

INFORMATION NOTE ON DECREE NO. 690 DATED 29 APRIL 2017

Regulations in the field of Judiciary

Investigations and prosecutions of offenses arising from the duty or offenses committed on duty and personal offenses of the president, heads of the chambers and the members of the Regional Administrative Courts shall be carried out in accordance with Law No. 5235 in the Regional Court of Justice to which the Regional Administrative Court is affiliated to the province where the duty is carried out.

With an amendment made in Article 46 of the Law on the Court of Cassation, it has been prescribed that the file, as a result of the investigation carried out in accordance with the general provisions in the event that someone is caught in the act regarding personal offenses within the jurisdiction of the Assize Court, shall be forwarded to the Office of Chief Public Prosecutor of the Court of Cassation with a summary of proceedings, and decisions to be taken in relation to the investigation shall be requested from the relevant head of the chamber of the Court of Cassation.

With an addition to Article 47 of Law No. 5235, the relevant head of the chamber of the Regional Court of Justice has been authorized in cases where a decision of a judge is required in investigations and prosecutions related to the president and members of the Regional Court of Justice.

Decisions given by judicial or administrative authorities of a foreign country concerning divorce, annulment, nullity, presence or absence of marriage have been regulated on civil registration without recognition and enforcement procedures on the conditions that spouses apply together, the decision was given by the competent judicial or administrative authority in accordance with the laws of the state, procedurally finalized and it is not explicitly contrary to the Turkish public order.

It has been stated that the investigation to be conducted in the case of the flagrant offences requiring heavy punishment on the members of the High Council of Judges and Prosecutors shall be reported directly to the Office of Chief Public Prosecutor of the Court of Cassation and the summary of proceedings related to the investigation file shall also be sent there. At the end of this investigation, it has been regulated that if the Office of Chief Prosecutor of the Court of Cassation prepares the indictment, the relevant criminal chamber of the Court of Cassation shall conduct the prosecution related to personal offenses and the Constitutional Court acting in the capacity of Supreme Court shall conduct the prosecution related to duty offenses.

The procedures for the seizure, sale and liquidation of the vehicles used in migrant smuggling have been regulated.

Regulations on the Inquiry Commission on the State of Emergency Measures

By referring to Law No. 6755 concerning the legal, administrative, financial and criminal responsibilities of the members of the Commission in relation to their decisions,

duties and actions within the scope of their membership duties, no legal, administrative, financial and criminal responsibilities shall be borne.

In the cases filed against the decision of the Commission to Ankara Administrative Court, it has been prescribed that hostility shall be the last institution or organization of the person concerned and a list of some institutions and organizations to which hostility shall be directed has been stated.

In the event that an application has been earlier lodged with any judicial authority for the issues within the mandate of the Commission or a case has been already filed, it has been regulated that taking decision on the part of judicial authorities for these files is not required and costs incurred by the parties shall be definitely decided to be left on them; however, counsel's fee shall not be awarded and these files shall be sent to the Commission for examination without any condition of new application.

It has been regulated that for the applications lodged before the commence of the functioning of the commission, no time limitation shall be required, but in other admissibility issues the application can be admitted through examination conducted by the relevant institution and organization.

Other regulations

Some regulations related to national security, social security, national defence and media and service providers have been included.

It has been provided that the diplomas of those who have studied abroad but who are found to have membership, affiliation or contact with terrorist organizations or with the structure, formation or groups determined by the National Security Council to be carrying out activities against the national security of the State shall not be considered for equivalence.

It has been regulated that reinstatement of public officials to their profession, who were dismissed from profession within the framework of the provisions of Law No. 6749, shall be carried out in the same procedure; their unpaid financial rights between the time from dismissal from profession to the reinstatement shall be paid and re-appointment shall be made to a position appropriate to the their positions and cadres except administrative duty.

Assessment and Conclusion

As can be understood from the regulations and measures briefly described above, with the Decree Laws, regulations related to the continuation of the state and the re-establishment of public order are made; in particular, in the field of judiciary the order of investigations and prosecutions are ensured. Regulations that extend freedom, instead of intervention in the freedom of people, are included.

On the other hand, regulation was made for the purpose of the reinstatement of some public officials, who had been re-evaluated, to their profession and their rights were returned in order to prevent any unjust treatment.

The assurances of the members of the Inquiry Commission on the State of Emergency Measures have been increased and procedures for the submission of applications have been facilitated.