

INFORMATION NOTE ON THE DECREE-LAW NO. 673 OF 1 SEPTEMBER 2016 ON THE MEASURES TAKEN UNDER THE STATE OF EMERGENCY

Aim

The Decree-Law no. 673 was enacted under the state of emergency with a view to taking certain measures.

Reappointment

By virtue of the Decree-Law, those who have resigned on multiple occasions or retired from their posts as a judge or public prosecutor of their own will may be reappointed upon the approval decision of the High Council of Judges and Prosecutors. It has been thereby aimed to ensure re-establishment of the right to employment of the judges and prosecutors who were previously deprived of their right as a result of all kinds of oppressions of the Fetullahist Terrorist Organization (FETÖ).

The Monitoring Boards of Penitentiary Institutions and Detention Houses

Upon the entry into force of the Decree-Law, it has been envisaged that the membership of the presidents and members of the Monitoring Boards of Penitentiary Institutions and Detention Houses shall be ceased and a re-election shall be held within ten days. Accordingly, it has been aimed that the members to take office at such kinds of Boards shall be completely independent and impartial members who have no connection with FETÖ or any other organization.

Measures on Postponement of Bankruptcy

With a view to maintaining financial order and proper identification of the companies and cooperatives considered to have membership to FETÖ, it has been prescribed that the court cannot make a decision, during the state of emergency, about the requests for postponement of bankruptcy which were made before the state of emergency; and that the measures taken following the declaration of the state of emergency shall automatically revoke during the state of emergency.

Moreover, it has been set out that, with regard to the measures decided by the courts prior to the declaration of the state of emergency, it shall be investigated whether there has been any connection with FETÖ or other terrorist organizations posing a threat for national security; and that the measures imposed in respect of the companies or cooperatives of which partners and directors have been subject to a judicial investigation and for which trustees have been appointed pursuant to the Code of Criminal Procedures no. 5271 shall be lifted.

Other Measures:

Status of certain educational institutions and student dormitories which were decided, by virtue of the Decree-Law no. 667, to be closed for having connection with terrorist organizations has been reassessed, and these institutions have been removed from the scope of the closed institutions. Following this re-arrangement, these institutions may continue performing educational activities.

On the other hand, upon the addition made to Article 5 of the Decree-Law no. 667, it has been envisaged in the same article that the passports held by the spouses of persons, who have membership, affiliation or connection to terrorist organizations and against whom administrative and judicial investigations have been conducted, may be cancelled by the Ministry of Interior where it is considered as detrimental in terms of general safety.

Among the persons to be paid premium pursuant to the Anti-Smuggling Law no. 5607 for taking part in the anti-drug operations carried out before 1 May 2014, those who are considered to have membership, affiliation or connection to terrorist organizations shall not be paid any bonuses.

By virtue of this Decree-Law, it has been envisaged that those who are considered to have membership, affiliation or connection to terrorist organizations cannot be employed as workers in institutions where the State directly or indirectly participates.

Assessment and Conclusion

It is explicitly observed from the measures briefly explained above that, within the scope of the Decree-Law no. 673 which was enacted following the declaration of the state of emergency, measures have been taken for reinstating the judges and prosecutors who were previously retired or resigned of their own will to their former positions with a view to meeting the existing need of judges and prosecutors; for identification of the companies having connection with FETÖ with a view to maintaining the financial order and for cleaning out the terrorist elements in fields and sectors where the State participates. The aim of declaration of the state of emergency and the Decree-Law enacted in this period is to protect the rule of law, democracy and human rights. The Decree-Law has not imposed any restriction on rights and freedoms of the public.

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.