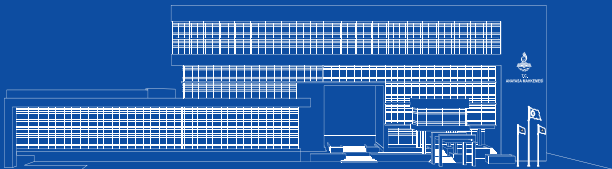


# CONSTITUTIONAL COURT OF THE REPUBLIC OF TURKEY

## BASIC LEGAL TEXTS



- CONSTITUTION OF THE REPUBLIC OF TURKEY
- CODE ON ESTABLISHMENT AND RULES OF PROCEDURES OF THE CONSTITUTIONAL COURT
- INTERNAL REGULATIONS OF THE CONSTITUTIONAL COURT

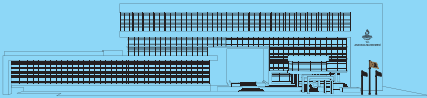




CONSTITUTIONAL COURT OF  
THE REPUBLIC OF TURKEY

# BASIC LEGAL TEXTS

2022





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# CONSTITUTION OF THE REPUBLIC OF TURKEY

*The official translation published by the Grand National  
Assembly of Turkey, Department of Laws and Resolutions,  
May 2019.*

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THE REPUBLIC OF TURKEY**

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## CONSTITUTION OF THE REPUBLIC OF TURKEY<sup>1</sup>

**PREAMBLE:** (As amended on July 23, 1995; Act No. 4121)

Affirming the eternal existence of the Turkish Motherland and Nation and the indivisible unity of the Sublime Turkish State, this Constitution, in line with the concept of nationalism introduced by the founder of the Republic of Turkey, Atatürk, the immortal leader and the unrivalled hero, and his reforms and principles;

Determining to attain the everlasting existence, prosperity, material and spiritual well-being of the Republic of Turkey, and the standards of contemporary civilization as an honourable member with equal rights of the family of world nations;

The absolute supremacy of the will of the nation, the fact that sovereignty is vested fully and unconditionally in the Turkish Nation and that no individual or body empowered to exercise this sovereignty in the name of the nation shall deviate from the liberal democracy indicated in the

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1 *The Constitution was adopted by the Constituent Assembly on October 18, 1982 to be submitted to referendum and published in the Official Gazette dated October 20, 1982 and numbered 17844; republished in the repeating Official Gazette dated November 9, 1982 and numbered 17863 in the aftermath of its submission to referendum on November 7, 1982 (Act No. 2709).*

Constitution and the legal system instituted according to its requirements,

The separation of powers, which does not imply an order of precedence among the organs of the State, but refers solely to the exercising of certain state powers and discharging of duties, and is limited to a civilized cooperation and division of functions; and the fact that only the Constitution and the laws have the supremacy;

(As amended on October 3, 2001; Act No. 4709)  
That no protection shall be accorded to an activity contrary to Turkish national interests, Turkish existence and the principle of its indivisibility with its State and territory, historical and moral values of Turkishness; the nationalism, principles, reforms and civilizationism of Atatürk and that sacred religious feelings shall absolutely not be involved in state affairs and politics as required by the principle of secularism;

That every Turkish citizen has an innate right and power, to lead an honourable life and to improve his/her material and spiritual wellbeing under the aegis of national culture, civilization, and the rule of law, through the exercise of the fundamental rights and freedoms set forth in this Constitution, in conformity with the requirements of equality and social justice;

That all Turkish citizens are united in national honour and pride, in national joy and grief, in their rights and duties regarding national existence, in blessings and in burdens, and in every manifestation of national life, and that they have the right to demand a peaceful life based on absolute respect for one another's rights and freedoms, mutual love and fellowship, and the desire for and belief in "Peace at home; peace in the world";

With these IDEAS, BELIEFS, and RESOLUTIONS to be interpreted and implemented accordingly, thus commanding respect for, and absolute loyalty to, its letter and spirit;

Has been entrusted by the TURKISH NATION to the democracy-loving Turkish sons' and daughters' love for the motherland and nation.

## **PART ONE**

### **General Principles**

#### **I. Form of the State**

**ARTICLE 1-** The State of Turkey is a Republic.

#### **II. Characteristics of the Republic**

**ARTICLE 2-** The Republic of Turkey is a democratic, secular and social state governed by rule of law, within the notions of public peace, national solidarity and justice, respecting human rights, loyal to the nationalism of Atatürk, and based on the fundamental tenets set forth in the preamble.

#### **III. Integrity, official language, flag, national anthem, and capital of the State**

**ARTICLE 3-** The State of Turkey, with its territory and nation, is an indivisible entity. Its language is Turkish.

Its flag, the form of which is prescribed by the relevant law, is composed of a white crescent and star on a red background.

Its national anthem is the “Independence March”.

Its capital is Ankara.

#### **IV. Irrevocable provisions**

**ARTICLE 4-** The provision of Article 1 regarding the form of the State being a Republic, the characteristics of the Republic in Article 2, and the provisions of Article 3 shall not be amended, nor shall their amendment be proposed.

#### **V. Fundamental aims and duties of the State**

**ARTICLE 5-** The fundamental aims and duties of the State are to safeguard the independence and integrity of the Turkish Nation, the indivisibility of the country, the Republic and democracy, to ensure the welfare, peace, and happiness of the individual and society; to strive for the removal of political, economic, and social obstacles which restrict the fundamental rights and freedoms of the individual in a manner incompatible with the principles of justice and of the social state governed by rule of law; and to provide the conditions required for the development of the individual's material and spiritual existence.

#### **VI. Sovereignty**

**ARTICLE 6-** Sovereignty belongs to the Nation without any restriction or condition.

The Turkish Nation shall exercise its sovereignty through the authorized organs, as prescribed by the principles set forth in the Constitution.

The exercise of sovereignty shall not be delegated by any means to any individual, group or class. No person or organ shall exercise any state authority that does not emanate from the Constitution.

### **VII. Legislative power**

**ARTICLE 7-** Legislative power is vested in the Grand National Assembly of Turkey on behalf of Turkish Nation. This power shall not be delegated.

### **VIII. Executive power and function**

**ARTICLE 8-** (As amended on April 16, 2017; Act No. 6771) Executive power and function shall be exercised and carried out by the President of the Republic in conformity with the Constitution and laws.

### **IX. Judicial power**

**ARTICLE 9-** (As amended on April 16, 2017; Act No. 6771) Judicial power shall be exercised by independent and impartial courts on behalf of the Turkish Nation.

### **X. Equality before the law**

**ARTICLE 10-** Everyone is equal before the law without distinction as to language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such grounds.



(Paragraph added on May 7, 2004; Act No. 5170)  
Men and women have equal rights. The State has the obligation to ensure that this equality exists in practice. (Sentence added on September 12, 2010; Act No. 5982) Measures taken for this purpose shall not be interpreted as contrary to the principle of equality.

(Paragraph added on September 12, 2010; Act No. 5982) Measures to be taken for children, the elderly, disabled people, widows and orphans of martyrs as well as for the invalid and veterans shall not be considered as violation of the principle of equality.

No privilege shall be granted to any individual, family, group or class.

State organs and administrative authorities are obliged to act in compliance with the principle of equality before the law in all their proceedings.<sup>2</sup>

## **XI. Supremacy and binding force of the Constitution**

### **ARTICLE 11-** The provisions of the Constitution

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2 The phrase “and in benefiting from all kinds of public services” was added after the phrase “in all their proceedings” by the first Article of Act No. 5735 dated February 9, 2008 and annulled by the decision of the Constitutional Court dated June 5, 2008 numbered E. 2008/16, K. 2008/116 (Official Gazette numbered 27032 of October 22, 2008).

are fundamental legal rules binding upon legislative, executive and judicial organs, and administrative authorities and other institutions and individuals.

Laws shall not be contrary to the Constitution.

**PART TWO**  
**Fundamental Rights and Duties**  
**CHAPTER ONE**  
**General Provisions**

**I. Nature of fundamental rights and freedoms**

**ARTICLE 12-** Everyone possesses inherent fundamental rights and freedoms, which are inviolable and inalienable.

The fundamental rights and freedoms also comprise the duties and responsibilities of the individual to the society, his/ her family, and other individuals.

**II. Restriction of fundamental rights and freedoms**

**ARTICLE 13-** (As amended on October 3, 2001; Act No. 4709) Fundamental rights and freedoms may be restricted only by law and in conformity with the reasons mentioned in the relevant articles of the Constitution without infringing upon their essence. These restrictions shall not be contrary to the letter and spirit of the Constitution and the requirements of the democratic order of the society and the secular republic and the principle of proportionality.

### **III. Prohibition of abuse of fundamental rights and freedoms**

**ARTICLE 14-** (As amended on October 3, 2001; Act No. 4709)

None of the rights and freedoms embodied in the Constitution shall be exercised in the form of activities aiming to violate the indivisible integrity of the State with its territory and nation, and to endanger the existence of the democratic and secular order of the Republic based on human rights.

No provision of this Constitution shall be interpreted in a manner that enables the State or individuals to destroy the fundamental rights and freedoms recognized by the Constitution or to stage an activity with the aim of restricting them more extensively than stated in the Constitution.

The sanctions to be applied against those who perpetrate activities contrary to these provisions shall be determined by law.

### **IV. Suspension of the exercise of fundamental rights and freedoms**

**ARTICLE 15-** (As amended on April 16, 2017; Act No. 6771) In times of war, mobilization, a state of emergency, the exercise of fundamental rights and freedoms may be partially or entirely suspended, or

measures derogating the guarantees embodied in the Constitution may be taken to the extent required by the exigencies of the situation, as long as obligations under international law are not violated.

(As amended on May 7, 2004; Act No. 5170)  
Even under the circumstances indicated in the first paragraph, the individual's right to life, the integrity of his/her corporeal and spiritual existence shall be inviolable except where death occurs through acts in conformity with law of war; no one shall be compelled to reveal his/her religion, conscience, thought or opinion, nor be accused on account of them; offences and penalties shall not be made retroactive; nor shall anyone be held guilty until so proven by a court ruling.

## **V. Status of aliens**

**ARTICLE 16-** The fundamental rights and freedoms in respect to aliens may be restricted by law compatible with international law.

## CHAPTER TWO

### Rights and Duties of the Individual

#### I. Personal inviolability, corporeal and spiritual existence of the individual

**ARTICLE 17-** Everyone has the right to life and the right to protect and improve his/her corporeal and spiritual existence.

The corporeal integrity of the individual shall not be violated except under medical necessity and in cases prescribed by law; and shall not be subjected to scientific or medical experiments without his/her consent.

No one shall be subjected to torture or maltreatment; no one shall be subjected to penalties or treatment incompatible with human dignity.

(As amended on May 7, 2004; Act No. 5170, April 16, 2017; Act No. 6771) The act of killing in case of self-defence and, when permitted by law as a compelling measure to use a weapon, during the execution of warrants of capture and arrest, the prevention of the escape of lawfully arrested or convicted persons, the quelling of riot or insurrection, or carrying out the orders of authorized bodies during state of emergency, do not fall within the scope of the provision of the first paragraph.

## **II. Prohibition of forced labour**

**ARTICLE 18-** No one shall be forced to work. Forced labour is prohibited.

Work required of an individual while serving a sentence or under detention provided that the form and conditions of such labour are prescribed by law; services required from citizens during a state of emergency; and physical or intellectual work necessitated by the needs of the country as a civic obligation shall not be considered as forced labour.

## **III. Personal liberty and security**

**ARTICLE 19-** Everyone has the right to personal liberty and security.

No one shall be deprived of his/her liberty except in the following cases where procedure and conditions are prescribed by law:

Execution of sentences restricting liberty and the implementation of security measures decided by courts; arrest or detention of an individual in line with a court ruling or an obligation upon him designated by law; execution of an order for the purpose of the educational supervision of a minor, or for bringing him/her before the competent authority; execution of measures taken in conformity with the relevant

provisions of law for the treatment, education or rehabilitation of a person of unsound mind, an alcoholic, drug addict, vagrant, or a person spreading contagious diseases to be carried out in institutions when such persons constitute a danger to the public; arrest or detention of a person who enters or attempts to enter illegally into the country or for whom a deportation or extradition order has been issued.

Individuals against whom there is strong evidence of having committed an offence may be arrested by decision of a judge solely for the purposes of preventing escape, or preventing the destruction or alteration of evidence, as well as in other circumstances prescribed by law and necessitating detention. Arrest of a person without a decision by a judge may be executed only when a person is caught in flagrante delicto or in cases where delay is likely to thwart the course of justice; the conditions for such acts shall be defined by law.

Individuals arrested or detained shall be promptly notified, in all cases in writing, or orally when the former is not possible, of the grounds for their arrest or detention and the charges against them; in cases of offences committed collectively this notification shall be made, at the latest, before the individual is brought before a judge.



(As amended on April 16, 2017; Act No. 6771) The person arrested or detained shall be brought before a judge within at latest forty-eight hours and in case of offences committed collectively within at most four days, excluding the time required to send the individual to the court nearest to the place of arrest. No one can be deprived of his/her liberty without the decision of a judge after the expiry of the 9 above specified periods. These periods may be extended during a state of emergency or in time of war.

(As amended on October 3, 2001; Act No. 4709) The next of kin shall be notified immediately when a person has been arrested or detained.

Persons under detention shall have the right to request trial within a reasonable time and to be released during investigation or prosecution. Release may be conditioned by a guarantee as to ensure the presence of the person at the trial proceedings or the execution of the court sentence.

Persons whose liberties are restricted for any reason are entitled to apply to the competent judicial authority for speedy conclusion of proceedings regarding their situation and for their immediate release if the restriction imposed upon them is not lawful.

(As amended on October 3, 2001; Act No. 4709)  
Damage suffered by persons subjected to treatment other than these provisions shall be compensated by the State in accordance with the general principles of the compensation law.

#### **IV. Privacy and protection of private life**

##### **A. Privacy of private life**

**ARTICLE 20-** Everyone has the right to demand respect for his/her private and family life. Privacy of private or family life shall not be violated. (Sentence repealed on May 3, 2001; Act No. 4709)

(As amended on October 3, 2001; Act No. 4709)  
Unless there exists a decision duly given by a judge on one or several of the grounds of national security, public order, prevention of crime, protection of public health and public morals, or protection of the rights and freedoms of others, or unless there exists a written order of an agency authorized by law, in cases where delay is prejudicial, again on the above-mentioned grounds, neither the person, nor the private papers, nor belongings of an individual shall be searched nor shall they be seized. The decision of the competent authority shall be submitted for the approval of the judge having jurisdiction within twenty-four hours. The judge shall announce his decision within forty-

eight hours from the time of seizure; otherwise, seizure shall automatically be lifted.

(Paragraph added on September 12, 2010; Act No. 5982) Everyone has the right to request the protection of his/her personal data. This right includes being informed of, having access to and requesting the correction and deletion of his/ her personal data, and to be informed whether these are used in consistency with envisaged objectives. Personal data can be processed only in cases envisaged by law or by the person's explicit consent. The principles and procedures regarding the protection of personal data shall be laid down in law.

## **B. Inviolability of the domicile**

**ARTICLE 21-** (As amended on October 3, 2001; Act No. 4709)

The domicile of an individual shall not be violated. Unless there exists a decision duly given by a judge on one or several of the grounds of national security, public order, prevention of crime, protection of public health and public morals, or protection of the rights and freedoms of others, or unless there exists a written order of an agency authorized by law in cases where delay is prejudicial, again on these grounds, no domicile may be entered or searched or the

property seized therein. The decision of the competent authority shall be submitted for the approval of the judge having jurisdiction within twenty-four hours. The judge shall announce his decision within forty-eight hours from the time of seizure; otherwise, seizure shall be automatically lifted.

### **C. Freedom of communication**

**ARTICLE 22-** (As amended on October 3, 2001; Act No. 4709)

Everyone has the freedom of communication. Privacy of communication is fundamental.

Unless there exists a decision duly given by a judge on one or several of the grounds of national security, public order, prevention of crime, protection of public health and public morals, or protection of the rights and freedoms of others, or unless there exists a written order of an agency authorized by law in cases where delay is prejudicial, again on the abovementioned grounds, communication shall not be impeded nor its privacy be violated. The decision of the competent authority shall be submitted for the approval of the judge having jurisdiction within twenty-four hours. The judge shall announce his decision within forty-eight hours from the time of seizure; otherwise, seizure shall be automatically lifted.

Public institutions and agencies where exceptions may be applied are prescribed in law.

## **V. Freedom of residence and movement**

**ARTICLE 23-** Everyone has the freedom of residence and movement.

Freedom of residence may be restricted by law for the purpose of preventing crimes, promoting social and economic development, achieving sound and orderly urbanization, and protecting public property.

Freedom of movement may be restricted by law for the purpose of investigation and prosecution of an offence, and prevention of crimes.

(As amended on October 3, 2001; Act No. 4709, and as amended on September 12, 2010; Act No. 5982) A citizen's freedom to leave the country may be restricted only by the decision of a judge based on a criminal investigation or prosecution.

Citizens shall not be deported, or deprived of their right of entry into the homeland.

## **VI. Freedom of religion and conscience**

**ARTICLE 24-** Everyone has the freedom of conscience, religious belief and conviction.

Acts of worship, religious rites and ceremonies shall be conducted freely, as long as they do not violate the provisions of Article 14.

No one shall be compelled to worship, or to participate in religious rites and ceremonies, or to reveal religious beliefs and convictions, or be blamed or accused because of his religious beliefs and convictions.

Religious and moral education and instruction shall be conducted under state supervision and control. Instruction in religious culture and morals shall be one of the compulsory lessons in the curricula of primary and secondary schools. Other religious education and instruction shall be subject to the individual's own desire, and in the case of minors, to the request of their legal representatives.

No one shall be allowed to exploit or abuse religion or religious feelings, or things held sacred by religion, in any manner whatsoever, for the purpose of personal or political interest or influence, or for even partially basing the fundamental, social, economic, political, and legal order of the State on religious tenets.

## **VII. Freedom of thought and opinion**

**ARTICLE 25-** Everyone has the freedom of thought and opinion.

No one shall be compelled to reveal his/her thoughts and opinions for any reason or purpose; nor shall anyone be blamed or accused because of his/her thoughts and opinions.

### **VIII. Freedom of expression and dissemination of thought**

**ARTICLE 26-** Everyone has the right to express and disseminate his/her thoughts and opinions by speech, in writing or in pictures or through other media, individually or collectively. This freedom includes the liberty of receiving or imparting information or ideas without interference by official authorities. This provision shall not preclude subjecting transmission by radio, television, cinema, or similar means to a system of licensing.

(As amended on October 3, 2001; Act No. 4709)  
The exercise of these freedoms may be restricted for the purposes of national security, public order, public safety, safeguarding the basic characteristics of the Republic and the indivisible integrity of the State with its territory and nation, preventing crime, punishing offenders, withholding information duly classified as a state secret, protecting the reputation or rights and private and family life of others, or protecting professional secrets as prescribed by law, or ensuring the proper functioning of the judiciary.

(Repealed on October 3, 2001; Act No. 4709)

Regulatory provisions concerning the use of means to disseminate information and thoughts shall not be deemed as the restriction of freedom of expression and dissemination of thoughts as long as the transmission of information and thoughts is not prevented.

(Paragraph added on October 3, 2001; Act No. 4709) The formalities, conditions and procedures to be applied in exercising the freedom of expression and dissemination of thought shall be prescribed by law.

## **IX. Freedom of science and the arts**

**ARTICLE 27-** Everyone has the right to study and teach, express, and disseminate science and the arts, and to carry out research in these fields freely.

The right to disseminate shall not be exercised for the purpose of changing the provisions of Articles 1, 2 and 3 of the Constitution.

The provision of this article shall not preclude regulation by law of the entry and distribution of foreign publications in the country.

## **X. Provisions relating to the press and publication**

### **A. Freedom of the press**

**ARTICLE 28-** The press is free, and shall not be censored. The establishment of a printing house shall



not be subject to prior permission or the deposit of a financial guarantee.

(Repealed on October 3, 2001; Act No. 4709)

The State shall take the necessary measures to ensure freedom of the press and information.

In the limitation of freedom of the press, the provisions of Articles 26 and 27 of the Constitution shall apply.

Anyone who writes any news or articles which threaten the internal or external security of the State or the indivisible integrity of the State with its territory and nation, which tend to incite offence, riot or insurrection, or which refer to classified state secrets or has them printed, and anyone who prints or transmits such news or articles to others for the purposes above, shall be held responsible under the law relevant to these offences. Distribution may be prevented as a precautionary measure by the decision of a judge, or in case delay is deemed prejudicial, by the competent authority explicitly designated by law. The authority preventing the distribution shall notify a competent judge of its decision within twenty-four hours at the latest. The order preventing distribution shall become null and void unless upheld by a competent judge within forty-eight hours at the latest.

No ban shall be placed on the reporting of events, except by the decision of judge issued within the limits specified by law, to ensure proper functioning of the judiciary.

Periodical and non-periodical publications may be seized by a decision of a judge in cases of ongoing investigation or prosecution of crimes specified by law; or by order of the competent authority explicitly designated by law, in situations where delay may constitute a prejudice with respect to the protection of the indivisible integrity of the State with its territory and nation, national security, public order or public morals and for the prevention of crime. The competent authority issuing the order to seize shall notify a competent judge of its decision within twenty-four hours at the latest; the order to seize shall become null and void unless upheld by a judge within fortyeight hours at the latest.

General provisions shall apply when seizing and confiscating periodicals and non-periodicals for reasons of criminal investigation and prosecution.

Periodicals published in Turkey may be temporarily suspended by court ruling if found to contain material which contravenes the indivisible integrity of the State with its territory and nation, the fundamental principles of the Republic, national

security and public morals. Any publication which clearly bears the characteristics of being a continuation of a suspended periodical is prohibited; and shall be seized by decision of a judge.

### **B. Right to publish periodicals and non-periodicals**

**ARTICLE 29-** Publication of periodicals or non-periodicals shall not be subject to prior authorization or the deposit of a financial guarantee.

Submission of the information and documents specified by law to the competent authority designated by law is sufficient to publish a periodical. If these information and documents are found to contravene the laws, the competent authority shall apply to the court for suspension of publication.

The principles regarding the publication, the conditions of publication and the financial resources of periodicals, and the profession of journalism shall be regulated by law. The law shall not impose any political, economic, financial, and technical conditions obstructing or making difficult the free dissemination of news, thoughts, or opinions.

Periodicals shall have equal access to the means and facilities of the State, other public corporate bodies, and their agencies.

### **C. Protection of printing facilities**

**ARTICLE 30-** (As amended on May 7, 2004; Act No. 5170)

A printing house and its annexes, duly established as a press enterprise under law, and press equipment shall not be seized, confiscated, or barred from operation on the grounds of having been used in a crime.

### **D. Right to use media other than the press owned by public corporations**

**ARTICLE 31-** Individuals and political parties have the right to use mass media and means of communication other than the press owned by public corporations. The conditions and procedures for such use shall be regulated by law.

(As amended on October 3, 2001; Act No. 4709)  
The law shall not impose restrictions preventing the public from receiving information or accessing ideas and opinions through these media, or preventing public opinion from being freely formed, on the grounds other than national security, public order, or the protection of public morals and health.

### **E. Right of rectification and reply**

**ARTICLE 32-** The right of rectification and reply shall be accorded only in cases where personal

reputation and honour is injured or in case of publications of unfounded allegation and shall be regulated by law.

If a rectification or reply is not published, the judge decides, within seven days of appeal by the individual involved, whether or not this publication is required.

## **XI. Rights and freedoms of assembly**

### **A. Freedom of association**

**ARTICLE 33-** (As amended on October 3, 2001; Act No. 4709)

Everyone has the right to form associations, or become a member of an association, or withdraw from membership without prior permission.

No one shall be compelled to become or remain a member of an association.

Freedom of association may be restricted only by law on the grounds of national security, public order, prevention of commission of crime, public morals, public health and protecting the freedoms of other individuals.

The formalities, conditions, and procedures to be applied in the exercise of freedom of association shall be prescribed by law.

Associations may be dissolved or suspended from activity by the decision of a judge in cases prescribed by law. However, where it is required for, and a delay constitutes a prejudice to, national security, public order, prevention of commission or continuation of a crime, or an arrest, an authority may be vested with power by law to suspend the association from activity. The decision of this authority shall be submitted for the approval of the judge having jurisdiction within twenty-four hours. The judge shall announce his/her decision within forty-eight hours; otherwise, this administrative decision shall be annulled automatically.

Provisions of the first paragraph shall not prevent imposition of restrictions on the rights of armed forces and security forces officials and civil servants to the extent that the duties of civil servants so require.

The provisions of this article shall also apply to foundations.

## **B. Right to hold meetings and demonstration marches**

**ARTICLE 34-** (As amended on October 3, 2001; Act No. 4709) Everyone has the right to hold unarmed and peaceful meetings and demonstration marches without prior permission.

The right to hold meetings and demonstration marches shall be restricted only by law on the grounds of national security, public order, prevention of commission of crime, protection of public health and public morals or the rights and freedoms of others.

The formalities, conditions, and procedures to be applied in the exercise of the right to hold meetings and demonstration marches shall be prescribed by law.

## **XII. Right to property**

**ARTICLE 35-** Everyone has the right to own and inherit property.

These rights may be limited by law only in view of public interest.

The exercise of the right to property shall not contravene public interest.

## **XIII. Provisions on the protection of rights**

### **A. Freedom to claim rights**

**ARTICLE 36-** (As amended on October 3, 2001; Act No. 4709) Everyone has the right of litigation either as plaintiff or defendant and the right to a fair trial before the courts through legitimate means and procedures.

No court shall refuse to hear a case within its jurisdiction.

## **B. Principle of natural judge**

**ARTICLE 37-** No one may be tried by any judicial authority other than the legally designated court.

Extraordinary tribunals with jurisdiction that would in effect remove a person from the jurisdiction of his legally designated court shall not be established.

## **C. Principles relating to offences and penalties**

**ARTICLE 38-** No one shall be punished for any act which does not constitute a criminal offence under the law in force at the time committed; no one shall be given a heavier penalty for an offence other than the penalty applicable at the time when the offence was committed.

The provisions of the above paragraph shall also apply to the statute of limitations on offences and penalties and on the results of conviction.

Penalties, and security measures in lieu of penalties, shall be prescribed only by law.

No one shall be considered guilty until proven guilty in a court of law.

No one shall be compelled to make a statement that would incriminate himself/herself or his/her legal next of kin, or to present such incriminating evidence.



(Paragraph added on October 3, 2001; Act No. 4709) Findings obtained through illegal methods shall not be considered evidence.

Criminal responsibility shall be personal.

(Paragraph added on October 3, 2001; Act No. 4709) No one shall be deprived of his/her liberty merely on the ground of inability to fulfil a contractual obligation.

(Paragraph added on October 3, 2001; Act No. 4709, and repealed on May 7, 2004; Act No. 5170)

(As amended on May 7, 2004; Act No. 5170) Neither death penalty nor general confiscation shall be imposed as punishment.

The administration shall not impose any sanction resulting in restriction of personal liberty. Exceptions to this provision may be introduced by law regarding the internal order of the armed forces.

(As amended on May 7, 2004; Act No. 5170) No citizen shall be extradited to a foreign country because of an offence, except under obligations resulting from being a party to the International Criminal Court.

#### **XIV. Right to prove an allegation**

**ARTICLE 39-** In libel and defamation suits involving allegations against persons in the public

service in connection with their functions or services, the defendant has the right to prove the allegations. A plea for presenting proof shall not be granted in any other case, unless finding out whether the allegation is true or not would serve the public interest, or unless the plaintiff consents.

### **XV. Protection of fundamental rights and freedoms**

**ARTICLE 40-** Everyone whose constitutional rights and freedoms have been violated has the right to request prompt access to the competent authorities.

(Paragraph added on October 3, 2001; Act No. 4709)  
The State is obliged to indicate in its proceedings, the legal remedies and authorities the persons concerned should apply and time limits of the applications.

Damages incurred to any person through unlawful treatment by public officials shall be compensated for by the State as per the law. The state reserves the right of recourse to the official responsible.

## CHAPTER THREE

### Social and Economic Rights and Duties

#### I. Protection of the family, and children's rights<sup>3</sup>

**ARTICLE 41-** (Paragraph added on October 3, 2001; Act No. 4709) Family is the foundation of the Turkish society and based on the equality between the spouses.

The State shall take the necessary measures and establish the necessary organization to protect peace and welfare of the family, especially mother and children, and to ensure the instruction of family planning and its practice.

(Paragraph added on September 12, 2010; Act No. 5982) Every child has the right to protection and care and the right to have and maintain a personal and direct relation with his/her mother and father unless it is contrary to his/her high interests.

(Paragraph added on September 12, 2010; Act No. 5982) The State shall take measures for the protection of the children against all kinds of abuse and violence.

#### II. Right and duty of education

**ARTICLE 42-** No one shall be deprived of the right of education.

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<sup>3</sup> The phrase “and children's rights” was added by the fourth Article of Act No. 5982 dated September 12, 2010.

The scope of the right to education shall be defined and regulated by law.

Education shall be conducted along the lines of the principles and reforms of Atatürk, based on contemporary scientific and educational principles, under the supervision and control of the State. Educational institutions contravening these principles shall not be established.

The freedom of education does not relieve the individual from loyalty to the Constitution.

Primary education is compulsory for all citizens of both sexes and is free of charge in state schools.

The principles governing the functioning of private primary and secondary schools shall be regulated by law in keeping with the standards set for the state schools.

(Paragraph added on February 2, 2008; Act No. 5735, and annulled by the decision of the Constitutional Court dated June 5, 2008 numbered E. 2008/16, K. 2008/116)

The State shall provide scholarships and other means of assistance to enable students of merit lacking financial means to continue their education. The State shall take necessary measures to rehabilitate those in need of special education so as to render such people useful to society.

Training, education, research, and study are the only activities that shall be pursued at institutions of education. These activities shall not be obstructed in any way.

No language other than Turkish shall be taught as a mother tongue to Turkish citizens at any institution of education. Foreign languages to be taught in institutions of education and the rules to be followed by schools conducting education in a foreign language shall be determined by law. The provisions of international treaties are reserved.

### **III. Public interest**

#### **A. Utilization of the coasts**

**ARTICLE 43-** The coasts are under the authority and disposal of the State.

In the utilization of sea coasts, lake shores or river banks, and of the coastal strip along the sea and lakes, public interest shall be taken into consideration with priority.

The width of coasts and coastal strips according to the purpose of utilization and the conditions of utilization by individuals shall be determined by law.

#### **B. Land ownership**

**ARTICLE 44-** The State shall take the necessary measures to maintain and develop efficient land

cultivation, to prevent its loss through erosion, and to provide land to farmers with insufficient land of their own, or no land. For this purpose, the law may define the size of appropriate land units, according to different agricultural regions and types of farming. Provision of land to farmers with no or insufficient land shall not lead to a fall in production, or to the depletion of forests and other land and underground resources.

Lands distributed for this purpose shall neither be divided nor be transferred to others, except through inheritance, and shall be cultivated only by the farmers to whom the lands have been distributed, and their heirs. In the event of loss of these conditions, the principles relating to the recovery by the State of the land thus distributed shall be prescribed by law.

### **C. Protection of agriculture, animal husbandry, and persons engaged in these activities**

**ARTICLE 45-** The State facilitates farmers and livestock breeders in acquiring machinery, equipment and other inputs in order to prevent improper use and destruction of agricultural land, meadows and pastures and to increase crop and livestock production in accordance with the principles of agricultural planning.

The State shall take necessary measures for the utilization of crop and livestock products, and to enable producers to be paid the real value of their products.

#### **D. Expropriation**

**ARTICLE 46-** (As amended on October 3, 2001; Act No. 4709)

The State and public corporations shall be entitled, where the public interest requires, to expropriate privately owned real estate wholly or in part and impose administrative servitude on it, in accordance with the principles and procedures prescribed by law, provided that the actual compensation is paid in advance.

The compensation for expropriation and the amount regarding its increase rendered by a final judgment shall be paid in cash and in advance. However, the procedure to be applied for compensation for expropriated land for the purposes of carrying out agriculture reform, major energy and irrigation projects, and housing and resettlement schemes, afforestation, and protecting the coasts, and tourism shall be regulated by law. In the cases where the law may allow payment in instalments, the payment period shall not exceed five years, whence payments shall be made in equal instalments.

Compensation for the land expropriated from the

small farmer who cultivates his/her own land shall be paid in advance in all cases.

An interest equivalent to the highest interest paid on public claims shall apply in the instalments envisaged in the second paragraph and expropriation costs not paid for any reason.

### **E. Nationalization and privatization<sup>4</sup>**

**ARTICLE 47-** Private enterprises performing services of public nature may be nationalized in exigencies of public interest.

Nationalization shall be carried out on the basis of real value. The methods and procedures for calculating real value shall be prescribed by law.

(Paragraph added on August 13, 1999; Act No. 4446) Principles and rules concerning the privatization of enterprises and assets owned by the State, state economic enterprises, and other public corporate bodies shall be prescribed by law.

(Paragraph added on August 13, 1999; Act No. 4446) Those investments and services carried out by the State, state economic enterprises and other public corporate bodies, which could be performed by or delegated to persons or corporate bodies through private law contracts shall be determined by law.

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<sup>4</sup> The phrase “and privatization” was added by the first Article of Act No. 4446 dated August 13, 1999.



#### **IV. Freedom of work and contract**

**ARTICLE 48-** Everyone has the freedom to work and conclude contracts in the field of his/her choice. Establishment of private enterprises is free.

The State shall take measures to ensure that private enterprises operate in accordance with national economic requirements and social objectives and in security and stability.

#### **V. Provisions relating to labour**

##### **A. Right and duty to work**

**ARTICLE 49-** Everyone has the right and duty to work.

(As amended on October 3, 2001; Act No. 4709)  
The State shall take the necessary measures to raise the standard of living of workers, and to protect workers and the unemployed in order to improve the general conditions of labour, to promote labour, to create suitable economic conditions for prevention of unemployment and to secure labour peace.

(Repealed on October 3, 2001; Act No. 4709)

##### **B. Working conditions and right to rest and leisure**

**ARTICLE 50-** No one shall be required to perform work unsuited to his/her age, sex, and capacity.

Minors, women, and physically and mentally disabled persons, shall enjoy special protection with regard to working conditions.

All workers have the right to rest and leisure.

Rights and conditions relating to paid weekends and holidays, together with paid annual leave, shall be regulated by law.

### **C. Right to organize unions**

**ARTICLE 51-** (As amended on October 3, 2001; Act No. 4709)

Employees and employers have the right to form unions and higher organizations, without prior permission, and they also possess the right to become a member of a union and to freely withdraw from membership, in order to safeguard and develop their economic and social rights and the interests of their members in their labour relations. No one shall be forced to become a member of a union or to withdraw from membership.

The right to form a union shall be solely restricted by law on the grounds of national security, public order, prevention of commission of crime, public health, public morals and protecting the rights and freedoms of others.

The formalities, conditions and procedures to be applied in exercising the right to form union shall be prescribed by law.

(Repealed on September 12, 2010; Act No. 5982)

The scope, exceptions and limits of the rights of civil servants who do not have a worker status are prescribed by law in line with the characteristics of their services.

The regulations, administration and functioning of unions and their higher bodies shall not be inconsistent with the fundamental characteristics of the Republic and principles of democracy.

#### **D. Activities of unions**

**ARTICLE 52-** (Repealed on July 23, 1995; Act No. 4121)

### **VI. Collective labour agreement, right to strike, and lockout**

#### **A. Rights of collective labour agreement and collective agreement<sup>5</sup>**

**ARTICLE 53-** Workers and employers have the right to conclude collective labour agreements in order to regulate reciprocally their economic and social position and conditions of work.

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<sup>5</sup> The phrase “and collective agreement” was added by the sixth Article of Act No. 5982 dated September 12, 2010.

The procedure to be followed in concluding collective labour agreements shall be regulated by law.

(Paragraph added on July 23, 1995; Act No. 4121, and repealed on September 12, 2010; Act No. 5982)

(Repealed on September 12, 2010; Act No. 5982)

(Paragraph added on September 12, 2010; Act No. 5982) Public servants and other public employees have the right to conclude collective agreements.

(Paragraph added on September 12, 2010; Act No. 5982) The parties may apply to the Public Servants Arbitration Board if a disagreement arises during the process of collective agreement. The decisions of the Public Servants Arbitration Board shall be final and have the force of a collective agreement.

(Paragraph added on September 12, 2010; Act No. 5982) The scope of and the exceptions to the right of collective agreement, the persons to benefit from and the form, procedure and entry into force of collective agreement and the extension of the provisions of collective agreement to those retired, as well as the organization and operating procedures and principles of the Public Servants Arbitration Board and other matters shall be laid down in law.

## **B. Right to strike, and lockout**

**ARTICLE 54-** Workers have the right to strike during the collective bargaining process if a disagreement arises. The procedures and conditions governing the exercise of this right and the employer's recourse to a lockout, the scope of, and the exceptions to them shall be regulated by law.

The right to strike and lockout shall not be exercised in a manner contrary to the rules of goodwill, to the detriment of society, and in a manner damaging national wealth.

(Repealed on September 12, 2010; Act No. 5982)

The circumstances and workplaces in which strikes and lockouts may be prohibited or postponed shall be regulated by law.

In cases where a strike or a lockout is prohibited or postponed, the dispute shall be settled by the Supreme Arbitration Board at the end of the period of postponement. The disputing parties may apply to the Supreme Arbitration Board by mutual agreement at any stage of the dispute. The decisions of the Supreme Arbitration Board shall be final and have the force of a collective labour agreement.

The organization and functions of the Supreme Arbitration Board shall be regulated by law.

(Repealed on September 12, 2010; Act No. 5982)

Those who refuse to go on strike shall in no way be barred from working at their workplace by strikers.

## **VII. Provision of fair wage**

**ARTICLE 55-** Wages shall be paid in return for work.

The state shall take the necessary measures to ensure that workers earn a fair wage commensurate with the work they perform and that they enjoy other social benefits.

(As amended on October 3, 2001; Act No. 4709) In determining the minimum wage, the living conditions of the workers and the economic situation of the country shall also be taken into account.

## **VIII. Health, the environment and housing**

### **A. Health services and protection of the environment**

**ARTICLE 56-** Everyone has the right to live in a healthy and balanced environment.

It is the duty of the State and citizens to improve the natural environment, to protect the environmental health and to prevent environmental pollution.

The State shall regulate central planning and functioning of the health services to ensure that

everyone leads a healthy life physically and mentally, and provide cooperation by saving and increasing productivity in human and material resources.

The State shall fulfil this task by utilizing and supervising the health and social assistance institutions, in both the public and private sectors.

In order to establish widespread health services, general health insurance may be introduced by law.

## **B. Right to housing**

**ARTICLE 57-** The State shall take measures to meet the need for housing within the framework of a plan that takes into account the characteristics of cities and environmental conditions, and also support community housing projects.

## **IX. Youth and sports**

### **A. Protection of the youth**

**ARTICLE 58-** The State shall take measures to ensure the education and development of the youth into whose keeping our independence and our Republic are entrusted, in the light of positive science, in line with the principles and reforms of Atatürk, and in opposition to ideas aiming at the destruction of the indivisible integrity of the State with its territory and nation.

The State shall take necessary measures to protect youth from addiction to alcohol and drugs, crime, gambling, and similar vices, and ignorance.

## **B. Development of sports and arbitration<sup>6</sup>**

**ARTICLE 59-** The State shall take measures to develop the physical and mental health of Turkish citizens of all ages, and encourage the spread of sports among the masses.

The state shall protect successful athletes.

(Paragraph added on March 17, 2011; Act No. 6214) The decisions of sport federations relating to administration and discipline of sportive activities may be challenged only through compulsory arbitration. The decisions of Board of Arbitration are final and shall not be appealed to any judicial authority.

## **X. Social security rights**

### **A. Right to social security**

**ARTICLE 60-** Everyone has the right to social security.

The State shall take the necessary measures and establish the organisation for the provision of social security.

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<sup>6</sup> The phrase “and arbitration” was added by the first Article of Act No. 6214 dated March 17, 2011.



## **B. Persons requiring special protection in the field of social security**

**ARTICLE 61-** The State shall protect the widows and orphans of martyrs of war and duty, together with invalid and war veterans, and ensure that they enjoy a decent standard of living.

The State shall take measures to protect the disabled and secure their integration into community life.

The aged shall be protected by the State. State assistance to, and other rights and benefits of the aged shall be regulated by law.

The State shall take all kinds of measures for social resettlement of children in need of protection.

To achieve these aims the State shall establish the necessary organizations or facilities, or arrange for their establishment.

## **C. Turkish citizens working abroad**

**ARTICLE 62-** The State shall take the necessary measures to ensure family unity, the education of the children, the cultural needs, and the social security of Turkish citizens working abroad, and to safeguard their ties with the home country and to help them on their return home.

## **XI. Protection of historical, cultural and natural assets**

**ARTICLE 63-** The State shall ensure the protection of the historical, cultural and natural assets and wealth, and shall take supportive and promotive measures towards that end.

Any limitations to be imposed on such privately owned assets and wealth and the compensation and exemptions to be accorded to the owners of such, because of these limitations, shall be regulated by law.

## **XII. Protection of arts and artists**

**ARTICLE 64-** The State shall protect artistic activities and artists. The State shall take the necessary measures to protect, promote and support works of art and artists, and encourage the spread of appreciation for the arts.

## **XIII. The extent of social and economic duties of the State<sup>7</sup>**

**ARTICLE 65-** (As amended on October 3, 2001; Act No. 4709) The State shall fulfil its duties as laid down in the Constitution in the social and economic fields within the capacity of its financial resources, taking into consideration the priorities appropriate with the aims of these duties.

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<sup>7</sup> The heading of this Article, which was stipulated as “XIII. Limits of social and economic rights”, was amended by the twenty second Article of Act No. 4709 dated October 3, 2001.

## **CHAPTER FOUR**

### **Political Rights and Duties**

#### **I. Turkish citizenship**

**ARTICLE 66-** Everyone bound to the Turkish State through the bond of citizenship is a Turk.

The child of a Turkish father or a Turkish mother is a Turk. (Sentence repealed on October 3, 2001; Act No. 4709)

Citizenship can be acquired under the conditions stipulated by law, and shall be forfeited only in cases determined by law.

No Turk shall be deprived of citizenship, unless he/she commits an act incompatible with loyalty to the motherland.

Recourse to the courts in appeal against the decisions and proceedings related to the deprivation of citizenship shall not be denied.

#### **II. Right to vote, to be elected and to engage in political activity**

**ARTICLE 67-** In conformity with the conditions set forth in the law, citizens have the right to vote, to be elected, to engage in political activities independently or in a political party, and to take part in a referendum.

(As amended on July 23, 1995; Act No. 4121)  
Elections and referenda shall be held under the direction and supervision of the judiciary, in accordance with the principles of free, equal, secret, direct, universal suffrage, and public counting of the votes. However, the law determines applicable measures for Turkish citizens abroad to exercise their right to vote.

(As amended on May 17, 1987; Act No. 3361, and on July 23, 1995; Act No. 4121) All Turkish citizens over eighteen years of age shall have the right to vote in elections and to take part in referenda.

The exercise of these rights shall be regulated by law.

(As amended on July 23, 1995; Act No. 4121, and on October 3, 2001; Act No. 4709) Privates and corporals at arms, cadets, and convicts in penal execution institutions excluding those convicted of negligent offences shall not vote. The necessary measures to be taken to ensure the safety of voting and the counting of the votes in penal execution institutions and prisons shall be determined by the Supreme Board of Election; such voting is held under the on-site direction and supervision of authorized judge.

(Paragraph added on July 23, 1995; Act No. 4121)  
The electoral laws shall be drawn up so as to reconcile

the principles of fair representation and stability of government.

(Paragraph added on October 3, 2001; Act No. 4709) Amendments to the electoral laws shall not apply to the elections to be held within one year from the entry into force date of the amendments.

### **III. Provisions relating to political parties**

#### **A. Forming parties, membership and withdrawal from membership in a party**

**ARTICLE 68-** (As amended on July 23, 1995; Act No. 4121)

Citizens have the right to form political parties and duly join and withdraw from them. One must be over eighteen years of age to become a member of a party.

Political parties are indispensable elements of democratic political life.

Political parties shall be formed without prior permission, and shall pursue their activities in accordance with the provisions set forth in the Constitution and laws.

The statutes and programs, as well as the activities of political parties shall not be contrary to the independence of the State, its indivisible integrity with

its territory and nation, human rights, the principles of equality and rule of law, sovereignty of the nation, the principles of the democratic and secular republic; they shall not aim to promote or establish class or group dictatorship or dictatorship of any kind, nor shall they incite citizens to crime.

Judges and prosecutors, members of higher judicial organs including those of the Court of Accounts, civil servants in public institutions and organizations, other public servants who are not considered to be labourers by virtue of the services they perform, members of the armed forces and students who are not yet in higher education, shall not become members of political parties.

The membership of the teaching staff at higher education to political parties is regulated by law. This law shall not allow those members to assume responsibilities outside the central organs of the political parties and it also sets forth the regulations which the teaching staff at higher education institutions shall observe as members of political parties in the higher education institutions.

The principles concerning the membership of students at higher education to political parties are regulated by law.

The State shall provide the political parties with adequate financial means in an equitable manner. The principles regarding aid to political parties, as well as collection of dues and donations are regulated by law.

**B. Principles to be observed by political parties**

**ARTICLE 69-** (As amended on July 23, 1995; Act No. 4121)

The activities, internal regulations and operation of political parties shall be in line with democratic principles. The application of these principles is regulated by law.

Political parties shall not engage in commercial activities.

The income and expenditure of political parties shall be consistent with their objectives. The application of this rule is regulated by law. The auditing of acquisitions, revenue and expenditure of political parties by the Constitutional Court in terms of conformity to law as well as the methods of audit and sanctions to be applied in case of inconformity to law shall be indicated in law. The Constitutional Court shall be assisted by the Court of Accounts in performing its task of auditing. The judgments rendered by the Constitutional Court because of the auditing shall be final.

The dissolution of political parties shall be decided finally by the Constitutional Court after the filing of a suit by the office of the Chief Public Prosecutor of the High Court of Appeals.

The permanent dissolution of a political party shall be decided when it is established that the statute and program of the political party violate the provisions of the fourth paragraph of Article 68.

The decision to dissolve a political party permanently owing to activities violating the provisions of the fourth paragraph of Article 68 may be rendered only when the Constitutional Court determines that the party in question has become a centre for the execution of such activities. (Sentence added on October 3, 2001; Act No. 4709) A political party shall be deemed to become the centre of such actions only when such actions are carried out intensively by the members of that party or the situation is shared implicitly or explicitly by the grand congress, general chairpersonship or the central decision-making or administrative organs of that party or by the group's general meeting or group executive board at the Grand National Assembly of Turkey or when these activities are carried out in determination by the abovementioned party organs directly.

(Paragraph added on October 3, 2001; Act No. 4709) Instead of dissolving it permanently in



accordance with the above-mentioned paragraphs, the Constitutional Court may rule the concerned party to be deprived of state aid wholly or in part with respect to intensity of the actions brought before the court.

A party which has been dissolved permanently shall not be founded under another name.

The members, including the founders of a political party whose acts or statements have caused the party to be dissolved permanently shall not be founders, members, directors or supervisors in any other party for a period of five years from the date of publication of the Constitutional Court's final decision with its justification for permanently dissolving the party in the Official Gazette.

Political parties that accept aid from foreign states, international institutions and persons and corporate bodies of non-Turkish nationality shall be dissolved permanently.

(As amended on October 3, 2001; Act No. 4709)  
The foundation and activities of political parties, their supervision and dissolution, or their deprivation of state aid wholly or in part as well as the election expenditures and procedures of the political parties and candidates, are regulated by law in accordance with the above-mentioned principles.

#### **IV. Right to enter public service**

##### **A. Entry into public service**

**ARTICLE 70-** Every Turk has the right to enter public service.

No criteria other than the qualifications for the office concerned shall be taken into consideration for recruitment into public service.

##### **B. Declaration of assets**

**ARTICLE 71-** Declaration of assets by persons entering public service and the frequency of such declarations shall be determined by law. Those serving in the legislative and executive organs shall not be exempted from this requirement.

#### **V. National service**

**ARTICLE 72-** National service is the right and duty of every Turk. The manner in which this service shall be performed, or considered as performed, either in the armed forces or in public service, shall be regulated by law.

#### **VI. Duty to pay taxes**

**ARTICLE 73-** Everyone is under obligation to pay taxes according to his financial resources, in order to meet public expenditure.

An equitable and balanced distribution of the tax burden is the social objective of fiscal policy.

Taxes, fees, duties, and other such financial obligations shall be imposed, amended, or revoked by law.

(As amended on April 16, 2017; Act No. 6771) The President of the Republic may be empowered to amend the percentages of exemption, exceptions and reductions in taxes, fees, duties and other such financial obligations, within the minimum and maximum limits prescribed by law.

## **VII. Right of petition, right to information and appeal to the Ombudsperson<sup>8</sup>**

**ARTICLE 74-** (As amended on October 3, 2001; Act No. 4709) Citizens and foreigners resident in Turkey, with the condition of observing the principle of reciprocity, have the right to apply in writing to the competent authorities and to the Grand National Assembly of Turkey with regard to the requests and complaints concerning themselves or the public.

(As amended on October 3, 2001; Act No. 4709) The result of the application concerning himself/herself shall be made known to the petitioner in writing without delay.

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<sup>8</sup> The phrase “right to information and appeal to the Ombudsperson” was added by the eighth Article of Act No. 5982 dated September 12, 2010.

(Repealed on September 12, 2010; Act No. 5982)

(Paragraph added on September 12, 2010; Act No. 5982) Everyone has the right to obtain information and appeal to the Ombudsperson.

(Paragraph added on September 12, 2010; Act No. 5982) The Institution of the Ombudsperson established under the Grand National Assembly of Turkey examines complaints on the functioning of the administration.

(Paragraph added on September 12, 2010; Act No. 5982) The Chief Ombudsperson shall be elected by the Grand National Assembly of Turkey for a term of four years by secret ballot. In the first two ballots, a two-thirds majority of the total number of members, and in the third ballot an absolute majority of the total number of members shall be required. If an absolute majority cannot be obtained in the third ballot, a fourth ballot shall be held between the two candidates who have received the greatest number of votes in the third ballot; the candidate who receives the greatest number of votes in the fourth ballot shall be elected.

(Paragraph added on September 12, 2010; Act No. 5982) The way of exercising these rights referred to in this article, the establishment, duties, functioning of the Ombudsperson Institution and its proceedings

after the examination and the procedures and principles regarding the qualifications, elections and personnel rights of the Chief Ombudsperson and ombudspersons shall be laid down in law.

## **PART THREE**

### **Fundamental Organs of the Republic**

#### **CHAPTER ONE**

##### **Legislative Power**

###### **I. The Grand National Assembly of Turkey**

###### **A. Composition**

**ARTICLE 75-** (As amended on May 17, 1987; Act No. 3361, on July 23, 1995; Act No. 4121, April 16, 2017; Act No. 6771)

The Grand National Assembly of Turkey shall be composed of six hundred deputies elected by universal suffrage.

###### **B. Eligibility to be a deputy**

**ARTICLE 76-** (As amended on October 13, 2006; Act No.5551, April 16, 2017; Act No. 6771) Every Turk over the age of eighteen is eligible to be a deputy.

(As amended on December 27, 2002; Act No. 4777, April 16, 2017; Act No. 6771) Persons who have not completed primary education, who have been deprived of legal capacity, who are neither exempt nor deferred from military service, who are banned from public service, who have been sentenced to a prison term totalling one year or more excluding involuntary offences, or to a heavy imprisonment; those who

have been convicted for dishonourable offences such as embezzlement, corruption, bribery, theft, fraud, forgery, breach of trust, fraudulent bankruptcy; and persons convicted of smuggling, conspiracy in official bidding or purchasing, of offences related to the disclosure of state secrets, of involvement in acts of terrorism, or incitement and encouragement of such activities, shall not be elected as a deputy, even if they have been granted amnesty.

Judges and prosecutors, members of the higher judicial organs, lecturers at institutions of higher education, members of the Council of Higher Education, employees of public institutions and agencies who have the status of civil servants, other public employees not regarded as labourers on account of the duties they perform, and members of the armed forces shall not stand for election or be eligible to be a deputy unless they resign from Office.

### **C. Election term of the Grand National Assembly of Turkey and the President of the Republic<sup>9</sup>**

**ARTICLE 77-** (As amended on October 21, 2007; Act No.5678 April 16, 2017; Act No. 6771)

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<sup>9</sup> The heading of this Article, which was stipulated as “C. Election term of the Grand National Assembly of Turkey” was amended by the fourth Article of Act No. 6771 dated April 16, 2017.

Elections for the Grand National Assembly of Turkey and presidential elections shall be held every five years and on the same day.

A deputy whose term of office expires is eligible for reelection.

If the required majority cannot be obtained in the first ballot of a presidential election, a second ballot shall be held in compliance with the procedure of Article 101.

#### **D. Deferment of elections and by-elections<sup>10</sup>**

**ARTICLE 78-** If holding new elections is deemed impossible because of war, the Grand National Assembly of Turkey may decide to defer elections for a year.

If the grounds do not disappear, the deferment may be repeated in compliance with the procedure for deferment.

By-elections shall be held when vacancies arise in the membership of the Grand National Assembly of Turkey. Byelections shall be held once in every election term and cannot be held unless thirty months

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<sup>10</sup> The heading of this Article, which was stipulated as “D. Deferment of elections for the Grand National Assembly of Turkey and by-elections” was amended by the sixteenth Article of Act No. 6771 dated April 16, 2017.



elapse after the general election. However, in cases where the number of vacant seats reaches five per cent of the total number of seats, by-elections decided to be held within three months.

By-elections shall not be held within one year before general elections.

(Paragraph added on December 27, 2002; Act No. 4777) Apart from the above specified situations, if all the seats of a province or electoral district fall vacant in the Assembly, a by-election shall be held on the first Sunday after ninety days following the vacancy. The third paragraph of Article 127 of the Constitution shall not apply for elections held per this paragraph.

#### **E. General administration and supervision of elections**

**ARTICLE 79-** Elections shall be held under the general administration and supervision of the judicial organs.

(As amended on October 21, 2007; Act No. 5678) The Supreme Board of Election shall execute all the functions to ensure the fair and orderly conduct of elections from the beginning to the end, carry out investigations and take final decisions, during and after the elections, on all irregularities, complaints and objections concerning the electoral matters, and

receive the electoral records of the members of the Grand National Assembly of Turkey and presidential election. No appeal shall be made to any authority against the decisions of the Supreme Board of Election.

The functions and powers of the Supreme Board of Election and other electoral boards shall be determined by law.

The Supreme Board of Election shall be composed of seven regular members and four substitutes. Six of the members shall be elected by the General Board of High Court of Appeals, and five of the members shall be elected by the General Board of Council of State from amongst their own members, by the vote of the absolute majority of the total number of members through secret ballot. These members shall elect a chairperson and a vice-chairperson from amongst themselves, by absolute majority and secret ballot.

Amongst the members elected to the Supreme Board of Election by the High Court of Appeals and by the Council of State, two members from each group shall be designated by lot as substitute members. The Chairperson and Vice-Chairperson of the Supreme Board of Election shall not take part in this procedure.

(As amended on October 21, 2007; Act No. 5678)  
The general conduct and supervision of a referendum on laws amending the Constitution and of election

of the President of the Republic by people shall be subject to the same provisions relating to the election of deputies.

## **F. Provisions relating to membership**

### **1. Representing the nation**

**ARTICLE 80-** Members of the Grand National Assembly of Turkey shall not represent their own constituencies or constituents, but the nation as a whole.

### **2. Oath-taking**

**ARTICLE 81-** Members of the Grand National Assembly of Turkey, on assuming office, shall take the following oath:

“I swear upon my honour and integrity, before the great Turkish Nation, to safeguard the existence and independence of the state, the indivisible integrity of the country and the nation, and the absolute sovereignty of the nation; to remain loyal to the supremacy of law, to the democratic and secular republic, and to Atatürk’s principles and reforms; not to deviate from the ideal according to which everyone is entitled to enjoy human rights and fundamental freedoms under the notion of peace and prosperity in society, national solidarity and justice, and loyalty to the Constitution.”

### **3. Activities incompatible with membership**

**ARTICLE 82-** Members of the Grand National Assembly of Turkey shall not hold office in state departments and other public corporate bodies and their subsidiaries; in corporations and enterprises where there is direct or indirect participation of the State or public corporate bodies; in the enterprises and corporations where the State and other public corporate bodies take part directly or indirectly; in the executive and supervisory boards of public benefit associations whose private resources of revenues and privileges are provided by law; of the foundations receiving subsidies from the state and enjoying tax exemption; of the professional organizations having the characteristics of public institutions and trade unions; and in the executive and supervisory boards of aforementioned enterprises and corporations which they have a share and in their higher bodies. Nor shall they be representatives, accept any contracted engagement of the boards stated above directly or indirectly, serve as a representative, or perform as an arbitrator therein.

Members of the Grand National Assembly of Turkey shall not be entrusted with any official or private duties involving proposal, recommendation, appointment, or approval by the executive organ. (Sentence repealed on April 16, 2017; Act No. 6771)

Other duties and activities incompatible with membership in the Grand National Assembly of Turkey shall be regulated by law.

#### **4. Parliamentary immunity**

**ARTICLE 83-** Members of the Grand National Assembly of Turkey shall not be liable for their votes and statements during parliamentary proceedings, for the views they express before the Assembly, or, unless the Assembly decides otherwise, on the proposal of the Bureau for that sitting, for repeating or revealing these outside the Assembly.

A deputy who is alleged to have committed an offence before or after election shall not be detained, interrogated, arrested or tried unless the Assembly decides otherwise. This provision shall not apply in cases where a member is caught in flagrante delicto requiring heavy penalty and in cases subject to Article 14 of the Constitution as long as an investigation has been initiated before the election. However, in such situations the competent authority has to notify the Grand National Assembly of Turkey of the case immediately and directly.

The execution of a criminal sentence imposed on a member of the Grand National Assembly of Turkey either before or after his election shall be suspended until he ceases to be a member; the statute

of limitations does not apply during the term of membership.

Investigation and prosecution of a re-elected deputy shall be subject to the Assembly's lifting the immunity anew.

Political party groups in the Grand National Assembly of Turkey shall not hold debates or take decisions regarding parliamentary immunity.

## **5. Loss of membership**

**ARTICLE 84-** (As amended on July 23, 1995; Act No. 4121)

The loss of membership of a deputy who has resigned shall be decided upon by the Plenary of the Grand National Assembly of Turkey after the Bureau of the Grand National Assembly of Turkey attests to the validity of the resignation.

The loss of membership, through a final judicial sentence or deprivation of legal capacity, shall take effect after the Plenary has been notified of the final court decision on the matter.

The loss of membership of a deputy who insists on holding a position or carrying out a service incompatible with membership according to Article 82 shall be decided by the Plenary through secret voting, upon the submission of a report drawn up by the authorized committee setting out the factual situation.

Loss of membership of a deputy who fails to attend Parliamentary proceedings without excuse or leave of absence for five sessions, in a period of one month shall be decided upon by the Plenary with a majority of the total number of members after the Bureau of the Assembly determines the situation.

(Repealed on September 12, 2010; Act No. 5982)

## **6. Application for annulment**

**ARTICLE 85-** (As amended on July 23, 1995; Act No. 4121)

If the parliamentary immunity of a deputy has been lifted or if the loss of membership has been decided according to the first, third or fourth paragraphs of Article 84, the deputy in question or another deputy may, within seven days from the date of the decision of the Plenary, appeal to the Constitutional Court, for the decision to be annulled on the grounds that it is contrary to the Constitution, law or the Internal Regulation. The Constitutional Court shall make the final decision on the appeal within fifteen days.

## **7. Salaries and travel allowances**

**ARTICLE 86-** (As amended on November 21, 2001; Act No. 4720) Salaries, travel allowances and retirement procedures of the members of the Grand National Assembly of Turkey shall be regulated by law. The monthly amount of the salary shall not

exceed the salary of the most senior civil servant; the travel allowance shall not surpass half of that salary. The members of the Grand National Assembly of Turkey and retired members are affiliated with the Pension Fund of the Turkish Republic, and the affiliation of those whose membership have expired continue upon their request.

(As amended on November 21, 2001; Act No. 4720) The salaries and allowances to be paid to the members of the Grand National Assembly of Turkey shall not necessitate the termination of pensions and similar payments entitled by the Pension Fund of the Turkish Republic.

A maximum of three months' salaries and travel allowances may be paid in advance.

## **II. Duties and powers of the Grand National Assembly of Turkey**

### **A. General**

**ARTICLE 87-** (As amended on October 3, 2001; Act No. 4709, and on May 7, 2004; Act No. 5170, and on April 16, 2017; Act No. 6771) The duties and powers of the Grand National Assembly of Turkey are to enact, amend, and repeal laws; to debate and adopt the budget bills and final accounts bills; to decide to issue currency and declare war; to approve the ratification of international treaties, to decide with the majority of



three-fifths of the Grand National Assembly of Turkey to proclaim amnesty and pardon; and to exercise the powers and carry out the duties envisaged in the other articles of the Constitution.

### **B. Introduction and deliberation of bills**

**ARTICLE 88-** (As amended on April 16, 2017; Act No. 6771) Deputies are empowered to introduce bills.

(As amended on April 16, 2017; Act No. 6771) The procedure and principles regarding the deliberation of bills in the Grand National Assembly of Turkey shall be regulated by the Rules of Procedure.

### **C. Promulgation of laws by the President of the Republic**

**ARTICLE 89-** The President of the Republic shall promulgate the laws adopted by the Grand National Assembly of Turkey within fifteen days.

(As amended on October 3, 2001; Act No. 4709) The President of the Republic shall send the laws that he deems, in whole or in part, unsuitable for promulgation, along with the justification, back to the Grand National Assembly of Turkey for reconsideration in the same period. In case of being partially deemed unsuitable by the President of the Republic, the Grand National Assembly of Turkey may discuss only those articles. Budget laws shall not be subject to this provision.

(As amended on April 16, 2017; Act No. 6771) If the Grand National Assembly of Turkey adopts the law sent back for reconsideration without any amendment with absolute majority, the law shall be promulgated by the President of the Republic; if the Assembly makes a new amendment to the law, the President of the Republic may send the amended law back for reconsideration.

Provisions relating to constitutional amendments are reserved.

#### **D. Ratification of international treaties**

**ARTICLE 90-** The ratification of treaties concluded with foreign states and international organisations on behalf of the Republic of Turkey shall be subject to adoption by the Grand National Assembly of Turkey by a law approving the ratification.

Agreements regulating economic, commercial or technical relations, and covering a period of no more than one year, may be put into effect through promulgation, provided they do not entail any financial commitment by the State, and provided they do not interfere with the status of individuals or with the property rights of Turks abroad. In such cases, these agreements shall be brought to the knowledge of the Grand National Assembly of Turkey within two months of their promulgation.

Implementation agreements based on an international treaty, and economic, commercial, technical, or administrative agreements, which are concluded depending on the authorization as stated in the law, shall not require approval of the Grand National Assembly of Turkey. However, economic, commercial agreements or agreements relating to the rights of individuals concluded under the provision of this paragraph shall not be put into effect unless promulgated.

Agreements resulting in amendments to Turkish laws shall be subject to the provisions of the first paragraph.

International agreements duly put into effect have the force of law. No appeal to the Constitutional Court shall be made with regard to these agreements, on the grounds that they are unconstitutional. (Sentence added on May 7, 2004; Act No. 5170) In the case of a conflict between international agreements, duly put into effect, concerning fundamental rights and freedoms and the laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail.

**E. Authorization to issue decrees having the force of law**

**ARTICLE 91-** (Repealed on April 16, 2017; Act No. 6771)

## **F. Declaration of state of war and authorization to deploy the armed forces**

**ARTICLE 92-** The power to authorize the declaration of a state of war in cases deemed legitimate by international law and except where required by international treaties to which Turkey is a party or by the rules of international courtesy to send the Turkish Armed Forces to foreign countries and to allow foreign armed forces to be stationed in Turkey, is vested in the Grand National Assembly of Turkey.

If the country is subjected to sudden armed aggression, while the Grand National Assembly of Turkey is adjourned or in recess, and it thus becomes imperative to decide immediately on the use of the armed forces, the President of the Republic can decide on the use of the Turkish Armed Forces.

## **III. Provisions relating to the activities of the Grand National Assembly of Turkey**

### **A. Convening and recess**

**ARTICLE 93-** (As amended on July 23, 1995; Act No. 4121) The Grand National Assembly of Turkey shall convene of its own accord on the first day of October each year.

(As amended on April 16, 2017; Act No. 6771) The Assembly may be in recess for a maximum of three months in a legislative year; during adjournment or

recess it may be summoned by the President of the Republic.

The Speaker of the Assembly may also summon the Assembly either on his own initiative or at the written request of one fifth of the members.

The Grand National Assembly of Turkey convened during an adjournment or recess shall not adjourn or go into recess again before having given priority consideration to the matter requiring the summons.

### **B. Bureau of the Assembly**

**ARTICLE 94-** The Bureau of the Assembly of the Grand National Assembly of Turkey shall be composed of the Speaker, vicespeakers, secretaries, and quaestors elected from among members of the Assembly.

The Bureau of the Assembly shall be so composed as to ensure proportionate representation to the number of members of each political party group in the Assembly. Political party groups shall not nominate candidates for the Office of the Speaker.

(As amended on September 12, 2010; Act No. 5982)  
Two elections to the Bureau of the Grand National Assembly of Turkey shall be held in one legislative term. The term of office of those elected in the first round is two years and the term of office of those

elected in the second round shall continue until the end of that legislative term.

(As amended on October 3, 2001; Act No. 4709) The candidates from among the members of the Assembly for the Office of the Speaker of the Grand National Assembly of Turkey shall be announced, within five days of the convening of the Assembly, to the Bureau of the Assembly. Election of the Speaker shall be held by secret ballot. In the first two ballots, a two-thirds majority of the total number of members, and in the third ballot an absolute majority of the total number of members is required. If an absolute majority cannot be obtained in the third ballot, a fourth ballot shall be held between the two candidates who have received the highest number of votes in the third ballot; the member who receives the greatest number of votes in the fourth ballot shall be elected as Speaker. The election of the Speaker shall be completed within five days after the expiry of the period for the nomination of candidates.

The quorum required for election, the number of ballots and its procedure, the number of vice-speakers, secretaries and quaestors, shall be determined by the Rules of Procedure.

The Speaker and vice-speakers of the Grand National Assembly of Turkey cannot participate, within

or outside the Assembly, in the activities of the political party or party group in which they are a member; nor in parliamentary debates, except in cases required by their functions; the Speaker and the vicespeaker who is presiding over the session shall not vote.

### **C. Rules of Procedure, political party groups and security affairs**

**ARTICLE 95-** The Grand National Assembly of Turkey shall carry out its activities in accordance with the provisions of the Rules of Procedure drawn up by itself.

The provisions of the Rules of Procedure shall be drawn up in such a way as to ensure the participation of each political party group in all the activities of the Assembly in proportion to its number of members. Political party groups shall be constituted only if they have at least twenty members.

All security and administrative services of the Grand National Assembly of Turkey regarding all buildings, installations, annexes and lands shall be organised and directed by the Office of the Speaker of the Assembly. Sufficient forces to ensure security and other such services shall be allocated to the Office of the Speaker of the Assembly by the relevant authorities.

#### **D. Quorums and majority for decisions**

**ARTICLE 96-** (As amended on October 21, 2007; Act No. 5678) The Grand National Assembly of Turkey shall convene with at least one-third of the total number of members for all its affairs, including elections it holds. Unless otherwise stipulated in the Constitution, the Grand National Assembly of Turkey shall take decisions by an absolute majority of those present; however, the majority for decision can, under no circumstances, be less than one plus a quarter of the total number of members.

(Repealed on April 16, 2017; Act No. 6771)

#### **E. Publicity and publication of debates**

**ARTICLE 97-** Debates held in the Plenary of the Grand National Assembly of Turkey shall be public and shall be published verbatim in the Journal of Minutes.

The Grand National Assembly of Turkey may hold closed sittings in accordance with the provisions of the Rules of Procedure; the publication of debates of such sittings shall be subject to the decision of the Grand National Assembly of Turkey.

Public debates in the Assembly may be freely published through all means, unless a decision to the contrary is adopted by the Assembly upon a proposal of the Bureau.



#### **IV. Ways of obtaining information and supervision by the Grand National Assembly of Turkey<sup>11</sup>**

**ARTICLE 98-** (As amended on April 16, 2017; Act No. 6771)

The Grand National Assembly of Turkey shall exercise its powers of obtaining information and supervision by means of parliamentary inquiry, general debate, parliamentary investigation and written question.

A parliamentary inquiry is an examination conducted to obtain information on a specific subject.

A general debate is the consideration of a specific subject relating to the community and the activities of the State at the Plenary of the Grand National Assembly of Turkey.

A parliamentary investigation is an investigation made under the paragraphs V, VI and VII of the Article 106 concerning the deputies of the President of the Republic and the ministers.

A written question is a question asked by deputies to the deputies of the President of the Republic or

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<sup>11</sup> The other heading of this Article, which was stipulated as "A. General" was removed by sixth Article of Act No. 6771 dated April 16, 2017.

ministers in a written form, which is to be answered no later than fifteen days.

The form of presentation, content, and scope of the motions concerning parliamentary inquiry, general debate and written question and the procedures for answering, debating and inquiring them, shall be regulated by the Rules of Procedure.

### **B. Censure**

**ARTICLE 99-** (Repealed on April 16, 2017; Act No. 6771)

### **C. Parliamentary investigation**

**ARTICLE 100-** (Repealed on April 16, 2017; Act No. 6771)

## CHAPTER TWO

### The Executive Power

#### I. President of the Republic

##### A. Candidacy and election<sup>12</sup>

**ARTICLE 101-** (As amended on April 16, 2017; Act No. 6771)

The President of the Republic shall be elected directly by the public from among Turkish citizens over forty years of age who are eligible to be a deputy and have completed higher education.

The President of the Republic's term of office shall be five years. A person may be elected as the President of the Republic for two terms at most.

The President of the Republic may be nominated by political party groups, political parties which received at least five percent of valid votes on their own or collectively in the latest parliamentary elections or at least one hundred thousand voters.

The President-elect's membership of the Grand National Assembly of Turkey shall cease.

In presidential elections conducted by universal suffrage, the candidate who receives the absolute

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<sup>12</sup> The heading of this Article, which was stipulated as "A. Qualifications and impartiality" was amended by the seventh Article of Act No. 6771 dated April 16, 2017.

majority of the valid votes shall be elected President of the Republic. If absolute majority cannot be obtained in the first ballot, the second ballot shall be held on the second Sunday following this ballot. Two candidates who received the greatest number of votes in the first ballot run for the second ballot, and the candidate who receives majority of valid votes shall be elected President of the Republic.

If one of the candidates who gains the right to run for the second ballot is unable to participate in the election for any reason, the second ballot shall be conducted by substituting the vacant candidacy in conformity with the ranking in the first ballot. If only one candidate remains for the second ballot, this ballot shall be conducted as a referendum. If the candidate receives the majority of the valid votes, he/she shall be elected President of the Republic. If that candidate fails to receive the majority of the valid votes in the election, only the presidential election shall be renewed.

If the presidential election is not completed, the term of office of the incumbent President of the Republic shall continue until the President-elect assumes the office.

The other procedures and principles concerning the presidential elections shall be regulated by law.

## **B. Election**

**ARTICLE 102-** (Repealed on April 16, 2017; Act No. 6771)

## **C. Oath-taking**

**ARTICLE 103-** On assuming office, the President of the Republic shall take the following oath before the Grand National Assembly of Turkey:

“In my capacity as President of the Republic, I swear upon my honour and integrity before the Great Turkish Nation and before history to safeguard the existence and independence of the state, the indivisible integrity of the country and the nation, and the absolute sovereignty of the nation, to abide by the Constitution, the rule of law, democracy, the principles and reforms of Atatürk, and the principles of the secular republic, not to deviate from the ideal according to which everyone is entitled to enjoy human rights and fundamental freedoms under conditions of national peace and prosperity and in a spirit of national solidarity and justice, and do my utmost to preserve and exalt the glory and honour of the Republic of Turkey and perform without bias the functions that I have assumed.”

## **D. Duties and powers**

**ARTICLE 104-** (As amended on April 16, 2017; Act No. 6771) The President of the Republic is the head of

the State. The executive power shall be vested in the President of the Republic.

The President of the Republic, in his/her capacity as the Head of State, shall represent the Republic of Turkey and the unity of the Turkish Nation; he/she shall ensure the implementation of the Constitution, and orderly and harmonious functioning of the organs of the State.

He/she shall deliver the opening speech of the Grand National Assembly of Turkey on the first day of the legislative year, if he/she deems it necessary.

He/she shall give message to the Assembly regarding domestic and foreign policies of the country.

He/she shall promulgate laws.

He/she shall send laws back to the Grand National Assembly of Turkey to be reconsidered.

He/she shall appeal to the Constitutional Court for the annulment of all or certain provisions of laws and the Rules of Procedure of the Grand National Assembly of Turkey on the grounds that they are unconstitutional in form or in content.

He/she shall appoint and dismiss the deputies of the President of the Republic and the ministers.

He/she shall appoint and dismiss the high ranking executives, and shall regulate the procedure and principles governing the appointment thereof by presidential decree.

He/she shall accredit representatives of the Republic of Turkey to foreign states and shall receive the representatives of foreign states appointed to the Republic of Turkey.

He/she shall ratify and promulgate international treaties.

He/she shall submit laws regarding amendment to the Constitution to referendum, if he/she deems it necessary.

He/she shall determine national security policies and take necessary measures.

He/she shall represent the Office of Commander-in-Chief of the Turkish Armed Forces on behalf of the Grand National Assembly of Turkey.

He/she shall decide on the use of the Turkish Armed Forces.

He/she shall commute or remit the sentences imposed on persons, on grounds of chronic illness, disability or old age.

The President of the Republic may issue presidential decrees on the matters regarding executive power. The fundamental rights, individual rights and duties included in the first and second chapters and the political rights and duties listed in the fourth chapter of the second part of the Constitution shall not be regulated by a presidential decree. No presidential decree shall be issued on the matters which are stipulated in the Constitution to be regulated exclusively by law. No presidential decree shall be issued on the matters explicitly regulated by law. In the case of a discrepancy between provisions of the presidential decrees and the laws, the provisions of the laws shall prevail. A presidential decree shall become null and void if the Grand National Assembly of Turkey enacts a law on the same matter.

The president of the Republic may issue by-laws in order to ensure the implementation of laws, provided that they are not contrary thereto.

Decrees and by-laws shall come into effect on the date of publication in the Official Gazette, unless a later effective date is determined.

The President of the Republic shall also exercise powers of election and appointment, and perform the other duties conferred on him/her by the Constitution and laws.



### **E. Criminal liability of the President of the Republic<sup>13</sup>**

**ARTICLE 105-** (As amended on April 16, 2017; Act No. 6771) Absolute majority of the Grand National Assembly of Turkey may table a motion requesting that the President of the Republic be investigated on allegations of a crime. The Grand National Assembly of Turkey shall debate the motion in one month at the latest and may decide to launch an investigation with three-fifths of the total number of its members by secret ballot.

If an investigation is decided to be launched, it shall be conducted by a committee of fifteen members, chosen by lot, for each political party in the Assembly, separately from among three times the candidates nominated for each seat reserved to party groups in proportion to their strength. The committee shall submit its report on the conclusion of the investigation to the Office of the Speaker within two months. If the investigation is not completed within the time allotted, the committee shall be granted a further and final period of one month.

The report shall be distributed within ten days from the date of its submission to the Office of the Speaker, and it shall be debated in the Plenary within ten

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<sup>13</sup> The heading of this Article, which was stipulated as “E. Presidential accountability and non-accountability” was amended by the ninth Article of Act No. 6771 dated April 16, 2017.

days following its distribution. The Grand National Assembly of Turkey may decide to refer the report to the Supreme Criminal Tribunal with two-thirds of the total number of its members by secret ballot. The trial of the Supreme Criminal Tribunal shall be completed within three months, if not completed within this period, an additional period of three-months shall be granted for once only, and the trial shall be finalized within the time allotted.

The President of the Republic who is under an investigation cannot decide to hold an election.

The mandate of the President of the Republic who is convicted by the Supreme Criminal Tribunal of a crime that prevents from being elected shall end.

The provisions of this article shall also apply after the termination of the term of office of the President of the Republic to the crimes alleged to have been committed during the term of his/her office.

**F. Deputies of the President of the Republic, acting for the President of the Republic and ministers<sup>14</sup>**

**ARTICLE 106-** (As amended on April 16, 2017; Act No. 6771)

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<sup>14</sup> The heading of this Article, which was stipulated as “F. Acting for the President of the Republic” was amended by the tenth Article of Act No. 6771 dated April 16, 2017.

The President of the Republic may appoint one or more deputies after being elected.

If the presidential office becomes vacant for any reason, the presidential election shall be held within forty-five days. The Deputy President of the Republic of Turkey shall act as and exercise the powers of the President of the Republic until the next President of the Republic is elected. If one year or less remains for the general election, the election for the Grand National Assembly of Turkey shall be renewed together with the presidential election. If more than one year remains for the general election, the President of the Republic of Turkey shall continue to serve until the election date of the Grand National Assembly of Turkey. This period shall not be counted of the presidential term with respect to the President of the Republic who completed the remaining period. Both elections shall be held together on the date of the general elections of the Grand National Assembly of Turkey.

In cases where the President of the Republic is temporarily absent from his/her duties on account of illness or travelling abroad, the deputy president acts as the President of the Republic and exercises his/her powers.

The deputies of the President of the Republic and the ministers shall be appointed from among those

who are eligible to be a deputy and removed from office by the President of the Republic. The deputies of the President of the Republic and the ministers shall take oath before the Turkish Grand National Assembly as stated in the Article 81. If a member of the Grand National Assembly of Turkey is appointed as a deputy president or minister, he/she shall lose his/her membership.

The deputies of the President of the Republic and the ministers are accountable to the President of the Republic. Absolute majority of the Grand National Assembly of Turkey may table a motion requesting that the Deputies of President of the Republic and ministers be investigated on allegations of perpetration of a crime regarding their duties. The Assembly shall debate the motion within one month at the latest and may decide to launch an investigation with three-fifth majority of the total number of its members by secret ballot.

If an investigation is decided to be launched, it shall be conducted by a committee of fifteen members, chosen by lot, for each political party in the Assembly, separately from among three times the candidates nominated for each seat reserved to party groups in proportion to their strength. The committee shall submit its report on the conclusion of the investigation to the Office of the Speaker within two months. If the investigation is not completed within the time

allotted, the committee shall be granted a further and final period of one month.

The report shall be distributed within ten days from the date of its submission to the Office of the Speaker, and it shall be debated in the Plenary within ten days following its distribution. The Grand National Assembly of Turkey may decide to refer the report to the Supreme Criminal Tribunal with two-thirds of the total number of its members by secret ballot. The trial of the Supreme Criminal Tribunal shall be completed within three months, if not completed within this period, an additional period of three-months shall be granted for once only, and the trial shall be finalized within the time allotted.

The provisions of the paragraphs V, VI and VII shall also apply after the termination of their duties with respect to the crimes alleged to have been committed regarding their duties during their term of office.

The deputies of the President of the Republic or ministers who are convicted of a crime by the Supreme Criminal Tribunal for a crime that prevents them from being elected shall lose their mandate.

The deputies of the President of the Republic and the ministers shall enjoy legislative immunity regarding the offenses not related to their duties.

The establishment, abolition, the duties and powers, the organizational structure of the ministries, and the establishment of their central and provincial organizations shall be regulated by the presidential decree.

### **G. General Secretariat of the President of the Republic**

**ARTICLE 107-** (Repealed on April 16, 2017; Act No. 6771)

### **H. State Supervisory Council**

**ARTICLE 108-** (As amended on April 16, 2017; Act No. 6771) The State Supervisory Council which shall be attached to the Office of the Presidency of the Republic, with the purpose of ensuring the lawfulness, regular and efficient functioning and improvement of administration, conduct all administrative investigations, inquiries, investigations and inspections of all public bodies and organizations, all enterprises in which those public bodies and organizations share more than half of the capital, public professional organizations, employers' associations and labour unions at all levels, and public welfare associations and foundations, upon the request of the President of the Republic.

(As amended on April 16, 2017; Act No. 6771) The judicial organs are outside the jurisdiction of the State Supervisory Council.

(As amended on April 16, 2017; Act No. 6771) The Chairperson and the members of the State Supervisory Council shall be appointed by the President of the Republic.

(As amended on April 16, 2017; Act No. 6771) The functioning of the State Supervisory Council, the term of office of its members, and other personnel matters relating to their status shall be regulated by presidential decree.

## **II. Council of Ministers**

### **A. Formation**

**ARTICLE 109-** (Repealed on April 16, 2017; Act No. 6771)

### **B. Taking office and vote of confidence**

**ARTICLE 110-** (Repealed on April 16, 2017; Act No. 6771)

### **C. Vote of confidence while in office**

**ARTICLE 111-** (Repealed on April 16, 2017; Act No. 6771)

### **D. Functions and political responsibilities**

**ARTICLE 112-** (Repealed on April 16, 2017; Act No. 6771)

### **E. The formation of ministries, and ministers**

**ARTICLE 113-** (Repealed on April 16, 2017; Act No. 6771)

**F. Provisional Council of Ministers during elections**

**ARTICLE 114-** (Repealed on April 16, 2017; Act No. 6771)



## **G. Regulations**

**ARTICLE 115-** (Repealed on April 16, 2017; Act No. 6771)

## **H. Renewal of election of the Grand National Assembly of Turkey and the presidential election<sup>15</sup>**

**ARTICLE 116-** (As amended on April 16, 2017; Act No. 6771)

The Grand National Assembly of Turkey may decide to renew the elections by three-fifth majority of the total number of its members. In this case, the general election of the Grand National Assembly of Turkey and the presidential election shall be held together.

If the President of the Republic decides to renew the elections, the general election of the Turkish Grand National Assembly and the presidential election shall be held together.

If the Assembly decides to renew the elections during the second term of the President of the Republic, he/she may once again be a candidate.

The powers and duties of the Assembly and the

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<sup>15</sup> The heading of this Article, which was stipulated as “H. Renewal of elections to the Grand National Assembly of Turkey by the President of the Republic” was amended by the eleventh Article of Act No. 6771 dated April 16, 2017.

President of the Republic whose elections are decided to be renewed together, shall continue until the election of the new Assembly and President of the Republic.

The term of office of the Assembly and the President of the Republic thus elected shall also be five years.

## **I. National defence**

### **1. Offices of Commander-in-Chief and Chief of the General Staff**

**ARTICLE 117-** The Office of Commander-in-Chief is inseparable from the spiritual existence of the Grand National Assembly of Turkey and is represented by the President of the Republic.

(As amended on April 16, 2017; Act No. 6771)  
The President of the Republic shall be responsible to the Grand National Assembly of Turkey for national security and for the preparation of the armed forces for the defence of the country.

(As amended on April 16, 2017; Act No. 6771)  
Appointed by the President of the Republic, The Chief of the General Staff is the commander of the armed forces and in time of war, exercises the duties of Commander-in-Chief on behalf of the President of the Republic.

(Repealed on April 16, 2017; Act No. 6771)

(Repealed on April 16, 2017; Act No. 6771)

## **2. National Security Council**

**ARTICLE 118-** (As amended on October 3, 2001; Act No. 4709, April 16, 2017; Act No. 6771) The National Security Council shall be composed of the deputies of the President of the Republic, ministers of Justice, National Defence, Internal Affairs, and Foreign Affairs, the Chief of the General Staff, the commanders of the Land, Naval and Air Forces under the chairpersonship of the President of the Republic.

Depending on the particulars of the agenda, the ministers and other persons concerned may be invited to and heard at the meetings of the Council.

(As amended on October 3, 2001; Act No. 4709, April 16, 2017; Act No. 6771) The National Security Council shall submit to the President of the Republic the advisory decisions taken with regard to the formulation, determination, and implementation of the national security policy of the State and its views on ensuring the necessary coordination. The President of the Republic shall evaluate decisions of the National Security Council concerning the measures that it deems necessary for the preservation of the existence and independence of the State, the integrity and indivisibility of the country, and

the peace and security of society.

(As amended on April 16, 2017; Act No. 6771)  
The agenda of the National Security Council shall be drawn up by the President of the Republic taking into account the proposals of the deputies of the President of the Republic and the Chief of the General Staff.

(As amended on April 16, 2017; Act No. 6771)  
In the absence of the President of the Republic, the National Security Council shall convene under the chairpersonship of the deputy of the President of the Republic.

(As amended on April 16, 2017; Act No. 6771) The organization and duties of the General Secretariat of the National Security Council shall be regulated by presidential decree.

### **III. Administration of State of Emergency<sup>16</sup>**

**ARTICLE 119-** (As amended on April 16, 2017; Act No. 6771)

In the event of war, the emergence of a situation necessitating war, mobilization, an uprising, strong

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<sup>16</sup> *The heading of this Article, which was stipulated as "1. Declaration of state of emergency because of natural disaster or serious economic crisis" was amended and the other headings, which were stipulated as "III. Extraordinary administration procedures" and "A. States of emergency" were removed by the twelfth Article of Act No. 6771 dated April 16, 2017.*

rebellious actions against the motherland and the Republic, widespread acts of violence of internal or external origin threatening the indivisibility of the country and the nation, emergence of widespread acts of violence aimed at the destruction of the Constitutional order or of fundamental rights and freedoms, serious deterioration of public order because of acts of violence, occurrence of natural disasters, outbreak of dangerous epidemic diseases or emergence of a serious economic crisis; the President of the Republic may declare state of emergency in one region or nationwide for a period not exceeding six months.

The decision to declare state of emergency shall be published in the Official Gazette on the date of the decision and shall be submitted for approval to the Grand National Assembly of Turkey on the same day.

If the Grand National Assembly of Turkey is in recess, it shall be immediately summoned; The Assembly may reduce or extend the period of, or lift, the state of emergency.

The Grand National Assembly of Turkey may extend the period for a maximum of four months each time at the request of the President of the Republic. In the event of war, four-month limit shall not apply.

The financial, material and labour obligations to be imposed on citizens, the manner of restriction and temporary suspension of fundamental rights and

freedoms in line with the principles of the Article 15, and the provisions to be applied and actions to be carried out in the event of state of emergency shall be regulated by law.

In the event of state of emergency, the President of the Republic may issue presidential decrees on matters necessitated by the state of emergency, notwithstanding the limitations set forth in the second sentence of the seventeenth paragraph of the Article 104. Such decrees which have the force of law shall be published in the Official Gazette, and shall be submitted for approval to the Grand National Assembly of Turkey on the same day.

Except in the case of inability of the Grand National Assembly of Turkey to convene due to war or force majeure events, presidential decrees issued during the state of emergency shall be debated and decided in the Grand National Assembly of Turkey within three months. Otherwise presidential decrees issued during the state of emergency shall be annulled automatically.

## **2. Declaration of state of emergency because of widespread acts of violence and serious deterioration of public order**

**ARTICLE 120-** (Repealed on April 16, 2017; Act No. 6771)

### **3. Rules regarding the states of emergency**

**ARTICLE 121-** (Repealed on April 16, 2017; Act No. 6771)

#### **B. Martial law, mobilization and state of war**

**ARTICLE 122-** (Repealed on April 16, 2017; Act No. 6771)

### **IV. Administration**

#### **A. Fundamentals of the administration**

**1. Integrity of the administration and public legal personality**

**ARTICLE 123-** The administration is a whole with its formation and functions, and shall be regulated by law.

The organization and functions of the administration are based on the principles of centralization and decentralization.

(As amended on April 16, 2017; Act No. 6771) Public corporate bodies shall be established only by law, or by presidential decree.

#### **2. By-laws**

**ARTICLE 124-** (As amended on April 16, 2017; Act No. 6771) The President of the Republic, the ministries, and public corporate bodies may issue by-laws in order

to ensure the implementation of laws and presidential decrees relating to their jurisdiction, as long as they are not contrary to these laws and decrees.

The law shall designate which by-laws are to be published in the Official Gazette.

## **B. Judicial review**

**ARTICLE 125-** Recourse to judicial review shall be available against all actions and acts of administration. (Sentences added on August 13, 1999; Act No. 4446) In concession, conditions and contracts concerning public services and national or international arbitration may be suggested to settle the disputes arising from them. Only those disputes involving an element of foreignness may be submitted to international arbitration.

(Sentence added on September 12, 2010; Act No. 5982) (As amended on April 16, 2017; Act No. 6771) Recourse to judicial review shall be available against all decisions taken by the Supreme Military Council regarding expulsion from the armed forces except acts regarding promotion and retiring due to lack of tenure.

Time limit to file a lawsuit against an administrative act begins from the date of written notification of the act.

(As amended on September 12, 2010; Act No. 5982) Judicial power is limited to the review of the legality



of administrative actions and acts, and in no case may it be used as a review of expediency. No judicial ruling shall be passed which restricts the exercise of the executive function in accordance with the forms and principles prescribed by law, which has the quality of an administrative action and act, or which removes discretionary powers.

A justified decision regarding the suspension of execution of an administrative act may be issued, should its implementation result in damages which are difficult or impossible to compensate for and, at the same time, the act would be clearly unlawful.

(As amended on April 16, 2017; Act No. 6771)The law may restrict the issuing of an order on suspension of execution of an administrative act in cases of state of emergency, mobilization and state of war, or on the grounds of national security, public order and public health.

The administration shall be liable to compensate for damages resulting from its actions and acts.

## **C. Establishment of the administration**

### **1. Central administration**

**ARTICLE 126-** In terms of central administrative structure, Turkey is divided into provinces on the basis of geographical situation, economic conditions,

and public service requirements; provinces are further divided into lower levels of administrative districts.

The administration of the provinces is based on the principle of devolution of powers.

Central administrative organizations comprising several provinces may be established to ensure efficiency and coordination of public services. The functions and powers of these organizations shall be regulated by law.

## **2. Local administrations**

**ARTICLE 127-** Local administrations are public corporate bodies established to meet the common local needs of the inhabitants of provinces, municipal districts and villages, whose principles of constitution and decision-making organs elected by the electorate are determined by law.

The formation, duties and powers of the local administrations shall be regulated by law in accordance with the principle of local administration.

(As amended on July 23, 1995; Act No. 4121) The elections for local administrations shall be held every five years in accordance with the principles set forth in Article 67. (Sentence repealed on April 16, 2017; Act No. 6771) Special administrative arrangements may be introduced by law for larger urban centres.

Loss of status and objections regarding the acquisition of the status of elected organs of local administrations shall be decided by judiciary. However, as a provisional measure until the final court judgment, the Minister of Internal Affairs may remove from Office those organs of local administration or their members against whom an investigation or prosecution has been initiated on grounds of offences related to their duties.

The central administration has the power of administrative tutelage over the local administrations in the framework of principles and procedures set forth by law with the objective of ensuring the functioning of local services in conformity with the principle of the integrity of the administration, securing uniform public service, safeguarding the public interest and meeting local needs properly.

(As amended on April 16, 2017; Act No. 6771) The formation of local administrative bodies into a union with the permission of the President of the Republic for the purpose of performing specific public services; and the functions, powers, financial and security arrangements of these unions, and their reciprocal ties and relations with the central administration, shall be regulated by law. These administrative bodies shall be allocated financial resources in proportion to their functions.

## **D. Provisions relating to public servants**

### **1. General principles**

**ARTICLE 128-** The fundamental and permanent functions required by the public services that the State, state economic enterprises and other public corporate bodies assigned to perform in accordance with principles of general administration, shall be carried out by public servants and other public employees.

The qualifications, appointments, duties and powers, rights and responsibilities, salaries and allowances of public servants and other public officials, and other matters related to their status shall be regulated by law. (Sentence added by September 12, 2010; Act No. 5982) However, provisions on collective agreement concerning financial and social rights are reserved.

The procedure and principles governing the training of high rank administrators shall be specially regulated by law.

### **2. Duties and responsibilities, and guarantees in disciplinary proceedings**

**ARTICLE 129-** Public servants and other public officials are obliged to carry out their duties with loyalty to the Constitution and the laws.

Public servants, other public officials and members of public professional organizations or their higher bodies shall not be subjected to disciplinary penalties without being granted the right of defence.

(As amended on September 12, 2010; Act No. 5982) Disciplinary decisions shall not be exempt from judicial review.

Provisions concerning the members of the armed forces, judges and prosecutors are reserved.

Compensation suits concerning damages arising from faults committed by public servants and other public officials in the exercise of their duties shall be filed only against the administration in accordance with the procedure and conditions prescribed by law, as long as the compensation is resorted to them.

Prosecution of public servants and other public officials for alleged offences shall be subject, except in cases prescribed by law, to the permission of the administrative authority designated by law.

## **E. Institutions of higher education and their higher bodies**

### **1. Institutions of higher education**

**ARTICLE 130-** For the purpose of training manpower to meet the needs of the nation and the country under a system of contemporary education

principles, universities comprising several units and having scientific autonomy and public legal personality shall be established by the State and by law, to educate at different levels based on secondary education, to conduct research, to issue publications, to act as consultants, and to serve the country and humanity.

Institutions of higher education may be established, under the supervision and control of the State, by foundations in accordance with the procedures and principles set forth in the law as long as they do not pursue profit.

The law shall provide for a balanced geographical distribution of universities throughout the country.

Universities, members of the teaching staff and their assistants may freely engage in all kinds of scientific research and publication. However, this shall not include the liberty to engage in activities against the existence and independence of the State, and against the integrity and indivisibility of the nation and the country.

Universities and units attached to them are under the supervision and inspection of the State and their security is ensured by the State.

University presidents shall be elected and appointed by the President of the Republic, and faculty deans by

the Council of Higher Education, in accordance with the procedures and provisions of the law.

The administrative and supervisory organs of the universities and the teaching staff may not for any reason whatsoever be removed from their office by authorities other than those of the competent organs of the universities or by the Council of Higher Education.

(As amended on October 29, 2005; Act No. 5428)  
The budgets drawn up by universities, after being examined and approved by the Council of Higher Education shall be submitted to the Ministry of National Education, and shall be put into effect and supervised in conformity with the principles applied to central government budget.

The establishment of institutions of higher education, their organs, their functioning and elections, their duties, authorities and responsibilities, the procedures to be followed by the state in the exercise of the right to supervise and inspect the universities, the duties of the teaching staff, their titles, appointments, promotions and retirement, the training of the teaching staff, the relations of the universities and the teaching staff with public institutions and other organizations, the level and duration of education, admission of students into institutions of

higher education, attendance requirements and fees, principles relating to assistance to be provided by the State, disciplinary and penalty matters, financial affairs, personnel rights, rules to be abided by the teaching staff, the assignment of the teaching staff in accordance with inter-university requirements, the pursuance of training and education in freedom and under guarantee and in accordance with the requirements of contemporary science and technology, and the use of financial resources provided by the State to the Council of Higher Education and the universities, shall be regulated by law.

Institutions of higher education established by foundations shall be subject to the provisions set forth in the Constitution for institutions of higher education established by the State, as regards the academic activities, recruitment of teaching staff and security, except for financial and administrative matters.

## **2. Superior bodies of higher education**

**ARTICLE 131-** The Council of Higher Education shall be established to plan, organize, administer, and supervise education provided by institutions of higher education, to Orient teaching activities, education and scientific research, to ensure the establishment and development of these institutions in conformity with the objectives and principles set forth by law,



to ensure the effective use of the resources allotted to the universities, and to plan for the training of the teaching staff.

(As amended on May 7, 2004; Act No. 5170, April 16, 2017; Act No. 6771) The Council of Higher Education is composed of members appointed by the President of the Republic from among candidates who are nominated by universities, and in accordance with the numbers, qualifications and election procedures prescribed by law, priority being given to those who have served successfully as faculty members or university presidents, and of members directly appointed by the President of the Republic.

The organization, functions, authority, responsibilities and operating principles of the Council shall be regulated by law.

### **3. Institutions of higher education subject to special provisions**

**ARTICLE 132-** Institutions of higher education attached to the Turkish Armed Forces and to the national police organization are subject to the provisions of their respective special laws.

**F. Radio and Television Supreme Council, institutions of radio and television, and public affiliated news agencies<sup>17</sup>**

**ARTICLE 133-** (As amended on July 8, 1993; Act No. 3913) Radio and television stations shall be established and operated freely in conformity with rules to be determined by law.

(Paragraph added on June 21, 2005; Act No. 5370) The Radio and Television Supreme Council, established for the purpose of regulation and supervision of radio and television activities, is composed of nine members. The members are elected, on the basis of number of members allocated to each political party group, by the Plenary of the Grand National Assembly of Turkey from among the candidates, twice the number of which is nominated by political party groups in proportion to their number of members. The formation, duties and powers of the Radio and Television Supreme Council, and qualifications, election procedures and term of office of its members shall be regulated by law.

The unique radio and television institution established by the State as a public corporate body and the news agencies which receive aid from public

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<sup>17</sup> The phrase “The Radio and Television Supreme Council” was added by the first Article of Act No. 5370 dated June 21, 2005.

corporate bodies shall be autonomous and their broadcasts shall be impartial.

### **G. The Atatürk High Institution of Culture, Language and History**

**ARTICLE 134-** (As amended on April 16, 2017; Act No. 6771) The “Atatürk High Institution of Culture, Language and History” shall be established as a public corporate body, under the moral aegis of Atatürk, under the supervision of and with the support of the President of the Republic, attached to the minister designated by the President of the Republic, and composed of the Atatürk Research Centre, the Turkish Language Institution, the Turkish History Institution and the Atatürk Culture Centre, in order to conduct scientific research, to produce publications and to disseminate information on the thought, principles and reforms of Atatürk, Turkish culture, Turkish history and the Turkish language.

The financial interests bequeathed by Atatürk in his will to the Turkish Language Institution and Turkish History Institution are reserved and shall be allocated to them accordingly.

The establishment, organs, operating procedures and personnel matters of the Atatürk High Institution of Culture, Language and History, and its authority over the institutions within it, shall be regulated by law.

## **H. Professional organizations having the characteristics of public institutions**

**ARTICLE 135-** Professional organizations having the characteristics of public institutions and their higher bodies are public corporate bodies established by law, with the objectives of meeting the common needs of the members of a given profession, to facilitate their professional activities, to ensure the development of the profession in keeping with common interests, to safeguard professional discipline and ethics in order to ensure integrity and trust in relations among its members and with the public; their organs shall be elected by secret ballot by their members in accordance with the procedure set forth in the law, and under judicial supervision.

Persons employed in principal and permanent positions in public institutions, or in state economic enterprises shall not be required to become members of public professional organizations.

(As amended on July 23, 1995; Act No. 4121)  
These Professional organizations shall not engage in activities outside the aims for which they are established.

(As amended on July 23, 1995; Act No. 4121)  
Political parties shall not nominate candidates in

elections for the organs and higher bodies of these professional organizations.

(As amended on July 23, 1995; Act No. 4121) The rules concerning the administrative and financial supervision of these professional organizations by the State shall be prescribed by law.

(As amended on July 23, 1995; Act No. 4121) The responsible organs of professional organizations which engage in activities beyond their objectives shall be dissolved by court decision at the request of the authority designated by law or the public prosecutor, and new organs shall be elected in their place.

(As amended on July 23, 1995; Act No. 4121) However, where it is required for and delay constitutes a prejudice to national security, public order, prevention of commission or continuation of a crime, or an arrest, an authority may be vested with power by law to suspend the professional organizations and their higher bodies from activity. The decision of this authority shall be submitted for the approval of the judge having jurisdiction within twenty-four hours. The judge shall announce his/her decision within forty-eight hours; otherwise, this administrative decision shall be annulled automatically.

## **I. Presidency of Religious Affairs**

**ARTICLE 136-** The Presidency of Religious Affairs, which is within the general administration, shall exercise its duties prescribed in its particular law, in accordance with the principles of secularism, removed from all political views and ideas, and aiming at national solidarity and integrity.

## **J. Unlawful order**

**ARTICLE 137-** (As amended on April 16, 2017; Act No. 6771) If a person employed in any position or status in public services finds an order given by his/her superior to be contrary to the provisions of by-laws, presidential decree, laws, or the Constitution, he/she shall not carry it out, and shall inform the person giving the order of this inconsistency. However, if his/ her superior insists on the order and renews it in writing, his/ her order shall be executed; in this case the person executing the order shall not be held responsible.

An order which in itself constitutes an offence shall under no circumstances be executed; the person who executes such an order shall not evade responsibility.

Exceptions designated by law relating to the execution of military duties and the protection of public order or public security in urgent situations are reserved.

## CHAPTER THREE

### Judicial Power

#### I. General provisions

##### A. Independence of the courts

**ARTICLE 138-** Judges shall be independent in the discharge of their duties; they shall give judgment in accordance with the Constitution, laws, and their personal conviction conforming to the law.

No organ, authority, office or individual may give orders or instructions to courts or judges relating to the exercise of judicial power, send them circulars, or make recommendations or suggestions.

No questions shall be asked, debates held, or statements made in the Legislative Assembly relating to the exercise of judicial power concerning a case under trial.

Legislative and executive organs and the administration shall comply with court decisions; these organs and the administration shall neither alter them in any respect, nor delay their execution.

##### B. Security of tenure of judges and public prosecutors

**ARTICLE 139-** Judges and public prosecutors shall not be dismissed, or unless they request, shall not be

retired before the age prescribed by the Constitution; nor shall they be deprived of their salaries, allowances or other rights relating to their status, even as a result of the abolition of a court or a post.

Exceptions indicated in law relating to those convicted for an offence requiring dismissal from the profession, those who are definitely established as unable to perform their duties because of illhealth, or those determined as unsuitable to remain in the profession, are reserved.

### **C. Judges and public prosecutors**

**ARTICLE 140-** Judges and public prosecutors shall serve as judges and public prosecutors of civil and administrative judiciary. These duties shall be carried out by professional judges and public prosecutors.

Judges shall discharge their duties in accordance with the principles of the independence of the courts and the security of the tenure of judges.

The qualifications, appointment, rights and duties, salaries and allowances of judges and public prosecutors, their promotion, temporary or permanent change in their posts or place of duties, the initiation of disciplinary proceedings against them and the imposition of disciplinary penalties, the conduct of investigation concerning them and the



subsequent decision to prosecute them on account of offences committed in connection with, or in the course of, their duties, the conviction for offences or instances of incompetence requiring their dismissal from the profession, their in-service training, and other matters relating to their personnel status shall be regulated by law in accordance with the principles of the independence of the courts and the security of tenure of judges.

Judges and public prosecutors shall serve until they are over the age of sixty-five. The mandatory retirement age, promotion and retirement of military judges shall be prescribed by law.

Judges and public prosecutors shall not assume any official or private occupation other than those prescribed by law.

Judges and public prosecutors shall be attached to the Ministry of Justice with respect to their administrative functions.

Those judges and public prosecutors working in administrative posts of judicial services shall be subject to the same provisions as other judges and public prosecutors. Their categories and grades shall be determined according to the principles applying to judges and public prosecutors, and they shall enjoy all the rights accorded to judges and public prosecutors.

#### **D. Publicity of hearings and the necessity of justification for verdicts**

**ARTICLE 141-** Court hearings shall be open to the public. It may be decided to conduct all or a part of a hearing in a closed session, but only in cases where absolutely necessitated by public morals or public security.

Special provisions regarding the trial of minors shall be laid down in the law.

The decisions of all courts shall be written with a justification.

It is the duty of the judiciary to conclude trials as quickly as possible and at minimum cost.

#### **E. Formation of courts**

**ARTICLE 142-** The formation, duties and powers, functioning and trial procedures of the courts shall be regulated by law.

(Paragraph added on April 16, 2017; Act No. 6771)  
No military courts shall be established other than military disciplinary courts. However, in state of war, military courts having the jurisdiction to try offences committed by military personnel in relation to their duties may be established.

## **F. State Security Courts**

**ARTICLE 143-** (Repealed on May 7, 2004; Act No. 5170)

## **G. Supervision of judicial services<sup>18</sup>**

**ARTICLE 144-** (As amended on September 12, 2010; Act No. 5982)

Supervision of judicial services and public prosecutors with regard to their administrative duties shall be carried out by the Ministry of Justice through judiciary inspectors and internal auditors who are from the profession of judge and public prosecutor, and inquiry, inspection and investigation proceedings through judiciary inspectors. Relating procedures and principles shall be regulated by law.

## **H. Military justice**

**ARTICLE 145-** (As amended on September 12, 2010; Act No. 5982) (Repealed on April 16, 2017; Act No. 6771)

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<sup>18</sup> The heading of this Article, which was stipulated as “G. Supervision of Judges and Public Prosecutors”, was amended by fourteenth Article of Act No. 5982 dated September 12, 2010.

## **II. Higher courts**

### **A. Constitutional Court**

#### **1. Formation**

**ARTICLE 146-** (As amended on April 16, 2017; Act No. 6771) The Constitutional Court shall be composed of fifteen members.

The Grand National Assembly of Turkey shall elect, by secret ballot, two members from among three candidates to be nominated by and from among the president and members of the Court of Accounts, for each vacant position, and one member from among three candidates nominated by the heads of the bar associations from among self-employed lawyers. In this election to be held in the Grand National Assembly of Turkey, for each vacant position, two thirds majority of the total number of members shall be required for the first ballot, and absolute majority of total number of members shall be required for the second ballot. If an absolute majority cannot be obtained in the second ballot, a third ballot shall be held between the two candidates who have received the greatest number of votes in the second ballot; the member who receives the greatest number of votes in the third ballot shall be elected.

(As amended on April 16, 2017; Act No. 6771)  
The President of the Republic shall appoint three members from High Court of Appeals, two members from Council of State from among three candidates to be nominated, for each vacant position, by their respective general assemblies, from among their presidents and members; three members, at least two of whom being law graduates, from among three candidates to be nominated for each vacant position by the Council of Higher Education from among members of the teaching staff who are not members of the Council, in the fields of law, economics and political sciences; four members from among high level executives, self-employed lawyers, first category judges and public prosecutors or rapporteur-judges of the Constitutional Court having served as rapporteur-judge at least five years.

(As amended on April 16, 2017; Act No. 6771)  
In the elections to be held in the respective general assemblies of the High Court of Appeals, Council of State, the Court of Accounts and the Council of Higher Education for nominating candidates for membership of the Constitutional Court, three persons obtaining the greatest number of votes shall be considered to be nominated for each vacant position. In the elections to be held for the three candidates nominated by the heads of bar associations from among self-employed

lawyers, three persons obtaining the greatest number of votes shall be considered to be nominated.<sup>19</sup>

To qualify for appointments as members of the Constitutional Court, members of the teaching staff shall be required to possess the title of professor or associate professor; lawyers shall be required to have practiced as a lawyer for at least twenty years; high level executives shall be required to have completed higher education and to have worked for at least twenty years in public service, and first category judges and public prosecutors with at least twenty years of work experience including their period of candidacy, provided that they all shall be over the age of forty five.

The Constitutional Court shall elect a president and two vice presidents from among its members for a term of four years by secret ballot and by an absolute majority of the total number of its members. Those whose term of office ends may be re-elected.

The members of the Constitutional Court shall not

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<sup>19</sup> The phrase "... one member shall vote for only one candidate; ..." following the phrase "for each vacant position" in the first sentence of this paragraph before the amendments made by sixteenth Article of Act No. 6771, and the phrase "each head of bar shall vote for only one candidate, and ." following the phrase "in the election to be held" in the second sentence of the same paragraph were annulled by the decision of the Constitutional Court dated July 7, 2010 numbered E. 2010/49, K. 2010/87 (Official Gazette numbered 27659 of August 1, 2010.)

assume other official and private duties, apart from their fundamental duties.

## **2. Term of office of the members and termination of membership<sup>20</sup>**

**ARTICLE 147-** (As amended on September 12, 2010; Act No.5982) The members of the Constitutional Court shall be elected for a term of twelve years. A member shall not be re-elected. The members of the Constitutional Court shall retire when they are over the age of sixty-five. The appointment of the members to another office whose term of office expires prior to their mandatory age of retirement and matters regarding their personnel status shall be laid down in law.

Membership in the Constitutional Court shall terminate automatically if a member is convicted of an offence requiring his/her dismissal from the judicial profession, and by a decision of an absolute majority of the total number of members of the Constitutional Court if it is definitely established that he/she is unable to perform his/her duties on account of ill-health.

## **3. Functions and powers**

**ARTICLE 148-** (As amended on September 12, 2010; Act No. 5982, and on April 16, 2017; Act No.

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<sup>20</sup> *The heading of this Article, which was stipulated as “2. Termination of membership”, was amended by the seventeenth Article of Act No. 5982 dated September 12, 2010.*

6771) The Constitutional Court shall examine the constitutionality, in respect of both form and substance, of laws, presidential decrees and the Rules of Procedure of the Grand National Assembly of Turkey, and decide on individual applications. Constitutional amendments shall be examined and verified only with regard to their form. However, presidential decrees issued during a state of emergency or in time of war shall not be brought before the Constitutional Court alleging their unconstitutionality as to form or substance.

The verification of laws as to form shall be restricted to consideration of whether the requisite majority was obtained in the last ballot; the verification of constitutional amendments shall be restricted to consideration of whether the requisite majorities were obtained for the proposal and in the ballot, and whether the prohibition on debates under expedited procedure was observed. Verification as to form may be requested by the President of the Republic or by one-fifth of the members of the Grand National Assembly of Turkey. Applications for annulment on the grounds of defect in form shall not be made after ten days have elapsed from the date of promulgation of the law; and it shall not be appealed by other courts to the Constitutional Court on the grounds of defect in form.



(Paragraph added on September 12, 2010; Act No. 5982) Everyone may apply to the Constitutional Court on the grounds that one of the fundamental rights and freedoms within the scope of the European Convention on Human Rights which are guaranteed by the Constitution has been violated by public authorities. In order to make an application, ordinary legal remedies must be exhausted.

(Paragraph added on September 12, 2010; Act No. 5982) In the individual application, judicial review shall not be made on matters required to be taken into account during the process of legal remedies.

(Paragraph added on September 12, 2010; Act No. 5982) Procedures and principles concerning the individual application shall be regulated by law.

(As amended on September 12, 2010; Act No. 5982, and on April 16, 2017; Act No. 6771) The Constitutional Court in its capacity as the Supreme Criminal Tribunal shall try, for offences relating to their functions, the President of the Republic, the Speaker of the Grand National Assembly of Turkey, the deputies of the President of the Republic, the ministers, the presidents and members of the Constitutional Court, High Court of Appeals and Council of State, the chief public prosecutors of High Court of Appeals and Council of State, the Deputy Chief Public Prosecutor,

the president and members of Council of Judges and Prosecutors and Court of Accounts.

(Paragraph added on September 12, 2010; Act No. 5982) (As amended on April 16, 2017; Act No. 6771) The Chief of General Staff, the commanders of the Land, Naval and Air Forces shall be tried as well in the Supreme Criminal Tribunal for offences regarding their duties.

The Chief Public Prosecutor of the High Court of Appeals or Deputy Chief Public Prosecutor of the High Court of Appeals shall act as prosecutor in the Supreme Criminal Tribunal.

(As amended on September 12, 2010; Act No. 5982) Application for judicial review may be made against the decisions of the Supreme Criminal Tribunal. Decisions taken by the Plenary regarding the application shall be final.

The Constitutional Court shall also perform the other duties given to it by the Constitution.

#### **4. Procedure of functioning and trial**

**ARTICLE 149-** (As amended on September 12, 2010; Act No. 5982)

(As amended on April 16, 2017; Act No. 6771) The Constitutional Court consists of two sections

and the Plenary. The sections convene under the chairpersonship of the vice president with the participation of four members. The Plenary shall convene with the participation of at least ten members under the chairpersonship of the President of the Constitutional Court or a vice president designated by the President. The sections and the Plenary shall take decisions by absolute majority. Committees may be established to examine the admissibility of the individual applications.

The Plenary shall hear the cases and applications concerning political parties, actions for annulment and objection, and trials where the Constitutional Court acts as the Supreme Criminal Tribunal; the sections shall take the decision on individual applications.

Annulment of constitutional amendments, dissolution of political parties, or their deprivation from state aid, shall be decided with a two-thirds majority of members attending the meeting.

Applications for annulment on the grounds of defect in form shall be examined and decided with priority by the Constitutional Court.

The formation of the Constitutional Court, trial procedures of the Plenary and the sections, disciplinary matters of the President, the vice presidents, and members shall be regulated by law;

principles of functioning of the Court, formation of the sections and committees, and the division of labour shall be set out by the Internal Regulation to be drawn up by the Court.

The Constitutional Court shall examine cases without holding a hearing, except where it acts as the Supreme Criminal Tribunal. Nonetheless, it may be decided to hold a hearing for individual applications. When it deems necessary, the Court may also call on those concerned and those having knowledge relevant to the case, to hear their oral explanations, and in lawsuits on dissolution of a political party, the Court shall hear the defence of the chairperson of the political party or of a proxy appointed by the chairperson, after hearing the Chief Public Prosecutor of the High Court of Appeals.

### **5. Annulment action**

**ARTICLE 150-** (As amended on April 16, 2017; Act No. 6771) The President of the Republic, the two political party groups having the largest number of members in the Grand National Assembly of Turkey, and at least one-fifth of the total number of members of the Grand National Assembly of Turkey shall have the right to apply for annulment action directly to the Constitutional Court, based on the assertion of the unconstitutionality, in form and in substance, of

laws, of presidential decrees, of Rules of Procedure of the Grand National Assembly of Turkey or of certain articles or provisions thereof. (Sentence repealed on April 16, 2017; Act No. 6771).

## **6. Time limit for annulment action**

**ARTICLE 151-** (As amended on April 16, 2017; Act No. 6771) The right to apply for annulment directly to the Constitutional Court shall lapse sixty days after publication in the Official Gazette of the contested law, presidential decree, or the Rules of Procedure.

## **7. Claim of unconstitutionality before other courts**

**ARTICLE 152-** (As amended on April 16, 2017; Act No. 6771) If a court hearing a case finds that the law or the presidential decree to be applied is unconstitutional, or if convinced of the seriousness of a claim of unconstitutionality submitted by one of the parties, it shall postpone the consideration of the case until the Constitutional Court decides on the issue.

If the trial court is not convinced of the seriousness of the claim of unconstitutionality, such a claim, together with the court judgment, shall be decided upon by the competent authority of appeal.

The Constitutional Court shall decide on the matter and declare its judgment within five months of receiving the contention. If no decision is reached

within this period, the trial court shall conclude the case under legal provisions in force. However, if the trial court receives the decision of the Constitutional Court until the judgment on the merits of the case is final, the trial court is obliged to comply with it.

No claim of unconstitutionality shall be made with regard to the same legal provision until ten years elapse after publication in the Official Gazette of the decision of the Constitutional Court dismissing the application on its merits.

## **8. Decisions of the Constitutional Court**

**ARTICLE 153-** The decisions of the Constitutional Court are final. Decisions of annulment shall not be made public without a written justification.

(As amended on April 16, 2017; Act No. 6771) In the course of annulling the whole, or a provision, of laws or presidential decrees, the Constitutional Court shall not act as a lawmaker and pass judgment leading to new implementation.

(As amended on April 16, 2017; Act No. 6771) Laws, presidential decrees, or the Rules of Procedure of the Grand National Assembly of Turkey or provisions thereof, shall cease to have effect from the date of publication in the Official Gazette of the annulment decision. Where necessary, the Constitutional Court

may also decide on the date on which the annulment decision shall come into effect. That duration shall not be more than one year from the date of publication of the decision in the Official Gazette.

(As amended on April 16, 2017; Act No. 6771) In the event of the postponement of the date on which an annulment decision is to come into effect, the Grand National Assembly of Turkey shall debate and decide with priority on the bill, designed to fill the legal void arising from the annulment decision.

Annulment decisions cannot be applied retroactively.

Decisions of the Constitutional Court shall be published immediately in the Official Gazette, and shall be binding on the legislative, executive, and judicial organs, on the administrative authorities, and on persons and corporate bodies.

## **B. High Court of Appeals**

**ARTICLE 154-** The High Court of Appeals is the last instance for reviewing decisions and judgments given by civil courts that are not referred by law to other civil judicial authority. It shall also be the first and last instance court for dealing with specific cases prescribed by law.

(As amended on April 16, 2017; Act No. 6771)  
Members of the High Court of Appeals shall be appointed by the Council of Judges and Prosecutors from among first category judges and public prosecutors of the civil judiciary, or those considered members of this profession, by secret ballot and by an absolute majority of the total number of members.

The First President, first deputy presidents and heads of departments shall be elected by the Plenary of the High Court of Appeals from among its own members, for a term of four years, by secret ballot and by an absolute majority of the total number of members; they may be re-elected at the end of their term of office.

The Chief Public Prosecutor and the Deputy Chief Public Prosecutor of the High Court of Appeals shall be appointed by the President of the Republic for a term of four years from among five candidates nominated for each office by the Plenary of the High Court of Appeals from among its own members by secret ballot. They may be re-elected at the end of their term of office.

The organization and the functioning of the High Court of Appeals, the qualifications and procedures of the election of its president, deputy presidents, heads of departments, members, Chief Public Prosecutor



and Deputy Chief Public Prosecutor shall be regulated by law in accordance with the principles of the independence of courts and the security of tenure of judges.

### **C. Council of State**

**ARTICLE 155-** The Council of State is the last instance for reviewing decisions and judgments given by administrative courts and not referred by law to other administrative courts. It shall also be the first and last instance for dealing with specific cases prescribed by law.

(As amended on August 13, 1999; Act No. 4446; on April 16, 2017; Act No. 6771) The Council of State shall try administrative cases, give its opinion within two months on the conditions and the contracts under which concessions are granted concerning public services, settle administrative disputes, and discharge other duties prescribed by law.

(As amended on April 16, 2017; Act No. 6771) Three- fourths of the members of the Council of State shall be appointed by the Council of Judges and Prosecutors from among the first category administrative judges and public prosecutors, or those considered to be of this profession; and the remaining quarter by the President of the Republic from among officials meeting the requirements designated by law.

The President, Chief Public Prosecutor, deputy presidents, and heads of departments of the Council of State shall be elected by the Plenary of the Council of State from among its own members for a term of four years by secret ballot and by an absolute majority of the total number of members. They may be re-elected at the end of their term of office.

The organization and functioning of the Council of State, the qualifications and procedures of election of its President, Chief Public Prosecutor, deputy presidents, heads of departments, and members, shall be regulated by law in accordance with the principles of specific nature of the administrative jurisdiction, and of the independence of the courts and the security of tenure of judges.

#### **D. High Military Court of Appeals**

**ARTICLE 156-** (Repealed on April 16, 2017; Act No. 6771)

#### **E. High Military Administrative Court**

**ARTICLE 157-** (Repealed on April 16, 2017; Act No. 6771)

#### **F. Court of Jurisdictional Disputes**

**ARTICLE 158-** (As amended on April 16, 2017; Act No. 6771) The Court of Jurisdictional Disputes shall

be empowered to deliver final judgments in disputes between civil and administrative courts concerning their jurisdiction and judgments.

The organization of the Court of Jurisdictional Disputes, the qualifications and electoral procedure of its members, and its functioning shall be regulated by law. The office of president of this Court shall be held by a member delegated by the Constitutional Court from among its own members.

Decisions of the Constitutional Court shall take precedence in jurisdictional disputes between the Constitutional Court and other courts.

### **III. Council of Judges and Prosecutors<sup>21</sup>**

**ARTICLE 159-** (As amended on September 12, 2010; Act No. 5982, April 16, 2017; Act No. 6771)

(As amended on April 16, 2017; Act No. 6771)  
Council of Judges and Prosecutors shall be established and shall exercise its functions in accordance with the principles of the independence of the courts and the security of the tenure of judges.

(As amended on April 16, 2017; Act No. 6771)  
Council of Judges and Prosecutors shall be composed of thirteen members; shall comprise two chambers.

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<sup>21</sup> The phrase "High" was removed by the fourteenth Article of Act No. 6771 dated April 16, 2017.

(As amended on April 16, 2017; Act No. 6771) The President of the Council is the Minister of Justice. The Undersecretary to the Ministry of Justice shall be an ex-officio member of the Council. Three members of the Council shall be appointed among first category civil judges and public prosecutors not having lost the qualification to be reserved in the first category and one member shall be appointed among first category administrative judges and public prosecutors not having lost the qualification to be reserved in the first category by the President of the Republic; three members shall be elected among the members of the High Court of Appeals; one member shall be elected among the members of the Council of State and three members shall be elected among teaching staff working in the field of law at higher education institutions and lawyers, whose qualifications specified in law by the Grand National Assembly of Turkey. Among the members elected from the teaching staff and lawyers, at least one member shall be a teaching staff and one member shall be a lawyer. The applications for the membership of the Council to be elected by the Grand National Assembly of Turkey shall be made to the Office of the Speaker of the Assembly. The applications shall be referred by the Office of the Speaker to the Joint Committee composed of the members of the Committee on the Constitution

and the Committee on Justice. For each membership, the Committee shall nominate three candidates with a two-third majority of total number of its members. In case the Committee fails to conclude the nomination of candidates in the first ballot, a three-fifth majority of total number of its members shall be required in the second ballot. If the candidates cannot also be nominated in the second ballot, the procedure of nomination shall be concluded by lot between the two candidates who received the highest number of votes for each membership. The Grand National Assembly shall hold separate elections by secret ballot for each membership between the candidates nominated by the Committee. Two-third majority of total number of the members shall be required in the first ballot; in case the election cannot be concluded three-fifth majority of total number of the members shall be required in the second ballot. In case the member cannot also be elected in the second ballot, the election of the members shall be concluded by lot between the two candidates who received the highest number of votes.<sup>22</sup>

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22 *The phrase "...economics and political sciences..." following the phrase "law," in the third sentence of this paragraph before the amendment made by fourteenth Article of Act No. 6771, and the phrase ".high level executives." following the phrase "the teaching staff," in the same sentence were annulled by the decision of the Constitutional Court dated July 7, 2010 numbered E. 2010/49, K. 2010/87 (Official Gazette numbered 27659 of August 1, 2010).*

(As amended on April 16, 2017; Act No. 6771)  
Members shall be elected for a term of four years. Members may be once re-elected at the end of their term of office.

(As amended on April 16, 2017; Act No. 6771)  
Election of members to the Council shall be held within thirty days before the members' term of office expires. If a vacancy arises in the Council before elected members' term of office expires, new members shall be elected within thirty days following such vacancy.<sup>23</sup>

(As amended on April 16, 2017; Act No. 6771)  
The members of the Council other than the Minister of Justice and the Undersecretary to the Ministry of Justice shall not assume any office except those specified by law or be appointed or elected by the Council to another office during their term of office.

The administration and representation of the Council shall be carried out by the President of the Council. The President of the Council shall not participate in the works of the chambers. The Council shall elect the heads of chambers from among its

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<sup>23</sup> The phrase "...for only one candidate..." following the phrase "each judge and public prosecutor;" before the amendments made by fourteenth Article of Act No. 6771 was annulled by the decision of the Constitutional Court dated July 7, 2010 numbered E. 2010/49, K. 2010/87 (Official Gazette numbered 27659 of August 1, 2010).

members and one Deputy President from among the heads of chambers. The President may delegate some of his/her powers to the Deputy President.

The Council shall conduct the proceedings regarding the admission to the profession of judges and public prosecutors of civil and administrative courts, appointment, transferring to other posts, delegation of temporary powers, promotion, and being reserved to the first category, decisions concerning those whose continuation in the profession is found to be unsuitable, the imposition of disciplinary penalties and removal from office; the Council shall take final decisions on proposals of the Ministry of Justice concerning the abolition of a court, or changes in the territorial jurisdiction of a court; it shall also exercise the other functions given to it by the Constitution and laws.

(As amended on April 16, 2017; Act No. 6771) Supervising whether the judges and public prosecutors perform their duties in accordance with laws and other regulations (administrative circulars, in the case of judges); investigating whether they have committed offences in connection with, or in the course of their duties, whether their behaviour and conduct are in conformity with requirement of their status and duties and if necessary, inquiries and investigations concerning them shall be assigned to the Council's inspectors, upon the proposal of the

related chambers and with the permission of the President of the Council of Judges and Prosecutors. The inquiries and investigations may also be assigned to a judge or public prosecutor who is senior to the judge or public prosecutor to be investigated.

The decisions of the Council, other than dismissal from the profession, shall not be subject to judicial review.

A Secretariat General shall be established under the Council. The Secretary General shall be appointed by the President of the Council from among three candidates proposed by the Council from among first category judges and public prosecutors. The Council shall be empowered to appoint, with their consent, the Council's inspectors, and judges and public prosecutors to be temporarily or permanently assigned to the Council

The Minister of Justice is empowered to appoint judges, public prosecutors, judiciary inspectors, and internal auditors having the profession of judgeship and prosecutorship, with their consent, to temporary or permanent functions in the central, subordinate or affiliated institutions of the Ministry of Justice.

The election of the members of the Council, formation of the chambers and the division of labour between chambers, the duties of the Council and



its chambers, quorum for meetings and decisions, operating procedures and principles, objections to be made against the decisions and proceedings of the chambers and the examination procedure for these objections, and the establishment and the duties of the Secretariat General shall be laid down in law.

#### **IV. Court of Accounts**

**ARTICLE 160-** (As amended on October 29, 2005; Act No. 5428) The Court of Accounts shall be charged with auditing, on behalf of the Grand National Assembly of Turkey, revenues, expenditures, and assets of the public administrations financed by central government budget and social security institutions, with taking final decisions on the accounts and acts of the responsible officials, and with exercising the functions prescribed in laws in matters of inquiry, auditing and judgment. Those concerned may file, only for once, a request for reconsideration of a final decision of the Court of Accounts within fifteen days of the date of written notification of the decision. No applications for judicial review of such decisions shall be filed in administrative courts.

In case of conflict between the decisions of the Council of State and the Court of Accounts, regarding taxes, similar financial obligations and duties, the decision of Council of State shall prevail.

(Paragraph added on October 29, 2005; Act No. 5428) Auditing and final decision on the accounts and acts of local administrations shall be conducted by the Court of Accounts.

The establishment, functioning, auditing procedures, qualifications, appointments, duties and powers, rights and obligations and other personnel matters of the members and guarantees of the President and the members of the Court shall be regulated by law.

(Paragraph repealed on May 7, 2004; Act No. 5170)

**PART FOUR**  
**Financial and Economic Provisions**

**CHAPTER ONE**  
**Financial Provisions**

**I. Budget**

**A. Budget and final accounts<sup>24</sup>**

**ARTICLE 161-** (As amended on October 29, 2005; Act No. 5428, April 16, 2017; Act No. 6771)

The expenditure of the State and of public corporations other than state economic enterprises shall be determined by annual budgets.

The beginning of the fiscal year and the preparation, implementation and control of the central government budget and the special periods and procedures for investments as well as works and services expected to last more than one year shall be regulated by law. No provisions other than those pertaining to the budget shall be included in the Budget Act.

The President of the Republic shall submit budget bill to the Grand National Assembly of Turkey at least seventy-five days before the beginning of the

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<sup>24</sup> *The heading of this Article, which was stipulated as "A. Preparation and implementation of the budget" was amended by the fifteenth Article of Act No. 6771 dated April 16, 2017.*

fiscal year. The budget bill shall be debated at the Committee on Budget. The budget bill adopted by the Committee within fifty-five days shall thereafter be debated and adopted by the Plenary before the beginning of the fiscal year.

If the budget law cannot be put into force within due period, the provisional budget law shall be enacted. If the provisional budget law cannot also be enacted, the budget of the previous year shall be applied increasingly as per the revaluation rate until the new budget law is adopted.

Members of the Grand National Assembly of Turkey may express their opinions in the Plenary on budgets of public administrations during the debates on each budget, but shall not make proposals that entail an increase in expenditure or a decrease in revenue.

Budgets of the public administrations and the motions for amendments shall be read out and voted without further debate in the Plenary.

The appropriation granted by the central government budget shall indicate the limit of expenditure allowed. No provision shall be included in the Budget Act to the effect that the limit of expenditure may be exceeded by presidential decree.

In motions of amendment entailing an increase in appropriations under the budget of the current fiscal year and bills entailing financial burden in the budgets of the current or following fiscal year, the financial resources to meet the stated expenditure shall be indicated.

Central government final accounts bills shall be submitted to the Grand National Assembly of Turkey by the President of the Republic within six months of the end of the relevant fiscal year. The Court of Accounts shall submit its statement of general conformity to the Grand National Assembly of Turkey within seventy-five days of the submission of the final accounts bill to which it is related.

The submission of the final accounts bills and the statement of general conformity to the Grand National Assembly of Turkey shall not preclude the auditing and trial of the accounts for the relevant fiscal year that have not been concluded by the Court of Accounts, and shall not mean that a final decision has been taken on these accounts.

The final accounts bill shall be debated and adopted together with the budget bill of the new fiscal year.

**B. Debate on the budget**

**ARTICLE 162-** (Repealed on April 16, 2017; Act No. 6771)

**C. Principles governing budgetary amendments**

**ARTICLE 163-** (Repealed on April 16, 2017; Act No. 6771)

**D. Final accounts**

**ARTICLE 164-** (Repealed on April 16, 2017; Act No. 6771)

**E. Scrutiny of state economic enterprises**

**ARTICLE 165-** The principles governing the scrutiny of the accounts of public institutions and partnerships where more than half of the capital directly or indirectly belongs to the State, by the Grand National Assembly of Turkey, shall be regulated by law.

## CHAPTER TWO

### Economic Provisions

#### I. Planning; Economic and Social Council<sup>25</sup>

**ARTICLE 166-** Planning the economic, social and cultural development, in particular the rapid, balanced and harmonious development of industry and agriculture throughout the country and the efficient use of national resources by taking inventory of and evaluating them, and the establishment of the necessary organization for this purpose are the duties of the State.

Measures to increase national savings and production, to ensure stability in prices and balance in external payments, to promote investment and employment shall be included in the plan; in investments, public interests and necessities shall be taken into account and the efficient use of resources shall be proposed. Development activities shall be realized according to this plan.

The procedure and principles governing the preparation of development plans, their approval by the Grand National Assembly of Turkey, their implementation and revision, and the prevention of amendments disrupting the unity of the plan shall be regulated by law.

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<sup>25</sup> The phrase; “Economic and Social Council” was added by the twenty third Article of Act No. 5982 dated September 12, 2010.

(Paragraph added on September 12, 2010; Act No. 5982; as amended on April 16, 2017; Act No. 6771) The Economic and Social Council shall be established to provide the President of the Republic with consultative opinions in the formulation of economic and social policies. The establishment and functioning of the Economic and Social Council shall be laid down in law.

## **II. Supervision of markets and regulation of foreign trade**

**ARTICLE 167-** The State shall take measures to ensure and promote the sound and orderly functioning of the markets for money, credit, capital, goods and services; and shall prevent the formation of monopolies and cartels in the markets, emerged in practice or by agreement.

(As amended on April 16, 2017; Act No. 6771) In order to regulate foreign trade for the benefit of the economy of the country, President of the Republic may be empowered by law to introduce additional financial impositions on imports, exports and other foreign trade transactions, except taxes and similar impositions, or to lift them.

## **III. Exploration and exploitation of natural resources**

**ARTICLE 168-** Natural wealth and resources shall be under the authority and at the disposal of the State.



The right to explore and exploit these belongs to the State. The State may delegate this right to persons or corporate bodies for a certain period. Of the natural wealth and resources, those to be explored and exploited by the state in partnership with persons or corporate bodies, and those to be directly explored and exploited by persons or corporate bodies shall be subject to the explicit permission of the law. The conditions to be observed in such cases by persons and corporate bodies, the procedure and principles governing supervision and control by the State, and the sanctions to be applied shall be prescribed by law.

#### **IV. Forests and the forest villagers**

##### **A. Protection and development of forests**

**ARTICLE 169-** The State shall enact the necessary legislation and take the measures required for the protection and extension of forests. Burnt forest areas shall be reforested; other agricultural and stockbreeding activities shall not be allowed in such areas. All forests shall be under the care and supervision of the State.

The ownership of state forests shall not be transferred. State forests shall be managed and exploited by the State in accordance with the law. Ownership of these forests shall not be acquired by

prescription, nor shall servitude other than that in the public interest be imposed in respect of such forests.

Acts and actions that might damage forests shall not be permitted. No political propaganda that might lead to the destruction of forests shall be made; no amnesties or pardons specifically for offences against forests shall be granted. Offences committed with the intention of burning or destroying forests or reducing forest areas shall not be included within the scope of amnesties or pardons.

The reducing of forest areas shall be prohibited, except in respect of areas whose preservation as forests is considered scientifically and technically useless but conversion into agricultural land has been found to be definitely advantageous, and in respect of fields, vineyards, orchards, olive groves or similar areas which technically and scientifically ceased to be forest before December 31, 1981 and whose use for agricultural or stockbreeding purposes has been found advantageous, and in respect of built-up areas in the vicinity of cities, towns or villages.

### **B. Protection of forest villagers**

**ARTICLE 170-** Measures shall be introduced by law to secure cooperation between the State and the inhabitants of villages located in or near forests in the supervision and exploitation of forests for the

purpose of ensuring conservation of forests and their integrity, and improving the living conditions of these inhabitants; the law shall also regulate the exploitation of areas which technically and scientifically ceased to be forests before December 31, 1981; the identification of areas whose preservation as forest is considered scientifically and technically useless, their exclusion from forest boundaries and their improvement by the State for the purpose of settling all or some of the inhabitants of forest villages in them, and their allocation to these villages.

The State shall take measures to facilitate the acquisition of equipment and other inputs by these inhabitants.

The land owned by villagers resettled outside a forest shall immediately be reafforested as a State forest.

## **V. Developing cooperativism**

**ARTICLE 171-** The State shall take measures, in keeping with national economic interests, to ensure the development of cooperativism, which shall be primarily aiming at increase in production and protection of consumers.

(Repealed on July 23, 1995; Act No. 4121)

**VI. Protection of consumers, tradespeople and artisans**

**A. Protection of consumers**

**ARTICLE 172-** The State shall take measures to protect and inform consumers; shall encourage their initiatives to protect themselves.

**B. Protection of tradespeople and artisans**

**ARTICLE 173-** The State shall take measures to protect and support tradespeople and artisans.

## **PART FIVE**

### **Miscellaneous Provisions**

#### **I. Preservation of Reform Laws**

**ARTICLE 174-** No provision of the Constitution shall be construed or interpreted as rendering unconstitutional the Reform Laws indicated below, which aim to raise Turkish society above the level of contemporary civilization and to safeguard the secular character of the Republic, and whose provisions were in force on the date of the adoption of the Constitution by referendum:

1. Act No. 430 of March 3, 1340 (1924) on the Unification of the Educational System,

2. Act No. 671 of November 25, 1341 (1925) on the Wearing of Hats,

3. Act No. 677 of November 30, 1341 (1925) on the Closure of Dervish Monasteries and Tombs, the Abolition of the Office of Keeper of Tombs and the Abolition and Prohibition of Certain Titles,

4. The principle of civil marriage according to which the marriage act shall be concluded in the presence of the competent official, adopted with the Turkish Civil Code No. 743 of February 17, 1926, and Article 110 of the Code,

5. Act No. 1288 of May 20, 1928 on the Adoption of International Numerals,

6. Act No. 1353 of November 1, 1928 on the Adoption and Application of the Turkish Alphabet,

7. Act No. 2590 of November 26, 1934 on the Abolition of Titles and Appellations such as Efendi, Bey or Pasha,

8. Act No. 2596 of December 3, 1934 on the Prohibition of the Wearing of Certain Garments.

## **PART SIX**

### **Provisional Articles**

**PROVISIONAL ARTICLE 1-** On the duly proclamation of the adoption of the Constitution as the Constitution of the Republic of Turkey by referendum, the Chairperson of the Council of National Security and Head of State at the time of the referendum, shall assume the title of President of the Republic and shall exercise the constitutional functions and powers of the President of the Republic for a period of seven years. The oath taken as Head of State on September 18, 1980 shall remain valid. At the end of the period of seven years, the election for the Presidency of the Republic shall be held in accordance with the provisions set forth in the Constitution.

The President of the Republic shall also hold the chairpersonship of the Council of National Security formed on December 12, 1980, under Act No. 2356, until the convening of the Grand National Assembly of Turkey and the formation of the Bureau following the first general elections.

If the Presidency of the Republic falls vacant for any reason before the Grand National Assembly of Turkey convenes and assumes its functions at the end of the first general elections, the most senior member of the National Security Council shall act as President of the

Republic and exercise all his constitutional functions and powers until the Grand National Assembly of Turkey convenes and elects a new President of the Republic in accordance with the Constitution.

**PROVISIONAL ARTICLE 2-** The Council of National Security formed on December 12, 1980 under Act No. 2356 shall continue to exercise its functions under Act No. 2324 on the Constitutional Order and Act No. 2485 on the Constituent Assembly until the convening of the Grand National Assembly of Turkey and the formation of the Bureau following the first general elections held under the Political Parties Act and the Elections Act prepared in accordance with the Constitution.

After the adoption of the Constitution, Article 3 of Act No. 2356 relating to the procedure for winning a seat on the Council of National Security that falls vacant for any reason shall cease to apply.

After the Grand National Assembly of Turkey has convened and assumed its functions, the Council of National Security shall become the Presidential Council for a period of six years, and the members of the Council of National Security shall acquire the title of members of the Presidential Council. The oath they took on September 18, 1980 as members of the Council of National Security shall remain valid. Members of



the Presidential Council shall enjoy the rights and immunities conferred by the Constitution on members of the Grand National Assembly of Turkey. The legal existence of the Presidential Council shall terminate on the expiry of the period of six years.

The functions of the Presidential Council shall be as follows:

a) To examine laws adopted by the Grand National Assembly of Turkey and submitted to the President of the Republic concerning: the fundamental rights and freedoms and duties set forth in the Constitution, the principle of secularism, the preservation of the reforms of Atatürk, national security and public order, the Turkish Radio and Television Corporation, international treaties, the sending of armed forces to foreign countries and the admission of foreign forces in Turkey, emergency rule, martial law and the state of war, and other laws deemed necessary by the President of the Republic, within the first ten days of the period of fifteen days granted to the President of the Republic for his consideration;

b) On the request of the President of the Republic and within the period specified by him:

To consider and give an opinion on matters relating to the renewal of general elections, the exercise of emergency rule and the measures to be taken during a state of emergency, the management and supervision of the Turkish Radio and Television Corporation, the training of the youth and the conduct of religious affairs;

c) According to the request of the President of the Republic, to consider and investigate matters relating to internal or external security and such other matters deemed necessary, and to submit its findings to the President of the Republic.

**PROVISIONAL ARTICLE 3-** On the convening of the Grand National Assembly of Turkey and the formation of the Bureau following the first general elections held in accordance with the Constitution:

a) Act No. 2324 of October 27, 1980 on the Constitutional Order,

b) Act No. 2356 of December 12, 1980 on the Council of National Security,

c) Act No. 2485 of June 29, 1981 on the Constituent Assembly,

shall cease to have effect and the legal existence of the Council of National Security and the Consultative Assembly shall terminate.

**PROVISIONAL ARTICLE 4-** (Repealed on September 6, 1987; Act No. 3361)

**PROVISIONAL ARTICLE 5-** On the tenth day following proclamation of the results of the first general elections by the Supreme Board of Election, the Grand National Assembly of Turkey shall convene of its own accord at the building of the Grand National Assembly of Turkey in Ankara at 15.00 hours. The eldest deputy shall preside this session. At this session, the deputies shall take their oaths.

**PROVISIONAL ARTICLE 6-** Until the Grand National Assembly of Turkey, formed in accordance with the Constitution, adopts the Rules of Procedure, which shall govern its sessions and proceedings, those provisions of the Rules of Procedure of the National Assembly that were in force before September 12, 1980, and that are not contrary to the Constitution shall apply.

**PROVISIONAL ARTICLE 7-** The present Council of Ministers shall continue in office until the convening of the Grand National Assembly of Turkey and the formation of the new Council of Ministers following the first general elections.

**PROVISIONAL ARTICLE 8-** Laws relating to the formation, duties, powers and functioning of the new

organs, institutions and agencies established under the Constitution and other laws whose introduction or amendment is provided for in the Constitution, shall be enacted during the period of Constituent Assembly, starting from the date of the adoption of the Constitution; laws that cannot be dealt with during this period shall be enacted within the year following the first session of the newly elected Grand National Assembly of Turkey.

**PROVISIONAL ARTICLE 9-** Within a period of six years following the formation of the Bureau of the Grand National Assembly of Turkey, which is to convene after the first general elections, the President of the Republic may send back to the Grand National Assembly of Turkey any constitutional amendments. In this case, the re-submission of the constitutional amendment in its unchanged form to the President of the Republic by the Grand National Assembly of Turkey is only possible with a three-fourths majority of the votes of the total number of members.

**PROVISIONAL ARTICLE 10-** Local elections shall be held within a year of the first session of the Grand National Assembly of Turkey.

**PROVISIONAL ARTICLE 11-** Regular and substitute members of the Constitutional Court who were in office on the date of the adoption of the

Constitution by referendum shall continue to hold office and exercise their functions. The members previously elected by the Constitutional Court to specific offices shall retain the status thus acquired.

No election shall be held to fill the vacant seats of the regular members of the Constitutional Court until the number of these members falls to eleven, nor shall an election be held to fill the vacant seats of substitute members until the total number of regular and substitute members falls to fifteen. Until the Constitutional Court adapts to the new system, the principles and order of precedence set forth in the Constitution shall be observed in the elections which are to be held because the number of regular members has fallen below eleven, or because the total number of regular and substitute members as fallen below fifteen.

Until the number of regular members of the Constitutional Court falls to eleven, the quorum prescribed by Act No. 44 of April 22, 1962, shall be observed in all cases and proceedings.

**PROVISIONAL ARTICLE 12-** Persons appointed by the Head of State as regular and substitute members of the High Council of Judges and Prosecutors from among the members of the High Court of Appeals and the Council of State under Provisional Article 1

of Act No. 2461 of May 13, 1981, on the High Council of Judges and Prosecutors; as Chief Public Prosecutor and Deputy Chief Public Prosecutor in accordance with the Provisional Article appended to Act No. 1730 on the High Court of Appeals under Act No. 2483 of June 25, 1981; and as President, Chief Public Prosecutor, deputy presidents and heads of division of the Council of State under Provisional Article 14, paragraph 2 of Act No. 2575 of January 6, 1982 on the Council of State shall continue to exercise their functions until the end of the term of office for which they were elected.

The provisions of the provisional articles of Act No. 2576 of 6 January 1982 concerning the appointment of the presidents and members of administrative courts shall also remain in force.

**PROVISIONAL ARTICLE 13-** The elections of one regular and one substitute member to be elected to the High Council of Judges and Prosecutors from among the members of the High Court of Appeals shall take place in twenty days following the entry into force of the Constitution.

Until the elected members assume the office, the quorum for meetings of the Council shall be met with the participation of substitute members.

**PROVISIONAL ARTICLE 14-** The obligation of the unions to deposit their revenues in the state banks shall be fulfilled within two years of the entry into force of the Constitution, at the latest.

**PROVISIONAL ARTICLE 15-** (Repealed on September 12, 2010; Act No. 5982)

**PROVISIONAL ARTICLE 16-** Persons who fail to participate in the referendum on the Constitution without valid legal or actual reasons despite being entitled to vote and being included in the register of electors and the polling station register compiled for the referendum, shall neither participate nor stand for election in general elections, by-elections, local elections or referendums for a period of five years following the referendum on the Constitution.

**PROVISIONAL ARTICLE 17-** (Added on May 10, 2007; Act No. 5659)

In the first general elections held after the entry into force of this Act on the addition of a provisional article to the Turkish Constitution, the last paragraph of Article 67 of the Constitution shall not be applied to the provisions of Parliamentary Elections Act No. 2839, dated June 10, 1983, concerning the inclusion of independent candidates on joint ballot paper.

**PROVISIONAL ARTICLE 18-** (Added on September 12, 2010; Act No. 5982)

The current substitute members of the Constitutional Court shall acquire the status of regular members on the date of entry into force of this Act.

Within thirty days of the date of entry into force of this Act, the Grand National Assembly of Turkey shall elect one member each from among three candidates nominated by the Plenary of the Court of Accounts and the heads of bar associations.

In order to nominate candidates for the election of the members to be held by the Grand National Assembly of Turkey:

a) The President of the Court of Accounts shall announce the beginning of the application process for candidacy within five days of the date of entry into force of this Act. Candidates shall apply to the Presidency within five days of the announcement. The Plenary of the Court of Accounts shall hold elections within five days of the final date of application. The three candidates obtaining the greatest number of votes shall be nominated in these elections in which each member of the Court of Accounts may vote.<sup>26</sup>

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<sup>26</sup> The phrase "...for only one candidate..." following the phrase "Each member of the Court of Accounts" in the last sentence of this subparagraph was annulled by the decision of the Constitutional



b) The Head of the Turkish Union of Bar Associations shall announce the beginning of the application process for candidacy within five days of the date of entry into force of this Act. Candidates shall apply to the Turkish Union of Bar Associations within five days of announcement. The election shall be held at the place and time indicated in the announcement of the Turkish Union of Bar Association within five days following the final date of application by the heads of the Bar Associations. The three candidates obtaining the greatest number of votes shall be nominated in these elections in which each head of bar may vote.<sup>27</sup>

c) The names of those nominated through the elections held in accordance with subparagraphs (a) and (b) shall be notified to the Office of the Speaker of the Grand National Assembly of Turkey by the Presidency of the Court of Accounts and of the Turkish Union of Bar Associations on the day following the elections.

d) Elections shall be held at the Grand National Assembly of Turkey within ten days of the notification made in accordance with subparagraph (c). In

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Court dated July 7, 2010 numbered E. 2010/49, K. 2010/87 (Official Gazette numbered 27659 of August 1, 2010).

27 The phrase “.for only one candidate.” following the phrase “Each head of bar” in the last sentence of this subparagraph was annulled by the decision of the Constitutional Court dated July 7, 2010 numbered E. 2010/49, K. 2010/87 (Official Gazette numbered 27659 of August 1, 2010).

elections held for each vacant position, a two-thirds majority of the total number of members in the first ballot and the absolute majority of the total number of members is required in the second ballot; in case the absolute majority of the total number of members is not attained in the second ballot, a third ballot shall be held between two candidates obtaining the greatest number of votes in the second ballot; the candidate who obtains the greatest number of votes in the third ballot shall be elected.

Following the vacancy of the positions allocated to the High Court of Appeals and the Council of State, the President of the Republic shall choose one member for each vacancy, from among three candidates to be nominated for each vacant position by the Council of Higher Education from among members of the teaching staff in the fields of law, economics and political sciences who are not members of the Council of Higher Education.

The current members, as well as substitute members elected from the quotas allocated to institutions that have nominated members for the Constitutional Court shall be taken into consideration in the final election.

The status of those who have been appointed to certain posts in the Constitutional Court shall continue until the end of their term of office. Those who are members on the date of entry into force of this Act shall continue in their post until the statutory age limit.

Necessary legal arrangements on individual applications shall be completed within two years. Individual applications shall be accepted as from the date of the entry into force of the implementing law.

**PROVISIONAL ARTICLE 19-** (Added on September 12, 2010; Act No. 5982)

The members of the High Council of Judges and Prosecutors shall be elected within thirty days as of the date of entry into force of this Act in accordance with the principles and procedures indicated below:

a) President of the Republic shall appoint four members, for whom there is no impediment to becoming a judge, from among teaching staff working in the field of law for at least fifteen years and lawyers who have completed fifteen years of active Professional service.<sup>28</sup>

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<sup>28</sup> The phrase "...economics and political sciences..." following the phrase "law,", and the phrase ".high level executives." following the phrase "teaching staff" in the first sentence of this sub-paragraph, and the second sentence "The President of

b) The Plenary of the High Court of Appeals shall select three regular and two substitute members from among members of the Court. The First President of the High Court of Appeals shall announce the beginning of the application process for candidacy within seven days of the entry into force of this Act. The candidates shall apply to the First Presidency within seven days of the date of the announcement. The Plenary of the High Court of Appeals shall hold elections within fifteen days from the final date of application. In the elections, where each member of the High Court of Appeals may vote, the candidates with the greatest number of votes are elected as regular and substitute members respectively.<sup>29</sup>

c) The Plenary of the Council of State shall select one regular and one substitute member from among members of the Court. The President of the Council of

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the Republic shall elect member of the Council, to be elected from high level executives, from among take office as minister, undersecretary to ministry, deputy undersecretary to ministry, governor, General Secretary of the Presidency, and director-general of public institutions, head of supervisory board.” were annulled by the decision of the Constitutional Court dated July 7, 2010 numbered E. 2010/49, K. 2010/87 (Official Gazette numbered 27659 of August 1, 2010).

29 The phrase “.for only a member.” following the phrase “Each member of the High Court of Appeals” in the last sentence of this subparagraph was annulled by the decision of the Constitutional Court dated July 7, 2010 numbered E. 2010/49, K. 2010/87 (Official Gazette numbered 27659 of August 1, 2010).

State shall announce the beginning of the application process for candidacy within seven days of the entry into force of this Act. The candidates shall apply to the Presidency within seven days of the date of the announcement. The Plenary of the Council of State shall hold elections within fifteen days from the final date of application. In the elections, where each member of the Council of State may vote, the candidates with the greatest number of votes are elected as regular and substitute members respectively.<sup>30</sup> ç) The Plenary of the Turkish Justice Academy shall select one regular and one substitute member from among its members to the Supreme Council of Judges and Prosecutors. The President of the Justice Academy of Turkey shall announce the beginning of the application process for candidacy within seven days of the entry into force of this Act. The candidates shall apply to the Presidency within seven days of the date of the announcement. The Plenary of the Justice Academy of Turkey shall hold elections within fifteen days from the final date of application. In the elections, where each member may vote, the candidates with the greatest number of votes are elected as regular and substitute members

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30 The phrase “.for only a member.” following the phrase “Each member of the Council of State” in the last sentence of this subparagraph was annulled by the decision of the Constitutional Court dated July 7, 2010 numbered E. 2010/49, K. 2010/87 (Official Gazette numbered 27659 of August 1, 2010).

respectively.<sup>31</sup>

d) Seven regular and four substitute members shall be elected by civil judges and public prosecutors under the direction and supervision of the Supreme Board of Election from among civil judges and public prosecutors who are first category judges and have not lost the qualifications for being first category judges. Within five days of the date of entry into force of this Act, the Supreme Board of Election shall announce the beginning of the application process for candidacy. The candidates shall apply within three days of the date of announcement. The Supreme Board of Election shall examine the applications, finalize and announce the list of candidates within two days following the expiry of the date of application. Objections to this list may be made within the following two days. The objections shall be examined and finalized and the definitive list of candidates shall be announced within two days following the expiry of the objection period. Judges and public prosecutors working in provinces or districts shall vote in elections to be held, under the direction and supervision of the provincial election boards, in each province and district on the

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<sup>31</sup> The phrase “.for only a member.” following the phrase “Each member” in the last sentence of this subparagraph was annulled by the decision of the Constitutional Court dated July 7, 2010 numbered E. 2010/49, K. 2010/87 (Official Gazette numbered 27659 of August 1, 2010).

second Sunday following the date of announcement of the definitive list by the Supreme Board of Election. The provincial election boards shall establish ballot box committees according to the number of judges and public prosecutors that are to vote in that province. Provincial election boards shall decide on complaints and objections about proceedings, measures, and decisions of the ballot box committees. Candidates shall not conduct campaigns; they may post their resume on an internet site allocated for this purpose within the framework of the principles and procedures defined by the Supreme Board of Election. The candidates obtaining the greatest number of votes are elected as regular and substitute members respectively. The Supreme Board of Election shall determine other matters concerning the ballot papers. The Supreme Board of Election may have the ballot papers printed or may have these printed through provincial election boards as it may deem appropriate. In the elections to be held, the provisions of the Act No. 298, Basic Rules on Elections and Voting Registers, dated April 4, 1961, that are not in conflict with this subparagraph shall apply.<sup>32</sup>

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32 The eleventh sentence in the this subparagraph “Each electorate shall vote for only one candidate in this elections.” was annulled by the decision of the Constitutional Court dated July 7, 2010 numbered E. 2010/49, K. 2010/87 (Official Gazette numbered 27659 of August 1, 2010).

e) Three regular and two substitute members shall be elected by civil judges and public prosecutors under the direction and supervision of the Supreme Board of Election from among civil judges and public prosecutors who are first category judges and have not lost the qualifications for being first category judges. In the elections, in provinces where there are regional administrative courts, held under the direction and supervision of the provincial election boards, judges and public prosecutors working in these regional administrative courts and in courts subject to authority of those courts shall vote. The provisions of subparagraph (d) shall apply to these elections as well.

The regular members of the High Council of Judges and Prosecutors elected in accordance with subparagraphs (a), (ç), (d) and (e) of the first paragraph, shall begin to hold office on the working day following the date of entry into force of this Act.

Regular and substitute members of the High Council of Judges and Prosecutors elected from the High Court of Appeals and Council of State, incumbent on date of entry into force of this Act, shall continue their duties until the end of their term of office. The members elected in accordance with subparagraph (b) of the first paragraph shall replace,



in sequence, the members elected from High Court of Appeals whose term of office have expired, and the members elected in accordance with subparagraph (c) of the first paragraph shall replace, in sequence, the members elected from Council of State whose terms of office have expired.

The term of office of the members elected according to subparagraph (b) and (c) of the first paragraph and who took office in accordance with the third paragraph ends when the term of office of those elected in accordance with subparagraph (a), (ç), (d) and (e) of the first paragraph expires.

Regular members elected to the High Council of Judges and Prosecutors shall have the same financial, social and pension rights determined for the Head of Chamber of the High Court of Appeals in the relevant legislation, until the necessary arrangements are made in related laws. Furthermore, regular members of the Council, except for the President, shall receive additional compensation on a monthly basis in the amount to be calculated by multiplying the index of 30000 by the coefficient applied to salaries of civil servants.

Until arrangements are made in the relevant laws, the High Council of Judges and Prosecutors:

a) Shall operate in the form of a board in accordance with legal provisions in force as long

as they are not contrary to the provisions of the Constitution,

b) Shall convene under the presidency of the Minister of Justice within one week following the date of holding office of the regular members in accordance with the second paragraph and shall elect a temporary deputy chairperson,

c) Shall convene with at least fifteen members and take decisions by the absolute majority of the total number of members,

d) The secretariat functions shall be conducted by the Ministry of Justice.

Until inspectors of the Council and judiciary inspectors are appointed, the existing judiciary inspectors shall carry out their duties under the title of inspector of the Council and judiciary inspector.

The provisions of this Article shall be applied until the necessary arrangements are made in the relevant laws.

**PROVISIONAL ARTICLE 20-** (Added on May 20, 2016; Act No. 6718)

The deputies about whom a file concerning the lifting of parliamentary immunity has been submitted, by the date of adoption of this article in the Grand National Assembly of Turkey, to the Ministry of

Justice, the Prime Ministry, the Office of the Speaker of the Grand National Assembly of Turkey or to the Office of the Joint Committee composed of the members of the Committee on the Constitution and the Committee on Justice by the authorities competent to investigate or permit investigations or prosecutions and the offices of public prosecutors and the courts, shall be exempt, with respect to such file, from the first sentence of the second paragraph of the Article 83 of the Constitution.

Within fifteen days of the effective date of this article, the files concerning the lifting of parliamentary immunity at the Ministry of Justice, the Prime Ministry, the Office of the Speaker of the Grand National Assembly of Turkey, the Office of the Joint Committee composed of the members of the Committee on the Constitution and the Committee on Justice shall be returned to the competent authority for the execution of the necessary procedure.

**PROVISIONAL ARTICLE 21-** (Added on April 16, 2017; Act No. 6771)

A) General election for the 27<sup>th</sup> legislative term of the Grand National Assembly of Turkey and the presidential election shall be held together on 3/11/2019. Members of the Grand National Assembly of Turkey and the President of the Republic shall

continue to serve until the election is held. If the Assembly decides to hold an election, general election for the 27<sup>th</sup> legislative term of the Grand National Assembly of Turkey and the presidential election shall be held together.

B) No later than six months after the promulgation of this Act, the Grand National Assembly of Turkey shall adopt the Rules of Procedure and other statutory regulations required by the amendments made by this Act. The amendments determined to be regulated by presidential decree shall be regulated by the President of the Republic no later than six months.

C) According to the regulation made in the 159<sup>th</sup> Article of the Constitution, members of the Council of Judges and Prosecutors shall be elected within thirty days at the latest and commence their duty on the workday following the fortieth day after the effective date of this Act. The applications shall be submitted to the Office of the Speaker within five days of the effective date of this Article. The Office of the Speaker shall refer the applications to the Joint Committee composed of the members of the Committee on the Constitution and the Committee on Justice. The Joint Committee shall designate three candidates for each membership by a two-thirds majority of the total number of its members within ten days. If the election cannot be finalized by two-thirds majority in the first

ballot, the second and third ballot shall be held; then the candidate who receives the votes of the three-fifth majority of the total number of members shall have been elected. If no candidate receives the vote of three-fifth majority, the process of nomination shall be completed by drawing names from among the candidates twice the number of members who have received the most votes in the third ballot. The Plenary of the Grand National Assembly of Turkey shall complete the election within fifteen days observing the same procedures and quorums. The members of existing High Council of Judges and Public Prosecutors shall continue to hold Office and work in accordance with the provisions of the laws in force until the new members assume office. From among the members whose term of office has expired and who have not been reelected to the Council of Judges and Prosecutors; those having been elected out of civil judges and prosecutors shall be elected by the Council of Judges and Prosecutors, at their request, to the membership of High Court of Appeals and those having been elected out of administrative judges and prosecutors to the membership of Council of State; those having been elected out of teaching staff and lawyers shall be appointed to the membership of the Council of State by the President of the Republic. Such elections and appointments shall be made irrespective of availability of vacant positions; new membership

cadres by the number of members so elected or appointed shall be supplemented to the cadres of the Court of Appeals and Council of State.

D) The members of the High Military Court of Appeals and the High Military Administrative Court who have been elected to the membership of the Constitutional Court shall continue their membership until their office terminates for any reason.

E) The High Military Court of Appeals, The High Military Administrative Court and the military courts shall be abolished as of the effective date of this Act.

Within four months of the effective date of this Act; the President, the Attorney-General, the Vice-President and the members of the High Military Court of Appeals and the High Military Administrative Court who belong to the military judge class and other military judges (except reserve officers), taking into account their preferences and acquisitions;

a) may be appointed as judges or public prosecutors in the civil or administrative judiciary by the Council of Judges and Prosecutors.

b) Judges and prosecutors who are similar to civil or administrative judges in terms of salary, supplementary indicator, appropriation, judicial benefit, supplementary payment, financial and social

rights and benefits, and with respect to the other rights and obligations by continuing to apply the provisions of the legislation in force as of the effective date of this Act, shall be appointed by the Ministry of National Defense to the legal services staff of the Ministry or to the Chief of the General Staff. The procedures and principles relating to the compensation to be paid to those who are entitled to pension and quit their offices at their own will before they reach the age limit shall be regulated by law.

Among the files in process at the abolished military judicial offices; those in the legal remedy stage shall be sent to the High Court of Appeals or the Council of State; and other files to the competent civil or administrative judicial authorities according to their relevance within four months.

F) The decrees having the force of law, regulations, bylaws issued by the Prime Ministry and the Council of Ministers and other administrative regulations that are in force as of the effective date of this Act shall remain in force unless they are repealed. The Articles 152 and 153 shall continue to be applied to the decrees having the force of law that are in force.

G) The powers granted to the Prime Minister and the Council of Ministers by laws and other regulations shall be exercised by the President of the Republic,

until amendments are made to the relevant legislation.

H) The last paragraph of the Article 67 of the Constitution shall not apply to the first election of the Grand National Assembly of Turkey and the presidential election which will be held simultaneously after the effective date of this Act.



## **PART SEVEN**

### **Final Provisions**

#### **I. Amending the Constitution, participation in elections and referenda**

**ARTICLE 175-** (As amended on May 17, 1987; Act No. 3361) Amendment to the Constitution shall be proposed in writing by at least one-third of the total number of members of the Grand National Assembly of Turkey. Bills to amend the Constitution shall be debated twice in the Plenary. The adoption of a bill for an amendment shall require a three-fifths majority of the total number of members of the Assembly by secret ballot.

The consideration and adoption of bills for the amendments to the Constitution shall be subject to the provisions governing the consideration and adoption of laws, with the exception of the conditions set forth in this Article.

The President of the Republic may send back the laws on the amendments to the Constitution to the Grand National Assembly of Turkey for reconsideration. If the Assembly readopts, by a two-thirds majority of the total number of members, the law sent back by the President of the Republic without any amendment, the President of the Republic may submit the law to referendum.

If a law on the amendment to the Constitution is adopted by a three-fifths or less than two-thirds majority of the total number of members of the Assembly and is not sent back by the President of the Republic to the Assembly for reconsideration, it shall be published in the Official Gazette and be submitted to referendum.

A law on the Constitutional amendment adopted by a two-thirds majority of the total number of members of the Grand National Assembly of Turkey directly or upon the sending back of the law by the President of the Republic or its articles deemed necessary may be submitted to a referendum by the President of the Republic. A law on the amendment to the Constitution or the related articles that are not submitted to referendum shall be published in the Official Gazette.

Entry into force of the laws on the amendment to the Constitution submitted to referendum shall require the affirmative vote of more than half of the valid votes cast.

The Grand National Assembly of Turkey, in adopting the law on the Constitutional amendment shall also decide on which provisions shall be submitted to referendum together and which shall be submitted individually, in case the law is submitted to referendum.

Every measure including fines shall be taken by law to secure participation in referenda, general elections, by-elections and local elections.

## **II. Preamble and headings of articles**

**ARTICLE 176-** The preamble, which states the basic views and principles the Constitution is based on, shall form an integral part of the Constitution.

The headings of articles merely indicate the subject matter of the articles, their order, and the connections between them. These headings shall not be regarded as a part of the text of the Constitution.

## **III. Entry into force of the Constitution**

**ARTICLE 177-** On its adoption by referendum and its publication in the Official Gazette, this Constitution shall become the Constitution of the Republic of Turkey and shall come into force in its entirety, subject to the following exceptions and the provisions relating to entry into force of these exceptions:

a) The provisions of Part Two Chapter II relating to personal liberty and security, the press and publication, and the right and freedom of assembly.

The provisions of Chapter III relating to labour, collective labour agreements, the right to strike, and lockout.

These provisions shall come into force when the relevant laws are promulgated, or when the existing laws are amended, and in any case, at the latest, when the Grand National Assembly of Turkey assumes its functions. However, until their entry into force, existing laws and the decrees and decisions of the Council of National Security shall apply.

b) The provisions of Part Two relating to political parties and the right to engage in political activities, shall come into force on the promulgation of the new Political Parties Act, which is to be prepared in accordance with these provisions.

The provisions on right to vote and to be elected shall come into force on the promulgation of the Elections Act also to be prepared in accordance with these provisions.

c) The provisions of Part Three, relating to legislative power: These provisions shall come into force on the proclamation of the results of the first general elections. However, the provisions relating to the functions and powers of the Grand National Assembly of Turkey which take place in this section shall be exercised by the Council of National Security until the Grand National Assembly of Turkey assumes its functions; the provisions of Act No. 2485 of June 29, 1981 on the Constituent Assembly being reserved.

d) The provisions of Part Three relating to the functions and powers of the President of the Republic and to the State Supervisory Council under the heading “President of the Republic”; to regulations, National Defence, procedures governing emergency rule under the heading “Council of Ministers”; to all other provisions under the heading “Administration”, except local administration, and except the Atatürk High Institution of Culture, Language and History; and all the provisions relating to the judiciary, except the State Security Courts, shall come into force on publication in the Official Gazette of the adoption by referendum of the Constitution. The provisions concerning the President of the Republic and the Council of Ministers which have not gone into effect shall come into force when the Grand National Assembly of Turkey assumes its functions; the provisions relating to local administrations and to the State Security Courts shall come into force on the promulgation of the relevant laws.

e) If new legislation, or amendments to existing legislation are required in connection with the constitutional provisions which are to come into force on the proclamation of the adoption by referendum of the Constitution or in connection with existing or future institutions, organizations and agencies, the procedure to be followed shall be

subject to those provisions of existing laws which are not unconstitutional, or to the provisions of the Constitution, in accordance with Article 11 of the Constitution.

The provision of second paragraph of Article 164 regulating the procedure for the consideration of final accounts bill shall come into force in 1984.

### **PROVISIONAL ARTICLES NOT INCLUDED IN THE CONSTITUTION OF THE REPUBLIC OF TURKEY**

#### **Provisional Article of Act No. 4709 dated October 3, 2001**

**PROVISIONAL ARTICLE-** A) The last paragraph added to the Article 67 of the Constitution by Article 24 of this Act shall not be implemented at the first general election to be held after this Act goes into effect.

B) The amendments made by Article 28 of this Act to Article 87 of the Constitution shall not apply to those who perpetrate the acts described in Article 14 of the Constitution before this Act goes into effect.

#### **Provisional Article of Act No. 4777 dated December 27, 2002**

**PROVISIONAL ARTICLE 1-** The last paragraph of Article 67 of the Constitution of the Republic of

Turkey shall not be implemented in the first by-elections to be held during the 22<sup>nd</sup> term of the Grand National Assembly of Turkey.



CODE ON ESTABLISHMENT AND RULES OF  
PROCEDURES OF THE CONSTITUTIONAL COURT

Law No : 6216  
Date of Ratification : 30/03/2011





**SECTION ONE**  
**General Provisions**  
**CHAPTER ONE**

**Aim, Scope and Definitions**

**Aim and scope**

**Article 1-** The aim and scope of this Law is to regulate the principles pertaining to the structure of the Constitutional Court, its duties, trial procedures, President, Vice Presidents and the election of its justices, disciplinary and staffing affairs and rapporteur-judges, assistant rapporteur-judges and the quality, appointment, duties and responsibilities of their staff, their disciplinary and staffing affairs.

**Definitions<sup>1</sup>**

**Article 2 - (1)** In the implementation of this Law;

a) President shall mean: the President of the Constitutional Court,

b) Presidency shall mean: the Presidency of the Constitutional Court,

c) Vice President shall mean: the justices who are

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<sup>1</sup> According to Article 232 of the Decree Law no. 703, the aforesaid amendment shall come into force once the term of office of the two elected justices from the Military Court of Cassation and the Supreme Military Administrative Court expires.

elected by the Plenary for four years to act as presidents of sections and as deputies to the President,

ç) Section shall mean: The board that is composed of six justices under the presidency of a vice president and that has the authority to convene under the vice president with the participation of four justices and make decisions regarding individual applications,<sup>(1)</sup>

d) The Plenary shall mean: The board that is composed of the fifteen justices,<sup>(1)</sup>

e) The rules of procedure shall mean: the Internal Regulation of the Constitutional Court,

f) Seniority shall mean: The time that has passed since election as a justice of the Constitutional Court or being older, in terms of age, than those that have been elected on the same date,

g) the Commission shall mean: the boards that are established so as to carry out the examination of admissibility of individual applications,

ğ) the Court shall mean: the Constitutional Court,

h) Justice shall mean: all of the justices including the president and the vice presidents,

ı) Supreme Court shall mean: The Plenary of the Court that is tasked to process persons that have been specified in clauses six and seven of Article 148 of the Constitution for crimes relating to their duties.

## CHAPTER TWO

### Duties, Authorities and the Budget of the Court

#### The duties and authorities of the court

**Article 3-(1)** The duties and authorities of the court are as follows:

a) To process actions of annulment that have been lodged upon the claim that the laws, Presidential decrees, the Rules of Procedure of the Grand National Assembly of Turkey or certain articles or provisions are in breach of the Constitution regarding their form and principle; and amendments to the Constitution regarding their form only.

b) To decide on matters that have been forwarded to it by courts by way of actions for concrete review as per Article 152 of the Constitution.

c) To make a ruling concerning individual applications that have been made as per Article 148 of the Constitution.

ç) (Amended on 2/7/2018 by Article 209 of the Decree Law no. 703) To process as the Supreme Court, the President of the Republic, the Speaker of the Grand National Assembly of Turkey, vice-presidents, ministers, the presidents and justices, chief prosecutors of the Constitutional Court, the Supreme Court of

Appeals, the Council of State, the deputy of the Chief Prosecutor of the Republic, the presidents and members of the Council of Judges and Prosecutors and the Supreme Court of Accounts, the Chief of General Staff and commanders of the Army, Navy and the Air Forces, for crimes regarding their duties.

d) To make a ruling regarding actions for the banning and deprivation from the State assistance of political parties and regarding cautionary appeals and requests for the determination of the status of dissolution.

e) To control and to ensure the performance of the control regarding the congruity with the law of acquisition of property of political parties and their revenues and expenditures.

f) In the event of decision by the Grand National Assembly of Turkey to lift the legislative immunity of members of the parliament or to revoke their status as members of the parliament or to lift the the immunity of the vice-presidents and ministers to make a ruling regarding the requests of annulment by the member of the parliament concerned or by another member of the parliament regarding a breach of the provisions of the Constitution, a law or of the Rules of Procedure of the Grand National Assembly of Turkey.

g) To elect among its justices the President of the Court of Constitution and vice presidents and the President of the Court of Disputes and the Vice President thereof.

ğ) To perform other tasks that have been assigned to it in the Constitution.

### **The budget of the Court**

**Article 4-** (1) The Court is managed with its own budget within the central administration budget.

(2) The Secretary General of the Court shall be present at the talks concerning the budget at the Grand National Assembly of Turkey.

### **Internal Regulation**

**Article 5 -** (1) Within the scope of this Law;

a) The internal order of the court, its operation, organization, working procedures, books and records that shall be kept, the order of flow of documents including electronic medium, archiving thereof, the library of the Court, its Secretariat General and the administrative organization, duties and responsibilities of administrative staff,

b) Keeping of the personnel files of the President, justices, rapporteur-judges and assistant rapporteur-

judges, disciplinary affairs, their leaves and health situations, the form and place of the robes that they shall wear,

c) Working and trial procedures and principles of the court, management and recording of sessions, shall be regulated by way of an Internal Regulation that shall be accepted by the Plenary.

(2) The Internal Regulation shall be published in the Official Gazette.

## SECTION TWO

### Justices of the Constitutional Court,

#### CHAPTER ONE

#### Qualities, Election and Appointment of the Justices

#### Composition of the Court and competence of the justices for being elected<sup>2</sup>

**Article 6-(1)** The Court is composed of fifteen justices.<sup>(1)</sup>

(2) In order to be able to be elected as a justice of the Court, one shall have one of the qualities listed below:

a) Being the president or justice of the Supreme Court of Appeals, Council of State, (...) <sup>(1)</sup> or the Supreme Court of Accounts.<sup>(1)</sup>

b) To hold office at the Court for at least five years as a rapporteur-judge.

c) To have turned forty-five years of age, accomplished higher education and not to have a condition that prevents from being accepted in the profession of justice.

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2 *According to Article 232 of the Decree Law no. 703, the amendment of the paragraph 1 of Article 6, shall come into force once the term of office of the elected two justices from the Military Court of Cassation and the Supreme Military Administrative Court expires.*



1) To have earned the title of a professor or that of an associate professor in the branches of law, economy or political sciences of higher education institutions.

2) To have worked as an independent lawyer for a duration of at least twenty years.

3) Regarding justices who will be elected from high level administrators who have worked in public service at least for twenty years, to be the president or a member of the Higher Education Council, or the rector or the dean of a higher education institution or a deputy minister, undersecretary, deputy undersecretary, ambassador or a governor,

4) To a first class judge or for prosecutors, to have worked at least for twenty years including candidacy.

### **Election of justices**

**Article 7-** (1) The Grand National Assembly of Turkey shall elect; two justices from the President and members of the Plenary of the Supreme Court of Accounts among three candidates that it shall nominate for each vacant position; and a justice from among three candidates that the chairpersons of bar associations shall nominate among independent lawyers by way of a secret voting. In such election that shall take place at the Grand National Assembly of Turkey, at the first round of votes for each vacant membership, a majority

by two thirds of the total number of justices and in the second vote, the absolute majority of the total number of justices are sought. If, in the second voting, the absolute majority cannot be achieved, a third voting for the two candidates who have received the most votes; in the third vote, the candidate that receives the most votes shall be elected as justice. The voting shall continue until equality between the candidates who have received equal number of votes in the second and third round of votes is disrupted.

(2) The President of the Republic shall appoint; three justices from the Supreme Court of Appeals, two justices from the Council of State (...) among three members that they shall nominate among their presidents and members as candidates for each of the vacant positions; three justices from among the candidates that shall be nominated by the Higher Education Council for each of the vacant positions whereby at least two thereof shall be from the teaching staff at the law, economy and political sciences branches and who are not their members; four justices among high level administrators, independent lawyers, first class judges and prosecutors and among the rapporteur-judges of the Constitutional Court who have served no less than five years as rapporteur-judges.

(3) The three persons to receive the most of the votes in the elections that shall be carried out for the nomination of candidates for the office of justice at the Court by the general assemblies of the Supreme Court of Appeals, the Council of State (...) and the Supreme Court of Accounts as well as by the presidents of the Higher Education Council and the bar associations. Elections that shall take place as per this clause shall be carried out in a single round and each member can cast a vote for one candidate for each vacant membership. The voting shall continue until equality between the candidates who have received equal number votes is disrupted.

**Notification to those elected as justices and non-acceptance of the duty by those elected**

**Article 8-** (1) Justices who have been elected by the Grand National Assembly of Turkey and the justices who have been appointed by the President of the Republic shall be notified to the Court in writing by the Grand National Assembly of Turkey and by the Presidency of the Republic, respectively. The Presidency of the Constitutional Court shall make an announcement regarding the situation to those who have been elected.

(2) The names and surnames of the elected shall be published in the Official Gazette.

(3) In the event of non-acceptance of such duty by s/he who is elected as a justice of the Court, such matter shall be notified in writing by the President, to the Grand National Assembly of Turkey, should s/he be elected by it; to the Presidency of the Republic should s/he be elected by the President of the Republic and to the respective institution or board if s/he has been nominated as a candidate.

(4) The new justice shall be elected as per the procedure set out in Article 7, within one month from such notification. In cases where boards that shall nominate are on holiday, such duration shall commence as of the end of the holiday.

### **Taking oath**

**Article 9-** (1) Before the justices take office, they shall take the oath below in the presence of the President of the Republic, the Speaker of the Grand National Assembly of Turkey, (...) the presidents and chief prosecutors of high judicial bodies, the Minister of Justice and other high level administrators that are included in the State protocol and those who participate from among retired justices and others concerned who shall be invited by the President; and before the President of the Constitutional Court and the justices thereof:

“I hereby swear on my dignity and honor before the great Turkish Nation that I shall protect the Constitution of the Republic of Turkey and the fundamental rights and freedoms and I shall perform my duty in righteousness, fairness, impartiality and with a sense of respect for the truth, free from all impacts and concerns and with an understanding of the law which is in harmony with the basic principles on which the Constitution relies and following only the orders of my own conscience.”

### **Term of office and the tenure of justices**

**Article 10-** (1) The justices of the Court shall be elected for twelve years. A person cannot be elected as a justice twice.

(2) The President and the justices cannot be dismissed; they cannot be forced to retire before the expiry of their term of office or before the age of sixty-five.

(3) Duties of the President and of the justices shall cease only in cases prescribed in the Constitution and in this Law.

### **Vacancy in, and termination of, office of a justice**

**Article 11-** (1) The President, two months prior to the termination of the office of a justice or in the event of a vacancy otherwise, immediately, informs such

consequence in writing to those who are authorized to elect and nominate a justice and within two months starting from such date and an election is carried out according to the procedure set out in Article 7.

(2) The President and justices can either request their retirement in writing or similarly withdraw from their duty without being bound by duration and acceptance; their office shall end at the end of twelve years starting from the date of their election and they shall retire in any case when they turn the age of sixty-five.

(3) Office of the president and a justice shall terminate automatically upon conviction of or loss of Turkish citizenship because of a crime that, pursuant to the Law on Judges and Prosecutors No. 2802 and dated 24/2/1983, requires expulsion from profession; and it shall terminate upon the decision by the absolute majority of the total number of justices of the Court in cases where it is firmly understood that the duty cannot be performed for health reasons; or it shall terminate as per Article 19 upon the decision of the Plenary when the justice has been punished with an invitation to self-withdraw from office of justice or when s/he is considered as resigned.

(4) (Abolished on 2/7/2018 by Article 209 of the Decree Law no. 703)

## **The election of the President, Vice Presidents and of the President and the Vice President of the Court of Disputes**

**Article 12-** (1) The President and Vice Presidents, the president of the court of disputes and his/her deputy shall be elected among the justices with secret vote and with the absolute majority of the total number of justices for four years.

(2) A justice whose term expires may be re-elected. Elections shall be completed within the two months before such duties end.

(3) Matters pertaining to elections shall be regulated by an Internal Regulation.

### **The duties and powers of the President**

**Article 13-** (1) The duties and powers of the Court are as follows:

a) To set the agenda of the Plenary and the sections whenever required.

b) To preside over the Plenary and the Supreme Court; to task, if s/he deems necessary, one of the vice presidents for his/her place.

c) To assign and dismiss the Secretary General and the deputies of the Secretary General.

ç) To represent the Court.

d) To approve court regulations.

e) To supervise the compliance of expenditures with the Court budget.

1. f) To assign justices from the other section in cases where one of the sections cannot convene due to an actual or legal impossibility.

g) To appoint the Court staff.

ğ) To ensure effective and orderly working of the Court and to take precautions that s/he deem necessary to such end.

h) To give information and to make statements to the press if s/he deems necessary, or to task a vice president, a justice or a rapporteur-judge for this purpose.

### **The duties and powers of the vice president**

**Article 14-** (1) Duties and powers that belong to the president shall be performed by the senior Vice President in cases of vacant Presidency; in cases where the President is in excused absence or on leave, such duties and powers shall be performed by the vice president who shall be determined by the President. In the absence of vice presidents the most senior justice shall preside over the Court.



(2) The duties and powers of the vice presidents are as follows:

a) To preside over sections and in cases deemed necessary by the President, over the Plenary or the Supreme Court.

b) To determine the agenda of the section of which they are chairs.

c) To ensure that justices serve in turns at the commissions that shall be formed from within the sections.

ç) To perform other duties that are assigned by this Law and that are offered by the President.

### **Liabilities of the Justices**

#### **Article 15 - (1) Justices;**

a) Must act in compliance with the honor and solemnity of the profession of justice; they shall not enroll in any activities that are contradictory to their duties,

b) Shall attend the sessions unless they have a valid excuse,

c) Shall not reveal their opinions and thoughts on matters that are being handled at the Court,

ç) Shall preserve the secrecy of the session and the vote,

d) Shall not cast reticent votes during voting,

e) Shall not take on any official or private duty whatsoever apart from their duties; they can attend to national and international congresses, conferences and similar scientific conventions upon the President's permission.

(2) Cases of membership to associations pursuing sports, social and cultural aims shall not constitute duties under the condition that one does not accepts duties at the executive and auditing boards thereof.

## CHAPTER TWO

### **Provisions Concerning Disciplinary Procedures and Crimes and Punishments**

#### **Inspection and prosecution about the president and the justices**

**Article 16-** (1) Opening an investigation for the crimes arising from the duties of the President and the justices, or that are alleged to have been committed during their offices, and for their personal crimes and disciplinary actions, shall depend on the decision of the Plenary. However, in cases of in flagrante delicto that fall under the competence of the high criminal court, the investigation shall be conducted as per general provisions.

(2) The President shall not process information and complaints that have been received or that are understood to originate from aliases, that are not signed, that do not have an address and that do not involve a certain event or a cause and evidence and grounds of which have not been demonstrated. However, in the event of reliance of such information and complaints on material evidence, the required investigation and research shall be conducted about such issue.

(3) In cases required, the President can have one of the justices perform a preliminary examination

before taking the matter to the Plenary. The justice who has been assigned to carry out the examination to determine whether or not there is grounds for opening an investigation shall inform the President of the situation after completing his/her investigation.

(4) The matter shall be put on the agenda by the President and discussed at the Plenary. The justice processed shall not attend such discussion. In the event of a decision by the Plenary that there is no grounds for opening an investigation, this decision shall be notified to the justice concerned and to informing and complaining parties.

(5) In the event of a decision for opening an investigation, the Plenary shall choose among the justices, three persons to set up the Investigation Board. The senior justice shall preside over the Investigation Board. The Investigation Board shall have all the authorities that the Law of Criminal Procedure dated 4/12/2004 and numbered 5271 bestow upon the prosecutor of the Republic. Procedures that the Board requests to be performed regarding the investigation shall be performed immediately by the authorized judicial offices in their stead.

(6) Principles regarding the performance of preliminary investigation, election of the justices of the Investigation Board, performance of the investigation

and taking of other required decisions shall be regulated by the Internal Regulation.

(7) In cases where the party allegedly performed the acts and actions written above is the President, the procedures that have to be carried out by the President shall be performed by the senior deputy of the president.

### **Judicial investigation and prosecution**

**Article 17-** (1) With the exception of cases of in flagrante delicto relating to personal crimes that fall under the jurisdiction of the high criminal court, protective measures concerning the President and justices as a result of crimes arising from their duties or that are alleged to have been committed during their offices and their personal crimes can be decided only as per the provisions of this Article.

(2) In cases of in flagrante delicto that fall under the competence of the high criminal court, the investigation shall be conducted as per general provisions. In the event of preparation of an indictment, prosecution shall be done by the Penal Plenary of the Supreme Court of Appeals.

(3) In case of crimes and personal crimes arising from duty or that are alleged to have been committed in the course of duty except for the case of in flagrante

delicto regarding personal crimes that fall under the competence of the high criminal court, if the Investigation Board requests that protective measures that have been specified in the Law No. 5271 and in other laws be taken during the investigation, the Plenary shall decide on such issue.

(4) If the Investigation Board, after it completes the investigation, does not deem the lodging of a public action necessary it rules that there is no need for prosecution. If the Board considers it necessary that a public action be lodged, it shall send the indictment and the file to the Constitutional Court in case of crimes that are in relation to their duties so that it sits as the Supreme Court, and in case of personal crimes, it sends them to the Presidency so as to be forwarded to the Penal Plenary of the Supreme Court of Appeals. Decisions that are to be given by the Investigation Board shall be notified to the accused and the plaintiff, if any.

### **Disciplinary investigation procedures**

**Article 18-** (1) A disciplinary investigation within the framework of the rules that are specified in Article 16 shall be carried out regarding the attitudes and conduct of the President and the justices that are not in compliance with the dignity and the honor of the profession of justice or that lead to hindrance of the

service. The Plenary, depending on the information at hand, the evidence and the nature of the attitude and conduct relied upon, shall decide whether or not there is room for a disciplinary investigation.

(2) Penal investigation and prosecutions shall not prevent the performance and application of disciplinary procedures separately. Disciplinary investigation shall not be opened in cases where one year has passed from when actions requiring disciplinary investigation have been found out about. Disciplinary penalties shall not be ruled in cases where five years have passed from when the act that requires disciplinary penalty has been committed. If the action that requires a disciplinary penalty also constitutes a crime and the law stipulates a longer statute of limitations for this crime and if a penal investigation or a penal prosecution is opened, this period of statute of limitations shall apply instead of the period that is specified in this clause. Regarding those concerning whom the Plenary has decided to wait for the outcome of the prosecution, the competence to rule for penalty shall be subject to statute of limitations when one year passes from the finalization of the decision of the court that executes the prosecution.

(3) If the Plenary decides that a disciplinary investigation be opened, the Investigation Board collects information concerning the matter and

determines the factual evidence, hears persons hearing of whom it deems necessary, under oath; and upon acknowledging due action, invites the person concerned to make his/her defense within a matter of a period which shall not be less than fifteen days. The person concerned, starting from the moment when his/her defense is requested, shall be authorized to examine the prosecution documents.

(4) Public administrations, public officials, other real and legal persons including the banks must respond to the questions of the Investigation Board and to its requests regarding the investigation.

(5) At the end of investigation, the Investigation Board shall prepare a report demonstrating the information and evidence that it has gathered and which includes its opinion regarding whether or not a disciplinary penalty is required and forward such report and its annexes to the Presidency so that it is forwarded to the Plenary.

(6) The President shall inform the person concerned in writing about the outcome of the investigation and invites him/her to deliver his/her oral or written defense before the Plenary in a period of time that it shall determine and which shall not be less than five days.



(7) Depending on the outcome of the disciplinary investigation that has been carried out, the Plenary decides that the investigation be extended if necessary; or the file be suspended if it deems that the attitude or conduct relied upon are not proven, or it decides on a disciplinary penalty if they are proven.

### **Disciplinary penalties and their execution**

**Article 19-** (1) In cases where the President and the justices take on an official or a special duty apart from their essential duty or in the event that their attitudes and conduct are proven to be incongruous with the oath that they have taken or with the dignity and honor of membership and when they are established to hinder the service, depending on the nature of the act one of the penalties to warn, condemn or to be asked to withdraw from office shall be decided upon.

(2) In order for the penalty to be asked to withdraw from office to be decided on two thirds majority of the votes of the Plenary is sought.

(3) The person concerned, against the decision of the Plenary regarding the disciplinary penalty, can make an application to the Plenary for a re-examination in fifteen days from the date of notification of the decision to him/her. The decision that will be taken after the re-examination of the Plenary shall be final. The decision

of the Plenary shall be notified by the President to the person concerned.

(4) The justice who has been asked to withdraw from office shall be considered as resigned if s/he fails to comply with such decision in one month from the date of notification and s/he shall be considered as on leave for such duration.

## SECTION THREE

### Organizational Structure

#### CHAPTER ONE

### Organization of the Court

#### Organization

**Article 20-** (1) The organization of the Constitutional Court shall comprise of the Presidency, the Plenary, sections, commissions, the Secretariat General and administrative units.

#### Plenary

**Article 21-** (1) The Plenary is composed of fifteen justices of the Court. The Plenary shall convene under the presidency of the President or the vice president that shall be determined by him/her at least with ten justices.<sup>3</sup>

(2) Such are the duties of the Plenary:

a) To hear actions for abstract and concrete review and to handle trials that will be conducted as the Supreme Court.

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<sup>3</sup> According to Article 232 of the Decree Law no. 703, the aforesaid amendment shall come into force once the term of office of the two elected justices from the Military Court of Cassation and the Supreme Military Administrative Court expires.

b) To conduct financial audits concerning political parties, to conclude actions and applications.

c) To accept or amend the Internal Regulation.

ç) To elect the president, vice presidents and the president, the vice presidents of the court of disputes.

d) To distribute work among the sections, to convene at the beginning of the year to give some of the works to the other section if the incoming workload of one section has increased during the year to the extent that cannot be handled with the normal pace of work, creating an imbalance of work among the sections.

e) To make final decisions regarding conflicts about the distribution of the workload among sections, to assign another section to the task in cases where a section, as a result of an actual or a legal impossibility, fails to handle a work that falls under its duty.

f) To make decisions about the justices concerning the opening of a disciplinary or a penal investigation, measures of investigation and prosecution and to order a disciplinary penalty when required or the termination of office of justice.

g) To have objections examined.

### **Sections and commissions**

**Article 22-** (1) At the Court there shall be two

sections under the presidency of a vice president, with six justices each and which shall make rulings regarding individual applications. Sections shall convene under the presidency of a vice president, with the participation of four justices.<sup>4</sup>

(2) Issues concerning the formation of sections and commissions and the distribution of work shall be regulated with the Internal Regulation.

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<sup>4</sup> According to Article 232 of the Decree Law no. 703, the aforesaid amendment shall come into force once the term of office of the two elected justices from the Military Court of Cassation and the Supreme Military Administrative Court expires.

## CHAPTER TWO

### **The Secretariat General, Rapporteur-Judges and Assistant Rapporteur-Judges**

#### **Duties of the Secretary General and the deputies of the Secretary General**

**Article 23-** (1) A General Secretariat unit shall be established under the Presidency. The working principles of the units operating under the Secretariat General shall be regulated with a regulation.

(2)The Secretary General shall be assigned by the President among the rapporteur-judges. In cases where the Secretary general is off duty, the Deputy Secretary General who shall be determined by the Secretary General shall substitute for him/her.

(3)The Secretary General is assigned with and authorized to;

- a) Record and allocate applications,
- b) Conduct administrative affairs regarding the meetings of the Plenary and the units,
- c) Ensure that verdicts and reports are automated and archived,
- ç) Carry out Court's correspondence,

- d) Follow-up the implementation of the decisions of the Court and to inform the Plenary on this matter,
  - e) Spend the budget and to inform the President on this matter,
  - f) Conduct institutional, scientific, administrative, financial and technical affairs of the Court,
  - g) Arrange protocol affairs,
  - ğ) Ensure direction and management of staff,
  - h) Carry out other works as assigned by the President within the framework of the provisions of the Law, Internal Regulation and regulations,
- Under the supervision and control of the President.

(4) Among the rapporteur-judges, three Deputy Secretary Generals shall be assigned by the President. Issues pertaining to the duties of and the distribution of work among Deputy Secretary Generals shall be arranged through regulation.

### **Rapporteur-judges**

**Article 24-** (1) At the Court, an adequate number of rapporteur-judges to assist with judicial and administrative works shall be assigned or appointed.

(2) In order to be able to be a rapporteur-judge at the Court, one shall have one of the qualities listed below:

- a) To be a judicial or an administrative judge or a prosecutor or a Supreme Court of Accounts auditor, chief auditor or a specialist auditor who has worked with success in his/her profession for at least five years,
- b) To be assistant professor or associate professor of law, economics or political sciences, or a research assistant who has completed his/her doctoral studies.
- c) To be an assistant rapporteur-judge who has worked, with the exception of the duration of candidacy, successfully for at least five years.

(3) To have been awarded a minimum of (C)-level certificate at the Foreign Language Proficiency Exam for State Employees and to have completed graduate studies shall be preferable during assignment and appointment as a rapporteur-judge.

(4) Rapporteurs shall be accountable, administratively, to the President and they shall perform their duties in compliance with the tenure of judges.

**Assignment of rapporteur-judges, their staffing rights, disciplinary and penal works**

**ARTICLE 25-** (1) Those who wish to work as rapporteur-judges shall submit their requests regarding this issue to the Presidency.



(2) Rapporteur-judges shall be assigned by the institution they are attached to upon due opinion of the President.

(3) With the exception of cases provisions regarding which are present in this Law, provisions concerning the professions they perform shall be applied to issues regarding the staffing of assigned rapporteur-judges and the durations they serve at the Court as rapporteur-judges shall be considered as time they have served in their profession. Written information that shall be given by the President shall be taken as basis in the promotion and upgrade progress.

(4) Duration for the promotion of rapporteur-judges who are appointed to the staff positions of the Court shall be two years.

(5) Including those who are assigned, the monthly salaries and other financial rights of rapporteur-judges shall be covered from the budget of the Court.

(6) Actions concerning the right of legal leave and health issues of the assigned rapporteur-judges shall be executed by the Presidency and their institutions shall be informed for entry to their staffing files.

(7) The method pursued in their assignment shall be applied when the rapporteur-judges who have been assigned as per sub-clauses (a) and (b) of clause two

of Article 24 leave. During appointments that will be made as per laws that they are subject to after they leave their duties; their grade and seniority, their works at the Court and their own wishes shall be taken into account.

(8) Rapporteur-judges who have been assigned as per sub-clauses (a) and (b) of clause two of Article 24 are appointed as Court rapporteur-judges upon their request and due opinion of the Presidency. Of rapporteur-judges who have been appointed as such, their attachment to their previous institution shall be terminated.

(9) Concerning the retirement rights and guarantees of those who have been appointed to the staff position of rapporteur-judges of the Court, they shall be subject to provisions regarding the first class, selected first-class, second class and third class judges and prosecutors in their seniority, class and grades. In addition to additional indicators, the condition 'to have lost their right to be elected for the membership of the Supreme Court of Appeals and the Council of State' that is sought in judges and prosecutors who have been selected as first-class shall be applied for appointed rapporteur-judges as 'not having lost their qualities for election for first-class.'

(10) In cases where there are no provisions in this Law regarding the monthly salaries, allowances,

financial, social and retirement rights, investigation and prosecution procedures regarding their judicial crimes and other rights of the rapporteur-judges who have been appointed to the Court, the provisions of the Law No. 2802 shall be applied.

(11) The rapporteur-judges who have been assigned as per sub-clauses (a) and (b) of clause two of Article 24 shall be processed, upon the acknowledgment of the President, by the institutions to which they are attached in compliance with the provisions of the legislation regarding themselves in the event of crimes arising from their duty or crimes that they have committed during their office and their personal crimes.

### **Duties of rapporteur-judges**

**Article 26-** (1) Rapporteurs shall prepare the initial and merits examination reports of the files that have been given to them by the President and attend meetings, perform tasks that have been specified in the Law and the Internal Regulation regarding individual applications.

(2) Whenever needed, rapporteur-judges can be given tasks such as hearing witnesses or experts and similar tasks by the President.

(3) Rapporteurs can be assigned to commissions by the President.

(4) Rapporteurs can tutor and give courses and conferences at universities, the Justice Academy of Turkey and at similar institutions and organizations under the condition that the President gives permission thereto.

(5) They perform other tasks assigned by the Law, Internal Regulation, regulation or the President.

### **Assistant rapporteur-judges and candidates**

**Article 27-** (1) At the Court, an adequate number of rapporteur-judges to assist with judicial and administrative works shall be assigned or appointed.

(2) Those who pass the entrance tests among those who have attended higher education of at least four years in areas of law, political sciences, economy, management and economic and administrative sciences or those who are graduates of foreign institutions of education that are accepted as equivalents thereof or those who have completed a faculty of law and took tests for classes that were lacking against the curricula of faculties of law in Turkey, receiving thus a certificate of achievement, are appointed by the President, as candidates for assistant rapporteur-judges. In order to be able to take the test, one must have completed or deferred his/her military service or be exempted therefrom, and not have turned the age of thirty as of

the last day of the month of January in the year when the entrance exam took place for those who have completed undergraduate and graduate education and the age of thirty-five for those who have completed their doctoral education, and to have the general qualities that are specified in Article 48 of the Law dated 14/7/1965 and No. 657 on Civil Servants.

(3) The entrance exam comprises of the written exam and the interview.

(4) The interview shall proceed by evaluating the candidate regarding his/her;

a) Capacity to grasp and summarize a subject, his/her ability to express and his/her discerning power,

b) Worthiness, ability to represent, suitability of his/her conduct and reactions to the profession,

c) Self-confidence, ability to convince and persuasiveness,

ç) General ability and general culture.

d) Openness to scientific and technological developments,

and by scoring each separately. Candidates shall be evaluated by the commission for each of the qualities written above over twenty points each and the scores given shall be separately put in the minutes. Apart

from this, no recording system regarding the interview shall be used.

(5) Assistant rapporteur-judges and assistant rapporteur-judge candidates are included in the class of general administrative services in the Law No. 657 and not the rapporteur-judgeship class and grades. To them, the provisions of the Law No. 657 which are not contradictory to this Law shall apply.

(6) In order for the assistant rapporteur-judges to be able to be appointed as rapporteur-judges, they must have worked in such office actively at least for five years and the thesis of professional nature that they shall prepare must be accepted. Those who comply with these conditions can be appointed as rapporteur-judges by the proposal of the Secretary general and upon the approval of the President, with a consideration of the situation of the staff position.

(7) The procedures and principles of the entrance exam for assistant rapporteur-judge candidacy, the form and terms of the candidacy training, the procedures and principles of the exam that will take place at the end of the duration of candidacy, the form and content of the theses that assistant rapporteur-judges shall prepare and other issues shall be arranged with a regulation.

## **Higher Disciplinary Board**

**Article 28-** (1) With the exception of the President, vice president, justices and those who have been listed in sub-clauses (a) and (b) of clause two of Article 24, disciplinary affairs of the staff working in the Court shall be conducted by the Higher Disciplinary Board.

(2) The Board shall comprise of three rapporteur-judges to be determined upon the proposal of the Secretary General and the approval of the President. The senior rapporteur-judge among them shall preside over the Board.

3) Regarding circumstances that require disciplinary penalty and penalties to be ruled, provisions of the Law No. 657 that are not contradictory to this Law shall be applied. The working procedures and principles of the Board and other issues shall be arranged with a regulation.

## CHAPTER THREE

### Service Units

#### Service Units

**ARTICLE 29-** (1) Service units of the Court are as follows:

- a) Directorate of Registry
- b) Administrative and Financial Affairs Directorate
- c) Staff Directorate
- ç) Publication and Public Relations Directorate
- d) International Relations Directorate
- e) Strategy Development Directorate
- f) Technical Services Directorate
- g) Office of the Executive Assistant
- ğ) Office of the Press Advisor

(2) Whenever needed, new units can be established upon the proposal of the President and with the decision of the Plenary.

(3) The duties and responsibilities of service units are indicated in the regulation.



### **The Court staff and appointment thereof**

**Article 30-** (1) In the performance of its duties the Court shall employ adequate number of staff who will work in legal, administrative and financial areas. Regarding such staff, the provisions of the Law No. 657 which are not contradictory to this Law are applied.

(2) Appointment of staff shall be done by the President upon the proposal of the Secretary General.

### **Provisional assignment**

**Article 31-** (1) In cases when needed during the performance of the Court of its duties as given to it by the Constitution and in this Law; judges, prosecutors and auditors of the Supreme Court of Accounts, of those working at public institutions and organizations who hold the status of civil servant and other public officials can be assigned to the Court under the condition that their monthly salaries, allowances, all sorts of raises, compensations and other financial and social rights and assistances are paid by their institutions. In assignments that will be made within the framework of this provision the consent of the public official shall be sought. Duration of assignments made as such shall not exceed one year. However, whenever necessary, this period may be extended in six monthly terms.

(2) President's assignment request within this scope shall be carried out within ten days by respective institutions and boards unless there is a legal obstacle. The institutions of persons concerned shall take the duration of provisional assignment into consideration regarding the promotion and retirement of such persons and thus, their staffing rights shall be sustained.

(3) During provisional assignment, the President shall inform respective institutions and organizations in writing, which shall be principal regarding promotion and grade advances.

(4) Regarding those who are assigned provisionally to other institutions and of judges, prosecutors, Supreme Court of Accounts professionals, the difference between their net monthly salaries of rapporteur-judges and other payments; and regarding civil servants and other public officials, that between the monthly salaries touched by equivalent civil servants and other payments shall separately be paid. The provisions concerning monthly salaries shall be applied regarding payments that will be made as per this clause and no other taxes except for the stamp tax shall be imposed, it shall not be taken into consideration in any which way whatsoever during the calculation of another payment.

### **Contracted personnel**

**Article 32-** (1) At the Presidency of the Court, press advisors and interpreters can be employed, as long as such staff positions are provided for, without being subject to the provisions concerning the employment of contracted personnel in the Law no. 657 and in other laws.

(2) The gross contract price that shall be paid in line with the provisions of the contract to persons who shall be employed as such shall be determined by the Presidency so as not to be in excess of the gross average monthly salaries that have been set up for grade one assistant rapporteur-judges.

### **Service provision**

**Article 33-** (1) The President shall be authorized to employ local and foreign experts for works that require specific professional knowledge and expertise, by way of provision of services under the condition that this is exclusive to compulsory and exceptional cases as mandated for the preparation, realization, management and operation of projects in areas the Court requires.

### **Appointment of administrative staff to the Ministry of Justice**

**Article 34-** (1) With the exception of those who are appointed as per clause of Article 27, staff working at

the service units of the Court who are subject to the Law No. 657 can be appointed by the Ministry of Justice to the central and provincial staff positions of the Ministry upon the proposal of the Secretary General and the due opinion of the President.

## SECTION FOUR

### Procedures of Examination and Trial

#### CHAPTER ONE

##### Actions for Abstract Review

#### **Those who are authorized to lodge actions for abstract review**

**Article 35-** (1) Those who are directly authorized to lodge actions for abstract review upon the claim that the laws, Presidential decrees, the Rules of Procedure of the Grand National Assembly of Turkey and certain articles or provisions thereof are contradictory to Constitution are as follows:

a) President of the Republic

b) (Amended on 2/7/2018 by Article 209 of the Decree Law no. 703) Each of the political parties which have the most number of justices in the Grand National Assembly of Turkey.

c) Members of the Grand National Assembly of Turkey who constitute at least one fifths of the absolute number of justices thereof

(2) (Amended on 2/7/2018 by Article 209 of the Decree Law no. 703) In case of equality in numbers of members at the Grand National Assembly of Turkey,

groups of political parties which are entitled to bring an action for abstract review shall be determined by the number of valid votes received at the last parliamentary elections.

(3) The President of the Republic or the members of the parliament that constitute at least one fifth of the absolute number of members at the Grand National Assembly of Turkey shall be authorized to lodge actions of annulment with the claim that amendments to the Constitution and laws are contradictory with the Constitution regarding their form.

Actions for abstract review in form and the scope thereof.

**Article 36-** (1) Supervision regarding form shall be limited to the majority of proposals in Constitutional amendments, majority of amendments and whether or not the condition to negotiate urgently has been adhered to; whether or not the final voting of the laws or the Rules of Procedure of the Grand National Assembly of Turkey has been carried out with the prescribed majority.

(2) Actions of annulment against constitutional amendments can be lodged only with the claim of contradiction as to form.

(3) Actions for abstract review that are based on formal deficiency shall be adjudicated first by examination by the Court.

(4) Actions for abstract review that are based on formal deficiency shall not be claimed by the Court.

### **Period for filing an action of annulment**

**Article 37-** (1) The right to directly lodge an action of annulment with the claim that constitutional amendments and laws are contradictory with the Constitution in form shall foreclose in ten days starting from the day on which these are published in the Official Gazette; and the right to directly lodge an action of annulment with the claim that Presidential decrees and the Rules of Procedure of the Grand National Assembly of Turkey or certain articles and provisions thereof are contradictory in form and in substance and the laws contradictory merely in form, with the Constitution shall foreclose in sixty days starting from the publication of these in the Official Gazette.

### **Principles to be observed during the lodging of an action for abstract review**

**Article 38-** (1) The action for abstract review that will be lodged with the claim that laws, Presidential decrees, the Rules of Procedure of the Grand National Assembly of Turkey or certain articles or provisions

thereof are contradictory with the Constitution shall be lodged upon the decision to be taken with the absolute majority of the by the plenaries of the political parties that are written in sub-clause (b) of clause one of Article 35.

(2) In the event of the case being lodged by the members of the Grand Turkish National Assembly as written in sub-clause (c) of clause one of Article 35, names of two members shall be shown in the petition so that the Court can notify them.

(3) Action for abstract review shall be considered as lodged on the date when the lawsuit petition containing the cancellation of the constitutional amendments and laws, Presidential decrees and the Rules of Procedure of the Grand National Assembly of Turkey or certain articles or provisions thereof for such being in contradiction with the Constitution is forwarded to the Directorate of Registry by the Secretariat General. To those lodging the case, a document concerning that the application has been registered shall be given by the Secretariat General.

(4) If the case is being lodged by members of the parliament amounting up to at least one fifths of the total number of the members of the Grand National Assembly of Turkey, together with the lawsuit petition, the number, names and surnames, their constituency



and their signatures must be available and each page of such petition involving signatures must be approved by the Speaker of the Grand National Assembly of Turkey or by an official that the latter shall appoint by way of putting their seal and signature as to the fact that those whose signatures are there are members of the parliament and that those signatures belong to them and as such, this petition must be given to the Secretariat General.

(5) In case of actions lodged by the political party groups, approved samples of the decision of the group Plenary and approved sample documents bearing witness that those whose signatures are on the lawsuit petition are group chairs or deputies of the latter shall be given to the Secretariat General together with the lawsuit petition.

(6) In case of actions for abstract review, with which articles of the Constitution the provisions contradiction with the Constitution of which are claimed are contradictory to, and the justification thereof must be demonstrated.

### **Rectification of shortcomings and providing opinions**

**Article 39-** (1) Whether or not the lawsuit petition meets the criteria specified in Article 38 shall be examined by the Court in ten days starting from the

date off registration. If there are shortcomings in the lawsuit petition, these shall be ascertained with a decision and those concerned shall be notified that such shortcomings have to be rectified in no less than fifteen days.

(2) If the case has been lodged by the members of the parliament amounting up to at least one fifths of the total number of members of the Grand National Assembly of Turkey, the notification regarding the rectification of the shortcomings must be made to the members of the parliament who, in the lawsuit petition, have been determined as the addressees of notifications and if such information has not been ascertained in the petition, the notification shall be made to the two members whose names and surnames are written at the very beginning of the petition.

(3) In the event that the shortcomings are not rectified within the duration of time specified in clause one it shall be decided that the Plenary considers that the action for abstract review has not been lodged at all. Such decision shall be notified to those concerned.

(4) In actions for abstract review, in cases where the Court decides that the merits be re-examined, the lawsuit petition and its annexes shall be sent to the Office of the Speaker of the Grand National Assembly of Turkey, the Presidency and to the groups of the

political parties that are authorized to lodge actions for abstract review. Such offices can report their written opinions regarding the action for abstract review to the Court for evaluation.

## CHAPTER TWO

### Concrete Review

#### **Alleged unconstitutionality raised by courts**

**Article 40-** (1) If a court which is seeing a case finds that the provisions of a law or a Presidential decree that will be applied in this case are contradictory with the Constitution or if it deems that the claim of contradiction with the Constitution as claimed by one of the parties is serious, it shall send;

a) The original of the justified application decision whereby to which articles of the Constitution that the rules the cancellation of which are requested are contradictory,

b) The approved sample of the minutes regarding the application decision,

c) The approved samples of the lawsuit petition, the indictment or the case-lodging documents together with the respective sections of the file, to the Constitutional Court by affixing to an index.

(2) If the allegation as to contradiction with the Constitution is not considered as serious by the Court handling the case, such request on this issue shall be rejected also by giving the justifications thereof. This issue with the main judgment can be subjected to appeals.

(3) The Secretariat General forwards the incoming documents to the office of the executive assistant and informs the applicant court with a letter regarding the consequence.

(4) Within ten days starting from the registration of the incoming documents their compliance with the application methodology is examined. Actions for concrete review which are expressly bereft of any ground or that are not in compliance with the methodology shall be rejected by the Court with justifications thereof without proceeding with the main examination.

(5) The Constitutional Court makes a ruling and announces such ruling within five months starting from its full receipt of the affair. If a decision is not made within such duration, the court concerned finalizes the case as per effective provisions. However, if the ruling of the Constitutional Court comes until the finalization of the decision regarding the merits, the court must accord with this.

### **Circumstances preventing application**

**Article 41-** (1) An action for concrete review with the claim that the same provision of the law is contradictory with the Constitution cannot be brought unless ten years have passed after the publication in

the Official Gazette of the decision of rejection that the court has made by considering the merits of the affair.

(2) In the event of other files being present at the court, bringing an action for concrete review, whereby the rule which is the the subject-matter of the concrete review will be applied, the action for concrete review that has been already filed shall be considered as a preventive issue for such files as well.

## CHAPTER THREE

### **Common Provisions on the Actions for Abstract and Concrete Reviews**

#### **Arrangements that cannot be alleged to contradict the Constitution**

**Article 42-** (1) Actions of annulment in form and in substance against international agreements that have been enacted in due procedure cannot be lodged. Nor can the courts raise an alleged unconstitutionality with respect to these agreements.

- (2) Moreover, contradiction with the Constitution of the provisions of;
- a) The Law on the Unity of Education No. 430 and dated 3 March 1340,
  - b) The Law on Wearing the Hat No. 671 and dated 25 November 1925,
  - c) The Law on Banning of Monasteries Lodges and Tombs and Interdiction and Abolishing of Tomb-keeping and Certain Titles No. 677 and dated 30 November 1925,
  - ç) the principle of civil marriage that has been enacted with the Turkish Civil Law No. 743 and dated 17 February 1926 regarding the establishment of the bond of marriage before a

marriage registry officer and the provision of Article 110 of the same law,

- d) The Law on the Accepting International Numbers No. 1288 and dated 20 May 1928,
- e) The Law on Accepting and Using the Turkish Letters No. 1353 and dated 1 November 1928,
- f) The Law Regarding the Abolishing of Titles and Nicknames such as Bey Pacha No. 2590 and dated 26 November 1934,
- g) The Law Regarding the Restriction of Wearing of Certain Garments No. 2596 and dated 3 December 1934, which were in force on the date of 7 November 1982 cannot be claimed.

**Examination over the file and not being affixed by justification**

**ARTICLE 43-** (1) In case of an action for abstract and concrete reviews, the examination shall be carried out over the file. Also in cases it deems necessary, the Court can summon those concerned and those who are knowledgeable about the matter so as to make oral explanations.

(2) The oral explanation shall be delivered by the President of the Republic or by an official as deemed appropriate by the President of the Republic.



(3) The Court has no obligation to rely on the grounds submitted to raise the alleged unconstitutionality of the laws, Presidential decrees and the Rules of Procedure of the Grand National Assembly of Turkey. The Court may find an unconstitutionality on any other ground but being bound by the request for the constitutionality review.

(4) If the application has been made only against certain articles or provisions of the law, the Presidential decree or the Rules of Procedure of the Grand National Assembly of Turkey whereby, however, the annulment of such articles or provisions results in certain or all of the other provisions of the law, the Presidential decree or the Rules of Procedure of the Grand National Assembly of Turkey, the Court, under the condition that such circumstance is notified in its justification, can make a ruling regarding the annulment of the other or the entirety of the related provisions of the law, Presidential decree or the Rules of Procedure of the Grand National Assembly of Turkey which have lost their application capacity.

### **Negotiations on the files that have been taken on the agenda**

**ARTICLE 44-** (1) The negotiations of the Court are confidential and shall be recorded using technical equipment as deemed appropriate by the President.

The principles regarding the preservation and use of such recordings shall be arranged by way of regulation.

(2) The order and management of the negotiations shall be ensured by the President or in cases where s/he cannot attend the meeting, by the vice president that s/he shall assign. Justices are given turns in speech depending on the order of requests.

## CHAPTER FOUR

### Individual Application

#### Right to individual application

**Article 45** – (1) Everyone can apply to the Constitutional Court based on the claim that any one of the fundamental rights and freedoms within the scope of the European Convention on Human Rights and the additional protocols thereto, to which Turkey is a party, which are guaranteed by the Constitution has been violated by public force.

(2) All of the administrative and judicial remedies that have been prescribed in the law regarding the act, the action or the negligence that is alleged to have caused the violation must have been exhausted before making an individual application.

(3) Individual applications cannot be made directly against legislative acts and regulatory administrative acts and similarly, the rulings of the Constitutional Court and acts that have been excluded from judicial review by the Constitution cannot be the subject of individual application.

#### Persons who have the right to individual application

**Article 46-** (1) The individual application may only be lodged by those, whose current and personal right

is directly affected due to an act, action or negligence allegedly giving rise to a violation.

(2) Public legal persons cannot make individual applications. Legal persons of private law can make individual application only with the justification that only the rights of the legal person they are have been violated.

(3) Foreigners cannot make individual applications regarding rights that have been vested only to Turkish citizens.

### **Individual application procedure**

**Article 47-** (1) Individual applications can be made directly in compliance with the conditions specified in this Law and the Internal Regulation or through courts or representations abroad. Procedures and principles regarding the admission of the application in other ways shall be regulated with the Internal Regulation.

(2) Individual applications are subject to fees.

(3) In the petition for application information on the identification and address of the applicant and his/her representative, if any, the right and freedom that is alleged to have been violated because of a transaction, act or of negligence and the provisions of the Constitution relied upon, the stages regarding the exhaustion of application remedies, the date on which

the remedies for application have been exhausted or if remedy of application has not been envisaged, the date on which the violation has been acknowledged and the damage incurred, if any, must be indicated. Evidence relied upon and the originals or samples of the transaction or the decisions that are claimed to have led to the violation and the document regarding the payment of the fee must be attached to the application.

(4) If the applicant is being represented by an attorney, the proxy must be submitted.

(5) The individual application should be made within thirty days starting from the exhaustion of legal remedies; from the date when the violation is known if no remedies are envisaged. Those who fail to apply within due duration upon just excuse can apply in fifteen days starting from the ending date of such excuse and with evidence bearing proof of their excuses. The Court shall accept or reject such request first by way of examination of the admissibility of the applicant's excuse.

(6) In the event of any shortcomings in the application documents, through the Directorate of Registry of the Court shall grant the applicant or his/her representative, if any, time so as such time is not in excess of fifteen days and in the event that such shortcoming is not remedied within such time

without a valid excuse, s/he is informed that a decision regarding the rejection of the application will be made.

### **Conditions for and examination of the admissibility of individual applications**

**Article 48-** (1) In order for the decision of admissibility regarding the individual application be taken the conditions prescribed in Articles from 45 to 47 must be fulfilled.

(2) The Court can decide that applications which bear no importance as to the application and interpretation of the Constitution or regarding the definition of the borders of basic rights and freedoms and whereby the applicant has incurred no significant damages and the applications that are expressly bereft of any grounds are inadmissible.

(3) Examination of admissibility shall be performed by commissions. Concerning applications that have been concluded unanimously to fail to fulfill the criteria for admissibility, a decision of inadmissibility shall be taken. Files regarding which unanimity could not be achieved shall be forwarded to sections.

(4) Decision of inadmissibility shall be final and it shall be notified to those concerned.

(5) The conditions of the examination of admissibility and the procedures and principles thereof and other issues shall be regulated by the Internal Regulation.

### **Examination on Merits**

**ARTICLE 49-** (1) The examination on the merits of individual applications admissibility of which has been decided shall be carried out by the sections. The President shall employ measures required for a balanced distribution of such workload between the sections.

(2) In the event of a decision whereby the application is deemed admissible, a sample of the application shall be sent to the Ministry of Justice for information. In cases it deems necessary, the Ministry of Justice shall inform the Court in writing regarding its opinion.

(3) During their examination of individual applications, commissions and sections can carry out all sorts of research and examination regarding whether or not a basic right has been violated. Information, documents and evidence that are deemed as necessary for the application shall be requested from those concerned.

(4) The Court, although it makes such examination over the file, can also decide to hold a hearing if it deems it necessary.

(5) During the examination on the merits, the sections can decide, *ex officio* or upon the request of the applicant, on measures that they deem to be essential for the protection of the basic rights of the applicant. In the event of a decision for such a measure, the decision regarding the merits shall be made latest within six months. Otherwise, the decision for the measure is automatically lifted.

(6) Examination of the sections of individual applications regarding a court decision shall be limited to whether or not a basic right has been violated and the determination of how such violation can be remedied. Examination on issues that have to be observed in legal remedies shall not be performed.

(7) In the examination of individual applications, in circumstances where this Law and Internal Regulation do not contain any provisions, the provisions of relevant procedural laws which are suitable to the nature of the individual application are applied.

(8) The conditions of the examination of admissibility and the procedures and principles thereof and other issues shall be regulated by the Internal Regulation.

### **Decisions**

**ARTICLE 50-** (1) At the end of the examination on the merits it is decided either the right of the applicant



has been violated or not. In cases where a violation judgment is rendered, the steps required to be taken for the redress of the violation and the consequences thereof shall be indicated. However, legitimacy review cannot be done, and decisions in the nature of an administrative act and action cannot be issued.

(2) If the determined violation arises out of a court decision, the file shall be sent to the relevant court for holding the retrial in order for the violation and the consequences thereof to be removed. In cases where there is no legal interest in holding the retrial, the compensation may be adjudged in favor of the applicant or the remedy of filing a case before the general courts may be shown. The court, which is responsible for holding the retrial, shall deliver a decision over the file, if possible, in a way that will remove the violation and the consequences thereof that the Constitutional Court has explained in its decision of violation.

(3) The decisions of the sections regarding the merits shall be notified to those concerned and the Ministry of Justice with the justifications thereof and they shall be published on the web page of the Court. Issues pertaining to which of such decisions are to be published in the Official Gazette are indicated in the Internal Regulation.

(4) Differences between the case-laws of commissions shall be settled by the sections to which they are attached; and the differences of case-laws between the sections shall be settled by the Plenary. Other issues in relation thereto shall be regulated by an Internal Regulation.

(5) In the event of waiver from the case non-suit shall be decreed.

### **Misuse of the right to application**

**Article 51-** (1) The applicants who have been found to have expressly misused the right to application shall be imposed a disciplinary penalty, which cannot be in excess of two thousand Turkish liras, plus the litigation costs.

## CHAPTER FIVE

### **Cases of Banning of Political Parties and Abolition of Immunity**

#### **Cases of Banning of Political Parties**

**Article 52-** (1) The Court, upon the action lodged by the Chief Prosecutor of the Republic at the Supreme Court of Appeals, can decide with the two thirds majority of the justices who have attended to the meeting that a political party be banned as a result of circumstances prescribed in Article 69 of the Constitution or that it be divested partially or entirely, of the State assistance, depending on the gravity of the acts which are the subject of action.

(2) Cases concerning the banning of political parties shall be examined by the Plenary over the file by way of application of the provisions of the Law No. 5271 that are befitting to the case and ruled.

(3) The rapporteur-judge who is assigned by the President prepares the initial examination report and submits it to the Presidency. In the event of making of a decision to accept the indictment following the initial examination, the indictment and the attachments thereof shall be sent to the political party concerned and their defense as to the procedure and merits shall be obtained. In cases where the litigated party provides

a written defense, such defense shall be sent to the office of the Chief Prosecutor of the Republic at the Supreme Court of Appeals. Also, after the Chief Prosecutor of the Republic at the Supreme Court of Appeals, the oral defense of the general chair of the party the banning of which is requested or that of an attorney who shall be appointed by him/her shall be heard. Those about whom political ban is requested can submit their defense concerning the allegations in writing.

(4) The Plenary, in cases that it deems necessary, can summon those concerned and those who are knowledgeable about such matter to hear their oral explanations.

(5) The decision that has been made at the end of the case regarding the banning a political party shall be notified to the political party concerned through the Chief Prosecutor of the Republic at the Supreme Court of Appeals and published in the Official Gazette.

### **Passing a warning to political parties**

**Article 53-** (1) The Chief Prosecutor of the Republic at the Supreme Court of Appeals can address the Court regarding the ruling for a warning against a political party with the claim that such political party has acted in violation of the imperative provisions of the Political Parties Law No. 2820 dated 22/4/1983 with the exception of Article 101 therein and of the imperative

provisions of other laws in relation to political parties. Following the obtainment of the defense of the political party within the duration of time to be assigned by the Court, if any violations are found, a decision of warning regarding the political party concerned shall be given so that the violation concerned is rectified.

(2) The decision shall be notified to the political party concerned through the Chief Prosecutor of the Republic at the Supreme Court of Appeals and published in the Official Gazette.

### **Request of annulment in cases of abolition of immunity and foreclosure of membership to the parliament**

**Article 54-** (1) Against the decisions of the Grand National Assembly of Turkey regarding the abolition of legislative immunity or foreclosure of membership to the parliament, the member of the parliament, the vice president or the minister or another member of the parliament concerned can address the Court in seven days starting from the date on which such decision is made for annulment with the claim that such decision is in violation of the Constitution, the law or the Rules of Procedure of the Grand National Assembly of Turkey. Such request shall be ruled definitively within fifteen days.

(2) The Court in case of requests for annulment shall get required documents brought in without waiting for submission by the person concerned.

## SECTION SIX

### **Financial Supervision of Political Parties**

#### **Financial supervision of political parties**

**Article 55-** (1) The Court receives help from the Supreme Court of Appeals so as to supervise the acquisition of property of political parties and the legality of the revenues and expenditures thereof.

(2) Political parties shall send to the Presidency of the Constitutional Court in compliance with the Law No. 2820, approved samples of each of the consolidated final account and the final accounts of the party headquarters and the provincial organization which includes the subordinate districts until the end of the month of June. The Court sends such documents that have been sent to it for examination to the Presidency of the Supreme Court of Accounts.

(3) Reports concerning the examination that has been carried out at the Supreme Court of Accounts shall be sent to the Court for ruling.

#### **The initial and principal examination in financial supervision**

**ARTICLE 56 -** (1) Examination of the final accounts of political parties shall be carried out as per the provisions of the Law No. 2820.

(2) The reports regarding the examination that has been carried out shall be sent to the political party concerned which is requested to forward its opinions thereon latest in two months.

(3) The Court evaluates the opinions of the political parties regarding the examination during the financial supervision.

(4) Samples of each of the decisions of the Court regarding the financial supervision shall be sent to the political party concerned and to the office of the Chief Prosecutor of the Republic at the Supreme Court of Appeals so that it goes in the file of records.

(5) Decisions taken at the end of financial supervision shall be published in the Official Gazette.



## SECTION SEVEN

### Trial by the Supreme Court

#### Hearing

**Article 57-** (1) During its work as the Supreme Court, the Plenary sits and makes rulings in compliance with the laws that are in effect.

(2) (Added on 2/7/2018 by Article 209 of the Decree Law no. 703) Trials conducted by the Supreme Criminal Tribunal against the President, Vice-President or ministers shall be concluded within three months. In the event that the trial cannot be concluded within this period, it shall be adjudicated definitely within the additional three-month period.

(3) In the event also of presence of other substantial circumstances that are in violation of the law other than the reasons for returning the indictment that is in the Law No. 5271, the Supreme Court can decide that the indictment or other documents to substitute for the indictment be returned.

(4) In cases where a accused who has been questioned at the Supreme Court does not attend subsequent hearings or in cases where, also, such presence is not deemed to be necessary by the Supreme Court, the public case can be finalized in absentia thereof even if

there is no requests for the excuse from hearings. The defendant can always be readily present at the hearing.

(5) During the session, technical equipment as deemed appropriate by the President can be used for recording. Each page of the minutes of the hearing that shall be drawn up by reliance on such recording shall be signed by the President and those who have drawn up such minutes.

(6) At the Supreme Court, the duty of prosecution shall be carried out the Chief Prosecutor of the Republic at the Supreme Court of Appeals of the deputy Chief Prosecutor of the Republic at the Supreme Court of Appeals. Those who have been tasked among the Prosecutors of the Republic at the Supreme Court of Appeals can also participate in the hearing together with the Chief Prosecutor of the Republic at the Supreme Court of Appeals of the deputy Chief Prosecutor of the Republic at the Supreme Court of Appeals.

### **Re-examination**

**Article 58-** (1) The application for a re-examination of the decision by the Supreme Court can be made by the Chief Prosecutor of the Republic at the Supreme Court of Appeals, or the deputy Chief Prosecutor of the Republic at the Supreme Court of Appeals, the accused, the defendant, the participant and his/her attorney.

(2) The application for re-examination shall be made within fifteen days starting from the announcement of the verdict by way of submitting a petition to the Supreme Court. If the verdict has been pronounced in the absence of those who have a right to apply for re-examination, the period shall commence from the date of notification.

(3) The Supreme Court shall perform the re-examination over the file. Upon the request of the Chief Prosecutor of the Republic at the Supreme Court of Appeals or the deputy Chief Prosecutor of the Republic at the Supreme Court of Appeals, of the accused or the participant, it can be decided that the ex officio examination be made by holding a hearing.

(4) In the event that it is decided that the examination be made by holding a hearing, the date of the hearing shall be notified to the Chief Prosecutor of the Republic at the Supreme Court of Appeals or the deputy Chief Prosecutor of the Republic at the Supreme Court of Appeals, to the accused, the participant, defendant and the attorney. As may the accused be present in the trial, so may s/he have himself/herself represented by a defense counsel.

(5) At the hearing the Chief Prosecutor of the Republic at the Supreme Court of Appeals or the deputy Chief Prosecutor of the Republic at the Supreme Court

of Appeals, the accused in case that s/he is present, the defense counsel, the participant and the attorney declare their claims and defenses; the party who has applied for a re-examination is heard first. In any event, the final say shall belong to the accused.

(6) The re-examination shall be carried out only within the boundaries of the issues written in the application. If the application is found to be admissible, the decision is also made regarding the subject of the application. Decisions that are taken upon the application of re-examination shall be final.

## SECTION EIGHT

### Other Issues in Relation to Trial

#### Circumstances Preventing from Participating in the Hearing or in Other Affairs

**Article 59** - (1) The President and the justices shall not hear;

a) Cases and affairs which belong to them or relate to them,

b) Cases and affairs of their spouses even if the bond of marriage between them no longer exists, his/her antecedents and descendants regarding blood and kinship, peripheral kins up to the fourth degree (including such degree) regarding blood and even if the bond of marriage that gives rise to such kinship no longer exists, regarding in-law kinship, peripheral kins up to the third degree (including such degree) or of persons between whom there is filial bond,

c) To cases and affairs whereby s/he acts as the attorney, guardian or trustee of the owners of the case or of the affair,

ç) To cases and affairs that s/he has heard as the judge, prosecutor, arbitrator or where s/he has made a statement as witness or expert,

d) To cases and affairs where s/he has provided his/her advisory opinion,

### **Rejection of the President and the justices**

**ARTICLE 60 - (1)** The president and the justices can be rejected upon the claim regarding the presence of circumstances verifying the presumption that they cannot act in impartiality.

(2) In this case at the Plenary or at the sections, without the participation of the justice concerned, a final decision is made regarding the subject of rejection.

(3) Rejection is personal. Requests regarding the rejection of such a number of justices to prevent the convention of the Plenary or the sections shall not be heard.

(4) In the petition of rejection, the reasons must be expressly shown and the evidence be informed therein. Petitions that lack such conditions shall be rejected. Oath shall not constitute evidence.

(5) If the request for rejection is understood to be made in bad faith and not accepted on grounds of merits, a disciplinary fine of five hundred Turkish Lira to five thousand Turkish Lira shall be ruled on for each of the requesters.

(6) Within the meaning of this Law disciplinary fine refers to a fine which is given against the applicants whose express misuse of the right of application or the request of rejection has been determined, and which is final the moment that it is given and which must be immediately executed. This fine cannot be transformed into alternative sanctions and is not included in criminal records.

(7) The disciplinary fine is collected according to the Law on the Collection Procedure of Public Receivables the provisions of dated 21/7/1953 and numbered 6183.

### **Withdrawal**

**Article 61-** (1) In cases where the President and the justices withdraw from hearing the case or the affair by reliance on reasons that are written in Articles 59 and 60, the Plenary shall make its final decision regarding such issue with the participation of the President or the justices who has requested withdrawal. However, the justice who has requested withdrawal cannot participate in the vote.

### **The liability to give information and documents and information in the form of State secrets**

**Article 62-** (1) The Court, during the performance of the tasks that have been given to it, shall be authorized to correspond directly with legislative, executive

and judicial organs, public administrations, public officials, banks and other real and legal persons, to request information and documents, to examine all sorts of documents, records and transactions that it deems necessary, to summon all degrees and classes of public officials and persons concerned and to request representatives from the administration and other legal persons. Concerning those who fail to carry out such requests of the Court in the specified time frame, a direct investigation as per general provisions shall be carried out.

(2) Information pertaining to the case and affairs that the Court is tasked with hearing cannot be held confidential against the Court on grounds that these are State secrets.

(3) In the event that such information qualifies as State secret, the witness shall be heard by the Court without the presence of even the stenographer and the court clerk. The President, the judge or chief judge shall later on have only the information of the quality to clarify the alleged crime from said testimonies recorded in the court record. Information the disclosure of which might harm the foreign affairs of the State, its national defense and national security, and which is of a quality which might create peril in its constitutional order and foreign affairs shall be considered as State secret.



(4) Such provisions shall also apply to those the verbal explanations of whom are addressed and also to experts.

### **Avail of vehicles, tools and staff**

**Article 63-** (1) In cases required by the case, the President can place a request for the avail of vehicles, tools, stenographers and technical staff during cases for the banning of political parties and during verbal explanations. Such requests shall be carried out immediately.

### **Fee exemption**

**Article 64-** (1) Applications other than individual applications to be made to the Court, the decisions to be taken and transactions that will be performed in relation thereto shall not be subject to fees.

## CHAPTER NINE

### Decisions

#### The form of the vote and quorum for decision

**Article 65-** (1) The Plenary and sections make their decisions with the absolute majority of the participants. In case of equality of votes, the decision is considered as taken in the direction of the view of the President.

(2) In order for decisions regarding annulment in amendments to the Constitution, banning of political parties or bereaving them of the State assistance the two thirds majority of the justices participating in the meeting shall be sought.

(3) Voting starts with the least senior justice.

#### Decisions of the Court

**Article 66 -** (1) Decisions of the Court are final. The decisions of the Court are binding for the legislative, executive and judicial organs of the State, administrative offices, real and legal persons.

(2) Annulment decisions shall not be executed retrospectively.

(3) The law the revocation of which has been ruled by the Court, Presidential decree or the Rules of Procedure of the Grand National Assembly of Turkey

or certain articles or provisions thereof shall lose force on the date of its publication in the Official Gazette. In cases the Court deems necessary, the date on which the annulment decision shall become effective can be separately decided so as not to be in excess of one year starting from the day on which it was published in the Official Gazette.

(4) When the Court is annulling a law, a Presidential decree or entirety or a provision of the Rules of Procedure of the Grand National Assembly of Turkey, it cannot deliver judgment so as to lead to a new application with an act such as that of the law maker.

(5) Verdicts of the Court shall be written together with the justification thereof. Decisions of annulment shall not be made public without writing their justification.

(6) Principles pertaining to the preparation and negotiation of draft verdicts shall be demonstrated in the Internal Regulation.

(7) Verdicts shall be signed by the president and the justices who take part in the examination or the trial. Those who oppose shall deliver their reasons for opposition to the verdict within the duration of time specified in the Internal Regulation. Verdicts shall be notified to those concerned in such form.

(8) Reasoned decisions that are taken at the end of actions for abstract and concrete review shall be published in the Official Gazette immediately.

### **Retrial**

**ARTICLE 67 - (1)** Retrial against the decisions of the Court in cases for banning political parties and the decisions that the Court has taken as the Supreme Court can be requested as per the provisions of the Law No. 5271.

(2) In cases where the European Court of Human Rights rules that the political party banning decision of the Court or a decision that the Court has taken as the Supreme Court was ruled by way of violation of the European Human Rights Convention and its Protocols, retrial of the case can be requested from the Constitutional Court within one year starting from the finalization of the verdict of the European Court of Human Rights.

(3) If the Court deems that such retrial request is substantial and worthy of admission it shall decide on a retrial. Such request shall be concluded as per general provisions.

## **SECTION FIVE**

### **Financial Provisions, Staff and Personal Actions**

#### **CHAPTER ONE**

##### **Financial, Social and Other Rights**

###### **Financial rights**

**Article 68-** (1) The monthly salaries and allowances, other financial, social rights and assistances of the President of the Constitutional Court, vice presidents, justices, rapporteur-judges of the Constitutional Court, assistant rapporteur-judges and assistant rapporteur-judge candidates shall be subject to the provisions of this Law.

###### **Monthly salary chart**

**ARTICLE 69-** (1) Up to;

- a) 100% to the President of the Constitutional Court,
- b) 90% to the vice presidents of the Constitutional Court,
- c) 86% to the justices of the Constitutional Court,
- ç) 79% to rapporteur-judges first-class,
- d) 65% to rapporteur-judges selected as first-class,
- e) 55% to other rapporteur-judges first-class,

- f) 53% to rapporteur-judges second-class,
- g) 51% to rapporteur-judges third-class,
- ğ) 49% to rapporteur-judges fourth-class,
- h) 47% to rapporteur-judges fifth-class,
- ı) 45% to rapporteur-judges sixth-class,
- ı) 43% to rapporteur-judges seventh-class,
- j) 41% to rapporteur-judges eight-class,
- k) 65% to assistant rapporteur-judges first-class,
- l) 56% to assistant rapporteur-judges second-class,
- m) 54% to assistant rapporteur-judges third-class,
- n) 52% to assistant rapporteur-judges fourth-class,
- o) 50% to assistant rapporteur-judges fifth-class,
- ö) 47% to assistant rapporteur-judges sixth-class,
- p) 46% to assistant rapporteur-judges seventh-class,
- r) 44% to assistant rapporteur-judges eight-class,
- s) 37% to assistant rapporteur-judge candidates,

of each item of disbursement that constitutes a comparative salary shall be paid. In the calculation of the bonus which is among the items of disbursement under this article, one twelfths of the total amount of

the bonus in a financial year inside the comparative monthly salary shall be taken into consideration.

(2) Rapporteur-judges of the Constitutional Court and assistant rapporteur-judges shall earn the right to the monthly salary that corresponds to their new grade starting from the 15th of the month that follows the dates of effectiveness of their promotion.

(3) To the ratios of monthly salaries touched by rapporteur-judges first-class, two points shall be added every three years under the condition that the ratio that will serve as the basis of the payment does not exceed 83% and that they shall not lose their qualities for election as first-class.

(4) Among the disbursement items those which are not subject to tax shall also be not subject to tax in payments that will be made as per this Article.

(5) A judicial allowance up to 10% of their gross monthly salaries shall be given to the President of the Constitutional Court, vice presidents, justices and to rapporteur-judges among those the titles of which have been specified in clause one.

(6) Payment to the rapporteur-judges and rapporteur-judges who come from higher education institutions or from the Supreme Court of Accounts shall be made on the basis of monthly salaries and allowances that are paid to judges and prosecutors

holding office as rapporteur-judges of the same grade and seniority.

(7) To those to whom payments are made as per this Article; payments that are made within the scope of the decree in the force of law No. 375 and dated 27/6/1989 (with the exception of the foreign language compensation) and compensation for representation, office and high-justice shall not be paid and payments as per Article 152 of the Law No. 657 shall not be made.

(8) Additional indicators of the President and the justices of the Constitutional Court are (9.000) and (8.000) respectively, and their high-justice indicator is (17.000).

(9) A monthly additional allowance that amounting up to the outcome of multiplication of the indicative figure of (40.000) with the coefficient that is applied to the salaries of civil servants shall be given to the President, vice presidents and the justices; and amounting up to the outcome of multiplication of the indicative figure of (10.000) with the coefficient that is applied to the salaries of civil servants shall be given to rapporteur-judges. The provision of the Law No. 2802 regarding earning the right to such allowance and the payment thereof shall be applied whereby such allowance, with the exception of the stamp tax, shall not be subject to any tax or any cuts whatsoever.



(10) In cases where this Law does not have any provisions, the provisions, depending on the issue, of the Law No. 2802 and the Law No. 657 shall be applied regarding the time of payment of the salaries of those who are paid as per this Article, under which circumstances these shall be recalled and regarding social rights and assistances and earning the right to salary and allowances in case of appointment from assistance and from other institutions.

(11) An additional payment which shall be found by way of multiplication of the indicative figure of (5.000) with the monthly coefficient that is applied to the salaries of civil servants shall be paid to staff who are subject to the Law No. 657 every month. The amount of additional payment, with the exception of stamp tax, shall not be subject to any tax or cuts whatsoever. The additional payment shall not be taken into consideration during the calculation of another payment.

### **Permission**

**Article 70-** (1) (Rearranged on 27/6/2013 by Article 31 of Law no. 6494) The President and the justices have the right to an annual leave of forty days under the condition that businesses that are handled as the Supreme Court or that are time-bound according to the Constitution are not hampered.

(2) Sickness and excused leaves shall be subject to general provisions. Annual and excused leaves shall be given by the President.

### **Health affairs and treatment**

**Article 71-** (1) Health expenditures of the President and the justices and the retired thereof and those whom they are liable to look after shall be paid from the budget of the Court within the framework of provisions and principles to which the members of the Grand National Assembly of Turkey are subject.

### **Awarding of certificates of the day of establishment and of honor**

**Article 72 -** (1) The 25<sup>th</sup> day of the month of April every year is the day of establishment of the Court. The day of establishment shall be celebrated with ceremonies; seminars, conferences and similar events can be organized.

(2) Certificates of honor and gifts that symbolize the memory of their past services shall be given to each of the retired Presidents, vice presidents and justices.

(3) Each year, adequate amount of allowance shall be appropriated for the budget of the Court so as to meet the costs of the ceremony that will be organized to this end, and of the gifts. Expenditures that will be

made for this purpose are not subject to the Public Procurement Law No: 4734 dated 4/1/2002.

### **Secondment in foreign countries**

**Article 73-** (1) Rapporteur-judges and assistant rapporteur-judges can be assigned by the Presidency abroad up to two years so as to augment their knowledge and etiquette and for purposes of graduate studies, scientific research or to work at the courts of foreign countries, universities or international organizations or for education purposes within the framework bilateral cooperation. Such durations, if deemed necessary by the Presidency, can be doubled.

(2) Within this scope, regarding the financial rights, liabilities, compulsory services, meeting the expenditures and the transfer of their monthly salaries and allowances provisions regarding civil servants shall be applied.

(3) The upgrade and promotion, retirement, monthly salary, allowance and all other staffing rights and liabilities of those sent to foreign countries shall continue.

### **Traineeship in the Court**

**Article 73/A** – (Added on 8/7/2021 by Article 26 of the Law no. 7331)

(1) Prospective judges and trainee lawyers can perform traineeship in the Court. The procedures and principles regarding the implementation of this Article shall be regulated by directive.

### **Staff positions**

**Article 74-** (1) Determination, formation, use and cancellation of the staff positions that belong to the Court and other issues pertaining to staff positions shall be regulated as per the provisions of the Decree in the Force of Law dated 13/12/1983 and No. 190.

### **Transitional provisions**

**PROVISIONAL ARTICLE 1-** (1) The duties of those occupying, at the Constitutional Court the staff position offices titles of which are; Deputy General Secretary, Director of Registry, Director of Press and Public Relations, Director of Verdicts, Executive Assistant, Director of Archives, Financial Affairs Director, ICT Director, Logistics Director, Staff and Training Director, Director of Publications, Library Director, Director for Administrative Affairs, Manager, Properties Accountant and Civil Defense Expert shall terminate on the date of publication of this Law. These shall be appointed within the Court or within the organization of the Ministry of Justice, to staff positions suitable for their grades latest in six months. Until the transaction

of appointment is completed, they can be assigned to tasks that are befitting for their statuses. Until they are appointed to a new staff position, they shall continue to receive their monthly salaries, additional indicators and all sorts of raises and compensations and other financial rights which belong to their previous staff position. In the event of the monthly salaries, additional indicators, all sorts of raises and compensations and the total of other rights of the new staff positions of staff concerned that they are appointed to being less than the monthly salaries, additional indicators, all sorts of raises and compensations and the total of other rights of their previous staff positions, the difference in between shall be paid without incurring any cuts as long as they remain in such staff positions that they are appointed to.

(2) Of those who, on the date of publication of this Law, are in such staff positions which belong to the Presidency, and whose staff position and work title has not changed shall be considered as appointed to the staff positions of the Presidency with the same work title.

(3) Until re-arrangements and appointments are made according to this Law performance of the tasks that have been assigned to the changing or newly-established units of the Court shall be continued by other units that have been carrying such tasks on previously.

The Presidency shall adopt its organization and staff positions to this Law in six months at the latest. Within this framework, staff position changes shall be executed as per the provisions of the said Decree in the Force of Law without applying the provision of the last clause of Article 9 of the Decree in the Force of Law No. 190.

(4) The President and the vice president who are in office on the date when this Law enters into force shall fulfill the time that is valid on the date of their election.

(5) The Internal Regulation and the regulations prescribed in this Law shall be prepared by the Presidency and enter into force in six months at the latest. Until the new Internal Regulation and the regulation enter into force, application of the provisions of the existing Internal Regulation and the regulation shall continue to be implemented.

(6) The references in the legislation to Law on Establishment and Rules of Procedure of the Constitutional Court No. 2949 and dated 10/11/1983 shall be considered as references made to this Law except for their provisions that are contrary to this Law.

(7) Regarding treatment expenses that have been made before the date of entry into force of this Law the provisions of Article 14 of the Law No. 2949 that has been revoked with this Law shall be taken as basis.

(8) The court shall examine the individual applications to be lodged against the last actions and decisions that were finalized after 23/9/2012.

**PROVISIONAL ARTICLE 2** – (Added on 2/7/2018 by Article 209 of the Decree Law no. 703) Members of the Council of Ministers, who had held office prior to the date when the President started taking office following the first concurrently-conducted Presidential and parliamentary election, shall be tried by the Supreme Criminal Tribunal for their office-related offences.

(2) Presidents, justices and chief public prosecutors of the abolished Military Court of Appeals and the High Military Administrative Court as well as the Gendarmerie General Commander shall be tried by the Supreme Criminal Tribunal for their office-related offences committed prior to 27/4/2017.

(3) Those who have been elected, from the abolished Military Court of Appeals or the High Military Administrative Court, as the justice of the Constitutional Court shall continue to hold office as a justice until the expiry of their term of office for any reason. All retirement-related rights of these justices deriving from being a military official shall be reserved.

(4) The Constitutional Court shall continue to exercise its duties and powers with respect to decree laws.

### **Amended and abolished provisions**

**ARTICLE 75-** (1) Law on Establishment and Rules of Procedure of the Constitutional Court dated 10/11/1983 and numbered 2949 has been abolished.

(2) The expression “Constitutional Court” in Article 13 of the Passport Law No. 5682 and dated 15/7/1950 has been amended as “with the President and the justices of the Constitutional Court.”

(3) The expressions of “Constitutional Court” in Articles 1 and 2 of the Law of Judges and Prosecutors No. 2802 and dated 24/2/1983; the expressions the “President of the Constitutional Court,” “Vice President of the Constitutional Court,” “justices of the Constitutional Court” and the expressions “the President of the Constitutional Court,” “the President of the Court of Disputes” and “the justices of the Constitutional Court” in the additional indicator chart in the said Law have been removed from the text.

(4) The expressions “the President of the Constitutional Court,” “the President of the Court of Disputes” and “the justices of the Constitutional Court” that are found in Article 1 of the Decree in the Force of Law about High Judgeship Compensation No. 270 and dated 23/1/1987 have been removed from the text.



(5) The expression “to the Office of the Press Advisor of the Constitutional Court” has been added to succeed the expression “to the Secretariat General” in Article 59 of the Passport Law No. 657 and dated 14/7/1965.

(6) The staff positions in chart (I) that is annexed to the Decree in the Force of Law on the General Staff Positions and Procedure No: 190 dated 13/12/1983 have been annulled and removed from the chart concerned. The staff positions that are found in the list No. (I) that is annexed to this Law have been formed and added to the Presidency of the Constitutional Court section of the chart No. (II) of the Decree in the Force of Law No. 190, and the staff positions that are found in the list No. (2) have been formed and added to the Presidency of the Constitutional Court section in chart No. (I), the staff positions that are found in the list No. (5) have been abolished and removed from the Presidency of the Constitutional Court section of the chart No. (II) of the Decree in the Force of Law No. 190.

The staff positions that are found in the annexed list No. (3) have been formed and added to the Ministry of Justice section of chart (II) that is annexed to the Decree in the Force of Law No. 190, the staff positions that are found in the list No. (4) have been formed and added to the Presidency of the Supreme Court of Accounts section of the chart No. (II).

(7) To the section under the title No. (5) in the chart No. (II) of the Law No. 657 the expression “Managers of the Presidency of the Constitutional Court” has been added.

(8) The expression “in individual applications to the Constitutional Court” to succeed the expression “in judicial matters” has been added to the first sentence of the section “A) Court Fees” in the Tariff No. (1) which is connected to the Fees Law No. 492 and dated 2/7/1964 and the sub-clause below has been added to the clause titled “I-Application fee.”

“ 4. 150,00 TRY in the Constitutional Court”

### **Force**

**Article 76 - (1)** Of this Law;

- a) Articles 45 to 51 on the date of 23/9/2012,
- b) Other provisions on the date of their publication, enter into force.

### **Enforcement**

**ARTICLE 77-(1)** The Council of Ministers shall enforce the provisions of this Law.





## INTERNAL REGULATIONS OF THE CONSTITUTIONAL COURT

Based on the Code no. 6216, 30/3/2011

Date and Issue of the Official Gazette: 12/7/2012,  
no : 28351



## **SECTION ONE**

### **General Provisions**

#### **CHAPTER ONE**

##### **Purpose, Scope and Definitions**

###### **Purpose and scope**

**ARTICLE 1-** (1) The purpose and scope of this Internal Regulation shall be to regulate the internal order of the Constitutional Court, its functioning, its organization, the composition of the Sections and Commissions, its procedures and principles of working and trial, the books and records to be kept, the flow order and archiving of the documents including electronic media, the library of the Court, the Secretariat General and the administrative organization, the duties and responsibilities of administrative staff, the keeping of the personal files of the President, Vice Presidents, Justices, rapporteur-judges and assistant rapporteur-judges, their disciplinary affairs, leaves, the robes they shall wear and the times and places where these shall be worn, the principles of management and registry of deliberations and hearings.

###### **Legal grounds**

**ARTICLE 2-** (1) This Internal Regulation has been prepared based on Article 149 of the Constitution of the Republic of Turkey dated 7/11/1982 and numbered

2709, and Article 5 of the Code on Establishment and Rules of Procedures of the Constitutional Court dated 30/3/2011 and numbered 6216.

### **Definitions**

**ARTICLE 3-** (1) In the implementation of this Internal Regulation;

a) Research and Case Law Unit (Re-CL): shall refer to the unit assigned to carry out activities to develop and promote the case law by monitoring the decisions of the Court, make recommendations to prevent discrepancies in the case law and prepare statistics and research reports to this end,

b) President: shall refer to the President of the Constitutional Court,

c) Presidency: shall refer to the Presidency of the Constitutional Court,

ç) Vice President: shall refer to the members elected by the Plenary for a four-year term to carry out the presidency of the Sections and to substitute the President,

d) Chief Rapporteur-judge: shall refer to rapporteur-judges assigned by the President to ensure the orderly and efficient functioning of the activities of the rapporteur-judges and assistant rapporteur-judges within the individual application units and Re-CL and

the working groups established within the Court, to assist the President and the Presidents of the Sections in matters related to the functioning of the Plenary and the Sections,

e) Applicant: shall refer to the real or legal person who is stipulated in Article 46 of the Law and who carries out an individual application to the Court with the claim that one of the fundamental rights and liberties referred to by the relevant article of the Constitution has been violated by the public power,

f) Individual application rapporteur-judge: shall refer to the rapporteur-judges of the Sections and Commissions,

g) President of Section: shall refer to each of the Vice Presidents who chair the Sections,

ğ) (Amended by Article 1 of the Rules of Procedure no. 30587 published on 6/11/2018 on the Official Gazette) Section: Shall refer to the boards which are composed of six members under the chairmanship of the president of Section and have the authority to make decisions regarding the merits of applications, the admissibility of which has been ruled on by the Commissions which convene with the participation of the relevant President of Section and four members, the admissibility and merits of applications which



have been referred to rule on the matter of their admissibility,(1)

h) (Amended by Article 1 of the Rules of Procedure no. 30587 published on 6/11/2018 on the Official Gazette) Sections rapporteur-judge: shall refer to rapporteur-judges who are assigned to prepare draft decisions regarding the merits of the applications and their admissibility, when necessary, under the oversight of the chief rapporteur-judge and make the required correspondence and presentations,

1) Working group: shall refer to a group which has been established to carry out activities and formulate opinions in order to ensure coherence in implementation and labour productivity in the solution of problems which emerge in legal, administrative or technical matters,

i) Plenary rapporteur-judge: shall refer to rapporteur-judges assigned by the President to carry out judicial and administrative activities in matters which fall under the jurisdiction of the Plenary,

j) (Amended by Article 1 of the Rules of Procedure no. 30587 published on 6/11/2018 on the Official Gazette) Plenary: shall refer to the assembly composed of fifteen members,(2)

k) Secretary General: shall refer to the Secretary General of the Constitutional Court,

l) Deputy Secretary General: shall refer to the Deputy Secretary Generals of the Constitutional Court,

m) Grouping: shall refer to assembling individual applications of similar quality under certain headings in order to carry out the examinations regarding their admissibility and merits in a more expedient and consistent fashion,

n) Rules of Procedure: shall refer to the Rules of Procedure of the Constitutional Court,

o) Law: shall refer to the Code on Establishment and Rules of Procedures of the Constitutional Court dated 30/3/2011 and numbered 6216,

ö) Seniority: shall refer to the time which has elapsed since the date of election as a justice of the Constitutional Court or being older than those selected on the same date; seniority in Vice Presidency shall refer to the time which has elapsed in the capacity of Vice President or the time which has elapsed since the date of election as a justice if they were selected on the same date, to the total time spent in the capacity of Vice President in the event of re-election,

p) Commission: shall refer to boards composed of two members in order to carry out the admissibility examination of individual applications,

r) (Amended by Article 1 of the Rules of Procedure no. 30587 published on 6/11/2018 on the Official

Gazette) Commissions rapporteur-judge: shall refer to rapporteur-judges who are assigned to prepare draft decisions regarding the admissibility of applications and, when needed, on its merits under the oversight of the chief rapporteur-judge and make the required correspondence and presentations,

s) Court: shall refer to the Plenary, Sections and Commissions and the Constitutional Court composed thereof,

ş) Rapporteur-judge: shall refer to rapporteur-judges appointed or assigned by the President to assist the judicial and administrative activities of the Court as per Articles 24 and 25 of the Law,

t) Assistant rapporteur-judge: shall refer to assistant rapporteur-judges appointed by the President to assist the judicial and administrative activities of the Court as per Article 27 of the Law,

u) Convention: shall refer to the Convention for the Protection of Human Rights and Fundamental Freedoms dated 4 November 1950 and the additional protocols thereof to which Turkey is a party,

ü) National Judiciary Informatics System (UYAP): shall refer to the informatics system established with the aim of carrying out judicial services on electronic media,

v) Member: shall refer to all members including the President and vice presidents,

y) Supreme Court: shall refer to the Plenary assigned to carry out the trial of individuals stipulated in subparagraph (ç) of paragraph one of Article 3 of the Law in relation to their crimes related to their duties.

*(1) (2) Amendments on clauses (ğ) and (j) paragraph 1 Article 3 shall come into force once the term of office of the elected members from the Military Court of Cassation and the Supreme Military Administrative Court expires.*

## CHAPTER TWO

### **Election of Justices to the Constitutional Court**

#### **Notification to those elected as justices**

**ARTICLE 4-** (1) Upon notification of the circumstance of being elected as a justice of the Court in writing to the Court by the Presidency of the Grand National Assembly of Turkey for members elected by the Grand National Assembly of Turkey; upon written notification to the Court by the Presidency of the Republic for members appointed by the President of the Republic, the President shall notify the situation in writing to those appointed, stating that they must take office within a month starting from the date of notification.

#### **Refusal of those elected to accept the duty**

**ARTICLE 5-** (1) In the event that an elected justice fails to take office within a month without a valid excuse or states in writing that s/he does not accept the duty, this matter shall be notified in writing by the President to the Presidency of the Grand National Assembly of Turkey in the event that the concerned has been elected by the Grand National Assembly of Turkey, to the Presidency of the Republic in the event that s/he has been selected by the President of the Republic and to the relevant institution or board in the event of a nomination.

## Oath taking

**ARTICLE 6-** (1) The justices cannot take part in the activities of the Court unless they take the oath.

(2) (Amended by Article 2 of the Rules of Procedure no. 30587 published on 6/11/2018 in the Official Gazette) The President shall invite to the oath taking ceremony the President of the Republic, the Speaker of the Grand National Assembly of Turkey, the presidents and chief public prosecutors of supreme judiciary bodies, the Minister of Justice and other high ranking officials who are part of the State protocol and retired members and a limited number of individuals to be stated by the member who will take the oath.

(3) After the speech by the President, the curriculum vitae of the elected justice shall be read in the presence of the Assembly and the guests.

(4) The selected member shall take the oath as stipulated in Article 9 of the Law in the presence of the guests and in front of the President, Vice Presidents and members.

(5) The justices, rapporteur-judges and assistant rapporteur-judges shall participate in the oath taking ceremony in their robes.

(6) After the oath taking ceremony, the curriculum vitae of the newly elected justice shall be made public via TRT and news agencies.

### **Disease impeding duty**

**ARTICLE 7-** (1) In the event that it is conclusively understood through a medical board report of an official general hospital that a member will not be able to assume office due to health reasons, paragraph three of Article 11 of the Law shall be applied.

(2) These individuals shall be referred to the medical board of a hospital whose qualities are stipulated in paragraph one upon their own request or upon the decision to be made by the Plenary. The report of the medical board shall be taken as the basis for the action to be carried out.

(3) However, upon the request of these individuals or in the event that it is deemed to be necessary by the Plenary, the concerned shall be re-examined by the medical board of another official general hospital. In the event that a discrepancy emerges between the reports, this discrepancy shall be resolved by another official general hospital and the relevant action shall be carried out accordingly.

## CHAPTER THREE

### **Election, Duties and Authority of the President and Vice Presidents and the Liabilities of the Members**

#### **Elections and the preparation of ballots**

**ARTICLE 8-** (1) The President and the Vice Presidents, the President and Vice President of the Court of Jurisdictional Disputes shall be elected for a period of four years by the Plenary from amongst the members by secret vote and with simple majority of the total number of members. Those the term of whom expires can be re-elected. No candidates shall be nominated in these elections.

(2) The elections shall be included in the agenda by the President within the two months preceding the date on which these duties will expire. The venue, date and time of the election shall be notified to the members in writing at least seven days in advance. The President shall be authorized to carry out election affairs.

(3) When there is a vacancy in the Presidency, Vice Presidencies, the Presidency of the Court of Jurisdictional Disputes or the Vice Presidency of the Court of Jurisdictional Disputes, new elections shall be held for a period of four years within the framework of the provisions contained in this Article.

(4) In the elections to be held, ballots of the same size,



which separately bear the names and surnames of the members, are printed in the same manner on the same colour of paper and stamped with the seal of the Court shall be distributed to the members in an envelope. The elections shall be held separately and these ballots distributed to the members shall be used in the voting.

### **Counting of the votes**

**ARTICLE 9-** (1) A Counting Board shall be constituted of the three members with the lowest seniority to be assigned in the counting of the votes. The counting of the votes shall be done by this Board, the result shall be determined via minutes.

(2) The Counting Board shall first determine whether the number of ballots is equal to the number of members participating in the voting. In the event that the number of ballots is higher than the number of voting members, the voting shall be renewed. The ballots which are not in compliance with the due method shall be considered null and void.

(3) If the results of the counting demonstrate that the election will not be concluded on that day, the voting can be postponed to another date to be determined by the President. This period cannot be more than seven days.

(4) The result of the election shall be notified in writing to those elected and be published in the Official Gazette.

### **Duties and powers of the President**

**ARTICLE 10-** (1) The duties and powers of the President shall be as follows:

- a) To represent the Court.
- b) To ensure the efficient and orderly functioning of the Court and to take the measures s/he will consider appropriate to this end.
- c) To determine the agenda of the Plenary and, when necessary, of the Sections.
- ç) To preside over the Plenary and the Supreme Court; to assign one of the Vice Presidents, when s/he shall deem necessary, to execute these duties in his/her place.
- d) To assign and dismiss the Secretary General, the Deputy Secretary Generals and chief rapporteur-judges.
- e) To approve the regulations of the Court.
- f) To inspect the conformity of expenditures with the budget of the Court.
- g) To assign members from another Section in the event that one of the Sections shall fail to convene due to actual or legal impossibility.

ğ) To take necessary precautions in order to ensure the balanced distribution of the work load among the Sections in line with the leading decision of the Plenary.

h) In the event that it is determined that the work load of one of the Sections has increased to such a degree as not to be fulfilled with normal working and that a work load imbalance has occurred between the Sections, to convene the Plenary to discuss this matter.

ı) (Amended by Article 1 of the Rules of Procedure no. 28932 published on 5/3/2014 in the Official Gazette) In cases where it is considered that a case law discrepancy has occurred or will occur between the decisions of the Sections or when the Section deems it necessary to refer the case to the Plenary, to convene the Plenary to discuss this matter.

ı) To make arrangements regarding the functioning and organization of individual application by taking into account the opinions of the Presidents of the Sections.

j) To appoint the Court staff.

k) To provide information and interviews regarding the Court to the press and the public opinion or to assign Vice Presidents, members or rapporteur-judges to this end in circumstances to be deemed necessary.

l) To take or make others take security measures regarding the Court.

m) To fulfil other duties prescribed in the Law and in the Rules of Procedure.

(2) The duties and authority pertaining to the President shall be fulfilled by the senior Vice President in the event that the Presidency is vacant; these shall be fulfilled by the Vice President to be determined by the President in the event that the President is on excused absence or leave. In the event that the Vice Presidents are not present either, the most senior member shall preside over the Court.

### **Duties and powers of Vice Presidents**

**ARTICLE 11-** (1) The duties and powers of Vice Presidents shall be as follows:

a) To preside over the Plenary or the Supreme Court in circumstances deemed to be necessary by the President.

b) To preside over the sessions of the Section of which s/he is a member and to manage the affairs of the Section.

c) To determine the agenda of the Section of which s/he is the President in such a way as not to disrupt the working of the Plenary.

ç) To preside over the hearings of the Section.

d) To determine the Commissions in which the members of the Section will serve.

e) To make sure that the members of the Section take turns in serving in Commissions and to prepare lists to this end.

f) To ensure the efficient and orderly functioning of the Commissions and to take the measures s/he will consider appropriate to this end.

g) In cases where it is considered that a case law discrepancy has occurred or will occur between the decisions of the Commissions, to convene the Section to discuss this matter.

ğ) To take necessary precautions for the balanced distribution of work load among the Commissions.

h) To fulfil the duties assigned with the Law and the Rules of Procedure and other affairs entrusted by the President.

(2) In cases where the Vice Presidency is vacant, the Vice President is on excused absence or leave, the duties and authority pertaining to the Vice President shall be fulfilled by the most senior member.

## **Liabilities of Justices**

### **ARTICLE 12-** (1) The justices;

a) Shall be obliged to act according to the solemnity and honour of the profession of judgeship; they cannot engage in any activity that does not comply with their duties,

b) Shall participate in sessions unless they have a valid excuse,

c) Cannot declare their thoughts and opinions regarding current matters which are being deliberated at the Court or which may be carried to the attention of the Court,

ç) Shall preserve the secrecy of sessions and voting,

d) Cannot cast an abstention vote in votes,

e) (Amended by Article 2 of the Rules of Procedure no. 28932 published on 5/3/2014 in the Official Gazette) Cannot assume any official or private duty apart from their duties; can participate in national or international congresses, conferences and similar scientific meetings or join the international organisations working on subject relevant to the field of activity of the Court with the permission of the President.

(2) They can become members of associations with sports, social and cultural purposes on the condition that they do not assume duties in executive and inspection boards.

## CHAPTER FOUR

### Provisions Regarding Crimes and Punishments and Disciplinary Actions

#### Judicial investigation and protection measures

**ARTICLE 13-** (1) Initiating an investigation into crimes alleged to be arising from the duties of the members or to be committed during their duties and their individual crimes shall be conditional of the decision of the Plenary. However, in circumstances of in flagrante delicto, which fall under the jurisdiction of the assize court, the conduct of the investigation shall be subject to general provisions.

(2) Protection measures regarding the members due to crimes alleged to be arising from the duties of the members or to be committed during their duties and their individual crimes can only be decided upon as per the provisions of Article 17 of the Law. In circumstances of in flagrante delicto, which fall under the jurisdiction of the assize court, the application for protection measures shall be subject to general provisions.

(3) If the Investigation Board, during investigation, places a request to the effect that the protection measures contained within the Law of Criminal Procedure dated 4/12/2004 and numbered 5271 and other laws be taken in crimes arising from duties or alleged to be committed during duties and individual

crimes apart from cases of in flagrante delicto, which fall under the jurisdiction of the assize court, a decision shall be made by the Plenary regarding this matter.

### **Judicial investigation procedure**

**ARTICLE 14-** (1) If a notification or complaint is brought forward as a result of crimes arising from the duties of the members or committed by the members during their duties and their individual crimes apart from cases of in flagrante delicto, which fall under the jurisdiction of the assize court, or if such a circumstance is learned about, an action shall be carried out according to the following provisions.

a) The President shall not put into effect notifications or complaints brought forward or understood to be brought forward under a pseudonym, devoid of signature and address, or not containing a specific incident, or reason and the evidence and justification of which are not demonstrated. However, in the event that these notifications and complaints are based on concrete evidence, the necessary examination and investigation shall be carried out regarding the matter.

b) When necessary, the President can have a member carry out a preliminary examination before taking the matter to the Plenary. The assigned member must be more senior than the Vice President or member regarding whom the investigation is carried out. In the



event that an investigation is carried out regarding the most senior member, this duty shall be assigned to one of the Vice Presidents.

c) The assigned member can request all kinds of information and documents regarding the examination from the concerned through the Presidency as per Article 62 of the Law.

ç) After completing his/her examination, the assigned member shall prepare a preliminary examination report containing the facts, claims and evidence and submit it to the President without declaring his/her own opinion.

d) The preliminary examination report shall be incorporated into the agenda by the President and discussed at the Plenary. The member regarding whom the action is carried out cannot participate in the deliberations at the Plenary regarding this matter.

e) In the event that it is decided by the Plenary that there are no grounds for initiating an investigation, the reasoned decision shall be notified to the concerned member and to those who have brought forward the notification and complaint.

f) In case of initiation of an investigation, the Plenary shall elect three individuals from amongst the justices via secret vote to make up the Investigation Board.

g) At the end of the vote at the Plenary, the votes that each of the justices has received shall be written next to their names and the three candidates with the highest number of votes shall be considered to be elected as justices of the Board. In the event of equality of votes, the more senior justice shall be considered to be elected. The senior justice shall preside over the Investigation Board.

ğ) The Investigation Board shall carry all of the authority bestowed upon the Public prosecutor by the Law numbered 5271. The actions requested by the Board to be carried out in relation to the investigation shall be immediately fulfilled by the judicial authorities with local authority.

(2) In the event that the above prescribed situation and behaviours of the President are observed or learned about, the actions required to be carried out by the President shall be executed by the senior Vice President.

### **Decisions of the Investigation Board**

**ARTICLE 15-** (1) If the Investigation Board does not deem it necessary to file a public action after having completed the investigation, it shall decide that there are no grounds for initiating prosecution.

(2) If the Investigation Board deems it necessary to file a public action, it shall send the indictment and the file it will prepare to the Court to carry out the trial in

its capacity as the Supreme Court in crimes related to their duties, to the Presidency in order to be entrusted to the Assembly of Criminal Chambers of the Supreme Court of Appeals in other crimes.

(3) The actions and decisions of the Investigation Board shall be final; the decisions shall be notified to the suspect and the complainant, if any.

(4) The members who have taken part in the Investigation Board cannot assume duties in the trial to be conducted by the Court in its capacity as the Supreme Court.

(5) The provisions of the Law and other laws which suit the nature of the trial shall be applied in the trial to be conducted by the Court in its capacity as the Supreme Court.

### **Decision to initiate a disciplinary investigation**

**ARTICLE 16-** (1) Initiating an investigation regarding the members on grounds of their disciplinary actions shall be conditional of the decision of the Plenary.

### **Procedure for disciplinary investigation**

**ARTICLE 17-** (1) If a notification or complaint is brought forward as a result of actions of the members which require disciplinary sanction, or if such a circumstance is learned about, an action shall be carried out according to the following provisions.

a) The President shall not put into effect notifications or complaints brought forward or understood to be brought forward under a pseudonym, devoid of signature and address, or not containing a specific incident or reason, and the evidence and justification of which are not demonstrated. However, in the event that these notifications and complaints are based on concrete evidence, the necessary examination and investigation shall be carried out regarding the matter.

b) When necessary, the President can have a member carry out a preliminary examination before taking the matter to the Plenary. The assigned member must be more senior than the Vice President or the member regarding whom the investigation is carried out. In the event that the investigation is carried out regarding the most senior member, this duty shall be assigned to the senior Vice President.

c) The assigned justice can request all kinds of information and documents regarding the examination from the concerned through the Presidency as per Article 62 of the Law.

ç) After completing his/her examination, the assigned justice shall prepare a preliminary examination report containing the facts, claims and the evidence and shall submit it to the President without declaring his/her own opinion.

d) The preliminary examination report shall be incorporated into the agenda by the President and be discussed at the Plenary. The member regarding whom the action is carried out cannot participate in the deliberations at the Plenary regarding this matter.

e) In the event that it is decided by the Plenary that there are no grounds for initiating an investigation, the reasoned decision shall be notified to the concerned member and to those who have brought forward the notification and complaint.

f) In the event that it is decided to initiate an investigation, the Plenary shall elect three individuals from amongst the members via secret vote to make up the Investigation Board.

g) At the end of the vote at the Plenary, the votes that each of the members has received shall be written next to their names and the three candidates receiving the highest number of votes shall be considered to be elected as members of the Board. In the event of equality of votes, the more senior member shall be considered to be elected. The most senior member shall preside over the Investigation Board.

ğ) The Investigation Board shall gather the information regarding the matter and determine the evidentiary proof, hear under oath the individuals considered necessary to be heard.

h) As per paragraph (4) of Article 18 of the Law, the Investigation Board can make requests regarding the investigation from public administrations, public officials, other real and legal persons.

1) The Investigation Board shall invite the concerned to deliver his/her defence within the period to be provided on the condition that it will not be fewer than fifteen days after having notified him/her of the alleged situation and behaviour. The concerned shall be authorized to examine the investigation documents starting from the moment when his/her defence has been requested.

i) At the end of the examination, the Investigation Board shall prepare a report demonstrating the information and evidence it has gathered and containing its opinion as to whether there are grounds for imposing a disciplinary sanction or not and shall submit the report and its annexes to the Presidency in order to be communicated to the Plenary.

j) The President shall notify in writing the outcome of the investigation to the concerned and shall invite the concerned to provide his/her written defence in front of the Plenary within the period s/he will determine, on the condition that it will not be fewer than five days.

k) The Plenary shall rule on the expansion of the investigation, if necessary, according to the outcome of

the disciplinary investigation that has been conducted, on the removal of the file from proceedings if it does not consider proven the alleged situation and behaviour, on the disciplinary sanction befitting the action in the event that it considers it proven.

(2) In the event that the above prescribed situation and behaviours of the President are observed or learned about, the actions required to be carried out by the President shall be executed by the senior Vice President.

### **Joint conduct of criminal and disciplinary investigations**

**ARTICLE 18-** (1) Criminal investigations and prosecutions shall not thwart the separate conduct and imposition of disciplinary actions.

### **Statute of limitations in disciplinary investigations**

**ARTICLE 19-** (1) If a year has elapsed since the date on which actions requiring a disciplinary investigation became known, a disciplinary investigation cannot be initiated. No disciplinary penalty can be imposed if five years have elapsed as of the date of committal of the action which requires a disciplinary sanction.

(2) If the action which requires a disciplinary sanction also constitutes a crime, if a longer period of statute of limitations is prescribed in the law regarding

this crime and if a criminal investigation or prosecution is initiated, the periods of statute of limitations pertaining to the case shall be applied instead of the period stipulated in paragraph one.

(3) For those regarding whom it has been decided by the Plenary to wait for the outcome of the criminal prosecution, the authority to impose sanctions shall become subject to statute of limitations after one year has elapsed since the finalization of the decision of the court which conducted the prosecution.

### **Actions requiring disciplinary sanction and the disciplinary sanctions**

**ARTICLE 20-** (1) In the event that the President, Vice Presidents and justices assume an official or private duty apart from their primary duties or that their situations and behaviour which do not befit the solemnity and honour of office of justice and disrupt the service have been considered to be proven, one of the sanctions of warning, condemnation or summoning to withdraw from office of justice shall be decided upon according to the nature of the action.

(2) The decisions regarding the imposition of the disciplinary sanctions of warning and condemnation shall be made with the vote of the absolute majority of the Plenary.



### **Summon to withdraw from office of justice**

**ARTICLE 21-** (1) The two thirds majority vote of the Plenary shall be sought in order to decide upon the sanction of summoning to withdraw from office of justice.

(2) The member regarding whom the sanction of summoning to withdraw from office of justice has been decided upon shall be considered to have resigned if s/he does not abide by this within a month starting from the date of notification and s/he shall be considered to be on leave during this period.

### **Objection to disciplinary sanctions**

**ARTICLE 22-** (1) The concerned can make an application for re-examination to the Plenary within ten days starting from the date of notification of the decision to him/her against the decision of the Plenary regarding a disciplinary sanction.

(2) The decision made as a result of the re-examination to be carried out by the Plenary shall be final. The decision of the Plenary shall be notified to the concerned and be executed by the President.

## SECTION TWO

### Organizational Structure

#### CHAPTER ONE

#### **Plenary, Sections and Commissions and Their Functioning**

**ARTICLE 23-** (1) The organization of the Court shall be composed of the Presidency, the Plenary, Sections, Commissions, the Secretariat General and the administrative service units.

#### **Plenary**

**ARTICLE 24-** (1) (Amended by Article 3 of the Rules of Procedure no. 30587 published on 6/11/2018 on the Official Gazette) The Plenary shall convene with a minimum of ten members, except for the President, under the chairmanship of the President or the Vice President to be determined by the President.(1)

*(1) Amendment on paragraph 1 Article 24 shall come into force once the term of office of the elected member from the Military Court of Cassation and the Supreme Military Administrative Court expires.*

#### **Duties and liabilities of the Plenary**

**ARTICLE 25-** (1) The duties and authorities of the Plenary shall be as follows:

a) To take charge of actions for abstract and concrete review as well as the trials to be carried out in the capacity of Supreme Court.

b) To rule on the cases and applications regarding political parties, to carry out financial auditing.

c) To accept or amend the Rules of Procedure.

ç) To elect the President and Vice Presidents as well as the President and Vice Presidents of the Court of Jurisdictional Disputes.

d) (Amended by Article 3 of the Rules of Procedure no. 28932 published on 5/3/2014 in the Official Gazette) To rule on case-law discrepancies between the decisions made by the Sections regarding individual applications; render a decision on issues transferred to the Plenary by the Sections.

e) To ensure the division of labour between the Sections.

f) To definitively rule on division of labour discrepancies which occur between the Sections upon the call of the President.

g) To assign another Section in the event that the work load of one of the Sections increases to such a degree as not to be fulfilled with normal working and

that a work load imbalance occurs between the Sections or that a Section fails to take charge of an action which falls under its duty due to actual or legal impossibility.

ğ) To decide on the initiation of disciplinary or criminal investigations regarding the members, investigation and prosecution measures, and the imposition of disciplinary sanctions or the termination of office of justice when necessary.

h) To examine objections.

1) To fulfil the duties attributed to the Plenary in the Law and the Rules of Procedure.

### **Research and Case Law Unit (Re-CL)**

**ARTICLE 26-** (1) The Research and Case Law Unit shall be composed of a sufficient number of rapporteur-judges, assistant rapporteur-judges and personnel under the supervision of a chief rapporteur-judge.

(2) The duties of the Research and Case Law Unit shall be as follows:

a) To examine reports and draft decisions prior to them being discussed at the Plenary or in the Sections with a view to the coherence and development of case law as well as the legal language and drafting rules and, when deemed necessary, to prepare opinions within a week after these have been communicated to

the Section in order to be presented to the Plenary or the Section along with the report or draft decision.

b) To notify the relevant President of Section or the President with a report in the event that it has observed a case law discrepancy between decisions made by the Commissions or Sections.

c) To prepare research and examination reports on the preparation of reports and decisions upon the request of the President or the Vice Presidents and to make these available to all members, rapporteur-judges and assistant rapporteur-judges.

ç) To follow the decisions which have been made by the Plenary, the Sections and Commissions and are of significance with a view to the case law, and to prepare documents and carry out the necessary work in order to inform those serving at the various units of the Court regarding this matter.

d) To follow the case law of the European Court of Human Rights as well as other international jurisdictional bodies and other Supreme Courts, to prepare information notes regarding matters deemed to be of significance for the case law of the Court.

e) To determine the decisions of principal nature and significance made by the Plenary, the Sections and Commissions to be published annually.

## **Composition of the Sections**

**ARTICLE 27-** (1) (Amended by Article 4 of the Rules of Procedure no. 30587 published on 6/11/2018 on the Official Gazette) Two Sections shall be established at the Court that are composed of the members except for the President in order to examine individual applications. Each Section shall be composed of a Vice President and six members. The Sections shall be entitled the First Section and the Second Section.(1)

(2) The members who will serve in the Sections except for the Vice Presidents shall be determined by the President according to the path through which they have been elected and the principle of balanced distribution between the Sections.

(3) It can be decided by the President to change the Section of members upon the request of the concerned member or the recommendation of one of the Vice Presidents.

*(1) Amendment on paragraph 1 Article 27 shall come into force once the term of office of the elected member from the Supreme Military Administrative Court expires.*

## **Duties and powers of the Sections**

**ARTICLE 28-** (1) The duties of the Sections shall be as follows:

a) To carry out the examination on merits of the applications deemed to be admissible by the Commissions.

b) (Amended by Article 4 of the Rules of Procedure no. 28932 published on 5/3/2014 in the Official Gazette) To jointly carry out the examination of admissibility and on merits of the applications if deemed necessary by the Chairman of the Section, for the application having not been declared admissible by Commissions.

(2) The Sections can make a decision of inadmissibility regarding an application at any stage of the examination in the event that they determine an obstacle to admissibility or that this situation emerges later on.

(3) (Amended by Article 4 of the Rules of Procedure no. 28932 published on 5/3/2014 in the Official Gazette) If the decision to be made by one of the Sections regarding an ongoing application will clash with a decision previously made by the Sections or if the subject matter of the application necessitates the decision to be made by the Plenary, the relevant Section can relinquish the case. The Chairman of the Section brings this file to the attention of the President in order to forward it to the Plenary.

## **Convening and agenda of the Sections**

**ARTICLE 29-** (1) The Sections shall convene under the chairmanship of the Vice President and with the participation of four members. In circumstances where the Vice President is absent, the most senior member shall preside over the Section.

(2) The members of Sections, except for the Vice President, shall be listed according to seniority with the purpose of forming the committees within the Sections. The meetings during the first month shall be held by the committee that is composed of the first four members according to the ranking in the list, and the Vice President. In the following months, it shall be ensured that each member who has not participated in the meetings serves in rotation according to the seniority ranking starting with the most senior member. The President of the Section shall prepare the list demonstrating the schedule for this rotation at the beginning of each year. In the event that a new member joins the Section, the President of the Section shall make the necessary arrangement accordingly. The lists shall be announced to the members.

(3) (Amended by Article 5 of the Rules of Procedure no. 30587 published on 6/11/2018 on the Official Gazette) In the event that the meeting quorum of the Section cannot be obtained, the President of the Section



shall assign the members from within the Section who do not participate in the meetings to participate in the meeting based on rotation, in the event that this is not possible, the President shall assign members from the other Section upon the recommendation of the President of Section.

(4) The meeting schedule of the Section shall be determined and announced by the President of the relevant Section in such a way as not to disrupt the workings of the Plenary and by obtaining the opinion of the President.

(5) The President of the Section shall determine the meeting agenda of the Section. When necessary, the Section can decide to incorporate certain actions into the agenda as well.

The draft decisions shall be included in the agenda after fifteen days have elapsed since the date on which they were submitted to the Section.

### **Working procedure of the Sections**

**ARTICLE 30-** (1) During the Section meetings, the case file shall be explained in detail by the Section rapporteur-judge according to the list of agenda items.

(2) The President of the Section shall give the floor to the members who request the floor regarding the matter to explain their opinions in the order in which

they have made their request. After the completion of the deliberations, the decision shall be made by means of voting starting with the junior member. This situation shall be determined by the President via minutes.

(3) According to the outcome of the voting, the examination of the prepared draft decision shall be proceeded to. The President of the Section shall ask the members to convey their amendment proposals that they wish to see enacted by stating page and paragraph number, if any. These recommendations shall be voted by the committee. The text which has been adopted in line with the decision made by the committee shall be sent to the chief rapporteur-judge in order for the correction actions to be taken. After the corrections have been made, the decision shall be submitted to the signature of the committee.

### **Office of the Sections rapporteur-judge**

**ARTICLE 31-** (1) An office of the Sections rapporteur-judge composed of a sufficient number of rapporteur-judges, assistant rapporteur-judges and personnel shall be established under the supervision of the chief rapporteur-judge with the purpose of concluding individual applications in a more expedient manner.

(2) The Sections rapporteur-judges can be divided into working groups under the coordination of a rapporteur-judge according to their fields of expertise.

(3) The duties of the office of the Sections rapporteur-judge shall be as follows:

a) To group or examine one by one the applications the admissibility of which has been ruled upon by the Commissions and to prepare and submit to the Sections the draft decisions on their merits. b) To prepare and submit to the Commissions the draft decisions regarding admissibility in the event that this is deemed to be appropriate by the Commissions Rapporteur in Chief.

(4) In the event that admissibility depends on the merits or that the nature of the application so require, the draft decisions regarding admissibility and the merits can be jointly prepared. The draft decisions thus prepared by the Sections rapporteur-judges shall be submitted to the Sections to be discussed.

(5) The distribution of the applications pending at the Sections amongst the rapporteur-judges and assistant rapporteur-judges shall be ensured by the Chief Rapporteur-judge. The nature of the matter, the experience and expertise of the rapporteur-judge shall be taken into consideration when assigning a rapporteur-judge. Attention shall be paid to order and the balanced execution of actions amongst the rapporteur-judges and assistant rapporteur-judges in the distribution of assignments.

## **Composition of Commissions**

**ARTICLE 32-** (1) Three Commissions per Section which serve under the Sections shall be established in order to carry out the admissibility examinations of individual applications. These shall be named by way of being enumerated along with the Section to which they are answerable. The President of Section shall not assume duties in the Commissions. The senior member shall preside over the Commissions.

(2) The members of Sections, except for the Vice President, shall be listed according to seniority with the purpose of forming the Commissions. The least senior member according to the ranking in the list cannot participate in the meetings during the first month. In the following months, it shall be ensured that each member who has not participated in the meetings serves in rotation according to the seniority ranking starting with the most senior member. The President of the Section shall prepare the list demonstrating the schedule for this rotation at the beginning of each year. In the event that a new member joins the Section, the President of the Section shall make the necessary arrangement accordingly. The lists shall be announced to the members.

(3) In the event that there are vacancies in the membership of the Commissions, the member who

does not participate in the meeting shall replace the missing member in the relevant Commission pertaining to the Section.

(4) The Plenary can decide to change the Commissions which are answerable to the Sections and the number of members composing the Commissions. In this case, the Commissions shall be re-established in line with the procedure stipulated in the above paragraphs.

### **Duties and working procedure of the Commissions**

**ARTICLE 33-** (1) The draft decisions on admissibility and the draft decisions or lists of inadmissibility prepared by the rapporteur-judges of the Commissions shall be ruled upon by the Commissions.

(2) (Amended by Article 5 of the Internal Regulation no. 28932 published on 5/3/2014 in the Official Gazette) The Commissions shall decide unanimously. When unanimity cannot be ensured, the matter shall be transferred to the Section by stating that unanimity could not be ensured. The member asking for this transfer shall state its justification.

(3) The Commissions shall send an application to the relevant Section without ruling on the matter of admissibility upon determining whether the pending application bears significance in terms of the implementation and interpretation of the

Constitution or determining the scope and limitations of the fundamental rights or whether the applicant has suffered considerable damage and in the event that the solution of the application requires a principal decision or that the decision to be made is of the quality to potentially contradict with a decision previously made by the Court.

(4) (Added by Article 6 of the Internal Regulation no. 30587 published on 6/11/2018 on the Official Gazette) Commissions shall not conclude requests for confidentiality for the applications declared inadmissible.

### **Office of the Commissions rapporteur-judge**

**ARTICLE 34-** (1) An office of the Commissions rapporteur-judge composed of a sufficient number of rapporteur-judges, assistant rapporteur-judges and personnel shall be established under the supervision of the chief rapporteur-judge with the purpose of concluding individual applications in a more expedient manner.

(2) The duties of the office of the Commissions rapporteur-judge shall be as follows:

a) To determine the files which require more detailed examination by the Commissions, to examine files by grouping or one by one and to determine the applications which are of an inadmissible nature.

b) To prepare and submit to the Commissions the admissibility draft decisions regarding the applications which meet the admissibility criteria, and the inadmissibility draft decisions or lists regarding the applications which do not meet these criteria.

(3) The admissibility draft decisions pertaining to applications whose admissibility cannot be concluded by the Commissions and the applications covered under groupings shall be prepared by the office of the Commissions rapporteur-judge on the condition that this be deemed appropriate by the Commissions Rapporteur in Chief.

(4) In circumstances where the work load allows or labour productivity requires, on the condition that the Commissions Rapporteur in Chief deems appropriate, all kinds of draft decisions can be prepared by the office of the Commissions rapporteur-judge in order to be submitted to the Sections.

(5) The distribution of the applications pending at the Commissions amongst the rapporteur-judges and assistant rapporteur-judges shall be ensured by the Chief Rapporteur-judge. The nature of the matter as well as the experience and expertise of rapporteur-judges shall be taken into consideration when assigning a rapporteur-judge. Attention shall be paid to order and the balanced execution of actions amongst the rapporteur-judges and assistant rapporteur-judges in the distribution of assignments.

## CHAPTER TWO

### **Secretariat General, Rapporteurs and Assistant Rapporteurs**

#### **Secretariat General, its establishment and duties**

**ARTICLE 35-** (1) The duty of the Secretariat General shall be fulfilled by a rapporteur-judge to be deemed appropriate by the President. In the event that the Secretary General is not on duty, the Deputy Secretary General to be determined by the Secretary General shall substitute him/her.

(2) The Secretary General can leave the duty of the Secretariat General upon his/her own request, s/he can also be replaced without providing justification when deemed necessary by the President.

(3) Under the supervision and inspection of the President, the Secretary General shall be assigned and authorized;

- a) To register and transfer applications,
- b) To manage the administrative affairs regarding the meetings of the Plenary and the Sections,
- c) To ensure the automation and archiving of the decisions and reports,
- ç) To handle the correspondence of the Court,



d) To follow up on the implementation of the decisions of the Court and to inform the Plenary regarding the matter,

e) To spend the budget and to provide information to the President regarding the matter,

f) To manage the institutional, scientific, administrative, financial and technical affairs of the Court,

g) To manage protocol affairs,

ğ) To command and control the personnel,

h) To carry out other actions assigned by the President within the framework of the provisions of the Law, the Rules of Procedure and regulations.

(4) The Secretariat General shall be composed of the Secretary General, the Deputy Secretary General and a sufficient number of personnel to be assigned by the Presidency. The duties of the civil servants and attendants working in the organization of the Secretariat General and how these duties are to be conducted shall be regulated with the regulation to be issued by the Presidency.

(5) The Secretary General shall prepare draft regulations with a view to executing the duties assigned to him/her by the Law and the Rules of Procedure.

These drafts shall enter into force with the approval of the President.

(6) The Secretary General shall represent the Constitutional Court at the committees and the Plenary of the Grand National Assembly of Turkey.

### **Deputy Secretary Generals**

**ARTICLE 36-** (1) The Deputy Secretary Generals shall be assigned by the President from amongst rapporteur-judges.

(2) The Deputy Secretary Generals can leave their duties upon their own requests, they can also be replaced without providing justification when deemed necessary by the President.

(3) The Deputy Secretary Generals shall execute the duties assigned by the President and the Secretary General within the framework of the provisions of the Law, the Rules of Procedure and regulations. They shall be answerable to the President and the Secretary General regarding the orderly execution of these tasks.

(4) The division of labour between the Deputy Secretary Generals shall be determined with the proposal of the Secretary General and the approval of the President.

(5) Each of the Deputy Secretary Generals shall be responsible for the following fields of activity:

a) Managing in an orderly and harmonious manner the tasks regarding the functioning of the Plenary and of individual applications and overseeing the work of rapporteur-judges.

b) Managing international relations.

c) Managing administrative, financial and other affairs.

### **Chief rapporteur-judge and their duties**

**ARTICLE 37-** (1) The Chief rapporteur-judges shall be assigned by the President from amongst rapporteur-judges. The Chief rapporteur-judges can leave their duties upon their own request, they can also be replaced without providing justification when deemed necessary by the President.

(2) There shall be four chief rapporteur-judges at the Court to serve at the Plenary, the Sections, the Commissions and at Re-CL. The chief rapporteur-judges shall be assigned to ensure the orderly and efficient functioning of the activities of the rapporteur-judges and assistant rapporteur-judges in their respective sections and the working groups established within the Court.

(3) At times when the chief rapporteur-judge is not present, the most senior rapporteur-judge of the unit in question shall fulfil the duties of the chief rapporteur-judge.

(4) The Sections Rapporteur in Chief shall make notifications to the Ministry of Justice on behalf of the President of Section in order to obtain its opinion regarding the applications concerning which a decision of admissibility has been made.

### **Rapporteur-judges and their duties**

**ARTICLE 38-** (1) The rapporteur-judges shall execute the tasks assigned by the President within the framework of the Law and the Rules of Procedure.

(2) Where in the Plenary, the Sections, the Commissions or other rapporteur-judge units the rapporteur-judges will serve shall be decided by the President by taking into account their seniority and experience. It shall be ensured that the rapporteur-judges rotate between different units at intervals to be deemed appropriate in order to enhance the experience of rapporteur-judges and achieve efficiency in their work.

(3) The rapporteur-judges of the Plenary shall be assigned tasks which fall under the authority of the Plenary. They shall prepare the reports of preliminary examination and examination on merits, draft decisions and other procedures regarding the files assigned to them by the President, and participate in meetings.

(4) The individual application rapporteur-judges shall be divided into two as Commissions rapporteur-

judges and Sections rapporteur-judges and shall carry out the duties regarding individual application prescribed in the Law and in the Rules of Procedure. A sufficient number of individual application rapporteur-judges shall be assigned to serve at the Sections and Commissions.

(5) The individual application rapporteur-judges shall prepare the draft decisions regarding the admissibility or the inadmissibility of individual applications and shall participate in meetings.

(6) The individual application rapporteur-judges shall serve under the supervision of the chief rapporteur-judges. In order to ensure efficiency in the preparation of draft decisions, the President shall decide upon the recommendation of the chief rapporteur-judge and also by taking into account the opinion of the Vice Presidents either that the Sections rapporteur-judges be divided into specialty groups or that working groups be formed from rapporteur-judges.

(7) The individual application rapporteur-judges shall oversee the correspondence for requesting the information and documents deemed to be necessary to be included in the files regarding applications. They shall oversee and follow up the necessary notifications.

(8) Duties such as hearing witnesses or experts or similar other duties can be assigned to the individual application rapporteur-judges when necessary by the Presidents of Sections with the approval of the President on the condition that the scope and nature of the requested task are demonstrated.

### **Assistant Rapporteur-judges**

**ARTICLE 39-** (1) A sufficient number of assistant rapporteur-judges shall serve at the Court in order to assist the judicial and administrative tasks.

(2) Assistant rapporteur-judges shall be assigned by the President to relevant units in order to fulfil the duties regarding individual applications stipulated in the Law and the Rules of Procedure and to assist the rapporteur-judges.

(3) Assistant rapporteur-judges shall carry out their duties under the supervision of the rapporteur-judge, if determined, to whom they are answerable and under the supervision of the Rapporteur in Chief in other circumstances.

### **Promotion and grade advancement of assigned rapporteur-judges and assistant rapporteur-judges**

**ARTICLE 40-** (1) As per subparagraph (c) of paragraph two of Article 24 and paragraph eight of Article 25 of the Law, the decisions regarding the grade

and level advancement of the assigned rapporteur-judges, their designation to first class and their promotion to first class shall be made by the President according to the principles outlined in the Law on Judges and Prosecutors dated 24/2/1983 and numbered 2802 by taking into account their occupational circumstances and other information and documents regarding their activities in professional and academic matters.

(2) As per subparagraph (c) of paragraph two of Article 24 and paragraph eight of Article 25 of the Law, the matters regarding which there are no provisions in the Law numbered 2802 concerning the assigned rapporteur-judges shall be regulated via a regulation.

(3) The promotion and grade and level advancement of assistant rapporteur-judges shall be carried out within the framework of the provisions of Article 27 of the Law.

### **Supreme Disciplinary Board**

**ARTICLE 41-** (1) With the exception of members and the rapporteur-judges assigned as per subparagraphs (a) and (b) of paragraph two of Article 24 of the Law, the disciplinary affairs of the personnel employed at the Court shall be carried out by the Supreme Disciplinary Board. However, actions regarding the rapporteur-judges assigned as per subparagraphs

(a) and (b) of paragraph two of Article 24 of the Law due to their disciplinary acts shall be carried out upon the notification of the President by the institutions to which they are answerable and as per the provisions of the relevant applicable legislation.

(2) The Supreme Disciplinary Board shall be composed of three individuals, one from amongst the deputy Secretary Generals to be recommended by the Secretary General and approved by the President and two others to be determined from amongst rapporteur-judges who have served at least three years at the Court. The deputy Secretary General shall preside over the Board. The members of the Board shall be appointed for a period of two years.

(3) At the end of the examination and investigation carried out by the Supreme Disciplinary Board, whether there are grounds for the imposition of a disciplinary sanction or not and the disciplinary sanction in line with the nature and severity of the act in the event that a disciplinary sanction is deemed to be necessary shall be determined.

(4) The provisions of the Law on Civil Servants dated 14/7/1965 and numbered 657 which are not contrary to the Law shall be applied regarding the circumstances which require disciplinary sanctions and the sanctions to be imposed.



(5) The working procedure and principles of the Board and other matters are regulated via a regulation.

### **Judicial investigation and prosecution regarding rapporteur-judges**

**ARTICLE 42-**(1) Actions regarding the rapporteur-judges assigned as per subparagraphs (a) and (b) of paragraph two of Article 24 of the Law due to crimes arising from their duties or committed during their duties and their individual crimes shall be carried out upon the notification of the President by the institutions to which they are answerable and as per the provisions of the relevant applicable legislation.

(2) The conduct of examination and investigation regarding rapporteur-judges who have been appointed due to crimes arising from their duties or committed during their duties shall depend on the authorization of the President. The President can have the examination and investigation conducted via the Secretary General or a rapporteur-judge who is more senior than the one regarding whom the examination and investigation will be carried out. Upon the report to be prepared by the Secretary General or the rapporteur-judge who has conducted the examination and investigation, whether or not the conduct of prosecution is necessary shall be appraised by the Presidency and the relevant documentation shall either be sent to relevant

authorities or be removed from proceeding. In the event that the conduct of prosecution is deemed to be necessary, the documentation shall be sent to the Office of the Chief Public Prosecutor of Ankara in order to be acted upon as per Article 89 of the Law numbered 2802.

(3) The investigation regarding the individual crimes of the appointed rapporteur-judges shall be conducted by the Office of the Chief Public Prosecutor of Ankara.

(4) In cases of in flagrante delicto, which fall under the jurisdiction of the assize court, the investigation shall be conducted as per general provisions. The investigation shall be conducted in person by the authorized Public prosecutors.

### **Judicial investigation and prosecution regarding assistant rapporteur-judges and civil servants**

**ARTICLE 43-** (1) The criminal prosecution regarding crimes arising from the duties of assistant rapporteur-judges and civil servants assigned at the Court shall be conducted as per the provisions of the Law on the Trial of Civil Servants and other Public Officials dated 2/12/1999 and numbered 4483.

(2) The authority to grant permission for investigation within the framework of the Law numbered 4483 shall belong to the President. The

President can assign one or more rapporteur-judges in order to conduct a preliminary examination regarding the concerned when s/he deems necessary.

(3) The President shall decide to grant or not to grant permission for investigation depending on the preliminary examination report.

## **SECTION THREE**

### **Examination and Trial Procedures**

#### **CHAPTER ONE**

#### **Procedural Provisions on Actions for Abstract and Concrete Reviews**

##### **Receiving applications**

**ARTICLE 44-** (1) The actions for abstract review shall be conducted with the submission of the petition to the Secretariat General in person by at least one of the members of the Grand National Assembly of Turkey who have been authorized to file the case. In actions for abstract review to be filed by the President of the Republic, the application petition shall be submitted by the individual authorized in this matter by the President of the Republic. A document attesting to the fact that the application has been made shall be provided to the individual who submits the application petition.

(2) The actions for concrete review shall be made by the relevant Court either through the postal channel or via UYAP.

(3) The case shall be considered to be filed on the date when the petitions regarding actions for abstract and concrete review are transferred by the Secretariat General to the Registrar's Office.

## **Petition of actions for abstract review and its annexes**

**ARTICLE 45-** (1) The application petition for an action for abstract review shall contain the following matters:

a) The rules the annulment of which is requested and the articles of the Constitution to which each of these is contrary,

b) Regarding the provisions the contrariety of which to the Constitution is alleged, the separate and clear demonstration with justification of which articles of the Constitution these are contrary to and for what reason,

c) If there is a request for stay of execution, the explanation of the irrevocable damages which will occur in the event that the execution is not stayed,

ç) A registration sample of the petition on electronic media,

d) A list of contents where the documents submitted in the case file are listed under headings according to their dates.

(2) If the case is filed by at least one fifth of the full number of members of the Grand National Assembly of Turkey, the following documents shall be annexed to the petition:

a) The rules the annulment of which is requested and the articles of the Constitution to which each of these is contrary,

b) An approval document signed and sealed by the Speaker of the Grand National Assembly of Turkey or an official to be determined by him/her attesting to the fact that the signatures on the petition belong to the concerned,

c) A list containing the names and surnames as well as the constituencies and signatures of the individuals who file the case,

ç) A document demonstrating the names of the deputy or deputies to whom notifications regarding the case will be made.

(3) If the case is filed by political party groups, the following documents shall be annexed to the petition:

a) Approved copies of the decision of the group Plenary,

b) Copies of the approved document attesting to the fact that the individuals with signatures on the petition are group chairpersons or deputy chairpersons.

### **Decision on actions for concrete review and its annexes**

**ARTICLE 46-** (1) The actions for concrete review shall be filed by the courts with a reasoned

decision. The reasoned decision must contain;

- a) Regarding the provisions the contrariety of which to the Constitution is alleged, the separate and clear demonstration with justification of which articles of the Constitution these are contrary to and for what reason,

- b) If there is a request for stay of execution, the explanation of the irrevocable damages which will occur in the event that the execution is not stayed.

(2) In the actions for concrete review, the original of the reasoned decision of application shall be submitted to the Court along with the following documents:

- a) An approved copy of the minutes regarding the application decision,

- b) The approved copies of the petition, the indictment or the documents filing the case and the relevant parts of the file,

- c) A list of contents where the documents submitted in the case file are listed under headings according to their dates.

### **Assigning rapporteur-judges to files**

**ARTICLE 47-** (1) The case files shall be distributed to rapporteur-judges by the President by taking into account their fields of specialty, the number of assignments they have and the features of the file.

(2) If deemed necessary, multiple rapporteur-judges can be assigned for a single case file. In this case, the reports to be prepared shall be signed jointly by the relevant rapporteur-judges.

### **Preparation of preliminary examination reports**

**ARTICLE 48-** (1) The rapporteur-judge to be assigned by the President shall prepare the preliminary examination report within five days.

(2) Whether or not the petition or the actions for concrete review fulfil the conditions stipulated in the Law shall be indicated and the type of decision which is deemed necessary to be made and its justifications shall be explained in the report.

(3) An opinion shall be expressed in the report as to making one of the decisions of proceeding to the merits, rejecting the application, granting a period for the correction of deficiencies, considering the case not filed or deciding that there are no grounds for a decision.

(4) When deemed necessary, an additional period can be granted by the President for the preparation of the report.

### **Deficiencies in application**

**ARTICLE 49-** (1) If it is determined in the preliminary examination conducted by the Court that the application contains deficiencies;



a) A period no less than fifteen days shall be granted to the concerned for the correction of the deficiency in the action for abstract review. It shall be decided by the Plenary to consider the case not filed if the deficiency has not been corrected despite the fact that a warning regarding the matter that the case would be considered not filed unless the deficiencies are corrected within the provided period was made in the notification to the concerned,

b) In actions for concrete review remedy, it shall be decided that the application be rejected without proceeding to the examination on merits. (2) The decision issued as per subparagraph (b) of the above paragraph shall not prevent the court from filing an application again after having remedied the deficiencies.

### **Preparation of examination reports on merits**

**ARTICLE 50-** (1) The applications regarding which the preliminary examination has been completed and it has been decided by the Plenary to proceed to the merits shall be submitted to their rapporteur-judges for the preparation of the report on the merits of the file. The rapporteur-judges shall notify the results of their examination on merits to the Presidency along with a report containing their own opinions.

(2) The period in which the report on the merits will be prepared starting from the date when it was

decided to examine the merits shall be determined by the President by taking into account the opinion of the rapporteur-judge. The rapporteur-judge who fails to prepare the report on the merits within this period shall notify in writing to the Presidency the reasons for the delay and the period in which the examination can be completed. If necessary, this period can be extended by the President to a sufficient degree.

(3) The following matters must be included in the examination report on the merits:

- a) The period pertaining to the preliminary examination,
- b) The meaning and scope of the rule,
- c) The evaluation of the claims of contrariety to the Constitution.

(4) The rapporteur-judge shall abide by the rules of scientific reference in his/her report.

(5) The rapporteur-judge shall also prepare the draft decision along with the report in circumstances where the nature of the task allow for the preparation of the draft decision.

(6) The rapporteur-judge shall be present during the discussion on the merits of the task s/he has examined and shall make the necessary explanations.

(7) (Added by Article 6 of the Interior Regulation no. 28932 published on the 5/3/5014 on the Official Gazette) In the event of a request for the annulment of a rule in accordance with the matters stated in the paragraph 4 of the Article 43 of the Law, substantial examination shall not be done concerning this rule.

## CHAPTER TWO

### Financial Inspection of Political Parties

#### Preliminary examination in financial inspection

**ARTICLE 51-** (1) As per Article 74 of the Law on Political Parties dated 22/4/1983 and numbered 2820, political parties shall submit to the Court until the end of June the document signed by their chairpersons and the following documents in its annex,

a) An approved copy of the decision made by the central decision making and administrative boards (competent bodies which are authorized in the party by-law to approve final accounts) attesting to the fact that the final accounts of the party headquarters and provincial organizations have been inspected, approved and consolidated,

b) An approved copy of the annual final account which has been agreed upon and consolidated,

c) An approved copy of the final account of the party headquarters,

ç) Approved copies of the final accounts of provincial organizations which also cover the respective sub-provinces and have been signed by provincial officers and the compendium list of the final accounts of provincial organizations to be prepared by the headquarters,

d) Lists demonstrating the values, dates and manner of acquisition of the immovable properties, movable properties with a value exceeding one hundred liras, real estate and all sorts of rights acquired by the party headquarters and provincial organizations within the same accounting period,

e) The inventory record on cash balance on hand demonstrating the end-of-year existing cash balance which bears the signatures of the secretary general and the general accountant of the party and the reconciliation documents regarding the bank accounts approved by bank officials.

(2) The above mentioned documents shall be sent by the Court to the Presidency of the Court of Accounts in order to be inspected.

(3) The inspectors to be assigned by the Presidency of the Court of Accounts shall inspect the final accounts handed over to them with a view to whether these have been prepared as per Articles 73 and 74 of the Political Parties Law numbered 2820, whether the carry over amounts are accurate and whether the final accounts tables contain a material mistake or inconsistency which has an impact on the result. When necessary, they can request information from the officials at all levels of the relevant political parties regarding these matters. It shall be compulsory to provide without

delay the requested information and the documents and papers which form the basis of these.

(4) The assigned inspectors shall benefit from the political party registration file kept by the Chief Prosecution Service of the Supreme Court of Appeals in order to be able to determine whether the political parties have sent all the final accounts pertaining to the provinces where they are organized.

(5) The inspectors shall submit to the Presidency the reports they will prepare within two months at the latest starting from the date when the final accounts have been handed over to them; they shall demonstrate deficiencies, mistakes or inconsistencies, if any, and how these can be remedied.

(6) The rapporteur-judges to be assigned by the Presidency shall be present during the preliminary examination meetings regarding the reports and make the necessary explanations.

(7) An appropriate period not exceeding one month shall be given by the Court to the political party for the completion of deficiencies and the correction of mistakes and inconsistencies.

(8) In the event that it is understood that there are no deficiencies, mistakes or inconsistencies in the final accounts or that these are remedied according to the due procedure, it shall be decided to examine

the merits of the affair. In this decision, an appropriate period not exceeding one month shall be given to the concerned party for sending the revenue and expenditure documents of the party headquarters and provincial organizations and the book entries where these are kept. This decision shall be notified to the concerned party.

### **Examination on merits in financial inspection**

**ARTICLE 52-** (1) The revenue and expenditure documents and book entries shall be sent by the party to the Presidency of the Court of Accounts for the conduct of the examination on merits. The revenue and expenditure documents and book entries of the headquarters and provincial organizations of parties shall be examined. The principles and procedures of the inspection to be carried out and the matter regarding which provincial organizations will be examined shall be determined by the Presidency of the Court of Accounts unless otherwise decided by the Court.

(2) The examination regarding the merits of the affair shall be conducted with a view to whether the revenues and expenditures of political parties are accurate and in compliance with the Law. The examination of accuracy shall comprise the examination conducted on the books and documents which form the basis for the final accounts. The examination of compliance with the

Law shall be geared towards determining whether or not the revenues and expenditures have been made in compliance with the Political Parties Law.

(3) The assigned inspectors shall examine the party books, revenue and expenditure entries and related documents pertaining to the headquarters of parties and the provincial organizations foreseen to be examined and compare these with the final accounts. When necessary, they can request information from the officials at all levels of the relevant political parties regarding these matters. It shall be compulsory to provide without delay the requested information and the documents and papers which form the basis of these.

(4) The examination reports containing the matters and findings spotted during the examinations shall be sent by the inspectors to the concerned political parties and the parties shall be requested to provide their opinions regarding these matters by taking into consideration the scope of the report within two months at the latest.

(5) The inspectors shall submit their reports on the merits which contain the opinions of the concerned political parties and their own thoughts to the Court. A copy of the documents related to the matters included in the report, the examination report sent to the party



and the response of the party shall be included in the annex of the report. The provincial organizations the revenue and expense documents and book entries of which have been examined shall be demonstrated in the report.

(6) The rapporteur-judges to be assigned by the Presidency shall be present during the discussion of these reports prepared by the inspectors of the Court of Accounts and make the necessary explanations.

(7) A copy of the decisions regarding the financial inspection by the Court shall be sent to the headquarters of the concerned political party, a copy shall be sent to the Presidency of the Court of Accounts and a copy shall be sent to the Office of the Chief Public Prosecutor of the Supreme Court of Appeals in order to be included in the registration file of the party in question.

(8) The revenue and expenditure documents and book entries pertaining to the accounts of the party regarding which a decision has been sent shall be returned to the concerned party by the Presidency of the Court of Accounts.

(9) The financial inspection decisions shall be published in the Official Gazette.

## CHAPTER THREE

### Provisions Regarding the Functioning of the Plenary

#### Agenda of the Plenary

**ARTICLE 53-** (1) It shall be incumbent on the Presidency to set the date of Plenary meetings and to arrange the agenda. When necessary, the Plenary can also decide to incorporate certain actions into the agenda as well.

(2) A copy of each of the reports and decisions prepared by rapporteur-judges and submitted to the Presidency and the agenda prepared by the Presidency shall be distributed to the members at least a week prior to the date of the meeting.

(3) The President can set the date and agenda of the meeting without being bound by the procedure and period stipulated in this Article in circumstances which are urgent and which are expected to be damaging if delayed. The Plenary shall separately determine the day of deliberation in the event that it does not agree with this opinion and does not accept the actions carried out by the Presidency.

(4) The agenda shall be sent to the members and rapporteur-judges in print or on electronic media and be published on the website of the Court.

(5) The members can examine the files at all times if they request to do so.

### **Meetings and deliberations**

**ARTICLE 54-** (1) The justices shall be present in deliberations, hearings and sessions where oral explanations are made, according to their seniority.

(2) If one of the justices claims prior to the beginning of a deliberation that s/he has not been able to sufficiently examine the affair at hand, the deliberation of the affair in question shall be postponed to another day. A member who has joined the board later can also request the postponement of the deliberation for the same reason. This postponement can be done only once.

(3) The deliberation shall be initiated and managed by the President. Those requesting the floor shall be given the floor in the order in which they have requested it. Those who wish to speak regarding the procedure shall be given the floor with priority. The speech of the member who is talking shall not be interrupted. However, speeches outside the subject can be interrupted by the President.

(4) Voting shall be proceeded to upon the completion of the deliberation.

(5) The deliberations of the Court shall be secret and recorded via the technical equipment to be deemed appropriate by the President. The principles regarding

the preservation and utilization of these records shall be regulated via a regulation.

(6) The Court can defer to another day or postpone in order to be discussed on a date to be determined by the Presidency the deliberation of an affair which is included in the agenda, the completion of an already initiated deliberation or an affair the deliberation of which has not yet been initiated.

(7) A justice who has been present during the initiation of the deliberations cannot leave the Board until the affair in question has been concluded unless s/he has a very important excuse. The justice who has not been able to participate in the deliberations due to his/her excuse cannot be present during the deliberation of the same affair by stating that his/her excuse has ended unless the meeting quorum obliges. A justice who has newly taken office by taking the oath cannot participate in already initiated deliberations except for those in the Supreme Court unless the numbers oblige.

(8) Justices who have not yet taken the oath can follow the meetings and deliberations on the condition that they do not declare their opinions and participate in the voting.

### **Failure to participate in meetings**

**ARTICLE 55-** (1) Justices who will not be able to participate in meetings due to their excuses shall notify

this to the Presidency as soon as possible. Disease, circumstances such as being on leave or on duty as well as force majeure and other sudden and important incidents shall be considered as excuses.

(2) The President shall appraise the validity of an excuse.

### **Voting**

**ARTICLE 56-** (1) It shall be possible to resort to electronic voting in the event that the President deems appropriate and the nature of the affair allows. In circumstances where an open vote is carried out, the voting shall start from the least senior member. Abstention votes shall not be cast.

(2) Those who remain in minority regarding matters of duty and procedure shall be obliged to participate in the deliberation and voting on the merits.

### **Decision**

**ARTICLE 57-** (1) In circumstances where there are no additional provisions in the Constitution and the Law, the decisions shall be made with a simple majority. In the event of equality of votes, the decision shall be made in line with the side which the President has opted for.

(2) Those who agree with the decision, those who remain in minority and the summary of the decision

shall be demonstrated via minutes. These minutes shall be signed by the President before the meeting is adjourned.

(3) After the merits of the affair have been concluded, the draft decision shall also be deliberated if one has been submitted by the rapporteur-judge. When necessary, the President can assign one of the members who agree with the decision to the drafting of the decision with the rapporteur-judge.

(4) The names and surnames of the rapporteur-judges shall appear in the decision.

(5) In the event that disagreement arises over the text of the decision, the President shall determine the final version of the decision.

(6) On the condition that the members who have participated in the committee submit jointly or separately their dissenting vote texts or different or additional justifications, if any, to the Presidency within ten days after the Plenary has determined the final version of the decision, these shall be incorporated into the decision. In the event that dissenting votes and different or additional justifications are not submitted to the Presidency within this period, the decision shall be published without these being added to it.

## **Printing and publishing of decisions**

**ARTICLE 58-** (1) The decisions shall be printed on one side of papers bearing the emblem of the Court and each page shall be stamped with the seal of the Court.

(2) The reasoned decisions made regarding the merits in actions for abstract and concrete review shall be published in the Official Gazette. Which of the other decisions will be published in the Official Gazette shall be determined by the Presidency. The copies of the decisions to be published in the Official Gazette shall bear the signatures of the President and the deputy Secretary General responsible for judicial affairs.

(3) (Amended by Article 7 of the Rules of Procedure no. 30587 published on 6/11/2018 on the Official Gazette) The copies of decisions thus prepared shall be submitted to the relevant unit of the Presidency of the Republic in exchange for signature and published without being split into parts in the first issue of the Official Gazette to be printed.

(4) Errors in printing and material mistakes shall be corrected in the first issue of the Official Gazette to be printed upon the correspondence of the Presidency.

## CHAPTER FOUR

### Individual Application

#### Individual application form and its annexes

**ARTICLE 59-(1)** (Amended by Article 8 of the Rules of Procedure no. 30587 published on 6/11/2018 on the Official Gazette) The applications shall be made in the official language using the application form which is published on the website of the Court and the copy of which is available in the annex (Annex-1) of the Rules of Procedure.

(2) The application form shall contain the following matters:

a) The identification number of the Republic of Turkey, name, surname, name of the mother, name of the father, date of birth, gender, nationality, occupation and address, telephone numbers and electronic mail address, if any.

b) If the applicant is a legal person, its registration number on the Central Registration System (MERSIS), title, address and the name, surname, identification number of the Republic of Turkey, taxpayer identification number or the name and number of the registration pertaining to the individual who is authorized to represent the legal person in case he/she doesn't have any MERSIS number, and his/her



telephone numbers and registered electronic mail address, if any.

c) 1) If the applicant is represented by an attorney, full name, register no and Bar, the address, phone number and e-mail, if any, of the attorney.

2) If the application is made by a legal representative other than attorney, personal identification number, full name, father and mother names, birth date, nationality, the address, and phone number and e-mail, if any, of the legal representative.

ç) A chronologically ordered summary of the incidents pertaining to the act, action or neglect of the public power alleged to have caused the violation.

d) Which of the current and personal rights within the framework of individual application is violated for what reason and concise explanations pertaining to relevant justifications and evidences.

e) The fundamental rights alleged to be violated and the reasons for violation explained both separately and in connection with each other.

f) The presentation in chronological order of the stages pertaining to the exhaustion of legal remedies.

g) The date on which legal remedies were exhausted or the date on which the violation became known if no legal remedies were set forth.

ğ) If the application was not made in its due period due to an excuse, the relevant explanations.

h) The demands of the applicant.

ı) If the applicant has another application pending at the Court, its number.

i) The demand for keeping the identity secret in documents which are open to the public and its justifications, if any.

j) Whether the applicant wishes to be notified via text message (SMS) or electronic mail.

k) The signatures of the attorney or the legal representative of the applicant, if any.

l) Request for measure for the protection of the physical and moral integrity in the frame of the Article 73 of the Interior Regulation, if any, and its justifications.

(3) The following documents or their approved copies shall be annexed to the application form:

a) The document in compliance with the legislation attesting to the authority to represent the applicant in applications which are pursued via a legal representative or attorney.

b) The document attesting to the fact that the fee has been paid.

c) If the application is submitted directly by the applicant, the approved copy of the document enabling the determination of the identification of the applicant.

ç) If a legal representative submit the application in the name of a legal entity, the approved copy of the document testifying that this representative is authorised to represent as of the date of the application.

d) The final decision or a document showing the date of notification.

e) The approved copies of the documents including foundations of allegations of violation of right brought forward in the application.

f) The documents pertaining to the incurred damage and related documents if there is a claim for compensation. g) The approved copies of the application forms for ordinary and extraordinary legal remedy. ğ) The documents proving the excuse if the application could not be made in its due period. h) If the applicant asks for judicial assistance, documents concerning the financial situation of the applicant proving that s/he is not able to pay its legal expenses and other documents required in the legislation for request of judicial assistance.

(4) In the event that the applicant cannot submit the documents listed under paragraph three, s/he shall

indicate the reasons thereof and annexe the relevant information and documents, if any, to the application. The Court collects ex officio such information and documents in the event that it deems this to be necessary.

(5) It shall be compulsory for the applicants to notify the Court if there has been a change in the information present on the application form or conditions pertaining to the application. (1)

*(1) Amendment on the Article 59 shall come into force on 1/1/2019.*

### **Principles regarding the preparation of the form and its annexes**

**ARTICLE 60-** (1) (Amended by Article 9 of the Rules of Procedure no. 30587 published on 6/11/2018 on the Official Gazette) The application form shall be prepared as per Article 59 of the Rules of Procedure and the documents or their approved copies, issued by the authorities entitled to duplicate according to the regulation, stipulated under the same article shall be annexed to the application form.

(2) The application form shall be prepared legibly and in a manner so as to contain the concise information pertaining to the merits of the application. In the event that the application form exceeds ten pages except for the annexes, the applicant shall be required

to separately add a summary of the incidents to the application form.

(3) The applicant shall enumerate the documents s/he submits in the annexes of the application form according to their dates and shall relate each of the documents to a list of contents under descriptive headings.

### **Representation of the applicant**

**ARTICLE 61-** (1) The individual application can be made by the applicant in person, his/her legal representative or attorney. In applications made via an attorney or legal representative, the document of authority pertaining to the representation must be submitted.

(2) If the applicant has an attorney or a legal representative, the correspondence conducted or the notifications made to them shall be considered to have been made to him/her.

### **Individual application fee and legal aid**

**ARTICLE 62-** (1) The individual application fee stipulated in the first sentence of heading entitled A) "Court Fees" of the tariff numbered (I) related to the Law on Fees dated 2/7/1964 and numbered 492 shall be paid to the cashier's offices of the Ministry of Finance.

(2) The requests for legal aid shall be concluded by the Section or the Commissions which will rule on the admissibility of the applications as per the general provisions.

### **Places where the application can be made**

**ARTICLE 63-** (1) (Amended by Article 10 of the Rules of Procedure no. 30587 published on 6/11/2018 on the Official Gazette) Individual applications can be made in person to the Court using the application form found in the annex of the Rules of Procedure and published on the website of the Court as per the conditions stipulated in the Law and the Rules of Procedure, they can also be made via other courts or representations abroad. (1)

(2) When the duly prepared application form is submitted to the places stipulated above along with the fee collection voucher, a document of receipt shall be issued to the applicant or to his/her representative and this date shall be accepted as the date on which the application is made.

(3) The application form and its annexes submitted to courts or representations abroad shall be sent to the Court on physical and electronic media after having carried out the required registration actions. In circumstances where the case and other trial actions

are undertaken on electronic media, data shall be saved and stored via UYAP.

(4) The Plenary can take decisions pertaining to the matter of making applications on electronic media by using secure electronic signature.

*(1) Amendment on the paragraph 1 Article 63 shall come into force on 1/1/2019.*

### **Application period and excuse**

**ARTICLE 64-** (1) (Amended by Article 7 of the Rules of Procedure no. 28932 published on 5/3/2014 in the Official Gazette) The individual application must be made within thirty days starting from the exhaustion of legal remedies and from the date when the violation is known if no remedies are set forth.

(2) In the event that the applicant cannot make his/her application within its due period as a result of a valid excuse such as force majeure or severe disease, s/he can apply with the evidence documenting his/her excuse within fifteen days of the date when his/her excuse no longer applies. A draft decision as to whether the excuse should be accepted or not shall be prepared by the office of the Commissions rapporteur-judge. The Commission shall accept or reject the excuse by first examining whether or not the excuse of the applicant has been considered valid.

(3) A single draft pertaining to the excuse and admissibility can be prepared and these two matters can be concluded jointly in the event that this suits the nature of the application.

### **Individual application registration procedures**

**ARTICLE 65-** (1) (Amended by Article 11 of the Rules of Procedure no. 30587 published on 6/11/2018 on the Official Gazette) The Individual Application submitted to the Court shall be registered by a number dedicated to it given by the relevant unit under the supervision of the Commissions Chief Rapporteur-judge. The relevant unit shall scan and save the documents of the application on UYAP, form a physical file, keep track the correspondences related to the application and forward them to the concerned units and carry out other duties on this purpose.

### **Preliminary examination of the form and its annexes and deficiencies**

**ARTICLE 66-** (1) (Amended by Article 8 of the Rules of Procedure no. 28932 published on 5/3/2014 in the Official Gazette) The Individual Application Bureau shall examine the incoming applications in order to determine whether or not they contain formal deficiencies. In the event that a deficiency is determined in the application form or its annexes, a period not exceeding fifteen days shall be provided to the



applicant, to his/her attorney or legal representative, if any, in order for these to be remedied.

(2) (Amended by Article 8 of the Rules of Procedure no. 28932 published on 5/3/2014 in the Official Gazette) In the paper pertaining to the completion of the deficiencies, it shall be notified to the applicant that a decision to reject his/her application will be made in the event that s/he does not remedy the deficiencies within the provided period without a valid excuse.

(3) In circumstances where the application has not been made in its due period, it is not in compliance with the formal conditions under Articles 59 and 60 and the determined deficiencies have not been completed within the provided final periods, it shall be decided by the Commissions Rapporteur in Chief to reject the application and this shall be notified to the applicant. An objection against this decision can be filed to the Commission within seven days of the date of notification. The decisions made by the Commissions in this matter shall be final.

### **Distribution of individual applications to Sections and Commissions**

**ARTICLE 67-(1)** The allocation of the applications which have been registered and enumerated by the Individual Application Bureau shall be

done automatically between the Sections and the Commissions.

(2) The files which need to be examined after having been combined as per their nature shall be combined under the file of the application which was registered the first.

### **Order of examination of applications**

**ARTICLE 68-** (1) The individual applications shall be examined and concluded in the order in which they have been submitted. However, the Court can impose a separate examination order within the framework of the criteria it determines by taking into account the topical importance and emergency of the applications.

### **Correspondence**

**ARTICLE 69-** (1) The applicants shall be obliged to carry out their correspondence with the Court by following the procedure for individual applications determined in the Rules of Procedure.

(2) The periods which are provided in relation to the consummation of the individual application files by the Secretariat General, the Commissions or the Sections according to the circumstances and which are of a minimum duration of fifteen days shall be final; the information and documents which are not submitted as per the due procedure within these periods shall not

be taken into consideration in the examination of the application and not be included in the file.

(3) The information, documents and all kinds of other requests in relation to the applications must be made in writing. The requests which are made without abiding by this procedure shall not be taken into consideration with the exception of those made during hearings, hearing of witnesses or viewings.

### **Request for information, documents and notification**

**ARTICLE 70-** (1) During the fulfilment of the duties assigned to itself, the Court shall correspond directly with the legislative, executive and judicial organs, public administrations, public officials, banks and other real and legal persons, request information and documents, examine all kinds of documents, entries and actions it deems necessary, can summon public officials of all degrees and classes in order to obtain information, can ask for representatives from the administration and other legal persons.

(2) (Amended by Article 9 of the Rules of Procedure no. 28932 published on 5/3/2014 in the Official Gazette) If deemed necessary, the information and documents received by the Court within the framework of the paragraph above shall be notified to the applicant, the Ministry of Justice and other concerned parties, if any,

in order for them to be able to submit their opinions within the fifteen-day period.

(3) If the Court comes to hold the opinion that the applicant or the public authority refrains from submitting the requested information or document or conceals evidence or fails to actively participate in the trial for whatever reason despite having been summoned, it shall derive the relevant conclusions from this situation and make its decision.

### **Notification to the Ministry of Justice**

**ARTICLE 71-** (1) In the event that a decision of admissibility is made pertaining to the individual application, a copy of the application shall be sent to the Ministry of Justice for information purposes. In circumstances where it deems necessary, the Ministry of Justice shall notify its opinion to the Court in writing.

(2) (Amended by Article 10 of the Rules of Procedure no. 28932 published on 5/3/2014 in the Official Gazette) The Ministry of Justice shall provide its opinion pertaining to the application within a period of thirty days. In case of a request, this period can be extended up to thirty days by the Chairman of the Section. In the event that an answer is not provided within the indicated periods starting from the notification of the application to the Ministry of Justice, the Court shall make its decision according to the information and

documents within the file. In cases of urgency or if the matter is well-settled in the case-law, the Court can issue a judgement on the admissibility of the application or on its merits without waiting the answer of the Ministry of Justice.

(3) The answer of the Ministry of Justice shall be notified to the applicant. The applicant shall be required to submit his/her counter statements, if any, to the Court within fifteen days.

### **Voting and decision in Sections and Commissions**

**ARTICLE 72-** (1) The Sections shall make their decisions with a simple majority.

(2) The decisions of admissibility or inadmissibility of an application shall be made unanimously by the Commissions. In cases where unanimity cannot be obtained, the application shall be transferred to the Section in order for a decision to be made.

(3) In matters deemed to be appropriate by the President of Section, the Commissions can also make decisions without them having to hold a meeting by means of having the draft decisions that are prepared by the rapporteur-judges signed by the members starting with the least senior member. In the event that one of the Commission members requests the matter to be discussed in a meeting, the mentioned procedure shall not be applied.

(4) It shall be possible to resort to electronic voting in the event that it is deemed to be appropriate by the Section or Commissions and the nature of the affair allows. In circumstances where an open vote is carried out, the voting shall start from the junior member.

### **Cautionary judgment**

**ARTICLE 73-** (1) Upon learning that there is a serious danger towards the life or material or moral integrity of the applicant, the necessary measures can be ruled upon ex officio by the Sections during the examination on merits or upon the request of the applicant.

(2) In relation to the applications which have been examined; upon learning that there is a serious danger towards the life or material or moral integrity of the applicant unless a decision of interim measure is made ex officio or upon the request of the applicant prior to the decision regarding the merits of the file, the admissibility examination of the application shall be carried out immediately by the Commissions, the application shall be sent to the relevant Section in order for the matter of interim measure to be concluded as well.

(3) In the event that the Section makes a decision of interim measure, it shall notify this to the relevant individuals and institutions for the necessary action to be taken.

(4) The decision in relation to the merits of the application regarding which a interim measure decision is made must be made within six months at the latest. Unless a new decision is made for the continuation of the interim measure, in circumstances where it is decided that the right of the applicant was not violated or it is decided to dismiss the application, the decision of interim measure shall be automatically lifted.

### **Hearing**

**ARTICLE 74-**(1) The Sections shall examine the applications based on the file. However, it can be decided to conduct a hearing in the event that this is deemed to be necessary ex officio or upon the request of the applicant or the Ministry of Justice.

(2) In the event that it is decided to conduct a hearing, the location, date and time of the hearing shall be notified to the concerned.

(3) Hearing minutes shall be drafted during the hearing. Copies of the minutes shall be provided to the applicant, the Ministry of Justice and the other concerned, if any, in the event that they so request.

### **Pilot decision procedure**

**ARTICLE 75-** (1) In the event that the Sections determine that an application stems from a structural

problem and that this problem has led to other applications or that they envisage that this situation will lead to new applications, they can implement the pilot decision procedure. In this procedure, a pilot decision shall be made by the Section in relation to the matter. Applications of similar nature shall be resolved by administrative offices within the framework of these principles; in the event that they are not resolved, they shall be reviewed and concluded collectively by the Court.

(2) The Section can initiate the pilot decision procedure *ex officio* or upon the request of the Ministry of Justice or the applicant.

(3) The application which has been selected for the pilot decision practice shall be considered as part of the prioritized affairs on the agenda.

(4) In its pilot decision, the Section shall demonstrate the structural problem it has identified and the measures which need to be taken for its solution.

(5) With the pilot decision, the Section can postpone the examination of similar applications which are related to the structural problem that is the subject of this decision. The concerned shall be informed regarding the decision of postponement. In the event that it deems this to be necessary, the Section can put



on the agenda and conclude the applications it has postponed.

### **Preparation of draft decisions**

**ARTICLE 76-** (1) Draft decisions which are in compliance with the drafting procedure indicated within the Rules of Procedure and also contain the summary opinion of the rapporteur-judge shall be prepared by individual application rapporteur-judges or assistant rapporteur-judges in order to be submitted to the Commissions or the Sections.

(2) The draft decisions which have been prepared in this manner shall be submitted to the relevant Commission or Section with the signature of the chief rapporteur-judge of the relevant unit. The draft decisions which have been prepared in order to be submitted to the Section shall also be sent to Re-CL.

### **Format of decisions of Commissions**

**ARTICLE 77-** (1) The decisions made by the Commissions shall contain the following matters:

- a) As the header information of the page;
  - 1) The emblem of the Court,
  - 2) The expression "the Constitutional Court",
  - 3) The relevant Commission of the Section which has made the decision,

b) In the text of the decision;

1) The application number,

2) The date of the decision,

3) The names of the President of the Commission, members and the rapporteur-judge,

4) The names of the parties and their representatives, if any,

5) The description of the procedure followed before the Court,

6) The cases which are the subject of the case,

7) The summary of the claims and defences of the parties,

8) The justification of the decision,

9) The text of judgment,

10) The trial expenses.

(2) Page and paragraph numbers shall be added to decisions.

(3) (Added by Article 12 of the Rules of Procedure no. 30587 published on 6/11/2018 on the Official Gazette) The decisions rendered through listing procedure may not contain the matters stated in §§ (5), (6), (7) of § (b) of the first paragraph.

### **Format of decisions of Sections**

**ARTICLE 78-** (1) The decisions made by the Sections shall contain the following matters:

a) On the first page of the decision;

- 1) The emblem of the Court,
- 2) The expression "the Constitutional Court",
- 3) The Section which has made the decision,
- 4) The application number,
- 5) The date of the decision.

b) On the other pages, on the condition that the paragraphs are enumerated;

1) The names of the President of the Section, members and the rapporteur-judge,

2) The names of the parties and their representatives, if any,

3) The description of the procedure followed before the Court,

4) The facts which are the subject of the case,

5) The summary of the claims and defences of the parties,

6) The justification of the decision,

- 7) The text of the judgment,
- 8) The decision regarding the trial expenses.

(2) The members which take part in the committee shall have the right to add jointly or separately their dissenting vote texts or different or additional justifications to the decision.

### **Violation judgments and redress of violations**

**ARTICLE 79-** (1) If the Section determines that the violation has stemmed from a court decision;

a) It shall send the file to the relevant court in order for a retrial to be conducted to resolve the violation and its consequences. The relevant court shall carry out a retrial in such a way as to resolve the violation and its consequences as explained by the Section in its decision of violation and urgently make a decision based on the file if possible.

b) In the event that it is decided at the end of the examination carried out by the Sections that a right of the applicant has been violated, a suitable compensation in favour of the applicant can be ruled upon if there is no legal benefit in carrying out a retrial.

c) In the event that the determination of the compensation amount requires a more detailed examination, the Section can offer the remedy of filing a case at general courts without concluding the matter

itself. (2) In circumstances where this is deemed to be necessary, what needs to be done regarding the matter of the way in which the violation and its consequences can be resolved as per paragraph one of Article 50 of the Law shall be indicated in the decision of the Section.

### **Decision of dismissal**

**ARTICLE 80-** (1) A decision of dismissal can be made by the Sections or the Commissions at all stages of the trial in the following circumstances:

a) The explicit withdrawal of the applicant from the case.

b) That it is understood that the applicant has left his/her case without pursuit.

c) That the violation and its consequences have been resolved.

ç) That no reason justifying the continuation of the examination of the application is found due to another justification identified by the Sections or the Commissions.

(2) The Sections or the Commissions can continue to examine an application which bears the quality indicated in the paragraph above in circumstances required by the implementation and interpretation of the Constitution or the determination of the scope

and limitations of fundamental rights or the respect for human rights.

**Signing, notification and publication of the decision**

**ARTICLE 81-** (1) The decisions which have been made by the Sections and Commissions shall be signed by the President and all of the members who make up the committee in order of seniority and appended with the seal of the Court.

(2) Dissenting vote texts or different or additional justifications shall be submitted to the Presidency of the Section within fifteen days starting from the date when the decision was made. The dissenting vote texts or different or additional justifications which are not submitted within this period shall not be taken into consideration.

(3) The decisions which have been made by the Sections and Commissions shall be final. The signed original copies of the decision shall be preserved at the archives of the Court.

A copy of the decision shall be notified to each of the applicant, the Ministry of Justice and the other concerned.

(4) All of the decisions of the Sections and those which bear principal significance from an admissibility

point of view from amongst the decisions of the Commissions shall be published on the website of the Court.

(5) The decisions which are determined by the President of Section, which bear the quality of being pilot decisions made by the Section or bear principal significance in terms of displaying case law shall be published in the Official Gazette.

### **Clarification and correction of material mistakes**

**ARTICLE 82-** (1) (Amended by Article 13 of the Rules of Procedure no. 30587 published on 6/11/2018 on the Official Gazette) Regarding the decisions rendered by the Court, the concerned can request the clarification of the judgment or the correction of material mistakes as per the provisions of the Law of Civil Procedure dated 12/1/2011 and numbered 6100.

### **Misuse of the right to application**

**ARTICLE 83-** (1) (Amended by Article 14 of the Rules of Procedure no. 30587 published on 6/11/2018 on the Official Gazette) In the event that it is determined that the applicant has clearly misused the right to individual application through his/her behaviour which is abusive, misleading or of a similar nature, the application shall be rejected in any phase of the examination and it shall be decided to sentence

the concerned to a disciplinary fine not exceeding two thousand Turkish Liras apart from the trial expenses.

### **Application of general provisions**

**ARTICLE 84-** (1) In the examination of individual applications, in circumstances where there are no provisions in the Law and the Rules of Procedure regarding the execution of the decisions, the provisions of relevant procedural laws which are suitable to the nature of the individual application shall be applied.



## **SECTION FOUR**

### **Final Provisions**

#### **CHAPTER ONE**

##### **Miscellaneous Provisions**

###### **Books and registries to be kept and archive**

**ARTICLE 85-** (1) The books and registries which need to be kept according to the requirements of the units at the Court shall be demonstrated in a regulation.

(2) The personal files of the President and members and the assigned rapporteur-judges and other personnel shall be kept by the Directorate of Personnel.

(3) The archive services shall be conducted as per the general provisions.

###### **Daily working duration**

**ARTICLE 86-** (1) The daily working hours of the Court shall be 8.30 a.m. - 12 a.m. / 13 p.m. - 17.30 p.m.. These hours can be changed by the Presidency in line with the requirements of the service. The change shall be announced on the website of the Court.

###### **Annual and excused leaves of members and rapporteur-judges**

**ARTICLE 87-**(1) The annual and excused leaves of the members shall be granted by the President. Sick leaves and excused leaves shall be subject to the general provisions.

(2) The President, Vice Presidents and members shall have the right to forty days of annual leave. In utilizing the leaves, attention shall be paid to ensuring that the affairs which are handled in the capacity of the Supreme Court or which are subject to periods are not disrupted and that the members are allowed to rest. The members shall be allowed to utilize their leaves on dates of their own choosing as much as this is possible.

(3) The leaves of the rapporteur-judges who are assigned and appointed at the Court shall be allowed by the President to be utilized by taking their requests into account and on the condition that the work is not disrupted.

### **Security measures to be taken at the Court premises**

**ARTICLE 88-** (1) The requests of the Presidency pertaining to the security of the Court shall be immediately fulfilled by administrative authorities and security services. Unless requested by the Presidency, no authority or office can take security measures at the Court premises.

### **Library and Publication Affairs**

**ARTICLE 89-** (1) The printed and electronic books and publications to be purchased for the Library of the Court, the databases to be subscribed to and the publications to be made by the Court shall be

determined by the Library and Publication Commission consisting of a member, a deputy Secretary General and a rapporteur-judge determined by the President.

(2) Other affairs of the library and other matters pertaining to publications shall be fulfilled by the Directorate of Publication and Public Relations in line with a regulation to be issued.

(3) The decisions deemed to be appropriate by the Library and Publication Commission shall be published in the Journal of the Constitutional Court Decisions.

### **Assignments abroad**

**ARTICLE 90-**(1) It shall be decided by the Presidency to send the President, Vice Presidents, members, rapporteur-judges and assistant rapporteur-judges to foreign countries in order to conduct professional examinations, share knowledge and experience, participate in congresses, conferences, seminars and other scientific meetings by providing them with their salaries and allowances, real travel expenses and per diem payments and on the condition that the work is not disrupted.

(2) Rapporteurs and assistant rapporteur-judges can be assigned abroad for up to two years by the Presidency in order to conduct graduate level education, to work or to train at courts of foreign countries, universities or international organizations within the framework of

scientific research or mutual cooperation. In the event that this is deemed necessary by the Presidency, these periods can be increased up to two folds. The provisions regarding civil servants shall be applied regarding the matter of the financial rights, responsibilities, compulsory service, payment of expenses and the transfer of the salaries and allowances of those who are assigned abroad within this framework.

(3) The increase in level, advancement in grade, retirement, salary, allowance and all other personal rights and liabilities of those who have been sent to foreign countries as per the provisions of paragraph two shall continue.

(4) The principles and procedures and the criteria applicable in assignment abroad shall be determined in a regulation.

### **Garments**

**ARTICLE 91-(1)** The robes to be worn by the President, Vice Presidents and members on foundation anniversaries, in affairs with hearing, oath taking ceremonies and during hearing in political party closure cases shall be black women's suit, white blouse and black shoes for female members; black suit, white shirt, tie and black shoes for male members. The robe shall be made out of black fabric and the collars shall be ornamented in Maraş style (Annex-2).

(2) The robe to be worn by rapporteur-judges on foundation anniversaries and while hearings during their duties at the Supreme Court and in political party closure cases shall be made out of black fabric, the sleeves and collars shall be made out of violet satin and ornamented in Maraş style (Annex-3).

(3) The robes to be worn by assistant rapporteur-judges on foundation anniversaries, in affairs with hearing, oath taking ceremonies and during hearing in political party closure cases shall be black women's suit, white blouse and black shoes for women; black suit, white shirt, tie and black shoes for men.

(4) Wearing robes in other ceremonies shall be subject to the decision of the Court.

(5) The robes shall be tailored out of the allowance included in the budget and provided to the President, members and rapporteur-judges as inventory stock. It shall be renewed at suitable intervals.

### **Emblem and badge of the Court**

**ARTICLE 92-** (1) The emblem which is adopted with a decision of the Court and can only be changed in this manner shall be used in the publications of the Court, in its printed papers and in the identity cards and badges of its members and retirees (Annex-4). The badge shall not have a frame.

(2) The badge which has been determined can be used by the President, Vice Presidents, members and retirees.

### **Certificate of honor**

**ARTICLE 93-** (1) The "Certificate of Honour" the text of which is demonstrated in (Annex-5) shall be given to Presidents, Vice Presidents and members who retire.

(2) The retired presidents and members of the Court and the individuals deemed to be appropriate shall be invited to the ceremony during which the certificates of honour and the gifts symbolizing the honour of past services will be given.

(3) The certificates of honour of Presidents and members who pass away prior to retiring shall be given to their spouses, to their children if these are absent, to other legal heirs if these are absent as well.

### **Funeral ceremonies**

**ARTICLE 94-** (1) The funeral ceremonies of the President and members and retired presidents and members shall be commenced at the Court in the event that this is so requested by their families. The passing away shall be announced via newspapers, TRT and news agencies.

## CHAPTER TWO

### **Amendment, Entry into Force and Enforcement of the Rules of Procedure**

#### **Amendment of the Rules of Procedure**

**ARTICLE 95-** (1) The amendment of the Rules of Procedure can be requested by the President or at least three members. It shall be compulsory to bring forward the requests regarding this matter in writing and to indicate the justifications.

(2) The request for amendment shall be taken onto the agenda by the Presidency within fifteen days. If it is decided by the Plenary that there is need for an amendment, a commission consisting of three individuals selected from amongst the members shall be established in order to carry out an examination regarding the matter and prepare a report containing the draft amendment text.

(3) The report of the commission shall be taken onto the agenda and concluded within thirty days.

#### **Abolished legislation**

**ARTICLE 96-** (1) The Rules of Procedure of the Constitutional Court published in the Official Gazette dated 3/12/1986 and numbered 19300 has been abolished.

### **Entry into force**

**ARTICLE 97-** (1) This Rules of Procedure shall enter into force on the date of its publication in the Official Gazette.

### **Enforcement**

**ARTICLE 98-** (1) The President shall enforce the provisions of this Rules of Procedure.

### **ANNEX-2**

#### ***Member's Robe***





**II. APPLICANT INFORMATION**

<b>A. REAL PERSON APPLICANT</b>	T.R. Identification Number	Nationality
	<input type="text"/>	<input type="text"/>
	Name	Occupation
	<input type="text"/>	<input type="text"/>
	Surname	Phone
	<input type="text"/>	<input type="text"/>
	Mother's Name	E-mail
	<input type="text"/>	<input type="text"/>
	Father's Name	Address
	<input type="text"/>	<input type="text"/>
Date of birth	<input type="text"/>	
<input type="text"/>	<input type="text"/>	
Gender	<input type="text"/>	

<b>B. LEGAL PERSON APPLICANT</b>	Mersis Number	Phone
	<input type="text"/>	<input type="text"/>
	Title	E-mail
	<input type="text"/>	<input type="text"/>
	Tax Number	Address
	<input type="text"/>	<input type="text"/>
	Registry	Registration Number
	<input type="text"/>	<input type="text"/>
Name and Surname of the Representative	Representative's T.R Identification Number	
<input type="text"/>	<input type="text"/>	

## Internal Regulation of the Constitutional Court

### III. REPRESENTATIVE INFORMATION (This section will be filled by representatives only.)

<b>A. ATTORNEY</b>	Name	Represented Applicant/Applicants *
	Surname	Phone
	Registered Bar	E-mail
	Bar Registration Number	Address
	*Must be filled in cases where all applicants are not represented.	

<b>B. NON-ATTORNEY REPRESENTATIVE</b>	T.R. Identification number	Represented Applicant/Applicants**
	Name	Representation Relationship***
	Surname	Phone
	Mother's Name	E-mail
	Father's Name	Address
	Date of Birth	
	Nationality	
	** Must be filled in cases where not all applicants are represented.	
	*** It is necessary to indicate the parent, guardian, trustee or legal person representative and the supporting document should be attached.	









**V. OTHER INFORMATIONS**

**A. EXCUSES**

**Explanations on the excuse if the application could not be made within the deadline:**  
 In case the application cannot be made in due time due to a justifiable excuse such as force majeure or serious illness, the documents regarding the excuse are attached to the application form and the following section is filled in (Rule 64/2).


From:  to:

**B. DEMAND FOR ACTION**

**If there is a demand for action, the reasons:**  
 When it is understood that there is a serious danger to the applicant's life or material or moral integrity, necessary measures can be taken ex officio or upon the request of the applicant (Rule 73).  
 Requesting a demand for action, even though it is not necessary, may prolong the process of finalizing the application.


**C. PRIVACY**

**If there is a request to keep the identity confidential in public documents, the reasons:**  
 Privacy requests made without reason may be denied without review.


**D. LEGAL AID**

**If there is a request for legal aid, the supporting documents:**  
 In order for the legal aid request to be accepted, the applicant must be partially or completely incapable of paying the necessary legal expenses without putting the livelihood of himself/herself and his/her family into a significant difficulty, and the request must not be unfounded.  
 In the event that a request for legal aid is made abstractly and without justification and without relying on any document, the request may be rejected without examining it, and this may lead to a prolongation of the process of concluding the application.






## ANNEX-2

### *Justice's Robe*



### **ANNEX-3**

#### ***Rapporteur-judge's Robe***



## ANNEX-4



**ANNEX-5**

**THE TEXT OF THE CERTIFICATE OF HONOUR  
CERTIFICATE OF HONOUR OF THE  
CONSTITUTIONAL COURT**

The Constitutional Court;

Presents, with feelings of gratitude and respect, this Certificate of Honour representing the efforts and contributions, which will always be appreciated, of Mr./Ms..... who has retired after having honourably completed his/her services in justice with complete faith in the rule of law and the Constitution.

25 April ....



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ISBN: 978-605-2378-81-6