

DECREE-LAW ON CERTAIN AMENDMENTS TO BE MADE WITHIN THE SCOPE OF THE STATE OF EMERGENCY

ARTICLE 45- The following provisional articles have been added to Law No. 2797.

“PROVISIONAL ARTICLE 16- Without prejudice to the provisions regarding the meetings for the unification of judgments of the General Assembly of Civil Chambers and the General Assembly of Criminal Chambers, the following provisions shall be applied until 31 December 2022 concerning the formation of these assemblies and their working procedures.

a) Both the General Assembly of Civil Chambers and the General Assembly of Criminal Chambers consist of twenty members who are assigned by the First Board of Presidency, provided that at least one member is appointed from each civil and criminal chamber. The First President or the relevant Vice President, or, in the absence of both, the most senior member of the said assemblies shall preside over them.

b) The members hold office permanently at the General Assembly of Civil Chambers and the General Assembly of Criminal Chambers. However, considering their workload, the Grand General Assembly may decide on the participation of the members for the works of the chambers.

c) The quorum for meetings and sessions is fifteen. The decisions are taken by the vote of two-thirds of the members present. If two-thirds majority of votes cannot be met in the first meeting, the decisions are taken by the majority of the members present.

In cases where there are no provisions in this Article, the existing provisions of this Law, regarding the functioning of the General Assembly of Civil Chambers and the General Assembly of Criminal Chambers, shall continue to be applied.

PROVISIONAL ARTICLE 17- The election shall be held, within six months at the latest as of the date of the entry into force of this Article, for the entire cadre of the one hundred memberships of the Court of Cassation, which are newly established on the date this Article entered into force.

Within five days as from the completion of the election held in accordance with the first paragraph, the First Board of Presidency shall be re-designated.

Within ten days, the newly formed First Board of Presidency shall determine the chambers in which the newly elected members shall carry out their duties by taking into consideration the workload and needs of the chambers and assign the members of the General Assembly of Civil Chambers and the General Assembly of Criminal Chambers. Until the assignment is concluded, the existing General Assembly of Civil Chambers and the General Assembly of Criminal Chambers shall continue to function.

For the calculation of the total number of members of the Grand General Assembly of the Court of Cassation, the newly established cadres shall not be taken into consideration until the members are elected in accordance with the first paragraph.”

ARTICLE 92- The phrase “from the First Presidency of the Court of Cassation”, stated in subparagraph (3) of the first paragraph of Article 35 of the Law No. 5235 on the

Establishment, Duties and Jurisdiction of the Judicial Courts of First Instance and the Regional Courts of Justice dated 26 September 2004, has been amended as “the Court of Cassation to render a decision on this matter”, and the second paragraph of the same Article has been amended as follows:

“The requests to be made according to subparagraph (3) shall be submitted to the Chief Public Prosecutor’s Office of the Court of Cassation in criminal cases; and to the relevant civil chamber in civil cases. If the Chief Public Prosecutor’s Office of the Court of Cassation decides on the existence of a dispute, it shall request the relevant criminal chamber to render a decision. The decisions rendered by the chamber in accordance with this paragraph regarding the settlement of disputes shall be final.”

ARTICLE 93- The phrase “to the decision of rejection” mentioned in the second paragraph of the Article 104 of Code of Criminal Procedure No. 5271 dated 4 December 2004, has been amended as “to these decisions”.

ARTICLE 94- The following paragraph has been added subsequent to second paragraph of Article 129 of Law No. 5271 and other paragraphs have accordingly been renumbered:

“(3) In cases when a seizure decision or order is given in relation to crimes stipulated below, envelopes or packages may be opened by the law enforcement officers upon the instruction of the Public Prosecutor.

a) The following crimes stipulated in the Turkish Criminal Code No. 5237;

1. Storage or handover of hazardous substances without permission (Article 174),
2. Crimes of producing and trading narcotic or stimulant substances (Article 188),

b) Crimes defined in Articles 12 and 13 of Law No. 6136 on Firearms and Knives and Other Tools dated 10 July 1953.

c) Crimes defined in Articles 67 and 68 of Law No. 2863 on the Protection of Cultural and Natural Heritage dated 21 July 1983.”

ARTICLE 95- The following Article 140/A has been added subsequent to Article 140 of Law No. 5271:

“By-Law

ARTICLE 140/A- (1) Procedures and principles relevant to the implementation of the protection measures provided in Articles 135 to 140 of this Law shall be regulated through by-law.”

ARTICLE 96- The phrase “does not attend to the hearing or” has been added to the first paragraph of Article 188 of Law No. 5271 subsequent to the phrase “without an excuse”.

ARTICLE 97- The phrase “to be read” has been amended as “to be explained” in the title of Article 209 of Law No. 5271, the phrase “shall be read” has been amended as “shall be

explained” in the first paragraph of the said Article, and the phrase “to the reading” has been amended as “to the explanation” in the second paragraph of the said Article.

ARTICLE 98- The phrase “in the article” in the subparagraph (d) of the first paragraph of Article 280 of Law No. 5271 has been amended as “in its other subparagraphs except for the subparagraphs (g) and (h) of the first paragraph of the article”.

ARTICLE 99- The phrase “shall be read” in the subparagraph (d) of the first paragraph of Article 282 of Law No. 5271 has been amended as “shall be explained”.

ARTICLE 100- The phrase “shall conduct hearing upon the request in the application of the accused or the intervening party for appeal or ex officio” in the first sentence of the first paragraph of Article 299 of Law No. 5271 has been amended as “may conduct examination through the hearing in case deems appropriate”.

ARTICLE 101- The following subparagraph has been added to the second paragraph of Article 43 of Law No. 5275 on the Execution of the Sentences and Security Measures dated 13 December 2004.

"g) Not wearing the attires provided by the administration of the penitentiary institution or deliberately damaging the provided attires.”

ARTICLE 102- The phrases “during the investigation by the public prosecutor who conducts the investigation, during the prosecution by the judge or the court that conducts the prosecution” in the second and third paragraphs of Article 116 of Law No. 5275 has been amended as “by the proposal of the highest authority of the penitentiary institution and by the approval of the chief public prosecutor’s office”

ARTICLE 103- The following additional article has been added to Law No.5275:

“ADDITIONAL ARTICLE 1- (1) Those who are detained or convicted for the crimes within the scope of Law No.3713 are obliged to wear attires that are provided to them by the administration of the penitentiary institution, when they are taken out of the institution in order to attend the hearing. Those who are detained or convicted for the crimes stipulated in Articles 309 to 312 of the Turkish Criminal Code No. 5237 shall wear dry almond coloured coveralls, those who are detained or convicted for the other crimes stipulated in this Article shall wear gray coloured coveralls. However, attires for women detainees and convicts may not be in a one-piece form (coverall). Provisions of this Article shall not be applied for juveniles and pregnant women. Attires for women detainees and convicts, and other issues regarding the implementation of this article shall be determined by by-law.

(2) The by-law stipulated in this article shall be put into force within one month. The provisions of this article shall be effective on the date the said by-law entered into force.”

ARTICLE 115- Article 35 of Law No. 6413 has been amended together with its title as follows.

"Disciplinary officer

ARTICLE 35- (1) One disciplinary officer shall be present in the commands or the directorships of the military institutions of which disciplinary boards are established within their organization and in the Ministry of National Defense.

(2) The disciplinary officer shall be appointed among officers who are members of the legal corps.

(3) The duty of the disciplinary officer shall be performed through appointment or assignment of the officers who are members of the other corps, in cases when there is no disciplinary officer appointed among the members of the legal corps or there are reasons preventing the disciplinary officer to perform his or her duties. In cases when no appointment has been made, the disciplinary officer shall be assigned among the officers who served in the troops at least for one year and who is not sentenced for any crime other than negligent offenses, by the commander or the superior of the military institution of which a disciplinary board was established within the organization and by the Minister of National Defense.

(4) If deemed necessary, one officer or non-commissioned officer may be appointed or assigned as the assistant of the discipline officer. Moreover, adequate number of personnel shall also be appointed to serve as registrar in the disciplinary offices and disciplinary boards.

(5) The commander or the superior of the military institution of which the disciplinary board has been established within his/her organization;

a) may refer the authority of approval stipulated in the second and third paragraphs of the Article 37 and the authority of objection stipulated in the first paragraph of Article 42, with regard to the military personnel other than officers and non-commissioned officers,

b) may refer the authority stated in the fourth paragraph of Article 37,

to the director for the law services or the superior of the unit in writing.”

ARTICLE 121- The following paragraph has been added to Article 37 of Law No. 6755 on the Adoption of the Amendments of the Decree Law on Measures to be Taken Under the State of Emergency and Arrangements Made on Certain Institutions and Organizations, dated 8 November 2016:

“(2) Provisions of paragraph 1 shall also be applicable to those individuals who acted with the aim of suppressing the coup attempt and the terrorist activities that took place on July 15, 2016 and actions that can be deemed as the continuation of these, without having regard to whether they held an official title or were performing an official duty or not.”

ARTICLE 123- The phrase “or Saving Deposit Insurance Fund” has been added following the phrase “board of directors of the company” to the fourth sentence of the third paragraph of Article 19 of Law No. 6758 on Amending and Adopting the Decree Law on Making Certain Arrangements under the State of Emergency dated 10 November 2016.