

THE CONSTITUTION OF THE REPUBLIC OF TURKEY [1982] (Translated by Erhan Yasar)  
Version including amendments of 1987, 1993 and 1995.  
<http://www.anayasa.gen.tr/1982Constitution-1995-3.pdf>  
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## The Constitution of Turkey 3/4

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

##### **A. General Provisions**

**ARTICLE 98** - The Grand National Assembly of Turkey shall exercise its supervisory power by means of questions, Parliamentary inquiries, general debates, interpellation and Parliamentary investigations.

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

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

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

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

##### **B. Interpellation**

**ARTICLE 99** - A motion for interpellation may be tabled either on behalf of a political party group, or by the signature of at least twenty deputies. The motion for interpellation shall be circulated in printed form to the members within three days of its being tabled; inclusion of a motion of interpellation in the agenda shall be debated within ten days of its circulation. In this debate, only one of the signatories to the motion, one deputy from each political party group, and the Prime Minister or one Minister on behalf of the Council of Ministers, may take the floor.

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

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

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

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

##### **C. Parliamentary Investigation**

**ARTICLE 100** - Parliamentary investigation concerning the Prime Minister or other Ministers may be requested with a motion tabled by at least one-tenth of the total number of members of the Grand National Assembly of Turkey. The Assembly shall consider and decide on this request within one month at the latest.

In the event of a decision to initiate an investigation, this investigation shall be conducted

by a commission of fifteen members chosen by lot on behalf of each party from among three times the number of members the party is entitled to have on the commission, representation being proportional to the parliamentary membership of the party. The commission shall submit its report on the result of the investigation to the Assembly within two months. If the investigation is not completed within the time allotted, the commission shall be granted a further and final period of two months. The Assembly shall debate the report with priority and, if found necessary, may decide to bring the person involved before the Supreme Court. The decision to bring a person before the Supreme Court shall be taken only by an absolute majority of the total number of members. Political party groups in the Assembly shall not hold discussions or take decisions regarding Parliamentary investigation.

## **CHAPTER TWO THE EXECUTIVE DOMAIN**

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

#### **A. Qualifications and Impartiality**

**ARTICLE 101** - The President of the Republic shall be elected for a term of office of seven years by the Grand National Assembly of Turkey from among its own members who are over forty years of age and who have completed their higher education or from among Turkish citizens who fulfill these requirements and are eligible to be deputies. The nomination of a candidate for the Presidency of the Republic from outside the Grand National Assembly of Turkey shall require a written proposal by at least one - fifth of the total number of members of the Assembly.

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

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

#### **B. Election**

**ARTICLE 102** - The President of the Republic shall be elected by a two-thirds majority of the total number of members of the Grand National Assembly of Turkey and by secret ballot. If the Grand National Assembly of Turkey is not in session, it shall be summoned immediately to meet.

The election of the President of the Republic shall begin thirty days before the term of office of the incumbent President of the Republic expires or ten days after the Presidency falls vacant, and shall be completed within thirty days of the beginning of the election.

Candidates shall be declared to the Presidium of the Assembly within the first ten days of this period, and elections shall be completed within the remaining twenty days.

If a two-thirds majority of the total number of members cannot be obtained in the first two ballots, between which there shall be at least a three day interval, a third ballot is held and the candidate who receives the absolute majority of votes of the total number of members is elected President of the Republic. If an absolute majority of votes of the total number of members is not obtained in the third ballot, a fourth ballot is held between the two candidates who receive the greatest number of votes.

If the President fails to be elected in this fourth balloting by absolute majority of Assembly membership The Grand National Assembly automatically renews general elections.

The outgoing President continues his office until the President - Elect assumes office.

#### **C. The Presidential Oath**

**ARTICLE 103** - The President takes the following oath before the Grand national

Assembly as he assumes office:

"In my capacity as the President, I do pledge on my honor before the Great Turkish Nation and history that I shall work with all my strength to protect and safeguard the existence and independence of the State, the indivisible integrity of the homeland and the nation and the unconditional sovereignty of the nation; that I shall remain faithful to the Constitution and the rule of law, to democracy and to Atatürk's reforms, to the principle of a secular Republic; that I shall not depart from the ideals of national peace and prosperity and from the principle of freedom and human rights for everyone within the context of national solidarity and justice; and that I shall be impartial in protecting and upholding the honor and dignity of the Republic of Turkey and in fulfilling this duty I have taken upon myself."

#### **D. Duties and Powers**

**ARTICLE 104** - The President is the Head of State. In this capacity he represents the integrity of the Republic of Turkey and the Turkish Nation and he oversees the enforcement of the Constitution and the harmonious functioning of all state organs. For this purpose he fulfills the following duties and uses the following powers in compliance with the provisions of the relevant Articles of the Constitution:

##### **a) Concerning legislative functions:**

To call the Grand National Assembly of Turkey to session on the first day of the legislative year if and when deemed necessary,

To promulgate legislation,

To refer back legislation to the Grand national assembly to be discussed again,

To submit Constitutional amendments to public referendum,

To petition the Constitutional Court for the annulment of the entirety or a part of the provisions of any Legislation, Statutory Decree, Decree of the Council of Ministers, By-laws of the Grand National Assembly on the grounds of formal or principal contradiction to the Constitution,

To decide for a renewal of general elections for the Grand National Assembly,

##### **b) Concerning executive functions:**

To appoint the Prime Minister and to accept his resignation,

To appoint the members of the Council of Ministers upon the proposal of the Prime Minister or to end their term in office,

To preside over the Council of Ministers when deemed necessary or to call the Council of Ministers to session under his presiding,

To send representatives of the state of Turkey to foreign states and to accept representatives of foreign states sent to the Republic of Turkey,

To ratify and promulgate international treaties,

To represent the Office of the Commander-In-Chief of the Turkish Armed Forces in the name of the Grand National Assembly,

To decide on the use of the Turkish Armed Forces,

To appoint the Chief of the General Staff,

To assemble the National Security Council,

To preside over the National Security Council,

To declare martial law or state of emergency by means of a Decree of the Council of Ministers assembled under his presiding and to issue Statutory Decree by the same means,

To ratify and sign all Decrees by the Council of Ministers,

To reduce, commute or annul court penalties of specific individuals who suffer from chronic illness old age or physical infirmity,

To appoint the Chairman and members of the State Supervision Council,

To instruct the State Supervision Council to carry out investigation, research and

supervision,

To select the members of the High Education Council,

To select University Presidents,

**c) Concerning judicial functions**

To select the members of the Constitutional Court, one fourth of the members of the Council of State, the Chief Prosecutor of the Supreme Court and his deputy, members of the Military Supreme Court, the Military Administrative Court and members of the High Council of Justices and Prosecutors.

In addition to these, the President fulfills all duties and powers of appointment and selection and other powers entrusted to him by the Constitution and other legislation.

**E. Accountability and Non-accountability**

**ARTICLE 105** - Except those undertaken by the President without the necessity of any signature by the Prime Minister or a Cabinet Minister, all decisions taken by the President are the responsibility of the Prime Minister and the relevant Cabinet Minister. No Presidential Decree or order signed by the President directly may be challenged at any court including the Constitutional court.

The President may be impeached with high treason against the country with a motion in the Grand national Assembly submitted by no less than one third of the membership and by the decision of a vote no less than three quarters of the membership.

**F. Deputation For The President of the Republic**

**ARTICLE 106** - Where the President temporarily vacates his office on grounds of illness or travel abroad the Speaker of the Grand National Assembly acts as Deputy President until the former returns to office and uses all his powers. Where the Presidential Office is vacated due to death, resignation or any other reason, this deputation continues until a new President is elected.

**G. Secretariat General To The Presidency**

**ARTICLE 107** - The establishment, organization, rules of functioning and appointment regulations of the Office of the Secretary General to the Presidency is regulated by a Presidential Decree.

**H. State Supervision Council**

**ARTICLE 108** - The State Supervision Council is established in subordination to the Presidency in order to achieve conformity to existing legislation and orderly and productive functioning of the Administration and carries out all kinds of research, investigation and supervision in all public institutions and establishments and in all other institutions and establishments where public investment share is over one half, as well as in all professional organizations having the status of public institutions, in all labor unions and employer organizations and in all associations and foundations.

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

Members of the State Supervision Council, and its Chairman are appointed by the President from among candidates who are eligible according to criteria specified by law. Work procedures, term of membership and other personnel matters of the State Supervision Council are regulated by law.

**II. The Council of Ministers**

**A. Establishment**

**ARTICLE 109** - The Council of Ministers comprises the Prime Minister and other Ministers.

The Prime Minister is appointed by the President from among the members of the Grand

National Assembly.

Ministers are nominated by the Prime Minister from among the members of the Grand National Assembly or from among individuals who are eligible to become deputy of the Grand National Assembly and appointed by the President. Where necessary, their terms are ended by the President upon proposal by the Prime Minister.

#### **B. Assuming Office and Vote of Confidence**

**ARTICLE 110** - A comprehensive list of the Council of Ministers is submitted to the Grand National Assembly. If the Grand national Assembly is in recess, then the membership is invited to assemble.

The program of the Council of Ministers is read in the Grand National Assembly by the Prime Minister or another Minister no later than one week after its formation for a vote of confidence. Discussion on the vote of confidence begins two days after the reading of the program. One full day after the discussion, the vote of confidence takes place.

#### **C. Vote of Confidence During Term of Office**

**ARTICLE 111** - If he deems necessary, the Prime Minister may request a vote of confidence from the Grand National Assembly after discussing the issue in the Council of Ministers.

The request for a vote of confidence may not be discussed in the Grand National Assembly earlier than one full day after the date it is made, nor may the vote of confidence take place earlier than one full day after the discussion is made.

The request for a vote of confidence may be rejected only by an absolute majority of the membership.

#### **D. Duties And Political Accountability**

**ARTICLE 112** - As the Chairman of the Council of Ministers, the Prime Minister ensures collaboration among Ministries and supervises the execution of general policies of the government. The Council of Ministers is collectively responsible of the execution of their policies.

Each Minister is personally responsible to the Prime Minister, as well as responsible of all actions and procedures under his authority and those actions and procedures carried out by those subordinated to him.

It is incumbent on the prime Minister to supervise and take corrective action to ensure that Ministers carry out their duties in compliance with the Constitution and with existing laws.

Members of the Council of Ministers who are not deputies of the Grand National Assembly take their oaths before the Grand national Assembly as written in Article 81 and are eligible to all conditions and parliamentary immunities given to deputies so long as their term of office as Minister. They receive remuneration and allowances as deputies of the Grand national Assembly.

#### **E. Formation of Ministries, and Ministries**

**ARTICLE 113** - The formation, abolition, functions, powers and organization of the Ministries shall be regulated by law.

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

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

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

days.

#### **F. Provisional Council of Ministers During Elections**

**ARTICLE 114** - The Ministers of Justice, Internal Affairs and Communications shall resign prior to general elections to the Grand National Assembly of Turkey.

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

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

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

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

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

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

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

#### **G. Regulations**

**ARTICLE 115** - The Council of Ministers may issue regulations governing the mode of implementation of laws or designating matters ordered by law, provided that they do not conflict with existing Laws and are examined by the Council of State.

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

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

**ARTICLE 116** - Where the Council of Ministers fails to receive a vote of confidence under Article 110 or is compelled to resign by a vote of no-confidence under Articles 99 or 111, and if a new Council of Ministers cannot be formed within forty-five days or the new Council of Ministers fails to receive a vote of confidence, the President of the Republic, in consultation with the President of the Grand National Assembly of Turkey, may call new elections.

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

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

## **II. National Defense**

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

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

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

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

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

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

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

**ARTICLE 118** - The National Security Council shall be composed of the Prime Minister the Chief of the General Staff, the Minister of National Defense, Internal Affairs, and Foreign Affairs, the Commanders of the Army, Navy and the Air Force and the General Commander of the Gendarmerie, under the chairmanship of the President of the Republic, Depending on the particulars of the Agenda, Ministers and other persons concerned may be invited to meetings of the Council and their views be heard.

The National Security Council shall submit to the Council of Ministers its views on taking decisions and ensuring necessary coordination with regard to the formulation, establishment, and implementation of the National Security policy of the State. The Council of Ministers shall give priority consideration to the decisions of the National Security Council concerning the measures that it deems necessary for the preservation of the existence and independence of the State, the integrity and indivisibility of the country, and the peace and security of society.

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

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

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

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

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

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

**ARTICLE 119** - In the event of natural disaster, dangerous epidemic diseases or a serious economic crisis, the Council of Ministers, meeting under the chairmanship of the President of the Republic, may declare a state of emergency in one or more regions or throughout the country for a period not exceeding six months.

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

**ARTICLE 120** - In the event of the emergence of serious indications of widespread acts

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

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

**ARTICLE 121** - In the event of a declaration of a state of emergency under the provisions of Articles 119 and 120 of the Constitution this decision shall be published in the Official Gazette and shall be submitted immediately to the Grand National Assembly of Turkey for approval, If the Grand National Assembly of Turkey is in recess, it shall be summoned immediately. The Assembly may alter the duration of the state of emergency, extend the period for a maximum of four months each time at the request of the Council of Ministers, or may lift the state of emergency.

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

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

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

**ARTICLE 122** - The Council of Ministers, under the chairmanship of the President of the Republic, after consulting with the National Security Council, may declare martial law in one or more regions or throughout the country for a period not exceeding six months, in the event of widespread acts of violence which are more dangerous than the cases necessitating a state of emergency and which are aimed at the destruction of the free democratic order or the fundamental rights and freedoms embodied in the Constitution; or in the event of war, the emergence of a situation necessitating war, an uprising, or the spread of violent and strong rebellious actions against the motherland and the Republic, or widespread acts of violence of either internal or external origin threatening the indivisibility of the country and the nation. This decision shall be published immediately in the Official Gazette, and shall be submitted for approval to the Grand National Assembly of Turkey, on the same day. If the Grand National Assembly of Turkey is in recess, it shall be summoned immediately. The Grand National Assembly of Turkey may, when it deems necessary, reduce or extend the period of martial law or lift it.

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

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

Procedure.

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

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

#### **IV. Administration**

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

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

**ARTICLE 123** - The administration forms a whole with regard to its structure and functions, and shall be regulated by law.

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

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

**ARTICLE 124** - The Prime Ministry, the ministries, and public corporate bodies may issue by-laws in order to ensure the implementation of laws and regulations relating to their particular fields of operation, provided that they are not contrary to these laws and regulations. The law shall designate which by-laws are to be published in the Official Gazette.

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

**ARTICLE 125** - Recourse to judicial review shall be open against all actions and acts of the administration.

Acts of the President of the Republic in his own competence, and the decisions of the Supreme Military Council are outside the scope of judicial review.

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

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

If the implementation of an administrative act would result in damages which are difficult or impossible to compensate and at the same time this act is clearly unlawful, then a stay of execution may be decided upon, stating the reasons thereof. The law may restrict the issuing of stay of execution orders in cases of state of emergency, martial law, mobilization and state of war, and for reasons of national security, public order and public health.

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

##### **C. Organization of the Administration**

###### **1. The Central Administration**

**ARTICLE 126** - In terms of central administrative structure, Turkey is divided into provinces on the basis of geographical situation and economic conditions and public

service requirements; provinces are further divided into lower steps of administrative districts.

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

## **2. Local Administrations**

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

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

*(Amended by Law Nr. 4121, Article 12, dated 23 July 1995)* Elections for local administrative bodies shall be held every five years in accordance with the principles set forth in Article 67 of the Constitution. However, elections to local administrations which are to be held within one year preceding or following general elections or interim parliamentary elections are held together with those elections.

Special administrative arrangement may be introduced for larger urban areas.

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

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

The formation of local administrative bodies into a union with the permission of the Council of Ministers for the purpose of performing specific public services; and the functions, powers, financial and security arrangements of these unions, and their reciprocal ties and relations with the central administration, shall be regulated by law. These administrative bodies shall be allocated financial resources in proportion to their functions.

## **D. Provisions Relating to Public Servants**

### **1. General Principles**

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

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

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

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

**ARTICLE 129** - Public servants and other public employees are obliged to carry out

their duties within loyalty to the Constitution and the laws.

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

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

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

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

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

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

### **1. Institutions of Higher Education**

**ARTICLE 130** - For the purpose of training manpower under a system of contemporary education and training principles and meeting the needs of the nation and the country, universities comprising several units will be established by the State and by law as public corporations having autonomy in teaching, assigned to educate, train at different levels after secondary education, and conduct research, to act as consultants, to issue publications and to serve the country and humanity.

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

The law shall provide for a balanced geographical distribution of universities throughout the country, Universities, members of the teaching staff and their assistants may freely engage in all kinds of scientific research and publication. However, this shall not include the liberty to engage in activities directed against the existence and independence of the State, and against the integrity and indivisibility of the nation and the country.

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

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

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

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

The establishment of institutions of higher education and their organs, their functioning and elections, their duties, authorities and responsibilities, the procedures to be followed by the State in the exercise of the right to supervise and inspect the universities, the duties of the teaching staff, their titles, appointments, promotions and retirement, the training of the teaching staff, the relations of the universities and the teaching staff with public institutions and other organizations, the level and duration of education, admission of students into institutions of higher education, attendance requirements and fees, principles relating to assistance to be provided by the State, disciplinary and penalty

matters, financial affairs, personnel rights, conditions to be conformed with by the teaching staff, the assignment of the teaching staff in accordance with inter-university requirements, the pursuance of training and education in freedom and under guarantee and in accordance with the requirements of contemporary science and technology, and the use of financial resources provided by the State to the Higher Education Council and the Universities, shall be regulated by law.

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

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

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

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

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

## **3. Institutions of Higher Education Subject to Special Provisions**

**ARTICLE 132** - Institutions of Higher Education attached to the Turkish Armed forces and to the security organization are subject to the provisions of their respective special laws.

## **F. Radio and Television Organizations and News Agencies With State Connection**

**ARTICLE 133** - *(Amended by Law Nr. 3913 Article 1, dated 8 July 1993)* The establishment and management of radio and television stations is free within the framework of conditions regulated by law.

The only radio and television station that is established by the State as a public corporate entity and other news agencies which receive support from public corporate entities are obliged to be autonomous and impartial.

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

**ARTICLE 134** - The "Atatürk High Institute of Culture, Language and History" shall be established, as a public corporate body, under the moral aegis of Atatürk, under the supervision and with the support of the President of the Republic, attached to the office of the Prime Minister, and composed of the Atatürk Center of Research, the Turkish Language Society, the Turkish Historical Society and the Atatürk Cultural Center, in order to conduct scientific research, to produce publications and to disseminate information on the thought, principles, and reforms of Atatürk, the Turkish culture, Turkish history and the Turkish language.

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

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

#### **H. Public Professional Organizations**

**ARTICLE 135** - Public professional organizations and their higher organizations are public corporate bodies established by law with the objectives to meet the common needs of the members of a given profession, to facilitate their professional activities, to ensure the development of the profession in keeping with the common interests, to safeguard professional discipline and ethics in order to ensure integrity and trust in relations among its members and with the public; their organs shall be elected by secret ballot by their members in accordance with the procedure set forth in the law, and under judicial supervision.

Persons regularly employed in public institutions, or in state economic enterprises may not be required to become members of public professional organizations.

*(Amended by Law Nr. 4121, Article 13, dated 23 July 1995)* Public professional organizations shall not engage in activities outside the aims for which they were established.

*(Amended by Law Nr. 4121, Article 13, dated 23 July 1995)* Political parties may not nominate candidates in elections for the organs of public professional organizations or their higher bodies.

*(Amended by Law Nr. 4121, Article 13, dated 23 July 1995)* Public professional organizations shall be subject to administrative and financial supervision of the State as regulated by law.

*(Amended by Law Nr. 4121, Article 13, dated 23 July 1995)* The responsible organs of public professional organizations which engage in activities beyond their objectives or in political activities, shall be dissolved by a court decision, at the request of the authority designated by law or of the public prosecutor; and new organs shall be elected in their place.

*(Amended by Law Nr. 4121, Article 13, dated 23 July 1995)* Where national security, public order, prevention of a crime or prevention of its continuation, or capture of a suspect necessitate, the law may specify the authorization of a competent office to suspend the activities of a public professional organization or its higher organs. Such a decision to suspend shall be communicated to a competent court within twenty four hours. The court shall decide within forty eight hours at the latest. Otherwise, the relevant administrative decision automatically becomes ineffective.

#### **I. Department of Religious Affairs**

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

#### **J. Unlawful Orders.**

**ARTICLE 137** - A person employed in public services, irrespective of his position or status: when he finds an order given by his superiors to be contrary to the provisions of by- laws, regulations, laws, or the Constitution shall not carry it out, and shall inform the person giving the order of this inconsistency. However if his superior insists on the order and renews it in writing, this order shall be executed; in this case the person executing the order shall not be held responsible.

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

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

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