INDIVIDUAL APPLICATION RIGHT
DALAM UNDANG-UNDANG MAHKAMAH KONSTITUSI TURKI
PERSPEKTIF *SIYĀSAH DUSTŪRIYYAH*

SKRIPSI

DIAJUKAN KEPADA FAKULTAS SYARI'AH DAN HUKUM
UNIVERSITAS ISLAM NEGERI SUNAN KALIJAGA YOGYAKARTA
UNTUK MEMENUHI SEBAGIAN DARI SYARAT-SYARAT
MEMPEROLEH GELAR SARJANA STRATA SATU
DALAM ILMU HUKUM ISLAM

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ABSTRAK

Individual application right merupakan pengaduan konstitusional (*constitutional complaint*) model Turki yang mekanismenya digabung dengan sistem regional perlindungan hak asasi manusia di bawah perlindungan bersama Konstitusi Turki dan *the European Convention on Human Rights (ECHR)*. *Individual application right* adalah salah satu yurisdiksi Mahakamah Konstitusi Turki yang penting, sebagai keluhan atau gugatan yang diajukan oleh siapa pun yang menganggap hak konstitusionalnya telah dilanggar oleh tindakan atau kelalaian otoritas publik. Prosedur dan prinsip mengenai *individual application right* diatur dalam UU Mahkamah Konstitusi Turki (*Law on Constitutional Court*) No. 6216 Tahun 2011 pada Pasal 45 sampai dengan Pasal 51. Namun, dalam perkembanganya Mahkamah Konstitusi Turki belum maksimal dalam mengadili kasus terkait permohonan *individual application right*. Mahkamah Konstitusi Turki menjatuhkan putusan yang menetapkan pelanggaran hak hanya 4% dari 211.801 putusan sejak tahun 2012 dan sisanya tidak terbukti sebagai pelanggaran hak. Sehingga, *individual application right* penting untuk diteliti dan ditinjau dengan pedekatan *siyāsah dustūriyyah,* terkait konsep dan mekanismenya dalam melindungi hak-hak dan kebebasan fundamental di Turki.

Penelitian ini dikategorikan sebagai penelitian pustaka (*library research*). Sifat penelitiannya adalah deskriptif analitis dengan menjelaskan dan menganalisis konsep *individual application right* dan mekanismenya dalam melindungi hak-hak dan kebebasan fundamental. Kemudian, dari topik bahasan tersebut akan dibedah dalam pandangan *siyāsah dustūriyyah* dengan menggunakan metode pendekatan konseptual (*conceptual approach*) dan pedekatan perbandingan (*comparative approach*). Sumber data yang digunakan adalah data primer yaitu Konstitusi Turki, UU Mahkamah Konstitusi Turki (*Law on Constitutional Court*) No. 6216 Tahun 2011, dan Putusan-Putusan Mahkamah Konstitusi Turki terkait kasus *individual application right* dan data skunder yaitu buku-buku, skripsi, tesis, disertasi, jurnal, karya ilmiah, artikel, laporan penelitian yang relevan. Teknik pengumpulan data menggunakan teknik dokumentasi yang kemudian dianalisis melalui analogi induktif dan komparasi.

Hasil penelitian memberikan kesimpulan bahwa konsep *individual application right* memiliki ruang lingkup perlindungan yang cukup luas karena mencakup perlindungan hak dan kebebasan fundamental dalam konstitusi Turki dan Konvensi HAM Eropa (ECHR). Namun, mekanismenya masih kurang memadai karena terdapat persyaratan substantif yang membatasinya. Maka, Turki perlu memperbarui sistem *individual application right* untuk memaksimalkan pemulihan hak dan kebebasan fundamental warga negaranya. Berdasarkan perspektif *siyāsah dustūriyyah* ditinjau dari segi legalitas, upaya hukum *individual*

application right memiliki relevansi terhadap prinsip-prinsip umum Islam dalam ruang lingkup *siyāsah dustūriyyah*.

Kata Kunci: *Constitution Complaint,* Hak Asasi Manusia, *Individual Application Right, Siyasah Dusturiyyah.*

HALAMAN PERSETUJUAN

Hal : Skripsi Saudara Ahmad Fahmi Mufid

Kepada Yth,

Dekan Fakultas Syari'ah dan Hukum UIN Sunan Kalijaga Yogyakarta

Assalammua'alaikum Wr.Wb.

Setelah membaca meneliti, memberikan petunjuk dan mengkoreksi serta mengadakan perbaikan seperlunya, maka kami selaku pembimbing berpendapat bahwa skripsi Saudara:

Nama : Ahmad Fahmi Mufid

NIM : 16370074

Judul skripsi : *Individual Application Right* dalam Undang-Undang Mahkamah Konstitusi Turki Perspektif *Siyāsah Dustūriyyah*

Sudah dapat diajukan kepada Prodi Hukum Tata Negara Fakultas Syari'ah dan Hukum Universitas Islam Negeri Sunan Kalijaga Yogyakarta sebagai salah satu syarat memperoleh gelar sarjana strata satu dalam ilmu Hukum Islam.

Dengan ini kami mengharap agar skripsi atau tugas akhir Saudara tersebut di atas dapat segera dimunaqasyahkan. Atas perhatiannya kami ucapkan terima kasih.

Wassalammu'alaikum Wr.Wb.

Yogyakarta, 28 Desember 2020
Pembimbing

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Nomor : B-167/Un.02/DS/PP.00.9/02/2021

Tugas Akhir dengan judul : INDIVIDUAL APPLICATION RIGHT DALAM UNDANG-UNDANG MAHKAMAH KONSTITUSI TURKI PERSPEKTIF SIYASAH DUSTURIYYAH

yang dipersiapkan dan disusun oleh:

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Telah diujikan pada : Rabu, 13 Januari 2021
Nilai ujian Tugas Akhir : A-

dinyatakan telah diterima oleh Fakultas Syari'ah dan Hukum UIN Sunan Kalijaga Yogyakarta

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SURAT PERNYATAAN KEASLIAN SKRIPSI

Yang bertanda tangan di bawah ini:

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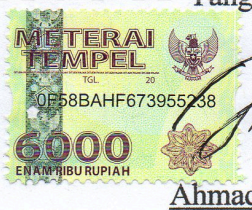
Prodi	: Hukum Tata Negara (Siyasah)
Fakultas	: Syari'ah dan Hukum

Menyatakan dengan sesungguhnya, bahwa naskah skripsi ini yang berjudul **"*Individual Application Right* dalam Undang-Undang Mahkamah Konstitusi Turki Perspektif *Siyāsah Dustūriyyah*"** secara keseluruhan adalah hasil penelitian/karya pribadi kecuali pada bagian-bagian yang dirujuk sumbernya, dan bebas dari plagiarisme. Jika di kemudian hari terbukti pernyataan ini bukan karya pribadi atau melakukan plagiasi maka sepenuhnya menjadi tanggungjawab penyusun.

Demikian surat pernyataan ini dibuat dengan sebenar-benarnya.

Yogyakarta, 9 Oktober 2020

Yang menyatakan,



Ahmad Fahmi Mufid
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MOTO

"KEBAIKAN YANG BERKESINAMBUNGAN ITU LEBIH UTAMA

DARIPADA YANG SINGKAT"

TERUSLAH BERLOMBA-LOMBA DALAM KEBAIKAN!

HALAMAN PERSEMBAHAN

Karya ini saya haturkan kepada Allah SWT Tuhan Yang Maha Kuasa, Ciptaan-Nya, dan Umat Manusia,

Serta saya persembahkan kepada kedua orang tua saya:

Bapak Miftah dan Ibu Eny Latifah

yang selalu menghidupi dengan usaha dan doa

PEDOMAN TRANSLITERASI ARAB-LATIN

Transliterasi adalah pengalihan tulisan dari satu bahasa ke dalam bahasa lain. Dalam skripsi ini yang dimaksud dengan transliterasi adalah pengalihan Bahasa Arab ke Bahasa Indonesia. Transliterasi Arab-Latin yang dipakai dalam penyusunan skripsi ini berpedoman pada Surat Keputusan Bersama Menteri Agama dengan Menteri Pendidikan dan Kebudayaan Republik Indonesia Nomor: 158/1987 dan 0543/u/1987 tertanggal 22 Januari 1998 sebagai berikut:

A. Konsonan Tunggal

Huruf Arab	Nama	Huruf Latin	Keterangan
ا	Alif	Tidak dilambangkan	Tidak dilambangkan
ب	bâ’	B	Be
ت	tâ’	T	Te
ث	śâ’	Ś	es (dengan titik di atas)
ج	Jim	J	Je
ح	ḥâ’	Ḥ	ḥa (dengan titik di bawah)
خ	khâ’	Kh	ka dan ha
د	Dâl	D	De
ذ	Żâl	Ż	żet (dengan titik di atas)
ر	râ’	R	Er
ز	Zai	Z	Zet
س	Sin	S	Es
ش	Syin	Sy	es dan ye
ص	Ṣâd	Ṣ	es (dengan titik di bawah)
ض	Ḍâd	Ḍ	de (dengan titik di bawah)
ط	ţâ’	Ṭ	te (dengan titik di bawah)
ظ	ẓâ’	Ẓ	zet (dengan titik dibawah)
ع	‘ain	‘	koma terbalik (di atas)
غ	Gain	G	ge dan ha

ف	fâ’	F	Ef
ق	Qâf	Q	Qi
ك	Kâf	K	Ka
ل	Lâm	L	El
م	Mîm	M	Em
ن	Nûn	N	En
و	Wâwû	W	We
ه	hâ’	H	Ha
ء	Hamzah	’	Apostrof
ي	yâ’	Y	Ye

B. Konsonan Rangkap Karena Syaddah

نَزَّلَ	ditulis	Nazzala
بِهِنَّ	ditulis	Bihinna

C. Ta’ Marbutah diakhir Kata

1. Bila dimatikan ditulis h

حِكْمَةْ	ditulis	Hikmah
عِلَّةْ	ditulis	‘illah

(ketentuan ini tidak diperlukan bagi kata-kata Arab yang sudah terserap dalam bahasa Indonesia, seperti salat, zakat dan sebagainya kecuali dikehendaki lafal lain).

2. Bila diikuti dengan kata sandang ‘al’ serta bacaan kedua itu terpisahh maka ditulis dengan h.

كَرَامَة ٱلْأَوْلِيَاءْ	ditulis	Karâmah al-auliyâ’

3. Bila ta' marbutah hidup atau dengan harakat fathah, kasrah dan dammah ditulis t atau h.

زَكَةُ اَلْفِطْرِ	ditulis	Zakâh al-fiţri

D. Vokal

فَعَّلَ	Fathah	ditulis ditulis	A Fa'ala
ذُكِرَ	kasrah	ditulis ditulis	I Żukira
يَذْهَبُ	Dammah	ditulis ditulis	U Yażhabu

E. Vokal Panjang

1	Fathah + alif فَلاَ	ditulis ditulis	Â Falâ
2	Fathah + ya' mati تَنْسَى	ditulis ditulis	Â Tansâ
3	Kasrah + ya' mati تَفْصِيْلَ	ditulis ditulis	Î Tafshîl
4	Dammah + wawu mati أُصُوْلُ	ditulis ditulis	Û Uṣûl

F. Vokal Rangkap

1	Fathah + ya' mati اَلزُّهَيْلِيْ	ditulis ditulis	Ai az-zuhailî
2	Fathah + wawu mati اَلدَّوْلَةْ	ditulis ditulis	Au ad-daulah

G. Kata Pendek yang Berurutan dalam Satu Kata dipisahkan dengan Apostrof

أَأَنْتُمْ	ditulis	A'antum
أُعِدَّتْ	ditulis	U'iddat
لَئِنْشَكَرْتُمْ	ditulis	La'in syakartum

H. Kata Sandang Alif dan Lam

1. Bila diikuti huruf qomariyyah ditulis dengan menggunakan huruf "l"

اَلْقُرأْآنْ	ditulis	Al-Qur'ân
اَلْقِيَاسْ	ditulis	Al-Qiyâs

2. Bila diikuti huruf Syamsiyyah ditulis dengan menggunakan huruf Syamsiyyah yang mengikutinya, dengan menghilangkan huruf l (el) nya.

اَلسَّمَاءُ	ditulis	As-Samâ'
اَلشَّمْشُ	ditulis	Asy-Syams

I. Penulisan Kata-kata dalam Rangkaian Kalimat Ditulis menurut penulisnya.

ذَوِيْ اَلْفُرُوْضْ	ditulis	Żawî al-furûḍ
أَهْلُ اَلسُّنَّةْ	ditulis	Ahl as-sunnah

J. Huruf Kalipat

Meskipun dalam sistem tulisan Arab huruf kapital tidak dikenal, dalam transliterasi ini huruf tersebut digunakan juga. Penggunaan huruf kapital seperti yang berlaku di EYD, diantaranya yaitu huruf kapital untuk menuliskan huruf awal nama diri dan permulaan kalimat. Nama diri didahului oleh kata sandang,

maka yang ditulis dengan huruf kapital adalah huruf awal nama diri bukan huruf awal kata sandangnya. Contoh:

شَهْرُ رَمَضَانَ اَلذِّيْ أُنْزِلَ فِيْهِ الْقُرْاَن Syahru Ramadan al-Lazi unzila fih al-Qur'an

K. Pengecualian

Sistem transliterasi ini tidak berlaku pada :

1. Kosa kata Arab yang lazim digunakan dalam bahasa Indonesia dan terdapat dalam Kamus Besar Bahasa Indonesia, misalnya hadis, lafaz, shalat, zakat, dan sebagainya.
2. Judul buku yang menggunakan kata Arab, namun sudah di-Latink-an oleh penerbit, seperti judul buku Al-Hijab, Fiqh Mawaris. Fiqh Jinayah dan sebagainya.
3. Nama pengarang yang menggunakan nama Arab, tetapi berasal dari negara yang menggunakan huruf Latin, misalnya Quraish Shihab, Ahmad Syukuri Soleh dan sebagainya.
4. Nama penerbit di Indonesia yang menggunakan kata Arab misalnya Mizan, Hidayah, Taufiq, Al-Ma'arif dan sebagainya.

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Puji dan syukur penyusun panjatkan kehadirat Allah SWT yang telah melimpahkan karunia-Nya berupa rahmat, taufiq, serta hidayah-Nya, sehingga penyusun dapat menyelesaikan skripsi yang berjudul **"*Individual Application Right* dalam Undang-Undang Mahkamah Konstitusi Turki Prespektif *Siyāsah Dustūriyyah.*"** Sholawat serta salam senantiasa tercurah kepada Baginda Nabi Muhammad SAW beserta keluarganya, yang telah membimbing kita keluar dari jalan kegelapan menuju ke dalam nur cahaya Illahi.

Segala ikhtiar untuk menjadikan skripsi ini selesai dengan baik telah penyusun lakukan. Semoga skripsi ini menjadi manfaat bagi seluruh pembaca. Begitu juga dalam proses penyusunan skripsi ini tidak terlepas dari bantuan berbagai pihak. Oleh karena itu, untuk ungkapan rasa syukur yang telah diberikan, penyusun mengucapkan terima kasih kepada :

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9. Semua pihak yang telah membantu dalam menyelesaikan skripsi ini yang tidak dapat disebutkan satu per satu.

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Yogyakarta, 28 Oktober 2020
Penyusun

Ahmad Fahmi Mufid

DAFTAR ISI

BAB I

PENDAHULUAN

A. Latar Belakang

Ide konstitualisme dan jaminan perlindungan hak asasi manusia (HAM) merupakan salah satu manifestasi dalam demokrasi modern. Jaminan perlindungan HAM dianggap sebagai salah satu ciri utama dan mutlak harus ada di setiap negara yang menganut paham negara hukum.[1] Ketika jaminan perlindungan HAM telah menjadi bagian dari konstitusi, maka hak tersebut menjadi hak konstitusional bagi warga negara, mengikat ke semua cabang kekuasaan negara dan tidak boleh dilanggar oleh siapa pun.[2] Ketika ada pelanggaran hak konstitusional warga negara, salah satu upaya hukum yang dapat ditempuh adalah dapat melalui *constitutional complaint* (pengaduan konstitusional).

Constitutional complaint dalam pengertian umum adalah pengaduan atau gugatan yang diajukan perorangan ke Mahkamah Konstitusi terhadap tindakan (kelalaian) otoritas lembaga publik yang mengakibatkan terlanggarnya hak-hak dasar atau hak konstitusional individu warga negara yang bersangkutan.[3] Pelanggaran tersebut dilakukan oleh pemerintah, lembaga perwakilan, maupun Mahkamah Agung, dan tentunya bertentangan dengan konstitusi.

[1] Jimly Asshiddiqie, *Pengantar Ilmu Hukum Tata Negara*, cet.ke-5 (Jakarta: Rajawali Press, 2013), hlm. 343.

[2] Ernest Baker, *Reflection on Government* (Oxford: Oxford University Press, 1958), hlm. 30-31.

[3] I Dewa Gede Palguna, *Konstitusional (Constitutional Complaint) Upaya Hukum terhadap Pelanggaran Hak-Hak Konstitusional Warga Negara* (Jakarta: Sinar Grafika, 2013), hlm. 1.

Salah satu model yang menarik dari *constitutional complaint* untuk perlindungan hak-hak dasar (*fundamental right*) dapat ditemukan di Turki. Mekanisme *constitutional complaint* di Turki digabungkan dengan sistem regional perlindungan HAM di bawah perlindungan bersama Konstitusi Turki dan *the European Convention on Human Rights* (ECHR) yang disebut sebagai *individual application right* (gugatan individu). Mahkamah Konstitusi Turki (*the Turkish Constitutional Court*) menurut Pasal 148 Paragraf 1 Konstitusi Turki, menangani pengaduan (gugatan) dari individu mengenai pelanggaran HAM dan kebebasan.[4]

Namun, sejauh ini Mahkamah Konstitusi Turki dirasa belum maksimal dalam mengadili kasus terkait pengaduan gugatan individual. Menurut statistik aplikasi pengaduan gugatan individu (*individual application statistic*) dari tanggal 23 September 2012 sampai tanggal 31 Desember 2019 Mahkamah Konstitusi Turki telah menjatuhkan 211.801 putusan dari 254.636 total jumlah pengaduan individu yang diajukan.[5] Berdasarkan jumlah tersebut, putusan yang menyatakan adanya pelanggaran setidaknya satu hak hanya 8.369 (4%) dari pengaduan yang telah diputus oleh Pengadilan Mahkamah Konstitusi Turki. Sisa dari putusan 96% terdiri dari putusan, antara lain: perkara detemukan tidak melanggar hak, perkara tersebut diberhentikan (*dismissed*), aduan tidak dapat diterima (*inadmissible*), atau aduan ditolak dengan alasan administrasi (*rejection on administrative grounds*).

[4] M. Lutfi Chakim, "A Comparative Perspective on Constitutional Complaint: Discussing Models, Procedures, and Decisions," *Constitutional Review*, Vol. 5, No. 1 (Mei 2019), hlm. 96-133.

[5] "Individual Application Statistics (23/9/2012 - 31/12/2019) Constitutional Court of the Republic of Turkey", terdapat dalam https://www.anayasa.gov.tr/en/statistics/, akses tanggal 13 Maret 2020.

Statistik tersebut cukup memprihatinkan, dengan memperhitungkan jumlah seluruh kasus yang dipertimbangkan, dibandingkan dengan persentase yang rendah dari keputusan yang menyatakan adanya pelanggaran hak, dapat dikatakan bahwa Pengadilan Mahkamah Kontitusi Turki dirasa belum tepat dalam memutus kasus pengaduan gugatan individu sebanyak 254.636. Kasus yang disidangkan hanya dalam waktu tujuh tahun dan 96% penganduan yang ditolak itu tidak dapat dianggap sebagai pemulihan yang maksimal untuk pelanggaran hak. Selain itu, menurut laporan tahunan Pengadilan Mahkamah Konstitusi Turki 2019 (*Annual Report of The Constitutional Court of Turkey 2019*) penegakan hak terhalang oleh fragmentasi dan independensi terbatas lembaga publik yang bertanggung jawab untuk melindungi hak-hak dan kebebasan tersebut serta kurangnya peradilan yang independen.[6]

Tentang hak asasi warga negara dalam kajian hukum Islam secara mendalam dikaji di dalam perspektif *siyāsah dustūriyyah*. *Siyāsah dustūriyyah* juga membahas mengenai perlindungan terhadap hak asasi dan kebebasan berdasarkan prinsip-prinsip syari'at Islam yang diatur dalam konstitusi Islam (*al-Dustūriyyah al-Islāmiyah*).

Berdasarkan uraian di atas penyusun tertarik untuk mengkaji mengenai *individual application right* sebagai perlindungan hak konstitusional warga negara

[6] European Commission, *Annual Report of The Constitutional Court of Turkey 2019*, (Brussels: Commission Staff Working Documen, 2019), hlm. 7.

dalam kewenangan Mahkamah Konstitusi Turki yang akan ditinjau dan dianalisis berdasarkan perspektif *siyāsah dustūriyyah*.

B. Rumusan Masalah

Berdasarkan uraian data di atas maka penyusun dapat menarik beberapa rumusan masalah sebagai berikut:

1. Bagaimana mekanisme penyelesaian Pelanggaran HAM melalui *Individual Application Right* menurut UU Mahkamah Konstitusi Turki No. 6216?
2. Bagaimana mekanisme penyelesaian Pelanggaran HAM melalui *Individual Application Right* dilihat dari perspektif *siyāsah dustūriyyah*?

C. Tujuan dan Kegunaan Penelitian

Adapun tujuan yang ingin dicapai dalam penelitian ini adalah sebagai berikut:

a. Untuk mendeskripsikan dan menjelaskan mekanisme penyelesaian Pelanggaran HAM melalui *Individual Application Right* menurut UU Mahkamah Konstitusi Turki No. 6216.
b. Untuk mengetahui dan menjelaskan pandangan *siyāsah dustūriyyah* mengenai *individual application right* sebagai perlindungan hak asasi manusia di Turki.

Adapun kegunaan yang hendak dicapai dalam penelitian ini dapat dibagi menjadi dua aspek, yaitu:

a. Secara teoritis, penelitian ini diharapkan dapat memberikan manfaat berupa kontribusi pemikiran bagi penegakan hak asasi manusia dalam keilmuan yakni ilmu hukum tata negara pada umumnya, terutama terkait dengan pengaduan

konstitusional sebagai upaya hukum untuk mewujudkan keadilan. Hasil penelitian ini juga diharapkan dapat digunakan sebagai referensi bagi peneliti-peneliti hukum (*legal research*) dan bagi civitas akademika pada khususnya, dan masyarakat luas pada umumnya.

b. Secara praktis, dapat digunakan menjadi pertimbangan bagi pembuat kebijakan regulasi di bidang pengadilan hak asasi di dalam undang-undang mengenai pengaduan konstitusional. Selain itu, metode analisis dengan kajian hukum Islam dalam penelitian ini dapat digunakan pemerintah, penegak hukum, pencari keadilan serta masyarakat sebagai pedoman atau bahan teoritis dalam mengontrol kebijakan hukum penegakan hak asasi manusia dan membuka pemahaman terkait bagaimana mempertahankan hak konstitusional warga negara sesuai syari'at Islam.

c. Sebagai tugas akhir dan syarat untuk memperoleh gelar strata satu dalam Ilmu Hukum Islam.

D. Telaah Pustaka

Berdasarkan penelusuran beragam bahan pustaka terkait tema mengenai "*Individual Application Right* dalam Undang-Undang Mahkamah Konstitusi Turki Prespektif *Siyāsah Dustūriyyah*" peneliti menemukan beberapa tulisan berkaitan dengan tema penelitian ini sebagai berikut:

Karya pertama yang perlu ditinjau adalah karya tulis ilmiah dari jurnal *Global Constitutionalism* yang ditulis oleh Engin Yildirim dan Serdar Gülener dengan judul *"Individual Application to the Turkish Constitutional Court as a Case of Constitutional Transfer"*. Penelitian dari karya tulis ilmiah tersebut membahas

mengenai studi kasus tentang penerapan teori IKEA untuk menganalisis transfer ide konstitusional yang global yakni upaya hukum aplikasi individu (gugatan individu) ke Mahkamah Konstitusi Turki (TTC). Teori IKEA memberikan pendekatan metodologis yang jelas dengan mengidentifikasi proses dan praktik tentang bagaimana ide konstitusional, norma, institusi, dan pendapat dari wadah yang global dapat ditransfer ke lingkungan (sistem) yang baru. Penelitian ini menyimpulkan bahwa penerapan teori IKEA terkait transfer konstitusional global ke dalam sistem hukum konstitusional Turki (domestik) tentang aplikasi individu ke Mahkamah Konstitusi Turki, menunjukan proses yang bersifat dinamis dan multifaset (banyak segi). Turki berhasil mentransfer gagasan pengaduan konstitusional, tetapi merekayasa ulang dalam aspek vital tertentu untuk memenuhi kebutuhannya sendiri. Keunikan kasus Turki terletak pada kenyataan bahwa cakupan hak-hak yang dilindungi oleh aplikasi individu ditentukan oleh instrumen internasional.[7] Dalam penelitian tersebut meskipun menjelaskan bagaimana konsep *individual application right*, namun tidak mejelaskan mekanisme penyelesaian pelanggaran HAM melalui *individual application right* dalam kewenangan Mahkamah Konstitusi Turki.

Karya kedua yang perlu ditinjau adalah karya tulis ilmiah dari jurnal *Research and Policy on Turkey* yang ditulis oleh Ece Göztepe dengan judul *"Normative Foundations of the Right to Individual Complaint in Turkey with a*

[7] Engin Yildirim dan Serdar Gülener, "Individual Application to the Turkish Constitutional Court as a Case of Constitutional Transfer," *Global Constitutionalism*, Volume 5, Issue 2 (July 2016), hlm. 269-294.

Case Study on Electoral Rights". Penelitian dari karya tulis ilmiah tersebut membahas mengenai analisis tiga dimensi utama dari dasar normatif pengaduan individu dan menyoroti masalah struktural yang mendasarinya, serta prinsip-prinsip normatif proses pengaduan konstitusional berdasarkan studi kasus tentang hak pemilu, putusan Mahkamah Konstitusi Turki terkait dengan Badan Pemilu dan potensi upaya hukum baru untuk mengubah atau menghalangi sistem hukum sebelumnya. Dalam penelitian tersebut disampaikan kesimpulan bahwa proses pengaduan konstitusional Turki diperkenalkan dengan tujuan untuk mengurangi aplikasi pengaduan di Pengadilan Hak Asasi Manusia Eropa (*the European Court of Human Rights*) dan memperkuat perlindungan untuk hak-hak fundamental di tingkat nasional. Orientasi absolut pada Konvensi Eropa tentang Hak Asasi Manusia (ECHR) dan putusan Pengadilan Hak Asasi Manusia Eropa (ECtHR) tidak selalu menawarkan perlindungan hukum yang luas kepada warga negara Turki, memang jaminan konstitusional yang lebih luas dari konstitusi Turki dibandingkan dengan ECHR tidak diperhitungkan oleh Mahkamah Konstitusi. Orientasi normatif yang tumpang tindih antara ECHR dan konstitusi Turki tidak mempertimbangkan ketentuan yang memperluas hak-hak fundamental dan kebebasan dalam konstitusi serta mengurangi beberapa jaminan konstitusional dari perlindungan hukum, pada saat yang sama melanggar pasal 53 ECHR.[8] Secara jelas

[8] Ece Göztepe, "Normative Foundations of the Right to Individual Complaint in Turkey with a Case Study on Electoral Rights," *Research and Policy on Turkey*, Vol. 3, No. 1 (April 2018), hlm. 68–89.

penelitian tersebut tidak menyentuh tinjauan *siyāsah dustūriyyah* dalam menganalisis konsep pengaduan individu (*individual application right*).

Karya ketiga yang perlu ditinjau ialah karya tulis ilmiah dari jurnal *Journal of the Faculty of Economics and Administrative Sciences* yang ditulis oleh Azimli Çilingir dan Tuğ Levent dengan judul *"Right to File an Individual Application to Constitutional Court in Turkey: Admissibility Criteria"*. Penelitian dari karya tulis ilmiah tersebut membahas mengenai hak untuk mengajukan aplikasi (gugatan) individu ke Mahkamah Konstitusi Turki dan kriteria aplikasi individu yang dapat diterima (*admissibility*) di Pengadilan Mahkamah Konstitusi Turki. Penelitian ini mencoba menganalisis terkait kriteria aplikasi individu yang dapat diterima berdasarkan pada kompetensi partai, kompetensi gugatan, subjek aplikasi, kepentingan hukum, upaya hukum biasa yang harus dilalui dulu (*exhausted*), petisi, dan durasi. Penelitan tersebut menyimpulkan bahwa kriteria *admissibility* yang disebutkan dalam penelitan ini adalah suatu yang pasti walaupun tidak diberlakukannya undang-undang yang mengatur karena teori hukum tata negara telah memberikan data. Penerimaan aplikasi individu yang merupakan salah satu langkah dalam bidang perlindungan hak asasi manusia di Turki, adalah bentuk upaya hukum yang efektif sebelum pengajuan aplikasi individu ke Pengadilan Hak Asasi Manusia Eropa.[9] Penelitian tersebut terfokus pada kriteria penerimaan (*admissibility*) aplikasi individu, tidak membahas secara rinci tentang mekanisme

[9] Azimli Çilingir dan Tuğ Levent, "Right to File an Individual Application to Constitutional Court in Turkey: Admissibility Criteria," *Journal of The Faculty of Economics and Administrative Sciences*, Issue 2 (June-Desember 2016), hlm. 214-224.

penyelesaian pelanggaran HAM melalui *individual application right* dan tidak menggunakan tinjuan *siyāsah dustūriyyah*.

Karya keempat yang perlu ditinjau adalah karya tulis ilmiah dari jurnal *Human Rights Review* yang ditulis oleh Abdurrahman Tekin dengan judul *"The Development Process of Human Rights from the Adoption of Charter of Alliance to the Constitutional Complaint in Turkish Constitutional System"*. Penelitian dari karya tulis ilmiah tersebut membahas mengenai sejarah panjang pengakuan dan perlindungan hak asasi manusia dalam sistem konstitusional Turki melalui evaluasi perkembangan dan amandemen konstitusi, serta mencoba untuk meneyelidiki keefektifan *individual application right* (pengaduan konstitusional) ke Pengadilan Kostitusional dengan membuat perbandingan antara Turki dan Negara-Negara Eropa lainnya secara relevan. Dalam kesimpulannya desebutkan bahwa sejarah perkembangan hak asasi manusia dan kebebasan dalam konstitusi Turki telah mengalami fluktuasi dalam hal proses perbaikan. Demokrasi di Turki pernah dirusak oleh pemerintahan di bawah militer pada tahun 1960, 1980, 1971 dan 1997, sehinggah banyak pelanggaran hak asasi manusi telah terjadi. Hak asasi manusia di Turki mendapat perlindungan konstitusional dalam UUD 1982 yang disusun oleh Dewan Keamanan Nasional, setiap hak asasi manusia dijamin dalam UUD tersebut namun, tetap saja ada pembatasan pada semua hak. Kemudian setelah Turki melakukan amandemen UUD lagi, pembatasan yang diberlakuan pada hak asasi manusia tersebut telah dihapus. Pengaduan konstitusional yang baru diadopsi di Turki dengan membandingkan model pengaduan konstitusional negara lain, dapat diamati bahwa ruang lingkup pengaduan konstitusional di Turki dibatasi di hampir

semua aspek. Mahkamah Kostitusi Turki seharusnya memiliki kecenderungan untuk memperluas ruang lingkup dari pengaduan konstitusional untuk memberikan perlindungan yang memadai terhadap hak konstitusional. Sebelum mengadopsi pengaduan konstitusional, Mahkamah Konstitusi Turki adalah lembaga penjaga rezim, bukan sebagai penjaga hak asasi manusia dan kebebasan. Berdasarkan putusan Mahkamah Konstitusi baru-baru ini terkait pengaduan konstitusional, dapat diakatakan bahwa hak asasi manusia telah mendapat perlindungan yang baik.[10] Walaupun karya ini membahas konsep *individual application right* secara cukup komprehensif dan membandingkan dengan konsep pengaduan konstitusional dari negara lain akan tetapi tidak menggunakan tinjauan *siyāsah dustūriyyah* dalam mencari relevansinya.

Dalam hal ini terdapat perbedaan yang jelas diantara 4 (empat) karya tulis ilmiah di atas dengan karya tulis ini. perbedaan tersebut adalah pada metode pendekatan dan objek dari penelitian. Meskipun sama-sama meneliti mengenai konsep *individual application right* dalam kewenangan Mahkamah Konstitusi Turki, tetapi penyusun lebih menekankan pada analisis tinjauan prespektif *siyāsah dustūriyyah.*

[10] Abdurrahman Tekin, "The Development Process of Human Rights from the Adoption of Charter of Alliance to the Constitutional Complaint in Turkish Constitutional System," *Human Rights Review*, Year: 6, Issue: 11 (June 2016), hlm. 95-146.

E. Kerangka Teoritis

1. Siyāsah Dustūriyyah

Siyāsah dustūriyyah dalam hukum Islam dapat diartikan sebagai kebijakan untuk mengatur segala urusan negara yang dituangkan di dalam undang-undang dasar (konstitusi) suatu negara berdasarkan prinsip-prinsip Islam. Prinsip-prisip *siyāsah dustūriyyah* menurut Islam diambil dari prisip-prinsip yang universal (*kully*), tidak mengambil pada masalah parsial (*juz'iy*) yang terperinci (*tafshili*) agar dalam membuat kebijakan atau konstitusi dapat sesuai dengan kondisi tempat dan zaman (sosial dan politik) serta dapat merealisasikan tujuan-tujuannya yang bersifat kemasyarakatan seperti jaminan perlindungan hak dan kebebasan warga negara.[11]

Konstitusi-konstitusi itu disebut sebagai konstitusi Islam (*al-Dustūriyyah al-Islāmiyah*) selama tidak meyimpang dari prinsip-prinsip umum Islam, di antara prinsip-prinsip umum tersebut yaitu: keadilan (*al-'adālah*), kebebasan (*al-ḥuriyah*), kesetaraan (*al-musāwāh*), musyawarah (*al-syuwarā*), dan kedaulatan (*assiyādah*), prinsip-prinsip tersebut tidak akan berubah karena abadi dalam keabadian hukum *syara'*.[12]

Dengan demikian dapat kita lihat melalui teori ini bagaimana korelasi dari segi legalitas tentang *individual application right*, apakah sejalan dengan nilai dari prinsip-prinsip *siyāsah dustūriyyah* dan konstitusi Islam atau tidak.

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[11] Ibrahim Al-Ni'mah, *Ushul al-Tasyrī' al-Dustūrya fil-Islam* (Baghdad: Diwan al-Waqaf al-Sunni, 2009), hlm. 39

[12] *Ibid.,* hlm. 39-40.

F. Metode Penelitian

Adapun metode penelitian yang digunakan dalam penelitian ini adalah sebagai berikut:

1. Jenis Penelitian

Penelitian ini menggunakan jenis penelitian pustaka (*library research*) dengan melakukan pengkajian terhadap berbagai literatur yang relevan dengan penelitian ini. Penelitian ini akan mengkaji peraturan perundang-undangan yang mengatur kewenangan dan kewajiban Mahkamah Konstitusi Turki dalam tingkatan hukum yang paling tinggi yaitu Konstitusi Turki 1982, UU Mahkamah Konstitusi Turki No. 6216 Tahun 2011 dan Putusan-Putusan Mahkamah Konstitusi Turki terkait kasus *individual application right*, serta buku, jurnal, dan dokumen laporan yang relevan dengan topik permasalahan.

2. Sifat Penelitian

Penelitian ini bersifat deskriptif-analitik, yaitu dengan memaparkan dan menjelaskan keadaan data yang ada berkaitan dengan konsep *individual application right* dan konsep perlindungan HAM dalam *siyāsah dustūriyyah*, kemudian dinalisis dan diungkapkan makna-maknanya dari keadaan data tersebut.

3. Pendekatan

Jenis pendekatan yang digunakan adalah pendekatan konseptual (*conceptual approach*), yaitu mendekati permasalahan dengan mengkaji dan memahami prinsip-prinsip hukum dan teori-teori hukum yang berkaitan dengan konsep *individual application right* dan konsep perlindungan HAM dalam *siyāsah dustūriyyah*, kemudian peneliti akan menemukan ide-ide yang melahirkan

pengertian hukum, konsep hukum dan asas yang relevan terkait dengan permasalahan pada penelitian ini.[13] Selain itu penelitian ini juga menggunakan pendekatan perbandingan (*comparative approach*), yaitu pendekatan dengan membandingkan sistem hukum yang satu dengan sistem hukum yang lain atau di negara lain. Dalam hal ini peneliti akan membandingkan konsep *individual application right* dalam kewenangan Mahkamah Konstitusi Turki dengan konsep perlindungan HAM dalam *siyāsah dustūriyyah,* sehingga dapat ditemukan unsur-unsur persamaan yang menunjukan inti dari sistem hukum yang diteliti dan perbedaan yang menunjukan penyebab-penyebab yang bersangkutan dari kedua sistem hukum itu.[14]

4. Sumber Data

Sumber dalam penelitian ini terbagi manjadi 3 (tiga) sumber yang berupa data primer, sekunder, dan tersier yang diperoleh melalui studi dokumen terhadap bahan kepustakaan.

a. Sumber data primer yang digunakan dalam penelitian ini meliputi peraturan perundang-undangan yang mengatur kewenangan dan kewajiban Mahkamah Konstitusi Turki dalam tingkatan hukum yang paling tinggi yakni Konstitusi Turki, UU Mahkamah Konstitusi Turki (*Law on Constitutional Court*) No. 6216 Tahun 2011, dan Putusan-Putusan Mahkamah Konstitusi Turki terkait kasus *individual application right*.

[13] Djulaeka dan Devi Rahayu, *Metode Penelitian Hukum* (Surabaya: Scopindo, 2019), hlm. 33.

[14] Jonaedi Efendi dan Johnny Ibrahim, *Metode Penelitian Hukum Normatif dan Empiris* (Jakarta: Kencana, 2016), hlm. 140.

b. Sumber data sekunder merupakan bahan hukum yang dapat memberikan penjelasan terhadap data primer. Data ini dapat berupa buku, skripsi, tesis, disertasi, jurnal, karya ilmiah, artikel, laporan penelitian, perkembangan putusan Mahkamah Konstitusi Turki, maupun doktrin hukum yang dapat dijadikan alat untuk mendukung penelitian ini. Contoh data sekunder yang digunankan dalam penelitian ini adalah buku yang berjudul *Individual Application to the Turkish Constitutional Court* karya Hüseyin Ekinci dan Musa Sağlam.

c. Data tersier adalah bahan yang berasal dari luar keilmuan hukum yang dapat digunakan untuk membantu peneliti memeberikan petunjuk maupun penjelasan pengetahuan di luar ilmu hukum khususnya pada ranah hukum tata negara yang selanjutnya digunakan untuk analisis sekaligus identifikasi permasalahan yang sedang diteli. Misalnya seperti: Kamus Hukum, ensklopedia, Kamus Besar Bahasa Indonesia, berita atau perkuliahan.

5. Analisis Data

Analisis data dalam penelitian ini dilakukan dengan pertama, yaitu penataan data secara sistematis dengan membuat klasifikasi bahan-bahan hukum tertulis yaitu Konstitusi Turki 1982 (amandemen 2017), UU Mahkamah Konstitusi Turki No. 6216 Tahun 2011 dan putusan-putusan Mahkamah Konstitusi Turki terkait kasus *individual application right*, serta buku, jurnal, dan dokumen laporan yang relevan dengan topik permasalahan, sehingga dapat dengan mudah ditafsirkan dan dianalisis sesuai permasalahan dan berdasarkan kerangka teori yang ada. Selanjutnya, pengolahan dan penyederhanaa (reduksi) data berdasarkan dari hasil

analisis tadi, dengan memilih hal-hal yang pokok dan memfokuskan pada hal-hal yang penting, sehingga mendapatkan data yang sesuai dengan topik penelitian secara jelas agar dapat disusun dalam kesimpulan.

G. Sistematika Pembahasan

Dalam penulisan skripsi ini yang berjudul *"Individual Application Right* dalam Undang-Undang Mahkamah Konstitusi Turki Prespektif *Siyāsah Dustūriyyah*" maka, sistematika penulisan yang digunakan dan disusun adalah sebagai berikut:

Bab pertama, merupakan pendahuluan yang terdiri dari latar belakang masalah penelitian, rumusan masalah, tujuan penelitian, manfaat dan kegunaan penelitian, telaah pustaka, kerangka teoritis, metode penelitian, dan sistematika pembahasan yang menjelaskan gambaran umum penelitian yang akan dilakukan oleh penyusun.

Bab kedua, memuat tentang pemaparan secara lebih komprehensif dalam aspek teori yang berkaitan dengan *siyāsah dustūriyyah* yang fokus pembahasannya meliputi pengertian, ruang lingkup, prinsip-prinsip umum Islam dalam *siyāsah dustūriyyah*.

Bab ketiga, memuat tentang uraian konsep *individual application right* dan mekanisme penyelesaian pelanggaran HAM melalui *individual application right* dalam kewenangan Mahkamah Konstitusi Turki berdasarkan UU Mahkamah Konstitusi Turki No. 6216 Tahun 2011.

Bab keempat, memuat tentang pembahasan utama. Yakni, terkait analisis terhadap konsep dan mekanisme penyelesaian pelanggaran HAM melalui *individual application right* dalam perspektif *siyāsah dustūriyyah*.

Bab kelima, merupakan bab penutup yang berisi kesimpulan dan saran atas penulisan skrikpsi ini yang dilengkapi dengan daftar pustaka sebagai tabulasi dari semua sumber rujukan yang digunakan dalam penyusunan skripsi ini.

BAB V

PENUTUP

A. Kesimpulan

Upaya Negara Turki dalam menjamin perlindungan hak-hak asasi dan kebebasan dasar individu dengan mengadopsi upaya hukum *individual application right* memang luar biasa. Dengan adanya *individual application right* selain terjaminnya hak-hak asasi dan kebabasan dasar, juga tersedianya kepastian hukum karena dapat dilakukan ketika habisnya semua upaya hukum biasa (*exhausted*). Ruang lingkup perlindungan hak-hak dan kebebasan dasar pada *individual application right* cukup luas kerena mencakup hak-hak dan kebebasan fundamental yang ditetapkan oleh Konstitusi Turki serta Konvensi HAM Eropa (ECHR). Namun, dalam mekanisme perlindungannya *individual application right* masih memberikan batasan-batasan dengan syarat-syarat tertentu dengan alasan agar tidak terjadi penyalahgunaan hak dan kebebasan dasar. Terutama pada pesyaratan subtantif untuk habisnya upaya hukum biasa (*exhausted*) yang tidak ada sistem pengecualian apabila dalam keadaan penting dan mengalami kerugian yang signifikan. Hal tersebut menjadikan mekanisme peneyelesaian pelanggaran HAM melalui *individual application right* kurang maksimal.

Berdasarkan perspektif *siyāsah dustūriyyah* yang menawarkan prinsip-prinsip umum konstitusional dalam Islam, konsep *individual application right* dalam segi legalitasnya telah mencakup prinsip-prinsip umum itu dan relevan. Seperti prinsip keadilan berdasarkan surah An-Nisa': 58, prinsip kebebasan dalam surah Al-Isra': 70, prinsip kesetaraan dalam hadis riwayat Imam Ahmad bin

Hambal dan surah Al-Hujurat: 13, prinsip kedaulatan yang berdasarkan kaidah usul fikih dan dikuatkan oleh ucapan Sahabat Nabi Umar bin Khattab serta surah Al-Isra': 34 dan prinsip musyawarah dalam Asy-Syura: 38 serta surah Ali-'Imran: 159. Di samping itu, banyaknya pelanggaran hak-hak asasi dan kebebasan dasar individu di Turki tidak lepas dari tindakan dan kelalaian otoritas publik (yudikatif ataupun administratif), maka perlu upaya yang ekstra bagi satuan peradilan di Mahkamah Konstitusi Turki untuk bekerja keras dalam mengadili permohonan *individual application right* yang diajukan. Selain itu, perlunya integritas dan komitmen pejabat publik yang terkait dalam otoritas yudikatif agar upaya dalam menjamin kepastian hukum dan independesi lembaga yudikatif berhasil dilaksanakan sesuai dengan prosedur aturan-aturan yang ada. Sehingga tidak ada akses hukum yang kurang memadai.

B. Saran

1. Kebutuhan perlindungan hak-hak asasi dan kebebasan dasar individu merupakan kebutuhan yang sangat penting dalam tatanan demokrasi modern saat ini. Turki harus berkomitmen dalam melindungi hak asasi dan kebebasan dasar warga negaranya, maka perlu untuk memastikan kewajiban bagi otoritas lembaga publik untuk manjamin hak asasi dan kebebasan dasar dengan mematuhi peraturan yang ada pada konstitusi dan undang-undang terkait. Turki juga perlu memperbarui sistem pengaduan konstitusional melalui *individual application right* agar cukup mamadai dan memastikan independensi, ketidakberpihakan, akuntabiltas, kualitas, efisiensi dan profesionalisme peradilan.

2. Sebagai negara yang mayoritas warga negaranya muslim, tentunya tidak ada salahnya jika Turki mengambil prinsip-prinsip umum Islam dalam implementasinya terkait perlindungan hak asasi dan kebebasan dasar. Walaupun Turki menganut paham sekularisme, prinsip-prinsip umum Islam tersebut dapat diinterpretasi sesuai kondisi dan dinamika zaman agar selaras dengan urusan bernegara dan secara tidak langsung dapat mengamalkan ajaran agama.
3. Penyusun menyadari skripsi ini masih banyak kekurangan. Oleh karena itu penyusun berharap penelitian dalam skripsi ini dapat dikembangkan lebih lanjut agar lebih sempurna dengan konsep dan sudut pandang yang terbaru.

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LAMPIRAN

CONSTITUTION OF THE REPUBLIC OF TURKEY

(1) 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 wellbeing 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 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.

(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).

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. I

X. 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.(2)

XI. Supremacy and binding force of the Constitution

ARTICLE 11- The provisions of the Constitution 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.

(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).

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 mal-treatment; 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 forty-eight hours at the latest.

General provisions shall apply when seizing and confiscating periodicals and nonperiodicals 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 fortyeight 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 (3)

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.

(3) The phrase "and children's rights" was added by the fourth Article of Act No. 5982 dated September 12, 2010.

(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. 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(4)

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.

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.

(4) The phrase "and privatization" was added by the first Article of Act No. 4446 dated August 13, 1999.

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(5)

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. 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.

(5) The phrase "and collective agreement" was added by the sixth Article of Act No. 5982 dated September 12, 2010.

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(6)

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.

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.

(6) The phrase "and arbitration" was added by the first Article of Act No. 6214 dated March 17, 2011.

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(7)

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.

(7) 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 deprival 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(8)

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.

(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.

(8) The phrase"right to information and appeal to the Ombudsperson" was added by the eighth Article of Act No. 5982 dated September 12, 2010.

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(9)

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

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 re-election.

(9) 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.

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(10)

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.

By-elections shall be held once in every election term and cannot be held unless thirty months elapse after the general election. However, in cases where the number of vacant seats reaches five per cent of the total number of seats, byelections 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 byelection 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 ViceChairperson 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.

(10) 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.

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 reelected 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 Rules of Procedure. 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 vice-speaker 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(11)

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 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.

(11) 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.

Censure

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

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(12)

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.

(12) 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.

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 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(13)

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 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(14)

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

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.

The heading of this Article, which was stipulated as "E. Presidentialaccountability and non-accountability" was amended by the ninth Article of Act No. 6771 dated April 16, 2017.

The heading of this Article, which was stipulated as "F. Acting for thePresident of the Republic" was amended by the tenth Article of Act No. 6771 dated April 16, 2017.

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)

Functions and political responsibilities

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

The formation of ministries, and ministers

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

Provisional Council of Ministers during elections

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

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(15)

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

The Grand National Assembly of Turkey may decide to renew the elections by threefifth 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 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.

İ. 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)

(15) 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.

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(16)

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 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, occurence 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.

(16) 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.

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, fourmonth 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.

Declaration of state of emergency because of widespread acts ofviolence and serious deterioration of public order

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

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

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 recoursed 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 interuniversity 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(17)

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 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.

(17) The phrase "The Radio and Television Supreme Council" was added by the first Article of Act No. 5370 dated June 21, 2005.

İ. 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 sixtyfive. 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(18)

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.

(18) 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.

H. Military justice

ARTICLE 145- (As amended on September 12, 2010; Act No. 5982)

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

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 rapporteurs of the Constitutional Court having served as rapporteur 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.(19)

(19) 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.)

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

2. Term of office of the members and termination of membership(20)

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 reelected. 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 illhealth.

3. Functions and powers

ARTICLE 148- (As amended on September 12, 2010; Act No. 5982, and on April 16, 2017; Act No. 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 General Assembly regarding the application shall be final.

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

(20) 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.

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 General Assembly. The sections convene under the chairpersonship of the deputy president with the participation of four members.

The General Assembly shall convene with the participation of at least ten members under the chairpersonship of the President of the Constitutional Court or a deputy president designated by the President. The sections and the General Assembly shall take decisions by absolute majority. Committees may be established to examine the admissibility of the individual applications. The General Assembly 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 General Assembly and the sections, disciplinary matters of the President, the deputy 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 regulations 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 General Assembly 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 General Assembly 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 General Assembly 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(21)

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.

(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 exofficio 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.(22)

(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.(23)

(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 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.

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

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).

The phrase "...for only one candidate..." following the phrase "each judgeand 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).

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, evenues, 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(24)

ARTICLE 161- (As amended on Octeber 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 fiscal year. The budget bill shall be debated at the Committee on Budget. The budget bill adopted by the Committee within fiftyfive 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 seventyfive 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.

(24) 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.

Debate on the budget

ARTICLE 162- (Repealed on April 16, 2017; Act No. 6771)

Principles governing budgetary amendments

ARTICLE 163- (Repealed on April 16, 2017; Act No.6771)

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(25)

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.

(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.

(25) The phrase; "Economic and Social Council" was added by the twenty third Article of Act No. 5982 dated September 12, 2010.

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 reafforested; 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:

Act No. 430 of March 3, 1340 (1924) on the Unification of the EducationalSystem,

Act No. 671 of November 25, 1341 (1925) on the Wearing of Hats,

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,

The principle of civil marriage according to which the marriage act shall beconcluded 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,

Act No. 1288 of May 20, 1928 on the Adoption of International Numerals,

Act No. 1353 of November 1, 1928 on the Adoption and Application of theTurkish Alphabet,

Act No 2590 of November 26, 1934 on the Abolition of Titles and Appellationssuch as Efendi, Bey or Pasha, 8. Act No. 2596 of December 3, 1934 on the Prohibition of the Wearing of Certain Garments.

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 onethird 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 Republc 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 twothirds 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:

The provisions of Part Two Chapter II relating to personal liberty andsecurity, 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.

The provisions of Part Two relating to political parties and the right to engagein 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.

The provisions of Part Three, relating to legislative power: These provisionsshall 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.

The provisions of Part Three relating to the functions and powers of thePresident 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.

If new legislation, or amendments to existing legislation are required inconnection 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 forthe consideration of final accounts bill shall come into force in 1984.

LAW ON CONSTITUTIONAL COURT

Code on Establishment and Rules of Procedures of the Constitutional Court

Code 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 Code is to regulate the principles pertaining to the structure of the Constitutional Court, its duties, trial procedures, President, deputy presidents and the selection of its members, disciplinary and staffing affairs and rapporteurs, deputy rapporteurs and the quality, appointment, duties and responsibilities of their staff, their disciplinary and staffing affairs.

Definitions (1)

Article 2 - (1) In the implementation of this Code;

1. a) President shall mean: the President of the Constitutional Court,
2. b) Presidency shall mean: the Presidency of the Constitutional Court,
3. c) Deputy president shall mean: the members who are elected by the General Assembly 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 members under the presidency of a deputy president and that has the authority to convene under the deputy president with the participation of four members and make decisions regarding individual applications,(1)

1. d) The general assembly shall mean: The board that is composed of the fifteen members,(1)
2. e) The internal regulations shall mean: the Internal Regulation of the Constitutional Court,
3. f) Seniority shall mean: The time that has passed since election as a member of the Constitutional Court or being older, in terms of age, than those that have been elected on the same date,
4. 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,

1. h) Member shall mean: all of the members including the president and the deputy presidents,

ı) Supreme Court shall mean: The General Assembly 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.

(1) Acording to Article 232 of the Decree Law no. 703, the aforesaidamendment shall come into force once the term of office of the two elected members from the Military Court of Cassation and the Supreme Military Administrative Court expires.

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:

1. a) To process actions of annulment that have been lodged upon the claim that the codes, Presidential decrees, the Internal Regulation 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.
2. b) To decide on matters that have been forwarded to it by courts by way of objection as per article 152 of the Constitution.
3. 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 members, 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.

1. 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.
2. 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.
3. 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 vicepresidents 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 code or of the Internal Regulations of the Grand National Assembly of Turkey.
4. g) To elect among its members the President of the Court of Constitution and deputy presidents and the President of the Court of Disputes and the Deputy 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 concerningthe budget at the Grand National Assembly of Turkey.

Internal regulation

Article 5 - (1) Within the scope of this Code;

1. 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,
2. b) Keeping of the staff files of the President, members, rapporteurs and deputy rapporteurs, disciplinary affairs, their leaves and health situations, the form and place of the garments that they shall wear,
3. 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 General Assembly.

(2) The Internal Regulation shall be published in the Official Gazette.

SECTION TWO

Membership to the Constitutional Court,

CHAPTER ONE

Qualities, Election and Appointment of the Members

Composition of the Court and competence of the members for being elected [(1)]

Article 6-(1) The Court is composed of fifteen members.[(1)]

(2)In order to be able to be elected as a member of the Court, one shall have one of the qualities listed below:

a)Being the president or member of the Supreme Court of Appeals, Council of State, (…)[(1)]or the Supreme Court of Accounts.[(1)]

b)To be in service at the Court for at least five years as a rapporteur.

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.

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 members 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.

(1) Acording to Article 232 of the Decree Law no. 703, the amendment of theparagraphe 1 of article 6, shall come into force once the term of office of the elected two members from the Military Court of Cassation and the Supreme Military Administrative Court expires.

Election of members

Article 7- (1) The Grand National Assembly of Turkey shall elect; two members from the President and members of the General Assembly of the Supreme Court of Accounts among three candidates that it shall nominate for each vacant position; and a member 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 members and in the second vote, the absolute majority of the total number of members 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 member. 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 select; three members from the SupremeCourt of Appeals, two members 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 members 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 members among high level administrators, independent lawyers, first class judges and prosecutors and among the rapporteurs of the Constitutional Court who have served no less than five years as rapporteurs.

(3) The three persons to receive the most of the votes in the elections that shallbe carried out for the nomination of candidates for membership of 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 members and non-acceptance of the duty by those elected

Article 8- (1) Members who have been selected by the Grand National

Assembly of Turkey and the members who have been selected 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 OfficialGazette.

(3) In the event of non-acceptance of such duty by s/he who is elected as amember 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 member 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 members 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 members and others concerned who shall be invited by the President; and before the President of the Constitutional Court and the members 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."

Duration of membership and its guarantee

Article 10- (1) The members of the Court shall be elected for twelve years. A person cannot be elected as a member twice.

(2) The President and the members cannot be dismissed; they cannot beforwarded for retirement before the completion of their office or before the age of sixty-five.

(3) Duties of the President and of the members shall cease only in casesprescribed in the Constitution and in this Code.

Membership becoming vacant and termination of membership

Article 11- (1) The President, two months prior to the termination of the office of a member or in the event of a vacancy otherwise, immediately, informs such consequence in writing to those who are authorized to elect and nominate a member and within two months starting from such date and an election is carried out from the source of membership as per the procedure set out in article 7.

(2) The President and members can either request their retirement in writing orsimilarly 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) Presidency and membership shall terminate automatically upon convictionof or loss of Turkish citizenship because of a crime that, regarding the Code 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 members 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 General Assembly when the member has been punished with an invitation to self-withdraw from membership 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, deputy presidents and of the president and the deputy president of the court of disputes

Article 12- (1) The President and deputy presidents, the president of the court of disputes and his/her deputy shall be elected among the members with secret vote and with the absolute majority of the total number of members for four years.

(2)A member 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 authorities of the president

Article 13- (1) The duties and authorities of the court are as follows:

a)To set the agenda of the General Assembly and the sections whenever required.

b)To preside over the General Assembly and the Supreme Court; to task, if s/he deems necessary, one of the deputy 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 members 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 deputy president, a member or a rapporteur for this purpose.

The duties and authorities of the deputy president

Article 14- (1) Duties and authorities that belong to the president shall be performed by the senior deputy president in cases of vacant Presidency; in cases where the President is in excused absence or on leave, such duties and authorities shall be performed by the deputy president who shall be determined by the President. In the absence of deputy presidents the most senior member shall preside over the Court.

(2) The duties and authorities of the deputy presidents are as follows:

1. a) To preside over sections and in cases deemed necessary by the President, over the General Assembly or the Supreme Court.

b)To determine the agenda of the section of which they are chairs.

1. c) To ensure that members serve in turns at the commissions that shall be formed from within the sections.

ç) To perform other duties that are assigned by this Code and that are offered by the President.

Liabilities of the Members

Article 15 - (1) Member;

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 members

Article 16- (1) Opening an investigation for the crimes arising from the duties of the President and the members, 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 General Assembly. 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 beenreceived 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 members perform apreliminary examination before taking the matter to the General Assembly. The member 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 theGeneral Assembly. The member processed shall not attend such discussion. In the event of a decision by the General Assembly that there is no grounds for opening an investigation, this decision shall be notified to the member concerned and to informing and complaining parties.

(5) In the event of a decision for opening an investigation, the General Assemblyshall chose from the members, three persons to set up the Investigation Board. The senior member shall preside over the Investigation Board. The
Investigation Board shall have all the authorities that the Code 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, selectionof the members of the Investigation Board, performance of the investigation and
taking of other required decisions shall be regulated by the Internal Regulation.

(7) In the event of seeing or learning about acts of the President similar to thosewritten above, 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 members 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 highcriminal 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 General Assembly of the Supreme Court of Appeals.

(3) In case of crimes and personal crimes arising from duty or that are alleged tohave 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 Code

No. 5271 and in other codes be taken during the investigation, the General Assembly shall decide on such issue.

(4) If the Investigation Board, after it completes the investigation, does notdeem 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 General Assembly 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 members 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 General Assembly, 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 statue of limitations for this crime and if a penal investigation or a penal prosecution is opened, this period of statue of limitations shall apply instead of the period that is specified in this clause. Regarding those concerning whom the General Assembly 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 General Assembly 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 General Assembly.

(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 General Assembly 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 General Assembly decides that the investigation be extended if such is needed; 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 members 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 invite to withdraw from membership shall be decided upon.

(2) In order for the penalty to invite to withdraw from membership to bedecided on two thirds majority of the votes of the General Assembly is sought.

(3) The person concerned, against the decision of the General Assemblyregarding the disciplinary penalty, can make an application to the General Assembly 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 General Assembly shall be final. The decision of the General Assembly shall be notified by the President to the person concerned.

(4) The member concerning whom the penalty to invite to withdraw frommembership has been given 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 General Assembly, sections, commissions, the Secretariat General and administrative units.

General Assembly

Article 21- (1) The General Assembly is composed of fifteen members of the Court. The General Assembly shall convene under the presidency of the

President or the deputy president that shall be determined by him/her at least with ten members.(1)

(2) Such are the duties of the General Assembly:

a)To hear actions of annulment and objection and to handle trials that will be conducted as the Supreme Court.

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, deputy presidents and the president the deputy 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.

1. f) To make decisions about the members 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 membership.

g)To have objections examined.

(1) Acording to Article 232 of the Decree Law no. 703, the aforesaidamendment shall come into force once the term of office of the two elected members from the Military Court of Cassation and the Supreme Military Administrative Court expires.

Sections and commissions

Article 22- (1) At the Court there shall be two sections under the presidency of a deputy president, with six members each and which shall make rulings regarding individual applications. Sections shall convene under the presidency of a deputy president, with the participation of four members. (1)

(2) Issues concerning the formation of sections and commissions and thedistribution of work shall be regulated with the Internal Regulation.

(1) Acording 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 members from the Military Court of Cassation and the Supreme Military Administrative Court expires.

CHAPTER TWO

The Secretariat General, Rapporteurs and Deputy Rapporteurs

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 that are under the Secretariat General shall be regulated with a regulation.

(2)The Secretary General shall be assigned by the president from the rapporteurs. 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;

1. a) Record and direct applications,
2. b) Conduct administrative affairs regarding the meetings of the General Assembly and the units,
3. c) Ensure that verdicts and reports are automated and archived,

ç) Carry out Court's correspondence,

1. d) Follow-up the implementation of the decisions of the Court and to inform the General

Assembly on this matter,

1. e) Spend the budget and to inform the President on this matter,
2. f) Conduct institutional, scientific, administrative, financial and technical affairs of the Court,
3. g) Arrange protocol affairs,

ğ) Ensure direction and management of staff,

1. h) Carry out other works as assigned by the President within the framework of the provisions of the Code, Internal Regulations and regulations,

Under the supervision and control of the President.

(4) Among the rapporteurs, 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 via regulation.

Rapporteurs

Article 24- (1) At the Court, an adequate number of rapporteurs to assist with judicial and administrative works shall be assigned or appointed.

(2) In order to be able to be a rapporteur at the Court, one shall have one of thequalities listed below:

1. 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,
2. b) To be research assistants at the law, economy or political sciences departments of higher education institutions who have completed their studies as associate professors, assistant associate professors or their doctoral studies.
3. c) To be an assistant rapporteur 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 ForeignLanguage Proficiency Exam for State Employees and to have completed graduate studies shall be preferable during assignment and appointment as a rapporteur.

(4) Rapporteurs shall be accountable, administratively, to the President and theyshall perform their duties in compliance with the tenure of judges.

Assignment of rapporteurs, their staffing rights, disciplinary and penal works

ARTICLE 25- (1) Those who wish to work as rapporteurs shall submit their requests regarding this issue to the Presidency.

(2) Rapporteurs shall be assigned by the institution they are attached to upondue opinion of the President.

(3) With the exception of cases provisions regarding which are present in thisCode, provisions concerning the professions their perform shall be applied to issues regarding the staffing of assigned rapporteurs and the durations they serve at the Court as rapporteurs 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 rapporteurs who are appointed to the staffpositions of the Court shall be two years.

(5) Including those who are assigned, the monthly salaries and other financialrights of rapporteurs shall be covered from the budget of the Court.

(6) Actions concerning the right of legal leave and health issues of the assignedrapporteurs 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 therapporteurs 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 codes 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) Rapporteurs who have been assigned as per sub-clauses (a) and (b) of clausetwo of article 24 are appointed as Court rapporteurs upon their request and due opinion of the Presidency. Of rapporteurs 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 beenappointed to the staff position of rapporteurs 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 rapporteurs as 'not having lost their qualities for selection for first-class.'

(10) In cases where there are no provisions in this Code regarding the monthlysalaries, allowances, financial, social and retirement rights, investigation and prosecution procedures regarding their judicial crimes and other rights of the rapporteurs who have been appointed to the Court, the provisions of the Code No. 2802 shall be applied.

(11) The rapporteurs who have been assigned as per sub-clauses (a) and (b) ofclause 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 rapporteurs

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 Code and the Internal Regulation regarding individual applications.

(2) Whenever needed, rapporteurs can be given tasks such as hearing witnessesor 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, theJustice 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 Code, Internal Regulation,regulation or the President.

Assistant rapporteurs and candidates

Article 27- (1) At the Court, an adequate number of rapporteurs 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 rapporteurs. 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 Code 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 rapporteurs and assistant rapporteur candidates are included inthe class of general administrative services in the Code No. 657 and not the rapporteurship class and grades. To them, the provisions of the Code No. 657 which are not contradictory to this Code shall apply.

(6) In order for the assistant rapporteurs to be able to be appointed asrapporteurs, 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 rapporteurs 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 rapporteurcandidacy, 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 rapporteurs shall prepare and other issues shall be arranged with a regulation.

Higher Disciplinary Board

Article 28- (1) With the exception of the President, deputy president, members and those who have been listed in sub-clauses (a) and (b) of clause two of article 24, disciplinary affairs of the staff employed at the Court shall be conducted by the Higher Disciplinary Board.

(2) The Board shall comprise of three rapporteurs to be determined upon the proposal of the Secretary General and the approval of the President. The senior rapporteur among them shall preside over the Board.

3) Regarding circumstances that require disciplinary penalty and penalties to be ruled, provisions of the Code No.657 that are not contradictory to this Code shall be applied. The working procedures and principles of the Board and other issues shall be arranged with a regulation.

CHAPTER THREE

Service Units

ARTICLE 29- (1) Service units of the Court are as follows:

a)Office of the Chief Clerk

b)Administrative and Financial Affairs Directorate

c)Staff Directorate

ç) Publication and Public Relations Directorate

d)Foreign Relations Directorate

e)Strategy Development Directorate

1. 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 thePresident and with the decision of the General Assembly.

(3) The duties and responsibilities of service units are indicated in theregulation.

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 Code No. 657 which are not contradictory to this Code 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 Code; 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 withinten 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 respectiveinstitutions and organizations in writing, which shall be principal regarding promotion and grade advances.

(4) Regarding those who are assigned provisionally to other institutions and ofjudges, prosecutors, Supreme Court of Accounts professionals, the difference between their net monthly salaries of rapporteurs 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 Code no. 657 and in other codes.

(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 rapporteurs.

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 staff positions of 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 Code 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

Action for annulment

Those who are authorized to lodge action for annulment

Article 35- (1) Those who are directly authorized to lodge actions for annulment upon the claim that the codes, Presidential decrees, the Internal Regulation 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 members 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 members 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 annulment 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 thatconstitute at least one fifths 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 codes are contradictory with the Constitution regarding their form.

Action for annulment regarding its form and its limit

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 codes or the Internal Regulation 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 regarding form.

(3)Actions for annulment that are based on deformity shall be adjudicated first by examination by the Court.

(4)Actions for annulment that are based on deformity 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 codes are contradictory with the Constitution regarding their 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 Internal Regulation of the Grand National Assembly of Turkey or certain articles and provisions thereof are contradictory regarding their form and merits and the codes regarding their form only, 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 annulment

Article 38- (1) The action for annulment that will be lodged with the claim that codes, Presidential decrees, the Internal Regulation 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 TurkishNational 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 annulment shall be considered as lodged on the date when thelawsuit petition containing the cancellation of the constitutional amendments and codes, Presidential decrees and the Internal Regulation 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 Office of the Chief Clerk 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 atleast 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 ofthe decision of the group General Assembly 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 annulment, with which articles of the Constitution theprovisions 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 upto 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 oftime specified in clause one it shall be decided that the General Assembly considers that the action for annulment has not been lodged at all. Such decision shall be notified to those concerned.

(4) In actions for annulment, in cases where the Court decides that the merits bere-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 annulment. Such offices can report their written opinions regarding the action for annulment to the Court for evaluation.

CHAPTER TWO

Remedy of objection

Contradiction with the Constitution being asserted by courts

Article 40- (1) If a court which is seeing a case finds that the provisions of a code 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 caselodging 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 asserious by the 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 theexecutive assistant and informs the applicant court with a letter regarding the consequence.

(4) Within ten days starting from the registration of the incoming documentstheir compliance with the application methodology is examined. Applications of objection 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 withinfive 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 application of objection with the claim that the same provision of the law is contradictory with the Constitution cannot be made 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 that applies to the remedy of objection whereby the rule which is the subject of the objection will be applied, the application of objection that has been made shall be considered as a preventive issue for such files as well.

CHAPTER THREE

Common Provisions Concerning Actions of Annulment and Objection

Arrangements contradiction with the Constitution of which cannot be propounded

Article 42- (1) Actions of annulment regarding the form and the merits against international agreements that have been enacted in due procedure cannot be lodged and the allegation of contradiction with the Constitution cannot be alleged by courts.

(2) Moreover, contradiction with the Constitution of the provisions of;

1. a) The Code on the Unity of Education No. 430 and dated 3 March 1340,

b)The Code on Wearing the Hat No. 671 and dated 25 November 1925,

1. c) The Code 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 Code 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 Code on the Accepting International Numbers No. 1288 and dated 20 May 1928,

1. e) The Code on Accepting and Using the Turkish Letters No. 1353 and dated 1 November 1928,
2. f) The Code Regarding the Abolishing of Titles and Nicknames such as Bey Pacha No. 2590 and dated 26 November 1934,
3. g) The Code 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) The investigation cases and applications for objection 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 byan official as deemed appropriate by the President of the Republic.

(3) The Court has no obligation to rely on the justifications that have beenpropounded regarding the contradiction of the codes, Presidential decrees and the Internal Regulations of the Grand National Assembly of Turkey with the Constitution. The

Court can make a ruling regarding contradiction with the Constitution under the condition that it is bound by the request.

(4) If the application has been made only against certain articles or provisions ofthe code, the Presidential decree or the Internal Regulation 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 code, the Presidential decree of the Internal Regulations 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 code, Presidential decree or the Internal Regulation 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 deputy president that s/he shall assign. Members are given turns in speech depending on the order of requests.

CHAPTER FOUR

Individual Application

Individual application right

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 application remedies that have beenprescribed in the code regarding the transaction, the act 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 legislativetransactions and regulatory administrative transactions and similarly, the rulings of the Constitutional Court and transactions that have been excluded from judicial review by the Constitution cannot be the subject of individual application.

Persons who have the right of individual application

Article 46- (1) The individual application may only be lodged by those, whose current and personal right is directly affected due to the act, action or negligence that is claimed to result in the violation.

(2) Public legal persons cannot make individual applications. Legal persons ofprivate 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 havebeen 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 Code 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 thee 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 office of the Chief Clerk 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 merits examination 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, asample 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 andsections 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 decideto hold a hearing if it deems it necessary.

(5) During the merits-examination the sections can decide, ex officio or upon therequest 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 courtdecision 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 thisCode 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 andprinciples thereof and other issues shall be regulated by the Internal Regulation.

Decisions

ARTICLE 50- (1) At the end of the examination of the merits it is decided either the right of the applicant has been violated or not. In cases where a decision of violation has been made what is required for the resolution of the violation and the consequences thereof shall be ruled. However, legitimacy review cannot be done, decisions having the quality of administrative acts and transactions cannot be made.

(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 General Assembly. 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 of application

Article 51- (1) Against the applicants who have been found to have expressly misused the right of application a disciplinary penalty so as not to be in excess of two thousand Turkish Lira can be ruled apart from the expenses for action.

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 members 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 theGeneral Assembly over the file by way of application of the provisions of the Code No. 5271 that are befitting to the case and ruled.

(3) The rapporteur who is assigned by the President prepares the initialexamination 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 General Assembly, in cases that it deems necessary, can summon thoseconcerned 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 banninga 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 Code No. 2820 dated 22/4/1983 with the exception of article 101 therein and of the imperative provisions of other codes 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 code or the Internal Regulation 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 incompliance with the Code 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 theSupreme 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 Code No. 2820.

(2) The reports regarding the examination that has been carried out shall be sentto 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 theexamination during the financial supervision.

(4) Samples of each of the decisions of the Court regarding the financialsupervision 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 theOfficial Gazette.

SECTION SEVEN

Trial by the Supreme Court

Hearing

Article 57- (1) During its work as the Supreme Court, the General Assembly sits and makes rulings in compliance with the codes 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, VicePresident 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 inviolation of the law other than the reasons for returning the indictment that is in the Code 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 Courtdoes 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 thePresident 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 startingfrom 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. Uponthe 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 ahearing, 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 theissues 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 Businesses

Article 59 - (1) The President and the members 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 members

ARTICLE 60 - (1) The president and the members 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 General Assembly or at the sections, without theparticipation of the member concerned, a final decision is made regarding the subject of rejection.

(3) Rejection is personal. Requests regarding the rejection of such a number ofmembers to prevent the convention of the General Assembly or the sections shall not be heard.

(4) In the petition of rejection, the reasons must be expressly shown and theevidence 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 notaccepted 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 Code disciplinary fine refers to a fine which isgiven 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 CollectionProcedure of Public Receivables the provisions of dated 21/7/1953 and numbered 6183.

Refrain

Article 61- (1) In the event of the President and the members refraining from hearing the case or the affair by reliance on reasons that are written in articles 59 and 60, the General Assembly shall make its final decision regarding such issue with the participation of the President or the members who has requested refrain. However, the member who has requested refrain cannot participate in the vote.

The liability to give information and documents and information with the quality 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 withhearing 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 shallbe 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 areaddressed 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 General Assembly 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 members participating in the meeting shall be sought.

(3)Voting starts with the least senior member.

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 code the revocation of which has been ruled by the Court, Presidential decree or the Internal Regulation 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 code, a Presidential decree or entirety or a provision of the Internal Regulation 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 members 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 annulment and objection applications 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 Code No. 5271.

(2) In cases where the European Court of Human Rights rules that the politicalparty 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 ofadmission 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, deputy presidents, members, rapporteurs of the Constitutional Court, assistant rapporteurs and assistant rapporteur candidates shall be subject to the provisions of this Code.

Monthly salary chart

ARTICLE 69- (1) Up to;

1. a) %100 to the President of the Constitutional Court,
2. b) %90 to the deputy Presidents of the Constitutional Court, 3. c) %86 to the members of the Constitutional Court,

ç) %79 to rapporteurs first-class,

1. d) %65 to rapporteurs selected as first-class,
2. e) %55 to other rapporteurs first-class,
3. f) %53 to rapporteurs second-class, 4. g) %51 to rapporteurs third-class,

ğ) %49 to rapporteurs fourth-class,

1. h) %47 to rapporteurs fifth-class,

ı) %45 to rapporteurs sixth-class,

1. i) %43 to rapporteurs seventh-class,
2. j) %41 to rapporteurs eight-class,
3. k) %65 to assistant rapporteurs first-class,
4. l) %56 to assistant rapporteurs second-class,

m)%54 to assistant rapporteurs third-class,

1. n) %52 to assistant rapporteurs fourth-class, 2. o) %50 to assistant rapporteurs fifth-class,

ö) %47 to assistant rapporteurs sixth-class,

1. p) %46 to assistant rapporteurs seventh-class,

r)%44 to assistant rapporteurs eight-class,

s)%37 to assistant rapporteur 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) Rapporteurs of the Constitutional Court and assistant rapporteurs shall earnthe 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 rapporteurs first-class, twopoints 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 selection as first-class.

(4) Among the disbursement items those which are not subject to tax shall alsobe 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 givento the President of the Constitutional Court, deputy Presidents, members and to rapporteurs among those the titles of which have been specified in clause one.

(6) Payment to the rapporteurs and rapporteurs who come from highereducation institutions or from the Supreme Court of Accounts shall be made on the basis of monthly salaries and allowances that are paid to rapporteur-judges and rapporteur-prosecutors of the same grade and seniority.

(7) To those to whom payments are made as per this article; payments that aremade 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 Code No. 657 shall not be made.

(8) Additional indicators of the President and the members of the ConstitutionalCourt 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 ofmultiplication 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, deputy presidents and the members; 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 rapporteurs. The provision of the Code 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 Code does not have any provisions, the provisions,depending on the issue, of the Code No. 2802 and the Code 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 theindicative 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 Code 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 members 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 members 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 25th 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 pastservices shall be given to each of the retired Presidents, deputy presidents and members.

(3) Each year, adequate amount of allowance shall be appropriated for thebudget 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 Code No: 4734 dated 4/1/2002.

Being sent to foreign countries

Article 73- (1) Rapporteurs and assistant rapporteurs 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, compulsoryservices, 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 allother staffing rights and liabilities of those sent to foreign countries shall continue.

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, Chief Clerk, 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 Code. 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 Code, 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 Code performance of the tasks that have been assigned to the changing or newlyestablished 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 Code 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 Deputy President who are in office on the date when this Code enters into force shall fulfill the time that is valid on the date of their election.

(5) The Internal Regulations and the regulations prescribed in this Code 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 Code on Establishment and Rules of Procedures of the Constitutional Court No. 2949 and dated 10/11/1983 shall be considered as references made to this Code except for their provisions that are contrary to this Code.

(7)Regarding treatment expenses that have been made before the date of entry into force of this Code the provisions of article 14 of the Code No. 2949 that has been revoked with this Code 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, members and chief public prosecutors of the abolished MilitaryCourt 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 Appealsor the High Military Administrative Court, as the member of the Constitutional Court shall continue to hold office as a member until the expiry of their term of office for any reason. All retirement-related rights of these members 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) Code on Establishment and Rules of Procedures 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 Code No.5682 and dated 15/7/1950 has been amended as "with the President and the members of the Constitutional Court."

(3) The expressions of "Constitutional Court" in articles 1 and 2 of the Code of Judges and Prosecutors No. 2802 and dated 24/2/1983; the expressions the "President of the Constitutional Court," "Deputy President of the Constitutional Court," "members of the Constitutional Court" and the expressions "the President of the Constitutional Court," "the President of the Court of Disputes" and "the members of the Constitutional Court" in the additional indicator chart in the said Code have been removed from the text.

(4) The expressions "the President of the Constitutional Court," "the President ofthe Court of Disputes" and "the members 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 ConstitutionalCourt" has been added to succeed the expression "to the Secretariat General" in article 59 of the Passport Code No. 657 and dated 14/7/1965.

(6) The staff positions in chart (I) that is annexed to the Decree in the Force ofLaw 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 Code 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 Code 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" tosucceed 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 Code 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 Code;

a)Articles 45 to 51 on the date of 23/9/2012,

1. b) Other provisions on the date of their publication, enter into force.

Execution

ARTICLE 77-(1) The Council of Ministers executes the provisions of this Code.

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Demikian *Curriculum Vitae* ini saya buat dengan sebenar-benarnya, semoga dapat dipergunakan sebagai mana mestinya.

Hormat Saya

Ahmad Fahmi Mufid