

**INFORMATION NOTE ON THE DECREE-LAW NO. 680 OF 6 JANUARY 2017 ON
THE MEASURES TAKEN UNDER THE STATE OF EMERGENCY**

Aim:

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

Arrangements in the judiciary:

The investigative authority with respect to military judges, judges and prosecutors and the governors and district governors has been transferred to the chief public prosecutor's office and the assize court in the province where the Regional Court of Appeal, which the jurisdiction exercised by such officers are affiliated to, is located. The investigations which have been initiated are continued to be held in their original place of jurisdiction. Namely, this Decree-Law enters into force on the date of publication. It has been envisaged that relevant chambers of the Court of Cassation serves as a first instance court and the chambers of the Court of Cassation have been assigned as the competent authority for trial of the personal offences committed by the members of the High Council of Judges and Prosecutors and the Constitutional Court and those of the Court of Cassation. The Plenary Assembly shall be the authority to appeal with respect to the judgments rendered by the chambers. Thus the issue of lack of remedy has been solved for those civil servants.

Following the decision of non-prosecution to be rendered, a criminal proceeding on the same subject matter might be filed by the decision of the magistrates' judge if new evidence which constitutes adequate doubt has been obtained. It is always possible to appeal for the non-prosecution decision within the time limit of 15 days.

The status of being a fugitive, which has been in practice in order not to impede the investigations and prosecutions, has been re-arranged in a manner which would cover the suspects.

The Governors have been vested with a limited authorization for investigation with respect to the search of the missing children. Moreover, it has been also envisaged that all acts and actions performed by the governors must be approved by the Criminal Magistrate's Office.

The police have been enabled to establish evidence with respect to certain serious offences committed in the virtual platform, if an inconvenience will occur in case of a delay, upon authorization of an administrative authority, which would be submitted for approval of a judge within 24 hours, for ensuring the investigations to be conducted in an effective manner due to the developing and rapidly changeable nature of the internet platform. On the other hand, the police have been authorized to get access to identifying information of the internet subscribers and to carry out researches in the virtual platform in order to be used for the determination of the competent public prosecutor's office.

Provisions with respect to the Media Service Providers

It has been envisaged that the media service providers cannot broadcast the terrorist acts, offenders and victims in a manner which would bear consequences to serve for the aims of the terrorism. Moreover, sanctions have been gradually introduced in respect of the acts contrary to the broadcasting ban.

Arrangements in the Law No. 2911

The phrase of “the security chiefs of the relevant place” specified in the Law no. 2911 on Meetings and Demonstration Marches has been extended in a manner which would cover the powers of the Coast Guard Command.

The other arrangements:

The private security officers’ power to use weapon has been rearranged. Moreover, arrangements have been made in the other matters such as national security, personal affairs and in the field of the other administrative issues.

Assessment and Conclusion:

As inferred from the measures which are briefly explained above, measures required by legal order have been taken for struggling with the terrorist organizations effectively in terms of trials and internal security and in accordance with the developing conditions and technological improvements. Moreover, it has been set out that broadcasts which would enable the terrorist organizations to attain their targets through their acts are banned and in this respect, the consequences of acting in breach of the broadcasting bans have been also prescribed.

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 those who have not involved in offences which would impair the national security.

Finally, the Government has been taking measures, by means of showing maximum respect to the human rights, limited to the extent required by the state of emergency in order to protect the public order disturbed or tried to be disturbed.