

# SETA Policy Brief



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## Constitutional Referendum in Turkey



## ABSTRACT

Since the establishment of the Turkish Republic, four constitutions have been adopted (1921, 1924, 1961, and 1982), which were significantly amended by the successive parliaments in light of new developments, yet remained short of meeting universal democratic standards. The last two constitutions were drafted in the aftermath of military interventions, and none of them have been produced out of negotiation, bargaining or a compromise process. Within the framework of the EU reforms, Turkey's most recent constitution of 1982 has been amended several times – so much so that almost one third of the constitution has been reconstructed. There have been demands for the drawing up of a new constitution from both right and left wing parties, but the idea has never been realized.

On March 22, 2010, the AK Party announced a constitutional reform package which the Turkish parliament approved the bill to reform the constitution on May 7, 2010. The Turkish public will vote on the whole package on September 12, 2010; the date of the referendum has a symbolic meaning, as the current constitution is the product of the coup d'état of September 12, 1980.



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## CONSTITUTIONAL REFERENDUM IN TURKEY

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# CONSTITUTIONAL REFERENDUM IN TURKEY

Since the establishment of the Turkish Republic, four constitutions have been adopted (1921, 1924, 1961, and 1982), which were significantly amended by the successive parliaments in light of new developments, yet remained short of meeting universal democratic standards. The last two constitutions were drafted in the aftermath of military interventions, and none of them have been produced out of negotiation, bargaining or a compromise process. Within the framework of the EU reforms, Turkey's most recent constitution of 1982 has been amended several times – so much so that almost one third of the constitution has been reconstructed. There have been demands for the drawing up of a new constitution from both right and left wing parties, but the idea has never been realized.

Prior to the last general election held on July 22, 2007, Turkey's ruling party, the Justice and Development Party (AK Party), declared that it would found a new, civilian and democratic constitution during its second term. In the time leading up to the elections, Prime Minister Recep T. Erdoğan assembled a committee headed by Professor Ergun Özbudun, a prominent constitutional lawyer in Turkey to oversee the drafting of a new civilian and democratic constitution within the parameters of the party's election manifesto. The committee, which was composed of liberal-minded constitutional lawyers and political scientists, completed the draft text within the relatively short period of two and a half months. The draft constitution was submitted to the special commission set up by the AK Party on August 19, 2007 for evaluation. A joint meeting between the drafting committee members and leading AK Party ministers and parliamentarians took place on September 14-16 where some minor modifications were made.

However, before it was made public, the draft was leaked to the media, where it aroused strict opposition even though the draft constitution was more democratic and liberal than the present Turkish Constitution. Turkey's military-civilian bureaucracy accused the initiative of being a step toward dismantling the secular regime. The AK Party de-

nied the accusations and claimed that the new constitution was a key component of the democratization process within the framework of Turkey's pursuit of EU membership. As a result of heated debates, the constitution project was put on hold in early 2008. Instead of pursuing a full revamping, the AK party and the Nationalist Action Party (MHP) cooperated on a constitutional amendment to lift the ban on the wearing of the headscarf in universities. This initiative led to political tension which reached its peak with the closure case against the AK Party. In July 2008, the Turkish Constitutional Court rejected the demands to close the ruling AK Party.

Following the 2009 local elections, the AK Party revitalized its constitutional reform process to meet the EU's demands for further reforms in the judicial system and on the topic of individual rights. As a result of the brouhaha over the party's public announcement that it would settle a new constitution prior to the general elections of 2007, AK Party seniors decided instead to prepare a reform package to address a number of vital issues. On March 22, 2010, the AK Party announced a constitutional reform package that would include amendments to 24 articles of the current constitution and add three new provisional articles. The package also included the elimination of Article 15, a 'provisional' article that has been in the constitution since the 1980s, preventing the trials of officials involved in the 1980 military coup. The largest reform package amending the 1982 Constitution made its way to Parliament at the end of March, 2010. During the voting process, the article regarding the closure of political parties was dropped from the package as it could not receive the necessary 330 votes.

On May 7, the Turkish parliament approved the bill to reform the constitution. The package received the support of 336 deputies, falling short of the two-thirds majority needed to adopt the amendments, but above the threshold of 330 votes needed for President Abdullah Gül to call for a referendum. Gül approved the constitutional amendment bill in the following days and opened the way for a referendum for constitutional reform.

After the approval of the President, the Republican People's Party (CHP) and the Democratic Left Party (DSP) applied to the Constitutional Court to have the amendment package annulled. On July 7, 2010 the Constitutional Court announced a nuanced decision, rejecting a complete reversal of the application, but annulling the arrangements pertaining to the naming of candidates to both the Constitutional Court and the High Council for Judges and Prosecutors (HCJP). The Court also amended the content of two main articles (Articles 146 and 159), and two related, provisional articles (18 and 19). Due to these amendments Court members were accused, by supporters of the package, of going beyond their duties and violating Article 148 of the Constitution.

Nonetheless, the decision by the Constitutional Court officially put Turkey on the track of the referendum process. The Turkish public will vote on the whole package on September 12, 2010; the date of the referendum has a symbolic meaning, as the current constitution is the product of the coup d'état of September 12, 1980.

## What is New in the Constitutional Reform Package?

The constitutional reform package mainly consists of two parts. The first part includes amendments regarding fundamental rights and freedoms, and thus aims to bring about a more liberal and rights-based approach to the relationship between the individual and the state. The package prioritizes the individual vis-à-vis the state, providing greater freedoms for individuals, more opportunities for women and minorities, and more democratic institutions. The package also takes crucial steps to better protect constitutional rights and liberties. For instance, it removes unnecessary reasons for restricting rights while adding some new rights, such as the right to information and children's rights.

The details of this part are as follows:

- Amended Article 10 concerns children, the elderly, disabled people, widows and orphans of martyrs, invalids and veterans. This article was reformulated in light of the EU's Charter on Fundamental Rights. The aim of this amendment is to provide a constitutional basis for the possibility of positive discrimination in favor of those who are in need of special protection, such as children, women, the and disabled persons.
- The right of persons to ask that their personal data be protected is guaranteed under the proposal regarding Article 20 of the Constitution. This revision also involves the right to be informed about information related to one's self, access to this information, the ability to request its correction and deletion, and to know whether it is being utilized in accordance with the appropriate purposes. The ultimate aim of this proposal is to achieve a full constitutional safeguard for data protection.
- The proposal removes unnecessary reasons for restricting rights. Freedom of residence and movement is enlarged. According to amended Article 23, a citizen's freedom to leave the country may be restricted only by the decision of a Judge based on a prosecution or criminal proceedings.
- Some new rights, such as children rights, are also included in the proposal. In order to promote the protection of children's rights in line with EU and international standards, the title of Article 41 is amended to be renamed "Protection of the Family and Children's Rights," and to constitutionally guarantee the protection of children against any kind of abuse or violence.
- The amendments related to Articles 51, 53, 54 and 128 ensure the right to organize, the right to strike, and the right to bargain collectively for both private and public sectors. The new package grants union rights to civil servants, allowing them to engage in collective bargaining negotiations. The provision that prohibits membership in more than one labor union at the same time and in the same work branch is repealed from Article 51, which concerns the right to organize. Freedom of association is improved and rights related to trade unions are extended as recommended by the EU.

- An amendment to Article 74 provides a constitutional basis for establishing an independent Ombudsman. This ensures that the acts and actions of the administration are subject to an independent review in terms of good governance and conformity with the law.
- The revision to Article 84 repeals the deprivation of MP status for those whose actions lead to the closure of their parties. This is in line with mainstream democratic principles, the European Convention on Human Rights, and the case law of the European Court of Human Rights.

The second part of the constitutional reform package is mainly focused on reorganizing the judiciary in a more democratic and participatory manner. The Constitutional Court and the High Council for Judges and Public Prosecutors (HCJP) are restructured in terms of their composition and powers. The proposal also limits the judicial authority of military courts to military offences of military staff. Details of the amendments in this group are as follows:

#### *The Constitutional Court (Articles 146-149)*

- Whereas currently all members of the Court are appointed directly or indirectly by the President of the Republic, the proposal grants the Parliament the power to select three members of the Court. The package suggests an increase in the number of members of the Constitutional Court from 11 to 17, of whom 14 would be chosen by the President, up from three at present.
- The President of the Republic will select three members from the Court of Cassation; two members from the Council of State; one member from Military Court of Cassation; one member from the High Military Administrative Court; three members from a list of three candidates nominated by the Higher Education Council; four members from among the senior administrative officers, self-employed lawyers, first category judges and prosecutors, or from among the rapporteurs of the Constitutional Court. With this amendment, the institutions from which the members are selected are diversified.
- The term of membership is limited to 12 years.
- With the amendment on Article 148, the right of individual recourse to the Constitutional Court is introduced. According to the proposal, anyone who claims that any of their fundamental rights and freedoms guaranteed under the Constitution and falling under the European Convention of Human Rights have been violated by the public authorities can apply to the Constitutional Court.
- The Speaker of the Turkish Grand National Assembly, the Chief of Staff, and the commanders of the Land, Air, Naval and Gendarmerie Forces can be tried for offences related to their duties by the Constitutional Court in its capacity as the Supreme Court.

- Applications for judicial review can be made against the decisions of the Supreme Court.
- The decision of annulment of Constitutional amendments and the closure or deprivation of political parties from government aid can be taken by two-thirds of the total number of members, which are currently taken by absolute majority.

*The High Council for Judges and Public Prosecutors (HCJP) (Articles 144 and 159)*

- With the proposals on Article 144 and 159, the composition and the expansion of the HCJP are restructured to include a broader representation of judicial officials. The qualification and selection of the HCJP's members, the regulation of its working methods and principles, and the transfer of competence to inspect judges and prosecutors from the Justice Ministry to the HCJP are also revised.
- The package proposes an increase in the number of members of the High Council for Judges and Public Prosecutors from seven to twenty-two regular and twelve substitute members. The Council shall function as three chambers.
- The Council will remain chaired by the Minister of Justice, and the Undersecretary to the Minister of Justice will continue to be an ex-officio member of the Council
- The four regular members are appointed by the president for a term of four years, from among academics serving in departments of law at institutions of higher education, and lawyers whose qualifications are stated in the law.
- The reform package proposes that a majority of the members shall be elected by the judges and the prosecutors themselves. Three regular and three substitute members will be appointed by the Plenary Assembly of the Court of Cassation; two regular and two substitute members will be appointed by the Plenary Assembly of the Council of State; one regular and one substitute member will be appointed by the Plenary Assembly of the Justice Academy of Turkey; seven regular and four substitute members will be elected by judges and public prosecutors; and three regular and two substitute members will be elected by the judges and public prosecutors of the administrative judiciary.
- A General Secretariat will be established under the Council, and the General Secretary will be appointed by the President of the Council from among the three candidates, who are first category judges and public prosecutors, proposed by the Council.
- The decisions of the Council except for those concerning dismissal from the profession can be appealed at judicial bodies.

*Military Justice (Articles 125, 145 and 156-157)*

- The amended Article 145 limits the competence of the military judiciary to the handling of military offences. It also states that criminal offences committed

against state security, the constitutional order and its functioning will be dealt with exclusively by the civil judiciary.

- Non-military persons will not be tried in the military judiciary except in wartime.
- The organization and functioning of military courts, i.e. the Military Court of Cassation and the High Military Administrative Court of Appeals, their procedures, disciplinary affairs and other matters relating to the status of their members will be regulated by law in accordance with the principles of the independence of the courts and the security of tenure of judges.
- According to amended Article 125, judicial remedies will be available against the decisions of the Supreme Military Council regarding discharges of any kind, except for decisions regarding promotion procedures and retirement due to shortage of cadres.

The final amendment of the constitutional reform package concerns Article 166. It guarantees the exercise, efficiency and participation of the Economic and Social Council which would be established. Such a mechanism is useful in strengthening social dialogue channels and gathering the government and NGOs to discuss various topics such as economic and social policies.

The constitutional reform package also includes resolutions on provisional articles. Provisional articles 18 and 19 regulate the structure of Constitutional Court and the HCJP following the coming into force of the reform package.

Finally, provisional Article 15, which does not allow the trial of members of the National Security Council formed after the military coup in 1980, will be abolished. The repeal of this article would pave the way for the possible trial of those responsible for the 1980 military coup.

The constitutional amendment package which promises several important changes to eliminate the legacy of 1982 military coup and further consolidate democracy, civil rights, rule of law in Turkey has already started a healthy debate Turkish society.



## Appendix: Comparison of Articles in the Current Constiution and Proposed Amendment Package (proposed changes are marked by blue)

### FUNDEMENTAL RIGHTS AND DUTIES

The Constitution (1982)	Consolidated Version
<p><b>Equality before the Law</b></p> <p><b>ARTICLE 10:</b> 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.</p> <p>Men and women have equal rights. The State shall have the obligation to ensure that this equality exists in practice.</p> <p>No privilege shall be granted to any individual, family, group or class.</p> <p>State organs and administrative authorities shall act in compliance with the principle of equality before the law in all their proceedings.</p>	<p><b>Equality before the Law</b></p> <p><b>ARTICLE 10:</b> 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.</p> <p>Men and women have equal rights. <b>The State shall have the obligation to ensure that this equality exists in practice.</b></p> <p><b>The measures to be taken for children, elderly, disabled people, widows and orphans of martyrs as well as for invalid and veterans shall not be considered as against the principle of equality.</b></p> <p>No privilege shall be granted to any individual, family, group or class.</p> <p>State organs and administrative authorities shall act in compliance with the principle of equality before the law in all their proceedings.</p>
<p><b>Privacy of individual life</b></p> <p><b>ARTICLE 20:</b> Everyone has the right to demand respect for his or her private and family life. Privacy of an individual or family life cannot be violated.</p> <p>Unless there exists a decision duly passed by a judge on one or several of the grounds of national security, public order, prevention of crime commitment, protection of public health and public morals, a written order of an agency authorised by law in cases where delay is prejudicial, again on the above-mentioned grounds, neither the person nor the private papers, nor belongings, of an individual shall be searched nor shall they be seized. The decision of the authorized agency shall be submitted for the approval of the judge having jurisdiction within 24 hours. The judge shall announce his decision within 48 hours from the time of seizure; otherwise, seizure shall automatically be lifted.</p>	<p><b>Privacy of individual life</b></p> <p><b>ARTICLE 20:</b> Everyone has the right to demand respect for his or her private and family life. Privacy of an individual or family life cannot be violated.</p> <p>Unless there exists a decision duly passed by a judge on one or several of the grounds of national security, public order, prevention of crime commitment, protection of public health and public morals, a written order of an agency authorised by law in cases where delay is prejudicial, again on the above-mentioned grounds, neither the person nor the private papers, nor belongings, of an individual shall be searched nor shall they be seized. The decision of the authorized agency shall be submitted for the approval of the judge having jurisdiction within 24 hours. The judge shall announce his decision within 48 hours from the time of seizure; otherwise, seizure shall automatically be lifted.</p> <p><b>Everyone has the right to demand the protection of his or her personal information. This right also involves to be informed about the information related to one's own, access to this information, to request their correction and deletion and to know about whether these data are utilized in accordance with the purposes. Personal information shall only be processed in accordance with the conditions anticipated by law or with the express consent of the person. Principles and procedures on the protection of personal information shall be regulated by law.</b></p>

<p><b>Freedom of residence and movement</b></p> <p><b>ARTICLE 23:</b> 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.</p> <p>A citizen's freedom to leave the country may be restricted on the basis of civic obligations, or criminal investigation or prosecution.</p> <p>Citizens may not be deported, or deprived of their right of entry to their homeland.</p>	<p><b>Freedom of residence and movement</b></p> <p><b>ARTICLE 23:</b> 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.</p> <p>A citizen's freedom to leave the country may be restricted only by decision of a Judge based on prosecution or criminal proceedings</p> <p>Citizens may not be deported, or deprived of their right of entry to their homeland.</p>
<p><b>Protection of the Family</b></p> <p><b>ARTICLE 41:</b> The family is the foundation of the Turkish society and based on the equality between the spouses.</p> <p>The state shall take the necessary measures and establish the necessary organization to ensure the peace and welfare of the family, especially where the protection of the mother and children is involved, and recognizing the need for education in the practical application of family planning.</p>	<p><b>Protection of the Family and Children's Rights</b></p> <p><b>ARTICLE 41.</b> The family is the foundation of the Turkish society and based on the equality between the spouses.</p> <p>The state shall take the necessary measures and establish the necessary organization to ensure the peace and welfare of the family, especially where the protection of the mother and children is involved, and recognizing the need for education in the practical application of family planning.</p> <p>Every child has the right to adequate protection and care and the right to have and maintain a personal and direct relation with his/her parents unless it is explicitly contrary to his/her best interests.</p> <p>The State shall take measures for the protection of the child against any kind of abuse and violence.</p>

## ECONOMIC RIGHTS AND DUTIES

The Constitution (1982)	Consolidated Version
<p><b>Right to organize labour unions</b></p> <p><b>ARTICLE 51:</b> Employees and employers have the right to form labour unions employers' associations and higher organizations, without obtaining permission, and they also possess the right to become a member of a union and to freely withdraw from membership, in order to safeguard and develop their economic and social rights and the interests of their members in their labour relations. No one shall be forced to become a member of a union or to withdraw from membership.</p> <p>The right to form a union shall be solely restricted by law and with the purposes of safeguarding national security and public order and to prevention of crime commitment, protection of public health and public morals and the rights and freedoms of others.</p>	<p><b>Right to organize labor unions</b></p> <p><b>ARTICLE 51:</b> Employees and employers have the right to form labour unions employers' associations and higher organizations, without obtaining permission, and they also possess the right to become a member of a union and to freely withdraw from membership, in order to safeguard and develop their economic and social rights and the interests of their members in their labour relations. No one shall be forced to become a member of a union or to withdraw from membership.</p> <p>The right to form a union shall be solely restricted by law and with the purposes of safeguarding national security and public order and to prevention of crime commitment, protection of public health and public morals and the rights and freedoms of others.</p>

<p>The formalities, conditions and procedures to be applied in exercising the right to form union shall be prescribed by law.</p> <p>Membership in more than one labour union cannot be obtained at the same time and in the same work branch.</p> <p>The scope, exceptions and limits of the rights of civil servants who do not have a worker status are prescribed by law in line with characteristics of their job.</p> <p>The regulations, administration and functioning of labour unions and their higher bodies should not be inconsistent with the fundamental characteristics of the Republic and principles of democracy.</p>	<p>The formalities, conditions and procedures to be applied in exercising the right to form union shall be prescribed by law.</p> <p><a href="#">(The fourth paragraph of the 51st article of the Constitution has been repealed)</a></p> <p>The scope, exceptions and limits of the rights of civil servants who do not have a worker status are prescribed by law in line with characteristics of their job.</p> <p>The regulations, administration and functioning of labour unions and their higher bodies should not be inconsistent with the fundamental characteristics of the Republic and principles of democracy.</p>
<p><b>Right of Collective Bargaining</b></p> <p><b>ARTICLE 53:</b> Workers and employers have the right to conclude collective bargaining agreements in order to regulate reciprocally their economic and social position and conditions of work. The procedure to be followed in concluding collective bargaining agreements shall be regulated by law.</p> <p>The unions and their higher organizations, which are to be established by the public employees mentioned in the first paragraph of Article 128 and which do not fall under the scope of the first and second paragraphs of the same article and also Article 54, may appeal to judicial authorities on behalf of their members and may hold collective bargaining meetings with the administration in accordance with their aims. If an agreement is reached as a result of collective bargaining, a text of the agreement will be signed by the parties.</p> <p>Such text shall be presented to the Council of Ministers so that administrative or judicial arrangements can be made. If such a text cannot be concluded by collective bargaining, the agreed and disagreed points will also be submitted for the consideration of the Council of Ministers by the relevant parties. The regulations for the execution of this article are stipulated by law.</p> <p>More than one collective bargaining agreement at the same place of work for the same period shall not be concluded or put into</p>	<p><b>Right of Collective Bargaining and Collective Agreement</b></p> <p><b>ARTICLE 53:</b> Workers and employers have the right to conclude collective bargaining agreements in order to regulate reciprocally their economic and social position and conditions of work. The procedure to be followed in concluding collective bargaining agreements shall be regulated by law.</p> <p><a href="#">(The third and fourth paragraph of the 53rd article of the Constitution has been repealed.)</a></p> <p><a href="#">Civil servants and other public officials have the right to conclude collective agreement.</a></p> <p><a href="#">In case of disputes during the collective agreements, parties may appeal to the Conciliation Board of Public Servants. The decisions of the Conciliation Board of Public Servants shall be decisive and in the force of collective agreement.</a></p> <p><a href="#">The scope of the right to collective agreement, its exceptions, beneficiaries, modes, procedures and enforcement of collective agreement, reflection of the provisions of collective agreement on the pensioners, the establishment, working procedures and principles of the Conciliation Board of Public Servants and other matters shall be regulated by law.</a></p>

<p><b>Right to Strike and Lockout</b></p>	<p><b>Right to Strike and Lockout</b></p>
<p><b>ARTICLE 54:</b> 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 lockout, the scope of both actions, and the exceptions to which they are subject shall be regulated by law.</p> <p>The right to strike, and lockout shall not be exercised in a manner contrary to the principle of goodwill to the detriment of society, and in a manner damaging national wealth.</p> <p>During a strike, the labour 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 labour union.</p> <p>The circumstances and places in which strikes and lockouts may be prohibited or postponed shall be regulated by law.</p> <p>In cases where a strike and a lockout is prohibited or postponed, the dispute shall be settled by the Supreme Arbitration Board at the end of the period of postponement. The disputing parties may apply to the Supreme Arbitration Board by mutual agreement at any stage of the dispute. The decisions of the Supreme Arbitration Board shall be final and have the force of a collective bargaining agreement.</p> <p>The organizations and functions of the Supreme Arbitration Board shall be regulated by law.</p> <p>Politically motivated strikes and lockouts, solidarity strikes and lockouts, occupation of work premises, labour go-slows, and other forms of obstruction are prohibited.</p> <p>Those who refuse to go on strike shall in no way be barred from working at their work place by strikers.</p>	<p><b>ARTICLE 54:</b> 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 lockout, the scope of both actions, and the exceptions to which they are subject shall be regulated by law.</p> <p>The right to strike, and lockout shall not be exercised in a manner contrary to the principle of goodwill to the detriment of society, and in a manner damaging national wealth.</p> <p><a href="#">(The third paragraph of the 54th article of the Constitution has been repealed.)</a></p> <p>The circumstances and places in which strikes and lockouts may be prohibited or postponed shall be regulated by law.</p> <p>In cases where a strike and a lockout is prohibited or postponed, the dispute shall be settled by the Supreme Arbitration Board at the end of the period of postponement. The disputing parties may apply to the Supreme Arbitration Board by mutual agreement at any stage of the dispute. The decisions of the Supreme Arbitration Board shall be final and have the force of a collective bargaining agreement.</p> <p>The organizations and functions of the Supreme Arbitration Board shall be regulated by law.</p> <p><a href="#">(The seventh paragraph of the 54th article of the Constitution has been repealed.)</a></p> <p>Those who refuse to go on strike shall in no way be barred from working at their work place by strikers.</p>

**POLITICAL RIGHTS AND DUTIES**

The Constitution (1982)	Consolidated Version
<p><b>Right to Petition</b></p> <p><b>ARTICLE 74:</b> Citizens and foreigners resident considering the principle of reciprocity have the right to apply in writing to the competent authorities and to the Turkish Grand National Assembly with regard to the requests and complaints concerning themselves or the public.</p> <p>The result of the application concerning himself shall be made known to the petitioner in writing without delay.</p> <p>The way of exercising this right shall be determined by law.</p>	<p><b>Right to Petition, Right to Information and Appeal to the Ombudsman</b></p> <p><b>ARTICLE 74:</b> Citizens and foreigners resident considering the principle of reciprocity have the right to apply in writing to the competent authorities and to the Turkish Grand National Assembly with regard to the requests and complaints concerning themselves or the public.</p> <p>The result of the application concerning himself shall be made known to the petitioner in writing without delay.</p> <p><i>(The third paragraph of the 74th article of the Constitution has been repealed.)</i></p> <p>Everyone has the right to information and apply to ombudsman.</p> <p>The Ombudsman Office established subordinate to the Presidency of the Turkish Grand National Assembly investigates the complaints related with the operation of the administration.</p> <p>The Chief Ombudsman is elected for four years by the Turkish Grand National Assembly by secret ballot. A two thirds majority of the total number of members for the first two voting and in the third ballot an absolute majority of the total number of members is required. If an absolute majority cannot be obtained in the third ballot, then a fourth ballot shall be held between the two candidates who have received the highest number of votes in the third ballot; the candidate who receives the greatest number of votes in the forth ballot shall be elected.</p> <p>The way in which the rights listed in this article are exercised, the establishment of the Ombudsman Office, its duties, functioning, and the procedures to be undertaken by the Office following the investigation as well as the principles and procedures regarding the qualifications, election and personnel matters of the Chief Ombudsman and Ombudsmen shall be regulated by law</p>

## LEGISLATURE (TGNA)

The Constitution (1982)	Consolidated Version
<p><b>Loss of Membership</b></p> <p><b>ARTICLE 84:</b> The loss of membership of a deputy who has resigned shall be decided upon by the plenary of the Turkish Grand National Assembly after the Bureau of the Turkish Grand National Assembly attests to the validity of the resignation.</p> <p>The loss of membership, through a final judicial sentence or deprivation of legal capacity, shall take effect after the final court decision in the matter has been communicated to the plenary of the Turkish Grand National Assembly.</p> <p>The loss of membership of a deputy who insists on holding a position or continues an activity incompatible with membership according to Article 82, shall be decided by a secret plenary vote, upon the submission of a report drawn up by the authorized commission setting out the factual situation.</p> <p>Loss of membership by a deputy who fails to attend without excuse or permission, five meetings in a period of one month shall be decided by an absolute majority of the total number of members after the Bureau of the Turkish Grand National Assembly determines the situation.</p> <p>The membership of a deputy whose statements and acts are cited in a final judgment by the Constitutional Court as having caused the permanent dissolution of his party shall terminate on the date when the decision in question and its justifications are published in the Official Gazette. The speaker of the Turkish Grand National Assembly shall immediately take the necessary action concerning such decision and shall inform the plenary of the Turkish Grand National Assembly accordingly.</p>	<p><b>Loss of Membership</b></p> <p><b>ARTICLE 84:</b> The loss of membership of a deputy who has resigned shall be decided upon by the plenary of the Turkish Grand National Assembly after the Bureau of the Turkish Grand National Assembly attests to the validity of the resignation.</p> <p>The loss of membership, through a final judicial sentence or deprivation of legal capacity, shall take effect after the final court decision in the matter has been communicated to the plenary of the Turkish Grand National Assembly.</p> <p>The loss of membership of a deputy who insists on holding a position or continues an activity incompatible with membership according to Article 82, shall be decided by a secret plenary vote, upon the submission of a report drawn up by the authorized commission setting out the factual situation.</p> <p>Loss of membership by a deputy who fails to attend without excuse or permission, five meetings in a period of one month shall be decided by an absolute majority of the total number of members after the Bureau of the Turkish Grand National Assembly determines the situation.</p> <p><a href="#">(The fifth paragraph of the 84th article of the Constitution has been repealed.)</a></p>

Bureau of the Assembly	Bureau of the Assembly
<p><b>ARTICLE 94.</b> The Bureau of the Assembly of the Turkish Grand National Assembly shall be composed of the Speaker, the Deputy Speaker, Secretary Members, and Administrative Members elected from among the Assembly members.</p>	<p><b>ARTICLE 94.</b> The Bureau of the Assembly of the Turkish Grand National Assembly shall be composed of the Speaker, the Deputy Speaker, Secretary Members, and Administrative Members elected from among the Assembly members.</p>
<p>The Bureau of the Assembly shall be so composed as to ensure proportionate representation to the number of members of each political party group in the Assembly. Political party groups shall not nominate candidates for the Office of the Speaker.</p>	<p>The Bureau of the Assembly shall be so composed as to ensure proportionate representation to the number of members of each political party group in the Assembly. Political party groups shall not nominate candidates for the Office of the Speaker.</p>
<p>Two elections to the Bureau of the Turkish Grand National Assembly shall be held in the course of one legislative term. The term of office of those elected in the first round is two years and the term of office of those elected in the second round is three years.</p>	<p>Two elections to the Bureau of the Turkish Grand National Assembly shall be held in the course of one legislative term. <b>The term of office of those elected in the first round shall be two years and the term of office of those elected in the second round shall continue until the end of that legislative term.</b></p>
<p>The candidates from among the members of the Assembly for the Office of the Speaker of the Turkish Grand National Assembly shall be announced, within five days of the convening of the Assembly, to the Bureau of the Assembly. Election of the Speaker shall be held by secret ballot. In the first two ballots, a two-thirds majority of the total number of members, and in the third ballot an absolute majority of the total number of members is required. If an absolute majority cannot be obtained in the third ballot a fourth ballot shall be held between the two candidates who have received the highest number of votes in the third ballot; the member who receives the greatest number of votes in the fourth ballot shall be elected Speaker. The election of the Speaker shall be completed within five days of the expiry of the period for the nomination of candidates.</p>	<p>The candidates from among the members of the Assembly for the Office of the Speaker of the Turkish Grand National Assembly shall be announced, within five days of the convening of the Assembly, to the Bureau of the Assembly. Election of the Speaker shall be held by secret ballot. In the first two ballots, a two-thirds majority of the total number of members, and in the third ballot an absolute majority of the total number of members is required. If an absolute majority cannot be obtained in the third ballot a fourth ballot shall be held between the two candidates who have received the highest number of votes in the third ballot; the member who receives the greatest number of votes in the fourth ballot shall be elected Speaker. The election of the Speaker shall be completed within five days of the expiry of the period for the nomination of candidates.</p>
<p>The quorum required for election, the number of ballots and its procedure, the number of Deputy Speakers, Secretary Members and Administrative Members, shall be stipulated by the Assembly Rules of Procedure.</p>	<p>The quorum required for election, the number of ballots and its procedure, the number of Deputy Speakers, Secretary Members and Administrative Members, shall be stipulated by the Assembly Rules of Procedure.</p>
<p>The Speaker and Deputy Speaker of the Turkish Grand National Assembly cannot participate in the activities of the political party or party group in which they are a member, nor in debates, within or outside the Assembly, except in cases required by their functions; the Speaker and the Deputy Speaker who is presiding over the session shall not vote.</p>	<p>The Speaker and Deputy Speaker of the Turkish Grand National Assembly cannot participate in the activities of the political party or party group in which they are a member, nor in debates, within or outside the Assembly, except in cases required by their functions; the Speaker and the Deputy Speaker who is presiding over the session shall not vote.</p>

**EXECUTIVE**

The Constitution (1982)	Consolidated Version
<p><b>Recourse to Judicial Review</b></p> <p><b>ARTICLE 125:</b> Recourse to judicial review shall be available against all actions and acts of administration. National or international arbitration may be suggested to settle the disputes which arise from conditions and contracts under which concessions are granted concerning public services. Only those disputes involving foreign elements can be solved by international arbitration.</p> <p>The acts of the President of the Republic on his or her own competence, and the decisions of the Supreme Military Council shall not be subject to judicial review.</p> <p>In suits filed against administrative acts, the statute of limitations shall be effective from the date of written notification.</p> <p>Judicial power is limited to the verification of the conformity of the actions and acts of the administration with law . No judicial ruling shall be passed which restricts the exercise of the executive function in accordance with the forms and principles prescribed by law, which has the quality of an administrative action and act, or which removes discretionary powers.</p> <p>If the implementation of an administrative act should result in damages which are difficult or impossible to compensate for, and at the same time this act is clearly unlawful, then a stay of execution may be decided upon, stating the reasons why.</p> <p>The law may restrict the issuing of stay of execution orders in cases of state of emergency, martial law, mobilisation and state of war, and for reasons of national security, public order and public health. The administration shall be liable to compensate for damages resulting from its actions and acts.</p>	<p><b>Recourse to Judicial Review</b></p> <p><b>ARTICLE 125:</b> Recourse to judicial review shall be available against all actions and acts of administration. National or international arbitration may be suggested to settle the disputes which arise from conditions and contracts under which concessions are granted concerning public services. Only those disputes involving foreign elements can be solved by international arbitration.</p> <p>The acts of the President of the Republic on his or her own competence, and the decisions of the Supreme Military Council shall not be subject to judicial review. <b>However, judicial remedies shall be available against the decisions of the Supreme Military Council regarding discharges of any kind, except for the decisions regarding promotion procedures and retirement due to shortage of cadres.</b></p> <p>In suits filed against administrative acts, the statute of limitations shall be effective from the date of written notification.</p> <p><b>Judicial power shall be limited to control of the lawfulness [legality ] of administrative actions and procedures and shall under no circumstance be used as the control of expediency.</b> No judicial ruling shall be passed which restricts the exercise of the executive function in accordance with the forms and principles prescribed by law, which has the quality of an administrative action and act, or which removes discretionary powers.</p> <p>If the implementation of an administrative act should result in damages which are difficult or impossible to compensate for, and at the same time this act is clearly unlawful, then a stay of execution may be decided upon, stating the reasons why.</p> <p>The law may restrict the issuing of stay of execution orders in cases of state of emergency, martial law, mobilisation and state of war, and for reasons of national security, public order and public health. The administration shall be liable to compensate for damages resulting from its actions and acts.</p>



<p><b>General Principles</b></p> <p><b>ARTICLE 128:</b> The fundamental and permanent functions required by the public services that the state, state economic enterprises and other public corporate bodies are assigned to perform, in accordance with principles of general administration, shall be carried out by public servants and other public employees.</p> <p>The qualifications of public servants and other public employees, procedures governing their appointments, duties and powers, their rights and responsibilities, salaries and allowances, and other manners related to their status shall be regulated by law.</p> <p>The procedure and principles governing the training of senior administrators shall be specially regulated by law.</p>	<p><b>General Principles</b></p> <p><b>ARTICLE 128:</b> The fundamental and permanent functions required by the public services that the state, state economic enterprises and other public corporate bodies are assigned to perform, in accordance with principles of general administration, shall be carried out by public servants and other public employees.</p> <p>The qualifications of public servants and other public employees, procedures governing their appointments, duties and powers, their rights and responsibilities, salaries and allowances, and other manners related to their status shall be regulated by law, <a href="#">without prejudice to provisions on collective agreement concerning financial and social rights.</a></p> <p>The procedure and principles governing the training of senior administrators shall be specially regulated by law.</p>
<p><b>Duties and Responsibilities, and Guarantees During Disciplinary Proceedings</b></p> <p><b>ARTICLE 129:</b> Public servants and other public employees are obliged to carry out their duties with loyalty to the Constitution and the laws.</p> <p>Public servants, other public employees and members of public professional organisations or their higher bodies shall not be subjected to disciplinary penalties without being granted the right of defence.</p> <p>Disciplinary decisions shall be subject to judicial review, with the exception of warnings and reprimands.</p> <p>Provisions concerning the members of the Armed Forces, judges and prosecutors are reserved.</p> <p>Actions for damages arising from faults committed by public servants and other public employees in the exercise of their duties shall be brought against the administration only in accordance with the procedure and conditions prescribed by law, and subject to recourse to them.</p> <p>Prosecution of public servants and other public employees for alleged offences shall be subject, except in cases prescribed by law, to the permission of the administrative authority designated by law.</p>	<p><b>Duties and Responsibilities, and Guarantees During Disciplinary Proceedings</b></p> <p><b>ARTICLE 129:</b> Public servants and other public employees are obliged to carry out their duties with loyalty to the Constitution and the laws.</p> <p>Public servants, other public employees and members of public professional organisations or their higher bodies shall not be subject to disciplinary penalties without being granted the right of defence.</p> <p><a href="#">Disciplinary decisions shall not be excluded from judicial control.</a></p> <p>Provisions concerning the members of the Armed Forces, judges and prosecutors are reserved.</p> <p>Actions for damages arising from faults committed by public servants and other public employees in the exercise of their duties shall be brought against the administration only in accordance with the procedure and conditions prescribed by law, and subject to recourse to them.</p> <p>Prosecution of public servants and other public employees for alleged offences shall be subject, except in cases prescribed by law, to the permission of the administrative authority designated by law.</p>

## JUDICIARY

The Constitution (1982)	Consolidated Version
<p><b>Supervision of Judges and Public Prosecutors</b></p> <p><b>ARTICLE 144:</b> 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 shall be 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.</p>	<p><b>The inspection of the judicial services</b></p> <p><b>ARTICLE 144:</b> The inspection of judicial services and the administrative duties of public prosecutors by the Ministry of Justice shall be conducted by judicial inspectors and internal auditors, who should be a judge or a prosecutor by profession. Whereas examination, inquiry and investigation procedures shall be conducted by judicial inspectors. The relevant principles and procedures shall be regulated by law</p>
<p><b>Military Justice</b></p> <p><b>ARTICLE 145:</b> Military justice shall be exercised by military courts and military disciplinary courts. These courts shall 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</p> <p>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 shall be regulated by law.</p> <p>The organisation of military judicial organs, their functions, matters relating to the personal rights of military judges, relations between military judges acting as military prosecutors and the office of commander under which they serve, shall be regulated by law in accordance with the principles of the independence of courts and the security of tenure of judges 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, shall also be prescribed by law.</p>	<p><b>Military Justice</b></p> <p><b>ARTICLE 145:</b> Military justice shall be exercised by military courts and disciplinary courts. These courts shall have jurisdiction to handle cases regarding military offences committed by military personnel and offences committed by military personnel against military personnel or related to their military services or duties. Cases related with the offences against the security of the state, constitutional order and the functioning of this order shall be handled in judicial courts. Non-military persons shall not be tried in military courts excluding the state of war.</p> <p>The offences and persons falling within the jurisdiction of military courts in time of war, their organization and the appointment, where necessary, of judges and public prosecutors from courts of justice to military courts shall be regulated by law.</p> <p>The organization of military judicial organs, their functions, matters relating to the status of military judges, relations of military judges acting as military prosecutors with the office of commander under which they serve, shall be regulated by law in accordance with the principles of the independence of courts and the security of tenure of judges</p>

<p><b>Constitutional Court-Organization</b></p> <p><b>ARTICLE 146:</b> The Constitutional Court shall be composed of eleven regular and four substitute members.</p> <p>The President of the Republic shall appoint two regular and two substitute members from the Court of Cassation, two regular and one substitute member from the Council of State, and one member each from the Military Court of Cassation, the Supreme Military Administrative Court and the Court of Auditors, 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 shall also appoint 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.</p> <p>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 shall be 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.</p>	<p><b>Constitutional Court-Organization</b></p> <p><b>ARTICLE 146:</b> The Constitutional Court shall be composed of <b>seventeen</b> members.</p> <p>Turkish Grand National Assembly shall elect the two members among the nominated three candidates for each vacant seat from among the president and members of the Plenary Assembly of the Court of Accounts, and one member from among the three candidates of lawyers nominated by bar presidents with a secret ballot. In this election to be held in the Turkish Grand National Assembly, two thirds of the total number of members in the first voting for each vacant seat shall be required and for the second voting absolute majority of the total number of members shall be required. When absolute majority can not be provided in the second voting, the third voting shall be held for the top two candidates in the second voting; the candidate who shall receive the highest votes shall be elected as the member.</p> <p>The President of the Republic shall select three members from the Court of Cassation; two members from the Council of State; one member from Military Court of Cassation; one member from High Military Administrative Court from among three candidates nominated by their general assemblies for each vacant seats from their presidents and members ; three members 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 but are serving in the faculties of law, economy and political sciences; four members from among the senior administrative officers, self-employed lawyers, category 1 judges and prosecutors or from among the rapporteurs of the Constitutional Court who have at least five years of experience as rapporteur.</p> <p>In the elections that shall be held for the nomination of the membership for the Constitutional Court in the general assemblies of the Court of Cassation, the Council of State, Military Court of Cassation, High Military Administrative Court and the Court of Accounts as well as in the Higher Education Council, <del>one member shall only vote for one candidate for each vacant seat</del>; three persons who have received the highest votes shall be deemed to be nominated. In the election to be held for three candidates for the self-employed lawyers to be nominated by the bar presidents, <del>each bar president shall vote only for one candidate</del> and three persons who have received the highest votes shall be deemed to be nominated.</p> <p>In order to be elected to the Constitutional Court the person shall be required to be over the age of forty five; academic members from the higher education institutions shall be required to hold the degree of full professor or associate professor; lawyers shall be required to have actually worked for at least twenty years; senior administrative officers shall be required to have completed their higher education and to have actually worked for at least twenty years; and category 1 judges and prosecutors shall be required to have worked at least twenty years including their candidacy periods.</p>
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<p>The Constitutional Court shall elect 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.</p> <p>The members of the Constitutional Court shall not assume other official and private functions, apart from their main functions.</p>	<p>The Constitutional Court shall elect a President and two Vice- Presidents from among its 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.</p> <p>The members of the Constitutional Court shall not assume other official and private functions, apart from their main functions.</p>
<p><b>Constitutional Court-Termination of membership</b></p> <p><b>ARTICLE 147:</b> The members of the Constitutional Court shall retire on reaching the age of sixty-five.</p> <p>Membership in the Constitutional Court shall terminate automatically if a member is convicted of an offence requiring his dismissal from the judicial profession, it shall terminate by a decision of an absolute majority of the total number of members of the Constitutional Court if it is definitely established that he is unable to perform his duties on account of ill-health</p>	<p><b>Constitutional Court - Term of office of the members and termination of membership</b></p> <p><b>ARTICLE 147:</b> The members of the Constitutional Court shall be elected for a term of twelve years. A member shall not be re-elected. The members of the Constitutional Court shall retire on reaching the age of sixty-five. The appointment of the members to another office whose term of office expires prior to their mandatory age of retirement and matters regarding their personal rights shall be laid down in law.</p> <p>Membership in the Constitutional Court shall terminate automatically if a member is convicted of an offence requiring his dismissal from the judicial profession, it shall terminate by a decision of an absolute majority of the total number of members of the Constitutional Court if it is definitely established that he is unable to perform his duties on account of ill-health</p>
<p><b>Constitutional Court-Functions and Powers</b></p> <p><b>ARTICLE 148:</b> The Constitutional Court shall examine the constitutionality, in respect of both form and substance, of laws, decrees having the force of law, and the Rules of Procedure of the Turkish Grand National Assembly. Constitutional amendments shall be examined and verified only with regard to their form. However, no action shall be brought before the Constitutional Court alleging unconstitutionality as to the form or substance of decrees having the force of law issued during a state of emergency, martial law or in time of war.</p> <p>The verification of laws as to form shall be restricted to consideration of whether the requisite majority was obtained in the last ballot; the verification of constitutional amendments shall be restricted to consideration of whether the requisite majorities were obtained for the proposal and in the ballot, and whether the prohibition on debates under urgent procedure was complied with. Verification as to form may be requested by the President of the Republic or by one-fifth of the members of the Turkish Grand National Assembly. Applications for annulment on the grounds of defect in form shall not be made more than ten days after the date on which the law was promulgated; nor shall objection be raised.</p>	<p><b>Constitutional Court-Functions and Powers</b></p> <p><b>ARTICLE 148:</b> The Constitutional Court shall examine the constitutionality, in respect of both form and substance, of laws, decrees having the force of law, and the Rules of Procedure of the Turkish Grand National Assembly and decides on the applications of constitutional complaints. Constitutional amendments shall be examined and verified only with regard to their form. However, no action shall be brought before the Constitutional Court alleging unconstitutionality as to the form or substance of decrees having the force of law issued during a state of emergency, martial law or in time of war.</p> <p>The verification of laws as to form shall be restricted to consideration of whether the requisite majority was obtained in the last ballot; the verification of constitutional amendments shall be restricted to consideration of whether the requisite majorities were obtained for the proposal and in the ballot, and whether the prohibition on debates under urgent procedure was complied with. Verification as to form may be requested by the President of the Republic or by one-fifth of the members of the Turkish Grand National Assembly. Applications for annulment on the grounds of defect in form shall not be made more than ten days after the date.</p> <p>Anyone, who claims that any of their fundamental rights and freedoms guaranteed under the Constitution and falling under the European Convention of Human Rights has been violated by the public authorities, can apply to the Constitutional Court. In order to file an application, all ordinary legal remedies should have been exhausted.</p> <p>In case of individual applications, investigation shall not be carried out on matters to be followed as regards legal remedies.</p> <p>Principles and procedures governing individual applications shall be regulated by law.</p>

<p>The President of the Republic, members of the Council of Ministers, presidents and members of the Constitutional Court, of the Court of Cassation, of the Council of State, of the Military Court of Appeals, of the Supreme Military Administrative Court of Appeals, their Chief Public Prosecutors, Deputy Chief Public Prosecutor of Court of Cassation, and the presidents and members of the Supreme Council of Judges and Public Prosecutors, and of the Court of Auditors shall be tried for offences relating to their functions by the Constitutional Court in its capacity as the Supreme Court.</p> <p>The Chief Public Prosecutor of the or Deputy Chief Public Prosecutor of the Court of Cassation shall act as public prosecutor in the Supreme Court.</p> <p>The judgments of the Supreme Court shall be final.</p> <p>The Constitutional Court shall also perform the other functions given to it by the Constitution.</p>	<p>The President of the Republic, <a href="#">the Speaker of the Turkish Grand National Assembly</a>, members of the Council of Ministers, presidents and members of the Constitutional Court, of the Court of Cassation, of the Council of State, of the Military Court of Cassation, of the Supreme Military Administrative Court of Appeals, their Chief Public Prosecutors, Deputy Chief Public Prosecutor of Court of Cassation, and the presidents and members of the Supreme Council of Judges and Public Prosecutors, and of the Court of Auditors shall be tried for offences relating to their functions by the Constitutional Court in its capacity as the Supreme Court. <a href="#">The Chief of Staff, the commanders of the Land, Air, Naval and Gendarmerie Forces, too, shall be tried before the Supreme Court for their offences related to their duties.</a></p> <p>The Chief Public Prosecutor or Deputy Chief Public Prosecutor of the Court of Cassation shall act as public prosecutor in the Supreme Court.</p> <p><a href="#">Applications for judicial review can be made against the decisions of the Supreme Court. Decisions taken by the plenary assembly regarding this application shall be final.</a></p> <p>The Constitutional Court shall also perform the other functions given to it by the Constitution.</p>
<p><b>Constitutional Court- Functioning and Trial Procedure</b></p> <p><b>ARTICLE 149:</b> The Constitutional Court shall convene with its president and ten members, and shall take decisions by absolute majority. Decision of annulment of Constitutional amendments and closure in the cases of the political parties shall be taken by three-fifths majority.</p>	<p><b>Constitutional Court- Functioning and Trial Procedure</b></p> <p><b>ARTICLE 149:</b> <a href="#">The Constitutional Court functions as two chambers and a General Assembly. Chambers shall convene with the participation of four members under the chair of the vice-president. The General Assembly shall convene under the chair of the President of the Court or of the vice-president to be determined by the President of the Court with at least twelve members. Chambers and the General Assembly shall take decisions by absolute majority. Commissions can be formed for the review of the eligibility of individual complaints.</a></p> <p><a href="#">Cases and applications, annulment and appeal cases related with political parties, as well as trials where it acts as the Supreme Court shall be carried out by the General Assembly while individual applications shall be decided over by Chambers.</a></p> <p><a href="#">The decision of annulment of Constitutional amendments and closure or the deprivation of the political parties from Government aid shall be taken by two-thirds of the total number of members.</a></p>

<p>Lawsuits based on deformations of annulment [procedural unconstitutionality], shall be first examined and then concluded by the Constitutional Court.</p> <p>The organisation and trial procedures of the Constitutional Court shall be determined by law; its method of work and the division of labour among its members shall be regulated by the Rules of Procedure made by the Court.</p> <p>The Constitutional Court shall examine cases on the basis of documents in the case file, 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 (Annexed sentence: 23.7.1995 - 4121/14 Article) and in lawsuits on whether to permanently dissolve a political party or not, the Constitutional Court shall hear the defence of the chairman of the party whose dissolution is in process or of a proxy appointed by the chairman, after the Chief Public Prosecutor of the Court of Cassation.</p>	<p>Lawsuits based on deformations of annulment [procedural unconstitutionality], shall be first examined and then concluded by the Constitutional Court.</p> <p>The organization of the Constitutional Court and trial procedures to be followed by the General Assembly and the chambers as well as the disciplinary procedures regarding the president [of the court], vice-presidents and members shall be determined by law; the working principles, composition of chambers and commissions and the division of labour shall be regulated by the byelaw to be prepared by the Court.</p> <p>The Constitutional Court shall examine cases on the basis of documents in the case file, except where it acts as the Supreme Court. However, it shall decide to conduct a hearing for individual applications. When it deems necessary, it may call on those concerned and those having knowledge relevant to the case, to present oral explanations and in lawsuits on the dissolution of a political party, the Constitutional Court shall hear the defence statement of the chairman of the party whose dissolution is in process or of a proxy appointed by the chairman, after the Chief Public Prosecutor of the Republic.</p>
<p><b>Military Court of Cassation</b></p> <p><b>ARTICLE 156:</b> The Military Court of Cassation is the last instance for reviewing decisions and judgments given by military courts. It shall also be the first and last instance for dealing with specific cases designated by law concerning military personnel.</p> <p>Members of the Military Court of Cassation shall be appointed by the President of the Court of Cassation from among three candidates nominated for each vacant office by the Plenary Assembly of the Military Court of Cassation from among military judges of the first rank, by secret ballot and by an absolute majority of the total number of members.</p> <p>The president, chief public prosecutor, second presidents and heads of division of the Military Court of Cassation shall be appointed according to rank and seniority from among the members of the Military Court of Cassation.</p> <p>The organization, the functioning of the Military Court of Cassation, and disciplinary and personnel matters of its members shall be regulated by law in accordance with the principles of the independence of the courts and the security of tenure of judges and with the requirements of military service.</p>	<p><b>Military Court of Cassation</b></p> <p><b>ARTICLE 156:</b> The Military Court of Cassation is the last instance for reviewing decisions and judgments given by military courts. It shall also be the first and last instance for dealing with specific cases designated by law concerning military personnel.</p> <p>Members of the Military Court of Cassation shall be appointed by the President of the Court of Cassation from among three candidates nominated for each vacant office by the Plenary Assembly of the Military Court of Cassation from among military judges of the first rank, by secret ballot and by an absolute majority of the total number of members.</p> <p>The president, chief public prosecutor, second presidents and heads of division of the Military Court of Cassation shall be appointed according to rank and seniority from among the members of the Military Court of Cassation.</p> <p>The organization and functioning of the Military High Court of Appeals, as well as the disciplinary and personnel matters of its members shall be regulated by law in accordance with the principles of the independence of the courts and the security of tenure of judges</p>

<b>High Military Administrative Court of Appeals</b>	<b>High Military Administrative Court of Appeals</b>
<p><b>ARTICLE 157:</b> The High Military Administrative Court of Appeals shall be the first and last instance court for the judicial supervision of disputes arising from administrative acts and actions involving military personnel or relating to military service, even if such acts and actions have been carried out by civilian authorities. However, in disputes arising from the obligation to perform military service, there shall be no condition that the person concerned be a member of the military body.</p>	<p><b>ARTICLE 157:</b> The High Military Administrative Court of Appeals shall be the first and last instance court for the judicial supervision of disputes arising from administrative acts and actions involving military personnel or relating to military service, even if such acts and actions have been carried out by civilian authorities. However, in disputes arising from the obligation to perform military service, there shall be no condition that the person concerned be a member of the military body.</p>
<p>Members of the High Military Administrative Court of Appeals who are military judges shall be appointed by the President of the Republic from a list of three candidates nominated for each vacant office by the president and members of the Court, who are also military judges, by secret ballot and by an absolute majority of the total number of such members, from among military judges of the first category; members who are not military judges shall be appointed by the President of the Republic from a list of three candidates nominated for each vacant office by the Chief of the General Staff from among officers holding the rank and qualifications prescribed by law.</p>	<p>Members of the High Military Administrative Court of Appeals who are military judges shall be appointed by the President of the Republic from a list of three candidates nominated for each vacant office by the president and members of the Court, who are also military judges, by secret ballot and by an absolute majority of the total number of such members, from among military judges of the first category; members who are not military judges shall be appointed by the President of the Republic from a list of three candidates nominated for each vacant office by the Chief of the General Staff from among officers holding the rank and qualifications prescribed by law.</p>
<p>The term of office of members who are not military judges shall not exceed four years.</p>	<p>The term of office of members who are not military judges shall not exceed four years.</p>
<p>The president, chief public prosecutor and head of division of the Court shall be appointed from among military judges according to rank and seniority.</p>	<p>The president, chief public prosecutor and head of division of the Court shall be appointed from among military judges according to rank and seniority.</p>
<p>The organisation and functioning of the High Military Administrative Court, its procedure, disciplinary affairs and other matters relating to the status of its members shall be regulated by law in accordance with the principles of the independence of the courts and the security of tenure of judges within the requirements of military service.</p>	<p>The organisation and functioning of the High Military Administrative Court, its procedure, disciplinary affairs and other matters relating to the status of its members shall be regulated by law in accordance with the principles of the independence of the courts and the security of tenure of judges.</p>

### Supreme Council of Judges and Public Prosecutors

**ARTICLE 159:** The Supreme Council of Judges and Public Prosecutors shall be established and shall exercise 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 shall be an ex-officio member of the Council. Three regular and three substitute members of the Council shall be 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 Court of Cassation from among its own members and two regular and two substitute members shall be 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 shall elect a deputy president from among its elected regular members.

### Supreme Council of Judges and Public Prosecutors

**ARTICLE 159:** The Supreme Council of Judges and Public Prosecutors shall be established and shall exercise its functions in accordance with the principles of the independence of the courts and the security of tenure of judges.

The Supreme Council of Judges and Public Prosecutors shall be composed of twenty two regular and twelve substitute members; and shall function as three chambers.

The President of the Council is the Minister of Justice. The Undersecretary to the Minister of Justice shall be an ex-officio member of the Council. **Four regular members of the Council shall be appointed by the President of the Republic for a term of four years from among the academic members serving in the departments of law, economics and political sciences of higher education institutions, senior administrative officers and lawyers whose qualifications are stated in the law; three regular and three substitute members shall be appointed by the Plenary Assembly of the Court of Cassation from among its own members; two regular and two substitute members shall be appointed by the Plenary Assembly of the Council of State from among its members; one regular and one substitute members shall be appointed by the Plenary Assembly of the Justice Academy of Turkey from among its own members; seven regular and four substitute members shall be elected by judges and public prosecutors from among first category judges, who have not lost their qualifications to be included among first category; three regular and two substitute members shall be elected by judges and public prosecutors of the administrative judiciary from among first category administrative judiciary judges and prosecutors, who have not lost their qualifications to be included among first category. The members may be re-elected at the end of their term of office.**

The election of members to the Council shall be held within sixty days prior to the end of the term of office of the members. In case of vacancies for Council membership before the end of the term of office of the members appointed by the President of the Republic, the new members shall be appointed within sixty days following the vacation of membership. When other memberships become vacant, the remaining term of office shall be completed by the substitute member of the regular member.

For the election of members to the Council from among the plenary assemblies of Court of Cassation, Council of State and the Justice Academy of Turkey, each member; and for the election of members to the Council from among the first category judges and public prosecutors each judge and public prosecutor **shall vote only for one candidate.** The candidates receiving the highest votes shall be elected as regular and substitute members respectively. These elections shall be held once for each term and by secret ballot.

During the course of their assignment, the regular members of the Council, except for the Minister of Justice and the Undersecretary of the Ministry of Justice, can not undertake any duties other than those stated in the law or cannot be appointed to, or elected for, any other position by the Council.



<p>The Council of Judges and Public Prosecutors shall deal 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 rank, dissemination of cadres, decisions concerning those whose continuation in the profession is found to be unsuitable, the imposition of disciplinary penalties and removal from office. It shall take final decisions on proposals by the Ministry of Justice concerning the abolition of a court or an office of judge or public prosecutor, or changes in the jurisdiction of a court. It shall also exercise the other functions designated to it by the Constitution and laws.</p> <p>The decisions of the Council, can not be appealed at judicial bodies.</p> <p>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 shall be regulated by law.</p> <p>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.</p> <p>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.</p>	<p>The administration and representation of the Council shall rest on the President of the Council. The President of the Council shall not join the meetings of the chambers. The Council shall elect the chairmen of the chamber from among its own members, and from among the chairmen of chamber it shall select one as the vice-president [of the Council]. The president may delegate some of his/her powers to the vice-president.</p> <p>The Council shall deal 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 rank, decisions concerning those whose continuation in the profession is found to be unsuitable, the imposition of disciplinary penalties and removal from office; it shall take final decisions on proposals by the Ministry of Justice concerning the abolition of a court or changes in the jurisdiction of a court; it shall also exercise other functions designated to it by the Constitution and laws.</p> <p>The supervision of whether the judges and public prosecutors are undertaking their duties in accordance with the laws, regulations, bylaws and circulars (as for judges administrative circulars); whether they commit an offense due to their duties or during the course of their duties, whether their deeds and actions are in conformity the requirements of their titles and duties and when necessary to carry out examination and investigation procedures shall be carried out by the Council inspectors upon the request of the relevant chamber and the consent of the President of the Supreme Council of Judges and Public Prosecutors. Examination and investigation procedures may also be carried out by a judge or public prosecutor who is senior to the person who shall be examined and investigated.</p> <p>The decisions of the Council, except for those concerning dismissal from profession, can not be appealed at judicial bodies.</p> <p>A General Secretariat shall be established under the Council. The General Secretary shall be appointed by the President of the Council from among the three candidates, who are first category judges and public prosecutors, proposed by the Council. The authorization for the appointment of Council inspectors as well as judges and public prosecutors to be appointed on permanent or temporary basis, against their consent, rests with the Council.</p> <p>The authorization for appointment of judges and public prosecutors and judicial inspectors as well as internal auditors who are also judges and prosecutors, in the central, affiliated and related organisations of the Ministry of Justice on permanent or temporary basis, against their consent, rests with the Minister of Justice.</p> <p>The election of the members of the Council, the composition of the chambers and division of labour, the duties of the Council and chambers, the quorum of meetings and decisions, the working principles and procedures of the objecting to the decisions and procedures of the chambers and the examination thereof as well as the organization and duties of the General Secretariat shall be regulated by law.</p>
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## ECONOMIC PROVISIONS

<p><b>Planning</b></p> <p><b>ARTICLE 166:</b> 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.</p> <p>Measures to increase national efficiency and production, to ensure stability in prices and balance in foreign trade transactions, to promote investment and employment, shall be included in the plan; investments, public benefit and requirements shall be taken into account; the efficient use of resources shall be aimed at. Development activities shall be realised according to this plan.</p> <p>The procedure and principles governing the preparation of development plans, their approval by the Turkish Grand National Assembly, their implementation and their revision, and the prevention of amendments liable to affect the unity of the plan shall be regulated by law.</p>	<p><b>Planning, Economic and Social Council</b></p> <p><b>ARTICLE 166:</b> 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.</p> <p>Measures to increase national efficiency and production, to ensure stability in prices and balance in foreign trade transactions, to promote investment and employment, shall be included in the plan; investments, public benefit and requirements shall be taken into account; the efficient use of resources shall be aimed at. Development activities shall be realised according to this plan.</p> <p>The procedure and principles governing the preparation of development plans, their approval by the Turkish Grand National Assembly, their implementation and their revision, and the prevention of amendments liable to affect the unity of the plan shall be regulated by law.</p> <p><b>Economic and Social Council shall be established to provide consultative opinions to the government in the design of economic and social policies. The establishment and functions of the Economic and Social Council shall be regulated by law.</b></p>
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## PROVISIONAL ARTICLES

<p><b>PROVISIONAL ARTICLE 15:</b> No allegation of criminal, financial or legal responsibility shall be made, nor shall 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 Act 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 Turkish Grand National Assembly 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 Act No. 2485 on the Constituent Assembly.</p> <p>The provisions of the above paragraphs shall also apply 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.</p>	<p><b>PROVISIONAL ARTICLE 15 has been repealed.</b></p>
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	<p>PROVISIONAL ARTICLE 18: Upon enforcement of this law the existing substitute members of the Constitutional Court shall be attributed as regular members.</p> <p>Within thirty days upon enforcement of this Law, the Turkish Grand National Assembly shall select one member from among the three candidates of the Plenary Assembly of the Court of Accounts and one member from among the three candidates of bar presidents.</p> <p>In order to nominate candidates for the selection that will be made by the Turkish Grand National Assembly;</p> <p>a) The president of the Court of Accounts shall announce the launch of candidacy applications within five days following the date this Law takes effect. Within five days following the announcement, candidates shall make their applications to the [Court of Accounts] presidency. Within five days following the deadline of applications, the Plenary Assembly of the Court of Accounts shall hold an election. In this election, where each member of the Court of Accounts can vote <del>solely for one candidate</del>, the three members receiving the highest number of votes shall be considered to have been nominated as candidates.</p> <p>b) The Presidency of Turkish Union of Bar Associations shall announce the launch of candidacy applications within five days following the date this Law takes effect. Within five days following the announcement, candidates shall make their applications to the presidency of Turkish Union of Bar Associations. Within five days following the deadline of applications, an election shall be conducted by the presidents of the bar associations in the place and at the time indicated in the announcement of the Turkish Union of Bar Associations. In this election, where each bar association president can vote <del>solely for one candidate</del>, the members receiving the three highest numbers of votes shall be considered to have been nominated as candidates.</p> <p>c) The names considered to have been nominated as candidates as a result of the elections held as per sub-paragraphs (a) and (b) shall be notified to the presidency of the Turkish Grand National Assembly by the presidencies of the Court of Accounts and Turkish Union of Bar Associations on the day following the elections.</p> <p>ç) Within ten days following the notification made pursuant to sub-paragraph (c), an election shall be held at the Turkish Grand National Assembly. In the elections to be held for each vacant membership, two thirds majority of the total number of members shall be sought in the first voting whereas the absolute majority shall be sought in the second run. Should absolute majority be not achieved in the second voting, a third voting shall be run for the two candidates who received the highest votes in the second run. The candidate who receives the highest votes in the third voting shall be elected as member.</p>
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	<p>After the first membership positions, which are from the quotas of the Court of Cassation and Council of State, are liberated the President of the Republic shall select one member from among the three candidates to be 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 but are serving in the faculties of law, economy and political sciences.</p> <p>The already existing members of the entities that nominate for the Constitutional Court membership and the substitute members from their own quota shall be taken into consideration during the course of the candidate selection.</p> <p>The titles of the persons who have been elected for specific duties at the Constitutional Court shall persist until the end of their term for which they have been elected. Persons who are members on the date of enforcement of this Law shall continue their duties until they reach the age limit.</p> <p>The arrangements relating to individual applications shall be completed within two years. Upon implementation of the law, applications for individual complaints shall be considered.</p>
	<p>PROVISIONAL ARTICLE 19: The members of the Supreme Council of Judges and Public Prosecutors shall be elected within the principles and procedures designated below within thirty days upon the entry into force of this Law.</p> <p>a) The President of the Republic shall elect four members from among the academic members who have been working at least for fifteen years in the fields of law, <del>economics and political science</del> at higher education institutions who do not have a restraint to be admitted to the profession of judicature, <del>senior administrative officers</del> and lawyers who have completed their fifteen years in the profession actually. <del>The Council member that the President of the Republic shall select from among senior administrative officers, shall be selected from among persons who have worked as minister, undersecretary, deputy undersecretary, governor, General Secretary of the Presidency of the Republic of Turkey, general director or presidents of inspection boards at public agencies and institutes.</del></p> <p>b) The Plenary Assembly of the Court of Cassation shall elect three regular and three substitute members from among the members of the Court of Cassation. The First President of the Court of Cassation shall announce the application of candidates within seven days upon the entry into force of this Law. The candidates shall apply to the First Presidency within seven days by the date of the announcement. The Plenary Assembly of the Court of Cassation shall make the election within fifteen days as of the deadline of the applications. Each member of the Court of Cassation shall vote <del>only for one candidate</del> in the election and the candidates who have received the highest votes shall be elected as regular and substitute members respectively.</p>

c) The Plenary Assembly of the Council of State shall elect two regular and two substitute members from among the members of the Council of State. The President of the Council of State shall announce the application of candidates within seven days upon the entry into force of this Law. The candidates shall apply to the Presidency within seven days by the date of the announcement. The Plenary Assembly of the Council of State shall make the election within fifteen days as of the deadline of the applications. Each member of the Council of State shall vote ~~only for one candidate~~ in the election and the candidates who have received the highest votes shall be elected as regular and substitute members respectively.

ç) The Plenary Assembly of the Justice Academy of Turkey shall elect one regular and one substitute member to the Supreme Council of Judges and Public Prosecutors from among its members. The President of the Justice Academy of Turkey shall announce the application of candidates within seven days upon enforcement of this Law. The candidates shall apply to the Presidency within seven days by the date of the announcement. The Plenary Assembly of the Justice Academy of Turkey shall make the election within fifteen days as of the deadline of the applications. Each member of the Justice Academy of Turkey shall vote ~~only for one candidate~~ in the election and the candidates who have received the highest votes shall be elected as regular and substitute members respectively.

d) Seven regular and four substitute members shall be elected under the control and supervision of the Supreme Election Board by civil and criminal law judges and public prosecutors from among first category civil and criminal law judges and public prosecutors who have not lost their qualifications to be included in the first category. The Supreme Election Board shall announce the application of candidates within five days upon the entry into force of this Law. The candidates shall apply to the Supreme Election Board within three days by the date of the announcement. The Supreme Election Board shall examine the applications of the candidates within two days by the deadline of the applications and shall determine and announce the list of the candidates. Objections can be made to this list within the following two days. Objections shall be examined, concluded and the definite candidate list shall be announced within two days following the deadline of the objections. On the second Sunday following the announcement date of the definite candidate list by the Supreme Election Board, judges and public prosecutors who work in the provinces and districts shall vote under the steering and supervision of the provincial board of election. Provincial boards of election shall formulate ballot box boards in accordance with the number of judges and public prosecutors who shall vote in that province. Complaints and objections against the procedures, measures and decisions of the ballot box boards shall be concluded by the provincial board of election. Candidates shall not make propaganda; they shall only publish their personal background on a web-site specifically designed for this purpose within the framework of the principles and procedures specified by the Supreme Election Board. ~~In these elections every elector shall vote only for one candidate.~~ The candidates who received the highest votes shall be elected as the regular and substitute members respectively. Other matters related with the voting papers that shall be used shall be determined by the Supreme



Election Board. The Supreme Election Board shall have the voting papers published or it has the authority to have them published through the provincial boards of election it deems appropriate. The provisions of the Law Concerning the Fundamental Provisions of Elections and Registry of the Electors numbered 298 and dated 26/4/1961 that are not contrary to this subparagraph shall be applied in the elections.

e) Three regular and two substitute members shall be elected under the control and supervision of the Supreme Election Board by administrative judges and public prosecutors from among first category administrative judges and public prosecutors, who have not lost their qualifications to be included in the first category. In these elections, which shall be held in provinces with regional administrative courts and under the control and supervision of provincial board of election, judges and public prosecutors of administrative judiciary who have assignments within the regional administrative court and the jurisdiction shall vote. With regard to these elections the provisions of subparagraph (d) shall be applied.

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

At the date of entry into force of this law, the term of office of the regular and substitute members of the Supreme Council of Judges and Public Prosecutors coming from the Court of Cassation and the Council of State shall continue until the end of their terms of office for which they have been elected. Among them, members who come from the Court of Cassation and complete their term of office shall be replaced by the ones elected in accordance with the subparagraph (b) of the first paragraph; and members who come from the Council of State and complete their term of office, shall be replaced by the ones elected in accordance with the subparagraph (c) of the first paragraph.

The terms of office of the members who are elected in accordance with sub-paragraphs (b) and (c) of the first paragraph and who take up office in accordance with the third paragraph shall be terminated on the date of termination of the terms of office of the other Council members who are elected in accordance with the (a), (ç), (d) and (e) subparagraphs of the first paragraph.

Until the required alterations have been made in the relevant laws, the regular members elected to the Supreme Council of Judges and Public Prosecutors shall benefit verbatim from the entire financial, social and pension rights of a Court of Cassation chamber president enshrined in the relevant legislation. Furthermore, regular members of the Council, except for its president, shall receive a monthly additional indemnification, which shall be calculated by the multiplication of 30000-indicator by the coefficient applied to the civil servant salaries.

The Supreme Council of Judges and Public Prosecutors shall perform the following until required regulations are integrated in the relevant laws:

	<ol style="list-style-type: none"> <li>1. a) It shall function as a Council in accordance with the provisions of the laws in effect on the condition that it is not against the provisions of the Constitution.</li> <li>2. b) It shall convene under the Presidency of the Minister of Justice within a week following the date of the assignment of the regular members in accordance with the second paragraph and shall elect a temporary Vice-President.</li> <li>3. c) It shall convene with at least fifteen members and shall decide by the absolute majority of total member number.</li> </ol> <p>ç) The Secretariat services shall be undertaken by the Ministry of Justice.</p> <p>The existing judiciary inspectors shall function as Council inspectors and judiciary inspectors until the Council inspectors and judiciary inspectors are appointed.</p> <p>Provisions of this article shall be implemented until required regulations are integrated in the relevant laws.”</p>
	<p>PROVISIONAL ARTICLE 26: This law shall enter into force on the date of its publication and shall be voted on in its entirety when submitted to referendum</p>

Since the establishment of the Turkish Republic, four constitutions have been adopted (1921, 1924, 1961, and 1982), which were significantly amended by the successive parliaments in light of new developments, yet remained short of meeting universal democratic standards. The last two constitutions were drafted in the aftermath of military interventions, and none of them have been produced out of negotiation, bargaining or a compromise process. Within the framework of the EU reforms, Turkey's most recent constitution of 1982 has been amended several times – so much so that almost one third of the constitution has been reconstructed. There have been demands for the drawing up of a new constitution from both right and left wing parties, but the idea has never been realized.

On March 22, 2010, the AK Party announced a constitutional reform package which the Turkish parliament approved the bill to reform the constitution on May 7, 2010. The Turkish public will vote on the whole package on September 12, 2010; the date of the referendum has a symbolic meaning, as the current constitution is the product of the coup d'état of September 12, 1980.

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