are needed by the investigation committees established under the Decree-Law no. 667 in respect of the persons against whom investigations and examinations are performed and their spouses and children, except for those regarded as client secrets under the Banking Law, shall be submitted by all public and private institutions and organizations without any delay.

It has been set out that all kind of information belonging to the personnel of the public institutions and organizations and spouses and children of these persons, which is available in the Asya Participation Bank Incorporated Company ("Asya Katılım Bankası Anonim Şirketi") and in the public institutions with regard to this Bank, shall be submitted, without any delay, upon any request of the institutions and organizations where these personnel take office.

Other Measures

The procedures and principles concerning the assets, receivables and debts of the institutions and organizations closed pursuant to the Decree-Laws entering into force within the scope of the state of emergency and transferred to the Treasury and the General Directorate for Foundations are established in order to prevent any victimization in the legal relations and protect the financial order. In particular, it was established that for redemption of

the debts of the transferred institutions and organizations, the General Directorate for Foundations shall be authorized insofar as foundations and the Ministry of Finance shall be authorized insofar as others are concerned.

It is established that the period of seven working days prescribed in the Law no. 5549 on Prevention of Laundering Proceeds of Crime for the suspension of the processes, carried out by the persons, institutions and organizations considered to have membership, affiliation, relation or connection with terrorist organizations, or structures, formation or group that the National Security Council found to be involved in activities against the national security, shall be extended to thirty working days.

It is decided that public officials and civilians, who were injured during the *coup* attempt and the terrorist action and those injured while trying to be useful and worthwhile in order to ensure that further actions of this attempt be revealed, prevented to be effective or eliminated, shall be rewarded with compensation. Moreover, it is established that the persons awarded the right to compensation or one of their relatives indicated in the provision shall be employed in the public institutions and organizations.

Regulations were made to prevent decreases in the income of the transferred personnel of the Gülhane Military Medical Academy and military hospitals pursuant to the Decree-Law no. 669.

Furthermore, it was established that the civil servants employed through the Public Personnel Selection Examination of 2010 shall continue fulfilling their duties, and those who had cheated shall be dismissed from public office.

Assessment

It is evident from the measures briefly explained above that with the Decree-Law no. 670 issued after declaration of state of emergency, the measures have been taken for the purpose of effective fight against the FETÖ, which infiltrated into the State's institutions. The declaration of state of emergency and the Decree-Law adopted within this period aim at protecting the rule of law, democracy and human rights by way of removing the members of the FETÖ 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 regulations which are in line with the aim and conditions of the state of emergency and which are necessary for the State to preserve its existence. Moreover, receivables of the bona fide third persons from the transferred institutions and organizations have been reserved by this Decree-Law.

The rule of law, democracy and human rights are fundamental principles of the State of the Republic of Turkey. The Turkish Government upholds the rule of law even in the fights against the terrorist coup attempt.