



Strasbourg, 23 February 2017

CDL-REF(2017)003

Opinion No. 875/ 2017

Engl. only

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

TURKEY

CONSTITUTION*
AS IT WOULD RESULT FROM THE AMENDMENTS ADOPTED BY
THE GRAND NATIONAL ASSEMBLY ON 21 JANUARY 2017

* Prepared by the Venice Commission Secretariat.

THE CONSTITUTION OF THE REPUBLIC OF TURKEY

PREAMBLE

In line with the concept of nationalism and the reforms and principles introduced by the founder of the Republic of Turkey, Atatürk, the immortal leader and the unrivalled hero, this Constitution, which affirms the eternal existence of the Turkish nation and motherland and the indivisible unity of the Turkish state, embodies;

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

The understanding of the absolute supremacy of the will of the nation and of 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 liberal democracy and the legal system instituted according to its requirements;

The principle of the separation of powers, which does not imply an order of precedence among the organs of state, but refers solely to the exercising of certain state powers and discharging of duties which are limited to cooperation and division of functions, and which accepts the supremacy of the Constitution and the law;

The recognition that no protection shall be accorded to an activity contrary to Turkish national interests, the principle of the indivisibility of the existence of Turkey with its state and territory, Turkish historical and moral values or the nationalism, principles, reforms and modernism of Atatürk and that, as required by the principle of secularism, there shall be no interference whatsoever by sacred religious feelings in state affairs and politics; the acknowledgment that it is the birth right of every Turkish citizen to lead an honourable life and to develop his or her material and spiritual assets 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;

The recognition 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".

This Constitution, which is to be embraced with the ideas, beliefs, and resolutions it embodies below should be interpreted and implemented accordingly, thus commanding respect for, and absolute loyalty to, its letter and spirit.

Is entrusted by the Turkish nation to the patriotism and nationalism of its democracy-loving sons and daughters.

PART ONE GENERAL PRINCIPLES

I. Form of the State

Article 1.

The Turkish State is a Republic.

II. Characteristics of the Republic

Article 2.

The Republic of Turkey is a democratic, secular and social State governed by the rule of law; bearing in mind the concepts 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 of the State, Official Language, Flag, National Anthem, and Capital

Article 3.

The Turkish State, with its territory and nation, in 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 of the Constitution establishing the form of the State as a Republic, the provisions in Article 2 on the characteristics of the Republic, and the provision 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, social and economic 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 the 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 is vested in the nation without reservation or condition.

The Turkish Nation shall exercise its sovereignty through the authorised organs as prescribed by the principles laid down in the Constitution.

The right to exercise sovereignty shall not be delegated to any individual, group or class. No person or agency shall exercise any State authority which does not emanate from the Constitution.

VII. Legislative Power

Article 7.

Legislative power is vested in the Turkish Grand National Assembly on behalf of the Turkish Nation. This power cannot be delegated.

VIII. Executive Power and Function

Article 8.

Executive power and function shall be exercised and carried out by the President of the Republic ~~and the Council of Ministers~~ in conformity with the Constitution and laws.

IX. Judicial Power

Article 9.

Judicial power shall be exercised by independent ~~and impartial~~ courts on behalf of the Turkish Nation.

X. Equality before Law

Article 10.

All individuals are equal without any discrimination before the law, irrespective of language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such considerations.

Men and women shall have equal rights. The State has the duty to ensure that this equality is put into practice. *Measures taken for this purpose shall not be interpreted as contrary to the principle of equality.*

Measures taken for the persons that require special care such as children, the elderly and the disabled cannot be considered as contrary to the principle of equality.

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

State organs and administrative authorities shall act in compliance with the principle of equality before the law in all their proceedings.

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 agencies and individuals. Laws shall not be in conflict with the Constitution.

PART TWO FUNDAMENTAL RIGHTS AND DUTIES

CHAPTER ONE GENERAL PROVISIONS

I. Nature of Fundamental Rights and Freedoms

Article 12.

Everyone possesses inherent fundamental rights and freedoms which are inviolable and inalienable.

The fundamental rights and freedoms also include the duties and responsibilities of the individual towards society, his family, and other individuals.

II. Restriction of Fundamental Rights and Freedoms

Article 13.

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 in conflict with 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.

None of the rights and freedoms embodied in the Constitution shall be exercised with the aim of violating the indivisible integrity of the state with its territory and nation, and endangering the existence of the democratic and secular order of the Turkish Republic based upon 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 embodied in 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 these activities in conflict with these provisions shall be determined by law.

IV. Suspension of the Exercise of Fundamental Rights and Freedoms

Article 15.

In times of war, mobilization, ~~martial law~~, or 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.

Even under the circumstances indicated in the first paragraph, the individual's right to life, and the integrity of his material and spiritual entity shall be inviolable except where death occurs through lawful acts of warfare; no one may be compelled to reveal his religion, conscience, thought or opinion, nor be accused on account of them; offences and penalties may not be made retroactive, nor may anyone be held guilty until so proven by a court judgement.

V. Status of Aliens

Article 16.

The fundamental rights and freedoms of aliens may be restricted by law in a manner consistent with international law.

CHAPTER TWO THE RIGHTS AND DUTIES OF THE INDIVIDUAL

I. Personal Inviolability, Material and Spiritual Entity of the Individual

Article 17.

Everyone has the right to life and the right to protect and develop his material and spiritual entity.

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

No one shall be subjected to torture or ill-treatment; no one shall be subjected to penalty or treatment incompatible with human dignity.

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 ~~martial law~~, 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 required to perform forced labour. Unpaid compulsory work is prohibited. The term forced labour does not include work required of an individual while serving a court sentence or under detention services required from citizens during a state of emergency, and physical or intellectual work necessitated by the requirements of the country as a civic obligation, provided that the form and conditions of such labour are prescribed by law.

III. Personal Liberty and Security

Article 19.

Everyone has the right to liberty and security of person.

No one shall be deprived of his or 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 court order; apprehension 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 or her before the competent authority; execution of measures taken in conformity with the relevant legal provision for the treatment, education or correction in institutions of a person of unsound mind, an alcoholic or drug addict or vagrant or a person spreading contagious diseases, when such persons constitute a danger to the public, apprehension 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 can 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 similar other circumstances which necessitate detention and are prescribed by law. Apprehension of a person without a decision by a judge shall be resorted to only in cases when a person is caught in the act of committing an offence 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, and 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.

The person arrested or detained shall be brought before a judge within at latest forty-eight hours and in the case of offences committed collectively within at most four days, excluding

the time taken to send the individual to the court nearest to the place of arrest. No one can be deprived of his or her liberty without the decision of a judge after the expiry of the above-specified periods. These periods may be extended during a state of emergency, ~~martial law~~ or in time of war.

The arrest or detention of a person shall be notified to next of kin immediately.

Persons under detention shall have the right to request trial within a reasonable time or to be released during investigation or prosecution. Release may be made conditional to the presentation of an appropriate guarantee with a view to securing the presence of the person at the trial proceedings and the execution of the court sentence.

Persons deprived of their liberty under any circumstances are entitled to apply to the appropriate judicial authority for speedy conclusion of proceedings regarding their situation and for their release if the restriction placed upon them is not lawful.

Damage suffered by persons subjected to treatment contrary to the above provisions shall be compensated by the State with respect to the general principles of the law on compensation.

IV. Privacy and Protection of Private Life

A. Privacy of the Individual's Life

Article 20.

Everyone has the right to demand respect for his or her private and family life. Privacy of an individual or family life cannot be violated.

Unless there exists a decision duly passed by a judge on one or several of the grounds of national security, public order, prevention of crime commitment, 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 authorised 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 authorized agency shall be submitted for the approval of the judge having jurisdiction within 24 hours. The judge shall announce his decision within 48 hours from the time of seizure; otherwise, seizure shall automatically be lifted.

All individuals have the right to request the protection of their personal data. This right includes being informed of, having access to and requesting the correction and deletion of their 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 individual's own consent. The principles and procedures regarding the protection of personal data are laid down in law.

B. Inviolability of Domicile

Article 21.

The domicile of an individual shall not be violated.

Unless there exists a decision duly passed by a judge on one or several of the grounds of national security, public order, prevention of crime commitment, 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 authorised by law in cases where delay is prejudicial, again on the above-mentioned grounds, no domicile may be entered or searched or the property therein seized. The decision of the authorised agency shall be submitted for the approval of

the judge having jurisdiction within 24 hours. The judge shall announce his decision within 48 hours from the time of seizure; otherwise, seizure shall automatically be lifted.

C. Freedom of Communication

Article 22.

Everyone has the right to freedom of communication.

Secrecy of communication is fundamental.

Unless there exists a decision duly passed by a judge on one or several of the grounds of national security, public order, prevention of crime commitment, 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 authorised by law in cases where delay is prejudicial, again on the above-mentioned grounds, communication shall not be impeded nor its secrecy be violated. The decision of the authorised agency shall be submitted for the approval of the judge having jurisdiction within 24 hours. The judge shall announce his decision within 48 hours from the time of seizure; otherwise, seizure shall automatically be lifted.

Public establishments or institutions where exceptions to the above may be applied are defined by law.

V. Freedom of Residence and Movement

Article 23.

Everyone has the right to freedom of residence and movement.

Freedom of residence may be restricted by law for the purpose of preventing offences, promoting social and economic development, ensuring sound and orderly urban growth, 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 offences.

A citizen's freedom to leave the country may be restricted *only by a court decision based on* criminal investigation or prosecution.

Citizens may not be deported, or deprived of their right of entry to their homeland.

VI. Freedom of Religion and Conscience

Article 24.

Everyone has the right to freedom of conscience, religious belief and conviction.

Acts of worship, religious services, and ceremonies shall be conducted freely, provided that they do not violate the provisions of Article 14.

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

Education and instruction in religion and ethics shall be conducted under State supervision and control. Instruction in religious culture and moral education shall be compulsory in the curricula of primary and secondary schools. Other religious education and instruction shall be subjected 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 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 right to freedom of thought and opinion.

No one shall be compelled to reveal his thoughts and opinions for any reason or purpose; nor shall anyone be blamed or accused on account of his thought and opinions.

VIII. Freedom of Expression and Dissemination of Thought

Article 26.

Everyone has the right to express and disseminate his thoughts and opinion by speech, in writing or in pictures or through other media, individually or collectively. This right includes the freedom to receive and impart information and ideas without interference from official authorities. This provision shall not preclude subjecting transmission by radio, television, cinema, and similar means to a system of licensing.

The exercise of these freedoms may be restricted for the purposes of protecting national security, public order and public safety, the basic characteristics of the Republic and safeguarding 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 and rights and private and family life of others, or protecting professional secrets as prescribed by law, or ensuring the proper functioning of the judiciary.

The formalities, conditions and procedures to be applied in exercising the right to expression and dissemination of thought shall be prescribed by law.

IX. Freedom of Science and Arts

Article 27.

Everyone has the right to study and teach freely, explain, and disseminate science and arts and to carry out research in these fields.

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

The provisions 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.

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

In the limitation of freedom of the press, Articles 26 and 27 of the Constitution are applicable.

Anyone who writes or prints 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 and anyone who prints or transmits such news or articles to others for the above purposes, shall be held responsible under the law relevant to these offences. Distribution may be suspended as a preventive measure by the decision of a judge, or in the event delay is deemed prejudicial, by the competent authority designated by law. The authority suspending distribution shall notify a competent judge of its decision within twenty-four hours at the latest. The order suspending 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 to ensure proper functioning of the judiciary, within the limits specified by law.

Periodical and non-periodical publications may be seized by a decision of a judge in cases of ongoing investigation or prosecution of offences prescribed by law, and, in situations where delay could endanger the indivisible integrity of the state with its territory and nation, national security, public order or public morals and for the prevention of offence by order of the competent authority designated by law. The authority issuing the order to confiscate shall notify a competent judge of its decision within twenty-four hours at the latest. The order to confiscate shall become null and void unless upheld by the competent court within forty-eight hours at the latest.

The general common provisions shall apply when seizure and confiscation of periodicals and non-periodicals for reasons of criminal investigation and prosecution takes place.

Periodicals published in Turkey may be temporarily suspended by court sentence 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 following a decision by a competent judge.

B. Right to Publish Periodicals and Non-periodicals

Article 29.

Publication of periodicals or non-periodicals shall not be subject to prior authorisation or to the deposit of a financial guarantee.

To publish a periodical it shall suffice to submit the information and documents prescribed by law to the competent authority designated by law. If the information and documents submitted are found to be in contravention of law, the competent authority shall apply to the appropriate court for suspension of publication.

The publication of periodicals, the conditions of publication, the financial resources and rules relevant to 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, thought, or beliefs.

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.

A publishing house as well as its annexes and press equipment established as a printing enterprise in accordance with the law shall not be seized, confiscated, or barred from operation on the grounds of being an instrument of crime.

D. Right to Use Mass Media Other than the Press Which Are 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.

The law shall not impose restrictions preventing the public from receiving information or forming ideas and opinions through these media, or preventing public opinion from being freely formed, on the grounds other than national security, public order, public morals, or the protection of public 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 attacked or in cases of unfounded allegation and shall be regulated by law.

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

XI. Rights and Freedoms of Assembly

A. Freedom of Association

Article 33.

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 only be restricted by law on the grounds of protecting national security and public order, or prevention of crime commitment, or protecting public morals, public health.

The formalities, conditions, and procedures governing 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. In cases where delay endangers national security or public order and in cases where it is necessary to prevent the perpetration or the continuation of a crime or to effect apprehension, an authority designated by law may be vested with power to suspend the association from activity. The decision of this authority shall be submitted for the approval of the judge in charge within twenty-four hours. The judge shall announce his decision within forty-eight hours, otherwise this administrative decision shall be annulled automatically.

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

The provisions of this article are also applicable to foundations.

B. Right to Hold Meetings and Demonstration Marches

Article 34.

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 only be restricted by law on the grounds of national security, and public order, or prevention of crime commitment, public health and public morals or for the protection of the rights and freedoms of others.

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

XII. Right of 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 own property shall not be in contravention of the public interest.

XIII. Provisions Relating to the Protection of Rights**A. Freedom to Claim Rights****Article 36.**

Everyone has the right of litigation either as plaintiff or defendant and the right to a fair trial before the courts through lawful means and procedures.

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

B. Guarantee of Lawful 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 one the results of conviction.

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

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

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

Findings obtained through illegal methods shall not be considered as evidence.

Criminal responsibility shall be personal.

No one shall be deprived of his liberty merely on the ground of inability to fulfil a contractual obligation.

The death penalty and the penalty of general confiscation shall not be imposed.

No citizen shall be extradited to a foreign country on account of an offence with the exception of obligations required by becoming party to the Statute of 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 proof 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.

The State is obliged to indicate in its transactions, the legal remedies and authorities the persons concerned should apply and their time limits.

Damages incurred by any person through unlawful treatment by holders of public office shall be compensated for by the state. 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

Article 41.

The 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 organisation to ensure the peace and welfare of the family, especially where the protection of the mother and children is involved, and recognizing the need for education in the practical application of family planning.

Every child has the right to adequate protection and care and the right to have and maintain a personal and direct relation with his/her parents unless it is contrary to his/her high interests.

The State shall take measures for the protection of the child against all kinds of abuse and violence.

II. Right and Duty of Training and Education

Article 42.

No one shall be deprived of the right of learning and education.

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

Training and education shall be conducted along the lines of the principles and reforms of Atatürk, on the basis of contemporary science and educational methods, under the supervision and control of the state. Institutions of training and education contravening these provisions shall not be established.

The freedom of training and 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 state schools.

No one should be deprived of the right to higher education due to any reason not explicitly written in the law. Limitations on the exercise this right shall be determined by the law. (2)

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 training 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 training and 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 institutions of training or education. Foreign languages to be taught in institutions of training and education and the rules to be followed by schools conducting training and 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 sovereignty and at the disposal of the State.

In the utilisation of the sea coast, 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 to be determined according to the purpose of utilization, and the conditions and possibilities of such 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. Providing 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 farmers, to whom they have been distributed, and their heirs. The principles relating to the recovery by the State of the land thus distributed in the event of loss of these conditions shall be prescribed by law.

C. Protection of Agriculture, Animal Husbandry, and Persons Engaged in These Activities

Article 45.

The State shall assist 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 to promote the values of crop and livestock products, and to enable producers to be paid their real value.

D. Expropriation

Article 46.

The State and public corporations shall be entitled, where the public interest requires it, 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 judgement shall be paid in cash and in advance. However, the procedure to be applied for compensation for expropriated land in order to carry out land reform, major energy and irrigation projects, and housing and resettlement schemes and afforestation, and to protect the coasts and to build tourist facilities 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 own land shall in all cases be paid in advance.

An interest equivalent to the highest interest paid on public claims shall be implemented in the instalments envisaged in the second paragraph.

E. Nationalisation

Article 47.

Private enterprises performing public services may be nationalized when this is required by the 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.

Principles and rules concerning the privatisation of enterprises and assets owned by the State, State Economic Enterprises and other public corporate bodies shall be prescribed by law.

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 real or corporate bodies through private law contracts shall be determined by law.

IV. Freedom to Work and Conclude Contracts

Article 48.

Everyone has the freedom to work and conclude contracts in the field of his choice. The 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 conditions of security and stability.

V. Provisions Relating to Labour

A. Right and Duty to Work

Article 49.

Everyone has the right and duty to work.

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.

B. Working Conditions and Right to Rest and Leisure

Article 50.

No one shall be required to perform work unsuited to his age, sex, and capacity.

Minors, women, and persons with physical or mental disabilities 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 Organise Labour Unions

Article 51.

Employees and employers have the right to form labour unions employers' associations and higher organizations, without obtaining 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 be restricted by law and with the purposes of safeguarding national security and public order and to prevention of crime commitment, protection of public health and public morals and 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.

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 job.

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

D. Activities of Labour Unions

Article 52.

Repealed.

VI. Collective Bargaining, Right to Strike, and Lockout

A. Right of Collective Bargaining *and Collective Agreement*

Article 53.

Workers and employers have the right to conclude collective bargaining agreements in order to regulate reciprocally their economic and social position and conditions of work.

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

Public servants and other public employees have the right to conclude collective agreements.

The parties may apply to Reconciliation Board if a dispute arises during the process of collective agreement. The decisions of the Reconciliation Board shall be final and have the force of a collective agreement.

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, as well as the organization and operating procedures and principles of the Reconciliation Board and other matters shall be laid down in law.

B. Right to Strike, and Lockout

Article 54.

Workers have the right to strike if a dispute arises during the collective bargaining process. The procedures and conditions governing the exercise of this right and the employer's recourse to a lockout, the scope of both actions, and the exceptions to which they are subject shall be regulated by law.

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

The circumstances and places 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 collective bargaining agreement.

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

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

VII. Guarantee 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 suitable for the work they perform and that they enjoy other social benefits.

In determining the minimum wage, the economic and social conditions of the country shall be taken into account.

VIII. Health, the Environment, and Housing

A. Health Services and Conservation of the Environment

Article 56.

Everyone has the right to live in a healthy, balanced environment.

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

To ensure that everyone lead their lives in conditions of physical and mental health and to secure cooperation in terms of human and material resources through economy and increased productivity, the State shall regulate central planning and functioning of the health services.

The State shall fulfill 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 needs for housing, within the framework of a plan which takes into account the characteristics of cities and environmental conditions and supports community housing projects.

IX. Youth and Sports

A. Protection of Youth

Article 58.

The State shall take measures to ensure the training and development of youth into whose keeping our State, independence, and our Republic are entrusted, in the light of contemporary science, in line with the principles and reforms of Ataturk, 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, drug addiction, crime, gambling, and similar vices, and ignorance.

B. Development of Sports

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.

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 those killed in war and in the line of duty, together with the disabled 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 the aged, and other rights and benefits shall be regulated by law.

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

To achieve these aims the State shall establish the necessary organisations or facilities, or arrange for their establishment by other bodies.

C. Turkish Nationals Working Abroad

Article 62.

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

XI. Conservation of Historical, Cultural, and Natural Wealth

Article 63.

The State shall ensure the conservation of the historical, cultural and natural assets and wealth, and shall take supporting and promoting measures towards this end.

Any limitations to be imposed on such assets and wealth which are privately owned and the compensation and exemptions to be accorded to the owners of such, as a results 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 art appreciation.

XIII. The Extent of Social and Economic Rights

Article 65.

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.

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.

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 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, and to engage in political activities independently or in a political party, and to take part in a referendum.

Elections and referenda shall be held under the direction and supervision of the judiciary, in accordance with the principles of free, equal, secret, and direct, universal suffrage, and public counting of the votes. However, the conditions under which the Turkish citizens who are abroad shall be able to exercise their right to vote, are regulated by law.

All Turkish citizens over 18 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.

Privates and corporals serving in the armed services, students in military schools, and convicts in penal execution excluding those convicted of negligent offences cannot vote. The Supreme Election Council shall determine the measures to be taken to ensure the safety of the counting of votes when detainees in penal institutions or prisons vote; such voting is done under the on-site direction and supervision of authorized judge. The electoral laws

shall be drawn up in such a way as to reconcile the principles of fair representation and consistency in administration.

The amendments made in the electoral laws shall not be applied to the elections to be held within the year from when the amendments go into force.

III. Provisions Relating to Political Parties

A. Forming Parties, Membership and Withdrawal from Membership in a Party

Article 68.

Citizens have the right to form political parties and in accordance with the established procedure to join and withdraw from them. One must be over 18 years of age to become a member of a party.

Political parties are indispensable elements of democratic political life.

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

The statutes and programmes, as well as the activities of political parties shall not be in conflict with 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 protect 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 institutions, shall not become members of political parties.

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

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

The state shall provide the political parties with adequate financial means in an equitable manner. The financial assistance to be extended to political parties, as well as procedures related to collection of membership dues and donations are regulated by law.

B. Principles to be Observed by Political Parties

Article 69.

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.

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 the income, expenditure and acquisitions of political parties by the Constitutional Court as well as the establishment of the conformity to law of their revenue and expenses, methods of auditing and sanctions to be applied in the event of unconformity shall also be regulated by law. The Constitutional Court shall be assisted in performing its task of auditing by the Court of Accounts. The judgments rendered by the Constitutional Court as a result 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 Republic.

The permanent dissolution of a political party shall be decided when it is established that the statute and programme 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. 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 chairmanship or the central decision-making or administrative organs of that party or by the group's general meeting or group executive board at the Turkish Grand National Assembly or when these activities are carried out in determination by the above-mentioned party organs directly.

Instead of dissolving them 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 cannot 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 cannot be founders, members, directors or supervisors in any other party for a period of five years from the date of publication in the official gazette of the Constitutional Court's final decision and its justification for permanently dissolving the party.

Political parties which accept financial assistance from foreign states, international institutions and persons and corporate bodies shall be dissolved permanently.

The foundation and activities of political parties, their supervision and dissolution, or their deprivation of State aid wholly or in part as well as the election expenditures and procedures of the political parties and candidates, are regulated by law in accordance with the above-mentioned principles.

IV. Right to Enter the Public Service

A. Entry into the Public Service

Article 70.

Every Turk has the right to enter the public service.

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

B. Declaration of Assets

Article 71.

Declaration of assets by persons entering public service, and the frequency of such declaration, 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 the public service, shall be regulated by law.

VI. Obligation to Pay Taxes

Article 73.

Everyone is under the obligation to pay taxes according to his financial resources, in order to meet public expenditures.

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

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

The ~~Council of Ministers~~ **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 Ombudsman*

Article 74.

Citizens and foreigners resident considering the principle of reciprocity have the right to apply in writing to the competent authorities and to the Turkish Grand National Assembly with regard to the requests and complaints concerning themselves or the public.

The result of the application concerning himself shall be made known to the petitioner in writing without delay.

Everyone has the right to obtain information and appeal to the Ombudsman.

The Institution of the Ombudsman established under the TGNA examines complaints on the functioning of the administration.

The Ombudsman shall be elected by the TGNA for a term of four years by secret ballot. In the first two ballots, a two-thirds majority of the component members and in the third ballot, an absolute majority of the component 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.

The way of exercising the rights referred to in this article, the establishment, duties, functioning and actions of the Ombudsman institution to be taken after the examination and the procedures and principles regarding the qualifications, elections and personnel rights of the Ombudsman and his/her officials shall be laid down in law.

PART THREE FUNDAMENTAL ORGANS OF THE REPUBLIC

CHAPTER ONE LEGISLATIVE POWER

I. The Turkish Grand National Assembly

A. Composition

Article 75.

The Grand National Assembly of Turkey shall be composed of ~~five hundred and fifty six~~ **hundred** deputies elected by universal suffrage.

B. Eligibility to be a Deputy

Article 76.

Every Turk over the age of ~~twenty-five~~ **eighteen** is eligible to be a deputy.

Persons who have not completed primary education, who have been deprived of legal capacity, ~~who have not performed compulsory military service, who are in relation with their military services,~~ 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, members of the teaching staff at institutions of higher education, members of the Higher Education Council, 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 Turkish Grand National Assembly

Article 77.

Elections for the Grand National Assembly ~~and the Presidency~~ of Turkey shall be held **on the same day** every ~~four~~ **five** years.

~~The Assembly may decide to hold a new election before the termination of this period, or elections shall be renewed according to the decision taken by the President of the Republic, under the conditions set forth in the Constitution.~~

A deputy whose term of office expires is eligible for re-election.

~~In the event of a decision to hold new elections, the powers of the Assembly shall continue until the election of a new Assembly.~~

~~If the simple majority is not obtained in the first round of Presidential elections, a second round of voting is held according to procedure stated in Article 101.~~

D. Deferment of elections ~~for the Grand National Assembly of Turkey~~ and by-elections

Article 78.

If the holding of new elections is found impossible because of war, the Turkish Grand National Assembly may decide to defer elections for a year.

If the grounds for deferment do not disappear this measure may be repeated under the procedure for deferment.

By-elections shall be held when vacancies arise in the membership of the Turkish Grand National Assembly. By-elections shall be held once in every election term and cannot be held until 30 months have elapsed from the date of the previous general elections. However, in cases where the number of vacant seats reaches five percent of the total number of seats, by-elections shall be held within three months.

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

Apart from the above-specified situations, if a city or district lacks representation in Parliament, a by-election shall be held on the first Sunday, 90 days following creation of the vacancy. In elections held per this paragraph, paragraph 3 of Article 127 of the Constitution shall not apply.

E. General Administration and Supervision of the Elections

Article 79.

Elections shall be held under the general administration and supervision of the judicial organs.

The Supreme Election Council shall execute all the functions to ensure the fair and orderly conduct of the elections from the beginning to the end of polling, carry out investigations and take final decisions on all irregularities, complaints, and objections concerning the elections during and after the polling, and verify the election returns of the members of the Turkish Grand National Assembly. No appeal shall be made to any authority against the decisions of the Supreme Election Council.

The functions and powers of the Supreme Election Council and other election councils shall be determined by law.

The Supreme Election Council shall be composed of seven regular members and four substitutes. Six of the members shall be elected by the Plenary Assembly of the High Court of Appeals, and five members shall be elected by the Plenary Assembly of the Council of State from amongst its own members, by secret ballot and by an absolute majority of the total number of members. These members shall elect a Chairman and a Vice-Chairman from amongst themselves, by absolute majority and secret ballot.

Amongst the members elected to the Supreme Election Council 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 Chairman and Vice-Chairman of the Supreme Election Council shall not take part in this procedure.

The general conduct and supervision of a referendum on legislation amending the Constitution shall be subject to the same provisions as those relating to the election of deputies.

F. Provisions Relating to Membership

1. Presentation of the Nation

Article 80.

Members of the Turkish Grand National Assembly represent, not merely their own constituencies or constituents, but the Nation as a whole.

2. Oath-taking

Article 81.

Members of the Turkish Grand National Assembly, 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 Ataturk's principles and reforms; not to deviate from the ideal according to which everyone is entitled to enjoy human rights and fundamental freedoms under peace and prosperity in society, national solidarity and justice, and loyalty to the Constitution."

3. Activities Incompatible with Membership

Article 82.

Members of the Turkish Grand National Assembly shall not hold office in State departments and other public corporate bodies and their subsidiaries; in corporations and enterprises affiliated with the State and other public corporate bodies; in the executive or supervisory organs of enterprises and corporations where there is direct or indirect participation of the State and public corporate bodies; in the executive and supervisory organs of public benefit associations, whose special resources of revenue and privileges are provided by law; in the executive and supervisory organs of foundations which enjoy tax exemption and receive financial subsidies from the state; and in the executive and supervisory organs of labour unions and public professional organisations, and in the enterprises and corporations in which the above-mentioned unions and associations or their higher bodies have a share; nor can they be appointed as representatives of the above-mentioned bodies or be part to a business contract, directly or indirectly, and be arbitrators of representatives in their business transactions.

Members of the Turkish Grand National Assembly shall not be entrusted with any official or private duties involving recommendation, appointment, or approval by the executive organ. ~~A deputy's acceptance of a temporary assignment, not exceeding a period of six months, given by the Council of Ministers on a specific matter, is subject to the decision of the Assembly~~

Other functions and activities incompatible with membership in the Turkish Grand National Assembly shall be regulated by law.

4. Parliamentary Immunity

Article 83.

Members of the Turkish Grand National Assembly shall not be liable for their votes and statements concerning parliamentary functions, 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 the election shall not be arrested, interrogated, detained, or tried unless the Assembly decides otherwise. This

provision shall not apply in cases where a member is caught in the act of committing a crime punishable by a heavy penalty and in cases subject to Article 14 of the Constitution if an investigation has been initiated before the election. However, in such situations the competent authority shall notify the Turkish Grand National Assembly immediately and directly.

The execution of a criminal sentence imposed on a member of the Turkish Grand National Assembly either before or after his election shall be suspended until he ceases to be a member; the statute of limitations does not apply during the term of membership.

Investigation and prosecution of a re-elected deputy shall be subject to the renewed waiver of immunity by the Assembly.

Political party groups in the Turkish Grand National Assembly shall not hold discussions or take decisions regarding parliamentary immunity.

5. Loss of Membership

Article 84.

The loss of membership of a deputy who has resigned shall be decided upon by the plenary of the Turkish Grand National Assembly after the Bureau of the Turkish Grand National Assembly 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 final court decision in the matter has been communicated to the plenary of the Turkish Grand National Assembly.

The loss of membership of a deputy who insists on holding a position or continues an activity incompatible with membership according to Article 82, shall be decided by a secret plenary vote, upon the submission of a report drawn up by the authorized commission setting out the factual situation.

Loss of membership by a deputy who fails to attend without excuse or permission, five meetings in a period of one month shall be decided by an absolute majority of the total number of members after the Bureau of the Turkish Grand National Assembly determines the situation.

6. Application for Annulment

Article 85.

If the parliamentary immunity of a deputy has been waived 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 day of the decision of the Grand National Assembly of Turkey, 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 or procedure of the Turkish Grand National Assembly. The Constitutional Court shall decide on the appeal within fifteen days.

7. Salaries and Allowances

Article 86.

The salaries, allowances and retirement arrangements of the members of the Turkish Grand National Assembly 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 exceed half of that salary. The members of the Turkish Grand National Assembly and its retirees are affiliated with the Pension Fund of the Turkish Republic, and the affiliation of those continue upon their will in case of their membership expires.

The salaries and allowances paid to the members of the Turkish Grand National Assembly shall not necessitate the suspension of payments of pensions and similar benefits by the Pension Fund of the Turkish Republic.

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

II. Functions and Power of the Turkish Grand National Assembly

A. General Provisions

Article 87.

The functions and powers of the Turkish Grand National Assembly comprise the enactment, amendment, and repeal of laws; ~~to scrutinize the Council of Ministers and the ministers; to authorize the Council of Ministers; to issue decrees having the force of law on certain matters;~~ debating and approval of the budget draft and the draft law of the final accounts, making decisions regarding the printing of currency and declaration of war; ratifying international agreements, deciding with the three fifths of the Turkish Grand National Assembly on the proclamation of amnesties and pardons of the Constitution; and exercising the powers and executing the functions envisaged in the other articles of the Constitution.

B. Introduction and Debate of the Laws

Article 88.

~~The Council of Ministers and~~ The deputies are empowered to introduce laws. The procedure and principles relating to the debating of draft bills and proposals of law in the Turkish Grand National Assembly 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 Turkish Grand National Assembly within fifteen days.

He shall, within the same period, refer to the Turkish Grand National Assembly for further consideration, laws which he deems wholly or in part or unsuitable for promulgation, together with a statement of his reasons. In the event of being deemed unsuitable by the President, the Turkish Grand National Assembly may only discuss those articles deemed to be unsuitable. Budget laws shall not be subjected to this provision.

If the Grand National Assembly of Turkey adopts the law sent back for reconsideration **with the absolute majority of total number of members** without any amendment, 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 Turkish Grand National Assembly by a law approving the ratification.

Agreements regulating economic, commercial, and 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 infringe upon the status of individuals or upon the property rights of Turkish citizens abroad. In such cases, these agreements must be brought to the knowledge of the Turkish Grand National Assembly within two months of their promulgation.

Agreements in connection with the implementation of an international treaty, and economic, commercial, technical, or administrative agreements which are concluded depending on an authorisation given by law shall not require approval by the Turkish Grand National Assembly. However, agreements concluded under the provision of this paragraph and affecting the economic or commercial relations and private rights of individuals 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 carry the force of law. No appeal to the Constitutional Court can be made with regard to these agreements, on the ground that they are unconstitutional. In case of a conflict between the laws and international agreements duly put into effect in the field of fundamental rights and freedoms due to different provisions on the same matter, the provisions of the international agreements shall prevail.

E. Authorisation to Enact Decrees Having Force of Law

Article 91.

~~The Turkish Grand National Assembly may empower the Council of Ministers to issue decrees having force of law. However, the fundamental rights, individual rights, and duties included in the First and Second Chapter of the Second Part of the Constitution and the political rights and duties listed in the Fourth Chapter cannot be regulated by decrees having force of law except during periods of martial law and states of emergency.~~

~~The empowering law shall define the purpose, scope, principles, and operative period of the decree having force of law, and whether more than one decree will be issued within the same period.~~

~~Resignation or fall of the Council of Ministers or expiration of the legislative term shall not cause the termination of the power conferred for the given period.~~

~~When approving a decree having force of law before the end of the prescribed period, the Turkish Grand National Assembly shall also state whether the power has terminated or will continue until the expiry of the said period.~~

~~Provisions relating to the decrees having force of law issued by the Council of Ministers meeting under the chairmanship of the President of the Republic, in time of martial law or states of emergency, are reserved.~~

~~Decrees having force of law shall come into force on the day of their publication in the Official Gazette. However, a later date may be indicated in the decree as the date of entry into force.~~

~~Decrees are submitted to the Turkish Grand National Assembly on the day of their publication in the Official Gazette.~~

~~Laws of empowering and decrees having force of law which are based on these shall be discussed in the committees and in the plenary session of the Turkish Grand National Assembly with priority and urgency.~~

~~Decrees not submitted to the Turkish Grand National Assembly on the day of their publication shall cease to have effect on that day and decrees rejected by the Turkish Grand~~

~~National Assembly shall cease to have effect on the day of the publication of the decision in the Official Gazette. The amended provisions of the decrees which are approved as amended shall go into force on the day of their publication in the Official Gazette.~~

F. Declaration of State of War and Authorisation to Permit the Use of Armed Forces

Article 92.

The power to authorise the declaration of the 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 Turkish Armed Forces to foreign countries, and to allow foreign armed forces to be stationed in Turkey **is vested in the Turkish Grand National Assembly.**

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

III. Provision Relating to the Activities of the Turkish Grand National Assembly

A. Convening and Adjournment

Article 93.

The Turkish Grand National Assembly shall convene of its own accord on the first day of October each year.

The Assembly may be in recess for a maximum of three months in the course of a legislative year. During adjournment or recess it may be summoned by the President of the Republic ~~either on his own initiative or at the request of the Council of Ministers.~~

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.

If the Turkish Grand National Assembly is convened during an adjournment or recess, it 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 Turkish Grand National Assembly shall be composed of the Speaker, the Deputy Speaker, Secretary Members, and Administrative Members elected from among the Assembly members.

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.

Two elections to the Bureau of the Turkish Grand National Assembly shall be held in the course of 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 the relevant legislative term.*

The candidates from among the members of the Assembly for the Office of the Speaker of the Turkish Grand National Assembly 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 Speaker. The election of the Speaker shall be completed within five days of 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 Deputy Speakers, Secretary Members and Administrative Members, shall be stipulated by the Assembly Rules of Procedure.

The Speaker and Deputy Speaker of the Turkish Grand National Assembly cannot participate in the activities of the political party or party group in which they are a member, nor in debates, within or outside the Assembly, except in cases required by their functions; the Speaker and the Deputy Speaker who is presiding over the session shall not vote.

C. Rules of Procedure, Political Party 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 only be constituted if they have at least twenty members.

All security and administrative services of the Turkish Grand National Assembly regarding all buildings, installations, annexes, and its grounds shall be organised and directed by the Office of the President of the Assembly.

Sufficient forces to ensure security and other such services shall be allocated to the Office of the President of the Assembly by the relevant authorities.

D. Quorums Required for Sessions and Decisions

Article 96.

The Turkish Grand National Assembly shall convene with at least one-third of the total number of members for all its affairs, including balloting. Unless otherwise stipulated in the Constitution, the Turkish Grand National Assembly shall convene with at least, one-third of the total number of members and shall take decisions by an absolute majority of those present; however, the quorum for decisions can, under no circumstances, be less than a quarter plus one of the total number of members.

~~Members of the Council of Ministers may delegate a minister to vote on their behalf in sessions of the Grand National Assembly of Turkey that they are unable to attend. However, a minister shall not cast more than two votes including his/her own.~~

E. Publicity and Publication of Debates

Article 97.

Debates held in the plenary session of the Turkish Grand National Assembly shall be public and shall be published verbatim in the Journal of Records.

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

Public proceedings of 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 of the Assembly.

IV. ~~Ways of obtaining information and supervision by the Grand National Assembly of Turkey~~

A. ~~General~~

Article 98.

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

~~A question is a request for information addressed to the Prime Minister or ministers to be answered orally or in writing on behalf of the Council of Ministers.~~

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 sessions of the Turkish Grand National Assembly.

~~A parliamentary investigation is an investigation about the Vice-Presidents and the Ministers conducted according to the fifth, sixth, seventh paragraphs of Article 106.~~

~~A written question is a request for information addressed to the Vice-Presidents or Ministers by deputies to be answered in writing within fifteen days at the latest.~~

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

B. ~~Interpellation~~

Article 99.

~~A motion for interpellation may be tabled either on behalf of a political party group, or by the signature of at least twenty deputies.~~

~~The motion for interpellation shall be circulated in printed form to the members within three days of its being tabled; inclusion of a motion of interpellation in the agenda shall be debated within ten days of its circulation. In this debate, only one of the signatories to the motion, one deputy from each political party group, and the Prime Minister or one minister on behalf of the Council of Ministers, may take the floor.~~

~~Together with the decision to include the motion of interpellation on the agenda, the date for debating it will also be decided; however, the debate shall not take place less than two days after the decision to place it on the agenda and shall not be deferred more than seven days. In the course of the debate on the motion of interpellation, a motion of no confidence with a statement of reasons tabled by deputies or party groups, or the request for a vote of confidence by the Council of Ministers, shall be put to vote only after a full day has elapsed. In order to unseat the Council of Ministers or a minister, an absolute majority of the total number of members shall be required in the voting, in which only the votes of no confidence shall be counted.~~

~~Other provisions concerning interpellations, provided that they are consistent with the smooth functioning of the Assembly, and with the above-mentioned principles shall be designed by the Rules of Procedure.~~

C. Parliamentary Investigation

Article 100.

~~Parliamentary investigation concerning the Prime Minister or other ministers may be requested through a motion tabled by at least one-tenth of the total number of members of the Turkish Grand National Assembly. The Assembly shall consider and decide on this request with a secret ballot within one month at the latest.~~

~~In the event of a decision to initiate an investigation, this investigation shall be conducted by a commission of fifteen members chosen by lot on behalf of each party from among three times the number of members the party is entitled to have on the commission, representation being proportional to the parliamentary membership of the party. The commission shall submit its report on the result of the investigation to the Assembly within two months. If the investigation is not completed within the time allotted, the commission shall be granted a further and final period of two months. At the end of this period, the report shall be submitted to the Office of the Speaker of the Turkish Grand National Assembly.~~

~~Following its submission to the Office of the Speaker of the Turkish Grand National Assembly, the report shall be distributed to the members within ten days and debated within ten days after its distribution and if necessary, a decision may be taken to bring the person involved before the Supreme Court. The decision to bring a person before the Supreme Court shall be taken by a secret ballot only by an absolute majority of the total number of members.~~

~~Political party groups in the Assembly shall not hold discussions or take decisions regarding parliamentary investigations.~~

CHAPTER TWO EXECUTIVE

I. President of the Republic

~~A. Qualifications and impartiality~~ **Nomination and election**

Article 101.

The President of the Republic **shall be elected directly by the public** from among ~~the members of the Grand National Assembly of Turkey~~ who are over forty years of age and have completed higher education, ~~or~~ from among Turkish citizens who ~~fulfil these requirements and~~ are eligible to be deputies.

The president's term of office shall be five years. **The President of the Republic can be elected to two terms at most.**

~~Nomination of a candidate for the Presidency from among the members of the Grand National Assembly of Turkey or from outside of the Assembly shall require a written proposal of twenty deputies. Furthermore, political parties with more than ten percent of the valid votes in sum in the latest parliamentary elections may nominate a joint candidate.~~

~~Political party groups, political parties which have received more than five percent of the valid votes in sum alone or jointly in the latest parliamentary elections, or a hundred thousand electorates may nominate a candidate for Presidency.~~

If the President-elect is a member of a party, ~~his/her relationship with his party shall be severed and~~ his/her 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 this majority cannot be obtained in the first ballot, the second ballot shall be held on the second Sunday following this ballot. The first two top rated candidates in first ballot shall run for the second, and the candidate who receives the majority of valid votes shall be elected President of the Republic.

If one of the candidates who is entitled to run for the second ballot is unable to participate in the election for any reason whatsoever, the second ballot shall be conducted by substituting the vacant candidacy in conformity with the ordering constituted in the first ballot. where only one candidate remains for the second ballot, this ballot shall be conducted as a referendum. Should the candidate receive the majority of the valid votes, he/she shall be elected the President of the Republic. If that candidate cannot receive the majority of the valid votes in election, only presidential election is renewed.

The term of office of the incumbent President of the Republic shall continue until the President-elect takes the office.

Other procedures and principles concerning presidential elections shall be regulated by law.

B. Election

Article 102.

~~The election of the President of the Republic shall be concluded within sixty days before the term of office of the incumbent President of the Republic expires; or within sixty days after the Presidency falls vacant for any reasons.~~

~~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 this majority cannot be obtained in the first ballot, the second ballot shall be held on the second Sunday following this ballot. The two candidates who receive the greatest number of votes in first ballot can 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 appear on the second ballot dies or loses his or her eligibility, the second ballot shall be conducted by substituting within 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 most of the votes, he or she shall be elected President of the Republic.~~

~~The term of office of the incumbent President of the Republic shall continue until the President-elect takes office.~~

~~The procedures and principles concerning Presidential elections shall be regulated by law.~~

C. Oath

Article 103.

On assuming office, the President of the Republic shall take the following oath before the Turkish Grand National Assembly:

"In my capacity as President of the Republic I swear upon my honour and integrity before the Turkish Grand National Assembly 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 Ataturk 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 to 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.

The President of the Republic is the Head of the State. **Executive power belongs to the President.** In this capacity he shall represent the Republic of Turkey and the unity of the Turkish Nation; he shall ensure the implementation of the Constitution, and the regular and harmonious functioning of the organs of State.

To this end, the duties he/she shall perform, and the powers he/she shall exercise, in accordance with the conditions stipulated in the relevant articles of the Constitution are as follows:

a) Those relating to legislation:

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

~~To summon the Grand National Assembly of Turkey, when necessary,~~

~~To give message to the Assembly about domestic and foreign policy of the country.~~

To promulgate laws,

To send laws back to the Grand National Assembly of Turkey to be reconsidered,

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

To appeal to the Constitutional Court for the annulment part of whole or certain provisions of laws, decrees having the force of law and the Rules of Procedure of the Grand National Assembly of Turkey on the grounds that they are unconstitutional in form or in content,

~~To decide to renew elections for the Grand National Assembly of Turkey.~~

~~b) Those relating the executive:~~

~~To appoint the Prime Minister and to accept his/her resignation,~~

To appoint and dismiss **Vice-Presidents and ministers** ~~on the proposal of the Prime Minister,~~

~~To preside over the Council of Ministers or to call the Council of Ministers to meet under his/her chairpersonship whenever he/she deems it necessary,~~

To appoint and dismiss high level State officials, and to regulate the procedures and principles relating to the appointment of these, by presidential decrees.

To accredit representatives of the Turkish State to foreign states and to receive the representatives of foreign states appointed to the Republic of Turkey,

To ratify and promulgate international treaties,

~~To determine the national security policies and take the necessary measures.~~

To represent the Office of Commander-in-Chief of the Turkish Armed Forces on behalf of the Grand National Assembly of Turkey,

To decide on the use of the Turkish Armed Forces,

~~To appoint the Chief of the General Staff,~~

~~To call the National Security Council to meet,~~

~~To preside over the National Security Council,~~

~~To proclaim martial law or state of emergency, and to issue decrees having the force of law, by the decisions of the Council of Ministers under his/her chairpersonship,~~

~~To sign decrees,~~

To remit or commute the sentences imposed on certain individuals, on grounds of chronic illness, disability or old age,

~~To appoint the members and the chairperson of the State Supervisory Council,~~

~~To instruct the State Supervisory Council to carry out inquiries, investigations and inspections,~~

~~To appoint the members of the Council of Higher Education,~~

~~To appoint president of universities.~~

The President may issue presidential decrees on matters relating to the 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 presidential decrees. No presidential decrees shall be granted on matters to be regulated specifically by law embodied in the Constitution. No presidential decrees shall be granted on matters explicitly regulated by law.

In the case of a conflict between presidential decrees and the laws due to differences in provisions on the same matter, the provisions of law shall prevail. In case the Grand National Assembly of Turkey introduces a law on the same matter, the presidential decree shall become null and void.

The President may issue by-laws in order to ensure the implementation of laws providing that they are not contrary to these laws and regulations.

Decrees and by-laws shall come into force on the day of their publication in the Official Gazette unless a date later than publication is determined.

~~e) Those relating to the judiciary:~~

~~To appoint the members of the Constitutional Court, one-fourth of the members of the Council of State, the Chief Public Prosecutor and the Deputy Chief Public Prosecutor of the High Court of Appeals, the members of the High Military Court of Appeals, the members of High Military Administrative Court and the members of the High Council of Judges and Prosecutors.~~

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

E. Presidential accountability and non-accountability

E. Criminal liability of the President

Article 105.

~~– All presidential decrees, except those which the President of the Republic is empowered to enact individually without the signatures of the Prime Minister and the minister concerned in accordance with the provisions of the Constitution and other laws, shall be signed by the Prime Minister and the ministers concerned; the Prime Minister and the minister concerned shall be accountable for these decrees.~~

~~No appeal shall be made to any judicial authority, including the Constitutional Court, against the decisions and orders signed by the President of the Republic on his/her own initiative.~~

~~The President of the Republic may be impeached for high treason on the proposal of at least one-third of the total number of members of the Grand National Assembly of Turkey, and by the decision of at least three-fourths of the total number of members.~~

[Parliamentary] Investigation may be requested claiming that the President commits a crime through a motion tabled by an absolute majority of the total number of members of the Grand National Assembly of Turkey.

The Assembly shall debate this request within one month at the latest and may decide to open an investigation through a three-fifths majority in secret ballot.

Where a decision to launch an investigation is made, the investigation shall be conducted by a committee of fifteen members, chosen by lot, for each political party in the Assembly, separately from among three times candidates nominated for each seat reserved to party groups in proportion to their number of seats. The committee shall submit its report on the result of the investigation to the Assembly within two months. In case the investigation is not completed within the time allotted, the committee shall be granted a further and final period of one month.

Following its submission to the Office of the Speaker, the report shall be distributed within ten days and debated in the Plenary within ten days after its distribution.

The Grand National Assembly of Turkey may decide to refer the case to the Supreme Court with two-thirds majority of the total number of members through secret ballot. Supreme Court trial shall be concluded in three months, if the trial is not completed within the time allotted, a further three months shall be granted for once, and the trial shall absolutely be completed within that time.

The President in respect of whom an investigation has been initiated cannot decide to hold elections.

The term of office of the President, who is convicted by the Supreme Court of a crime that prevents from being elected, shall cease.

The alleged offences committed during the term of office shall be subject to the provisions of this article also after the term of office expires.

~~F. Acting for the President of the Republic Vice-presidents, Acting President and ministers~~

Article 106.

After being elected, the President may appoint one or more Vice-Presidents.

In case the office of the President falls vacant for any reason, the election of the President shall be held in forty five days. Until a new one is elected, the Vice-President shall act as president, and he/she shall exercise the powers of the President. If the general election is to be held within a year or less, the election of the Grand National Assembly of Turkey shall be renewed together with the election of the President. If the general election is to be held in over one year, the President [newly] elected shall continue to serve until the election date of the Grand National Assembly of Turkey. For the President who is completing that remaining period, this time-frame is not counted as the term of office. Both elections are held together at the date of the general elections of the Grand National Assembly of Turkey.

In the event of a temporary absence of the President of the Republic on account of illness, travel abroad, or similar circumstances, ~~until the President of the Republic resumes his/her functions, and in the event that the Presidency falls vacant as a result of death or resignation~~

~~or for any other reason, until the election of a new President of the Republic, the Speaker of the Grand National Assembly of Turkey shall serve as Acting President of the Republic and exercise the powers of the President of the Republic. the Vice-President shall serve as Acting President of the Republic and exercise the powers of the President of the Republic.~~

Vice-Presidents and ministers shall be appointed from among those eligible to be elected as deputies and dismissed by the President of the Republic

Vice-Presidents and ministers shall take their oaths before the Grand National Assembly of Turkey, as written in Article 81. If members of the Grand National Assembly of Turkey are appointed as Vice-Presidents or ministers, their parliamentary membership shall cease.

Vice-Presidents and ministers shall be accountable to the President. [Parliamentary] Investigation alleging that they committed a task-related crime may be requested against the Vice-Presidents and ministers through a motion tabled by an absolute majority of the total number of members of the Grand National Assembly of Turkey. The Assembly shall debate on this request within one month at the latest and may decide to open an investigation with a three-fifths majority in secret ballot.

Where a decision to launch an investigation is made, the investigation shall be conducted by a committee of fifteen members, chosen by lot, for each political party in the Assembly, separately from among three times candidates nominated for each seat reserved to party groups in proportion to their number of seats. The committee shall submit its report on the result of the investigation to the Office of the Speaker within two months. In case the investigation is not completed within the time allotted, the committee shall be granted a further and final period of one month.

Following its submission to the Office of the Speaker, the report shall be distributed within ten days and debated in the Plenary within ten days after its distribution. The Grand National Assembly of Turkey may decide to refer the case before the Supreme Court with two-thirds majority of the total number of members through secret ballot. Supreme Court trial shall be concluded in three months, if the trial is not completed within the time allotted, a further three months shall be granted for once, and the trial shall absolutely be completed within that time.

The alleged task-related offences committed during their terms of offices shall also be subject to the provisions of paragraphs (5), (6) and (7) after the termination of their duties.

The term of office of the Vice-President or minister, who is convicted by the Supreme Court of a crime that prevents from being elected, shall cease.

During the term of office, for the alleged offences which are not task-related, Vice-Presidents and ministers shall enjoy parliamentary immunity.

The formation, abolition, functions, powers and organisation, and formation of central and regional organisation of the ministries shall be regulated by presidential decrees.

~~G. General Secretariat of the President of the Republic~~

~~Article 107.~~

~~The establishment, the principles of organisation and functioning, and the appointment of personnel of the General Secretariat of the President of the Republic shall be regulated by Presidential decrees.~~

H. State Supervisory Council

Article 108.

The State Supervisory Council which shall be established attached to the Office of the Presidency of the Republic with the purpose of performing and furthering the regular and efficient functioning of the administration and its observance of law, will be empowered to conduct upon the request of the President of the Republic all ~~administrative investigations~~, enquiries, investigations, and inspections of all public bodies and organisations, all enterprises in which those public bodies and organisations share more than half of the capital, public professional organisations, employers' associations and labour unions at all levels, and public benefit associations and foundations.

~~The armed forces and~~ all judicial organs are outside the jurisdiction of the State Supervisory Council.

~~The members and the Chairperson from among the members~~ The Chairperson and the members of the State Supervisory Council shall be appointed by the President of the Republic ~~from among those with the qualifications set forth in the law.~~

The functioning of the State Supervisory Council, the term of office of its members, and other matters relating to their status shall be regulated by ~~law~~ presidential decree.

II. Council of Ministers

A. Formation

Article 109.

~~The Council of Ministers shall consist of the Prime Minister and the ministers.~~

~~The Prime Minister shall be appointed by the President of the Republic from among the members of the Turkish Grand National Assembly.~~

~~The ministers shall be nominated by the Prime Minister and appointed by the President of the Republic, from among the members of the Turkish Grand National Assembly, or from among those eligible for election as deputies; and they can be dismissed, by the President of the Republic, upon the proposal of the Prime Minister when deemed necessary.~~

B. Taking Office and Vote of Confidence

Article 110.

~~The complete list of members of the Council of Ministers shall be submitted to the Turkish Grand National Assembly. If the Turkish Grand National Assembly is in recess, it shall be summoned to meet.~~

~~The Government Programme of the Council of Ministers shall be read by the Prime Minister or by one of the ministers before the Turkish Grand National Assembly within a week of the formation of the Council of Ministers, following which a vote of confidence shall be taken. Debate on the vote of confidence shall begin two full days after the reading of the programme and the vote shall be taken one full day after the end of debate.~~

C. Vote of Confidence While in Office

Article 111.

~~If the Prime Minister deems it necessary, and after discussing the matter in the Council of Ministers he may ask for a vote of confidence in the Turkish Grand National Assembly.~~

~~The request for a vote of confidence shall not be debated before one full day has elapsed from the time it was submitted to the Turkish Grand National Assembly and shall not be put to vote until one full day has passed after debate.~~

~~A request for a vote of confidence shall be rejected only by an absolute majority of the total number of members.~~

~~D. Functions and Political Responsibilities~~

~~Article 112.~~

~~The Prime Minister, as Chairman of the Council of Ministers, shall ensure cooperation among the ministers, and supervise the implementation of the government's general policy. The members of the Council of Ministers are jointly responsible for the implementation of this policy.~~

~~Each minister shall be responsible to the Prime Minister and shall also be responsible for the conduct of affairs under his jurisdiction and for the acts and activities of his subordinates.~~

~~The Prime Minister shall ensure that the ministers exercise their functions in accordance with the Constitution and the laws and shall take corrective measures to this end.~~

~~The members of the Council of Ministers who are not deputies shall take their oath before the Turkish Grand National Assembly as written in Article 81, and during their term of office as ministers they shall abide by the rules and conditions to which deputies are subject and shall enjoy Parliamentary immunity. They receive the same salaries and allowances as members of the Turkish Grand National Assembly.~~

~~E. Formation of Ministries, and Ministers~~

~~Article 113.~~

~~The formation, abolition, functions, powers and organisation of the ministries shall be regulated by law.~~

~~A minister may act for another if a ministry is vacant or if the minister is on leave or absent for a valid reason. However, a minister shall not act for more than one other minister.~~

~~A minister who is brought before the Supreme Court by decision of the Turkish Grand National Assembly, shall lose his ministerial status. If the Prime Minister is brought before the Supreme Court, the Government shall be considered to have resigned.~~

~~If a ministry falls vacant for any reason, an appointment shall be made to it within fifteen days.~~

~~F. Provisional Council of Ministers During Elections~~

~~Article 114.~~

~~The Ministers of Justice, Internal Affairs and Communications shall resign prior to general elections to the Turkish Grand National Assembly.~~

~~Three days before the beginning of the elections or in the event of a decision to hold new elections before the end of the election term, within five days of this decision, the Prime Minister shall appoint independent persons from within or outside of the Turkish Grand National Assembly to these Ministries.~~

~~In the event of a decision to hold new elections under Article 116, the Council of Ministers shall resign and the President of the Republic shall appoint a Prime Minister to form a Provisional Council of Ministers.~~

~~The Provisional Council of Ministers shall be composed of members of the political party groups in proportion to their parliamentary membership with the exception of the ministers of Justice, Internal Affairs, and Communications, who shall be independent persons appointed from within or outside the Turkish Grand National Assembly.~~

~~The number of members to be taken from political party groups shall be determined by the President of the Turkish Grand National Assembly, and shall be communicated to the Prime Minister. Party members who do not accept the ministerial posts offered them, or who resign subsequently, shall be replaced by independent persons from within or outside of the Grand National Assembly of Turkey.~~

~~The Provisional Council of Ministers shall be formed within five days of the publication in the Official Gazette of the decision to hold new elections.~~

~~The Provisional Council of Ministers shall not be subject to a vote of confidence.~~

~~The Provisional Council of Ministers shall remain in office for the duration of the elections, and until the new Assembly convenes.~~

G. Regulations

Article 115.

~~The Council of Ministers may issue regulations governing the mode of implementation of laws or designating matters ordered by law, provided that they do not conflict with existing laws and are examined by the Council of State.~~

~~Regulations shall be signed by the President of the Republic and promulgated in the same manner as laws.~~

H. Calling Elections for the Turkish Grand National Assembly ~~by~~ and the President of the Republic

Article 116.

~~In cases where the Council of Ministers fails to receive a vote of confidence under Article 110 or falls by a vote of no confidence under Article 99 or 111, if a new Council of Ministers cannot be formed within forty-five days or fails to receive a vote of confidence, the President of the Republic, in consultation with the Speaker of the Grand National Assembly of Turkey, may decide to renew the elections.~~

~~If a new Council of Ministers cannot be formed within forty-five days of the resignation of the Prime Minister without being defeated by a vote of no confidence or also within forty-five days of elections for the Bureau of the newly elected Grand National Assembly of Turkey, the President of the Republic may likewise, in consultation with the Speaker of the Grand National Assembly of Turkey, decide to renew the elections.~~

~~The decision on the renewal of elections shall be published in the Official Gazette and the election shall be held.~~

~~The Grand National Assembly may decide to renew elections with a three-fifths majority of the total number of members. In this case, general election of the Grand National Assembly and presidential elections shall be held together. In the event that the President decides to renew the elections, general election of the Grand National Assembly and presidential elections shall be held together.~~

~~Where the renewal of the elections is decided by the Grand National Assembly of Turkey during the second term of the President, he/she may run [for the presidency] once more.~~

~~The powers of the Assembly and the President of the Republic of which the renewal of elections is decided together, shall continue until these organs take the offices.~~

~~The terms of offices of the Assembly and the President elected in this manner shall also be five years.~~

II. 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 Turkish Grand National Assembly and is represented by the President of the Republic.

The ~~Council of Ministers~~ **President of the Republic** shall be responsible to the Turkish Grand National Assembly for national security and for the preparation of the Armed Forces for the defence of the country.

The Chief of the General Staff, **appointed by the President of the Republic**, 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.

~~The Chief of the General Staff shall be appointed by the President of the Republic following the proposal of the Council of Ministers. His/her duties and powers shall be regulated by law. The Chief of the General Staff shall be responsible to the Prime Minister in the exercise of his/her duties and powers.~~

~~The functional relations of the Ministry of National Defence with the Chief of the General Staff and the Commanders of the Armed Forces and its scope of jurisdiction shall be regulated by law.~~

2. National Security Council

Article 118.

The National Security Council shall be composed of ~~the Prime Minister, the Chief of the General Staff, deputy prime ministers, Vice-Presidents~~, Ministers of Justice, National Defence, Internal Affairs, and Foreign Affairs, **the Chief of the General Staff**, the Commanders of the Army, Navy and Air Forces and the General Commander of the Gendarmerie, under the chairmanship of the President of the Republic.

Depending on the particulars of the agenda, Ministers and other persons concerned may be invited to meetings of the Council and their views heard.

The National Security Council shall submit to ~~the Council of the Ministers~~ **the President of the Republic** its views on the advisory decisions that are taken and ensuring the necessary condition with regard to the formulation, establishment, and implementation of the national security policy of the state. ~~The Council of Ministers~~ **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.

The agenda of the National Security Council shall be drawn up by the President of the Republic taking into account the proposals ~~the Prime Minister~~ of the ~~Vice-Presidents~~ and the Chief of the General Staff.

In the absence of the President of the Republic, the National Security Council shall meet under the chairmanship of ~~the Prime Minister~~ **the Vice-President**.

The organisation and duties of the General Secretariat of the National Security Council shall be regulated by ~~law~~ **presidential decree**.

~~III. Extraordinary administration procedures~~ State of emergency administration

~~A. States of emergency~~

~~1. Declaration of state of emergency because of natural disaster or serious economic crisis~~

Article 119.

~~In the event of natural disaster, dangerous epidemic diseases, or a serious economic crisis, the Council of Ministers, meeting under the chairmanship of the President of the Republic, The President of the Republic may declare state of emergency in one or more regions or throughout the country for a period not exceeding six months in the event of war, the emergence of a situation necessitating war, mobilization, uprising, strong and actual attempt against homeland and 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 which are aimed at the destruction of the constitutional order or the fundamental rights and freedoms, severely destruction of public order due to acts of violence, and emergence of natural disaster, dangerous pandemic disease or severe economic crises.~~

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

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

~~The Grand National Assembly of Turkey may extend the period of state of emergency for a maximum of four months each time upon the President's request. In the event of state of war, the limit of four months does not apply.~~

~~The financial, material and labour obligations which are to be imposed on citizens in the event of the declaration of state of emergency and the manner how fundamental rights and freedoms shall be restricted or suspended temporarily in line with the principles of Article 15, which provisions shall be applied, and how the procedures shall be exercised, shall be regulated by law.~~

~~During the state of emergency, the President of the Republic, may issue presidential decrees on the matters necessitated by the state of emergency without the limitation set forth in the second sentence of the seventeenth paragraph of Article 104. These decrees having the force of law shall be published in the Official Gazette, and shall be submitted to the Grand National Assembly of Turkey on the same day for approval.~~

~~Save for the situations that the Grand National Assembly of Turkey cannot convene due to war and force majeure; presidential decrees issued during the state of emergency shall be debated and concluded in the Grand National Assembly of Turkey within three months. Otherwise, the Presidential decree issued in the state of emergency shall ex officio cease to have effect.~~

~~2. Declaration of a State of Emergency on Account of Widespread Acts of Violence and Serious Deterioration of Public Order.~~

Article 120.

~~In the event of the emergence of serious indications of widespread acts of violence aimed at the destruction of the free democratic order established by the Constitution or of fundamental rights and freedoms, or serious deterioration of public order because of acts of violence, the Council of Ministers, meeting under the chairmanship of the President of the Republic, after consultation with the National Security Council, may declare a state of~~

~~emergency in one or more regions or throughout the country for a period not exceeding six months.~~

~~3. Rules Relating to the States of Emergency~~

~~Article 121.~~

~~In the event of a declaration of a state of emergency under the provisions of Articles 119 and 120 of the Constitution this decision shall be published in the Official Gazette and shall be submitted immediately to the Turkish Grand National Assembly for approval. If the Turkish Grand National Assembly is in recess, it shall be summoned immediately. The Assembly may alter the duration of the state of emergency, extend the period for a maximum of four months each time at the request of the Council of Ministers, or may lift the state of emergency.~~

~~The financial, material, and labour obligations which are to be imposed on citizens in the event of the declaration of state of emergency under Article 119, and, applicable according to the nature of each kind of state of emergency, the procedures as to how fundamental rights and freedoms shall be restricted or suspended in line with the principles of Article 15, how and by what means the measures necessitated by the situation shall be taken, what sort of powers shall be conferred on public servants, what kind of changes shall be made in the status of officials, and the procedure governing emergency rule shall be regulated by the Law on State of Emergency.~~

~~During the state of emergency, the Council of Ministers meeting under the chairmanship of the President of the Republic, may issue decrees having force of law on matters necessitated by the state of emergency. These decrees shall be published in the Official Gazette, and shall be submitted to the Turkish Grand National Assembly on the same day for approval; the time limit and procedure for their approval by the Assembly shall be indicated in the Rules of Procedure.~~

~~B. Martial Law, Mobilisation, and State of War~~

~~Article 122.~~

~~The Council of Ministers, under the chairmanship of the President of the Republic, after consultation with the National Security Council, may declare martial law in one or more regions or throughout the country for a period not exceeding six months, in the event of widespread acts of violence which are more dangerous than the cases necessitating a state of emergency and which are aimed at the destruction of the free democratic order or the fundamental rights and freedoms embodied in the Constitution; or in the event of war, the emergence of a situation necessitating war, an uprising, or the spread of violent and strong rebellious actions against the motherland and the Republic, or widespread acts of violence of either internal or external origin threatening the indivisibility of the country and the nation. This decision shall be published immediately in the Official Gazette, and shall be submitted for approval to the Turkish Grand National Assembly, on the same day. If the Turkish Grand National Assembly is in recess, it shall be summoned immediately. The Turkish Grand National Assembly may, when it deems necessary, reduce or extend the period of martial law or lift it.~~

~~During the period of martial law, the Council of Ministers meeting under the chairmanship of the President of the Republic may issue decrees having force of law on matters necessitated by the state of martial law.~~

~~These decrees shall be published in the Official Gazette and shall be submitted for approval to the Turkish Grand National Assembly on the same day. The time limit and procedures for their approval by the Assembly shall be indicated in the Rules of Procedure.~~

~~Extension of the period of martial law for a maximum of four months each time, shall require a decision of the Turkish Grand National Assembly. In the event of a state of war, the limit of four months does not apply.~~

~~In the events of martial law, mobilisation, and state of war, the provisions to be applied, and conduct of affairs, the relations with the administration, the manner in which freedoms are to be restricted or suspended, and the obligations to be imposed on the citizens in a state of war, or in the event of emergence of a situation necessitating war, shall be regulated by law. The Martial Law Commanders shall exercise their duties under the authority of the Office of the Chief of the General Staff.~~

IV. Administration

A. Fundamentals of the Administration

1. Integral Unity and Public Legal Personality of the Administration

Article 123.

The administration forms a whole with regard to its structure and functions, and shall be regulated by law.

The organisation and functions of the administration are based on the principles of centralization and local administration.

Public corporate bodies shall be established only by law, or on the authority expressly granted by law.

Article 124.

~~The Prime Ministry, The President of the Republic,~~ the ministries, and public corporate bodies may issue bylaws in order to ensure the application of laws and ~~regulations presidential decrees~~ relating to their particular fields of operation, provided that they are not contrary to these laws and ~~regulations presidential decrees~~. The law shall designate which bylaws are to be published in the Official Gazette.

B. Recourse to Judicial Review

Article 125.

Recourse to judicial review shall be available against all actions and acts of administration. National or international arbitration may be suggested to settle the disputes which arise from conditions and contracts under which concessions are granted concerning public services. Only those disputes involving foreign elements can be solved by international arbitration.

~~The acts of the President of the Republic in his/her own competence, and the decisions of the Supreme Military Council are outside the scope of judicial review. (Sentence added on September 12, 2010; Act No. 5982) Nonetheless,~~ 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.

In suits filed against administrative acts, the statute of limitations shall be effective from the date of written notification.

Judicial power is limited to the verification of the conformity of the actions and acts of the administration with law *and in no case it can be used as 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.

If the implementation of an administrative act should result in damages which are difficult or impossible to compensate for, and at the same time this act is clearly unlawful, then a stay of execution may be decided upon, stating the reasons why.

The law may restrict the issuing of stay of execution orders in cases of state of emergency, ~~martial law~~, mobilisation and state of war, and for reasons of national security, public order and public health.

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

C. Organisation 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 and economic conditions, and public service requirements; provinces are further divided into lower steps of administrative districts.

The administration of the provinces is based on the principle of devolution of wide powers. Central administrative organisations comprising several provinces may be established to ensure efficiency and coordination of public services. The functions and powers of this organisation shall be regulated by law.

2. Local Administrations

Article 127.

Local administrative bodies are public corporate entities established to meet the common local needs of the inhabitants of provinces, municipal districts and villages, whose decision-making organs are elected by the electorate as described in law, and whose principles of structure are also determined by law.

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

The elections for local administrations shall be held every five years in accordance with the principles set forth in Article 67. ~~However, general elections or by-elections for local administrative bodies or for members thereof, which are to be held within a year before or after the general elections or by-elections for deputies, shall be held simultaneously with the general elections or by-elections for deputies.~~ 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 trusteeship over the local governments 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 integral unity of the administration, securing uniform public service, safeguarding the public interest and meeting local needs, in an appropriate manner.

The formation of local administrative bodies into a union with the permission of the ~~Council of Ministers~~ **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 are assigned to perform, in accordance with principles of general administration, shall be carried out by public servants and other public employees.

The qualifications of public servants and other public employees, procedures governing their appointments, duties and powers, their rights and responsibilities, salaries and allowances, and other matters related to their status shall be regulated by law, *without prejudice to provisions on collective agreement concerning financial and social rights*.

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

2. Duties and Responsibilities, and Guarantees During Disciplinary Proceedings

Article 129.

Public servants and other public employees are obliged to carry out their duties within loyalty to the Constitution and the laws.

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

Disciplinary decisions shall be subject to judicial review.

Provisions concerning the members of the Armed Forces, judges, and prosecutors are reserved.

Actions for damages arising from faults committed by public servants and other public employees in the exercise of their duties shall be brought only against the administration in accordance with the procedures and conditions prescribed by law, and subject to recourse to them.

Prosecution of public servants and other public employees 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 under a system of contemporary education and training principles and meeting the needs of the nation and the country, universities comprising several units will be established by the State and by law as public corporations having autonomy in teaching, assigned to educate, train at different levels after secondary education, and conduct research, to act as consultants, to issue publications, and to serve the country and humanity.

Institutions of higher education, under the supervision and control of the State, can be established by foundations in accordance with the procedures and principles set forth in the law provided they do not pursue lucrative aims.

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 directed 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 control and supervision of the State and their security is ensured by the State.

University rectors shall be appointed by the President of the Republic, and faculty deans by the Higher Education Council, 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 university or by the Higher Education Council.

The budgets drawn up by universities, after being examined and approved by the Higher Education Council shall be presented to the Ministry of National Education, and shall be put into effect and supervised in conformity with the principles applied to general and subsidiary budgets.

The establishment of institutions of higher education and 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 organisations, 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, conditions to be conformed with 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 Higher Education Council 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 State institutions of higher education, as regards the academic activities, recruitment of teaching staff and security, excepting the financial and administrative matters.

2. Superior Bodies of Higher Education

Article 131.

The Higher Education Council shall be established to plan, organise, 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 the training of the teaching staff.

The Higher Education Council is composed of members appointed by the President of the Republic from among candidates who are nominated by ~~the Council of Ministers and~~

universities, and in accordance with the numbers, qualifications and procedures prescribed by law, priority being given to those who have served successfully as faculty members or rectors, and of members directly appointed by the President of the Republic.

The organisation, 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 security organisation are subject to the provisions of their respective special laws.

F. Radio and Television Administration and News Agencies with State Connection

Article 133.

Radio and television stations shall be established only by the State, and shall be administered by an impartial corporate body.

The law shall provide that broadcasts are made in a manner to safeguard the existence and independence of the Turkish State, the indivisible integrity of the country and the nation, the peace of society, public morals, and the fundamental characteristics of the Republic as outlined in Article 2 of the Constitution; and, it shall observe the principle of impartiality in the administration and supervision of the Corporation, in the formation of its administrative organs, and in all radio and television broadcasts.

The principles governing the selection, treatment and presentation of news and programmes, the fulfillment of the task to aid the national culture and education, and the principles of ensuring the accuracy of the news; and the election, functions, and responsibilities of the organs shall be regulated by law.

The provisions of paragraph 2 above shall also apply to those news agencies having the character of state economic enterprises and to those receiving financial aid from the State or other public corporate bodies.

G. The Ataturk High Institution of Culture, Language, and History

Article 134.

The "Ataturk High Institution of Culture, Language, and History" shall be established, as a public corporate body, under the moral aegis of Ataturk, under the supervision and with the support of the President of the Republic, attached to ~~Office of the Prime Minister~~ the **Minister to be assigned by the President of the Republic** and composed of the Ataturk Center of Research, the Turkish Language Society, the Turkish Historical Society, and the Ataturk Cultural Center, in order to conduct scientific research, to produce publications and to disseminate information on the thought, principles, and reforms of Ataturk, Turkish culture, Turkish history, and the Turkish language.

The financial income of the Turkish Language Society and Turkish Historical Society, bequeathed to them by Ataturk in his will, are reserved and shall be allocated to them accordingly.

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

H. Public Professional Organisations

Article 135.

Public professional organisations and their higher organisations 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 regularly employed in public institutions, or in state economic enterprises shall not be required to become members of public professional organisations.

These professional organizations shall not engage in activities outside the aims for which they are established.

Political parties shall not nominate candidates in elections for the organs of these professional organizations or their higher bodies.

The rules concerning the administrative and financial supervision of these professional organizations by the state shall be prescribed by law.

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.

However, in cases where delay endangers national security, public order and in cases where it is necessary to prevent the perpetration or the continuation of a crime or to effect an arrest, an authority designated by law may be vested with power to suspend professional organizations from activity. The decision of the said authority shall be submitted for approval to the responsible judge within twenty-four hours. Unless the judge declares a decision within forty-eight hours, this administrative decision is annulled automatically.

I. Department of Religious Affairs

Article 136.

The Department 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 Orders

Article 137.

A person employed in public services, irrespective of his position or status when he finds an order given by his superiors to be contrary to the provisions of bylaws, **regulations, presidential decrees**, laws, or the Constitution shall not carry it out, and shall inform the person giving the order of this inconsistency. However, if his superior insists on the order and renews it in writing, this 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.

PART 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 judgement in accordance with the Constitution, law, and their personal conviction conforming with the law. No organ, authority, office, or individual may give orders or instructions to courts or judges relating to the exercise of judicial power, or send them circulars, make recommendations or suggestions.

No question shall be asked, debated held, or statement 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 Judge and Public Prosecutors

Article 139.

Judges and public prosecutors shall not be dismissed, or 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 court or 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 on account of ill health, and those determined 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 courts of justice and of administrative courts. These duties shall be carried out by career judges and public prosecutors.

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

The qualifications, appointment, rights and duties, salaries and allowances of judges and public prosecutors, their promotion, temporary or permanent change of their duties or posts, the initiation of disciplinary proceedings against them and the subsequent 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 exercise their duties until they complete the age of sixty-five; the age limit, promotion, and the retirement of military judges shall be prescribed by law. Judges and public prosecutors shall not assume official or public functions other than those prescribed by law.

Judges and public prosecutors shall be attached to the Ministry of Justice insofar as their administrative functions are concerned.

Those judges and public prosecutors working in administrative posts of the justice service 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 the Hearings and Verdict Justification

Article 141.

Court hearings shall be open to the public. It may be decided to conduct all or part of the hearings in closed session only in cases where required absolutely for reasons of public morality or public security.

Special provisions shall be provided in the law with respect to the trial of minors.

The decisions of all courts shall be made in writing with a statement of justification.

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

E. Organisation of Courts

Article 142.

The organisation, functions and jurisdictions of the courts, their functioning, and trial procedures shall be regulated by law.

No military courts shall be formed other than disciplinary courts. However, in state of war, military courts shall be formed with jurisdiction to try offences committed by military personnel related to their duties.

F. Courts of the Security of the State

Article 143.

Repealed

G. Supervision of Judges and Public Prosecutors

Article 144.

Supervision, inquiry, inspection and investigation proceedings 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 inspectors who are from the profession of judge and public prosecutor. The procedures and principles regarding supervision shall be laid down in law.

H. Military Justice

Article 145.

~~Military justice shall be exercised by military courts and military disciplinary courts. These courts shall only have jurisdiction to try military personnel for military offences related to military services and duties. Cases regarding crimes against the security of the State, constitutional order and its functioning shall be heard before the civil courts in any event.~~

~~Non-military personnel shall not be tried in military courts, except war time.~~

~~The offences and persons falling within the jurisdiction of military courts in time of war, their organisation and the appointment, where necessary, of judges and public prosecutors from civil courts to military courts shall be regulated by law.~~

~~The organisation of military judicial organs, their functions, matters relating to the status of military judges, relations between military judges acting as military prosecutors and the office of commander under which they serve, shall be regulated by law in accordance with the principles of the independence of courts and the security of tenure of judges.~~

II. Higher Courts

A. The Constitutional Court

1. Organisation

Article 146.

The Constitutional Court shall be composed of ~~seventeen~~ **fifteen** members.

Turkish Grand National Assembly (TGNA) shall elect two members among the presidents and members of the Court of Auditors, from among three candidates to be nominated for each vacant position, and one member by secret ballot, from among three candidates nominated from among self-employed lawyers by the heads of the Bar Associations. In this election to be carried out in the TGNA, two thirds majority of the component members for each vacant position shall be required for the first ballot, and absolute majority of component 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.

The President of the Republic shall choose three members from High Court of Appeals, two members from Council of State, ~~one member from the High Military Court of Appeals, and one member from the High Military Administrative Court~~ from among three candidates to be nominated for each vacant position by their respective plenary assemblies; shall choose three members from among three candidates to be nominated for each vacant position by the Council of Higher Education from among academicians in the fields of law, economics and political sciences who are not members of the Council; shall choose four members from among high level executives, self-employed lawyers, first category judges and public prosecutors or rapporteurs of the Constitutional Court.

In the elections to be held in the respective plenary assemblies of the High Court of Appeals, Council of State, Military High Court of Appeals, High Military Administrative Court, the Court of Auditors 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 nominated for each vacant position.

In the elections to be held for the three candidates nominated from among self-employed lawyers by the heads of Bar Associations, three persons obtaining the greatest number of votes shall be nominated.

To qualify for appointments as members of the Constitutional Court; academicians shall be required to possess the title of associate professor or 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 are all 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 component members. They may be re-elected at the end of their term of office.

The members of the Constitutional Court shall not assume other official and private functions, apart from their main functions.

2. Term of office of the members and termination of membership

Article 147.

The members of the Constitutional Court shall be elected for a term of twelve years. A member shall not be re-elected.

The members of the Constitutional Court shall retire on reaching 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 employment rights shall be laid down in law.*

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

3. Functions and Powers

Article 148.

The Constitutional Court shall examine the constitutionality, in respect of both form and substance, of laws, decrees having the force of law, and the Rules of Procedure of the Turkish Grand National Assembly (TGNA) *and decide on individual applications.*

Constitutional amendments shall be examined and verified only with regard to their form. However, no action shall be brought before the Constitutional Court alleging unconstitutionality as to the form or substance of decrees having the force of law issued during a state of emergency, ~~martial law~~ or in time of war.

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 urgent procedure was complied with. Verification as to form may be requested by the President of the Republic or by one-fifth of the members of the TGNA. Applications for annulment on the grounds of defect in form shall not be made more than ten days after the date.

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.

In the individual application, judicial review shall not be made for matters which would be taken into account during the process of recourse to legal remedies.

Procedures and principles concerning the individual application shall be laid down in law.

The President of the Republic, *the Speaker of the TGNA*, members of the Council of Ministers, presidents and members of the Constitutional Court, of the High Court of Appeals, of the Council of State, ~~High Military Court of Appeals, High Military Administrative Court,~~ their Chief Public Prosecutors, Deputy Public Prosecutors of the High Court of Appeals, and the presidents and members of the ~~Supreme~~ Council of Judges and Public Prosecutors, and of the Court of Auditors shall be tried for offences relating to their functions by the Constitutional Court in its capacity as the Supreme Court.

The Commander of Turkish Armed Forces (Chief of Staff), the Commanders of the Land Forces, Naval Forces and Air Forces ~~and the General Commander of the Gendarmerie~~ shall be tried for offences relating to their functions in the Supreme Court.

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

Applications for judicial review can be made against the decisions of the Supreme Court. Decisions taken by the plenary assembly regarding this application shall be final.

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

4. Functioning and Trial Procedure

Article 149.

Constitutional Court consists of two sections and a plenary assembly. The sections convene under the chairmanship of the deputy president with the participation of four members under the chairmanship of the head of the chamber. The plenary assembly shall convene with the participation of at least ~~twelve~~ ~~ten~~ members under the chairmanship of the President of the Constitutional Court or a deputy president appointed by the president. The sections and the plenary assembly shall take decisions by absolute majority. Preliminary investigation committees may be established to examine the admissibility of the individual applications

The plenary assembly shall hear the cases and applications concerning political parties, actions for annulment and objection and trials where it acts as the Supreme Court, 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.

The Constitutional Court shall give priority to the consideration of, and to decisions on, applications for annulment on the grounds of defect in form.

The organisation of the Constitutional Court and trial procedures of the plenary assembly and the sections, disciplinary matters of the president, the deputy presidents and members shall be laid down in law; its operating principles, organisation of the sections and commissions, and the division of labour shall be set out by the Rules of Procedure drawn up by the Court.

The Constitutional Court shall examine cases on the basis of documents in the case file, except where it acts as the Supreme Court. Nonetheless, it may be decided to hold a hearing for individual applications. When it deems necessary, the Court also may call on those concerned and those having knowledge relevant to the case, to present oral explanations and in lawsuits on whether to permanently dissolve a political party or not, the Constitutional Court shall hear the defence of the chairman of the party whose dissolution is in process or of a proxy appointed by the chairman, after the Chief Public Prosecutor of the High Court of Appeals.

5. Annulment Action

Article 150.

The President of the Republic, ~~Parliamentary groups of the party in power and of the main opposition party~~ the groups of two political parties which have the highest number of members in the Grand National Assembly of Turkey and a minimum of one-fifth of the total number of members of the Turkish Grand National Assembly shall have the right to apply for annulment action to the Constitutional Court, based on the assertion of the unconstitutionality of laws in form and in substance, of ~~presidential decrees~~ ~~decrees having force of law~~, of Rules of Procedure of the Turkish Grand National Assembly or of specific articles or provisions thereof. ~~If more than one political party is in power, the right of the parties in power to apply for annulment action shall be exercised by the party having the greatest number of members.~~

6. Time Limit for Annulment Action

Article 151.

The right to apply for annulment directly to the Constitutional Court shall lapse sixty days after the publication in the Official Gazette of the contested law, ~~the decree having the force of law~~, ~~the presidential decree~~ or the Rules of Procedure.

7. Contention of Unconstitutionality before Other Courts

Article 152.

If a court which is trying a case finds that the law or ~~the decree having the force of law~~ ~~presidential decree~~ to be applied is unconstitutional, or if it is 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 this issue.

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

The Constitutional Court shall decide on the matter and make public its judgement within five months of receiving the contention. If no decision is reached within this period, the trial court shall conclude the case under existing legal provisions. However, if the decision on the merits of the case becomes final, the trial court is obliged to comply with it.

No allegation of unconstitutionality shall be made with regard to the same legal provision until ten years elapse after the 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 cannot be made public without a written statement of reasons.

In the course of annulling the whole or a provision of laws or ~~decrees having the force of law~~ ~~presidential decrees~~, the Constitutional Court shall not act as a lawmaker and pass judgement leading to new implementation.

Laws, ~~decrees having the force of law~~, ~~presidential decrees~~, or the Rules of Procedure of the Turkish Grand National Assembly or provisions thereof, shall cease to have that 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 date shall not be more than one year from the date of the publication of the decision in the Official Gazette.

In the event of the postponement of the date on which an annulment decision is to come into effect, the Turkish Grand National Assembly shall debate and decide with priority on a ~~government bill or~~ a law proposal, designed to fill the legal void arising from the annulment decision.

The annulment decision cannot have retroactive effect.

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. The High Court of Appeals

Article 154.

The High Court of Appeals is the last instance for reviewing decisions and judgements given by courts of justice and which are not referred by law to other judicial authority. It shall also be the first and last instance for dealing with specific cases prescribed by law.

Members of the High Court of Appeals shall be appointed by the ~~High~~ Council of Judges and Public Prosecutors from among the first category of judges and public prosecutors of the Republic of the courts of justice, or those considered to be 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 division shall be elected by the Plenary 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; then may be reelected at the end of their term of office.

The Chief Public Prosecutor of the Republic and the Deputy Chief Public Prosecutor of the Republic 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 nominate for each office by the Plenary Assembly of the High Court of Appeals from among its own members by secret ballot. They may be reelected at the end of their term of office.

The organisation, the functioning, the qualifications and procedures of election of the President, deputy presidents, the heads of division and members and the Chief Public Prosecutor of the Republic and the Deputy Chief Public Prosecutor of the Republic of the High Court of Appeals 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 judgements given by administrative courts and which are 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.

The Council of State shall try administrative cases, give its opinion within two months of time ~~on draft legislation~~, on the conditions and the contracts under which concessions are granted concerning public services, ~~which are submitted by the Prime Minister and the Council of Ministers, examine draft regulations,~~ settle administrative disputes and discharge other duties, as prescribed by law.

Three-fourths of the members of the Council of State shall be appointed by the **Supreme** Council of Judges and Public 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 president, and heads of division of the Council of State shall be elected by the Plenary 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, the functioning, the qualifications and procedures of election of the president, the chief public prosecutor, the deputy presidents and the heads of division and the members of the Council of State, 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. Military High Court of Appeals

Article 156.

~~The Military High Court of Appeals is the last instance for reviewing decisions and judgements given by military courts. It shall also be the first and last instance for dealing with specific cases designated by law concerning military personnel.~~

~~Members of the Military High Court of Appeals shall be appointed by the President of the Republic from among three candidates nominated for each vacant office by the Plenary Assembly of the Military High Court of Appeals from among military judges of the first category, by secret ballot and by an absolute majority of the total number of members.~~

~~The President, Chief Public Prosecutor, second presidents and heads of division of the Military High Court of Appeals shall be appointed according to rank and seniority from among the members of the Military High Court of Appeals.~~

~~The organisation and functioning of the Military High Court of Appeals, and disciplinary and personnel matters of its members shall be regulated by law in accordance with *the principles* of the independence of the courts and the security of tenure of judges.~~

E. High Military Administrative Court of Appeals

Article 157.

~~The High Military Administrative Court of Appeals shall be the first and last instance for the judicial supervision of disputes arising from administrative acts and actions involving military personnel or relating to military service, even if such acts and actions have been carried out by civilian authorities. However, in disputes arising from the obligation to perform military service, there shall be no condition that the person concerned be a member of the military body.~~

~~Members of the High Military Administrative Court of Appeals who are military judges shall be appointed by the President of the Republic from a list of three candidates nominated for each vacant office by the President and members of the Court, who are also military judges, by secret ballot and by an absolute majority of the total number of such members, from among military judges of the first category; members who are not military judges shall be appointed by the President of the Republic from a list of three candidates nominated for~~

~~each vacant office by the Chief of the General Staff from among officers holding the rank and qualifications prescribed by law.~~

~~The term of office of members who are not military judges shall not exceed four years.~~

~~The President, Chief Public Prosecutor and head of division of the Court shall be appointed from among military judges according to rank and seniority.~~

~~The organisation, functioning and trial procedures of the High Military Administrative Court, and disciplinary and personnel matters of its members shall be regulated by law in accordance with the principles of the independence of the courts and the security of tenure of judges.~~

F. Jurisdictional Conflict Court

Article 158.

The Jurisdictional Conflict Court shall be empowered to deliver final judgements in disputes between ~~civil, administrative, and military~~ **civil and administrative** courts concerning their jurisdiction and decisions.

The organisation of the Jurisdictional Conflict Court, the qualifications of its members and the procedure for their election, 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. High Council of Judges and Public Prosecutors

Article 159.

The **High** 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.

The **High** Council of Judges and Prosecutors shall be composed of ~~twenty-two regular and twelve substitute~~ **thirteen** members; shall comprise ~~three~~ **two** chambers.

The President of the Council is the Minister of Justice. The Undersecretary to the Ministry of Justice shall be an ex-officio member of the Council. ~~For a term of four years, four regular members of the Council, the qualities of whom are defined by law, shall be appointed by the President of the Republic from among members of the teaching staff in the field of law, and lawyers; three regular and three substitute members shall be appointed by the General Assembly of the High Court of Appeals from among members of the High Court of Appeals; two regular and two substitute members shall be appointed by the General Assembly of the Council of State from among members of the Council of State; one regular and one substitute member shall be appointed by the General Assembly of the Justice Academy of Turkey from among its members; seven regular and four substitute members shall be elected by civil judges and public prosecutors from among those who are first category judges and who have not lost the qualifications required for being a first category judge; three regular and two substitute members shall be elected by administrative judges and public prosecutors from among those who are first category judges and who have not lost the qualifications required for being a first category judge. By the President of the Republic, three members of the Council shall be selected among judges and public prosecutors, who are first category judges and who have not lost the qualifications required for being a first category judge, in ordinary justice and one member among administrative judges and~~

public prosecutors who are first category judges and who have not lost the qualifications required for being a first category judge; by the Grand National Assembly of Turkey, three members shall be selected from among members of the Court of Cassation, one member shall be selected from among members of the Council of State and three members, the qualifications of whom are defined by law, from among academic members in the field of law of high education institution and lawyers. Among the members elected from academic members and lawyers, at least one shall be an academic member and one shall be a lawyer. The applications for the memberships to be elected by the Grand National Assembly of Turkey shall be made to the Office of the Speaker of the Assembly. The Office of the Speaker conveys the applications to the Joint Committee composed of members of the Committee on Justice and the Committee on Constitution. The [Joint] Committee shall elect three candidates for each vacancy with a two-thirds majority of total number of members. If the procedure of electing candidates cannot be concluded in the first round, a three-fifth majority of total number of members shall be required in the second round. If the candidates cannot be elected in this round as well, the procedure of electing candidates shall be completed by choosing a candidate by lot, for each membership among the two candidates who have received the highest number of votes. The Grand National Assembly of Turkey shall hold a secret ballot election for the candidates the Committee has identified. In the first round a two-thirds majority of total number of members shall be required; in case the election cannot be concluded in this round, in the second round a three-fifth majority of total number of members shall be required. Where the member cannot be elected in the second round as well, the election shall be completed by choosing a candidate by lot among the two candidates who have received the highest number of votes.

Members shall be elected or selected for a four year term. They may be re-elected at the end of their term of office.

The election or selection of members to the Council shall be held within thirty days before the expiry of the term of office of the members. In case of vacancies for members selected to the Council prior to the expiry of the term of office, new members shall be appointed within thirty days following the vacancy.

~~Election of members to the Council shall be held within sixty days before the expiry of the term of office of the members. In case of vacancies for members appointed to the Council by the President of the Republic prior to the expiry of the term of office, new members shall be appointed within sixty days following the vacancy. In case of vacancy for other members, the remaining term of office shall be completed by the substitute.~~

~~In the elections in which every member shall vote for the members to be elected to the High Council by general assemblies of the High Court of Appeals, the Council of State and the Justice Academy of Turkey and in which every judge and prosecutor shall vote for the members to be elected to the High Council from among first category judges and public prosecutors of civil and administrative courts; the candidates receiving the greatest number of votes shall be elected as regular and substitute members respectively. These elections shall be held once for each term and by secret ballot.~~

The **regular** members of the Council, other than the Minister of Justice and the Undersecretary to the Ministry of Justice, shall not assume any duties other than those prescribed by law or be appointed or elected to another office by the Council during their term of office.

The administration and the representation of the Council are carried out by the President of the Council. The President of the Council shall not participate in the work 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 make the proceedings regarding the admission of judges and public prosecutors of civil and administrative courts into the profession, appointment, transfer to other posts, the delegation of temporary powers, promotion, and promotion to the first category, decision concerning those whose continuation in the profession is found to be unsuitable, the imposition of disciplinary penalties and removal from office; it shall take final decisions on proposals by 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.

Supervision of judges and public prosecutors with regard to the performance of their duties in accordance with laws, ~~regulations, by laws and circulars~~ and other legislations (administrative circulars, in the case of judges); investigation into 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 carried out by the Council's inspectors, upon the proposal of the related chambers and with the permission of the President of the **High** Council of Judges and Prosecutors. The inquiries and investigations may also be carried out by 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 is empowered to appoint, with their consent, the Council's inspectors, judges, and public prosecutors to temporary or permanent functions in the Council.

The Minister of Justice is empowered to appoint judges, public prosecutors, judiciary inspectors, and internal auditors from the profession of judge and public prosecutor, with their consent, to temporary or permanent functions in the central, affiliated, or relevant institutions of the Ministry of Justice.

The election of the members of the Council, formation of the chambers and the division of labour between chambers, the duties of the Council and its chambers, quorum for meetings and decisions, operating procedures and principles, objections to be made against the decisions and proceedings of the chambers and the examination procedure for these objections, and the establishment and the duties of the Secretariat General shall be laid down in law.

IV. Audit Court

Article 160.

The Audit Court shall be charged with auditing, on behalf of the Turkish Grand National Assembly, all accounts related to revenues, expenditures and properties of the government departments financed by general and subsidiary budgets, with taking final decisions on the acts and accounts of the responsible officials, and with exercising the functions required of it by law in matters of inquiry, auditing and judgment. Parties concerned may file a single request for reconsideration of a final decision of the Audit Court 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.

Regarding taxes and similar financial obligations, when there is disagreement between the decisions of the Council of State and the Audit Court, the Council of State's will prevail.

The supervision and final decision on the accounts of local administrations are made by the Audit Court.

The establishment, functioning, supervisory procedures, qualifications, appointments, tasks and duties, rights and obligations and other matters concerning the status of its members and guarantees of the President and the members of the Court shall be regulated by law.

PART FOUR FINANCIAL AND ECONOMIC PROVISIONS

CHAPTER ONE FINANCIAL PROVISIONS

I. Budget

A. ~~Preparation and implementation of the budget~~ Budget and final accounts

Article 161.

The expenditures of the State and those 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 special periods and procedures for investments, or for business and services expected to last more than one year shall be defined by law.~~ No provisions other than those pertaining to the budget shall be included in the Budget Act.

~~The President shall submit central government budget bill to the Grand National Assembly of Turkey at least seventy-five days prior to the beginning of the fiscal year. The budget bill shall be examined by the Committee on Budget. The budget bill adopted by the Committee on Budget within fifty-five days shall thereafter be debated and concluded by the Plenary before the beginning of the fiscal year.~~

~~In case the budget law cannot be put into force in time, a provisional budget shall be adopted. Where a provisional budget cannot be adopted then the budget of the previous year increased by the revaluation rate shall be applied.~~

~~Members of the Grand National Assembly of Turkey shall express their opinions, in the Plenary, on public administrations' budgets during the debates of each budget; they shall not make proposals that entail an increase in expenditure or a decrease in revenue.~~

~~In the Plenary, public administrations' budgets and motions for amendments shall be read out and voted without debate.~~

~~The appropriation granted by the central government budget shall indicate the limit of expenditure allowed. No provision shall be included in the budget to the effect that the limit of expenditure may be exceeded by a Presidential Decree.~~

~~In motions of amendment entailing an increase in appropriations under the budget of the current fiscal year, and, in 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 at the latest after the end of the relevant fiscal year. The Court of Accounts shall submit its statement of general conformity to the Assembly within seventy-five days of the submission of the final accounts bill to which it is related.

The submission of the final accounts bills and the statement of general conformity to the Grand National Assembly of Turkey shall not preclude the auditing and trial of the accounts for the relevant fiscal year that have not been concluded by the Court of Accounts, and shall not mean that a final decision has been taken on these accounts.

Final accounts bills shall be debated and decided in conjunction with the budget bill of the new fiscal year.

B. Debate on the Budget

Article 162.

~~The Council of Ministers shall submit the draft of general and subsidiary budgets and the report containing the national budgetary estimates to the Turkish Grand National Assembly at least seventy five days before the beginning of the fiscal year.~~

~~The draft budgets and the reports shall be considered by the Budget Committee, which shall be composed of forty members. In the composition of this Committee, the proportional representation of the various political party groups and independent members in the Assembly, shall be taken into consideration subject to the allocation of at least twenty-five seats to members of the party or parties in power.~~

~~The draft budget, which shall be adopted by the Budget Committee within fifty five days, shall thereafter be considered by the Assembly and shall be decided on before the beginning of the fiscal year.~~

~~Members of the Turkish Grand National Assembly shall express their opinions on ministerial, departmental and subsidiary budgets during the debates held in Plenary Session on each budget as a whole; the various headings and motions for amendments shall be read out and put to the vote without separate debate.~~

~~During debates in the plenary session on the draft Budget Act, members of the Turkish Grand National Assembly shall not make proposals which entail an increase in expenditure or a decrease in revenue.~~

C. Principles Governing Budgetary Amendments

Article 163.

~~The appropriations granted under the general and subsidiary budgets shall indicate the limit of expenditure allowed. No provisions shall be included in the budget to the effect that the limit of expenditure may be exceeded in pursuance of a decision of the Council of Ministers. The Council of Ministers shall not be empowered to amend the budget by a decree having force of law. In draft amendments entailing an increase in appropriations under the budget for the current fiscal year and, in draft laws and law proposals providing for additional financial commitments in the budgets for the current or following year, the financial resources which would meet the stated expenditure shall be indicated.~~

D. Final Account

Article 164.

~~Draft final accounts shall be submitted to the Turkish Grand National Assembly by the Council of Ministers within seven months of the end of the relevant fiscal year, unless a shorter period is prescribed by law. The Audit Court shall submit its notice of conformity to the Turkish Grand National Assembly within seventy-five days of the submission of the draft final accounts in question.~~

~~The draft final accounts shall be placed on the agenda of the Budget Committee together with the Draft Budget Act for the new fiscal year. The budget Committee shall submit the draft Budget Act to the Plenary Assembly in conjunction with the draft final accounts; the Plenary Assembly shall consider, and decide on, the draft final accounts in conjunction with the draft Budget Act for the new fiscal year.~~

~~The submission of the draft final accounts and the notice of conformity to the Turkish Grand National Assembly shall not preclude the auditing of accounts for the relevant year which have not already been dealt with by the Audit Court and shall not indicate that a final decision has been taken on these accounts.~~

E. Auditing of State Economic Enterprises

Article 165.

The principles governing the auditing, by the Turkish Grand National Assembly of the accounts of public establishments and partnerships in which more than half of the capital directly or indirectly belongs to the State, shall be regulated by law.

**CHAPTER TWO
ECONOMIC PROVISIONS**

I. Planning

Article 166.

The planning of economic, social and cultural development, in particular the speedy, balanced, and harmonious development of industry and agriculture throughout the country, and the efficient use of national resources on the basis of detailed analysis and assessment and the establishment of the necessary organisation for this purpose are the duty of the State. Measures to increase national thriftiness and production, to ensure stability in prices and balance in foreign trade transactions, to promote investment and employment, shall be included in the plan; in investments, public benefit and requirements shall be taken into account; the efficient use of resources shall be aimed at. Development activities shall be realised according to this plan.

The procedure and principles governing the preparation of development plans, their approval by the Turkish Grand National Assembly, their implementation and their revision, and of the prevention of amendments liable to affect the unity of the plan shall be regulated by law.

The Economic and Social Council shall be established to provide ~~the government the~~ **President of the Republic** with consultative opinions in the formulation of economic and social policies. The establishment and functioning of the Economic and Social Council shall be laid down in law.

II. Supervision of Markets and Regulation of Foreign Trade

Article 167.

The State shall take measures to ensure and promote the sound, orderly functioning of the money, credit, capital, goods and services markets; and shall prevent the formation, in practice or by agreement, of monopolies and cartels in the markets.

In order to regulate foreign trade for the benefit of the economy of the country, ~~Council of Ministers~~ the ~~President of the Republic~~ may be empowered by law to introduce or lift additional financial impositions on imports, exports, and other foreign transactions, in addition to tax and similar impositions.

III. Exploration and Exploitation of Natural Resources

Article 168.

Natural wealth and resources shall be placed under the control and at the disposal of the State. The right to explore and exploit them belongs to the State. The State may delegate this right to individuals or public corporations for specific periods. Of the natural wealth and resources, those to be explored and exploited by the State in partnership with individuals or public corporations, and those to be directly explored and exploited by individuals or public corporations shall be subject to the explicit permission of the law. The conditions to be observed in such cases by individuals and public corporations, 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 Inhabitants of Forest Villages

A. Protection and Development of Forests

Article 169.

The State shall enact the necessary legislation and take the necessary measures for the protection of forests and the extension of their areas. Forest areas destroyed by fire shall be reforested; other agricultural and stock breeding 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 to others. State forests shall be managed and exploited by the State in accordance with the law. Ownership of these forests cannot be acquired through prescription, nor shall servitude other than that in the public interest be imposed in respect of such forests.

Act and actions which might damage forests shall not be permitted. No political propaganda which might lead to the destruction of forests shall be made; no amnesties or pardons to be specifically granted for offences against forests shall be legislated. 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 on other occasions.

The restraining of forest boundaries shall be prohibited, except in respect of areas whose preservation as forests is considered technically and scientifically useless, but whose conversion into agricultural land has been found definitely advantageous, and in respect of fields, vineyards, orchards, olive groves, or similar areas which technically and scientifically ceased to be forest before 31 December 1981 and whose use for agricultural or stock breeding purposes has been found advantageous, and in respect of built up areas in the vicinity of cities, towns, or villages.

B. Protection of the Inhabitants of Forest Villages

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 their conservation and improving the living conditions of their inhabitants; the law shall also regulate the development of areas which technically and scientifically ceased to be forests before 31 December 1981, the identification of areas whose preservation as forest is considered technically and scientifically useless, their exclusion from forest boundaries, 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, by these inhabitants, of farming equipment and other inputs.

The land owned by villager resettled outside a forest shall immediately be reforested as a state forest.

V. Promotion of Cooperatives

Article 171.

The state shall take measures in keeping with national and economic interests, to promote the development of cooperatives, which shall be primarily designed to increase production and protect consumers.

VI. Protection of Consumers, Small Traders, and Craftsmen

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 Small Traders and Craftsmen

Article 173.

The State shall take measures to protect and support small traders and craftsmen.

**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 civilisation and to safeguard the secular character of the Republic, and which were in force on the date of the adoption by referendum of the Constitution of Turkey.

1. Act No. 430 of 3 March 1340 (1924) on the Unification of the Educational System;
2. Act No. 671 of 25 November 1341 (1925) on the Wearing of Hats;
3. Act No. 677 of 30 November 1341 (1925) on the Closure of Dervish Convents and Tombs, the Abolition of the Office of Keeper of Tombs and the Abolition and Prohibition of Certain Titles;

4. The principle of civil marriage according to which the marriage act shall be concluded in the presence of the competent official, adopted with the Turkish Civil Code No. 743 of 17 February 1926, and Article 110 of the Code;
5. Act No. 1288 of 20 May 1928 on the Adoption of International Numerals;
6. Act No. 1353 of 1 November 1928 on the Adoption and Application of the Turkish Alphabet;
7. Act No. 2590 of 26 November 1934 on the Abolition of Titles and Appellations such as Efendi, Bey or Pasa;
8. Act No. 2596 of 3 December 1934 on the Prohibition of the Wearing of Certain Garments.

PART SIX PROVISIONAL ARTICLES

PROVISIONAL ARTICLE 1.

On the proclamation, under lawful procedure, of the adoption by referendum of the Constitution as the Constitution of the Republic of Turkey, the Chairman of the Council of National Security and Head of State at the time of the referendum, shall assume the title of President of the Republic and shall exercise the constitutional functions and powers of the President of the Republic for a period of seven years. The oath he took as Head of State on 18 September 1980 shall remain valid. At the end of the period of seven years the election for the Presidency of the Republic shall be held in accordance with the provisions set forth in the Constitution.

The President of the Republic shall also hold the chairmanship of the Council of National Security formed on 12 December 1980 under Act No. 2356, until the convening of the Turkish Grand National Assembly and the formation of the Bureau of the Assembly following the first general elections.

If the Presidency of the Republic falls vacant for any reason before the Turkish Grand National Assembly convenes and assumes its functions at the end of the first general elections, the most senior member of the Council of National Security shall act as President of the Republic and shall exercise all his constitutional functions and powers until the convening of the Turkish Grand National Assembly and its election of a new President of the Republic in accordance with the provisions of the Constitution.

PROVISIONAL ARTICLE 2.

The Council of National Security formed on 12 December 1980 under Act No. 2356 shall continue to exercise its functions under Act No. 2324 on the Constitutional Order and Act No. 2485 on the Constituent Assembly until the convening of the Turkish Grand National Assembly and the formation of the Bureau of the Assembly following the first general elections held under the Political Parties Act and the Elections Act prepared in accordance with the Constitution.

After the adoption of the Constitution, Article 3 of Act No. 2356 relating to the procedure for filling a seat on the Council of National Security which falls vacant for any reason, shall cease to apply.

After the Turkish Grand National Assembly has convened and assumed its functions, the Council of National Security shall become the Presidential Council for a period of six years, and the members of the Council of National Security shall acquire the title of members of the Presidential Council. The oath they took on 18 September 1980 as members of the Council of National Security shall remain valid. Members of the Presidential Council shall enjoy the rights and immunity conferred by the Constitution on members of the Turkish Grand National Assembly. The legal existence of the Presidential Council shall terminate on the expiry of the period of six years.

The following functions of the Presidential Council shall be as follows:

- a. To examine laws adopted by the Turkish Grand National Assembly and submitted to the President of the Republic concerning: the fundamental rights and freedoms and duties, the principle of secularism, the preservation of the reforms of Ataturk, national security and public order set forth in the Constitution, the Turkish Radio and Television Corporation, International Treaties, the sending of Armed Forces to foreign countries and the stationing of foreign forces in Turkey, emergency rule, martial law and the state of war, and other laws deemed necessary by the President of the Republic, within the first ten days of the period of fifteen days granted to the President of the Republic for his consideration;
- b. On the request of the President of the Republic and within the period specific by him: To consider and give an opinion on matters relating to the holding of new general elections, the exercise of emergency powers and the measures to be taken during a state of emergency, the management and supervision of the Turkish Radio and Television Corporation, the training of youth and the conduct of religious affairs;
- c. According to the request of the President of the Republic, to consider and investigate matters relating to internal or external security and such other matters as are deemed necessary, and to submit its findings to the President of the Republic.

PROVISIONAL ARTICLE 3.

With the convening of the Turkish Grand National Assembly and the formation of the Bureau of the Assembly following the first general elections held in accordance with the Constitution:

- a. Act No. 2324 of 27 October 1980 on the Constitutional Order;
- b. Act No. 2356 of 12 December 1980 on the Council of National Security;
- c. Act No. 2485 of 29 June 1981 on the Constituent Assembly, shall cease to have effect and the legal existence of the Council of National Security and the Consultative Assembly shall terminate.

PROVISIONAL ARTICLE 4.

Provisional Article 4 of the Constitution of the Republic has been abolished with a referendum held on 6 September 1987, in accordance with Law No: 3361 of 17 May 1987 and Law No: 3376 of 23 May 1987. The results of the referendum are published in the Official Gazette No: 19532, dated 12 September 1987.

PROVISIONAL ARTICLE 5.

On the tenth day following the proclamation by the Supreme Election Council of the results of the first general elections, the Turkish Grand National Assembly shall convene of its own accord at the premises of the Turkish Grand National Assembly in Ankara at 15.00 hrs. The eldest deputy shall take the chair for this session. At this session the deputies shall take their oaths.

PROVISIONAL ARTICLE 6.

Until the Turkish Grand National Assembly formed in accordance with the Constitution adopts the Rules of Procedure which shall govern its sessions and proceedings, those provisions of the Rules of Procedure of the National Assembly which were in force before 12 September 1980 and which are not contrary to the Constitution shall apply.

PROVISIONAL ARTICLE 7.

The present Council of Ministers shall continue in office until the convening of the Turkish Grand National Assembly and the formation of the new Council of Ministers following the first general elections.

PROVISIONAL ARTICLE 8.

Legislation relating to the organisation, duties, powers, and functioning of the new organs, institutions, and agencies established under the Constitution and other legislation whose

introduction or amendment is provided for in the Constitution, shall be enacted during the period of Constituent Assembly, starting from the date of the adoption of the Constitution; legislation which cannot be dealt with during this period shall be enacted within the year following the first session of the newly elected Turkish Grand National Assembly.

PROVISIONAL ARTICLE 9.

Within a period of six years following the formation of the Bureau of the Turkish Grand National Assembly which is to convene after the first general elections, the President of the Republic may refer to the Turkish Grand National Assembly for further consideration any Constitutional amendments adopted by the Assembly. In this case the resubmission of the Constitutional amendment draft in its unchanged form to the President of the Republic by the Turkish Grand National Assembly, is only possible with a three-fourths majority of the votes of the total number of members.

PROVISIONAL ARTICLE 10.

Local elections shall be held within a year of the first session of the Turkish Grand National Assembly.

PROVISIONAL ARTICLE 11.

Regular and substitute members of the Constitutional Court who were in office on the date of the adoption by referendum of the Constitution shall continue to hold office and exercise their functions. Those previously elected by the Constitutional Court to specific functions shall retain the status thus acquired.

No election shall be held to fill the vacant seats of the regular members of the Constitutional Court until the number of these members falls to eleven, nor shall an election be held to fill the vacant seats of substitute members until the total number of regular and substitute members falls to fifteen. Until the Constitutional Court adapts to the new system, the principles and order of precedence set forth in the Constitution shall be observed in the elections which are to be held because the number of regular members has fallen below eleven, or because the total number of regular and substitute members has fallen below fifteen.

Until the number of regular members of the Constitutional Court falls to eleven, the quorum prescribed by Act No. 44 of 22 April 1962 shall be observed in all cases and proceedings.

PROVISIONAL ARTICLE 12.

Persons appointed by the Head of State as regular and substitute members of the Supreme Council of Judges and Public Prosecutors from among the members of the High Court of Appeals and the Council of State under Provisional Article 1 of Act No. 2461 of 13 May 1981 on the Supreme Council of Judges and Public Prosecutors; as Chief Public Prosecutor and Deputy Chief Public Prosecutor in accordance with the Provisional Article appended to Act No. 1730 on the High Court of Appeals under Act No. 2483 of 25 June 1981; and as President, Chief Public Prosecutor, deputy presidents and heads of division of the Council of State under Provisional Article 14, paragraph 2 of Act No. 2575 of 6 January 1982 on the Council of State shall continue to exercise their functions until the end of the term of office for which they were elected.

The Provisions of the Provisional Articles of Act No. 2576 of 6 January 1982 which concern the appointment of the presidents and members of Administrative Courts shall also remain in force.

PROVISIONAL ARTICLE 13.

The elections of one regular and one substitute member to be elected to the Supreme Council of Judges and Public Prosecutors from among the members of the High Court of Appeals shall take place within twenty days of the entry into force of the Constitution.

Until the assumption of office by the elected members, the quorum for meetings of the Council shall be met with the participation of substitute members.

PROVISIONAL ARTICLE 14.

The obligation of the labour unions to deposit their revenues in the State banks shall be fulfilled within two years of the entry into force of the Constitution, at the latest.

PROVISIONAL ARTICLE 15.

repealed by the referendum of 2010

PROVISIONAL ARTICLE 16.

Persons who fail to participate in the referendum on the Constitution without valid legal or actual reasons despite being entitled to vote and being included on the register of electors and the polling station register compiled for the referendum, shall neither participate nor stand for election in general elections, by-elections, local elections or referendums for a period of five years following the referendum on the Constitution.

PROVISIONAL ARTICLE 17.

(Annex 10.05.2007/Article 5659/1) In the first general elections held after the enactment of the law on the addition of a provisional article to the Turkish Constitution, the last paragraph of Article 67 of the Constitution shall not be applied to the provisions of Parliamentary Elections Law No. 2839, dated June 10, 1983 concerning independent candidates on joint ballot.

PROVISIONAL ARTICLE 18.

The current substitute members of the Constitutional Court shall acquire the status of regular members on the date of entry into force of this Law.

Within thirty days of the date of entry into force of this Law, the Turkish Grand National Assembly (TGNA) shall elect one member each from among three candidates nominated by the plenary assembly of the Court of Auditors and the heads of Bar Associations.

In order to nominate candidates for the membership elections to be held by the TGNA:

- a) The President of the Court of Auditors shall announce the beginning of the application process for candidacy within five days of the date of entry into force of this law. Candidates shall apply to the Presidency within five days following the final date of the announcement. The plenary assembly of the Court of Auditors shall hold elections within five days following the final date of application. The three candidates obtaining the greatest number of votes shall be nominated in these elections in which each member of the Court of Auditors may vote.
- b) The Head of the Turkish Union of Bar Associations shall announce the beginning of the application process for candidacy within five days of the date of entry into force of this law. Candidates shall apply to the Turkish Union of Bar Associations within five days following the date of announcement. The election shall be held at the place and time indicated in the announcement of the Turkish Union of Bar Association within five days following the final date of application by the heads of the Bar Associations. The three candidates obtaining the greatest number of votes shall be nominated in these elections in which each member of the Turkish Union of Bar Associations may vote.
- c) The names of those nominated through the elections held in accordance with subparagraphs (a) and (b) shall be notified to the Presidency of the TGNA by the

Presidency of the Court of Auditors and of the Turkish Union of Bar Associations on the day following the elections.

ç) Elections shall be held at the TGNA within ten days of the notification made in accordance with paragraph (c). In each election held for each vacant position, a two-thirds majority of component members in the first ballot and the absolute majority of component majority cannot be attained in the second ballot, a third ballot shall be held between two candidates obtaining the greatest number of votes in the second ballot; the candidate who obtains the greatest number of votes in the third ballot shall be elected.

Following the vacancy of the positions allocated to the High Court of Appeals and the Council of State, the President of the Republic shall choose one member each from among three candidates to be nominated for each vacant position by the Council of Higher Education from among academicians from the fields of law, economics and political sciences who are not members of the Council of Higher Education.

The current members, as well as substitute members elected from the quotas allocated to institutions which have nominated members for the Constitutional Court shall be taken into consideration in the final election.

The status of those who have been appointed to certain posts in the Constitutional Court shall continue until the end of their term of office.

Those who are members on the date of entry into force of this Law shall continue in their post until the statutory age limit.

Necessary legal arrangements on individual applications shall be completed within two years. Individual applications shall be accepted as from the date of the entry into force of the implementing law.

PROVISIONAL ARTICLE 19.

The members of the Supreme Council of Judges and Public Prosecutors shall be elected within thirty days as of the date of entry into force of this Law in accordance with the principles and procedures indicated below:

- a) academicians who have been working in the field of law, for at least fifteen years, and lawyers who have completed fifteen years of active professional service, for whom there is no impediment to becoming a judge.
- b) The plenary assembly of the High Court of Appeals shall select three regular and two substitute members from among members of the Court.
The First President of the High Court of Appeals shall announce the beginning of the application process for candidacy within seven days of the entry into force of this Law. The candidates shall apply to the First President within seven days of the date of the announcement. The plenary assembly of the High Court of Appeals shall hold elections within fifteen days from the final date of application. In the elections, where each member of the High Court of Appeals may vote, the candidates with the greatest number of votes are elected regular and substitute members respectively.
- c) The plenary assembly of the Council of State shall select one regular and one substitute member from among members of the Court. The President of the Council of State shall announce the beginning of the application process for candidacy within seven days of the entry into force of this Law. The candidates shall apply to the Presidency within seven days of the date of the announcement. The plenary

assembly of the Council of State shall hold elections within fifteen days from the final date of application. In the elections, where each member of the Council of State may vote, the candidates with the greatest number of votes are elected regular and substitute members respectively.

ç) The plenary assembly of the Turkish Justice Academy shall select one regular and one substitute member from among its members to the Supreme Council of Judges and Prosecutors. The President of the Turkish Justice Academy shall announce the beginning of the application process for candidacy within seven days of the entry into force of this Law. The candidates shall apply to the Presidency within seven days of the date of the announcement. The plenary assembly of the the Turkish Justice Academy shall hold elections within fifteen days from the final date of application. In the elections, where each member may vote, the candidates with the greatest number of votes are elected regular and substitute members respectively.

- d) Seven regular and four substitute members which are first category judges, shall be selected by civil judges and public prosecutors under the direction and supervision of the Supreme Election Council from among civil judges and public prosecutors maintaining the qualifications for being first category judges. Within five days of the date of entry into force of this Law, the Supreme Election Council shall announce the applications for candidacy. The candidates shall apply within three days of the date of announcement. The Supreme Election Council shall examine the applications, finalize the list of candidates and announce this within two days following the expiry of the date of application. Objections to this list may be made within the following two days. The objections shall be examined and finalised and the definitive list of candidates shall be announced within two days following the expiry of the objection period. Judges and public prosecutors working in provinces or districts shall vote in elections to be held in each province and district on the second Sunday following the date of announcement of the definitive list by the Supreme Election Council, under the direction and supervision of the provincial election boards. The provincial election boards shall establish ballot councils according to the number of judges and public prosecutors that are to vote in that province. Provincial election boards shall give decision in relation to complaints on and objections to proceedings, measures and decisions of the ballot councils. Candidates may not conduct campaigns. They may publish their resumé on an internet site allocated for this purpose within the framework of the principles and procedures defined by the Supreme Election Council. The candidates that obtain the greatest number of votes shall be considered to have been elected as regular and substitute members respectively. The Supreme Election Council shall determine the voting ballots as well as other matters. The Supreme Election Council may have the voting ballots printed or may have these printed through provincial election boards as it may deem appropriate. In the elections to be held, the provisions of the Law No. 298 on Basic Rules on Elections and Voting Registers, 26.4.1961, that are not in conflict with this subparagraph are to be applied.
- e) Three regular and two substitute members which are first category judges, shall be selected by civil judges and public prosecutors under the direction and supervision of the Supreme Election Council from among civil judges and public prosecutors maintaining the qualifications for being first category judges. In provinces where there are regional administrative courts, these elections shall be held under the direction and supervision of the provincial election boards and judges and public prosecutors working in these regional administrative courts and in courts that are subject to authority of those courts shall vote. The provisions of subparagraph (d) shall be applied to these elections.

The regular members of the Supreme Council of Judges and Public Prosecutors, who have been elected in accordance with subparagraphs (a), (ç), (d) and (e) of the first paragraph, shall take their office on the working day following the date of entry into force of this Law.

At the first meeting of the Council to be held after the members that have been elected in accordance with this Article have taken their office, the duties of one of the substitute members of the Supreme Council of Judges and Public Prosecutors, coming from the High Court of Appeals, determined by way of drawing lots, shall end. The remaining regular and substitute members shall continue their duties until the end of their term of office. The members who have been elected in accordance with subparagraph (b) of the first paragraph shall take office in place of those whose term of office expires.

At the first meeting of the Council to be held after the members that have been elected in accordance with this Article have taken their office, the duties of one of the regular and substitute members of the Supreme Council of Judges and Public Prosecutors, coming from the Council of State, determined by way of drawing lots, shall end. The remaining regular and substitute members shall continue their duties until the end of their term of office. The members who have been elected in accordance with subparagraph (c) of the first paragraph shall take office in place of those whose term of office expires.

From among those members elected in accordance with subparagraph (b) and (c) of the first paragraph, the term of office of those who take office in accordance with the third and fourth paragraph shall expire on the date of the end of the term of office of the other Council members elected in accordance with subparagraph (a), (ç), (d) and (e) of the first paragraph.

Regular members elected to the Supreme Council of Judges and Public Prosecutors shall benefit from the same financial, social and pension rights envisaged for the Head of Chamber of the High Court of Appeals in the relevant legislation, until the necessary arrangements are made.

Furthermore, regular members of the Council except for the president, shall receive additional compensation on a monthly basis in the amount to be calculated by multiplying the index of 30000 by the coefficient applied to salaries of civil servants.

Until arrangements are made in the relevant laws, the Supreme Council of Judges and Public Prosecutors:

- a) shall operate in the form of a Council in accordance with legal provisions in force without prejudice to the provisions of the Constitution,
- b) shall convene under the chairmanship of the Minister of Justice within one week following the date that the regular members take office in accordance with the second paragraph and shall elect a temporary deputy chairman,
- c) shall convene with at least fifteen members and take decisions by the simple majority of the component members,
- ç) the secretariat functions shall be conducted by the Ministry of Justice.

Until inspectors of the Council are appointed, the existing judiciary inspectors shall carry out their duties under the title of inspectors of the Council.

The provisions of this Article shall be applied until the necessary arrangements are made in the relevant laws.

PROVISIONAL ARTICLE OF THE LAW NO.4709

(The Law No.4709 amends some of the articles of the Constitution)

A) The last paragraph added to the Article 67 of the Constitution by Article 24 of this Law No.4709 shall not be implemented at the first general election to be held after this Law No.4709 goes into effect.

B) The amendments made by Article 28 of this Law No.4709 to Article 87 of the Constitution shall not be implemented on those who perpetrate the acts described in Article 14 of the Constitution, before this Law No.4709 goes into effect.

This Law No.4709 goes into effect at the date of its issue and in case of submission to referendum, it shall be voted on as a whole.

PART SEVEN FINAL PROVISIONS

I. Amendment of the Constitution, Participation in Election and Referendum:

Article 175.

The constitutional amendment shall be proposed in writing by at least one-third of the total number of members of the Turkish Grand National Assembly. Proposals to amend the Constitution shall be debated twice in the plenary session. The adoption of a proposal for an amendment shall require a three-fifths majority of the total number of members of the Assembly by a secret ballot.

The consideration and adopting of proposals for the amendment of the Constitution shall be subject to the provisions governing the consideration and adoption of legislation, with the exception of the conditions set forth in this article.

The President of the Republic may refer the laws related to the Constitutional amendments for further consideration. If the Assembly adopts the draft law referred by the President by a two-thirds majority, the President may submit the law to referendum.

If a law is adopted by a three-fifths or less than two-thirds majority of the total number of votes of the Assembly and is not referred by the President for further consideration, it will be published in the Official Gazette and shall be submitted to referendum.

A law on the Constitutional amendment adopted by a two-thirds majority of the total number of members of the Turkish Grand National Assembly directly or if referred by the President for further consideration, or its articles as considered necessary may be submitted to a referendum by the President. Laws or related articles of the Constitutional amendment not submitted to referendum shall be promulgated in the Official Gazette.

Laws related to Constitutional amendment which are submitted for referendum shall require the approval of more than half of the valid votes casted.

The Turkish Grand National Assembly, in adopting the laws related to the Constitutional amendment, shall also decide on which provisions shall be submitted to referendum together and which shall be submitted individually.

Every measure including fines shall be taken to secure participation in referenda, general, by- and local elections.

II. Preamble and Headings of Articles

Article 176.

The Preamble, which states the basic views and principles underlying the Constitution, 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 their entry into force:

- a. The provisions of Part II, Chapter II relating to personal liberty and security, the press, publication and the media, and the right and freedom of assembly, The provisions of Chapter III, relating to labour, collective agreements, the right to strike, and lockout.

These provisions shall come into force when the relevant legislation is promulgated, or when the existing legislation is amended, and at the latest, when the Turkish Grand National Assembly assumes its functions. However until their entry into force, existing legislation and the decrees and decisions of the Council of National Security shall apply.

- b. The provisions of Part II relating to political parties and the right to engage in political activities, shall come into force on the promulgation of the new Political Parties Act, which is to be prepared in accordance with these provisions;

The right to vote and stand for election shall come into force on the promulgation of the Elections Act, also to be prepared in accordance with these provisions.

- c. The provisions of Part III, relating to legislative power:
These provisions shall come into force on the proclamation of the results of the first general elections. However, the provisions relating to the functions and powers of the Turkish Grand National Assembly which take place in this section shall be exercised by the Council of National Security until the Turkish Grand National Assembly assumes its functions, the provisions of Act No. 2485 of 29 June 1981 on the Constituent Assembly being reserved.
- d. The provisions of Part III relating to the functions and powers of the President of the Republic and to the State Supervisory Council under the heading "President of the Republic"; to regulations, National Defence, procedures governing emergency rule under the heading "Council of Ministers"; to all other provisions under the heading "Administration," except local administration, and except the Ataturk High Institution of Culture, Language, and History; and all the provisions relating to the judiciary power, except the Courts of the Security of the State, shall come into force on the publication in the Official Gazette of the adoption by referendum of the Constitution. The provisions relating to the President of the Republic and the Council of Ministers which do not come into force shall come into force when the Turkish Grand National Assembly assumes its functions, and the provisions relating to local administrations and to the Courts of the Security of the State shall come into force on the promulgation of the relevant legislation.
- e. If new legislation, or amendments to existing legislation are required in connection with the constitutional provisions which are to come into force on the proclamation of the adoption by referendum of the Constitution or in connection with existing or future

institutions, organisations 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.

- f. The second paragraph of Article 164 regulating the procedure for the consideration of draft final accounts shall come into force in 1984.

III. PROVISIONAL ARTICLES NOT INCLUDED IN THE CONSTITUTION OF THE REPUBLIC OF TURKEY

Provisional article of Law No. 4709 dated October 3, 2001

PROVISIONAL ARTICLE:

A) The sentence added to Article 67 of the Constitution as the last paragraph of Article 24 of this Law shall not be implemented during the first general elections to be held following the enactment of this Law.

B) The amendment made to Article 87 of the Constitution through Article 28 of this Law shall not be implemented for those who committed activities covered under Article 14 of the Constitution prior to the enactment of this Law.

Provisional article of Law No. 4777 dated December 27, 2002

PROVISIONAL ARTICLE 1.

The last paragraph of Article 67 of the Constitution of the Republic of Turkey shall not be implemented in the first by-elections to be held during the 22nd Term of the Turkish Grand National Assembly.

(After being drafted by the Consultative Assembly, the Constitution of the Republic of Turkey was accepted by 92% of the Turkish public in a referendum on November 7, 1982, and published in Official Gazette no. 17863, dated November 9, 1982.)