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Executive Code of Note 4, Article 6 of the Law on the Promotion of the Health of the Administrative System and the Fight against Corruption

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Abstract

It has always paid special attention to institutionalizing administrative health and preventing corruption. Purifying the working environment from effective factors contributing to all types of administrative corruption has always been accentuated by top management; therefore, on various occasions, emphasis has been put on the necessity of the enforcement of the following detailed strategies. Using all legal tools, it has endeavored to render the administrative system transparent and to take fundamental steps simultaneously to eliminate corruption at all levels.

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Introduction

Executive Code No 9000/21729/100, on the date 16/07/2013, Head of the Judiciary on "note 4 of article 6; the Law on the Promotion of the Health of the Administrative System and the Fight against Corruption" [1]

Review of Literature

Chapter 1: generalities and definitions

Article 1- the terms and abbreviations inserted in this code are used for the following concepts:

a- Law: Law on the Promotion of the Health of the Administrative System and the Fight against Corruption, approved in 18 May 2008 by Islamic Council affirmed by Expediency Council in 29/10/2011.
b- Court: Branch investigating the violation, subject to articles 5 and 6 of said law
c- Discernment Council: the said council is defined in article 6
d- Secretariat: administrative unit active in taking responsibilities of discernment council, branches of court and other relevant affairs.
e- Databank: one of the subsets of Secretariat, which is responsible for collecting and updating information relevant to the base for list of deprivations

Chapter 2: establishments and responsibilities of Discernment Council

Article 2- Discernment Council subject to article 6 of said law is established in place of National Inspection Organization (Tehran).

Note- the superior authority of the said systems subject to article 6 is responsible for on-time introduction of representatives to establish discernment council.

Article 3- discernment council appoints a person from the council as chairman and one person as vice chairman for 1 year. Their reappointment is authorized. The representative of National Inspection Organization is the secretary of council.

Article 4- if necessary, and in accordance with volume of cases, the secretariat presents the suggestion of increasing discernment councils in center (Tehran) and provinces to the head of judiciary with agreement of the supreme discernment council, so that it can be established with similar combination said in article 2 of the Code and the provisions inserted.

Article 5- the discernment council takes measure for handling with submission of reports of said courts in note 3 of article 6 of the said law or with being informed of violations of subject of law.

Article 6- the discernment council can take following measures for handling reports[2]:

a- Investigation about the plaintiff or the announcer
b- Investigation of witnesses and the informant
c- Investigation of records of person committing said measures subject to article 5.
d- Investigation of cases and relevant records of subject and announced case
e- Handling the evidences
f- Referral to expert

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g- Inquire of the officials and employees of the relevant organization
h- Gaining explanation from the defendant
i- Any kind of investigation and collection of information in benefit or against persons committed the said measures subject to article 5 of said law.

Article 7- due to case and if necessary, the discernment council can appoint one or more investigation groups among its members or out of council under supervision of judge of the council to investigate the subjects and to present report[3].

Note- the sentences of investigation team are issued with insertion of deadline and investigations axes by the chairman of council.

Article 8- in case that the discernment council finds that the evidences of taking the said measures subject to article 5 are sufficient, it can invite the defendant to get explanation for hearing session. The defendant can introduce legal representative to the council or defend him/her through submitting the bill. Lack of defending of said person can't prevent hearing in council.

Article 9- the session of discernment council can be official with presence of at least 5 people. Decisions of the council in framework of specified obligations can be valid with least 4 agreed votes.

Note1- in case of equal votes, the vote agreed by judge is valid.

Note2- the cases of rejecting members of discernment council is same subject to article 91 of The Law on the Procedure of Public and Revolutionary Courts on civil affairs.

Article 10- in case that evidences are enough to be presented at the court based on expedience of the council, the council shall submit the outcome of the measures to the court in a report through the secretariat; otherwise, it shall take measure to end the case. This can't prevent hearing of other courts in case of committing crime or violation.

Article 11- the report of discernment council submitted to the court shall contain information of announcer and the defendant subject to article 5, real or legal entity, type of violation, time and place of offence, causes and legal evidences

Article 12- supervisory systems include The National Inspection Organization, the State Audit Office, Audit Office, the Administrative Justice Court and the Ministry of Intelligence, the legal inspectors of companies and institutions, both governmental and non-governmental, as well as the Central Bank and Central Insurance of the Islamic Republic and the Ministry of Economic Affairs and Finance and all affiliated organizations including Customs of the Islamic Republic of Iran, Privatization Organization, State Tax Affairs Organization, Iran Securities and Exchange Organization are responsible to declare degrees to the council subject to paragraph b of article 5 of said law.

Chapter 3: organization and obligations of court

Article 13- to handle the said reports subject to article 6, the court can be established with presence of 3 judges and in accordance with majority vote

Note- head of judiciary appoints one of the branches of Tehran Public Criminal Courts to investigate this case and takes measure to appoint and issue announcement for the chairman and experienced magistrates of province to fulfill the arrangement of branch

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Article 14- the court investigates the submitted cases and issues verdict with observance of principle of criminal procedure. The court's verdict is definitive. A copy of verdict is submitted to secretariat to be inserted in data bank[4].

Chapter 4: organization and obligations of secretariat

Article 15- the secretariat has one chairman and several experts. The secretariat chairman is the secretary of Discernment Council and is appointed from the inspectors of National Inspection Organization due to decision of head of organization and after confirmation of head of judiciary.

Article 16: required credits for establishment and management of council, databank and secretariat are predicted, supplied and paid in annual budget of National Inspection Organization.

Article 17: the secretariat is responsible for:

a- Taking administrative affairs of discernment council and databank
b- Announcement of verdicts and decisions of court and Discernment Council
c- Announcement of deprivations subject to paragraph 2 of article 5 to relevant references and systems
d- Announcement of eliminating deprivation after authentication of judicial court verdict based on deprivation of prosecution or innocence in limit of provisions of verdict t relevant system
e- Establishment of databank and updating deprivation list base

Article 18- the secretariat maintains following information electronically in databank:

- Complete ID information of offender and registration information, of the person is legal entity
- The system or entity announcing offence and violation
- The system of service of offender (if the offender is employee)
- Type of offense
- Time and place of occurrence of offence
- Rial or currency value of offence (if the offence is in field of finance)
- The decision of Discernment Council and the date
- Votes of the courts subject to this law and other judicial courts
- Type of determined deprivations
- Mitigation or elimination of deprivation
- Beginning and end of deprivation period
- Explanations and other explanations [5]

Article 19- in execution of paragraph 2 of part 2, article 5, the magistrates and other judicial authorities across the state are responsible for submitting a picture of all absolute and binding verdicts included in law to the secretariat

Article 20- the secretariat shall announce deprivation of entities in competent way to relevant systems. Presentation of any kind of financial and credit facilities, commercial services, managerial job appointment and professional establishments and councils on behalf of entities subject to article 2 to legal and real entities is depended on lack of their condemnation to deprivation[6]

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Discussion and Conclusion

Note- to facilitate affairs, the secretariat is authorized to disclose the username and password of deprivation list base in databank with certain access level for the representatives of included systems.

Article 21- all systems and entities said in law, in framework of certified obligations, shall reply the inquiries of the discernment council and court and submit any kind of evidence (printed, electronic, etc.) and required explanations and introduce relevant experts

Article 22- the code has been issued in 22 articles and 6 notes and in execution of note 4 of article 6, The Law on the Promotion of the Health of the Administrative System and the Fight against Corruption by the National Inspection Organization and with cooperation of executive systems subject to article 6 of said law and was approved by Head of Judiciary in 15/07/2013.

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