



# CONSTITUTION OF THE REPUBLIC OF TURKEY

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

# CONSTITUTION OF THE REPUBLIC OF TURKEY

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

## PREAMBLE

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

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

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

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

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

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

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

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

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

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

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

## **PART ONE**

### **General Principles**

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

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

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

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

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

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

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

Its national anthem is the "Independence March".

Its capital is Ankara.



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

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

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

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

#### **VI. Sovereignty**

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

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

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

## **VII. Legislative power**

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

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

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

## **IX. Judicial power**

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

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

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

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

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

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

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

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

**ARTICLE 11-** The provisions of the Constitution are fundamental legal rules binding upon legislative, executive and judicial organs, and administrative authorities and other institutions and individuals.

Laws shall not be contrary to the Constitution.

## **PART TWO**

### **Fundamental Rights and Duties**

#### **CHAPTER ONE**

#### **General Provisions**

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

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

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

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

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

**ARTICLE 13-** (As amended on October 3, 2001; Act No. 4709)

Fundamental rights and freedoms may be restricted only by law and in conformity with the reasons mentioned in the relevant articles of the Constitution without infringing upon their essence. These restrictions shall not be contrary to the letter and spirit of the Constitution and the requirements of the democratic order of the society and the secular republic and the principle of proportionality.

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

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

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

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

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

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

**ARTICLE 15-** (As amended on April 16, 2017; Act No. 6771) In times of war, mobilization, a state of emergency, the exercise of fundamental rights and freedoms may be partially or entirely suspended, or measures derogating the guarantees embodied in the Constitution may be taken to the extent required by the exigencies of the situation, as long as obligations under international law are not violated.

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

#### **V. Status of aliens**

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

### **CHAPTER TWO**

#### **Rights and Duties of the Individual**

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

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

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

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

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

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

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

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

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

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

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

Execution of sentences restricting liberty and the implementation of security measures decided by courts; arrest or detention of an individual in line with a court ruling or an obligation upon him designated by law; execution of an order for the purpose of the educational supervision of a minor, or for bringing him/her before the competent authority; execution of measures taken in conformity with the relevant provisions of law for the treatment, education or rehabilitation of a person of unsound mind, an alcoholic, drug addict, vagrant, or a person spreading contagious diseases to be carried out in institutions when such persons constitute a danger to the public; arrest or detention of a person who enters or attempts to enter illegally into the country or for whom a deportation or extradition order has been issued.

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

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

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

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

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

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



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

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

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

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

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

(Paragraph added on September 12, 2010; Act No. 5982) Everyone has the right to request the protection of his/her personal data. This right includes being informed of, having access to and requesting the correction and deletion of his/her personal data, and to be informed whether these are used

in consistency with envisaged objectives. Personal data can be processed only in cases envisaged by law or by the person's explicit consent. The principles and procedures regarding the protection of personal data shall be laid down in law.

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

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

The domicile of an individual shall not be violated. Unless there exists a decision duly given by a judge on one or several of the grounds of national security, public order, prevention of crime, protection of public health and public morals, or protection of the rights and freedoms of others, or unless there exists a written order of an agency authorized by law in cases where delay is prejudicial, again on these grounds, no domicile may be entered or searched or the property seized therein. The decision of the competent authority shall be submitted for the approval of the judge having jurisdiction within twenty-four hours. The judge shall announce his decision within forty-eight hours from the time of seizure; otherwise, seizure shall be automatically lifted.

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

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

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

Unless there exists a decision duly given by a judge on one or several of the grounds of national security, public order, prevention of crime, protection of public health and public

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**ARTICLE 28-** The press is free, and shall not be censored. The establishment of a printing house shall not be subject to prior permission or the deposit of a financial guarantee.

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

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

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

Anyone who writes any news or articles which threaten the internal or external security of the State or the indivisible integrity of the State with its territory and nation, which tend to incite offence, riot or insurrection, or which refer to classified state secrets or has them printed, and anyone who prints or transmits such news or articles to others for the purposes above, shall be held responsible under the law relevant to these offences.

Distribution may be prevented as a precautionary measure by the decision of a judge, or in case delay is deemed prejudicial, by the competent authority explicitly designated by law. The authority preventing the distribution shall notify a competent judge of its decision within twenty-four hours at the latest. The order preventing distribution shall become null and void unless upheld by a competent judge within forty-eight hours at the latest.

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

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

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

Periodicals published in Turkey may be temporarily suspended by court ruling if found to contain material which contravenes the indivisible integrity of the State with its territory and nation, the fundamental principles of the Republic, national security and public morals. Any publication which clearly bears the characteristics of being a continuation of a suspended periodical is prohibited; and shall be seized by decision of a judge.

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

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

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

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

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



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

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

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

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

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

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

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

**ARTICLE 32-** The right of rectification and reply shall be accorded only in cases where personal reputation and honour is injured or in case of publications of unfounded allegation and shall be regulated by law.

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

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

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

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

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

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

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

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

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

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

The provisions of this article shall also apply to foundations.

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

**ARTICLE 34-** (As amended on October 3, 2001; Act No. 4709)

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

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

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

## **XII. Right to property**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Criminal responsibility shall be personal.

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

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

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

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

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

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

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

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

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

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

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

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

## **CHAPTER THREE**

### **Social and Economic Rights and Duties**

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

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

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

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

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

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

## **II. Right and duty of education**

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

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

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

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

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

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

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

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

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

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

### **III. Public interest**

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

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

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



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

## **B. Land ownership**

**ARTICLE 44-** The State shall take the necessary measures to maintain and develop efficient land cultivation, to prevent its loss through erosion, and to provide land to farmers with insufficient land of their own, or no land. For this purpose, the law may define the size of appropriate land units, according to different agricultural regions and types of farming. Provision of land to farmers with no or insufficient land shall not lead to a fall in production, or to the depletion of forests and other land and underground resources.

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

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

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

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

#### **D. Expropriation**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

All workers have the right to rest and leisure.

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

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

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

Employees and employers have the right to form unions and higher organizations, without prior permission, and they also possess the right to become a member of a union and to freely withdraw from membership, in order to safeguard and

develop their economic and social rights and the interests of their members in their labour relations. No one shall be forced to become a member of a union or to withdraw from membership.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The State shall regulate central planning and functioning of the health services to ensure that everyone leads a healthy life physically and mentally, and provide cooperation by saving and increasing productivity in human and material resources.

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

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

### **B. Right to housing**

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

## **IX. Youth and sports**

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

**ARTICLE 58-** The State shall take measures to ensure the education and development of the youth into whose keeping our independence and our Republic are entrusted, in the light



of positive science, in line with the principles and reforms of Atatürk, and in opposition to ideas aiming at the destruction of the indivisible integrity of the State with its territory and nation.

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

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

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

The state shall protect successful athletes.

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

### **X. Social security rights**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **ARTICLE 65-** (As amended on October 3, 2001; Act No. 4709)

The State shall fulfil its duties as laid down in the Constitution in the social and economic fields within the capacity of its financial resources, taking into consideration the priorities appropriate with the aims of these duties.

## **CHAPTER FOUR**

### **Political Rights and Duties**

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

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

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

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

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

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

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

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

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

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

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

The exercise of these rights shall be regulated by law.

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

(Paragraph added on July 23, 1995; Act No. 4121) The electoral laws shall be drawn up so as to reconcile the principles of fair representation and stability of government.

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

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

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

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

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

Political parties are indispensable elements of democratic political life.

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

The statutes and programs, as well as the activities of political parties shall not be contrary to the independence of the State, its indivisible integrity with its territory and nation, human rights, the principles of equality and rule of law, sovereignty of the nation, the principles of the democratic and secular republic; they shall not aim to promote or establish class or group dictatorship or dictatorship of any kind, nor shall they incite citizens to crime.

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

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

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

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

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

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

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

Political parties shall not engage in commercial activities.

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

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

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

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

organs of that party or by the group's general meeting or group executive board at the Grand National Assembly of Turkey or when these activities are carried out in determination by the abovementioned party organs directly.

(Paragraph added on October 3, 2001; Act No. 4709) Instead of dissolving it permanently in accordance with the above-mentioned paragraphs, the Constitutional Court may rule the concerned party to be deprived of state aid wholly or in part with respect to intensity of the actions brought before the court.

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

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

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

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



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

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

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

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

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

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

## **V. National service**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Paragraph added on September 12, 2010; Act No. 5982)  
The way of exercising these rights referred to in this article, the establishment, duties, functioning of the Ombudsperson Institution and its proceedings after the examination and the procedures and principles regarding the qualifications, elections and personnel rights of the Chief Ombudsperson and ombudspersons shall be laid down in law.

## **PART THREE**

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

#### **CHAPTER ONE**

#### **Legislative Power**

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

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

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

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

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

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

(As amended on December 27, 2002; Act No. 4777, April 16, 2017; Act No. 6771) Persons who have not completed primary education, who have been deprived of legal capacity, who are neither exempt nor deferred from military service, who are banned from public service, who have been sentenced to a prison term totalling one year or more excluding involuntary offences, or to a heavy imprisonment; those who have been convicted for dishonourable offences such as embezzlement, corruption, bribery, theft, fraud, forgery, breach of trust, fraudulent bankruptcy; and persons convicted of smuggling, conspiracy in official bidding or purchasing, of offences related to the disclosure of state secrets, of involvement in acts of terrorism, or incitement and encouragement of such activities, shall not be elected as a deputy, even if they have been granted amnesty.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(As amended on October 21, 2007; Act No. 5678) The Supreme Board of Election shall execute all the functions to ensure the fair and orderly conduct of elections from the beginning to the end, carry out investigations and take final decisions, during and after the elections, on all irregularities, complaints and objections concerning the electoral matters, and receive the electoral records of the members of the Grand National Assembly of Turkey and presidential election. No appeal shall be made to any authority against the decisions of the Supreme Board of Election.

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

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

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

(As amended on October 21, 2007; Act No. 5678) The general conduct and supervision of a referendum on laws amending the Constitution and of election of the President of the Republic by people shall be subject to the same provisions relating to the election of deputies.

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

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

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

## **2. Oath-taking**

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

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

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

**ARTICLE 82-** Members of the Grand National Assembly of Turkey shall not hold office in state departments and other public corporate bodies and their subsidiaries; in corporations and enterprises where there is direct or indirect participation of the State or public corporate bodies; in the enterprises and corporations where the State and other public corporate bodies take part directly or indirectly; in the executive and supervisory boards of public benefit associations whose private resources of revenues and privileges are provided by law; of the foundations receiving subsidies from the state and enjoying tax exemption; of the professional organizations having the characteristics of public institutions and trade unions; and in the executive and supervisory boards of aforementioned enterprises



and corporations which they have a share and in their higher bodies. Nor shall they be representatives, accept any contracted engagement of the boards stated above directly or indirectly, serve as a representative, or perform as an arbitrator therein.

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

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

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

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

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

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

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

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

## **5. Loss of membership**

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

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

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

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

Loss of membership of a deputy who fails to attend Parliamentary proceedings without excuse or leave of absence

for five sessions, in a period of one month shall be decided upon by the Plenary with a majority of the total number of members after the Bureau of the Assembly determines the situation.

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

## **6. Application for annulment**

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

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

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

**ARTICLE 86-** (As amended on November 21, 2001; Act No. 4720) Salaries, travel allowances and retirement procedures of the members of the Grand National Assembly of Turkey shall be regulated by law. The monthly amount of the salary shall not exceed the salary of the most senior civil servant; the travel allowance shall not surpass half of that salary. The members of the Grand National Assembly of Turkey and retired members are affiliated with the Pension Fund of the Turkish Republic, and the affiliation of those whose membership have expired continue upon their request.

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

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

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

### **A. General**

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

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

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

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

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

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

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

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

Provisions relating to constitutional amendments are reserved.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(As amended on October 3, 2001; Act No. 4709) The candidates from among the members of the Assembly for the Office of the Speaker of the Grand National Assembly of Turkey



shall be announced, within five days of the convening of the Assembly, to the Bureau of the Assembly. Election of the Speaker shall be held by secret ballot. In the first two ballots, a two-thirds majority of the total number of members, and in the third ballot an absolute majority of the total number of members is required. If an absolute majority cannot be obtained in the third ballot, a fourth ballot shall be held between the two candidates who have received the highest number of votes in the third ballot; the member who receives the greatest number of votes in the fourth ballot shall be elected as Speaker. The election of the Speaker shall be completed within five days after the expiry of the period for the nomination of candidates.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A written question is a question asked by deputies to the deputies of the President of the Republic or ministers in a written form, which is to be answered no later than fifteen days.

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

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

## **B. Censure**

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

## **C. Parliamentary investigation**

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

# **CHAPTER TWO**

## **The Executive Power**

### **I. President of the Republic**

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

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

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

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

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

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

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

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

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

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

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

## **B. Election**

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

## **C. Oath-taking**

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

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

## **D. Duties and powers**

**ARTICLE 104-** (As amended on April 16, 2017; Act No. 6771) The President of the Republic is the head of the State. The executive power shall be vested in the President of the Republic.

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

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

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

He/she shall promulgate laws.

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

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

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

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

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

He/she shall ratify and promulgate international treaties.

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

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

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

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

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

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

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

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

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



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

**ARTICLE 105-** (As amended on April 16, 2017; Act No. 6771)

Absolute majority of the Grand National Assembly of Turkey may table a motion requesting that the President of the Republic be investigated on allegations of a crime. The Grand National Assembly of Turkey shall debate the motion in one month at the latest and may decide to launch an investigation with three-fifths of the total number of its members by secret ballot.

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

The report shall be distributed within ten days from the date of its submission to the Office of the Speaker, and it shall be debated in the Plenary within ten days following its distribution. The Grand National Assembly of Turkey may decide to refer the report to the Supreme Criminal Tribunal with two-thirds of the total number of its members by secret ballot. The trial of

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

the Supreme Criminal Tribunal shall be completed within three months, if not completed within this period, an additional period of three-months shall be granted for once only, and the trial shall be finalized within the time allotted.

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

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

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

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

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

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

If the presidential office becomes vacant for any reason, the presidential election shall be held within forty-five days. The Deputy President of the Republic of Turkey shall act as and exercise the powers of the President of the Republic until the next President of the Republic is elected. If one year or less remains for the general election, the election for the Grand

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

National Assembly of Turkey shall be renewed together with the presidential election. If more than one year remains for the general election, the President of the Republic of Turkey shall continue to serve until the election date of the Grand National Assembly of Turkey. This period shall not be counted of the presidential term with respect to the President of the Republic who completed the remaining period. Both elections shall be held together on the date of the general elections of the Grand National Assembly of Turkey.

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

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

The deputies of the President of the Republic and the ministers are accountable to the President of the Republic. Absolute majority of the Grand National Assembly of Turkey may table a motion requesting that the Deputies of President of the Republic and ministers be investigated on allegations of perpetration of a crime regarding their duties. The Assembly

shall debate the motion within one month at the latest and may decide to launch an investigation with three-fifth majority of the total number of its members by secret ballot.

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

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

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

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

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

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

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

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

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

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

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

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

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

## **II. Council of Ministers**

### **A. Formation**

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

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

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

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

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

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

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

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

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

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

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

### **G. Regulations**

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

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

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

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

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

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

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

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

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

## **I. National defence**

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

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

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

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

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

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

### **2. National Security Council**

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



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

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

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

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

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

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

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

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

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

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

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

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

The financial, material and labour obligations to be imposed on citizens, the manner of restriction and temporary suspension of fundamental rights and freedoms in line with the principles of the Article 15, and the provisions to be applied and actions to be carried out in the event of state of emergency shall be regulated by law.

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

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

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

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

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

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

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

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

## **IV. Administration**

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

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

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

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

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

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

**ARTICLE 124-** (As amended on April 16, 2017; Act No. 6771) The President of the Republic, the ministries, and public corporate bodies may issue by-laws in order to ensure the implementation of laws and presidential decrees relating to their jurisdiction, as long as they are not contrary to these laws and decrees.

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

## **B. Judicial review**

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

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

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

(As amended on September 12, 2010; Act No. 5982) Judicial power is limited to the review of the legality of administrative actions and acts, and in no case may it be used as a review of expediency. No judicial ruling shall be passed which restricts the exercise of the executive function in accordance with the forms and principles prescribed by law, which has the quality of an administrative action and act, or which removes discretionary powers.

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

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

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

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

### **1. Central administration**

**ARTICLE 126-** In terms of central administrative structure, Turkey is divided into provinces on the basis of geographical situation, economic conditions, and public service requirements; provinces are further divided into lower levels of administrative districts.

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

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

## **2. Local administrations**

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

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

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

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

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

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

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

### **1. General principles**

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

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

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

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

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



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

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

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

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

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

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

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

**ARTICLE 130-** For the purpose of training manpower to meet the needs of the nation and the country under a system of contemporary education principles, universities comprising several units and having scientific autonomy and public legal personality shall be established by the State and by law, to educate at different levels based on secondary education, to conduct research, to issue publications, to act as consultants, and to serve the country and humanity.

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

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

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

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

University presidents shall be elected and appointed by the President of the Republic, and faculty deans by the Council of Higher Education, in accordance with the procedures and provisions of the law.

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

(As amended on October 29, 2005; Act No. 5428) The budgets drawn up by universities, after being examined and approved by the Council of Higher Education shall be submitted

to the Ministry of National Education, and shall be put into effect and supervised in conformity with the principles applied to central government budget.

The establishment of institutions of higher education, their organs, their functioning and elections, their duties, authorities and responsibilities, the procedures to be followed by the state in the exercise of the right to supervise and inspect the universities, the duties of the teaching staff, their titles, appointments, promotions and retirement, the training of the teaching staff, the relations of the universities and the teaching staff with public institutions and other organizations, the level and duration of education, admission of students into institutions of higher education, attendance requirements and fees, principles relating to assistance to be provided by the State, disciplinary and penalty matters, financial affairs, personnel rights, rules to be abided by the teaching staff, the assignment of the teaching staff in accordance with inter-university requirements, the pursuance of training and education in freedom and under guarantee and in accordance with the requirements of contemporary science and technology, and the use of financial resources provided by the State to the Council of Higher Education and the universities, shall be regulated by law.

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

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

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

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

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

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

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

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

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

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

The unique radio and television institution established by the State as a public corporate body and the news agencies which receive aid from public corporate bodies shall be autonomous and their broadcasts shall be impartial.

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

**ARTICLE 134-** (As amended on April 16, 2017; Act No. 6771) The “Atatürk High Institution of Culture, Language and History” shall be established as a public corporate body, under

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

the moral aegis of Atatürk, under the supervision of and with the support of the President of the Republic, attached to the minister designated by the President of the Republic, and composed of the Atatürk Research Centre, the Turkish Language Institution, the Turkish History Institution and the Atatürk Culture Centre, in order to conduct scientific research, to produce publications and to disseminate information on the thought, principles and reforms of Atatürk, Turkish culture, Turkish history and the Turkish language.

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

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

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

**ARTICLE 135-** Professional organizations having the characteristics of public institutions and their higher bodies are public corporate bodies established by law, with the objectives of meeting the common needs of the members of a given profession, to facilitate their professional activities, to ensure the development of the profession in keeping with common interests, to safeguard professional discipline and ethics in order to ensure integrity and trust in relations among its members and

with the public; their organs shall be elected by secret ballot by their members in accordance with the procedure set forth in the law, and under judicial supervision.

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

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

(As amended on July 23, 1995; Act No. 4121) Political parties shall not nominate candidates in elections for the organs and higher bodies of these professional organizations.

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

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

(As amended on July 23, 1995; Act No. 4121) However, where it is required for and delay constitutes a prejudice to national security, public order, prevention of commission or continuation of a crime, or an arrest, an authority may be vested

with power by law to suspend the professional organizations and their higher bodies from activity. The decision of this authority shall be submitted for the approval of the judge having jurisdiction within twenty-four hours. The judge shall announce his/her decision within forty-eight hours; otherwise, this administrative decision shall be annulled automatically.

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

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

## **J. Unlawful order**

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

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

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



## **CHAPTER THREE**

### **Judicial Power**

#### **I. General provisions**

##### **A. Independence of the courts**

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

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

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

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

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

**ARTICLE 139-** Judges and public prosecutors shall not be dismissed, or unless they request, shall not be retired before the age prescribed by the Constitution; nor shall they be deprived of their salaries, allowances or other rights relating to their status, even as a result of the abolition of a court or a post.

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

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

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

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

The qualifications, appointment, rights and duties, salaries and allowances of judges and public prosecutors, their promotion, temporary or permanent change in their posts or place of duties, the initiation of disciplinary proceedings against them and the imposition of disciplinary penalties, the conduct of investigation concerning them and the subsequent decision to prosecute them on account of offences committed in connection with, or in the course of, their duties, the conviction for offences or instances of incompetence requiring their dismissal from the profession, their in-service training, and other matters relating to their personnel status shall be regulated by law in accordance with the principles of the independence of the courts and the security of tenure of judges.

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

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

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

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

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

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

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

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

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

## **E. Formation of courts**

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

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

## **F. State Security Courts**

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

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

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

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

## **H. Military justice**

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

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

## **II. Higher courts**

### **A. Constitutional Court**

#### **1. Formation**

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

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

(As amended on April 16, 2017; Act No. 6771) The President of the Republic shall appoint three members from High Court of Appeals, two members from Council of State from among three candidates to be nominated, for each vacant

position, by their respective general assemblies, from among their presidents and members; three members, at least two of whom being law graduates, from among three candidates to be nominated for each vacant position by the Council of Higher Education from among members of the teaching staff who are not members of the Council, in the fields of law, economics and political sciences; four members from among high level executives, self-employed lawyers, first category judges and public prosecutors or rapporteurs of the Constitutional Court having served as rapporteur at least five years.

(As amended on April 16, 2017; Act No. 6771) In the elections to be held in the respective general assemblies of the High Court of Appeals, Council of State, the Court of Accounts and the Council of Higher Education for nominating candidates for membership of the Constitutional Court, three persons obtaining the greatest number of votes shall be considered to be nominated for each vacant position. In the elections to be held for the three candidates nominated by the heads of bar associations from among self-employed lawyers, three persons obtaining the greatest number of votes shall be considered to be nominated.<sup>19</sup>

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

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

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

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

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

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

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

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

### **3. Functions and powers**

**ARTICLE 148-** (As amended on September 12, 2010; Act No. 5982, and on April 16, 2017; Act No. 6771) The Constitutional Court shall examine the constitutionality, in respect of both form and substance, of laws, presidential decrees and the Rules of Procedure of the Grand National Assembly of Turkey, and decide on individual applications. Constitutional amendments shall be examined and verified only with regard to their form. However, presidential decrees issued during a state of emergency or in time of war shall not be brought before the Constitutional Court alleging their unconstitutionality as to form or substance.

The verification of laws as to form shall be restricted to consideration of whether the requisite majority was obtained in the last ballot; the verification of constitutional amendments shall be restricted to consideration of whether the requisite majorities were obtained for the proposal and in the ballot, and whether the prohibition on debates under expedited procedure was observed. Verification as to form may be requested by the President of the Republic or by one-fifth of the members of the Grand National Assembly of Turkey. Applications for annulment



on the grounds of defect in form shall not be made after ten days have elapsed from the date of promulgation of the law; and it shall not be appealed by other courts to the Constitutional Court on the grounds of defect in form.

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

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

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

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

of Appeals and Council of State, the Deputy Chief Public Prosecutor, the president and members of Council of Judges and Prosecutors and Court of Accounts.

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

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

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

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

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

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

(As amended on April 16, 2017; Act No. 6771) The Constitutional Court consists of two sections and the General Assembly. The sections convene under the chairpersonship of the deputy president with the participation of four members. The General Assembly shall convene with the participation of at least ten members under the chairpersonship of the President

of the Constitutional Court or a deputy president designated by the President. The sections and the General Assembly shall take decisions by absolute majority. Committees may be established to examine the admissibility of the individual applications.

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

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

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

The formation of the Constitutional Court, trial procedures of the General Assembly and the sections, disciplinary matters of the President, the deputy presidents, and members shall be regulated by law; principles of functioning of the Court, formation of the sections and committees, and the division of labour shall be set out by the internal regulations to be drawn up by the Court.

The Constitutional Court shall examine cases without holding a hearing, except where it acts as the Supreme Criminal Tribunal. Nonetheless, it may be decided to hold a hearing for

individual applications. When it deems necessary, the Court may also call on those concerned and those having knowledge relevant to the case, to hear their oral explanations, and in lawsuits on dissolution of a political party, the Court shall hear the defence of the chairperson of the political party or of a proxy appointed by the chairperson, after hearing the Chief Public Prosecutor of the High Court of Appeals.

### **5. Annulment action**

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

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

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

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

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

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

The Constitutional Court shall decide on the matter and declare its judgment within five months of receiving the contention. If no decision is reached within this period, the trial court shall conclude the case under legal provisions in force. However, if the trial court receives the decision of the Constitutional Court until the judgment on the merits of the case is final, the trial court is obliged to comply with it.

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

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

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

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

(As amended on April 16, 2017; Act No. 6771) Laws, presidential decrees, or the Rules of Procedure of the Grand National Assembly of Turkey or provisions thereof, shall cease to have effect from the date of publication in the Official Gazette of the annulment decision. Where necessary, the Constitutional Court may also decide on the date on which the annulment decision shall come into effect. That duration shall not be more than one year from the date of publication of the decision in the Official Gazette.

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

Annulment decisions cannot be applied retroactively.

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

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

**ARTICLE 154-** The High Court of Appeals is the last instance for reviewing decisions and judgments given by civil

courts that are not referred by law to other civil judicial authority. It shall also be the first and last instance court for dealing with specific cases prescribed by law.

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

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

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

The organization and the functioning of the High Court of Appeals, the qualifications and procedures of the election of its president, deputy presidents, heads of departments, members, Chief Public Prosecutor and Deputy Chief Public Prosecutor shall be regulated by law in accordance with the principles of the independence of courts and the security of tenure of judges.

## **C. Council of State**

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

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

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

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



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

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

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

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

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

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

**ARTICLE 158-** (As amended on April 16, 2017; Act No. 6771) The Court of Jurisdictional Disputes shall be empowered to deliver final judgments in disputes between civil and administrative courts concerning their jurisdiction and judgments.

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

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

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

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

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

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

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

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

and lawyers, at least one member shall be a teaching staff and one member shall be a lawyer. The applications for the membership of the Council to be elected by the Grand National Assembly of Turkey shall be made to the Office of the Speaker of the Assembly. The applications shall be referred by the Office of the Speaker to the Joint Committee composed of the members of the Committee on the Constitution and the Committee on Justice. For each membership, the Committee shall nominate three candidates with a two-third majority of total number of its members. In case the Committee fails to conclude the nomination of candidates in the first ballot, a three-fifth majority of total number of its members shall be required in the second ballot. If the candidates cannot also be nominated in the second ballot, the procedure of nomination shall be concluded by lot between the two candidates who received the highest number of votes for each membership. The Grand National Assembly shall hold separate elections by secret ballot for each membership between the candidates nominated by the Committee. Two-third majority of total number of the members shall be required in the first ballot; in case the election cannot be concluded three-fifth majority of total number of the members shall be required in the second ballot. In case the member cannot also be elected in the second ballot, the election of the members shall be concluded by lot between the two candidates who received the highest number of votes.<sup>22</sup>

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<sup>22</sup> The phrase "...economics and political sciences..." following the phrase "law," in the third sentence of this paragraph before the amendment made by fourteenth Article of Act No. 6771, and the phrase "...high level executives..." following the phrase "the teaching staff," in the same sentence were annulled by the decision of the Constitutional Court dated July 7, 2010 numbered E. 2010/49, K. 2010/87 (Official Gazette numbered 27659 of August 1, 2010).

(As amended on April 16, 2017; Act No. 6771) Members shall be elected for a term of four years. Members may be once re-elected at the end of their term of office.

(As amended on April 16, 2017; Act No. 6771) Election of members to the Council shall be held within thirty days before the members' term of office expires. If a vacancy arises in the Council before elected members' term of office expires, new members shall be elected within thirty days following such vacancy.<sup>23</sup>

(As amended on April 16, 2017; Act No. 6771) The members of the Council other than the Minister of Justice and the Undersecretary to the Ministry of Justice shall not assume any office except those specified by law or be appointed or elected by the Council to another office during their term of office.

The administration and representation of the Council shall be carried out by the President of the Council. The President of the Council shall not participate in the works of the chambers. The Council shall elect the heads of chambers from among its members and one Deputy President from among the heads of chambers. The President may delegate some of his/her powers to the Deputy President.

The Council shall conduct the proceedings regarding the admission to the profession of judges and public prosecutors of civil and administrative courts, appointment, transferring to

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<sup>23</sup> The phrase "...for only one candidate..." following the phrase "each judge and public prosecutor;" before the amendments made by fourteenth Article of Act No. 6771 was annulled by the decision of the Constitutional Court dated July 7, 2010 numbered E. 2010/49, K. 2010/87 (Official Gazette numbered 27659 of August 1, 2010).

other posts, delegation of temporary powers, promotion, and being reserved to the first category, decisions concerning those whose continuation in the profession is found to be unsuitable, the imposition of disciplinary penalties and removal from office; the Council shall take final decisions on proposals of the Ministry of Justice concerning the abolition of a court, or changes in the territorial jurisdiction of a court; it shall also exercise the other functions given to it by the Constitution and laws.

(As amended on April 16, 2017; Act No. 6771) Supervising whether the judges and public prosecutors perform their duties in accordance with laws and other regulations (administrative circulars, in the case of judges); investigating whether they have committed offences in connection with, or in the course of their duties, whether their behaviour and conduct are in conformity with requirement of their status and duties and if necessary, inquiries and investigations concerning them shall be assigned to the Council's inspectors, upon the proposal of the related chambers and with the permission of the President of the Council of Judges and Prosecutors. The inquiries and investigations may also be assigned to a judge or public prosecutor who is senior to the judge or public prosecutor to be investigated.

The decisions of the Council, other than dismissal from the profession, shall not be subject to judicial review.

A Secretariat General shall be established under the Council. The Secretary General shall be appointed by the President of the Council from among three candidates proposed by the Council from among first category judges and public prosecutors. The

Council shall be empowered to appoint, with their consent, the Council's inspectors, and judges and public prosecutors to be temporarily or permanently assigned to the Council

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

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

#### **IV. Court of Accounts**

**ARTICLE 160-** (As amended on October 29, 2005; Act No. 5428) The Court of Accounts shall be charged with auditing, on behalf of the Grand National Assembly of Turkey, evenues, expenditures, and assets of the public administrations financed by central government budget and social security institutions, with taking final decisions on the accounts and acts of the responsible officials, and with exercising the functions prescribed in laws in matters of inquiry, auditing and judgment. Those concerned may file, only for once, a request for reconsideration of a final

decision of the Court of Accounts within fifteen days of the date of written notification of the decision. No applications for judicial review of such decisions shall be filed in administrative courts.

In case of conflict between the decisions of the Council of State and the Court of Accounts, regarding taxes, similar financial obligations and duties, the decision of Council of State shall prevail.

(Paragraph added on October 29, 2005; Act No. 5428)  
Auditing and final decision on the accounts and acts of local administrations shall be conducted by the Court of Accounts.

The establishment, functioning, auditing procedures, qualifications, appointments, duties and powers, rights and obligations and other personnel matters of the members and guarantees of the President and the members of the Court shall be regulated by law.

(Paragraph repealed on May 7, 2004; Act No. 5170)

## **PART FOUR**

### **Financial and Economic Provisions**

#### **CHAPTER ONE**

#### **Financial Provisions**

##### **I. Budget**

##### **A. Budget and final accounts<sup>24</sup>**

**ARTICLE 161-** (As amended on October 29, 2005; Act No. 5428, April 16, 2017; Act No. 6771)

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<sup>24</sup> *The heading of this Article, which was stipulated as “A. Preparation and implementation of the budget” was amended by the fifteenth Article of Act No. 6771 dated April 16, 2017.*

The expenditure of the State and of public corporations other than state economic enterprises shall be determined by annual budgets.

The beginning of the fiscal year and the preparation, implementation and control of the central government budget and the special periods and procedures for investments as well as works and services expected to last more than one year shall be regulated by law. No provisions other than those pertaining to the budget shall be included in the Budget Act.

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

If the budget law cannot be put into force within due period, the provisional budget law shall be enacted. If the provisional budget law cannot also be enacted, the budget of the previous year shall be applied increasingly as per the revaluation rate until the new budget law is adopted.

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



Budgets of the public administrations and the motions for amendments shall be read out and voted without further debate in the Plenary.

The appropriation granted by the central government budget shall indicate the limit of expenditure allowed. No provision shall be included in the Budget Act to the effect that the limit of expenditure may be exceeded by presidential decree.

In motions of amendment entailing an increase in appropriations under the budget of the current fiscal year and bills entailing financial burden in the budgets of the current or following fiscal year, the financial resources to meet the stated expenditure shall be indicated.

Central government final accounts bills shall be submitted to the Grand National Assembly of Turkey by the President of the Republic within six months of the end of the relevant fiscal year. The Court of Accounts shall submit its statement of general conformity to the Grand National Assembly of Turkey within seventy-five days of the submission of the final accounts bill to which it is related.

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

The final accounts bill shall be debated and adopted together with the budget bill of the new fiscal year.

## **B. Debate on the budget**

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

## **C. Principles governing budgetary amendments**

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

## **D. Final accounts**

**ARTICLE 164-** (Repealed on April 16, 2017; Act No. 6771)

## **E. Scrutiny of state economic enterprises**

**ARTICLE 165-** The principles governing the scrutiny of the accounts of public institutions and partnerships where more than half of the capital directly or indirectly belongs to the State, by the Grand National Assembly of Turkey, shall be regulated by law.

# **CHAPTER TWO**

## **Economic Provisions**

### **I. Planning; Economic and Social Council<sup>25</sup>**

**ARTICLE 166-** Planning the economic, social and cultural development, in particular the rapid, balanced and harmonious development of industry and agriculture throughout the country and the efficient use of national resources by taking inventory of and evaluating them, and the establishment of the necessary organization for this purpose are the duties of the State.

Measures to increase national savings and production, to ensure stability in prices and balance in external payments, to promote investment and employment shall be included in the

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<sup>25</sup> The phrase; “Economic and Social Council” was added by the twenty third Article of Act No. 5982 dated September 12, 2010.

plan; in investments, public interests and necessities shall be taken into account and the efficient use of resources shall be proposed. Development activities shall be realized according to this plan.

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

(Paragraph added on September 12, 2010; Act No. 5982; as amended on April 16, 2017; Act No. 6771) The Economic and Social Council shall be established to provide the President of the Republic with consultative opinions in the formulation of economic and social policies. The establishment and functioning of the Economic and Social Council shall be laid down in law.

## **II. Supervision of markets and regulation of foreign trade**

**ARTICLE 167-** The State shall take measures to ensure and promote the sound and orderly functioning of the markets for money, credit, capital, goods and services; and shall prevent the formation of monopolies and cartels in the markets, emerged in practice or by agreement.

(As amended on April 16, 2017; Act No. 6771) In order to regulate foreign trade for the benefit of the economy of the country, President of the Republic may be empowered by law to introduce additional financial impositions on imports, exports and other foreign trade transactions, except taxes and similar impositions, or to lift them.

### **III. Exploration and exploitation of natural resources**

**ARTICLE 168-** Natural wealth and resources shall be under the authority and at the disposal of the State. The right to explore and exploit these belongs to the State. The State may delegate this right to persons or corporate bodies for a certain period. Of the natural wealth and resources, those to be explored and exploited by the state in partnership with persons or corporate bodies, and those to be directly explored and exploited by persons or corporate bodies shall be subject to the explicit permission of the law. The conditions to be observed in such cases by persons and corporate bodies, the procedure and principles governing supervision and control by the State, and the sanctions to be applied shall be prescribed by law.

### **IV. Forests and the forest villagers**

#### **A. Protection and development of forests**

**ARTICLE 169-** The State shall enact the necessary legislation and take the measures required for the protection and extension of forests. Burnt forest areas shall be reafforested; other agricultural and stockbreeding activities shall not be allowed in such areas. All forests shall be under the care and supervision of the State.

The ownership of state forests shall not be transferred. State forests shall be managed and exploited by the State in accordance with the law. Ownership of these forests shall not be acquired by prescription, nor shall servitude other than that in the public interest be imposed in respect of such forests.

Acts and actions that might damage forests shall not be permitted. No political propaganda that might lead to the destruction of forests shall be made; no amnesties or pardons specifically for offences against forests shall be granted. Offences committed with the intention of burning or destroying forests or reducing forest areas shall not be included within the scope of amnesties or pardons.

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

### **B. Protection of forest villagers**

**ARTICLE 170-** Measures shall be introduced by law to secure cooperation between the State and the inhabitants of villages located in or near forests in the supervision and exploitation of forests for the purpose of ensuring conservation of forests and their integrity, and improving the living conditions of these inhabitants; the law shall also regulate the exploitation of areas which technically and scientifically ceased to be forests

before December 31, 1981; the identification of areas whose preservation as forest is considered scientifically and technically useless, their exclusion from forest boundaries and their improvement by the State for the purpose of settling all or some of the inhabitants of forest villages in them, and their allocation to these villages.

The State shall take measures to facilitate the acquisition of equipment and other inputs by these inhabitants.

The land owned by villagers resettled outside a forest shall immediately be reafforested as a State forest.

## **V. Developing cooperativism**

**ARTICLE 171-** The State shall take measures, in keeping with national economic interests, to ensure the development of cooperativism, which shall be primarily aiming at increase in production and protection of consumers.

(Repealed on July 23, 1995; Act No. 4121)

## **VI. Protection of consumers, tradespeople and artisans**

### **A. Protection of consumers**

**ARTICLE 172-** The State shall take measures to protect and inform consumers; shall encourage their initiatives to protect themselves.

### **B. Protection of tradespeople and artisans**

**ARTICLE 173-** The State shall take measures to protect and support tradespeople and artisans.

## **PART FIVE**

### **Miscellaneous Provisions**

#### **I. Preservation of Reform Laws**

**ARTICLE 174-** No provision of the Constitution shall be construed or interpreted as rendering unconstitutional the Reform Laws indicated below, which aim to raise Turkish society above the level of contemporary civilization and to safeguard the secular character of the Republic, and whose provisions were in force on the date of the adoption of the Constitution by referendum:

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

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

3. Act No. 677 of November 30, 1341 (1925) on the Closure of Dervish Monasteries and Tombs, the Abolition of the Office of Keeper of Tombs and the Abolition and Prohibition of Certain Titles,

4. The principle of civil marriage according to which the marriage act shall be concluded in the presence of the competent official, adopted with the Turkish Civil Code No. 743 of February 17, 1926, and Article 110 of the Code,

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

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

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

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

## **PART SIX**

### **Provisional Articles**

**PROVISIONAL ARTICLE 1-** On the duly proclamation of the adoption of the Constitution as the Constitution of the Republic of Turkey by referendum, the Chairperson of the Council of National Security and Head of State at the time of the referendum, shall assume the title of President of the Republic and shall exercise the constitutional functions and powers of the President of the Republic for a period of seven years. The oath taken as Head of State on September 18, 1980 shall remain valid. At the end of the period of seven years, the election for the Presidency of the Republic shall be held in accordance with the provisions set forth in the Constitution.

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

If the Presidency of the Republic falls vacant for any reason before the Grand National Assembly of Turkey convenes and assumes its functions at the end of the first general elections, the most senior member of the National Security Council shall act



as President of the Republic and exercise all his constitutional functions and powers until the Grand National Assembly of Turkey convenes and elects a new President of the Republic in accordance with the Constitution.

**PROVISIONAL ARTICLE 2-** The Council of National Security formed on December 12, 1980 under Act No. 2356 shall continue to exercise its functions under Act No. 2324 on the Constitutional Order and Act No. 2485 on the Constituent Assembly until the convening of the Grand National Assembly of Turkey and the formation of the Bureau following the first general elections held under the Political Parties Act and the Elections Act prepared in accordance with the Constitution.

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

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

The functions of the Presidential Council shall be as follows:

a) To examine laws adopted by the Grand National Assembly of Turkey and submitted to the President of the Republic concerning: the fundamental rights and freedoms and duties set forth in the Constitution, the principle of secularism, the preservation of the reforms of Atatürk, national security and public order, the Turkish Radio and Television Corporation, international treaties, the sending of armed forces to foreign countries and the admission of foreign forces in Turkey, emergency rule, martial law and the state of war, and other laws deemed necessary by the President of the Republic, within the first ten days of the period of fifteen days granted to the President of the Republic for his consideration;

b) On the request of the President of the Republic and within the period specified by him:

To consider and give an opinion on matters relating to the renewal of general elections, the exercise of emergency rule and the measures to be taken during a state of emergency, the management and supervision of the Turkish Radio and Television Corporation, the training of the youth and the conduct of religious affairs;

c) According to the request of the President of the Republic, to consider and investigate matters relating to internal or external security and such other matters deemed necessary, and to submit its findings to the President of the Republic.

**PROVISIONAL ARTICLE 3-** On the convening of the Grand National Assembly of Turkey and the formation of the Bureau following the first general elections held in accordance with the Constitution:

a) Act No. 2324 of October 27, 1980 on the Constitutional Order,

b) Act No. 2356 of December 12, 1980 on the Council of National Security,

c) Act No. 2485 of June 29, 1981 on the Constituent Assembly,

shall cease to have effect and the legal existence of the Council of National Security and the Consultative Assembly shall terminate.

**PROVISIONAL ARTICLE 4-** (Repealed on September 6, 1987; Act No. 3361)

**PROVISIONAL ARTICLE 5-** On the tenth day following proclamation of the results of the first general elections by the Supreme Board of Election, the Grand National Assembly of Turkey shall convene of its own accord at the building of the Grand National Assembly of Turkey in Ankara at 15.00 hours. The eldest deputy shall preside this session. At this session, the deputies shall take their oaths.

**PROVISIONAL ARTICLE 6-** Until the Grand National Assembly of Turkey, formed in accordance with the Constitution, adopts the Rules of Procedure, which shall govern its sessions

and proceedings, those provisions of the Rules of Procedure of the National Assembly that were in force before September 12, 1980, and that are not contrary to the Constitution shall apply.

**PROVISIONAL ARTICLE 7-** The present Council of Ministers shall continue in office until the convening of the Grand National Assembly of Turkey and the formation of the new Council of Ministers following the first general elections.

**PROVISIONAL ARTICLE 8-** Laws relating to the formation, duties, powers and functioning of the new organs, institutions and agencies established under the Constitution and other laws whose introduction or amendment is provided for in the Constitution, shall be enacted during the period of Constituent Assembly, starting from the date of the adoption of the Constitution; laws that cannot be dealt with during this period shall be enacted within the year following the first session of the newly elected Grand National Assembly of Turkey.

**PROVISIONAL ARTICLE 9-** Within a period of six years following the formation of the Bureau of the Grand National Assembly of Turkey, which is to convene after the first general elections, the President of the Republic may send back to the Grand National Assembly of Turkey any constitutional amendments. In this case, the re-submission of the constitutional amendment in its unchanged form to the President of the Republic by the Grand National Assembly of Turkey is only possible with a three-fourths majority of the votes of the total number of members.

**PROVISIONAL ARTICLE 10-** Local elections shall be held within a year of the first session of the Grand National Assembly of Turkey.

**PROVISIONAL ARTICLE 11-** Regular and substitute members of the Constitutional Court who were in office on the date of the adoption of the Constitution by referendum shall continue to hold office and exercise their functions. The members previously elected by the Constitutional Court to specific offices shall retain the status thus acquired.

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

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

**PROVISIONAL ARTICLE 12-** Persons appointed by the Head of State as regular and substitute members of the High Council of Judges and Prosecutors from among the members

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

The provisions of the provisional articles of Act No. 2576 of 6 January 1982 concerning the appointment of the presidents and members of administrative courts shall also remain in force.

**PROVISIONAL ARTICLE 13-** The elections of one regular and one substitute member to be elected to the High Council of Judges and Prosecutors from among the members of the High Court of Appeals shall take place in twenty days following the entry into force of the Constitution.

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

**PROVISIONAL ARTICLE 14-** The obligation of the unions to deposit their revenues in the state banks shall be fulfilled within two years of the entry into force of the Constitution, at the latest.

**PROVISIONAL ARTICLE 15-** (Repealed on September 12, 2010; Act No. 5982)

**PROVISIONAL ARTICLE 16-** Persons who fail to participate in the referendum on the Constitution without valid legal or actual reasons despite being entitled to vote and being included in the register of electors and the polling station register compiled for the referendum, shall neither participate nor stand for election in general elections, by-elections, local elections or referendums for a period of five years following the referendum on the Constitution.

**PROVISIONAL ARTICLE 17-** (Added on May 10, 2007; Act No. 5659)

In the first general elections held after the entry into force of this Act on the addition of a provisional article to the Turkish Constitution, the last paragraph of Article 67 of the Constitution shall not be applied to the provisions of Parliamentary Elections Act No. 2839, dated June 10, 1983, concerning the inclusion of independent candidates on joint ballot paper.

**PROVISIONAL ARTICLE 18-** (Added on September 12, 2010; Act No. 5982)

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

Within thirty days of the date of entry into force of this Act, the Grand National Assembly of Turkey shall elect one member each from among three candidates nominated by the General Assembly of the Court of Accounts and the heads of bar associations.

In order to nominate candidates for the election of the members to be held by the Grand National Assembly of Turkey:

a) The President of the Court of Accounts shall announce the beginning of the application process for candidacy within five days of the date of entry into force of this Act. Candidates shall apply to the Presidency within five days of the announcement. The General Assembly of the Court of Accounts shall hold elections within five days of the final date of application. The three candidates obtaining the greatest number of votes shall be nominated in these elections in which each member of the Court of Accounts may vote.<sup>26</sup>

b) The Head of the Turkish Union of Bar Associations shall announce the beginning of the application process for candidacy within five days of the date of entry into force of this Act. Candidates shall apply to the Turkish Union of Bar Associations within five days of announcement. The election shall be held at the place and time indicated in the announcement of the Turkish Union of Bar Association within five days following the final date of application by the heads of the Bar Associations. The three candidates obtaining the greatest number of votes shall be nominated in these elections in which each head of bar may vote.<sup>27</sup>

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<sup>26</sup> The phrase "...for only one candidate..." following the phrase "Each member of the Court of Accounts" in the last sentence of this subparagraph was annulled by the decision of the Constitutional Court dated July 7, 2010 numbered E. 2010/49, K. 2010/87 (Official Gazette numbered 27659 of August 1, 2010).

<sup>27</sup> The phrase "...for only one candidate..." following the phrase "Each head of bar" in the last sentence of this subparagraph was annulled by the decision of the Constitutional Court dated July 7, 2010 numbered E. 2010/49, K. 2010/87 (Official Gazette numbered 27659 of August 1, 2010).



c) The names of those nominated through the elections held in accordance with subparagraphs (a) and (b) shall be notified to the Office of the Speaker of the Grand National Assembly of Turkey by the Presidency of the Court of Accounts and of the Turkish Union of Bar Associations on the day following the elections.

ç) Elections shall be held at the Grand National Assembly of Turkey within ten days of the notification made in accordance with subparagraph (c). In elections held for each vacant position, a twothirds majority of the total number of members in the first ballot and the absolute majority of the total number of members is required in the second ballot; in case the absolute majority of the total number of members is not attained in the second ballot, a third ballot shall be held between two candidates obtaining the greatest number of votes in the second ballot; the candidate who obtains the greatest number of votes in the third ballot shall be elected.

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

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

The status of those who have been appointed to certain posts in the Constitutional Court shall continue until the end of their term of office. Those who are members on the date of entry into force of this Act shall continue in their post until the statutory age limit.

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

**PROVISIONAL ARTICLE 19-** (Added on September 12, 2010; Act No. 5982)

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

a) President of the Republic shall appoint four members, for whom there is no impediment to becoming a judge, from among teaching staff working in the field of law for at least fifteen years and lawyers who have completed fifteen years of active Professional service.<sup>28</sup>

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<sup>28</sup> The phrase "...economics and political sciences..." following the phrase "law," and the phrase "...high level executives..." following the phrase "teaching staff" in the first sentence of this sub-paragraph, and the second sentence "The President of the Republic shall elect member of the Council, to be elected from high level executives, from among take office as minister; undersecretary to ministry, deputy undersecretary to ministry, governor, General Secretary of the Presidency, and director-general of public institutions, head of supervisory board." were annulled by the decision of the Constitutional Court dated July 7, 2010 numbered E. 2010/49, K. 2010/87 (Official Gazette numbered 27659 of August 1, 2010).

b) The General Assembly of the High Court of Appeals shall select three regular and two substitute members from among members of the Court. The First President of the High Court of Appeals shall announce the beginning of the application process for candidacy within seven days of the entry into force of this Act. The candidates shall apply to the First Presidency within seven days of the date of the announcement. The General Assembly of the High Court of Appeals shall hold elections within fifteen days from the final date of application. In the elections, where each member of the High Court of Appeals may vote, the candidates with the greatest number of votes are elected as regular and substitute members respectively.<sup>29</sup>

c) The General Assembly of the Council of State shall select one regular and one substitute member from among members of the Court. The President of the Council of State shall announce the beginning of the application process for candidacy within seven days of the entry into force of this Act. The candidates shall apply to the Presidency within seven days of the date of the announcement. The General Assembly of the Council of State shall hold elections within fifteen days from the final date of application. In the elections, where each member of the Council of State may vote, the candidates with the greatest number of votes are elected as regular and substitute members respectively.<sup>30</sup>

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<sup>29</sup> The phrase "...for only a member..." following the phrase "Each member of the High Court of Appeals" in the last sentence of this subparagraph was annulled by the decision of the Constitutional Court dated July 7, 2010 numbered E. 2010/49, K. 2010/87 (Official Gazette numbered 27659 of August 1, 2010).

<sup>30</sup> The phrase "...for only a member..." following the phrase "Each member of the Council of State" in the last sentence of this subparagraph was annulled by the decision of the Constitutional Court dated July 7, 2010 numbered E. 2010/49, K. 2010/87 (Official Gazette numbered 27659 of August 1, 2010).

ç) The General Assembly of the Turkish Justice Academy shall select one regular and one substitute member from among its members to the Supreme Council of Judges and Prosecutors. The President of the Justice Academy of Turkey shall announce the beginning of the application process for candidacy within seven days of the entry into force of this Act. The candidates shall apply to the Presidency within seven days of the date of the announcement. The General Assembly of the Justice Academy of Turkey shall hold elections within fifteen days from the final date of application. In the elections, where each member may vote, the candidates with the greatest number of votes are elected as regular and substitute members respectively.<sup>31</sup>

d) Seven regular and four substitute members shall be elected by civil judges and public prosecutors under the direction and supervision of the Supreme Board of Election from among civil judges and public prosecutors who are first category judges and have not lost the qualifications for being first category judges. Within five days of the date of entry into force of this Act, the Supreme Board of Election shall announce the beginning of the application process for candidacy. The candidates shall apply within three days of the date of announcement. The Supreme Board of Election shall examine the applications, finalize and announce the list of candidates within two days following the expiry of the date of application. Objections to this list may be made within the following two days. The objections shall

<sup>31</sup> The phrase "...for only a member..." following the phrase "Each member" in the last sentence of this subparagraph was annulled by the decision of the Constitutional Court dated July 7, 2010 numbered E. 2010/49, K. 2010/87 (Official Gazette numbered 27659 of August 1, 2010).

be examined and finalized and the definitive list of candidates shall be announced within two days following the expiry of the objection period. Judges and public prosecutors working in provinces or districts shall vote in elections to be held, under the direction and supervision of the provincial election boards, in each province and district on the second Sunday following the date of announcement of the definitive list by the Supreme Board of Election. The provincial election boards shall establish ballot box committees according to the number of judges and public prosecutors that are to vote in that province. Provincial election boards shall decide on complaints and objections about proceedings, measures, and decisions of the ballot box committees. Candidates shall not conduct campaigns; they may post their résumé on an internet site allocated for this purpose within the framework of the principles and procedures defined by the Supreme Board of Election. The candidates obtaining the greatest number of votes are elected as regular and substitute members respectively. The Supreme Board of Election shall determine other matters concerning the ballot papers. The Supreme Board of Election may have the ballot papers printed or may have these printed through provincial election boards as it may deem appropriate. In the elections to be held, the provisions of the Act No. 298, Basic Rules on Elections and Voting Registers, dated April 4, 1961, that are not in conflict with this subparagraph shall apply.<sup>32</sup>

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<sup>32</sup> *The eleventh sentence in the this subparagraph "Each electorate shall vote for only one candidate in this elections." was annulled by the decision of the Constitutional Court dated July 7, 2010 numbered E. 2010/49, K. 2010/87 (Official Gazette numbered 27659 of August 1, 2010).*

e) Three regular and two substitute members shall be elected by civil judges and public prosecutors under the direction and supervision of the Supreme Board of Election from among civil judges and public prosecutors who are first category judges and have not lost the qualifications for being first category judges. In the elections, in provinces where there are regional administrative courts, held under the direction and supervision of the provincial election boards, judges and public prosecutors working in these regional administrative courts and in courts subject to authority of those courts shall vote. The provisions of subparagraph (d) shall apply to these elections as well.

The regular members of the High Council of Judges and Prosecutors elected in accordance with subparagraphs (a), (ç), (d) and (e) of the first paragraph, shall begin to hold office on the working day following the date of entry into force of this Act.

Regular and substitute members of the High Council of Judges and Prosecutors elected from the High Court of Appeals and Council of State, incumbent on date of entry into force of this Act, shall continue their duties until the end of their term of office. The members elected in accordance with subparagraph (b) of the first paragraph shall replace, in sequence, the members elected from High Court of Appeals whose term of office have expired, and the members elected in accordance with subparagraph (c) of the first paragraph shall replace, in sequence, the members elected from Council of State whose terms of office have expired.

The term of office of the members elected according to subparagraph (b) and (c) of the first paragraph and who took office in accordance with the third paragraph ends when the term of office of those elected in accordance with subparagraph (a), (ç), (d) and (e) of the first paragraph expires.

Regular members elected to the High Council of Judges and Prosecutors shall have the same financial, social and pension rights determined for the Head of Chamber of the High Court of Appeals in the relevant legislation, until the necessary arrangements are made in related laws. Furthermore, regular members of the Council, except for the President, shall receive additional compensation on a monthly basis in the amount to be calculated by multiplying the index of 30000 by the coefficient applied to salaries of civil servants.

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

a) Shall operate in the form of a board in accordance with legal provisions in force as long as they are not contrary to the provisions of the Constitution,

b) Shall convene under the presidency of the Minister of Justice within one week following the date of holding office of the regular members in accordance with the second paragraph and shall elect a temporary deputy chairperson,

c) Shall convene with at least fifteen members and take decisions by the absolute majority of the total number of members,

ç) The secretariat functions shall be conducted by the Ministry of Justice.

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

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

**PROVISIONAL ARTICLE 20-** (Added on May 20, 2016; Act No. 6718)

The deputies about whom a file concerning the lifting of parliamentary immunity has been submitted, by the date of adoption of this article in the Grand National Assembly of Turkey, to the Ministry of Justice, the Prime Ministry, the Office of the Speaker of the Grand National Assembly of Turkey or to the Office of the Joint Committee composed of the members of the Committee on the Constitution and the Committee on Justice by the authorities competent to investigate or permit investigations or prosecutions and the offices of public prosecutors and the courts, shall be exempt, with respect to such file, from the first sentence of the second paragraph of the Article 83 of the Constitution.

Within fifteen days of the effective date of this article, the files concerning the lifting of parliamentary immunity at the Ministry of Justice, the Prime Ministry, the Office of the Speaker



of the Grand National Assembly of Turkey, the Office of the Joint Committee composed of the members of the Committee on the Constitution and the Committee on Justice shall be returned to the competent authority for the execution of the necessary procedure.

**PROVISIONAL ARTICLE 21-** (Added on April 16, 2017; Act No. 6771)

A) General election for the 27th legislative term of the Grand National Assembly of Turkey and the presidential election shall be held together on 3/11/2019. Members of the Grand National Assembly of Turkey and the President of the Republic shall continue to serve until the election is held. If the Assembly decides to hold an election, general election for the 27th legislative term of the Grand National Assembly of Turkey and the presidential election shall be held together.

B) No later than six months after the promulgation of this Act, the Grand National Assembly of Turkey shall adopt the Rules of Procedure and other statutory regulations required by the amendments made by this Act. The amendments determined to be regulated by presidential decree shall be regulated by the President of the Republic no later than six months.

C) According to the regulation made in the 159th article of the Constitution, members of the Council of Judges and Prosecutors shall be elected within thirty days at the latest and commence their duty on the workday following the fortieth day after the effective date of this Act. The applications shall be submitted to the Office of the Speaker within five days of

the effective date of this Article. The Office of the Speaker shall refer the applications to the Joint Committee composed of the members of the Committee on the Constitution and the Committee on Justice. The Joint Committee shall designate three candidates for each membership by a two-thirds majority of the total number of its members within ten days. If the election cannot be finalized by two-thirds majority in the first ballot, the second and third ballot shall be held; then the candidate who receives the votes of the three-fifth majority of the total number of members shall have been elected. If no candidate receives the vote of three-fifth majority, the process of nomination shall be completed by drawing names from among the candidates twice the number of members who have received the most votes in the third ballot. The Plenary of the Grand National Assembly of Turkey shall complete the election within fifteen days observing the same procedures and quorums. The members of existing High Council of Judges and Public Prosecutors shall continue to hold Office and work in accordance with the provisions of the laws in force until the new members assume office. From among the members whose term of office has expired and who have not been reelected to the Council of Judges and Prosecutors; those having been elected out of civil judges and prosecutors shall be elected by the Council of Judges and Prosecutors, at their request, to the membership of High Court of Appeals and those having been elected out of administrative judges and prosecutors to the membership of Council of State; those having been elected out of teaching staff and lawyers shall be appointed to the membership of the Council of State by the President of

the Republic. Such elections and appointments shall be made irrespective of availability of vacant positions; new membership cadres by the number of members so elected or appointed shall be supplemented to the cadres of the Court of Appeals and Council of State.

D) The members of the High Military Court of Appeals and the High Military Administrative Court who have been elected to the membership of the Constitutional Court shall continue their membership until their office terminates for any reason.

E) The High Military Court of Appeals, The High Military Administrative Court and the military courts shall be abolished as of the effective date of this Act.

Within four months of the effective date of this Act; the President, the Attorney-General, the Vice-President and the members of the High Military Court of Appeals and the High Military Administrative Court who belong to the military judge class and other military judges (except reserve officers), taking into account their preferences and acquisitions;

a) may be appointed as judges or public prosecutors in the civil or administrative judiciary by the Council of Judges and Prosecutors.

b) Judges and prosecutors who are similar to civil or administrative judges in terms of salary, supplementary indicator, appropriation, judicial benefit, supplementary payment, financial and social rights and benefits, and with respect to the other rights and obligations by continuing to apply the provisions of

the legislation in force as of the effective date of this Act, shall be appointed by the Ministry of National Defense to the legal services staff of the Ministry or to the Chief of the General Staff. The procedures and principles relating to the compensation to be paid to those who are entitled to pension and quit their offices at their own will before they reach the age limit shall be regulated by law.

Among the files in process at the abolished military judicial offices; those in the legal remedy stage shall be sent to the High Court of Appeals or the Council of State; and other files to the competent civil or administrative judicial authorities according to their relevance within four months.

F) The decrees having the force of law, regulations, by-laws issued by the Prime Ministry and the Council of Ministers and other administrative regulations that are in force as of the effective date of this Act shall remain in force unless they are repealed. The articles 152 and 153 shall continue to be applied to the decrees having the force of law that are in force.

G) The powers granted to the Prime Minister and the Council of Ministers by laws and other regulations shall be exercised by the President of the Republic, until amendments are made to the relevant legislation.

H) The last paragraph of the Article 67 of the Constitution shall not apply to the first election of the Grand National Assembly of Turkey and the presidential election which will be held simultaneously after the effective date of this Act.

## **PART SEVEN**

### **Final Provisions**

#### **I. Amending the Constitution, participation in elections and referenda**

**ARTICLE 175-** (As amended on May 17, 1987; Act No. 3361) Amendment to the Constitution shall be proposed in writing by at least one-third of the total number of members of the Grand National Assembly of Turkey. Bills to amend the Constitution shall be debated twice in the Plenary. The adoption of a bill for an amendment shall require a three-fifths majority of the total number of members of the Assembly by secret ballot.

The consideration and adoption of bills for the amendments to the Constitution shall be subject to the provisions governing the consideration and adoption of laws, with the exception of the conditions set forth in this Article.

The President of the Republic may send back the laws on the amendments to the Constitution to the Grand National Assembly of Turkey for reconsideration. If the Assembly readopts, by a two-thirds majority of the total number of members, the law sent back by the President of the Republic without any amendment, the President of the Republic may submit the law to referendum.

If a law on the amendment to the Constitution is adopted by a three-fifths or less than two-thirds majority of the total number of members of the Assembly and is not sent back by the President of the Republic to the Assembly for reconsideration, it shall be published in the Official Gazette and be submitted to referendum.

A law on the Constitutional amendment adopted by a two-thirds majority of the total number of members of the Grand National Assembly of Turkey directly or upon the sending back of the law by the President of the Republic or its articles deemed necessary may be submitted to a referendum by the President of the Republic. A law on the amendment to the Constitution or the related articles that are not submitted to referendum shall be published in the Official Gazette.

Entry into force of the laws on the amendment to the Constitution submitted to referendum shall require the affirmative vote of more than half of the valid votes cast.

The Grand National Assembly of Turkey, in adopting the law on the Constitutional amendment shall also decide on which provisions shall be submitted to referendum together and which shall be submitted individually, in case the law is submitted to referendum.

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

## **II. Preamble and headings of articles**

**ARTICLE 176-** The preamble, which states the basic views and principles the Constitution is based on, shall form an integral part of the Constitution.

The headings of articles merely indicate the subject matter of the articles, their order, and the connections between them. These headings shall not be regarded as a part of the text of the Constitution.

### **III. Entry into force of the Constitution**

**ARTICLE 177-** On its adoption by referendum and its publication in the Official Gazette, this Constitution shall become the Constitution of the Republic of Turkey and shall come into force in its entirety, subject to the following exceptions and the provisions relating to entry into force of these exceptions:

a) The provisions of Part Two Chapter II relating to personal liberty and security, the press and publication, and the right and freedom of assembly.

The provisions of Chapter III relating to labour, collective labour agreements, the right to strike, and lockout.

These provisions shall come into force when the relevant laws are promulgated, or when the existing laws are amended, and in any case, at the latest, when the Grand National Assembly of Turkey assumes its functions. However, until their entry into force, existing laws and the decrees and decisions of the Council of National Security shall apply.

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

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

c) The provisions of Part Three, relating to legislative power:

These provisions shall come into force on the proclamation of the results of the first general elections. However, the provisions relating to the functions and powers of the Grand National Assembly of Turkey which take place in this section shall be exercised by the Council of National Security until the Grand National Assembly of Turkey assumes its functions; the provisions of Act No. 2485 of June 29, 1981 on the Constituent Assembly being reserved.

d) The provisions of Part Three relating to the functions and powers of the President of the Republic and to the State Supervisory Council under the heading “President of the Republic”; to regulations, National Defence, procedures governing emergency rule under the heading “Council of Ministers”; to all other provisions under the heading “Administration”, except local administration, and except the Atatürk High Institution of Culture, Language and History; and all the provisions relating to the judiciary, except the State Security Courts, shall come into force on publication in the Official Gazette of the adoption by referendum of the Constitution. The provisions concerning the President of the Republic and the Council of Ministers which have not gone into effect shall come into force when the Grand National Assembly of Turkey assumes its functions; the provisions relating to local administrations and to the State Security Courts shall come into force on the promulgation of the relevant laws.



e) If new legislation, or amendments to existing legislation are required in connection with the constitutional provisions which are to come into force on the proclamation of the adoption by referendum of the Constitution or in connection with existing or future institutions, organizations and agencies, the procedure to be followed shall be subject to those provisions of existing laws which are not unconstitutional, or to the provisions of the Constitution, in accordance with Article 11 of the Constitution.

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

## **PROVISIONAL ARTICLES NOT INCLUDED IN THE CONSTITUTION OF THE REPUBLIC OF TURKEY**

### **Provisional Article of Act No. 4709 dated October 3, 2001**

**PROVISIONAL ARTICLE-** A) The last paragraph added to the Article 67 of the Constitution by Article 24 of this Act shall not be implemented at the first general election to be held after this Act goes into effect.

B) The amendments made by Article 28 of this Act to Article 87 of the Constitution shall not apply to those who perpetrate the acts described in Article 14 of the Constitution before this Act goes into effect.

### **Provisional Article of Act No. 4777 dated December 27, 2002**

**PROVISIONAL ARTICLE 1-** The last paragraph of Article 67 of the Constitution of the Republic of Turkey shall not be implemented in the first by-elections to be held during the 22<sup>nd</sup> term of the Grand National Assembly of Turkey.

