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# Turkey's Constitution of 1982 with Amendments through 2002

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# Preamble

This Constitution, which affirms the eternal existence of the Turkish Homeland and Nation and the indivisible integrity of the Grand Turkish State, is entrusted for safekeeping by the TURKISH NATION to the patriotism and nationalism of its democracy-loving sons and daughters, is to be understood, interpreted and implemented by its IDEAS, BELIEFS and DETERMINATION in deference and with absolute loyalty to its letter and spirit,

In the direction of the concept of nationalism defined by Atatürk, the founder of the Republic of Turkey, the immortal leader and the unrivalled hero, and his reforms and principles;

In the direction of the eternal existence, prosperity and material and spiritual well-being and the determination to attain to the level of contemporary civilization of the Republic of Turkey, as an honourable member with equal rights of the family of world nations;

In recognition of the of the absolute supremacy of the will of the nation, whereby sovereignty is vested fully and unconditionally in the Turkish nation and no person or institution authorized to exercise it on behalf of the nation can deviate from liberal democracy set forth in this Constitution and the legal system prescribed according to its requirements;

In the understanding that the separation of powers, which does not imply an order of precedence among the organs of state, but is a civic division of labor and cooperation, composed of, and limited to the exercise of certain state authority and duties, and that supremacy is vested solely in the Constitution and the laws;

In the determination that no activity can be protected contrary to Turkish national interests, the principle of the indivisibility of the existence of Turkey with its state and territory, Turkish historical and moral values or the nationalism, principles, reforms and modernization of Atatürk and that, as required by the principle of laicism, sacred religious feelings can in no way be permitted to interfere with state affairs and politics;

In the understanding that it is the birth right of every Turkish citizen to maintain an honourable life under the aegis of national culture, civilization and the legal order and to develop his material and spiritual assets in this direction by the exercise of the fundamental rights and freedoms set forth in this Constitution in accordance with the requirements of equality and social justice;

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

## PART 1: GENERAL PRINCIPLES

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### I. Form of the State

#### ARTICLE 1

The Turkish state is a Republic.

- Political theorists/figures
- Preamble
- Reference to fraternity/solidarity

- Type of government envisioned



## II. Characteristics of the Republic

### ARTICLE 2

The Republic of Turkey is a democratic, laic and social state governed by the rule of law; bearing in mind the concepts of public peace, national solidarity and justice; respecting human rights; loyal to the nationalism of Atatürk, and based on the fundamental tenets set forth in the Preamble.

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

### ARTICLE 3

The Turkish state, with its territory and nation, 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 of the Constitution establishing the form of the state as a Republic, the provisions in Article 2 on the characteristics of the Republic, and the provisions of Article 3 can not be amended, nor can their amendment be proposed.

## V. Fundamental Aims and Duties of the State

### ARTICLE 5

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

## VI. Sovereignty

### ARTICLE 6

Sovereignty is vested in the nation without reservation or condition.

The Turkish Nation exercises its sovereignty through the authorized organs as prescribed by the principles laid down in the Constitution.

The right to exercise sovereignty can not be delegated to any individual, group or class.

No person or agency can exercise any state authority which 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 the Turkish Nation. This power cannot be delegated.

## VIII. Executive Power and Function

### ARTICLE 8

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

## IX. Judicial Power

### ARTICLE 9

Judicial power is exercised by independent courts on behalf of the Turkish Nation.

## X. Equality before the Law

### ARTICLE 10

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

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

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

## XI. Supremacy and Binding Force of the Constitution

### ARTICLE 11

The provisions of the Constitution are fundamental legal rules binding upon legislative, executive and judicial organs, and administrative authorities and other agencies and individuals.

Laws cannot be in conflict with the Constitution.

• General guarantee of equality

- Equality regardless of gender
- Equality regardless of skin color
- Equality regardless of creed or belief
- Equality regardless of political party
- Equality regardless of race
- Equality regardless of language
- Equality regardless of religion

- Duty to obey the constitution
- Binding effect of const rights

# **PART 2: FUNDAMENTAL RIGHTS AND DUTIES**

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## **CHAPTER 1: 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 towards the society, his family, and other individuals.

### **II. Restriction of Fundamental Rights and Freedoms**

#### **ARTICLE 13**

Fundamental rights and freedoms may be restricted only on the basis of specific reasons listed in the relevant articles of the Constitution without prejudice to the values defined therein and only by law. These restrictions can not conflict with the letter and the spirit of the Constitution and the requirements of the democratic order of the society and the laic Republic and the principle of proportionality.

### **III. Prohibition of Abuse of Fundamental Rights and Freedoms**

#### **ARTICLE 14**

None of the rights and freedoms embodied in the Constitution can be exercised for activities undertaken with the aim of violating the indivisible integrity of the State with its territory and nation, and endangering the existence of the democratic and laic Republic based on human rights.

No provision of the Constitution can be interpreted in a manner that would grants the State or individuals destroying the fundamental rights and freedoms embodied in the Constitution, or staging an activity with the aim of restricting rights and freedoms more extensively than is stated in the Constitution.

The sanctions to be applied against those who undertake activities in conflict with these provisions are prescribed by law.

## IV. Suspension of the Exercise of Fundamental Rights and Freedoms

### ARTICLE 15

In times of war, mobilization, martial law, or state of emergency, the exercise of fundamental rights and freedoms can be partially or entirely suspended, or measures may be taken, to the extent required by the exigencies of the situation, which derogate the guarantees embodied in the Constitution, provided that obligations under international law are not violated.

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

## V. Status of Aliens

### ARTICLE 16

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

## CHAPTER 2: RIGHTS AND DUTIES OF THE INDIVIDUAL

### I. Personal Inviolability, Material and Spiritual Entity of the individual

#### ARTICLE 17

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

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

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

The cases such as the execution of death penalties under court sentences, the act of killing in self-defence, the occurrences of death as a result of the use of a weapon permitted by law as a necessary measure during apprehension, the execution of warrants of arrest, the prevention of the escape of lawfully arrested or convicted persons, the quelling of riot or insurrection, or carrying out the orders of authorized bodies during martial law or state of emergency, are outside of the scope of the provision of paragraph 1.

- Emergency provisions
- Inalienable rights

- Right to life

- Prohibition of corporal punishment

- Prohibition of cruel treatment
- Human dignity
- Prohibition of torture

## II. Prohibition of Forced Labour

### ARTICLE 18

No one can be forced to work. Forced labour is prohibited.

Work required of an individual while serving a prison sentence or under detention, services required from citizens during a state of emergency, and physical or intellectual work necessitated by the requirements of the country as a civic obligation do not come under the description of forced labour, provided that the form and conditions of such labour are prescribed by law.

## III. Personal Liberty and Security

### ARTICLE 19

Everyone has the right to liberty and security of person.

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

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

Individuals against whom there is strong evidence of having committed an offence can be arrested by decision of a judge solely for the purposes of preventing escape, or preventing the destruction or alteration of evidence as well as in similar other circumstances which necessitate detention and are prescribed by law. Apprehension of a person without a decision by a judge can be resorted to only in cases when a person is caught in the act of committing an offence or in cases where delay is likely to thwart the course of justice; the conditions for such apprehension are defined by law.

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

The person arrested or detained are brought before a judge within forty-eight hours and in the case of offences committed collectively within four days, excluding the time taken to send the individual to the court nearest to the place of arrest. No one can be deprived of his liberty without the decision of a judge after the expiry of the above-specified periods. These periods may be extended during a state of emergency, under martial law or in time of war.

Notification of the situation of the person arrested or detained is made to the next of kin immediately.

Persons under detention have the right to request to be tried within a reasonable time or to be released during investigation or prosecution. Release may be made conditional to the presentation of an appropriate guarantee with a view to securing

the presence of the person at the trial proceedings and the execution of the court sentence.

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

Damage suffered by persons subjected to treatment contrary to the above provisions is compensated by the State according to the general principles of the law on compensation.

## IV. Privacy and Protection of Private Life

### A. Privacy of Individual Life

#### ARTICLE 20

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

Unless there exists a decision duly passed by a judge on one or several of the grounds of national security, public order, prevention of offences, protection of public health and public morals, or for the protection of the rights and freedoms of others, or unless there exists a written order of a competent authority designated 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 can be searched nor can they be seized. The decision of the competent authority is submitted for the approval of the judge having jurisdiction within twenty-four hours. The judge proclaims his decision within forty-eight hours from the time of seizure; otherwise, seizure automatically ceases.

### B. Inviolability of the Domicile

#### ARTICLE 21

The domicile of an individual cannot be violated.

Unless there exists a decision duly passed by a judge on one or several of the grounds of national security, public order, prevention of offences, protection of public health and public morals, or for the protection of the rights and freedoms of others, or unless there exists a written order of a competent authority designated by law in cases where delay is prejudicial, again on the above-mentioned grounds, no domicile may be entered or searched or the property therein seized. The decision of the competent authority is submitted for the approval of the judge having jurisdiction within 24 hours. The judge proclaims his decision within forty-eight hours from the time of seizure; otherwise, seizure automatically ceases.

### C. Freedom of Communication

#### ARTICLE 22

Everyone has the right to freedom of communication.

Secrecy of communication is fundamental.

Unless there exists a decision duly passed by a judge on one or several of the grounds of national security, public order, prevention of offences, protection of public health and public morals, or for the protection of the rights and freedoms of others, or unless there exists a written order of a competent authority designated by law in cases where delay is prejudicial, again on the above-mentioned grounds, communication cannot be impeded nor its secrecy be violated. The decision of the competent authority is submitted for the approval of the judge having jurisdiction within 24 hours. The judge proclaims his decision within forty-eight hours; otherwise, the decision of the competent authority automatically ceases.

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

## V. Freedom of Residence and Movement

### ARTICLE 23

Everyone has the right to freedom of residence and movement.

Freedom of residence may be restricted by law for the purpose of preventing offences, promoting social and economic development, ensuring sound and orderly urban growth, and protecting public property; freedom of movement may be restricted by law for the purpose of investigation and prosecution of an offence, and prevention of offences.

A citizen's freedom to leave the country may be restricted on account of civic obligations, or criminal investigation or prosecution.

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

## VI. Freedom of Religion and Conscience

### ARTICLE 24

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

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

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

Education and instruction in religion and ethics are conducted under state supervision and control. Instruction in religious culture and ethics education are compulsory in the curricula of primary and secondary schools. Other religious education and instruction are subject to the individual's own desire, and in the case of minors, to the request of their legal representatives.

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

## VII. Freedom of Thought and Opinion

### ARTICLE 25

Everyone has the right to freedom of thought and opinion.

Everyone has the right to freedom of thought and opinion.

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

## VIII. Freedom of Expression and Dissemination of Thought

### ARTICLE 26

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

The exercise of these freedoms may be restricted for the purposes of protecting national security, public order and public safety, the basic characteristics of the Republic and safeguarding the indivisible integrity of the State with its territory and nation, preventing offences, punishing offenders, withholding information duly classified as a state secret, protecting the reputation and rights and private and family life of others, or protecting professional secrets as prescribed by law, or ensuring the proper functioning of the judiciary.

Provisions regulating the use of means of disseminating information and ideas can not be interpreted as a restriction of the freedom of expression and dissemination unless they prevent the dissemination of information and thoughts.

The formalities, conditions and procedures to be applied in the exercise of the freedom of expression and dissemination of thought are prescribed by law.

## IX. Freedom of Science and the Arts

### ARTICLE 27

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

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

The provisions of this article do 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 cannot be censored. The establishment of a printing house cannot be subject to prior permission or the deposit of a financial guarantee.

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

- Freedom of expression
- Freedom of press

- Radio
- Television

- Reference to science

- Freedom of press



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

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

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

Periodical and non-periodical publications may be seized by a decision of a judge in cases of ongoing investigation or prosecution of offences determined by law; and, in cases delay is deemed prejudicial with regard to the indivisible integrity of the state with its territory and nation, national security, public order, protection of public morals and for the prevention of offences by the order of the competent authority explicitly designated by law. The authority issuing the seizure order notifies a competent judge of its decision within twenty-four hours at the latest. The seizure order becomes null and void unless upheld by the competent judge within forty-eight hours at the latest.

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

Periodicals published in Turkey may be temporarily suspended by court sentence if found guilty of publishing 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 the continuation of the suspended periodical is prohibited; and seized by a decision of judge.

## **B. Right to Publish Periodicals and Non-periodicals**

### **ARTICLE 29**

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

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

The publication of periodicals, the conditions of publication, the financial resources and the rules relevant to the profession of journalism are regulated by law. The law does impose any political, economic, financial, and technical conditions, thus obstructing or making difficult the free dissemination of news, thought, or beliefs.

Periodicals do have equal access to the means and facilities of the state, other public legal entities, and their agencies.

## C. Protection of Printing Facilities

### ARTICLE 30

A printing press or its annexes duly established as a publishing house under law cannot be seized, confiscated, or barred from operation on the grounds of being an instrument of crime, except in cases where offences against the indivisible integrity of the state with its territory and nation, against the fundamental principles of the Republic or against national security leading to conviction are involved.

## D. Right to Use Media Other than the Press Owned by Public Legal Entities

### ARTICLE 31

Individuals and political parties have the right to use mass media and means of communication other than the press owned by public legal entities. The conditions and procedures for such use are regulated by law.

The law does 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, the protection of public morals and public health.

## E. Right of Rectification and Reply

### ARTICLE 32

The right of rectification and reply can be accorded only in cases where personal reputation and honour is attacked or in cases of unfounded allegation and is regulated by law.

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

## XI. Rights and Freedoms of Assembly

### A. Freedom of Association

#### ARTICLE 33

Everyone has the right to form associations without prior permission, and to become a member in them, or to withdraw from membership .

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

Freedom of association may only be restricted by law and on grounds of national security, public order, prevention of offence, public health and public morals and for the protection of freedoms of others.

The formalities, conditions, and procedures governing the exercise of freedom of association are prescribed by law.

• State operation of the media

• Right to protect one's reputation

• Freedom of assembly  
• Freedom of association

Associations may be dissolved or suspended from activity by the decision of a judge in cases prescribed by law. However, if, in cases where national security, public order, the prevention or the continuation of an offence or the apprehension of the offender are concerned, a delay is prejudicial, the law may designate a competent authority to suspend the association from activity. The decision of this authority is submitted to approval of the judge on duty within twenty-four hours. The judge proclaims his decision within forty-eight hours; otherwise this administrative decision automatically ceases to be effective.

Provisions of the first paragraph do not prevent imposition by law of restrictions on members of the Armed Forces and security forces officials and civil servants to the extent that the duties of civil servants so require.

The provisions of this article are also applicable to foundations.

## **B. Right to Hold Meetings and Demonstration Marches**

### **ARTICLE 34**

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

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

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

## **XII. Property Rights**

### **ARTICLE 35**

Everyone has the right to own and inherit property.

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

The exercise of the right to own property cannot be in contravention of the public interest.

## **XIII. Provisions Relating to the Protection of Rights**

### **A. Freedom to Claim Rights**

#### **ARTICLE 36**

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

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

### **B. Guarantee of Lawful Judgement**

#### **ARTICLE 37**

- Right to own property
- Right to transfer property

- Right to fair trial

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 cannot be established.

## C. Principles Relating to Offences and Penalties

### ARTICLE 38

No one can be punished for any act which does not constitute a criminal offence under the law in force at the time committed; no one can 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 also apply to the statute of limitations on offences and penalties and one the results of conviction.

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

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

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

Findings obtained in a manner not in accordance with the law cannot be considered as evidence.

Criminal responsibility is personal.

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

The death penalty cannot be imposed excluding the cases of war, imminent threat of war and crimes of terror.

General confiscation cannot be imposed as a penalty.

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

No citizen can be extradited to a foreign country on account of an offence.

## 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 cannot be granted in any other case unless proof would serve the public interest or unless the plaintiff consents.

## XV. Protection of Fundamental Rights and Freedoms

### ARTICLE 40

Everyone whose constitutional rights and freedoms are violated has the right to request prompt access to the competent authorities.

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

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

The state reserves the right of recourse to the official responsible.

## CHAPTER 3: SOCIAL AND ECONOMIC RIGHTS AND DUTIES

### I. Protection of the Family

#### ARTICLE 41

The family is the foundation of the Turkish society and based on the equality between the spouses.

The state takes the necessary measures and establishes the necessary organisation to ensure the peace and welfare of the family, especially the protection of the mother and children, and for family planning education and application.

### II. Right and Duty of Training and Education

#### ARTICLE 42

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

The scope of the right to education is determined and regulated by law.

Training and education are conducted along the lines of the principles and reforms of Atatürk, on the basis of the principles of contemporary science and education, under the supervision and control of the State. Institutions of training and education contravening these provisions cannot be established.

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

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

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

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

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

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

• Right to found a family

• Provision for matrimonial equality

• Compulsory education  
• Free education

### **III. Public Interest**

#### **A. Utilisation of the Coasts**

##### **ARTICLE 43**

The coasts are under the sovereignty and at disposal of the state.

In the utilisation of sea coasts, lake shores or river banks, and of the coastal strip along the sea and lakes, public interest is 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 are regulated by law.

#### **B. Land Ownership**

##### **ARTICLE 44**

The state takes 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 determine the size of appropriate land units, according to different agricultural regions and types of farming. Providing of land to farmers with no or insufficient land can not lead to a fall in production, or to the depletion of forests and other land and underground resources.

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

#### **C. Protection of Agriculture, Animal Husbandry, and of 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 takes necessary measures to promote the values of crop and livestock products, and to enable producers to be paid the real value of their products.

#### **D. Expropriation**

##### **ARTICLE 46**

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

• Protection from expropriation

The compensation for expropriation and the amount regarding its increase rendered by a final judgement is paid in cash and in advance. However, the procedure to be applied for compensation for expropriated land in order to carry out land reform, major energy and irrigation projects, and housing and resettlement schemes and forestation, and to protect the coasts and to build tourist facilities are regulated by law. In the cases where the law may allow payment in installments, the payment period not exceed five years, whence payments be made in equal installments.

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

An interest equivalent to the highest interest paid on public claims is implemented in the installments envisaged in the second paragraph and in cases of any unpaid compensation for expropriation for any reason.

## **E. Nationalization and Privatisation**

### **ARTICLE 47**

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

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

The principles and rules concerning the privatization of the enterprises and assets, under the possession of the State, the State Economic Enterprises and other public legal entities, are prescribed by law.

Which of the investments and services that are carried out by the State, the State Economic Enterprises and other public legal entities can be performed by or delegated to real persons or legal entities through contracts of private law are determined by law.

## **IV. Freedom to Work and Conclude Contracts**

### **ARTICLE 48**

Everyone has the freedom to work and conclude contracts in the field of his choice. Establishment of private enterprises is free.

The state takes measures to ensure that private enterprises operate in accordance with national economic requirements and social objectives and in conditions of security and stability.

## **V. Provisions Relating to Labour**

### **A. Right and Duty to Work**

#### **ARTICLE 49**

Everyone has the right and duty to work.

• Right to choose occupation

• Right to work  
• Right to reasonable standard of living  
• Duty to work

The State takes the necessary measures to raise the standard of living of workers, and to protect workers and the unemployed in order to improve the general conditions of labour, to promote labour, to create suitable economic conditions for prevention of unemployment and to secure labour peace.

## B. Working Conditions and Right to Rest and Leisure

### ARTICLE 50

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

Minors, women and persons with physical or mental disabilities, 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, are regulated by law.

## C. Right to Organize Labour Unions

### ARTICLE 51

Employees and employers have the right to form labor unions and employers' associations and higher organizations, without prior permission, in order to safeguard and develop their economic and social rights and the interests of their members in their labor relations and to become a member in them or withdraw from membership freely. No one can be compelled to become a member, remain a member, or withdraw from membership of a union.

The right to form labor unions and employers' associations can only be restricted by law and on grounds of national security, public order, prevention of offence, public health and public morals and for the protection of rights and freedoms of others.

The formalities, conditions, and procedures to be applied in the exercise of the right to form labor unions and employers' associations are prescribed by law.

Membership in more than one labor union cannot be obtained at the same time and in the same work branch.

The scope, exceptions, and limitations of the rights of public employees who do not have the worker status, are prescribed by law in accordance with the nature of the service that they provide.

The regulations, management and functioning of labor unions and their higher bodies cannot be contrary to the fundamental characteristic of the Republic and the principles of democracy

## D. Activities of Labour Unions

### ARTICLE 52

[repealed]

- Limits on employment of children
- Right to safe work environment

- Right to rest and leisure

- Right to join trade unions



## VI. Collective Bargaining, Right to Strike and Lockout

### A. Right of Collective Bargaining

#### ARTICLE 53

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

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

The unions, in which public officers included within the scope of paragraph 1 of Article 128 are permitted by law to form among themselves and unions and their higher organizations that are not subject to the provisions of the first and second paragraphs of this Article and the provisions of Article 54, may, on behalf of their members, appeal to judicial authorities may hold collective meetings with the administration in direction with their aims. If an agreement is reached as a result of collective meeting, a text of the agreement is signed by the parties. This text of agreement is submitted to the discretion of the Council of Ministers so that proper administrative or legislative arrangements can be made. If a text of agreement was not signed as a result of collective meeting, then the agreement and disagreement points are also submitted to the discretion of the Council of Ministers by a record signed by the parties. Procedures concerning the execution of this paragraph are regulated by law.

More than one collective bargaining agreement at the same place of work for the same period cannot be concluded or put into effect.

### B. Right to Strike and Lockout

#### ARTICLE 54

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

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

During a strike, the labor union is liable for any material damage caused in a work-place where the strike is being held, as a result of deliberately negligent behaviour by the workers and the labor union.

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

In cases where a strike or a lockout is prohibited or postponed, the dispute is 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 are final and have the force of a collective bargaining agreement.

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

• Right to strike

Politically motivated strikes and lockouts, solidarity strikes and lockouts, general strikes and lockouts, occupation of work premises, labour go-slows, and other forms of obstruction are prohibited.

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

## VII. Guarantee of Fair Wage

### ARTICLE 55

Wages are paid in return for work.

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

In determining the minimum wage, the living conditions of the workers and the economic situation of the country are taken into account.

## VIII. Health, the Environment and Housing

### A. Health Services and Conservation of the Environment

#### ARTICLE 56

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

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

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

The state 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 take measures to meet the need for housing within the framework of a plan which takes into account the characteristics of cities and environmental conditions and supports collective housing projects.

• Right to equal pay for work

• Protection of environment  
• Right to health care

• Right to shelter

## IX. Youth and Sports

### A. Protection of the Youth

#### ARTICLE 58

The state takes measures to ensure the training and development of the youth into whose keeping our state, independence, and our Republic are entrusted, in the light of contemporary science, in line with the principles and reforms of Atatürk, and in opposition to ideas aiming at the destruction of the indivisible integrity of the state with its territory and nation.

The state takes necessary measures to protect the youth from addiction to alcohol, drug addiction, crime, gambling, and similar vices, and ignorance.

### B. Development of Sports

#### ARTICLE 59

The state takes 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 protects successful athletes.

## X. Social Security Rights

### A. Right to Social Security

#### ARTICLE 60

Everyone has the right to social security.

The state takes the necessary measures and establishes the organisation for the provision of social security.

### B. Persons Requiring Special Protection in the Field of Social Security

#### ARTICLE 61

The state protects the widows and orphans of those killed in war and in the line of duty, together with the disabled and war veterans, and ensure that they enjoy a decent standard of living.

The state takes measures to protect the disabled and secure their integration into community life.

The elderly people are protected by the state. State assistance to the elderly, and other rights and benefits are regulated by law.

The state takes all kinds of measures for social resettlement of children in need of protection.

- Rights of children
- State support for the elderly
- State support for the unemployed
- State support for the disabled
- State support for children

To achieve these aims the state establishes the necessary organizations or facilities, or arrange for their establishment by others.

## C. Turkish Nationals Working Abroad

### ARTICLE 62

The state take the necessary measures to ensure family unity, the education of the children, the cultural needs, and the social security of Turkish nationals working abroad, and takes the necessary measures to safeguard their ties with the motherland and to help them on their return home.

## XI. Conservation of Historical, Cultural and Natural Wealth

### ARTICLE 63

The state ensures the conservation of the historical, cultural and natural assets and wealth, and takes supporting and promoting measures towards this end.

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

## XII. Protection of Arts and Artists

### ARTICLE 64

The state protects artistic activities and artists. The state 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

### ARTICLE 65

The State fulfils 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 4: POLITICAL RIGHTS AND DUTIES

### I. Turkish Citizenship

#### ARTICLE 66

Everyone bound to the Turkish state through the bond of citizenship is a Turk.

The child of a Turkish father or a Turkish mother is a Turk.

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

• Right to culture

• Reference to art

• Right to appeal judicial decisions  
• Requirements for birthright citizenship  
• Conditions for revoking citizenship  
• Requirements for naturalization

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

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

## II. Right to Vote, to be Elected and to Engage in Political Activity

### ARTICLE 67

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

Elections and referenda are held under the direction and supervision of the judiciary, in accordance with the principles of free, equal, secret, and direct, universal suffrage, and public counting of the votes. However, applicable measures are defined by law to enable the Turkish citizens abroad to exercise their right to vote.

Every Turkish citizen over 18 years of age has the right to vote in elections and to take part in referenda.

The exercise of these rights is regulated by law.

Privates and corporals serving in the armed services, and students in military schools, and convicts in penitentiaries excluding those convicted of negligent offences cannot vote. The Supreme Board of Election determines the measures that are necessary to be taken from the point of view of security of election at the time the detainees in penitentiaries or prisons vote and the votes are being counted and recorded, and these are carried out under the direction and supervision of the judge on duty in place.

The electoral laws are regulated in such a way as to bring together the principles of fairness in representation and stability in government.

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

## III. Provisions Relating to Political Parties

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

#### ARTICLE 68

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

Political parties are indispensable elements of democratic political life.

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

The statutes and programs, as well as the activities of political parties cannot be in conflict with the independence of the State, its indivisible integrity with its territory and nation, human rights, the principles of equality and rule of law, sovereignty of

- Restrictions on the armed forces
- Claim of universal suffrage

- Secret ballot

- Restrictions on voting

- Prohibited political parties

- Right to form political parties

the nation, the principles of the democratic and laic Republic; can not aim to support or to establish a dictatorship of class or group or dictatorship of any kind, and nor they encourage the commitment of offence.

Judges and prosecutors, members of higher judicial organs including those of the Audit Court, employees having the status of civil servants in public institutions and organizations, other public employees who are not considered to be workers by virtue of the services they perform, members of the Armed Forces, and students prior to higher education institutions, cannot become members of political parties.

The membership of the higher education staff in political parties may only be regulated by law. This law cannot allow those members to assume party posts except in the central organs of the political parties and it determines the principles to which the higher education staff, who are political party members, must abide in the higher education institutions.

The principles according to which students in higher education may become members of political parties are regulated by law.

The state provides financial aid to political parties at an adequate level and on an equitable manner. The principles, to which the aid to be made to political parties and the membership dues and donation they receive are subject, are regulated by law.

## **B. Principles to be Observed by Political Parties**

### **ARTICLE 69**

The activities, internal regulations and operations of political parties must accord with the principles of democracy. The implementation of these principles is regulated by law.

Political parties may not engage in commercial activities.

The revenues and expenditure of political parties must be in conformity with their objectives. The implementation of this rule is regulated by law. The manner in which the Constitutional Court determines the conformity to the laws of the property acquisitions, revenues and expenditures of political parties, the auditing methods on this matter and the sanctions to be enforced in case of infringement are regulated by law. In performing this function of auditing, the Constitutional Court may obtain assistance from the Audit Court. Decisions to be taken by the Constitutional Court as a result of this auditing are final.

The dissolution of political parties is decided finally by the Constitutional Court upon a suit brought by the office of the Chief Public Prosecutor of the Republic of the High Court of Appeals.

In case the statutes and program of a political party is found to be contrary to the provisions of the fourth paragraph of Article 68, the party is dissolved permanently.

The permanent dissolution of a political party with the reason of its activities contrary to the provisions of the fourth paragraph of Article 68 may be decided only when the Constitutional Court determines that it has become a focal point at which acts of this kind are committed. A political party can be deemed to have become the center of such actions when actions of this type are undertaken intensively by the members of that party and when these actions are implicitly or explicitly approved by the general convention or the chairman or the central decision-making or administrative organs or by the general assembly of the party group or its executive board at the Grand National Assembly of Turkey, or when these actions are directly carried out in determination by the above- mentioned party organs.

Instead of dissolving the political party permanently, the Constitutional Court may, in accordance with the above mentioned paragraphs, take the decision to deprive

- Constitutional court powers
- Regulation of political parties

the concerned party of State fund, either partially or in full, with respect to the gravity of the actions brought before the Court.

A party that has been dissolved permanently may not be formed under another name.

Members, including the founders of a political party, the statements and activities of whom have caused it to be dissolved permanently, cannot become founders, members, administrators or auditors of another party for a period of five years starting on the date on which the Constitutional Court's final verdict ordering the dissolution of the party is published in the Official Gazette with its statement of reason.

Political parties that receive material assistance from foreign States, international organizations and real persons and legal entities that are not of Turkish nationality are dissolved permanently.

The foundation and operations of political parties, their supervision and dissolution or depriving them of the State aid partially or in full , 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 can 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 declaration can be prescribed by law. Those serving in the legislative and executive organs cannot 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 be performed, or considered as performed, either in the Armed Forces or in public sector is regulated by law.

## VI. Obligation to Pay Taxes

#### ARTICLE 73

- Duty to pay taxes

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 impositions are imposed, amended, or revoked by law.

The Council of Ministers may be authorized to amend the percentages of exemption, exceptions and reductions in taxes, fees, duties and other such financial impositions, within the minimum and maximum limits prescribed by law.

## VII. Right of Petition

### ARTICLE 74

- Right of petition

Citizens and foreigners resident considering 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.

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

The way of exercising this right is regulated by law.

## PART 3: FUNDAMENTAL ORGANS OF THE REPUBLIC

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### CHAPTER 1: LEGISLATIVE POWER

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

##### A. Composition

### ARTICLE 75

- Structure of legislative chamber(s)
- Size of first chamber
- First chamber selection

The Grand National Assembly of Turkey is composed of five hundred and fifty deputies elected by universal suffrage.

##### B. Eligibility to be a Deputy

### ARTICLE 76

- Eligibility for cabinet

Every Turk over the age of 30 is eligible to be a deputy.

Persons who have not completed their primary education, who have been deprived of legal capacity, who have failed to perform compulsory military service, who are banned from public service, who have been sentenced to a prison term totaling one year or more excluding involuntary offences, or to a heavy imprisonment; those who

- Minimum age of head of government
- Minimum age for first chamber



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 terror action, or incitement and encouragement of such activities, cannot be elected deputies, even if they have been pardoned.

• Restrictions on the armed forces

Judges and prosecutors, members of the higher judicial organs, members of the teaching staff at institutions of higher education, members of the Higher Education Council, employees of public institutions and agencies who have the status of civil servants, other public employees not regarded as labourers on account of the duties they perform, and members of the Armed Forces can 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

### ARTICLE 77

• Term length for first chamber

Elections for the Grand National Assembly of Turkey are held every five years.

The Assembly may decide to hold a new election before the termination of this period, and new elections may also be held according to a decision, taken in accordance with the conditions set forth in the Constitution, by the President of the Republic. A deputy whose term of office expires may be eligible for re-election.

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

## D. Deferment of Elections to the Grand National Assembly of Turkey, and By-elections

• Replacement of legislators

### ARTICLE 78

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

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

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

By-elections cannot be held within one year before general elections.

Apart from the cases prescribed above, in case a province or an electoral district does not remain a member in the Grand National Assembly of Turkey, by-election is held in the first Sunday after 90 days following the vacancies arose. Provision of the third paragraph of Article 127 of the Constitution cannot be applied at the elections to be held as required by this paragraph.

## E. General Administration and Supervision of Elections

### ARTICLE 79

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

The Supreme Board of Election executes all the functions to ensure the fair and orderly conduct of the elections from the beginning to the end of polling, carry out investigations and take final decisions on all irregularities, complaints and objections concerning the elections during and after the polling, and verify the election returns of the members of the Grand National Assembly of Turkey. No appeal can 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 election councils are regulated by law.

The Supreme Board of Election is composed of seven regular members and four substitutes. Six of the members are elected by the Plenary Assembly of the High Court of Appeals, and five members are elected by the Plenary Assembly of the Council of State from amongst its own members, by secret ballot and by an absolute majority of the total number of members. These members elect a Chairman and a Vice-Chairman 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 are designated, by lot, as substitute members. The Chairman and Vice-Chairman of the Supreme Board of Election can not take part in this procedure.

The general conduct and supervision of a referendum on legislation amending the Constitution are subject to the same provisions which are applied in the election of deputies.

## F. Provisions Relating to Membership

### 1. Representing the Nation

#### ARTICLE 80

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

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

Other assignments and activities incompatible with membership in the Grand National Assembly of Turkey are regulated by law.

### 4. Parliamentary Immunity

#### ARTICLE 83

Members of the Grand National Assembly of Turkey cannot be liable for their votes and statements concerning parliamentary functions, for the views they express before the Assembly, or unless the Assembly decides otherwise on the proposal of the Bureau for that sitting, for repeating or revealing these outside the Assembly.

A deputy, who is alleged to have committed an offence before or after election, cannot be arrested, interrogated, detained or tried unless the Assembly decides otherwise. This provision not apply in cases where a member is caught in the act of committing an offence punishable by a heavy penalty and in cases subject to Article 14 of the Constitution if an investigation has been initiated before the election. However, in such situations the competent authority notifies the Grand National Assembly of Turkey 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 is 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 can be subject to whether or not the Assembly lifts immunity in the case of the individual involved.

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

## 5. Loss of Membership

### ARTICLE 84

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

The loss of membership, through a final judicial sentence or deprivation of legal capacity, take effect after the final court decision in the matter has been communicated to the plenary of the Grand National Assembly of Turkey.

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

The loss of membership of a deputy who fails to attend without excuse or permission, a total of five meetings in a period of one month may be decided by an absolute majority of the total number of members by the plenary upon the determination of the existence of the situation by the Bureau of the Grand National Assembly of Turkey.

The membership of a deputy whose statements and acts are cited in the final verdict of the Constitutional Court in a case leading to the permanent dissolution of a political party, as having caused the permanent dissolution of his party, terminates on the date when this verdict with its statement of reason are published in the Official Gazette. The Speakership of the Grand National Assembly of Turkey immediately takes the necessary action concerning such decision and informs the plenary of the Grand National Assembly of Turkey accordingly.

## 6. Application for Annulment

### ARTICLE 85

In the event of lifting a legislative immunity or loss of membership has been decided under the first, third or fourth paragraphs of Article 84, then the deputy concerned or another deputy may appeal to the Constitutional Court for the annulment of the decision on the grounds that it is contrary to the Constitution, the law or to the Rules of Procedure of the Grand National Assembly of Turkey within seven days of the date on which it was taken by the Assembly in plenary session. The Constitutional Court makes a final verdict on this request for annulment within fifteen days.

## 7. Salaries and Allowances

### ARTICLE 86

The payments, allowances and pensions of the members of the Grand National Assembly of Turkey are regulated by law. The monthly amount of the salary can not exceed the salary of the most senior civil servant; the travel allowance can not exceed half of that salary. The present and retired members of the Grand National Assembly of Turkey are associated with the Pension Fund of the Republic of Turkey and those who are no longer members of parliament may continue to be associated with the Fund upon their request.

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

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

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

### A. General Provisions

#### ARTICLE 87

The functions and powers of the Grand National Assembly of Turkey comprise the enactment, amendment, and repeal of laws; the supervision of the Council of Ministers and the Ministers; authorization of the Council of Ministers to issue governmental decrees having the force of law on certain matters; debating and approval of the budget draft and the draft law of the final accounts, making decisions regarding the printing of currency and declaration of war; ratifying international agreements, deciding with the decision of the three fifths majority of the total number of members of the Grand National Assembly of Turkey on the proclamation of amnesties and pardons; confirming death sentences passed down by the courts; and exercising the powers and executing the functions envisaged in the other articles of the Constitution.

### B. Proposal and Debate of Laws

#### ARTICLE 88

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

The procedure and principles relating to the debating of government drafts and individual proposals of law in the Grand National Assembly of Turkey are regulated by the Rules of Procedure.

### C. Promulgation of Laws by the President of the Republic

#### ARTICLE 89

The President of the Republic promulgates the laws adopted by the Grand National Assembly of Turkey within fifteen days.

He, within the same period, refers to the Grand National Assembly of Turkey for further consideration, laws which he deems partially or in full or unsuitable for promulgation, together with a statement of his reasons. In the event of being deemed partially unsuitable by the President, the Grand National Assembly of Turkey may only deliberate those articles deemed to be unsuitable. Budget laws are not subjected to this provision.

If the Grand National Assembly of Turkey adopts in its unchanged form the law referred back, the President of the Republic promulgates it; if the Assembly amends the law, which was referred back, the President of the Republic may again refer back the amended law to the Assembly.

Provisions relating to Constitutional amendments are reserved.

• Initiation of general legislation

• Approval of general legislation  
• Veto override procedure

## 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 are subject to adoption by the Grand National Assembly of Turkey by a law approving the ratification.

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

Agreements in connection with the implementation of an international treaty, and economic, commercial, technical, or administrative agreements which are concluded depending on an authorization given by law is not required to be approved by the Grand National Assembly of Turkey. However, agreements concluded under the provision of this paragraph and affecting the economic or commercial relations and private rights of individuals cannot be put into effect unless promulgated.

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

International agreements duly put into effect carry the force of law. No appeal to the Constitutional Court can be made with regard to these agreements, on the ground that they are unconstitutional.

## E. Authorization to Enact Decrees Having the Force of Law

### ARTICLE 91

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

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

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

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

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

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

- International law
- Treaty ratification

- Legal status of treaties

- Legislative committees
- Head of government decree power

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

Authorization laws and decrees having the force of law, which are based on these, are debated in the committees and in the plenary sessions of the Grand National Assembly of Turkey with priority and urgency.

Decrees, which were not submitted to the Grand National Assembly of Turkey on the day of their publication, ceases to have effect on that day and decrees, which were rejected by the Grand National Assembly of Turkey, ceases to have effect on the day of publication of the decision in the Official Gazette. The amended provisions of the decrees which are approved as amended come into force on the day of their publication in the Official Gazette.

## **F. Declaration of State of War and Authorization to Use of 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 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, while the Grand National Assembly of Turkey is adjourned or in recess, to sudden armed aggression and it thus becomes imperative to decide immediately on the deployment of the armed forces, the President of the Republic can decide on the mobilization of the Turkish Armed Forces.

## **III. Provisions Relating to the Activities of the Grand National Assembly of Turkey**

### **A. Convening and Adjournment**

#### **ARTICLE 93**

The Grand National Assembly of Turkey convenes of its own accord on the first day of October each year.

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

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

If the Grand National Assembly of Turkey is convened during an adjournment or recess, it can not adjourn or go into recess again before having given priority consideration to the matter requiring the summons.

• Power to declare/approve war

• Extraordinary legislative sessions

## B. Bureau of the Assembly

### ARTICLE 94

The Bureau of the Assembly of the Grand National Assembly of Turkey is composed of the Speaker, the Deputy Speaker, Secretary Members, and Administrative Members elected from among the Assembly members.

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

Two elections to the Bureau of the Grand National Assembly of Turkey are held in the course of one legislative term. The term of office of those elected in the first round is two years and the term of office of those elected in the second round is three years.

The candidates from among the members of the Assembly for the Office of the Speaker of the Grand National Assembly of Turkey are notified, within five days of the convening of the Assembly, to the Bureau of the Assembly. Election of the Speaker is 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 is obtained in the third ballot a fourth ballot is 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 is elected Speaker. The election of the Speaker is completed within five days of the expiry of the period for the nomination of candidates.

The quorum required for election, the number of ballots and its procedure, the number of Deputy Speakers, Secretary Members and Administrative Members, are stipulated by the Rules of Procedure of the Assembly.

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

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

### ARTICLE 95

The Grand National Assembly of Turkey carries out its activities in accordance with the provisions of the Rules of Procedure drawn up by itself.

The provisions of the Rules of Procedure are 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 are 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 grounds are organized and directed by the Office of the Speaker of the Assembly. Sufficient forces to ensure security and other such services are allocated to the Office of the Speaker of the Assembly by the relevant authorities.



## D. Quorums Required for Sessions and Decisions

### ARTICLE 96

Unless otherwise stipulated in the Constitution, the Grand National Assembly of Turkey convenes with at least, one-third of the total number of members and takes decisions by an absolute majority of those present; however, the quorum for decisions can, under no circumstances, be less than a quarter plus one of the total number of members.

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

## E. Publicity and Publication of Debates

### ARTICLE 97

Debates held in the plenary session of the Grand National Assembly of Turkey are public and are published verbatim in the Journal of Records.

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

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

## IV. Ways of Collecting Information and Supervision by the Grand National Assembly of Turkey

### A. General Provisions

### ARTICLE 98

The Grand National Assembly of Turkey exercises its supervisory power by means of questions, parliamentary inquiries, general debates, motions of censure and parliamentary investigations.

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

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

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

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

## B. Interpellation

### ARTICLE 99

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

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

Together with the decision to include the motion of censure on the agenda, the date for debating it is decided; however, the debate can not take place less than two days after the decision to place it on the agenda and cannot be deferred more than seven days.

In the course of the debate on the motion of censure, a motion of no-confidence with a statement of reasons tabled by deputies or party groups, or the request for a vote of confidence by the Council of Ministers is put to the vote only after a full day has elapsed.

In order to unseat the Council of Ministers or a minister, an absolute majority of the total number of members is required in the voting, in which only the votes of no-confidence is counted.

Other provisions concerning motions of censure, provided that they are consistent with the smooth functioning of the Assembly, and do not conflict with the above-mentioned principles are detailed in the Rules of Procedure.

## C. Parliamentary Investigation

### ARTICLE 100

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

In the event of a decision to initiate an investigation, this investigation is conducted by a commission of fifteen members chosen by lot on behalf of each party from among three times the number of members the party is entitled to have on the commission, representation being proportional to the parliamentary membership of the party. The commission submits its report on the result of the investigation to the Assembly within two months. If the investigation is not completed within the time allotted, the commission is granted a further and final period of two months. Submission of this report to the Speakership of the Grand National Assembly of Turkey within the course of this period is required.

The report is distributed within ten days after the date of its submission to the Speakership, and it is debated in ten days after its distribution, and if necessary, the decision may be taken to bring the person involved before the Supreme Court. The decision to bring the person concerned before the Supreme Court can be taken only by secret ballot and by an absolute majority of the total number of members.

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

## CHAPTER 2: THE EXECUTIVE

### I. President of the Republic

#### A. Qualifications and Impartiality

##### ARTICLE 101

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

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

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

The President-elect, if a member of a party, severs his relations with his party and his status as a member of the Grand National Assembly of Turkey ceases.

#### B. Election

##### ARTICLE 102

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

The election of the President of the Republic begins thirty days before the term of office of the incumbent President of the Republic expires or ten days after the Presidency falls vacant, and is completed within thirty days of the beginning of the election. Candidates are declared to the Bureau of the Assembly within the first ten days of this period and elections are completed within the remaining twenty days.

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

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

#### C. Taking the Oath

##### ARTICLE 103

• Name/structure of executive(s)

• Minimum age of head of state  
• Head of state selection  
• Eligibility for head of state  
• Head of state term length

• Head of state term limits

• Oaths to abide by constitution

On assuming office, the President of the Republic takes the following oath before the Grand National Assembly of Turkey:

In my capacity as President of the Republic I swear upon my honour and integrity before the Grand National Assembly of Turkey and before history to safeguard the existence and independence of the state, the indivisible integrity of the Country and the Nation and the absolute sovereignty of the Nation, to abide by the Constitution, the rule of law, democracy, the principles of the laic 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

The President of the Republic is the Head of the State. In this capacity he represents the Republic of Turkey and the unity of the Turkish Nation; he ensures the implementation of the Constitution, and the regular and harmonious functioning of the organs of state.

To this end, the duties he or she performs, and the powers he or she exercises, in accordance with the conditions stipulated in the relevant articles of the Constitution are as follows:

**a.** Those relating to legislation:

- To deliver, if he deems it necessary, the opening address of the Grand National Assembly of Turkey on the first day of the legislative year,
- To summon the Grand National Assembly of Turkey to meet, when necessary,
- To promulgate laws,
- To return laws to the Grand National Assembly of Turkey to be reconsidered,
- To submit to referendum, if he deems it necessary, legislation regarding amendment of the Constitution.
- To appeal to the Constitutional Court for the annulment fully or in part of certain provisions of laws, decrees having the force of law, and the Rules of Procedure of the Grand National Assembly of Turkey on the grounds that they are unconstitutional in form or in content,
- To call new elections for the Grand National Assembly of Turkey.

**b.** Those relating to executive functions:

- To appoint the Prime Minister and to accept his resignation,

• Head of state decree power  
• Head of state powers  
• Treaty ratification

• Extraordinary legislative sessions

• Referenda

## • Cabinet removal

- To appoint and dismiss Ministers on the proposal of the Prime Minister,
- To preside over the Council of Ministers or to call the Council of Ministers to meet under his chairmanship whenever he or she deems it necessary,
- To accredit representatives of the Turkish state to foreign states and to receive the representatives of foreign states appointed to the Republic of Turkey,
- To ratify and promulgate international treaties,
- To represent the Office of the Commander-in-Chief of the Turkish Armed Forces on behalf of the Grand National Assembly of Turkey,
- To decide to use the Turkish Armed Forces,
- To appoint the Chief of the General Staff,
- To call the National Security Council to meet,
- To preside over the National Security Council,

## • Emergency provisions

- To proclaim martial law or state of emergency, and to issue decrees having the force of law, in accordance with the decisions of the Council of Ministers under his chairmanship,
  - To sign decrees,
  - To remit, on grounds of chronic illness, disability, or old age, all or part of the sentences imposed on certain individuals,
  - To appoint the members and the chairman of the state Supervisory Council,
  - To instruct the State Supervisory Council to carry out inquiries, investigations and inspections,
  - To appoint the members of the Higher Education Council,
  - To appoint rectors of universities.
- c. Those relating to the judiciary:

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

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

## **E. Presidential Accountability and Non-accountability**

### **ARTICLE 105**

All Presidential decrees except those which the President of the Republic is empowered to enact by himself without the signatures of the Prime Minister and the minister concerned, in accordance with the provisions of the Constitution and other laws, are signed by the Prime Minister, and the ministers concerned. The Prime Minister and the ministers concerned are accountable for these decrees.

No appeal can be made to any legal authority, including the Constitutional Court , against the decisions and orders signed by the President of the Republic on his own initiative.

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

## **F. Deputation for the President of the Republic**

### **ARTICLE 106**

In the event of a temporary absence of the President of the Republic on account of illness, travel abroad or similar circumstances, the Speaker of the Grand National Assembly of Turkey serves as Acting President of the Republic and exercise the powers of the President of the Republic until the President of the Republic resumes his functions, and in the event that the Presidency falls vacant as a result of death or resignation or for any other reason, until the election of a new President of the Republic.

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

### **ARTICLE 107**

The establishment, the principles of organisation and functioning, and the appointment of General Secretariat of the Presidency of the Republic personnel are regulated by Presidential decrees.

• Head of state decree power  
• Head of state removal

• Head of state replacement

## H. State Supervisory Council

### ARTICLE 108

The State Supervisory Council which is attached to the Office of the Presidency of the Republic with the purpose of performing and furthering the regular and efficient functioning of the administration and its observance of law, is authorized to conduct upon the request of the President of the Republic all inquiries, investigations and inspections of all public institutions and organizations, all enterprises in which those public institutions and organisations share more than half of the capital, public professional organizations, employers' associations and labour unions at all levels, and public welfare associations and foundations.

The Armed Forces and all judicial organs are outside the jurisdiction of the State Supervisory Council.

The Members and the Chairman to be designated from among the members of the State Supervisory Council are appointed by the President of the Republic from among those with the qualifications set forth in the law.

The functioning of the State Supervisory Council, the term of office of its members, and other matters relating to their status are regulated by law.

## II. Council of Ministers

### A. Formation

#### ARTICLE 109

The Council of Ministers consists of the Prime Minister and the ministers.

The Prime Minister is appointed by the President of the Republic from among the members of the Grand National Assembly of Turkey.

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

### B. Taking Office and Vote of Confidence

#### ARTICLE 110

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

The Government Program of the Council of Ministers is read by the Prime Minister or by one of the ministers before the Grand National Assembly of Turkey within a week of the formation of the Council of Ministers at the latest and then a vote of confidence is taken.

Debate on the vote of confidence begins two full days after the reading of the program and the vote is taken one full day after the end of debate.

• Advisory bodies to the head of state

• Establishment of cabinet/ministers  
• Name/structure of executive(s)

• Head of government selection  
• Head of government's role in the legislature

• Eligibility for cabinet

## C. Vote of Confidence While in Office

### ARTICLE 111

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

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

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

## D. Duties and Political Responsibilities

### ARTICLE 112

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

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

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

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

## E. Ministers, and the Formation of Ministries

### ARTICLE 113

The formation, abolition, functions, powers and organisation of the ministries are regulated by law.

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

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

If a ministerial position becomes vacant for any reason, a new appointment is made to it within fifteen days.

- Cabinet removal
- Head of government removal

- Cabinet removal



## F. Provisional Council of Ministers During Elections

### ARTICLE 114

The Ministers of Justice, Internal Affairs and Communications resign prior to general elections to the Grand National Assembly of Turkey. Three days before elections begin or in the event of a decision to hold new elections before the end of the election term, within five days of this decision, the Prime Minister appoints independent persons from within or outside the Grand National Assembly of Turkey to these Ministries.

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

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

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

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

The Provisional Council of Ministers is not subject to a vote of confidence.

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

## G. Regulations

### ARTICLE 115

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

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

## H. Calling for Elections for the Grand National Assembly of Turkey by the President of the Republic

### ARTICLE 116

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

\* Head of government replacement

If a new Council of Ministers cannot be formed within forty-five days of the resignation of the Prime Minister without being defeated by a vote of confidence or also within forty- five days of elections for the Bureau of the Speaker of the Grand National Assembly of Turkey of the newly elected Grand National Assembly of Turkey, the President of the Republic may likewise, in consultation with the Speaker of the Grand National Assembly of Turkey, call for new elections.

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

## I. National Defence

### A. 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.

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

The Chief of the General Staff is the commander of the Armed Forces, and, in time of war exercises the duties of Commander-in-Chief on behalf of the President of the Republic.

The Chief of the General Staff is appointed by the President of the Republic following the proposal of the Council of Ministers; his duties and powers are regulated by law. The Chief of the General Staff is responsible to the Prime Minister in the exercise of his duties and powers.

The functional relations and scope of jurisdiction of the Ministry of National Defence with regard to the Chief of the General Staff and the Commanders of the Armed Forces are regulated by law.

### B. National Security Council

#### ARTICLE 118

The National Security Council is composed of the Prime Minister, the Chief of the General Staff, Deputy Prime Ministers, Ministers of Justice, National Defence, Internal Affairs, and Foreign Affairs, the Commanders of the Army, Navy and Air Forces and the General Commander of the Gendarmerie, under the chairmanship of the President of the Republic.

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

The National Security Council submits to the Council of the Ministers its views on the advisory decisions that have been taken and ensuring the necessary coordination with regard to the formulation, establishment, and implementation of the national security policy of the state. The Council of Ministers evaluate the 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

- Designation of commander in chief
- Selection of active-duty commanders

- Deputy executive

integrity and indivisibility of the country and the peace and security of society.

The agenda of the National Security Council is drawn up by the President of the Republic taking into account the proposals of the Prime Minister and the Chief of the General Staff.

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

The organization and duties of the General Secretariat of the National Security Council are regulated by law.

### **III. Procedure Governing Emergency Rule**

#### **A. States of Emergency**

##### **1. Declaration of State of Emergency on Account of Natural Disaster or Serious Economic Crisis**

###### **ARTICLE 119**

In the event of natural disaster, dangerous epidemic diseases or a serious economic crisis, the Council of Ministers, meeting under the chairmanship of the President of the Republic may declare a state of emergency in one or more regions or throughout the country for a period not exceeding six months.

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

###### **ARTICLE 120**

In the event of emergence of serious indications of widespread acts of violence aimed at the destruction of the free democratic order established by the Constitution or of fundamental rights and freedoms, or serious deterioration of public order because of acts of violence, the Council of Ministers, meeting under the chairmanship of the President of the Republic, after consultation with the National Security Council, may declare a state of emergency in one or more regions or throughout the country for a period not exceeding six months.

##### **3. Rules Relating to the State of Emergency**

###### **ARTICLE 121**

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

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

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

## **B. Martial Law, Mobilization and State of War**

### **ARTICLE 122**

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

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

These decrees are published in the Official Gazette and are submitted for approval to the Grand National Assembly of Turkey on the same day. The time limit and procedure for their approval by the Assembly are indicated in the Rules of Procedure.

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

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

The Martial Law Commanders exercises their duties under the authority of the Chief of the General Staff.

## **IV. Administration**

### **A. Fundamentals of the Administration**

#### **1. Integral Unity and Public Legal Personality of the Administration**

##### **ARTICLE 123**

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

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

Public legal entities are established only by law, or by the authority expressly granted by law.

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

##### **ARTICLE 124**

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

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

### **B. Recourse to Judicial Review**

##### **ARTICLE 125**

Recourse to judicial review is available against all actions and proceedings of the administration. National or international arbitration may be suggested to settle the disputes which arise from conditions and contracts under which concessions are granted concerning public services. International arbitration can only be applied in the case of disputes which involve a foreign component.

The acts of the President of the Republic on his own competence, and the decisions of the Supreme Military Council are outside the scope of judicial review.

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

Judicial power is limited to the verification of the conformity of the actions and acts of the administration with law. No judicial ruling can be passed which restricts the exercise of the executive function in accordance with the forms and principles prescribed by law, which has the quality of an administrative action and act, or which removes discretionary powers.

If the implementation of an administrative proceeding results in damages which are difficult or impossible to compensate for, and at the same time this proceeding is clearly unlawful, then a stay of execution may be decided upon, declaring the reason of statement.

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

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

## C. Organisation of the Administration

### 1. Central Administration

#### ARTICLE 126

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

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

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

### 2. Local Administrations

#### ARTICLE 127

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

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

The elections for local administrations are held every five years in accordance with the principles set forth in Article 67. However, general or by-elections for local administrative bodies or for members thereof, which are to be held within a year before or after the general or by-elections for deputies, are held simultaneously with the general or by-elections for deputies. The law may introduce special administrative arrangements for larger urban centres.

The procedures dealing with objections to the acquisition by elected organs of local government or their status as an organ, and their loss of such status, are resolved by the judiciary. However, as a provisional measure, the Minister of Internal Affairs may remove from office those organs of local administration or their members against whom investigation or prosecution has been initiated on grounds of offences related to their duties, pending judgement.

The central administration has the power of administrative trusteeship over the local governments in the framework of principles and procedures set forth by law with the objective of ensuring the functioning of local services in conformity with the principle of the integral unity of the administration, securing uniform public service, safeguarding the public interest and meeting local needs, in an appropriate manner.

The formation of local administrative bodies into a union with the permission of the Council of Ministers 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, are regulated by law. These administrative bodies are 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 legal entities are assigned to perform, in accordance with principles of general administration, are carried out by public servants and other public employees.

The qualifications of public servants and other public employees, procedures governing their appointments, duties and powers, their rights and responsibilities, salaries and allowances, and other manners related to their status are regulated by law.

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

### **2. Duties and Responsibilities, and Guarantees During Disciplinary Proceedings**

#### **ARTICLE 129**

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

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

Disciplinary decisions are subject to judicial review, with the exception of warnings and reprimands.

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

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

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

## E. Institutions of Higher Education and Their Higher Bodies

### 1. Institutions of Higher Education

#### ARTICLE 130

For the purpose of training manpower under a system of contemporary education and training principles and meeting the needs of the nation and the country, universities comprising several units are established by the state and by law as public legal entities having autonomy in teaching, assigned to educate, train at different levels after secondary education, and conduct research, to act as consultants, to issue publications and to serve the country and humanity.

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

The law provides 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 does not include the liberty to engage in activities directed against the existence and independence of the state, and against the integrity and indivisibility of the Nation and the Country.

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

University rectors are appointed by the President of the Republic, and faculty deans by the Higher Education Council, in accordance with the procedures and provisions of the law.

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

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

The establishment of institutions of higher education and their organs, their functioning and elections, their duties, authorities and responsibilities, the procedures to be followed by the State in the exercise of the right to supervise and inspect the universities, the duties of the teaching staff, their titles, appointments, promotions and retirement, the training of the teaching staff, the relations of the universities and the teaching staff with public institutions and other organisations, the level and duration of education, admission of students into institutions of higher education, attendance requirements and fees, principles relating to assistance to be provided by the State, disciplinary and penalty matters, financial affairs, personnel rights, conditions to be conformed with by the teaching staff, the assignment of the teaching staff in accordance with 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 Higher Education Council and the universities, are regulated by law.



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

## **2. Superior Bodies of Higher Education**

### **ARTICLE 131**

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

The Higher Education Council is composed of members appointed by the President of the Republic from among the candidates who are nominated by the Council of Ministers, the Chief of the General Staff and the universities, and in accordance with the numbers, qualifications and procedure prescribed by law, priority being given to those who have served successfully as faculty members as rectors, and of members directly appointed by the President of the Republic himself.

The organisation, functions, authority, responsibility and operating principles of the Council are 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 security organisations are subject to the provisions of their respective special laws.

## **F. Radio and Television Administrations and State-Connected News Agencies**

### **ARTICLE 133**

Radio and television stations are established and administered freely in conformity with rules to be regulated by law.

Autonomy of the sole radio and television institution established by the State as a public legal entity and news agencies which receives aid from public legal entities and impartiality of both in their broadcast is fundamental.

- Radio
- Television

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

### **ARTICLE 134**

The “Atatürk High Institution of Culture, Language and History” is established as a public legal entity, under the moral aegis of Atatürk, under the supervision of and with the support of the President of the Republic, attached to the Office of the Prime Minister, and composed of the Atatürk Centre of Research, the Turkish Language Society, the Turkish Historical Society and the Atatürk Cultural 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 benefits of the Turkish Language Society and Turkish Historical Society, bequeathed to them by Atatürk in his will are reserved and 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, are regulated by law.

## **H. Public Professional Organisations**

### **ARTICLE 135**

Public professional organisations and their higher organisations are public legal entities 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 are elected by secret ballot by their members in accordance with the procedure set forth in the law, and under judicial supervision.

Persons regularly employed in public institutions, or in state economic enterprises cannot be required to become members of public professional organisations.

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

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

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

The responsible organs of professional organizations which engage in activities outside their objectives are relieved of their duties by court decision upon the request of the authority designated by law or the public prosecutor, and new organs are elected in their place.

However, if, in cases where national security, public order, the prevention or the continuation of an offence or the apprehension of the offender are concerned, a delay is prejudicial, the law may designate a competent authority to suspend the professional organizations and their superior bodies from activity. The decision of this authority is submitted to approval of the judge on duty within twenty-four hours. The judge proclaims his decision within forty-eight hours; otherwise this administrative decision automatically ceases to be effective.

## I. Presidency of Religious Affairs

### ARTICLE 136

The Presidency of Religious Affairs, which is within the general administration, exercises its duties prescribed in its particular law, in accordance with the principles of laicism, removed from all political views and ideas, and aiming at national solidarity and integrity.

## J. Unlawful Orders

### ARTICLE 137

A person employed in public services, irrespective of his position or status, when he finds an order given by his superiors to be contrary to the provisions of by-laws, regulations, laws, or the Constitution does not carry it out, and informs the person giving the order of this inconsistency. However, if his superior insists on the order and renews it in writing, his order is executed; in this case the person executing the order cannot be held responsible.

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

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

## PART 3: JUDICIAL POWER

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### I. General Provisions

#### A. Independence of the Courts

### ARTICLE 138

Judges are independent in the discharge of their duties; they give judgment in accordance with the Constitution, law, and their personal conviction conforming to the law.

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

No questions can 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 are obliged to comply with court decisions; these organs and the administration neither alter them in any respect, nor delay their execution.

• Judicial independence

## B. Security of Tenure of Judges and Public Prosecutors

### ARTICLE 139

Judges and public prosecutors cannot be dismissed, or retired before the age prescribed by the Constitution; nor can they be deprived of their salaries, allowances or other rights relating to their status, even as a result of the abolition of court or post.

Exceptions indicated in law relating to those convicted for an offence requiring dismissal from the profession, those who are definitely established as unable to perform their duties on account of ill-health, and those determined as unsuitable to remain in the profession, are reserved.

## C. Judges and Public Prosecutors

### ARTICLE 140

Judges and public prosecutors serve as judges and public prosecutors of courts of justice and of administrative courts. These duties are carried out by professional judges and public prosecutors.

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

The qualifications, appointment, rights and duties, salaries and allowances of judges and public prosecutors, their promotion, temporary or permanent change in their duties or posts, the initiation of disciplinary proceedings against them and the subsequent imposition of disciplinary penalties, the conduct of investigation concerning them and the subsequent decision to prosecute them on account of offence 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 are 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 exercise their duties until they complete the age of sixty- five; the age-limit, promotion and the retirement of military judges are prescribed by law.

Judges and public prosecutors can not assume official or public functions other than those prescribed by law.

Judges and public prosecutors are attached to the Ministry of Justice where their administrative functions are concerned.

Those judges and public prosecutors working in administrative posts within the system of legal services are subject to the same provisions as other judges and public prosecutors. Their categories and grades are determined according to the principles applying to judges and public prosecutors and they enjoy all the rights accorded to judges and public prosecutors.

- Supreme/ordinary court judge removal
- Mandatory retirement age for judges
- Protection of judges' salaries

## D. Publicity of Hearings and Verdict Justification

### ARTICLE 141

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

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

The decisions of all courts are made in writing with a reason of statement.

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

## E. Organization of Courts

### ARTICLE 142

The organisation, functions and jurisdiction of the courts, their functioning and trial procedures are regulated by law.

## F. State Security Courts

### ARTICLE 143

State Security Courts are established to deal with offences against the indivisible integrity of the State with its territory and nation, the free democratic order, or against the Republic whose characteristics are defined in the Constitution, and offences directly involving the internal and external security of the State. However, provisions concerning state of martial law and state of war are reserved.

State Security Courts consists of a president, two regular and one substitute members, one chief public prosecutor of the Republic and a sufficient number of public prosecutors of the Republic.

The president, two regular and one substitute members and the chief public prosecutor of the Republic from among the first category judges and public prosecutors of the Republic, the public prosecutors from the other public prosecutors of the Republic are appointed by the Supreme Council of Judges and Public Prosecutors for a period of four years in accordance with the procedures prescribed by special law; those whose term of office has expired may be reappointed.

The High Court of Appeals is the competent authority to examine appeals against the judgements of the State Security Court.

Other provisions relating to the functioning, the duties and jurisdiction and the trial procedures of the State Security Court are prescribed by law.

- Privileges for juveniles in criminal process
- Right to public trial

- Structure of the courts
- Ordinary court selection

- Establishment of administrative courts
- Establishment of constitutional court
- Establishment of military courts
- Structure of the courts

## G. Supervision of Judges and Public Prosecutors

### ARTICLE 144

Supervision of judges and public prosecutors with regard to the performance of their duties in accordance with laws, regulations, by-laws and circulars (administrative circulars, in the case of judges), investigation into whether they have committed offences in connection with, or in the course of their duties, whether their behaviour and attitude are in conformity with their status and duties and if necessary, inquiry and investigations concerning them are made by judiciary inspectors with the permission of the Ministry of Justice. The Minister of Justice may request the investigation or inquiry to be conducted by a judge or public prosecutor who is senior to the judge or public prosecutor to be investigated.

## H. Military Justice

### ARTICLE 145

Military justice is exercised by military courts and military disciplinary courts. These courts have jurisdiction to try military personnel for military offences, for offences committed by them against other military personnel or in military places, or for offences connected with military service and duties.

Military courts also have jurisdiction to try non-military persons for military offences specified in the special law; and for offences committed while performing their duties specified by law, or against military personnel on military places specified by law.

The offences and persons falling within the jurisdiction of military courts in time of war or under martial law, their organisation and the appointment, where necessary, of judges and public prosecutors from courts of justice to military courts are regulated by law.

The organization of military judicial organs, their functions, matters relating to the status of military judges, relations between military judges acting as military prosecutors and the office of commander under which they serve, are regulated by law in accordance with the principles of the independence of courts and the security of tenure of judges and with the requirements of military service. Relations between military judges and the office of commander under which they serve, regarding the requirements of military service apart from judicial functions, are also prescribed by law.

## II. Higher Courts

### A. The Constitutional Court

#### 1. Organisation

### ARTICLE 146

The Constitutional Court is composed of eleven regular and four substitute members.

- Structure of the courts

- Establishment of administrative courts
- Establishment of constitutional court
- Establishment of military courts
- Structure of the courts

- Min age of const court judges
- Eligibility for const court judges
- Constitutional court selection
- Constitutional court term length
- Establishment of administrative courts
- Establishment of constitutional court
- Establishment of military courts
- Structure of the courts

The President of the Republic appoints two regular and two substitute members from the High Court of Appeals, two regular and one substitute member from the Council of State, and one member each from the Military High Court of Appeals, the High Military Administrative Court and the Audit Court, three candidates being nominated for each vacant office by the Plenary Assemblies of each court from among their respective presidents and members, by an absolute majority of the total number of members; the President of the Republic also appoints one member from a list of three candidates nominated by the Higher Education Council from among members of the teaching staff of institutions of higher education who are not members of the Council, and three members and one substitute member from among senior administrative officers and lawyers.

To qualify for appointments as regular or substitute members of the Constitutional Court, members of the teaching staff of institutions of higher education, senior administrative officers and lawyers are required to be over the age of forty and to have completed their higher education, or to have served at least fifteen years as a member of the teaching staff of institutions of higher education or to have actually worked at least fifteen years in public service or to have practiced as a lawyer for at least fifteen years.

The Constitutional Court elects a President and Deputy President from among its regular 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 members of the Constitutional Court can not assume other official and private functions, apart from their main functions.

## 2. Termination of Membership

### ARTICLE 147

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

## 3. Functions and Powers

### ARTICLE 148

The Constitutional Court examines the constitutionality, in respect of both form and substance, of laws, decrees having the force of law, and the Rules of Procedure of the Grand National Assembly of Turkey. Constitutional amendments can be examined and verified only with regard to their form. However, no action can be brought before the Constitutional Court alleging unconstitutionality as to the form or substance of decrees having the force of law issued during a state of emergency, martial law or in time of war.

The review of laws as to form is restricted to consideration of whether the requisite majority was obtained in the last ballot; the review of constitutional amendments is restricted to consideration of whether the requisite majorities were obtained for the proposal and in the ballot, and whether the prohibition on debates under urgent procedure was complied with. Review 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

• Constitutional court removal

• Constitutional interpretation

Turkey. Applications for annulment on the grounds of defect in form cannot be made more than ten days after the date on which the law was promulgated; nor can it be raised by a plea.

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

The Chief Public Prosecutor of the Republic or Deputy Chief Public Prosecutor of the Republic acts as public prosecutor in the Supreme Court.

The judgements of the Supreme Court are final.

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

## 4. Functioning and Trial Procedure

### ARTICLE 149

The Constitutional Court convenes with its President and ten members, and takes decisions by absolute majority. Three-fifths majority of the votes is required for the annulment of constitutional amendments and the dissolution of political parties.

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

The organisation and trial procedures of the Constitutional Court are prescribed by law; its method of work and the division of labour among its members are regulated by the Rules of Procedure made by the Court.

The Constitutional Court examines cases on the basis of files, except where it acts as the Supreme Court. However, when it deems necessary, it may call on those concerned and those having knowledge relevant to the case, to present oral explanations and in cases regarding the permanent dissolution of political parties or in cases relating to their dissolution, may, after the Chief Public Prosecutor of High Court of Appeals, hear the pleas of the chairmanship or the acting representative of the political party whose dissolution is thereby requested.

## 5. Annulment Action

### ARTICLE 150

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

• Constitutionality of legislation



## 6. Time Limit for Annulment Action

### ARTICLE 151

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

## 7. Contention of Unconstitutionality before Other Courts

### ARTICLE 152

If a court which is trying a case, finds that the law or the decree having the force of law to be applied is unconstitutional, or if it is convinced of the seriousness of a claim of unconstitutionality submitted by one of the parties, it postpones the consideration of the case until the Constitutional Court decides on the issue.

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

The Constitutional Court decides on the matter and makes its judgment public within five months of receiving the contention. If no decision is reached within this period, the trial court concludes the case under existing legal provisions. However, if the decision of the Constitutional Court is proclaimed before the decision on the merits of the case becomes final; the trial court is obliged to comply with it.

No allegation of unconstitutionality can 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 cannot be made public without a written statement of reasons.

In the course of annulling the whole, or a provision, of laws or decrees having the force of law, the Constitutional Court can not act as a law-maker and pass judgment leading to new implementation.

Laws, decrees having the force of law, or the Rules of Procedure of the Grand National Assembly of Turkey or provisions thereof, ceases 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 comes into effect. That date cannot be more than one year from the date of publication of the decision in the Official Gazette.

In the event of the postponement of the date on which an annulment decision is to come into effect, the Grand National Assembly of Turkey debates and decide with priority on the draft bill or law proposal, designed to fill the legal void arising from the annulment decision.

Annulment decisions cannot be applied retroactively.

- Constitutional court opinions
- Constitutionality of legislation

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

## B. The High Court of Appeals

### ARTICLE 154

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

Members of the High Court of Appeals are appointed by the Supreme Council of Judges and Public Prosecutors from among first category judges and public prosecutors of the Republic, of the courts of justice, or those considered to be members of this profession, by secret ballot and by an absolute majority of the total number of members.

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

The Chief Public Prosecutor of the Republic and the Deputy Chief Public Prosecutor of the Republic of the High Court of Appeals are appointed by the President of the Republic for a term of four years from among five candidates nominated for each office by the Plenary 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 organisation and the functioning of the High Court of Appeals, and the qualifications and procedures of election of the President, deputy presidents, the heads of division and members and the Chief Public Prosecutor of the Republic and the Deputy Chief Public Prosecutor of the Republic of the High Court of Appeals are regulated by law in accordance with the principles of the independence of courts and the security of tenure of judges.

## C. Council of State

### ARTICLE 155

The Council of State is the last instance for reviewing decisions and judgements given by administrative courts and which are not referred by law to other administrative courts. It is also the first and last instance for dealing with specific cases prescribed by law.

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

Three-fourths of the members of the Council of State are appointed by the Supreme Council of Judges and Public Prosecutors from among the first category administrative judges and public prosecutors, or those considered to be of this profession; and the remaining one-fourths of the members by the President of the Republic from among officials meeting the requirements designated by law.

- Right to appeal judicial decisions
- Attorney general
- Eligibility for supreme court judges
- Supreme court selection
- Supreme court term length
- Supreme court term limits
- Structure of the courts

- Eligibility for administrative judges
- Administrative court selection
- Administrative court term length

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

The organization, the functioning, the qualifications and procedures of election of The President, Chief Public Prosecutor, Deputy Presidents and the heads of division and the members of the Council of State, are regulated by law in accordance with the principles of specific nature of the administrative jurisdiction, and of the independence of the Courts and the security of tenure of judges.

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

### **ARTICLE 156**

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

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

The President, Chief Public Prosecutor, Second Presidents and heads of division of the Military High Court of Appeals are appointed according to rank and seniority from among the members of the Military High Court of Appeals.

The organisation, the functioning of the Military High Court of Appeals, and disciplinary and personnel matters relating to the status of its members are regulated by law in accordance with the principles of the independence of the courts and the security of tenure of judges and with the requirements of military service.

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

### **ARTICLE 157**

The High Military Administrative Court of Appeals is the first and last instance for the judicial supervision of disputes arising from administrative acts and actions involving military personnel or relating to military service, even if such acts and actions have been carried out by civilian authorities. However, in disputes arising from the obligation to perform military service, condition that the person concerned being a member of the military body is not required.

Members of the High Military Administrative Court of Appeals who are military judges are appointed by the President of the Republic from a list of three candidates nominated for each vacant office by the President and members of the Court, who are also military judges, by secret ballot and by an absolute majority of the total number of such members, from among military judges of the first category; members who are not military judges are appointed by the President of the Republic from a list of three candidates nominated for each vacant office by the Chief of the General Staff from among officers holding the rank and qualifications prescribed by law.

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

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

The organisation and functioning of the High Military Administrative Court , its procedure, disciplinary affairs and other matters relating to the status of its members are regulated by law in accordance with the principles of the independence of the courts and the security of tenure of judges within the requirements of military service.

## F. Court of Jurisdictional Disputes

### ARTICLE 158

The Jurisdictional Court of Disputes is authorized to deliver final judgements in disputes between courts of justice, and administrative and military courts concerning their jurisdiction and decisions.

The organisation of the Jurisdictional Court of Disputes the qualifications of its members and the procedure for their election, and its functioning are regulated by law. The Office of President of this Court is held by a member delegated by the Constitutional Court from among its own members.

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

## III. Supreme Council of Judges and Public Prosecutors

### ARTICLE 159

The Supreme Council of Judges and Public Prosecutors is established and exercises its functions in accordance with the principles of the independence of the courts and the security of tenure of judges.

The President of the Council is the Minister of Justice. The Undersecretary to the Minister of Justice is an ex-officio member of the Council. Three regular and three substitute members of the Council are appointed by the President of the Republic for a term of four years from a list of three candidates nominated for each vacant office by the Plenary Assembly of the High Court of Appeals from among its own members and two regular and two substitute members are similarly appointed from a list of three candidates nominated for each vacant office by the Plenary Assembly of the Council of State. They may be re-elected at the end of their term of office. The Council elects a deputy president from among its elected regular members.

The Supreme Council of Judges and Public Prosecutors deals with the admission of judges and public prosecutors of courts of justice and of administrative courts into the profession, appointments, transfers to other posts, the delegation of temporary powers, promotion, and promotion to the first category, the allocation of posts, decisions concerning those whose continuation in the profession is found to be unsuitable, the imposition of disciplinary penalties and removal from office. It takes final decisions on proposals by the Ministry of Justice concerning the abolition of a court or an office of judge or public prosecutor, or changes in the jurisdiction of a court. It also exercises the other functions given to it by the Constitution and laws.

There can be no appeal to any judicial instance against the decisions of the Council.

The functioning of the Council and methods of performing its duties, the procedure governing election and working methods, the principles relating to the examination of objections within the Council are regulated by law.

The Minister of Justice is empowered to appoint judges and public prosecutors with their consent, to temporary or permanent functions in the central offices of the Ministry of Justice.

- Establishment of judicial council
- Supreme/ordinary court judge removal

The Minister of Justice may, in cases where delay is deemed prejudicial, confer temporary powers on judges or public prosecutors to prevent the disruption of services, subject to the approval of the Supreme Council of Judges and Public Prosecutors at its first meeting thereafter.

## **IV. Audit Court**

### **ARTICLE 160**

The Audit Court is charged with auditing, on behalf of the Grand National Assembly of Turkey, all the accounts relating to the revenue, expenditure and property of government departments financed by the general and subsidiary budgets, with taking final decisions on the acts and accounts of the responsible officials, and with exercising the functions required of it by law in matters of inquiry, auditing and judgment. Parties concerned may file a single request for reconsideration of a final decision of the Audit Court within fifteen days of the date of written notification of the decision. No applications for judicial review of such decisions can be filed in administrative courts.

In the event of a dispute between the Council of State and the Audit Court concerning decisions on matters of taxation or similar financial obligations and duties, the decision of the Council of State takes precedence.

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

The procedure for auditing, on behalf of the Grand National Assembly of Turkey, of State property in possession of the Armed Forces be regulated by law in accordance with the principles of secrecy required by national defence.

## **PART 4: FINANCIAL AND ECONOMIC PROVISIONS**

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### **CHAPTER 1: FINANCIAL PROVISIONS**

#### **I. Budget**

#### **A. Preparation and Implementation of the Budget**

### **ARTICLE 161**

The expenditure of the state and those of public legal entities other than state economic enterprises are determined by annual budgets.

The beginning of the fiscal year and the preparation and implementation of the general and subsidiary budgets are defined by law.

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

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

## B. Debate on the Budget

### ARTICLE 162

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

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

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

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

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

## C. Principles Governing Budgetary Amendments

### ARTICLE 163

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

## D. Final Account

### ARTICLE 164

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

The draft final accounts are placed on the agenda of the Budget Committee together with the Draft Budget Law for the new fiscal year. The Budget Committee submits

the draft Budget Law to the Plenary Assembly in conjunction with the draft final accounts; the Plenary Assembly considers, and decides on the draft final accounts in conjunction with the draft Budget Law for the new fiscal year.

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

## **E. Auditing of State Economic Enterprises**

### **ARTICLE 165**

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

## **CHAPTER 2: ECONOMIC PROVISIONS**

### **I. Planning**

#### **ARTICLE 166**

The planning of economic, social and cultural development, in particular the speedy, balanced and harmonious development of industry and agriculture throughout the country, and the efficient use of national resources on the basis of detailed analysis and assessment and the establishment of the necessary organisation for this purpose are the duties of the state.

Measures to increase national thriftiness and production, to ensure stability in prices and balance in foreign trade transactions, to promote investment and employment, are included in the plan; in investments, public benefit and requirements are taken into account; the efficient use of resources is aimed at. Development activities are 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 their revision, and the prevention of amendments liable to affect the unity of the plan are regulated by law.

### **II. Supervision of Markets and Regulation of Foreign Trade**

#### **ARTICLE 167**

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

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

### III. Exploration and Exploitation of Natural Resources

#### ARTICLE 168

Natural wealth and resources are placed under the control of, and at the disposal of the state. The right to explore and exploit them belongs to the State. The state may delegate this right to individuals or public legal entities for specific periods. Of the natural wealth and resources, those to be explored and exploited by the state in partnership with individuals or public legal entities, and those to be directly explored and exploited by individuals or public legal entities are subject to the explicit permission of the law. The conditions to be observed in such cases by individuals and public legal entities, the procedure and principles governing supervision and control by the State, and the sanctions to be applied are prescribed by law.

### IV. Forests and the Inhabitants of Forest Villages

#### A. Protection and Development of Forests

#### ARTICLE 169

The State enacts the necessary legislation and takes the measures necessary for the protection of forests and the extension of their areas. Forest areas destroyed by fire are reforested; other agricultural and stock-breeding activities cannot be allowed in such areas. All forests are under the care and supervision of the state.

The ownership of state forests cannot be transferred to others. State forests can be managed and exploited by the state in accordance with the law. Ownership of these forests cannot be acquired through prescription, nor can servitude other than that in the public interest be imposed in respect of such forests.

Acts and actions which might damage forests cannot be permitted. No political propaganda which might lead to the destruction of forests can be made; no amnesties or pardons specifically granted for offences against forests can be legislated. Offences committed with the intention of burning or destroying forests or reducing forest areas cannot be included within the scope of amnesties or pardons on other occasions.

The limiting of forest boundaries can be prohibited, except in respect of areas whose preservation as forests is considered technically and scientifically useless, but whose conversion into agricultural land has been found 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 31 December 1981 and whose use for agricultural or stock-breeding purposes has been found advantageous, and in respect of built-up areas in the vicinity of cities, towns or villages.



## **B. Protection of the Inhabitants of Forest Villages**

### **ARTICLE 170**

Together with the measures to secure cooperation between the State and the inhabitants of villages located in or near forest in developing their living conditions, in protecting the forests and their wholeness, in supervising and exploiting forest, the evaluation of areas which technically and scientifically ceased to be forests before 31 December 1981, the determination of areas whose preservation as forest is considered technically and scientifically useless and their exclusion from forest boundaries, the allocation of the mentioned areas, by improving them by the State, to the use of people with the idea of settling some or all of the inhabitants of the villages in the forest in these areas are regulated by law.

With regard to developing the living conditions of the inhabitants of villages located in or near forest and to the protection the forests and their wholeness, together with the measures to secure cooperation between the State and these people, in supervising and exploiting forest, the evaluation of areas which technically and scientifically ceased to be forests before 31 December 1981, the determination of areas whose preservation as forest is considered technically and scientifically useless and their exclusion from forest boundaries, the allocation of the mentioned areas, by improving them by the State, to the use of people with the idea of settling some or all of the inhabitants of the villages in the forest in these areas are regulated by law.

Measures are introduced by law to secure co-operation between the state and the inhabitants of villages located in or near forests in the supervision and exploitation of forests for the purpose of ensuring their conservation and improving the living conditions of their inhabitants; the law also regulate the development of areas which technically and scientifically ceased to be forests before 31 December 1981, the identification of areas whose preservation as forest is considered technically and scientifically useless, their exclusion from forest boundaries, their improvement by the state for the purpose of settling all or some of the inhabitants of forest villages in them, and their allocation to these villages.

The State takes measures to facilitate the acquisition, by these inhabitants, of means and equipment of forestry and other inputs.

The lands owned by villagers resettled outside a forest are immediately reforested as a State forest.

## **V. Promotion of Cooperatives**

### **ARTICLE 171**

The State takes measures in keeping with national and economic interests, to promote the development of cooperatives, which are primarily designed to increase production and protect consumers.

## VI. Protection of Consumers, Traders and Craftsmen

### A. Protection of Consumers

#### ARTICLE 172

The State takes measures to protect and inform consumers; encourages their initiatives to protect themselves.

### B. Protection of Traders and Craftsmen

#### ARTICLE 173

The state takes measures to protect and support small traders and craftsmen.

## PART 5: MISCELLANEOUS PROVISIONS

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### I. Preservation of Reform Laws

#### ARTICLE 174

No provision of the Constitution can be construed or interpreted as rendering unconstitutional the Reform Laws indicated below, which aim to raise Turkish society above the level of contemporary civilisation and to safeguard the laic character of the Republic, and which were in force on the date of the adoption by referendum of the Constitution of Turkey.

1. Law No. 430 of 3 March 1340 (1924) on the Unification of the Educational System;
2. Law No. 671 of 25 November 1341 (1925) on the Wearing of Hats;
3. Law No. 677 of 30 November 1341 (1925) on the Closure of Dervish Convents and Tombs, the Abolition of the Office of Keeper of Tombs and the Abolition and Prohibition of Certain Titles;
4. The principle of civil marriage according to which the marriage act is concluded in the presence of the competent official, adopted with the Turkish Civil Code No. 743 of 17 February 1926, and Article 110 of the Code;
5. Law No. 1288 of 20 May 1928 on the Adoption of International Numerals;
6. Law No. 1353 of 1 November 1928 on the Adoption and Application of the Turkish Alphabet;

7. Law No 2590 of 26 November 1934 on the Abolition of Titles and Appellations such as Efendi, Bey or Pasa;
8. Law No. 2596 of 3 December 1934 on the Prohibition of the Wearing of Certain Garments.

## PART 6: PROVISIONAL ARTICLES

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### Provisional Article 1

On the proclamation, under lawful procedure, of the adoption by referendum of the Constitution as the Constitution of the Republic of Turkey, the Chairman of the Council of National Security and Head of State at the time of the referendum, assumes the title of President of the Republic and exercises 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 18 September 1980 remains valid. At the end of the period of seven years the election for the Presidency of the Republic is held in accordance with the provisions set forth in the Constitution.

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

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

### Provisional Article 2

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

After the adoption of the Constitution, the provision of Article 3 of Law No. 2356 relating to the procedure for filling a seat on the Council of National Security which falls vacant for any reason cannot be applied.

After the Grand National Assembly of Turkey has convened and assumed its functions, the Council of National Security becomes the Presidential Council for a period of six years, and the members of the Council of National Security acquires the title of members of the Presidential Council. The oath they took on 18 September 1980, as members of the Council of National Security remains valid. Members of the Presidential Council 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 terminates on the expiry of the period of six years.

The functions of the Presidential Council are 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, the principle of laicism, the preservation of the reforms of Atatürk, of national security and public order set forth in the Constitution, the Turkish Radio and Television Corporation, international treaties, the sending of Armed Forces to foreign countries and the stationing of foreign forces in Turkey, emergency rule, martial law and the state of war, and other laws deemed necessary by the President of the Republic, within the first ten days of the period of fifteen days granted to the President of the Republic for his consideration;

- b. on the request of the President of the Republic and within the period specified by him:

to consider and give an opinion on matters relating to the holding of new general elections, the exercise of emergency powers and the measures to be taken during a state of emergency, the management and supervision of the Turkish Radio and Television Corporation, the training of 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 as are deemed necessary, and to submit its findings to the President of the Republic.

### Provisional Article 3

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

- a. Law No. 2324 of 27 October 1980 on the Constitutional Order;
- b. Law No. 2356 of 12 December 1980 on the Council of National Security;
- c. Law No. 2485 of 29 June 1981 on the Constituent Assembly,

ceases to have effect and the legal existence of the Council of National Security and the Consultative Assembly terminate.

### Provisional Article 4

(Repealed on May 17, 1987)

### Provisional Article 5

On the tenth day following proclamation by the Supreme Board of Election of the results of the first general elections, the Grand National Assembly of Turkey convenes of its own accord at the premises of the Grand National Assembly of Turkey in Ankara at 15.00 hours. The eldest deputy takes the chair for this session. At this session the deputies 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 governs its sessions and proceedings, those provisions of the Rules of Procedure of the National Assembly which were in force before 12 September, 1980, and which are not contrary to the Constitution applies.

## Provisional Article 7

The present Council of Ministers continues 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

Legislation relating to the organisation, duties, powers and functioning of the new organs, institutions and agencies established under the Constitution and other legislation whose introduction or amendment is provided for in the Constitution, is enacted during the period of Constituent Assembly, starting from the date of the adoption of the Constitution; legislation which cannot be dealt with during this period is to 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 refer to the Grand National Assembly of Turkey for further consideration of any Constitutional amendments adopted by the Assembly. In this case the re-submission of the Constitutional amendment draft 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 are 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 by referendum of the Constitution continues to hold office and exercise their functions. Those previously elected by the Constitutional Court to specific offices retains the status thus acquired.

No election can 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 can 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 can be observed in the elections which are to be held because the number of regular members has fallen below eleven, or because the total number of regular and substitute members has fallen below fifteen.

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

## **Provisional Article 12**

Persons appointed by the Head of State as regular and substitute members of the Supreme Council of Judges and Public Prosecutors from among the members of the High Court of Appeals and the Council of State under Provisional Article 1 of Law No. 2461 of 13 May 1981, on the Supreme Council of Judges and Public Prosecutors; as Chief Public Prosecutor and Deputy Chief Public Prosecutor in accordance with the Provisional Article appended to Law No. 1730 on the High Court of Appeals under Law No. 2483 of 25 June 1981; and as President, Chief Public Prosecutor, Deputy Presidents and heads of division of the Council of State under Provisional Article 14, paragraph 2 of Law No. 2576 of 6 January 1982 on the Council of State continues to exercise their functions until the end of the term of office for which they were elected.

The Provisions of the Provisional Articles of Law No. 2576 of 6 January 1982, which concern the appointment of the presidents and members of Administrative Courts, also remains in force.

## **Provisional Article 13**

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

Until the assumption of office by the elected members, the Council convenes with the participation of substitute members to meet the quorum.

## **Provisional Article 14**

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

## **Provisional Article 15**

No allegation of criminal, financial or legal responsibility can be made, nor an application be filed with a court for this purpose in respect of any decisions or measures whatsoever taken by: the Council of National Security formed under Law No. 2356 which will have exercised legislative and executive power on behalf of the Turkish Nation from 12 September 1980 to the date of the formation of the Bureau of the Grand National Assembly of Turkey which is to convene following the first general elections; the governments formed during the term of office of the Council, or the Consultative Assembly which has exercised its functions under Law No. 2485 on the Constituent Assembly.

The provisions of the above paragraphs also applies in respect of persons who have taken decisions and adopted or implemented measures as part of the implementation of such decisions and measures by the administration or by the competent organs, authorities and officials.

## Provisional Article 16

Persons who fail to participate in the referendum on the Constitution without valid legal or actual reasons despite being entitled to vote and being included on the register of electors and the polling station register compiled for the referendum, can 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

- A. The last paragraph added to the Article 67 of the Constitution by Article 24 of this Law No.4709 is not applied at the first general election to be held after this Law No.4709 goes into effect.
- B. The amendments made by Article 28 of this Law No.4709 to Article 87 of the Constitution are not applied to those who perpetrate the acts described in Article 14 of the Constitution, before this Law No.4709 goes into effect.

## PROVISIONAL ARTICLE

The last paragraph of Article 67 of the Constitution is not applied at the first by election to be held within the course of the 22nd Period of the Grand National Assembly of Turkey.

## PART 7: FINAL PROVISIONS

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### I. Amendment of the Constitution, Participation in Elections and Referenda

#### ARTICLE 175

The constitutional amendment can be proposed in writing by at least one-third of the total number of members of the Grand National Assembly of Turkey. Proposals to amend the Constitution are debated twice in the Plenary Session. The adoption of a proposal for an amendment requires a three-fifths majority of the total number of members of the Assembly by secret ballot.

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

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

If a law is adopted by a three-fifths or less than two-thirds majority of the total number of votes of the Assembly and is not referred by the President for further consideration, it is published in the Official Gazette and 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 if referred by the President for further consideration, or its articles as considered necessary may be submitted to a referendum by the President. Laws or related

articles of the Constitutional amendment not submitted to referendum are published in the Official Gazette.

Laws related to Constitutional amendment which are submitted to referendum, requires the approval of more than half of the valid votes cast.

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

Every measure including fines is taken 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 underlying the Constitution, 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 are 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 becomes the Constitution of the Republic of Turkey and comes into force in its entirety, subject to the following exceptions and the provisions relating to their entry into force:

- a. The provisions of Part II, Chapter II relating to personal liberty, to security, the press, publication and the media, and the right to freedom of assembly.

The provisions of Chapter III, relating to labour, collective agreements, the right to strike, and lockout.

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

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

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



c. The provisions of part III, relating to legislative power:

These provisions 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 are exercised by the Council of National Security until the Grand National Assembly of Turkey assumes its functions, the provisions of Law No. 2485 of 29 June 1981 on the Constituent Assembly being reserved.

- d. The provisions of Part III relating to the functions and powers of the President of the Republic and to the State Supervisory Council under the heading "President of the Republic"; to regulations, National Defence, procedures governing emergency rule under the heading "Council of Ministers"; to all other provisions under the heading "Administration", except local administration, and except the Atatürk High Institution of Culture, Language and History; and all the provisions relating to the judiciary, except the State Security Courts, come into force on publication in the Official Gazette of the adoption by referendum of the Constitution. The provisions relating to the President of the Republic and the Council of Ministers which did not come into force, to be effective when the Grand National Assembly of Turkey assumes its functions, and the provisions relating to local administrations and to the State Security Courts come into force on the promulgation of the relevant legislation.
- e. If new legislation, or amendments to existing legislation are required in connection with the constitutional provisions which are to come into force on the proclamation of the adoption by referendum of the Constitution or in connection with existing or future institutions, organisations and agencies, the procedure to be followed are subject to those provisions of existing laws which are not unconstitutional, or to the provisions of the Constitution, in accordance with Article 11 of the Constitution.
- f. The second paragraph of Article 164 regulating the procedure for the consideration of draft final accounts comes into force in 1984.

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