

TURKISH BAR ASSOCIATION

PROPOSAL FOR CONSTITUTION OF REPUBLIC OF TURKEY 2001



PREAMBLE

Our nation being determined to continue its eternal existence as a honourable and respectable member of the international community, adopted this Constitution as a national oath of life, to protect the Republic founded with an understanding in line with the goal of the National Liberation War aiming independence, freedom, national sovereignty and modernity in every field and to respect and develop democracy which is the form of government most suitable to the inviolable nature of human rights.

The principle of self-government and self-audit based on the equality of the individuals in every respect, the will to unite in a common destiny and the supremacy of

law and the merit of good morality obligates the state to act with justice under all circumstances and to assure the rights and liberties of the citizens. The State, the fundamental characteristics of which are stipulated in the constitution, through peace, mutual attachment, respect and trust, shall protect the national, political and juridical unity, and boundaries and resources of the country and shall diligently perform its duty of satisfying the vital requirements at the highest level. The balance between rights and duties shall be ensured through the awareness of responsibility and the facilities shall be provided without any discrimination among the citizens for whatsoever reason.

The Democratic Republic based on the principles of Atatürk shall act as a State of science and culture, institutionally lead enlightenment in every field from education to economy, arts to sports, military to politics.

The Republic, with the pride of granting and preserving the freedom of thought and belief to the largest extent, shall accelerate the efforts to enhance the trust in the social state based on the rule of law against fear and

poverty, oppression and tyranny. Republic of Turkey, respecting the principles of international law and the territorial integrity of other nations and refraining from war and from resorting to force against the freedom of other nations except by self-defence, shall consider the friendly relations as the most natural outcome of the humanity and civilization and shall contribute to world peace.

It is the basic consideration of the State to serve the individuals, nation and humanity with the merits of rule of law.

It is the duty of citizenship of all institutions, entities and individuals to be loyal to the Constitution which is to enlighten the practice with its principles and which is to be updated and strengthened by interpretations loyal to its spirit.

PART ONE

GENERAL PRINCIPLES

I. The Republic of Turkey

Article 1. The State of Turkey is a Republic.

II. Characteristics of the Republic

Article 2. Republic of Turkey, which is the common asset of the citizens, is a democratic, secular and social State governed by the rule of law and based on the human rights.

III. Integrity of the State, Official Language, Flag, National Anthem, and Capital

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

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

Its national anthem is the "Independence March".

Its capital is Ankara.

IV. Sovereignty

Article 4. Sovereignty is vested in the nation without reservation or condition.

V. The Right to Exercise Sovereignty

Article 5. The Nation shall exercise its sovereignty through the authorized 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.

The provisions of the international treaties, which require membership to organizations with supranational powers, are reserved.

VI. Legislative Power

Article 6. Legislative power is vested in the Grand National Assembly of Turkey on behalf of the Nation. This power can not be delegated.

VII. Executive Power and Function

Article 7. 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 the law.

VIII. Judicial Power

Article 8. Judicial power shall be exercised by independent courts on behalf of the Nation.

IX. Supremacy and Binding Force of the Constitution

Article 9. 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 PROVISION OF FUNDAMENTAL RIGHTS AND DUTIES

I. Fundamental Principles

A. Inviolability of Human Dignity

Article 10. Human dignity is inviolable. Respect to human dignity is the fundamental principle of the state and societal life.

B. Equality

Article 11. All individuals are equal without any discrimination before the law, irrespective of, race, colour, sex, language, religion, sect, political opinion, philosophical belief or any such considerations.

The State shall ensure the equality of men and women with respect to the rights.

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.

C. The Nature of Rights and Freedoms

Article 12. Everyone possesses inherent fundamental rights and freedoms that are inviolable and inalienable.

The State shall remove all political, economic and social obstacles restricting the fundamental rights and freedoms of the individuals in a manner incompatible with the principles of the peace of the individuals, social justice and the rule of law.

D. Indivisibility of Rights and Freedoms

Article 13. The fundamental rights and freedoms constitute an integral whole from the perspective of law.

II. Restriction of Fundamental Rights and Freedoms

A. Limitations of Restrictions

Article 14. Everyone has obliged to respect the rights and freedoms of the other people while using their fundamental rights and freedoms.

Law, to the extent required by the reasons and objectives stated in the relevant articles and temporarily may only restrict fundamental rights and freedoms.

The restrictions shall not conflict with the requirements of the democratic order of society and shall not violate the spirit of any right and freedom.

The decisions of the bodies set up by the international treaties ratified by Turkey shall also be taken into consideration in the interpretation of the reasons and criteria of restriction.

B. Prohibition of Abuse of Rights and Freedoms

Article 15. None of the rights and freedoms embodied in the Constitution shall be exercised with the aim of attempting to violate the indivisible integrity of the State with its territory and nation, of endangering the existence of the democratic and secular Republic based on the human rights nor entitled one to such actions.

C. Rights and Freedoms under State of Emergency

Article 16. Under the state of emergency or in times of war, mobilization, or martial law, the exercise of fundamental rights and freedoms can be restricted or suspended to the extent required by the exigencies of the situation provided that obligations under international law are not violated.

The right to resort to judicial means against such actions and acts shall not be suspended.

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; 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 judgment.

III. Guarantees of Fundamental Rights and Freedoms

A. Freedom To Demand Justice Before Natural Judges and Defence

Article 17 - Everyone is entitled to right to claim, defend and just trial before natural judges as complainant or defendant by recourse to all legitimate and legally valid means.

The ways to ensure effective and speedy exercise of this right shall be prescribed in the law.

Those who are in poverty and in need of assistance to initiate action and defend shall be provided with effective legal aid by means of the relevant institutions.

Extraordinary judicial bodies to annul the natural way of justice shall no be established. No court shall refrain from hearing a case under its jurisdiction.

The right to resort to legal means against sentences restricting freedom shall not be prevented by whatsoever means.

B. Criminal Law Guarantees

Article 18. 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 offense 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.

Criminal responsibility shall be personal.

General confiscation shall not be imposed as a penalty.

The Public Administration Authorities shall not impose any sanction resulting in restriction of personal liberty. Exceptions to this provision may be introduced by law regarding the internal order of the Armed Forces.

The sentences and the imposition of sentences should aim the rehabilitation of the sentenced. The spiritual and physical entity of the persons, who are apprehended, arrested and sentenced are under the assurance of the state.

The citizens may not be returned to a foreign country for the reason of commitment of an offence. The aliens may not be deported from the country in-groups or returned to another country for political offences.

C. Right to Prove an Allegation

Article 19. 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.

D. Protection of Rights and Freedoms

Article 20. Everyone whose constitutional rights and freedoms are violated is entitled to apply to the appropriate authority

The officials and the State shall compensate for the damages suffered by persons subjected to unjust treatment by the public officials according to law.

A Public Auditors Board shall be set up to review the complaints by the persons and entities concerning the human rights and to protect the exercise of human rights, along with the judicial protection.

IV. Status of Aliens

Article 21. The aliens shall exercise fundamental rights in equality with the citizens. Law in a manner consistent

with international law may restrict the fundamental rights and freedoms of aliens and reciprocity rule may be applied.

Chapter Two

INDIVIDUAL FREEDOMS AND POLITICAL RIGHTS

I. Freedoms of Individual

A. Liberty and Security

1- Right to Life

Article 22. Everyone has the right to life. Death sentence is prohibited.

2. Integrity of Human Being

Article 23. The physical and spiritual entity of the individual is a whole. The human body 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.

Practices aiming the improvement of the human race through genetic means and making human body and its

parts a source of commercial profit are prohibited.

Every public servant is obliged to respect and protect this inviolability.

3. Prohibition of torture and ill-treatment

Article 24. No one shall be subjected to torture or ill treatment. No one shall be subjected to penalties or treatment incompatible with human dignity.

4. Prohibition of Forced Labour

Article 25. No one shall be required to perform forced labour.

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 administration 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.

Forced labour is prohibited.

5. Personal Liberty and Security

Article 26. Everyone has the right to liberty and security of person.

Individuals may be deprived of liberty only in the cases of a person is caught in the act of committing an offence or in cases where delay is likely to thwart the course of justice and the individuals against whom there are strong indications of having committed an offence can be arrested that conditions are prescribed by law 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.

An individual may be arrested only upon the decision of a judge. The decision for the continuation of arrest shall depend on the same conditions. Law shall regulate the period of arrest provided that it shall not exceed reasonable periods.

The person detained shall be brought before a judge within 24 hours at the latest. This period may be extended to 48 hours upon the decision of the judge.

The person detained shall have right to have his lawyer attend the interrogation. The law shall ensure the effective exercise of this right.

Notification of the situation of the person arrested or detained shall be immediately made to his relatives.

In cases of offences committed collectively, under the state of emergency or in times of war, mobilization, or martial law the period for the detained person to be brought before a judge may be extended up to one week maximum upon the decision of the judge.

B. Freedom of Thought, Belief and Religion

1. Freedom of Thought and Expression

Article 27. Everyone has the right to express and disseminate his thoughts and access to information by using all means and ways.

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

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.

The exercise of these freedoms may be restricted for the purposes of preventing propaganda of war or advocacy of national, racial or religious hate causing violence.

2. Freedom of Religion and Conscience

Article 28. Everyone has the right to freedom of conscience, belief, religion and conviction. This right includes the right to change one's religion or belief.

Acts of worship, religious services, and ceremonies shall be conducted freely, provided that they do not violate public order.

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. Religious education and instruction shall be subject to the individual's own desire, and in the case of minors, to the request of their legal representatives.

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

C. Private Life

1. Privacy of Private Life

Article 29. Everyone has the right to demand respect for his private and family life. Privacy of individual and family life cannot be violated. Exceptions necessitated by judiciary investigation and prosecution are reserved.

Unless there exists a decision duly passed by a judge in cases explicitly defined by law, and unless there exists an order of an agency authorized by law in cases where

delay is deemed prejudicial in relation with public order and national security neither the person nor the private papers, nor belongings of an individual shall be searched nor shall they be seized.

In the event that the private papers or belongings of an individual are seized upon the order of an agency authorized by law, a judge shall make a decision within 48 hours at the latest. Otherwise the seized property shall be immediately returned.

2. Inviolability of Domicile

Article 30. The domicile of an individual shall not be violated. Unless there exists a decision duly passed by a judge in cases explicitly defined by law, and unless there exists an order of an agency authorized by law in cases where delay is deemed prejudicial in relation with public order and national security, no domicile may be entered or searched, or the property therein seized.

In the event that the personal belongings in a domicile are seized upon the order of an agency authorized by law, a judge shall make a decision within 48 hours at

the latest. Otherwise the seized property shall be immediately returned.

3. Freedom of Communication

Article 31. Everyone has the right to freedom and immunity of communication and mail.

Secrecy of communication and mail are fundamental. Communication shall not be impeded nor its secrecy be violated, unless there exists a decision duly passed by a judge in cases explicitly defined by law, and unless there exists an order of an agency authorized by law in cases where delay is deemed prejudicial in relation with public order and national security.

In the event that the mails are seized upon the order of an agency authorized by law, a decision shall be made by a judge within 48 hours at the latest. Otherwise the seized goods shall be returned.

4. Protection of Personal Information

Article 32. Everyone has the right to demand respect for his private and sensitive information and data. Such

information and data may be used only upon the consent of the individual or on a legally justified reason as prescribed in the law.

Everyone has right to access to, to demand correction in or to be informed about the proper use of the information gathered about himself or stored in informatics records

An independent authority shall audit compliance with these laws.

5. Freedom of Movement

Article 33. Everyone has the right to freedom of movement.

Freedom of movement may be restricted for the purpose of investigation and prosecution of an offence and prevention of offences or preventing epidemics.

A citizen's freedom to leave the country may be restricted by the decision of a judge on account of the civil obligations, or criminal investigation or prosecution.

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

II. Collective Freedoms

A. Right to Hold Meetings and Demonstration

Article 34. Everyone has the right to hold unarmed and peaceful meetings and demonstration without prior permission.

This freedom may be restricted to protect the public order. The laws may not stipulate regulations to deter or prevent the exercise of this right.

The law may authorize the public authorities authority to determine a site and route for the demonstration in order to prevent disruption of order in urban life. However such authority may not be exercised in a manner to cause the annulment of the right to hold meetings and demonstration.

B. Freedom of Association

Article 35. Everyone has the right to form, be member to or resign from membership of associations without prior permission.

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

Submitting the information and documents stipulated by law to the competent authority designated by law shall suffice to enable an association to be formed.

Freedom of association may be restricted to protect the public order or morals or to prevent offences. The law may not stipulate regulations to deter or prevent the exercise of this right.

Associations may be suspended or dissolved temporarily by decision of judge in cases prescribed by law.

Provisions of the first paragraph of this article shall not prevent imposition of restrictions on the rights of Armed Forces and Security Forces officials and judicial officials to form associations, or the prohibition of the exercise of this right.

This article shall apply equally to foundations.

C. Democratic Citizen Initiatives

Article 36. Democratic citizen initiatives formed to contribute to the solution of social problems shall benefit from the legal guarantees provided to the collective freedoms.

III. POLITICAL RIGHTS AND DUTIES

A. Citizenship

Article 37. Everyone bound to the State through the bond of citizenship is citizen of Republic of Turkey.

The child whose father or mother is citizen of Republic of Turkey is also citizen.

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

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

Recourse to the courts, against the decisions and

proceedings related to the deprivation of citizenship, shall not be denied.

B. Freedoms of Participation and Political Organization

1. Right To Be Informed and To Participate

Article 38. The citizens have right to participate in the public life and the government of the country directly or through the freely elected representatives.

Each citizen has right to be informed about the acts and actions of the state and other public legal entities.

Laws shall regulate the exercise of these rights.

2. Right of Petition

Article 39. Everyone has the right to apply in writing to the competent authorities and to the Grand National Assembly of Turkey with regard to requests and complaints concerning them or the public.

The result of the application concerning him shall be made known to the petitioner in writing.

Law shall determine the ways and terms of exercising this right.

3. Right to Vote and Elections

Article 40. All citizens entering the age of 18 shall have the right to vote in elections, to be elected, to engage in political activities independently or within a political party and take part in a referendum.

Law shall regulate the exercise of these rights.

Elections and referendums shall be held under the direction and supervision of the judiciary, according to the principles of free, equal, secret, direct, universal suffrage, and public counting of the votes. The laws shall determine the applicable measures to ensure that the citizens of Republic of Turkey abroad can exercise voting rights.

Election laws shall be arranged in a manner to combine the principles of justice in representation and stability in government.

4. Political Parties

a. Freedom of Political Parties

Article 41. 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 shall be formed without prior permission and they shall pursue their activities in accordance with the provisions set forth in the Constitution and law.

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 shall not become members of political parties.

The membership and holding an office of the teaching staff at higher education institutions in political parties is regulated by law.

b. Obligations of Political Parties

Article 42. Political parties are indispensable elements of the democratic political life.

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 work and activities.

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

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 and expenditure and acquisitions of political parties 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 foundation and activities of the political parties and the election expenditure of the candidates and the political parties, the limits and auditing procedures of such expenditure shall be regulated by laws observing the principle of transparency.

c. Prohibitions and Sanctions Concerning Political Parties

Article 43. In the event that the by-laws, program and equivalent arrangements of a political party violates the provisions of the first clause, that political party may be dissolved on the condition of application of a warning procedure to be prescribed by law with a reasonable term.

A political party may be dissolved on the account of actions, which violates the provisions of the first clause in the event that the Constitutional Court determines that the said political party has become a center for such activities. In the event that such actions are committed

in a political party with intensity or effects threatening or endangering the values protected by the first clause, the said party shall be considered to have become a centre for such activities.

The political parties which are determined by the Constitutional Court to be continuation of any political party previously dissolved, with its actions, discourses or organization structure or to have received material assistance from persons who are not citizens of Republic of Turkey or organizations formed by the latter shall be dissolved.

The prohibitions in the Constitution and the laws other than the foregoing may not be subject to the sanction of dissolving a political party. Such prohibitions shall be subject to different sanctions depending on the extent and severity of the action

The persons who have caused a political party to be dissolved with their declarations or actions may not exercise the right to be elected or may not be the founders, member, executive or auditor of a political party for a period of four years beginning from the

publication of the decision of the Constitutional Court concerning the dissolution of that political party with its justification in the Official Gazette.

Concrete provisions concerning the dissolution of political parties or the sanctions applicable to the prohibited acts by the political parties shall be determined by laws within the framework of the foregoing provisions.

C. Rights and Duties Concerning Public Service

1. Entry into the Public Service

Article 44. Every citizen 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.

2. Declaration of Assets

Article 45. 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.

3. National Service

Article 46. National service is the right and duty of every citizen. 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.

4. Obligation to Pay Taxes

Article 47. 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 may be empowered to amend

the percentages of exemption, exceptions and reductions in taxes, fees, duties and other such financial impositions, within the minimum and maximum limits prescribed by law.

Chapter Three

ECONOMIC, SOCIAL AND CULTURAL RIGHTS AND FREEDOMS

I. Economic Rights and Freedoms

A. Right of Property

Article 48. 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.

B. Expropriation

Article 49. The State and public corporations shall be

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

In determining the compensation for expropriation, the law shall take into account the current value under the market conditions.

The procedure for taxing and difference between the sum due in compensation and the value declared in the tax declaration shall be prescribed by law.

However, the procedure to be applied in paying compensation for land expropriated 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 previous cases where the law may allow payment in instalments, the payment period shall not exceed five years. Payments shall be made in equal instalments and an interest rate equivalent to the

highest interest paid on the public debt receivable shall be paid for the remainder of instalments.

Compensation for land expropriated from the small farmer who cultivates his own land shall in all cases be paid in advance.

C. Nationalization and Privatisation

Article 50. Private enterprises performing public service 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.

Those investments and services carried out by the State, State Economic Enterprises and other public corporate bodies that could be performed by or delegated to real or corporate bodies through private law contracts according to public interest shall be determined by law.

D. Freedom to Work and Conclude Contracts

Article 51. Everyone has the freedom to work and

conclude contracts in the field of his choice; the establishment of private enterprises is free.

These freedoms may be restricted according to public interest.

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.

II. Social Rights and Freedoms

A. Protection of the Family

Article 52. The family is the foundation of the society and is based on the equality of the spouses.

The State shall take the necessary measures and establish the necessary organization to ensure the peace and welfare of the family, especially the protection of the mother and children, and for family planning education and application.

B. Provisions Relating to Labour

I. Right and Duty to Work

Article 53. Everyone has the right and duty to work.

The State shall take the necessary measures to raise the standard of living of workers, to protect them in order to improve the general conditions of labour, to promote labour, and to create suitable environment and conditions for prevention of unemployment and protection of unemployed in order to realise this aims.

The State shall take facilitating and protective measures in order to secure labour peace in worker-employer relations.

II. Working Conditions and Right to Rest and Leisure

Article 54. 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 paid weekends and holidays, together with paid annual leave, shall be regulated by law.

III. 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 those they enjoy other social benefits.

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

C. Labour Unions, Collective Bargaining and Strike

1. Right to Organize Labour Unions

Article 56. Workers and employers have the right to be a member and to cease their membership or to form labour unions and employers' associations and higher organizations, without prior permission, in order to safeguard and develop their economic and social right

and the interests of their members in their labour relations.

The exercise of the freedom to organize trade unions may be restricted for the protection of the public order or for national defence purposes.

The laws in accordance with the services they perform shall regulate the scope, exceptions and limits of the rights of the public servants who are not workers in this respect.

The by-laws, management and functioning of the labour unions and their higher organizations may not be in violation of the principles of democracy.

The of labour unions by the State shall be regulated by law for the purpose of ensuring the compliance of their activities with the laws in a manner not to violate the principles of independence of the labour unions.

The labour unions and their higher organizations may only be dissolved or prohibited from activity upon the decision of the judge in cases expressly prescribed by the law.

2. Right of Collective Bargaining

Article 57. Employees 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 exercise of this right may be restricted for the protection of the public order or for national defence purposes.

The laws in accordance with the services they perform shall regulate the scope, exceptions and limits of the rights of the public servants who are not workers in this respect.

3. Right to Strike

Article 58. Employees have the right to strike to protect and improve their economic and social statuses in their relations with the employers.

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 laws in accordance with the services they perform shall regulate the scope, exceptions and limits of the rights of the public servants who are not workers in this respect.

D. Social Security

1. Right to Social Security

Article 59. Everyone has the right to social security.

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

2. Persons Requiring Special Protection

Article 60. 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 organizations or facilities, or arrange for their establishment by other bodies.

3. Citizens Working Abroad

Article 61. The State shall take the necessary measures to ensure the family unity, the education of the children, the cultural needs, and the social security of citizens working abroad, and shall take the necessary measures to safeguard their ties with the home country and to help them on their return home.

E. Right to Health

Article 62. Every citizen has right to health. 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 fulfil this task by utilizing and supervising the health and social assistance institutions, in both the public and private sectors.

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

III. Social and Economic Duties of the State

Article 63. The State shall fulfil its economic and social obligations as laid down in the Constitution, to use its economic and financial resources for this purpose.

IV. Cultural Rights and Freedoms

A. Right of Education and Learning

Article 64. It is among the main duties of the State to provide education and learning to the people and to meet their requirements.

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

Education and learning is free under the supervision and control of the State.

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

Education and learning institutions violating the requirements of modern science and education may not be established.

Minimum eleven years fundamental education is compulsory for all citizens of both sexes and is free of charge in state schools.

The State shall provide scholarships and other means of assistance to enable students of merit lacking financial means to continue their education in order to complete at highest level.

The State shall take necessary measures to rehabilitate those in need of special training so as to render such people useful to society.

B. Freedom of Science and Arts

Article 65. Everyone has the right to study and teach

freely, explain, and disseminate science and arts and to carry out research in these fields.

The State, protect artists and artistic works.

C. Freedoms of Social Communication

1. Freedom of the Press and Publication

Article 66. The press is free. Periodical or non-periodical publications shall not be subject to prior permission and to the deposit of a financial guarantee.

The State shall take the necessary measures to ensure the freedom of the press and freedom of information in accordance with the requirements of a pluralistic society and shall prevent the formation of monopolies.

Submitting the information and documents stipulated by law to the competent authority designated by law shall suffice to enable the publication of periodicals. The establishment of a printing house shall not be subject to prior permission and to the deposit of a financial guarantee.

A printing press or its annexes duly established as a publishing house under law shall not be seized,

confiscated, or barred from operation on the grounds of being an instrument of crime.

Law shall regulate the publication of periodicals, the conditions of publication, the financial resources and rules relevant to the profession of journalism. 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.

2. Limitations of Freedom of the Press and Publication

Article 67. Freedoms of press, publication and information shall be limited for the purpose of protection secrecy of national defence or public moral, violation of human dignity and rights or to prevent courage crime or to enable of adjudication duty.

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.

To seize of periodical and non-periodical publications shall be applied in a state of committed crimes clearly prescribed by law for the application of this measures and only by a decision of a judge.

Periodical and non-periodical publications published in Turkey may be temporarily suspended by definite court sentence if found guilty of publishing material which contravenes only based on human rights and freedoms, the principles of the democratic and secular Republic and the fundamental principle of the indivisible integrity of the State with its territory and nation.

3. Freedom of Broadcasting

Article 68. It is free to establish and operate radio and television stations provided that available frequencies are distributed in a fair manner in national level. No monopoly may be established in this field.

Individuals and political parties have right to use social communication and press media. Laws in accordance

with the democratic principles and the criteria of equity shall regulate the conditions and procedures of exercise of this right.

Laws in accordance with the principles of educational and cultural priorities, pluralism, impartiality and objectivity shall regulate the principles governing the public and private radio and television broadcast.

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.

The exercise of these freedoms may be restricted in cases of disrespect to human dignity and human rights, violation of general morals or propaganda of war or advocacy of discrimination and hatred, racial or religious hate causing violence. Social means of communications shall not be subject to preliminary control.

Freedom of audio-visual communication shall be exercised under the supervision of an autonomous and impartial board.

4. Right of Rectification and Reply

Article 69. 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 or not this publication is required.

Chapter Four

RIGHTS TO ENVIRONMENT, PEACE AND DEVELOPMENT

I. Common Ground

Article 70. Everyone has rights to environment, peace and development. These rights are based on the right to life.

II. Rights Pertaining to the Environment

A. Right to Environment

Article 71. Everyone has the right to live in a humane, healthy and ecologically balanced environment and the duty of preserving it.

It is the duty of the State preserve and improves the natural environment, and to take measures to prevent environmental pollution through its specialized bodies and by supporting citizens' initiatives.

Everyone has right to be informed, to participate and to apply to the appropriate authorities with respect to the environment.

The law shall regulate environmental liabilities and offences.

B. Protection and Development of Forests

Article 72. The State shall put legislation into effect and take the necessary measures for the protection and extension of forests. Forest areas destroyed by fire or

lost its status shall be reforested; other agricultural and stockbreeding activities shall not be allowed in such areas. All forests shall be under the care and supervision of the State. Acts and actions that might damage forests shall not be permitted.

State forests shall be managed and exploited by the State and the ownership of State forests shall not be transferred to others. 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.

The measures concerning the development of the forests or the population of the villages adjacent to forests to ensure cooperation of inhabitants of such villages in the protection of the forests and settlement in other areas when necessary shall be regulated by the laws.

No amnesties or pardons to be specifically granted for offences against forests shall be legislated and no political propaganda, which might lead to the destruction of forests, shall be made.

C. Land Ownership

Article 73. 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 the farmers to whom the lands 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.

D. Agricultural Land

Article 74. The State assists 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 growers and producers to be paid the real value of their products.

E. Natural Resources and Wealth

Article 75. Natural wealth and resources shall be placed under the control of, and put at the disposal of the State. The right to explore and exploit resources 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 and to make exploration and exploitation 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.

F. Coasts

Article 76. The coasts are under the sovereignty and at the disposal of the State; they may not be subject to private property.

In the utilization of the seacoast, Lakeshores or riverbanks, and of the coastal strip along the sea and lakes, public interest shall be taken into consideration with priority. No land may be acquired by filling.

Law shall determine 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.

G. Respect to the Common Inheritance of the Humanity

Article 77. Everyone has right to demand respect to the

common assets of the humanity. 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 to protect the common inheritance of the humanity. Law shall regulate the establishment of protection boards for supporting and encouraging measures to this end.

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

H. Residence and Housing

1. Freedom of Residence

Article 78. Everyone has the right to freedom of residence and settlement wherever he wishes.

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, protecting public property and preventing epidemic diseases.

2. Right to Housing

Article 79. Everyone has a right to have a suitable house. The State shall take measures to meet the needs for housing within the framework of a plan that takes into account the characteristics of cities and environmental conditions and supports community housing projects.

III. Right to Peace

Article 80. Everyone has the right to demand a life in peace and security in accordance with the principle of "Peace at home, peace in the world."

The right to peace includes the right to defence against terrorism and to oppose against the crimes against the humanity and peace and the war crimes.

IV. Right to Development

Article 81. Everyone has the right to develop his material and moral being freely.

Everyone has the right to demand respect to religious and linguistic values and diversity.

The state shall take necessary measures and prepare the

conditions for the physical and spiritual development of human beings.

The State shall support and encourage the spread of sports among the masses.

The State shall take measures to ensure the training and development of youth in the light of science.

V. Planning

Article 82. The State shall prepare local, regional and national plans aiming a just and peaceful progress preserving the renewable nature of the resources and meeting the requirements of sustainable development. Development plans shall contain economic, social and cultural elements in a balanced and harmonized manner.

The plans shall ensure the harmonized development of the sectors and regions, effective utilization of the production forces, just distribution of the national product among the individuals and regions, the coordination of economic policy with the social,

educational and cultural policies, preservation of the ecological balance and the protection of the environment and the improvement of the living standards of the people.

PART THREE
FUNDAMENTAL ORGANS OF THE REPUBLIC
Chapter One
LEGISLATIVE POWER

I. The Grand National Assembly of Turkey

A. Composition

Article 83. The Grand National Assembly of Turkey shall be composed of five hundred fifty deputies elected by universal suffrage.

B. Eligibility to be a Deputy

Article 84. Every citizen over the age of twenty-five is eligible to be a deputy.

Persons who have been deprived of legal capacity, who have failed to perform compulsory military service, who

are banned from public service, who have been sentenced to a prison term totalling one year or more excluding involuntary offences, or to a heavy imprisonment even if they have been pardoned; 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 involvement in terrorist activities shall not be elected deputies.

Being a candidate for elections shall not be conditional on resigning from the civil service. The conditions for standing for elections of the civil servants with respect to the security of the elections shall be regulated by the laws.

Judges and prosecutors, members of the higher judicial organs 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

Article 85. Elections for the Grand National Assembly

of Turkey shall be held every four years. A deputy whose term of office expires may be eligible for re-election.

The Assembly may decide to hold new elections before the end of this term. In cases prescribed in the Constitution, new elections may be hold depending on the decision of the President of Republic. In such cases, the date for the new elections shall be determined being not less then 45 days and not more than 90 days after the date of the decision.

The powers of the former Assembly shall continue until convene of a new Assembly.

D. Deferment of Elections and By-elections

Article 86. If the holding of new elections is found impossible because of war, the Grand National Assembly of Turkey 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 Grand National Assembly of Turkey. 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.

E. General Administration and Supervision of the Elections

Article 87. Elections shall be held under the general administration and supervision of the judicial organs.

Elections shall be held under the general administration and supervision of the Supreme Election Council.

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 88. Members of the Grand National Assembly of Turkey represent, not merely their own constituents, but the Nation as a whole.

2. Oath-Taking

Article 89. Members of the Grand National Assembly of Turkey, on assuming office, shall take the following oath:

"I swear upon my honour and integrity 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 characteristic of Republic of Turkey; not to deviate from the ideal according to which everyone is entitled to enjoy rights and freedoms under health and happiness in society, national solidarity and justice, and loyalty to the Constitution."

3. Activities Incompatible with Membership

Article 90. Members of the Grand National Assembly of Turkey shall not hold or assume any other waged or

non-waged, public or private office or work. Their relations with the professional associations shall be suspended until the end of their term.

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

4. Parliamentary Irresponsibility

Article 91. Members of the Grand National Assembly of Turkey 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.

5. Parliamentary Immunity

Article 92. A deputy who is alleged to have committed an offence before or after the election shall be

interrogated and tried by the High Court of Appeals.

However, he shall not be arrested or detained except by cases where a member is caught in the act of committing a crime punishable by a heavy penalty. In case where a member is caught in the act of committing a crime punishable by a heavy penalty, the competent authority shall notify the Grand National Assembly of Turkey of the detainment, trial and arrest immediately and directly.

The preliminary investigation concerning such cases and the principles of procedures related to the initiation of a public action shall be regulated by law.

The execution of a criminal sentence imposed on a member of the Grand National Assembly of Turkey, which does not prevent eligibility for elections shall be suspended until he ceases to be a member. The statute of limitations does not apply during the term of membership.

These rules listed above shall apply to a re-elected deputy.

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

The relevant Prosecutor in Chief for Parliamentary Investigation shall notify the accusations against the Prime Minister and the Ministers to the Grand National Assembly of Turkey.

6. Loss of Membership

Article 93. The membership of a deputy who resigns shall end when the Presidency of the Grand National Assembly of Turkey approves the validity of the resignation.

The loss of membership, through a final judicial sentence obstacle to his eligibility or deprivation of legal capacity, shall be completed after the final sentence of a court in the matter has been communicated to the plenary of the Grand National Assembly of Turkey.

The loss of membership of a deputy who insists on

holding a position or continues an activity incompatible with membership shall be decided by a secret voting by the plenary, upon the submission of a report drawn up by the authorized commission setting out the factual situation.

The loss of membership of a deputy who fails to attend without an 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 Grand National Assembly of Turkey determines the situation.

The membership of a deputy whose statements and acts are cited in a final judgment of the Constitutional Court as having caused the permanent dissolution of his party shall terminate on the date when the decision in question and its justifications are published in the official gazette. The presidency of the Grand National Assembly of Turkey shall immediately take the

necessary action concerning such decision and shall inform the plenary of the Grand National Assembly of Turkey accordingly.

7. Application for Annulment

Article 94. If the parliamentary immunity of a deputy has been waived or if the loss of membership has been decided, the deputy in question or another deputy may, within seven days from the day of the decision of the Grand National Assembly of Turkey or from the beginning of date when this result realized itself, 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 Grand National Assembly of Turkey. The Constitutional Court shall decide on the appeal within fifteen days.

8. Salaries and Allowances

Article 95. The salaries and allowances of the members of the Grand National Assembly of Turkey shall be

regulated by law. The monthly amount of the salary shall not exceed the salary of the most senior civil servant; the travel allowance shall not exceed half of that salary.

II. Functions and Powers of the Grand National Assembly of Turkey

A. General Provisions

Article 96. The functions and powers of the Grand National Assembly of Turkey comprise the enactment, amendment, and repeal of laws; the supervision of the Council of Ministers and the Ministers; authorisation of the Council of Ministers to issue governmental decrees having force of law on certain matters; debating and approval of the budget draft and the draft law of the final accounts, making decisions regarding printing of currency and declaration of war; ratifying international agreements, deciding on the proclamation of amnesties and pardons that the Grand National Assembly of Turkey has decided $\frac{3}{5}$ of total number of members with secret ballot and exercising the powers and executing the functions envisaged in the other Articles of the Constitution.

B. Introduction and Debate of the Laws

Article 97. The Council of Ministers and deputies are empowered to introduce laws.

The procedure and principles relating to the debating of draft bills and proposals of law in the Grand National Assembly of Turkey shall be regulated by the Rules of Procedure.

C. Promulgation of Laws by the President of the Republic

Article 98. The President of the Republic shall promulgate the laws adopted by the Grand National Assembly of Turkey within fifteen days.

He shall, within the same period, refer to the Grand National Assembly of Turkey for further consideration, laws which he deems unsuitable for promulgation, together with a statement of his reasons. Budget laws shall not be subject to this provision.

If the Grand National Assembly of Turkey adopts in its unchanged form the law referred back, the President of the Republic shall promulgate it; if the Assembly

amends the law that was referred back, and the President of the Republic may again refer the amended law back to the Assembly.

Provisions relating to Constitutional amendments are reserved.

D. Ratification of International Treaties

Article 99. The ratification of treaties concluded with foreign states and international organisations on behalf of the Republic of Turkey, shall be subject to adoption by the Grand National Assembly of Turkey with a law approving the ratification. The Constitutional Court shall consider the constitutionality of the international agreements through preliminary review.

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 citizens of Republic of Turkey abroad. In such cases, these agreements must be brought

to the knowledge of the Grand National Assembly of Turkey 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 Grand National Assembly of Turkey. 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.

International agreements duly put into effect carry the force of law. The provisions of the international agreements shall prevail in the event of a conflict between the international agreement subject to preliminary review and the law.

The international agreements ratified by Turkey shall also be taken into consideration in the interpretation of the provisions of the Constitution concerning the human rights.

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

E. Authorisation to Enact Decrees Having Force of Law

Article 100. The Grand National Assembly of Turkey may empower the Council of Ministers to issue decrees having force of law. The fundamental rights and freedoms may not be regulated by decrees having force of law. However, the rights and freedoms the exercise of which depend on a positive act of the State and which are regulated as the duties of the State in achieving the economic and social goals prescribed in the Constitution may be regulated by decrees having force of law.

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.

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 having force of law are submitted to the Grand National Assembly of Turkey on the day of their publication in the Official Gazette.

The decrees having force of law not discussed and adopted by the Grand National Assembly of Turkey and its commissions within one year shall deemed to have been rejected.

Decrees not submitted to the Grand National Assembly of Turkey on the day of their publication shall cease to have effect on that day and decrees rejected by the Grand National Assembly of Turkey shall cease to have effect on the day of publication of the decision in the Official Gazette. The amended provisions of the decrees that 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 101. The Power to authorise the declaration of a state of war in cases deemed legitimate by international law and, except where required by international treaties to which Turkey is a party or by the rules of international courtesy to send Turkish Armed Forces to foreign countries and to allow foreign armed forces to be stationed in Turkey, is vested in the Grand National Assembly of Turkey.

III. Activities of the Grand National Assembly of Turkey

A. Convening and Adjournment

Article 102. The Grand National Assembly of Turkey 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 an adjournment and 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 President 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 Grand National Assembly of Turkey 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 103. The Bureau of the Assembly of the Grand National Assembly of Turkey shall be composed of the President, the Deputy Presidents, Secretary Members, and Administrative 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 Presidency.

Two elections to the Bureau of the Grand National Assembly of Turkey shall be held in the course of one legislative term. The duration of office of those elected is two years.

The candidates from among the members of the Assembly for the President of the Grand National Assembly of Turkey shall be announced, within five days of the convening of the Assembly, to the Bureau of the Assembly. Election of the President 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 the 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 member who receives the greatest number of votes in the fourth ballot shall be elected President. The election of the President shall be completed within seven 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 Presidents,

Secretary Members and Administrative Members, shall be stipulated by the Rules of Procedure of the Assembly.

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

C. Rules of Procedure, Political Party Groups and Security Affairs

Article 104. The Grand National Assembly of Turkey shall carry out its activities in accordance with the provisions of the Rules of Procedure drawn up by itself. The provisions of the Rules of Procedure shall be drawn up in such a way as to ensure the participation of each political party group in all the activities of the Assembly in proportion to its number of members, political party groups shall be constituted only if they have at least twenty members.

All security and administrative services of the Grand National Assembly of Turkey regarding all buildings, installations, annexes and its grounds shall be organised and directed by the Office 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 105. Unless otherwise stipulated in the Constitution, the Grand National Assembly of Turkey shall convene with at least, one-third of the total number of members and shall take decisions by an absolute majority of those present.

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 own.

E. Publicity and Publication of Debates

Article 106. Debates held in the plenary session of the Grand National Assembly of Turkey shall be public and shall be published verbatim in the Journal of Records.

The Grand National Assembly of Turkey 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 Grand National Assembly of Turkey without exceed ten years.

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 Collecting Information and Supervision by the Grand National Assembly of Turkey

A. General Provisions

Article 107. The Grand National Assembly of Turkey shall exercise its supervisory power by means of questions, parliamentary inquiries, general debates interpellation and parliamentary investigations.

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 Grand National Assembly of Turkey.

The form of presentation, content, and scope of the motions concerning questions, parliamentary inquiries and general debates, and the procedures for answering, debating and investigating them, shall be regulated by the Rules of Procedure.

B. Interpellation

Article 108. 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 in 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 109. Parliamentary investigation concerning the Prime Minister or other Ministers may be requested with a motion tabled by at least one-tenth of the total number of members of the Grand National Assembly of Turkey. The Assembly shall consider and decide on this request by secret ballot within fifteen days at the latest. If the request is rejected, those who have requested investigation may file objection with the High Court of Appeals within fifteen days, for examination of the request by a commission to be composed of the President of the Penal Division of the High Court of Appeals.

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 having conducted investigation, gathered necessary evidence and heard the witnesses shall submit its report to the Chairman 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.

The Assembly shall debate the report with priority and, if found necessary, may decide to bring the person involved before the Supreme Court. The decision to bring a person before the Supreme Court shall be taken only by an absolute majority of the total number of members and with a secret ballot.

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

Article 110. The President of the Republic shall be elected for a term of office of seven years by the Grand National Assembly of Turkey from among its own members who are over 40 years of age and who have completed their higher education or from among citizens who fulfil these requirements and are eligible to be deputies.

The nomination of a candidate for the Presidency of the Republic from outside the Grand National Assembly of Turkey shall require a written proposal by at least one-fifth of the total number of members of the Assembly.

The President of the Republic cannot be elected for a second time.

The President-elect, if a member of a party, shall sever

his relations with his party and his status as a member of the Grand National Assembly of Turkey shall cease.

B. Election

Article 111. The President of the Republic shall be elected by a two-thirds majority of the total number of members of the Grand National Assembly of Turkey and by secret ballot. If the Grand National Assembly of Turkey is not in session, it shall be summoned immediately to meet.

The election of the President of the Republic shall begin thirty days before the term of office of the incumbent President.

If the Republic expires or ten days after the Presidency fails vacant, and shall be completed within thirty days of the beginning of the election. Candidates shall be declared to the Bureau of the Assembly within the first ten days of this period, and elections shall be completed within the remaining twenty days.

If a two-thirds majority of the total number of members can not be obtained in the first two ballots, between

which there shall be at least a three-day interval, a third ballot shall be held and the candidate who receives the absolute majority of votes of the total number of members shall be elected President of the Republic. If an absolute majority of votes of the total number of members is not obtained in the third ballot, a fourth ballot will be held between the two candidates who receive the greatest number of votes in the third ballot; if the President of the Republic cannot be elected by an absolute majority of the total number of members in this ballot, new general elections for the Grand National Assembly of Turkey shall be held immediately.

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

C. Oath

Article 112. On assuming office, the President of the Republic shall take the following oath before the Grand National Assembly of Turkey:

"In my capacity as President of the Republic I swear upon my honour and integrity before the Grand National Assembly of Turkey 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 of the secular Republic, not to deviate from the ideal according to which everyone is entitled to enjoy human rights and fundamental freedoms under conditions of national peace and prosperity and in a spirit of national solidarity and justice, and do my utmost to preserve and exalt the glory and honour of the Republic of Turkey and perform without bias the functions that I have assumed."

D. Duties and Powers

Article 113. The President of the Republic is the Head of the State. In this capacity he/she shall represent the Republic of Turkey and the unity of the Nation; he/she shall ensure the implementation of the Constitution, and the regular and harmonious functioning of the organs of State.

The President of the Republic shall preside over the Council of Ministers whenever he deems it necessary,

shall accredit representatives of the State of Turkey to foreign states and to receive the representatives of foreign states to the Republic of Turkey and shall ratify and promulgate international treaties.

The President of the Republic shall exercise the powers vested with him by other provisions of the Constitution.

E. Presidential Non-accountability

Article 114. The President of the Republic shall not be accountable for the actions related to his duty. All Presidential decrees except those which the President of the Republic is empowered to enact by himself 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 ministers concerned shall be accountable for these decrees.

The actions that the President is empowered to perform on his own are: to summon the Grand National Assembly of Turkey to meet during holiday, to

promulgate laws, to return laws to the Grand National Assembly of Turkey to be reconsidered, to appoint the Prime Minister, to appoint members to the Constitutional Court, Military High Court of Appeals, Audio-Visual Communication Supreme Council and Public Auditors Council, to appeal to the Constitutional Court for the annulment of certain provisions of laws, to apply to the Constitutional Court for preliminary review or on the grounds of violation of the Constitution by omission, to decide special amnesty or to remit, on grounds of chronic illness, disability, or old age, all or part of the sentences imposed on certain individuals.

No appeal shall be made to legal authority against the decisions and orders above.

F. Presidential Accountability

Article 115. 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 two-thirds of the total number of members.

G. Deputation for the President of the Republic

Article 116. In the event of a temporary absence of the President of the Republic on account of illness, travel abroad or similar circumstances, the President 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 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.

II. Council of Ministers

A. Formation

Article 117. 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 Grand National Assembly of Turkey.

The ministers shall be nominated by the Prime Minister and appointed by the Grand National Assembly of

Turkey, 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 118. The complete list of members of the Council of Ministers shall be submitted to the Grand National Assembly of Turkey. If the Grand National Assembly of Turkey 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 Grand National Assembly of Turkey 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 119. If the Prime Minister deems it necessary, and after discussing the matter in the Council of

Ministers, he/her may ask for a vote of confidence in the Grand National Assembly of Turkey.

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 Grand National Assembly of Turkey and shall not be put to the 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 120. The Prime Minister, as Chairman of the Council of Ministers, shall ensure co-operation 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/her jurisdiction and for the acts and activities of his/her 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 Grand National Assembly of Turkey 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 Grand National Assembly of Turkey.

E. Formation of Ministries, and Ministers

Article 121. The formation, abolition, functions, powers and organisation of the ministries shall be regulated by law. The number of Ministries of State shall not exceed the half of the number of the service Ministries.

A minister may act for another if a ministry becomes 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. If a Ministerial position becomes vacant for any reason, a new appointment shall be made to it within fifteen days.

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

F. Regulations

Article 122. 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.

The regulations shall not contain many provision not examined by the Council of State.

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

G. Provisional Council of Ministers During Elections

Article 123. The Ministers of Justice, Internal Affairs and Communications shall resign prior to general elections from the Grand National Assembly of Turkey.

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 the Grand National Assembly of Turkey 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 Grand National Assembly of Turkey.

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

The Provisional Council of Ministers shall be formed within five days of 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.

H. Calling for Elections for the Grand National Assembly of Turkey by the President of the Republic
Article 124. In cases where the Council of Ministers

fails to receive a vote of confidence under Article 118 or is compelled to resign by a vote of no-confidence under Article 119 or 108, and if a new Council of Ministers cannot be formed within forty-five days or the new Council of Ministers fails to receive a vote of confidence, the President of the Republic, in consultation with the President of the Grand National Assembly of Turkey, may call for new 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 confidence or also within forty- five days of elections for the Bureau of the President of the Grand National Assembly of Turkey of the newly elected Grand National Assembly of Turkey, the President of the Republic may likewise, in consultation with the President of the Grand National Assembly of Turkey, call for new elections.

The decision to call for new elections shall be published in the Official Gazette and the election shall be held thereafter.

I. National Security and Defence

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

Article 125. The Office of Commander-in-Chief is inseparable from the spiritual existence of the Grand National Assembly of Turkey and is represented by the President of the Republic.

The Council of Ministers shall be responsible to the Grand National Assembly of Turkey for national security and for the preparation of the Armed Forces for the defence of the country.

The Chief of the General Staff is the commander of the Armed Forces under the chairmanship of the President of the Republic.

The Chief of the General Staff shall be appointed by the President of the Republic on the proposal of the Council of Ministers; his duties and powers shall be regulated by law.

2. National Security Council

Article 126. The National Security Council shall be composed of the Prime Minister, the Ministers specified in the laws, the Chief of the General Staff and the General Commanders of the Army Forces under the chairmanship of the President of the Republic.

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

The National Security Council shall submit to the Council of Ministers its main views on taking decisions and ensuring necessary coordination with regard to the national security policy of the State.

III. Public Administration

A. Main Principles of the Administration

1. Integral Unity and Public Legal Personality of the Administration

Article 127. 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.

2. By-Laws

Article 128. The Prime Ministry, the ministries, and public corporate bodies may issue by-laws in order to ensure the application of laws and regulations relating to their particular fields of operation, provided that they are not contrary to these laws and regulations.

By-laws, shall not take effect until they are published in the Official Gazette.

3. Transparency of Administration

Article 129. Transparency, is fundamental in administrative actions. The Administration shall state legal reasons in its actions and shall state the ways of recourse to law against its decisions.

The information and documents held by the Administration shall be accessible by everyone except by the mandatory circumstances designated in the laws. Confidentiality reservations restricting the freedom to recourse to law shall not be imposed.

4. Public Service and Public Servants

Article 130. 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 manners related to their status shall be regulated by law.

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

5. Responsibilities and Sanctions

Article 131. Public servants and other public employees are obliged to carry out their duties within loyalty to the Constitution and the laws. They shall not discriminate against anyone on the account of his beliefs and opinions in the exercise of their duties.

Actions for damages arising from the actions of the public servants in violation of the public service or faults committee by public servants may be filed for compensation against the public servant directly or against the administration.

Public servants and other public employees may not be members of the political parties.

In any disciplinary prosecution against the public servants and other public employees and the members of the professional associations considered as public institutions, the accusations shall be expressly notified to the relevant person in writing and written defence must be requested.

Law shall in accordance with the procedures and conditions prescribe prosecution of public servants and other public employees for alleged offences.

6. Unlawful Orders

Article 132. 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 by- laws, regulations, 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, his order shall be executed; in this case the person executing the order shall not be held responsible.

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.

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

7. Judicial Review

Article 133. Recourse to judicial review shall be open against all actions and acts of the administration. The Judiciary shall review the conformity of the actions and acts of the administration with law.

The term for the actions to be brought against administrative actions shall commence on the date of service of notice.

The decision for stay of execution shall bring legal consequences without any further action being required. However, in the event that the expected result of the decision requires an administrative action or act, the Administration shall ensure the enforcement of the decision of the court within the term prescribed by the law.

The Administration is liable to compensate any damages caused by its actions and acts. In the event that the damages are caused by the personal fault of the public servants, the Administration shall have recourse to such public servants for the damages.

B. Organisation of Public Administration

1. Central Administration

Article 134. 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 levels of administrative districts.

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

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

2. Local Administrations

Article 135. Local administrative bodies are public corporate entities established to meet the common local needs of the inhabitants of regions, provinces, municipal districts, and villages, whose decision-making organs are elected by the electorate .

The local administrations shall be constituted by law in

accordance with the unity of the nation, geographical condition, economic circumstances and the requirements of the public services. The local administrations shall ensure the economic, social and cultural development of the region within the framework of respect to the national unity and to the authorities of the provinces and municipalities and exercise local arrangements by taking into consideration the characteristics of the region.

The elections for local administrative bodies shall be held every four years.

The elected bodies of the local administrations shall acquire and be deprived of this status only upon the judicial decision.

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 local administrations and their unions shall be allocated financial resources in proportion to their functions.

C. Specialized and Autonomous Institutions

1. Public Auditors Council

Article 136. The Public Auditors Council shall be established to exercise extra-judicial review of the public administration and to examine and submit opinions of the complains, claim and applications of the citizens concerning the functioning of the administration.

The Public Auditors shall be paid remuneration similar to the salaries and per diem paid to members of Grand National Assembly of Turkey.

The Council shall be composed of five persons to be appointed by the President. The President shall appoint the members of the Council by electing one of two

candidates nominated by each of Turkish Grand National Assembly, the Constitutional Court, High Court of Appeals, Council of State and Association of Turkish Bars.

The term of office of the members of the Council shall be six years. Two-fifths of the members of the Council shall be replaced every three years. The members of the Council may not be re-elected.

The Public Auditors Council shall forward the individual and collective complaints concerning the violation of the rights and its conclusions relate thereto to the relevant institutions. The Council shall report to the Grand National Assembly of Turkey and the President annually and whenever it may deem necessary, on its activities and the situation of the human rights. These reports shall be published in the Official Gazette.

The law in accordance with the principle of autonomy shall regulate the organization, functioning, duties and powers of the Public Auditors Council.

2. Institutions of Higher Education and Their Higher Bodies

a. Institutions of Higher Education

Article 137. The universities and other institutions of higher education shall be established, operated and audited in accordance with the procedures and principles set forth in the law.

No institutions of higher education shall be established in violation of the principles of contemporary science and education learning.

The institutions of higher education shall have public legal entities.

The teaching staff of the institutions of higher education may freely engage in all kinds of scientific research and publication within the framework of the principle of scientific freedom.

State universities shall be established on the basis of the principle of autonomy and shall be administered by their own elected bodies. The law may stipulates that

another State university shall assume the administration of newly established state universities until they complete their development.

The administrative and supervisory bodies and the teaching staff of the universities shall not be removed for office by authorities other than the university bodies for whatsoever reason.

Institutions of higher education established by foundations, provided they do not pursue lucrative aims, 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, principles and procedures of promotion, job security and personnel rights, excepting the financial and administrative matters.

b. Superior Bodies of Higher Education

Article 138. The Higher Education Council shall be established to plan, and supervise the higher education and ensure necessary coordination among institutions of higher education, to be composed of the representatives

of the institutions of higher education and members appointed by the President of the Republic from among the persons who have knowledge and experience in the field of higher education. The representatives to be elected by the state universities shall have majority in this Council. The law shall take into consideration the level of development of such institutions of higher education in determining the number of the representatives of the state universities to be appointed to the Council.

The budgets of the universities established by the state shall be reviewed by the higher education council and entered into force by the Ministry of National Education in accordance with the principles of annexed budget.

The organization, functions, authority, responsibility and operating principles of the Higher Education Council shall be regulated by law accordance with the principle of autonomy.

3. Broadcasting High Council

Article 139. The Broadcasting High Council shall be

established to determine the radio and television broadcasting principles, to audit and supervision such broadcasts, to issue broadcasting permissions to the radio and television stations to be established by the legal entities and public institutions, to enforce the sanctions set forth by the law against those who violate the broadcast principles and to cancel the broadcasting permission whenever necessary.

The Council shall be composed nine members with higher education. One member of the Council shall be appointed by the President, two members of the Council shall be appointed by the Higher Education Council, two members of the Council shall be appointed by the Plenary Assemblies of the High Court of Appeals and the Council of State among their own members and two members of the Council shall be appointed by each of two press and media professional organizations designated by the law.

The members except by those appointed by the High Court of Appeals and the Council of State must have served minimum fifteen years in public administration, communications, press and media, culture or arts and

must be prominent persons in their fields.

The Council shall work on permanent basis.

The term of office of the members of the Council shall be six years. One-third of the members of the Council shall be replaced every two years. A member who is appointed to fill a vacancy before the end of the term of the predecessor shall serve until end of the term of his predecessor. The members of the Council shall not continue their relations with their former jobs and shall not assume any other office or job. The cadres of the members in their former offices shall be reserved. The members of the Council whose term expires or who resigns form office shall return to his previous job with all rights vested therein.

The members of the Council be paid remuneration similar to the salaries and per diem paid to members of the legislative assembly.

The formation, functioning, election of the executives, duties, powers and responsibilities of Council shall be regulated by the law.

The principles of autonomy and impartiality shall apply to the 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.

4. Public Professional Organizations

Article 140. Public professional organizations and their higher organizations which have the status of public institutions are public corporate bodies established by law; 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.

Elected organs of public professional organisations shall not be removed from their duties without a judicial decision permanently or temporarily.

The law shall regulate the administration and functioning of the professional organizations. The by-laws and working principles of the professional organizations shall not violate the democratic rules.

Public professional organisations established by law with the objectives to meet 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 the common interests, to ensure integrity and trust in relations among its members and with public.

5. State Planning Organization

Article 141. The State Planning Organization shall be established by the law as an autonomous and specialized agency to ensure the implementation of the planning principles set forth in the Constitution.

6. The High Institution of Culture and Arts

Article 142. The High Institution of Culture and Arts shall be established to develop, research and disseminate culture and arts at the level of contemporary civilization.

This institution is a public corporate body and autonomous. Law in accordance with the principle of impartiality shall regulate its organization functioning and activities.

7. The Department of Religious Affairs

Article 143. 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 and with the principle of equal treatment of different religions.

8. Other Specialized and Autonomous Institutions

Article 144. Specialized and autonomous institutions may be established by the laws to ensure the regular functioning of the sensitive sectors generated by the scientific and technological development in the economic, social and cultural fields and to assure the related rights and freedoms.

D. Procedure Governing Emergency Rule

1. States of Emergency

Article 145. 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 may declare a state of emergency in any place or throughout the country for a period not exceeding four months.

In the event of the emergency 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 any place or throughout the country for a period not exceeding four months.

In the event of a declaration of a state of emergency under the provisions above, this decision shall be published in the Official Gazette and shall be submitted immediately to the Grand National Assembly of Turkey for approval. If the Grand National Assembly of Turkey is in recess, it shall be summoned immediately. The Assembly may limit geographical area of the state of emergency, and reduced or extend the period, or may suspend the state of emergency.

2. Martial Law, Mobilisation and State of War

Article 146. 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 any place or throughout the country for a period not exceeding four 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 Grand National Assembly of Turkey, on the same day. If the Grand National Assembly of Turkey is in recess, it shall be summoned immediately. Grand National Assembly of Turkey may narrow the geographical scope of or shorten the period of martial law or terminate martial law should it deem necessary.

Extension of the period of martial law for a maximum of two months each time shall require a decision of the Grand National Assembly of Turkey.

3. Arrangements for the State of Emergency

Article 147. 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 procedure as to how fundamental rights and freedoms shall be restricted or suspended temporarily, how and by what means the measures necessitated by the situation shall be taken, what sort of powers shall be conferred on public servants and the procedure governing emergency rule, shall be regulated by the law.

In the events of martial law, mobilisation and state of war, the provisions to be applied, relations between martial law and general administration, and conduct of affairs, the manner in which freedoms are to be restricted or suspended temporarily and the obligations to be imposed on citizens in the event of emergence of a situation necessitating war, shall be regulated by law.

Part Three

JUDICIAL POWER

I. General Provisions about Judicial Power

A. Judicial Independence

Article 148. Judges shall be independent in the discharge of their duties; they shall give judgment in accordance with the Constitution, international treaties signed by Turkey, law, and their personal conviction conforming to the law.

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

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

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

B. Judges and Public Prosecutors

Article 149. Judges and public prosecutors shall serve as judges and public prosecutors of courts of justice and of administrative courts, 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 in 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 not assume official or public functions other than those prescribed by law.

The public prosecutors shall be attached to the Ministry of Justice insofar as their administrative functions are concerned. Judicial Security forces shall be attached to Public Prosecutors in the provinces and districts. The law shall regulate the organization and functioning of the Judicial Security forces.

C. Security of Tenure of Judges and Public Prosecutors

Article 150. 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 as unsuitable to remain in the profession, are reserved.

D. Publicity of Hearings and Verdict Justification

Article 151. Court hearings shall be open to the public. However, 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 and public security, protection of the minors or the privacies of the parties.

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.

The trials shall be concluded in reasonable periods in accordance with the principles of fair trial.

E. Organization of Courts

Article 152. The establishment, duty and jurisdiction of the courts, their functioning and trial procedures shall be regulated by law.

Specialized first instance and high criminal courts shall be established to deal with offences directly involving the

internal and external security of the State and the offences of terrorism.

The courts dealing with the offences of terrorism shall also assume the duties of the martial courts being restricted with their jurisdiction in the event that martial law is declared in their jurisdictions.

F. Military Justice

Article 153. Military justice shall be exercised by military courts and military disciplinary courts.

These courts shall have jurisdiction to try military personnel for only military offences.

The offences and persons falling within the jurisdiction of military courts in time of war or under martial law specified by law.

The organization 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.

G. The Military High Court of Appeals

Article 154. The Military High Court of Appeals is the last instance for reviewing decisions and judgments 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 elected 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 organization, the functioning of the Military High Court of Appeals, and disciplinary and personnel matters relating to the status 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.

H. Practice of Legal Defence and Bars

Article 155. Representation for the protection of the rights and defence before the judicial authorities shall be provided with the assistance of the lawyers registered with Bars. Legal defence is independent and a constituent element of the justice.

Bars and Turkish Bar Association, which is their higher institution, are independent public institutions. The law shall regulate their organization and working principles.

The lawyers who perform a public service shall provide legal assistance during legal actions, investigations and proceedings before the administration and the judicial authorities to those who demand such services, shall exercise the duty of legal defence with complete independence and in conformity with the law, shall fully exercise their legal duties and powers and shall assume the moral and legal responsibility for the work they perform.

II. Higher Courts

A. The Constitutional Court

1. Organisation

Article 156. The Constitutional Court shall be composed of twenty-one members.

Three members from the High Court of Appeals, three members from the Council of State, and one member from the Military High Court of Appeals, two members from the Audit Court shall be elected by the Plenary Assemblies of each court from among their respective presidents and members, by an absolute majority of the total number of members and with ballot vote.

One member shall be elected by the Constitutional Court. Election of the Constitutional Court shall be made from among their reporters by an absolute majority of the total number of members and with ballot vote.

Turkish Bar Association General Assembly shall elect one member from among advocates by an absolute majority of the total number of members and with ballot vote.

The President of the Republic shall appoint two members, one member from among advocates and one member from among senior public officers.

The Higher Education Council shall elect one member from among members of the teaching staff of law institutions of higher education by an absolute majority of the total number of members and with ballot vote.

The Grand National Assembly of Turkey shall elect seven members from among members of the teaching staff of law, economy or politics institutions of higher education, senior public officials and lawyers by an absolute majority of the total number of members. If after first two rounds there is no absolute majority, majority vote of the participants is sufficient.

President of the Constitutional Court shall be elected by two-third majority of the total number of its members with ballot vote. If after first two rounds there is no two-third majority, an absolute majority of the total numbers of members is sufficient.

2. Divisions and Courts

Article 157. The Constitutional Court shall consist of the Plenary Assembly, two Divisions and two Courts. "Preliminary Review" commission composed of three members shall be established within the Divisions and Courts.

a) Formation

The Plenary Assembly shall be composed of one president and 18 members. The President of the Constitutional Court shall preside over the Plenary Assembly. The quorum for meeting shall be President and 18 members.

The divisions shall be composed of one president and 8 members. The quorum for meeting shall be President and 6 members.

The Courts shall be composed of one president and 6 members. The quorum for meeting shall be President and 4 members. The members working in the field of administrative law shall be given priority in election to the Supreme Court. Participation in the Court shall be on the basis of seniority.

b) Functions

The Plenary Assembly shall review the Constitutional amendments and the applications concerning the international treaties and agreements.

The Plenary Assembly shall review the appeals against the decision of the Court of the Political Parties as court of appeal.

The Plenary Assembly shall elect the members of the Divisions and Courts.

The First Division shall examine the constitutionality of the decrees having the force of law and the by-laws of the Grand National Assembly through action of annulment and contention of unconstitutionality.

The Second Division shall examine individual applications.

The President of the Republic, Speaker of the Parliament, members of the Council of Ministers, presidents and members of the Constitutional Court, of the High Court of Appeals, of the Council of State, of the Military High Court of Appeals, of the High

Military Administrative Court of Appeals, their Chief Public Prosecutors, Deputy Public Prosecutors of the Republic, and the presidents and members of the Supreme Council of Judges and Public Prosecutors, and of the Audit Court shall be tried for offences relating to their functions by the Supreme Court of the Constitutional Court.

The Court of Political Parties shall perform financial audit of the political parties, examine the actions for the dissolution of the political parties, and the appeals against the termination of parliamentary immunity, termination of the membership of the deputies of Grand National Assembly of Turkey and deferment of elections.

The Constitutional Court shall receive assistance from the Audit Court in the exercise of financial audit of the political parties.

The dissolution of the political parties shall be decided by the Constitutional Court upon the action brought by the Chief Public Prosecutor.

The duty of Public Prosecutor shall be realized by Chief Public Prosecutor or his deputy at the said Courts and on appeal examinations, which presented to the said Courts.

The Divisions and Courts shall elect their presidents and preliminary review commissions with the absolute majority of their total number of members.

3. Membership

Article 158. To qualify for appointments as members of the Constitutional Court, it shall be required to be over the age of forty and to have served at least fifteen years in the prescribed professions.

The term of office of the members of the Constitutional Court is nine years. They may not be re-elected at the end of their term of office.

One-third of the members of the Constitutional Court shall be replaced every three years.

The members of the Constitutional Court shall not

assume other official and private functions, apart from their main functions.

4. Termination of Membership

Article 159. The members of the Constitutional Court shall retire on reaching the age of sixty-seven.

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 regular members of the Constitutional Court if it is definitely established that he is unable to perform his duties on account of ill health.

5. Functions and Powers

Article 160. The President of the Republic, the Speaker of the Parliament, members of the Council of Ministers, presidents and members of the Constitutional Court, of the High Court of Appeals, of the Council of State, of the Military High Court of Appeals, of the High Military Administrative Court of Appeals, their Chief Public Prosecutors, Deputy Public Prosecutors of the Republic, and the presidents and members of the

Supreme Council of Judges and Public Prosecutors, and of the Audit Court shall be tried for offences relating to their functions by the Constitutional Court in its capacity as the Supreme Court.

The verification of laws as to form shall be restricted to consideration of whether the requisite majority was obtained in the last ballot.

The Constitutional Court shall be tried in its capacity as the Supreme Court the President of the Republic, the President of Grand National Assembly of Turkey, members of the Council of Ministers, presidents and members of the Constitutional Court and High Courts, their Chief Public Prosecutors, and the presidents and members of the Supreme Council of Judges and Public Prosecutors and of the Audit Court, the Chief of the General Staff and the Commanders of the Armed Forces for offences relating to their functions.

The Constitutional Court shall audit the political parties, shall examine the appeals against the termination of parliamentary immunity, termination of the membership

of the deputies of Grand National Assembly of Turkey and deferment of elections.

6. Functions and Trial Procedure

Article 161. The Constitutional Court shall convene as the Plenary Assembly with the its President and 18 members. The Divisions shall convene with their Presidents and six members on seniority basis and take decisions by absolute majority.

The Courts shall convene with their Presidents and four members on seniority basis and take decisions by absolute majority.

Unanimous decisions of the preliminary review commissions shall be final. The decisions taken by majority shall be finalized after the decision of the related division of court.

The related courts shall try the cases with its capacity as the Supreme Court and the actions concerning the political parties in sessions.

7. Preliminary Investigation

Article 162. The President shall forward the international treaties and agreements ratified by law and submitted to him for promulgation, the rights concerning the personnel rights of the members of Grand National Assembly of Turkey and the authorization laws for decrees having the force of law to be reviewed in terms of constitutionality to the Constitutional Court within 7 days. The Constitutional Court shall decide within 21 days.

8. Annulment Action

Article 163. The President of the Republic, parliamentary groups of the party in power and a minimum of thirty members of the Grand National Assembly of Turkey and Supreme Council of Judges and Public Prosecutors, High Courts, Association of Turkish Bars, the Court of Audit and universities, Public Auditors Council, public professionals higher organisations in relation with their professions and duty shall have the right to apply for annulment action to the Constitutional Court, based on the assertion of constitutional changing, the unconstitutionality of laws in form and in substance, of decrees having force of

law, of Rules of Procedure of the Grand National Assembly of Turkey.

The right to apply for annulment directly to the Constitutional Court shall lapse sixty days after publication in the Official Gazette of contested law.

9. Contention of Unconstitutionality

Article 164. If a court which is trying a case, finds that the law or the decree having force of law to be applied in that case or affect the decision 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 judgment shall be decided upon by the competent authority of appeal.

The Constitutional Court shall decide on the matter and make public its judgment within six 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 three years elapse after publication in the Official Gazette of the decision of the Constitutional Court dismissing the application on its merits.

10. Constitutional Complaint by Individuals

Article 165. Everyone has right to apply to the Constitutional Court on the claim of violation of any of the Constitutional rights and freedoms within the concept of the European Convention of Human Rights by the public authority provided that all ways of recourse have been exhausted. However, the Constitutional Court may waive the condition of exhaustion of all ways of recourse in cases when there would be adverse consequences, which could not be

compensated, or when the application might set light on an important matter.

The fundamental right claimed to have been violated and the public act or omission causing that violation must be stated in the justification of the application.

The term for application is 30 days from the date of oral or written notification of the act to the applicant. In cases of violation by omission, application may be filed as long as the omission continues.

Application may be filed against law or a Court decision or administrative action, which cannot be appealed or objected to. The application must be filed within not later than one year after the effective date of the law or the finalization of the decision or the performance of the action.

In the event that an application is filed against a court decision, the Constitutional Court may annul that decision or refer the matter to a court having jurisdiction. In the event of application against a law or

an administrative action, the Constitutional Court may decide for the annulment of the law or cancellation of the action.

11. Unconstitutionally via Omission

Article 166. The Constitutional Court shall verify upon the request of the President that the legislative has not fulfilled the requirements of the Constitution by not adopting the necessary legal arrangements for the enforcement of the principles of the Constitution.

The Constitutional Court shall notify the legislative when it determines any violation of the Constitution by omission.

12. Decisions of the Constitutional Court

Article 167. The decisions of the Constitutional Court are final. Decisions of annulment can not be made public without a written statement of reasons. The decisions must be published with written statement of reasons within not later than 3 months after the date of decision.

Provisions decided to annul by the Constitutional Court shall cease to have effect from the date of publication in

the Official Gazette. 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 six months from the date of publication of the decision in the Official Gazette.

In case the Constitutional Court decides that the continuation of the effect of the provision reviewed would cause adverse consequences and determines a clear unconstitutionality, it may decide the law shall be no more in effect. In such a case, the Constitutional Court shall make its decision with written statement of reasons within 3 months at the latest.

The annulment decision can not have retroactive effect.

The Constitutional Court may decide that the decisions concerning the allegations of unconstitutionality through contention is restricted with the case examined and binding only for the parties.

B. The High Court of Appeals

Article 168. 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 Supreme Council of Judges and Public Prosecutors from among first category judges and public prosecutors of the Republic, of the courts of justice, or those considered to be members of this profession.

The first president of the High Court of Appeals, the Chief Public Prosecutor of the Republic and the Deputy Chief Public Prosecutor of the Republic, first deputy presidents of the High Court of Appeals 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; they may be re-elected at the end of their term of office.

The organisation, the function, the qualifications and

procedures of election of the president 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. The Council of State

Article 169. 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 opinions on draft legislation submitted by the Prime Minister and the Council of Ministers, examine draft regulations and the conditions and contracts under which concessions are granted, 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 depended on the points gained according to attribute prescribed by law; and the remaining one-fourth of the members 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 organisation, 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.

III. High Councils

A. The Supreme Election Council

Article 170. 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 Grand National Assembly of Turkey. 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.

B. The Jurisdictional Conflict Council

Article 171. The Jurisdictional Conflict Council shall deliver final judgements in disputes between courts of justice, and administrative and military courts concerning their jurisdiction and decisions.

The organisation of the Jurisdictional Conflict Council, 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 Council shall be held by a member delegated by the Constitutional Court from among its own members.

C. The Supreme Council of Judges and Public Prosecutors

Article 172. The Supreme Council of Judges and Public Prosecutors shall be composed of seven regular members and four substitutes. Four of the regular members and three substitutes shall be elected by the Plenary Assembly of the High Court of Appeals, three regular members and two substitutes shall be elected by the Plenary Assembly of the Council of State from amongst their own members, by secret ballot and by an absolute majority of the total number of members, for a period of four years.

These members shall elect a Chairman and a Vice-Chairman from amongst themselves, by absolute majority.

The Supreme Council of Judges and Public Prosecutors shall inspect the admission of judges and public prosecutors in terms of performing their duties in accordance with the laws and compliance with the requirements of their duties and commitment of a crime in the exercise of their duties and when deemed necessary authorizes the Inspectors of Justice to conduct investigations.

The members of the Council may not assume functions other than their duties.

The Minister of Justice may attend and preside over the meetings of the Council when deemed necessary but is not entitled to vote.

PART FOUR

FINANCIAL AND ECONOMIC PROVISIONS

I. Budget

A. Preparation and Implementation of the Budget

Article 173. 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 and implementation of the general and subsidiary budgets shall be defined by law.

The law may prescribe special periods and procedures for investments relating to development plans, or for business and services expected to last more than one year.

No provisions other than those pertaining to the budget shall be included in the Budget Act.

B. Debate on the Budget

Article 174. The Council of Ministers shall submit the draft of general and subsidiary budgets and the report containing the national budgetary estimates to the Grand National Assembly of Turkey 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 fifty 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 thirty seats to members of the party or parties in power.

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 Grand National Assembly of Turkey 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 Grand National Assembly of Turkey shall not make proposals that entail an increase in expenditure or a decrease in revenue.

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 Grand National Assembly of Turkey shall not preclude the auditing of accounts for the relevant year that have not already been dealt with by the Audit Court and shall not indicate that a final decision has been taken on these accounts.

III. The Audit Court

Article 177. The Audit Court shall be charged with auditing, on behalf of the Grand National Assembly of Turkey, all the accounts relating to the revenue, expenditure and property of government departments financed by the 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.

Applications for judicial review of the final decisions of the Audit Court may be filed with the Council of State as the first instance court.

The organisation, functioning and auditing procedure of the Audit Court, the qualifications, appointment, duties and powers, rights and obligations of its members, other matters relating to their personal status, and the security of tenure of the president and members shall be regulated by law.

IV. Auditing

A. Auditing of State Economic Enterprises and Funds

Article 178. The principles governing the auditing, by the Grand National Assembly of Turkey 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.

Resources may not be used in funds unless stipulated by the law. Funds may not be excluded from the audit of Turkish Grand National Assembly.

B. Supervision of Markets

Article 179. 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. For this aim specialists and neutral commissions are established by law.

V. Duties of the State

A. Protection of Consumers

Article 180. The State shall take measures to protect and inform consumers; shall support, encourage their initiatives to protect themselves.

B. Protection of Small Traders and Craftsmen

Article 181. The State shall take measures to protect and support small traders and craftsmen.

C. Promotion of Cooperatives

Article 182. 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.

PART FIVE AMENDMENT AND PROTECTION OF THE CONSTITUTION

I. Amendment of the Constitution

Article 183. The constitutional amendment shall be proposed in writing by at least one-third of the total number of members of the Grand National Assembly of Turkey. Suggestions for amendments of the Constitution shall not be debated urgently. The adoption of a proposal for an amendment shall require a two-third majority of the total number of members of the Assembly.

The consideration and adopting of proposals for the amendment of the Constitution shall be subject to the

provisions governing the consideration of legislation, with the exception of the conditions set forth in first paragraph of this Article.

II. Irrevocable Provisions

Article 184. The provision of Article 1, 2, 3 shall not be amended, nor shall their amendment be proposed.

III. Preservation of Reform Laws

Article 185. No provision of this Constitution shall be construed or interpreted as rendering unconstitutional the Reform Laws indicated below, which aim to raise society above the level of contemporary civilisation and to safeguard the secular character of the Republic of Turkey, and which were in force on the date of the adoption of the Constitution of Turkey.

Act No. 430 of 3 March 1340 (1924) on the Unification of the Educational System;

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

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;

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;

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

Act No. 1353 of 1 November 1928 on the Adoption and Application of the Turkish Alphabet;

Act No 2590 of 26 November 1934 on the Abolition of Titles and Appellations such as Efendi, Bey or Pasha;

Act No. 2596 of 3 December 1934 on the Prohibition of the Wearing of Certain Garments.

IV. Preamble and Headings of Articles

Article 186. The PREAMBLE, which states the basic views and principles underlying the Constitution, shall have an effect of direction for the text 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.

PART SIX PROVISIONAL ARTICLES AND ENTRY INTO FORCE

Provisional Articles

Article 187.

Provisional Article 1. The provisions of the By-Laws which are in affect and which do not contravene the Constitution shall be implemented until new ones replace them. Amendments of the by-laws shall be adopted and entered into force within six months at the latest after the effective date of this Constitution.

Provisional Article 2. The laws concerning the organization duties, powers and functioning of the new bodies, institutions and agencies stipulated in the Constitution and the laws required to be adopted or amended shall be enacted within one year after the effective date of this Constitution.

The provisions of the laws in effect, which do not contravene the Constitution and the provisions of this Constitution, shall be applied until such laws are enacted.

Provisional Article 3. The tenures and functions of the members of the Constitutional Court as of the effective date of the Constitution shall continue and the substitute members shall be regular members.

In case of any vacancy in the Constitutional Court, if the vacancy occurs in the office of a member from an institution, which is represented by one member in the Constitutional Court new, member shall be elected by the same institution. If the vacancy occurs in the office of a member from an institution which is represented by

more than one member in the Constitutional Court new member shall be elected by an institution, which is not represented in the Constitutional Court. If there is a vacancy occurs in two offices of members from an institution represented by two members when all institutions are represented, the new members shall be elected by that same institution. When any vacancy occurs in four or five offices, an institution with no member or two members the office of one of, which is vacant, shall be given priority.

In case of any interruption in the order of election, the institution to elect the members shall be determined by the total number of the members of the Constitutional Court with absolute majority.

Those who are regular members of the Constitutional Court as of the effective date of this Constitution shall attend the meeting regardless of their seniority.

Provisional Article 4. The office of the Undersecretary of the Ministry of Justice in the Supreme Council of

Judges and Public Prosecutors shall be terminated on the effective date of this Constitution. The Minister of Justice who is a natural member of the Council shall preside over the meetings he attends pursuant to article 154 of the Constitution.

The regular members from the High Court of Appeals and the Council of State shall continue to hold office until the end of their terms. The offices of the substitutes shall be terminated; however, the most senior members from the High Court of Appeals and the Council of State shall continue to hold office until the end of the term as substitutes.

The vacant positions of the members from the High Court of Appeals and the Council of State shall be filled by the members to be elected by Turkish Bar Association and the Universities within thirty days at the latest.

The Supreme Council of Judges and Public Prosecutors shall continue its functions with its existing members until such elections are completed.

Provisional Article 5. Turkish Language Institution and Turkish History Institution shall be re-established with their structures before 1982 in accordance with the will of Atatürk. Their assets shall be returned and their functioning will be ensured within six months after the effective date of this Constitution.

Provisional Article 6. The judges and public prosecutors appointed to the State Security Courts pursuant to article 8 of the Law concerning the Establishment of the State Security Courts, dated 18.8.1983 and numbered 2845 and al other officials of such courts shall be appointed to their new positions within thirty days in accordance with the procedures applicable to their appointment.

All files of the actions filed with those courts and all files held with the Public Prosecutors and security forces shall be delivered to the Courts authorized by the Penal Trial Procedure Law after the effective date of this Constitution, giving priority to the case of the arrested defendants and the cases shall be assigned to the public prosecutors for the completion of investigation within thirty days at the latest.

All actions under the jurisdiction of the State Security Courts shall be filed with the Courts authorized by the Criminal Procedure Act after the effective date of this Constitution.

Provisional Article 7. The staff of the Military High Administrative Court referred to in article three of the Law on the Military High Administrative Courts dated 4.7.1972 and numbered 1602 shall be appointed to their new positions within thirty days in accordance with the procedures applicable to their appointment.

All files with the Military High Administrative Courts shall be delivered to the Council of State within thirty days at the latest without further action.

The files for the actions brought before the Military High Administrative Courts and the motions and documents to be submitted to the Military High Administrative Courts in connection with the actions filed with such courts shall be submitted to the Council of State within thirty days after the effective date of this Constitution.

Entry into Force of the Constitution

Article 188. On its adoption and its publication in the Official Gazette, this Constitution shall come into effect as the Constitution of the Republic of Turkey.

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PROVISIONAL ARTICLES AND ENTRY INTO
FORCE

- Provisional Articles
- Entry into Force of the Constitution