

THE 1961 TURKISH CONSTITUTION AS AMENDED (<http://www.anayasa.gen.tr/1961constitution-amended.pdf>)

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THE TURKISH CONSTITUTION AS AMENDED

Başbakanlık Basımevi
1978 — ANKARA

THE TURKISH CONSTITUTION

The Constitution of the Republic of Turkey, passed by the Turkish Constituent Assembly on May 27, 1961 and endorsed on July 29, 1961 through a referendum by 6.348.191 votes against 3.934.370 votes has been effective as of July 20, 1961 as Law 334 upon its publication in the Official Gazette No 10859 bearing the same date.

During the years prior to 1971 certain amendments deemed necessary have been made.

The amended articles in their chronological order are as follows :

Article 73 amended on April 17, 1970 by Law 1254

Article 131 amended on April 17, 1970 by Law 1255

Articles 56 and 82 amended on June 30, 1971 by Law 1421

Articles 11, 15, 19, 22, 26, 29, 30, 32, 38, 46, 60, 61, 64, 89, 110, 111, 114, 119, 120, 121, 124, 127, 134, 137, 138, 139, 140, 141, 143, 144, 145, 147, 149, 151 and 152 amended on September 20, 1971 by Law 1488 and nine new temporary articles (12-20) have been added to it.

Some paragraphs of the Articles 30, 57, 136, 138, 148 are amended and Temporary Articles 21 and 22 are added on March 15, 1973 by Law 1699.

Article 68 amended and Temporary Article 11 abrogated on April 16, 1974 by Law 1801.

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CONSTITUTION OF THE TURKISH REPUBLIC

PREAMBLE

Having enjoyed freedom, and fought for her rights and liberties throughout her history;

And having achieved the Revolution of May 27, 1960 by exercising her right to resist a political power which had lost its legality through behaviour and actions against the law and contrary to the Constitution;

The Turkish Nation, prompted and inspired by the spirit of Turkish Nationalism which unites all individuals, be it in fate, pride or distress, in a common bond as an indivisible whole around national consciousness and aspirations, and which aims always exalting our Nation in a spirit of national unity as a respected member of the community of the world of nations enjoying equal rights and privileges;

With full dedication to the principle of «peace at home, peace in the world» and to the spirit of national independence, and sovereignty and to the reforms of Atatürk;

Guided by the desire to establish a democratic rule of law based on juridical and social foundations, which will ensure and guarantee human rights and liberties, national solidarity, social justice, and the welfare and prosperity of the individual and society;

Now therefore the Turkish Nation hereby enacts and proclaims this Constitution drafted by the Constituent Assembly of the Turkish Republic, and entrusts it to the vigilance of her sons and daughters devoted to the concepts of freedom, justice and integrity, with the conviction that its basic guarantee lies in the hearts and minds of her citizens.

PART ONE

General Principles

I. Form of the State :

ARTICLE 1 — The Turkish State is a Republic.

II. Characteristic of the Republic.

ARTICLE 2 — The Turkish Republic is a nationalistic, democratic, secular and social State governed by the rule of law, based on human rights and the fundamental tenets set forth in the preamble.

III. Indivisibility of the State; its official language and its seat of government.

ARTICLE 3 — The Turkish State is an indivisible whole comprising its territory and people. Its official language is Turkish.

Its capital is the city of Ankara.

IV. Sovereignty :

ARTICLE 4 — Sovereignty is vested in the Turkish Nation without reservation and condition.

The Nation shall exercise its sovereignty through the authorized agencies as prescribed by the principles laid down in the Constitution.

The right to exercise such sovereignty shall not be delegated to any one person, group or class. No person or agency shall

exercise any State authority which does not derive its origin from the Constitution.

V. Legislative power :

ARTICLE 5 — Legislative power is vested in the Turkish Grand National Assembly. This power shall not be delegated.

VI. Executive function :

ARTICLE 6 — The executive function shall be carried out by the President of the Republic and the Council of Ministers within the framework of law.

VII. Judicial power :

ARTICLE 7 — Judicial power shall be exercised by independent courts on behalf of the Turkish Nation.

VIII. Supremacy and binding force of the Constitution :

ARTICLE 8 — Laws shall not be in conflict with the Constitution.

The provisions of the Constitution shall be the fundamental legal principles binding the legislative, executive and judicial organs, administrative authorities and individuals.

IX. Irrevocability of the form of the State :

ARTICLE 9 — The provision of the Constitution establishing the form of the State as a republic shall not be amended, nor shall any motion therefor be made.

PART TWO

Fundamental rights and duties

CHAPTER ONE

General Provisions

I. The nature of the fundamental rights and their protection :

ARTICLE 10 — Every individual is entitled, in virtue of his existence as a human being to fundamental rights and freedoms, which cannot be usurped, transferred or relinquished.

The State shall remove all political, economic and social obstacles that restrict the fundamental rights and freedoms of the individual in such a way as to be irreconcilable with the principles embodied in the rule of law, individual well-being and social justice. The State prepares the conditions required for the development of the individual's material and spiritual existence.

II. Essence and restriction of basic rights, and their protection :

ARTICLE 11 — Basic rights and freedoms shall only be restricted by law in conformity with the letter and spirit of the Constitution with a view to safeguarding the integrity of the State with its territory and people, the Republic, national security, public order, or for special reasons designated in the other article of the Constitution.

The law shall not infringe upon the essence of rights and liberties.

None of the rights and liberties embodied in this Constitution can be exercised with the intention of destroying human rights and liberties, or the indivisible integrity of the Turkish State with its territory and people, or the Republic, the nature

of which is prescribed in the Constitution, through recourse to differences of language, race, class, religion or sect.

Penalties for actions and behaviour contrary to these provisions are designated by law.

III. Equality :

ARTICLE 12 — All individuals are equal before the law irrespective of language, race, sex, political opinion, philosophical views, religion or religious sect.

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

IV. The status of aliens :

ARTICLE 13 — The rights and liberties of aliens referred to in this chapter may be restricted by law in accordance with the international law.

CHAPTER TWO

The rights and duties of the individual

I. Personal immunities :

ARTICLE 14 — Every individual shall enjoy the right to seek to improve himself materially and spiritually, and have the benefit of personal freedom.

The immunities and freedoms enjoyed by the individual shall not be restricted except in cases explicitly prescribed by law, and in conformity with judgments duly passed by a court.

No individual shall be subjected to ill-treatment or torture.

No punishment incompatible with human dignity shall be inflicted.

II. Protection of individual's life :

a) Privacy of the individual's life :

ARTICLE 15 — The privacy of the individual's life shall not be violated. Exceptions required as a result of legal proceedings shall be reserved.

Unless there exists a judgment duly passed by a court in cases explicitly defined by law, and unless there exists an order of an agency authorized by law, in cases where delay is deemed prejudicial from the point of view of national security and public order, neither the person nor the private papers and belongings of an individual shall be searched, nor shall they be confiscated.

b) Immunity of domicile :

ARTICLE 16 — The privacy of the individual's home shall not be violated.

Unless there exists a court judgment duly passed in cases explicitly provided by law, and unless there exists an order of an agency authorized by law in cases where delays are deemed dangerous national security and public order, no domicile shall be entered or searched, or the property therein confiscated.

c) Freedom of communication :

ARTICLE 17 — Every individual is entitled to the right of free communication.

The privacy of communication is essential and shall not be infringed unless there exists a court judgment duly passed in cases required by law.

III. Freedom of travel and residence :

ARTICLE 18 — Every individual shall be entitled to travel freely; this freedom can be restricted only by law for the pur-

poses of maintaining national security or for preventing epidemics.

Every individual shall be entitled to reside wherever he chooses. The freedom can be limited only by laws when necessary to maintain national security, to prevent epidemics, to protect public property, and to achieve social, economic and agricultural development.

Turkish citizens shall be free to leave and re-enter Turkey. The freedom to leave Turkey shall be regulated by law.

IV. The rights and freedoms of thought and belief :

a) Freedom of conscience and religion :

ARTICLE 19 — Every individual has freedom of conscience, religious faith and opinion.

Forms of worship, and religious ceremonies and rites are free, provided they are not in opposition to public order or morals, or to the laws enacted to uphold them.

No person shall be compelled to worship, or participate in religious ceremonies and rites, or to reveal his religious faith and belief. No person shall be reproached for his religious faith and belief.

Religious education and teaching shall be subject to the individual's own will and volition, and in the case of minors, to their legal representatives.

No person shall be allowed to exploit and abuse religion or religious feelings or things considered sacred by religion in any manner whatsoever for the purpose of personal benefit, or political influence, or for even partially basing the fundamental social, economic, political and legal order of the State on religious tenets. The provision of pertinent laws shall be applicable for all real and corporate bodies who violate this prohibition, or those who induce others to do so, and the

political parties guilty of such violation shall be permanently closed down by the Constitutional Court.

b) Freedom of thought :

ARTICLE 20 — Every individual is entitled to have his own opinions and to think freely. He is free to express his thoughts and opinions singly or collectively, through word of mouth, in writing, through pictures or through other media.

No individual shall be coerced to disclose his thoughts and opinions.

V. Freedom of science and arts :

ARTICLE 21 — Every individual is entitled to acquire and impart science and arts, to practice, profess and propagate knowledge concerning them, and to carry out all kinds of research in these fields.

Education and teaching shall be free under the supervision and Control of the State.

The provisions governing private schools shall be regulated by laws in conformity with the level desired to be attained in State schools.

No educational institutions shall be set up which are incompatible with the principles of contemporary learning and education.

VI. Provisions governing the press and information :

a) Freedom of the press :

ARTICLE 22 — The press is free, and shall not be censored.

The State shall adopt measures to assure the freedom of the press and gathering of information.

Freedom of the press and the gathering of information can be restricted by law solely to safeguard the integrity of the

State with its territory and people, public order, national security and the secrecy demanded by national security or public morality; to prevent attacks on the dignity, honour and rights of individuals; to preclude instigations to commit crimes; or to assure proper implementation of judicial functions.

Barring a court order passed in cases specified by law in order that the judicial functions may be carried out properly, no ban shall be imposed on the publication of any item of information.

Newspapers and periodicals published in Turkey can be confiscated in conformity with a court judgment in the event where offences specified in the pertinent law are committed; and by decision of the competent authority clearly empowered by law in cases where delay is deemed prejudicial for the protection of the integrity of the State with territory and people, national security, public order or public morality. The competent authority making the decision for confiscation shall inform the court of its decision within 24 hours at the latest. If such decision is not ratified by the court within a maximum of three days, the decision for confiscation shall become null and void.

Newspapers and periodicals published in Turkey can be closed down by court judgment in the event of conviction for offences carried out against national security, public order, public morality, the national, democratic, secular and social principles of the Republic based on human rights and freedoms, or against the basic provision of indivisibility of the State with its territory and people.

b) The right to publish newspapers and periodicals :

ARTICLE 23 — Publication of newspapers and periodicals shall not be subject to obtaining authorization prior to publication nor to the depositing of a guarantee fund.

The publication and distribution of newspapers and periodicals, their financial resources, and the conditions pertaining to Journalism shall be regulated by law. Such law shall lay down no political, economic, financial or technical restrictions liable to curb or coerce the free propagation of news, Ideas and opinions.

Newspapers and periodicals shall avail themselves of the media and facilities provided by the State and other public corporate bodies or associations affiliated with them, and these facilities shall be equally available to all.

c) The right to publish books and pamphlets :

ARTICLE 24 — No authorization shall be necessary for the publication of books and pamphlets, nor shall they be subject to censorship.

Books and pamphlets published in Turkey shall not be confiscated except in cases provided under paragraph 5 of article 22

d) The protection of printing equipment :

ARTICLE 25 — Printing houses including their presses and other equipment and fixtures shall not be seized, confiscated, or prevented from operation, even though the underlying charge may be that they are instrumental to a criminal act.

e) The right to make use of communications media other than the press :

ARTICLE 26 — Individuals and political parties are entitled to avail themselves of the communication and publication facilities other than the press which are owned by public corporate bodies. Conditions and procedures for such utilization shall be regulated by law in conformity with democratic principles and standards of equity. The law can not impose rest-

riptions impeding the public from receiving information, reaching and opinion or the free formation of public opinion through these means for reasons other than those concerned with safeguarding the integrity of the State with its territory and people, the national, democratic, secular and social Republic based on human rights, and national security and public morality.

f) The right of rectification and response :

ARTICLE 27 — The right to rectify and to respond is recognized only in cases where the dignity and honour of individuals have been affected, or where they have been made the butt of unfounded statements in print.

If the counter statement containing the individual's response is not published voluntarily, a court of justice shall decide for or against its publication.

VII. The right and freedom to assemble :

a) The right to assemble and march in demonstration

ARTICLE 28 — All individuals are entitled to assemble or march in demonstration without prior authorization, in so long as they are unarmed and have no intent to assault.

This right can be restricted only by law for purposes of maintaining public order.

b) The right to form associations :

ARTICLE 29 — Every individual is entitled to form associations without prior authorization. The forms and procedure to be applied in the exercise of this right are regulated by law. The law may impose restrictions for purposes of safeguarding the integrity of the State with its territory and people, national security, public order and public morality.

No individual can be coerced into becoming a member of an association or into retaining his membership.

Associations can be closed down by court judgment in cases prescribed by law. In instances where delay is deemed prejudicial for the purpose of safeguarding the integrity of the State with its territory and people, national security, public order or public morality, such associations may be prevented from operating by order of the competent authority clearly designated by law, until such time as a court judgment is made.

VIII. Provisions governing the protection of rights :

a) Personal security :

ARTICLE 30 — Individuals against whom there exist a strong indication for indictment can be arrested by court judgment for purposes of preventing escape, destruction or alteration of evidence, or in similar cases which necessitate detention, and in other instances specified by law. The prolongation of detention is subject to the same conditions.

Arrest is resorted to only in flagrante delicto or in cases where delay is likely to thwart justice. The conditions for such detention shall be specified by law.

Individuals arrested or taken into custody shall be notified immediately in writing of the reasons for their detention or arrest as well as of the charges against them.

The person arrested or held in custody shall be arraigned within 48 hours excluding the time taken to send him to the court nearest to the place of seizure, and within the period specified by law in connection which are within the responsibility and authority of the State Security Courts, collective offences committed in circumstances clearly defined by law and in time of war or martial law. This period cannot exceed fifteen days and such person or persons cannot be deprived of their

liberty without a court judgment. When a person is detained or arrested, his next of kin shall be immediately notified thereof.

All damage suffered by persons subjected to treatment other than that specified herein shall be indemnified by the State according to law.

b) The freedom to claim rights :

ARTICLE 31 — Every individual is entitled to litigate and defend his case as plaintiff or defendant before judicial authorities by availing himself of all legitimate methods and procedures.

No court of justice shall abstain from conducting the trial of a case within its jurisdiction.

c) Legal channels of justice :

ARTICLE 32 — No person shall be made to appear before a court than the one to which he is legally attached.

No court vested with extraordinary powers can be created to pass judgment which may entail the appearance of a person before court other than one to which he is legally attached.

d) Penalties must be lawful and individual; prohibition of duress :

ARTICLE 33 — No person shall be punishable for an act which is not considered an offense under the law in force at the time the act was committed.

Penalties and penal measures shall be established only by law.

No person shall be punishable with a heavier penalty than that provided in the law for that offense at the time the offense was committed.

No person shall be coerced to make statements or to give evidence liable to incriminate himself or his legally defined next of kin. Criminal responsibility is personal.

No penalty involving general confiscation shall be imposed.

e) The right to prove the truth of an allegation :

ARTICLE 34 — In cases of libel instituted by those in public service on grounds that libellous statements were made concerning the plaintiff's discharge of his services or functions, the defendant is entitled to prove the truth of his allegations. In cases falling outside of the above, the granting of the request to prove the truth of the libellous statement is dependent upon whether or not the determination of the allegation is in public interest, or upon whether the plaintiff requests such a hearing designed to establish the truth or falsity of the statement.

CHAPTER THREE

Social and economic rights and duties

I. Protection of the family :

ARTICLE 35 — The family is the fundamental unit of the Turkish Society.

The State and other public corporate bodies shall adopt the requisite measures and establish the organizations needed for the protection of the family, the mother, and the child.

II. Property rights :

ARTICLE 36 — Every individual is entitled to the rights of ownership and inheritance.

a) General rule concerning property :

These rights may be restricted only by law in the interest of the public.

The exercise of property rights shall in no way conflict with public welfare.

b) Land ownership :

ARTICLE 37 — The State shall adopt the measures needed to achieve the efficient utilization of land and to provide land for those farmers who either have no land, or own insufficient land. For this purpose the law may define the size of tracts of land according to different agricultural regions and types of soil. The State shall assist farmers in the acquisition of agricultural implements.

c) Expropriation :

ARTICLE 38 — The State and other corporate bodies, where public interest deems it necessary, are authorized, subject to the principles and procedures as set forth in the pertinent law, to expropriate the whole or part of any immovable property under private ownership, and to impose an administrative servitude thereon, provided that the equivalent value is immediately paid in cash.

The equivalent value to be paid cannot exceed the tax value stated by the owner of the property in conformity with the form and procedure prescribed by law in cases where the whole of the immovable property is expropriated, nor can it exceed the relevant amount of the tax value where part of the property is expropriated.

The owner reserves the right to protest and prosecute in cases where the equivalent value of the expropriated immovable property is appraised at less than the tax value.

The from of payment of the equivalent value of immovable property and expropriated for the purpose of enabling farmers to own land, for the nationalization of forests, for afforestation, for accomplishing the establishment of settle-

ment projects, for the protection of coastal areas and for touristic purposes shall be prescribed by law.

Where the law deems it necessary that payment be made by installments, the period of payment shall not exceed twenty years where expropriation is made for the purpose of enabling the farmers to own land, for the nationalization of the forests, for afforestation, and for the establishment of settlement projects. Likewise, this period shall not exceed ten years in the case of expropriations made for the protection of coastal areas and for touristic purposes. In such cases, the installments shall be paid in equal amounts and shall be subject to the interest rates prescribed by law.

The value of that part of the expropriated land which is tilled by the farmer himself, the amount of land to be indicated by law which is essential within equitable measures, to provide him with a living, and the value of the land expropriated from the small farmer shall be paid in cash under all circumstances.

d) Nationalization :

ARTICLE 39 — Where it is deemed necessary in the public interest, private enterprises which bear the characteristics of a public service, may be nationalized provided that the true equivalent value thereof is paid as indicated by law. Where the law deems it necessary that payment be made by installments, the period of payment shall not exceed ten years, and the installments shall be paid in equal amounts; these installments shall be subject to interest rates prescribed by law.

III. Freedom of work and contracts :

ARTICLE 40 — Every individual is entitled to carry on business activities, and to enter into contracts in the field of his choice. The establishment of private enterprises is free.

The law may restrict these freedoms only in the public interest.

The State shall adopt those measures necessary to ensure the functioning of private enterprises in an atmosphere of security and stability consistent with the requirements of the national economy and the objectives of the society.

IV. The organization of economic and social life :

ARTICLE 41 — Economic and social life shall be organized in such manner as to provide justice, and the principle of full employment, with the objective of assuring for everyone a standard of living befitting human dignity.

It is the duty of the State to encourage economic, social and cultural development by democratic processes, and for this purpose to enhance national savings, to give priority to those investments which promote public welfare, and to draw up development projects.

V. Provisions governing employment :

a) The right and duty to work :

ARTICLE 42 — It is the right and duty of every individual to work.

The State shall protect workers and promote employment by adopting social, economic and financial measures of such nature, that workers will be provided with a decent human existence so that stable employment may be developed. The State shall also adopt measures to prevent unemployment. Drudgery is prohibited.

The form and conditions of physical and intellectual work in the nature of civil duty in cases where the needs of the country so require shall be regulated by law in accordance with democratic procedures.

b) Conditions of work :

ARTICLE 43 — No individual can be employed at a job that does not suit his age, capacity and sex.

Children, young people, and women shall be accorded special protection in terms of conditions of work.

e) The right to rest :

ARTICLE 44 — Every worker has the right to rest.

The right of paid week-ends, religious and national holidays and paid annual leave shall be regulated by law.

d) Provision of equity in wages :

ARTICLE 45 — The State shall adopt the necessary measures so that workers may earn decent wages commensurate with the work they perform, and sufficient to enable them to maintain a standard of living befitting human dignity.

e) The right to establish trade unions :

ARTICLE 46 — Workers and employers are entitled to establish trade unions and federations of trade unions without having to obtain prior authorization, to enroll in them as members, and to resign from such membership freely. Forms and procedures to be implemented in the exercise of these rights shall be regulated by law. The law may impose restrictions for the purpose of safeguarding the integrity of the State with its territory and its people, national security, public order, and public morality.

The regulations, the management and the operation of trade unions and federations thereof shall not conflict with democratic principles

f) The right of collective bargaining and striking :

ARTICLE 47 — In their relations with their employers, workers are entitled to bargain collectively and to strike with a

view to protecting or improving their economic and social status.

The exercise of the right to strike, and the exceptions thereto, and the rights of employers shall be regulated by law.

IV. Social security :

ARTICLE 48 — Every individual entitled to social security. The State is charged with the duty of establishing or assisting in the establishment of social insurance and social welfare organizations.

VII. The right to medical care :

ARTICLE 49 — It is the responsibility of the State to ensure that everyone leads a healthy life both physically and mentally, and receives medical attention.

The State shall take measures to provide the poor and low-incomed families with dwellings that meet sanitary requirements.

VIII. Education :

ARTICLE 50 — One of the foremost duties of the State is to provide for the educational needs of the people.

Primary education is compulsory for all citizens, male and female, and shall be provided free of charge in State schools.

To assure that capable and deserving students in need of financial support may attain the highest level of learning consistent with their abilities, the State shall assist them through scholarships and other means.

The State shall take the necessary measures conducive to making useful citizens of those who need special training on account of their physical and mental conditions.

The State shall provide for the preservation of works and monuments of historical and cultural value.

IX. Promotion of cooperative activities :

ARTICLE 51 — The State shall take measures conducive to the promotion of cooperative activities.

X. Protection of Agriculture and farmers :

ARTICLE 52 — The State shall take necessary measures to provide the people with adequate nourishment, to assure an increase in agricultural production to the benefit of the society, to prevent erosion, to enhance the value of agricultural products, and the labour of those engaged in agriculture.

XI. The scope of the economic and social duties of the State :

ARTICLE 53 — The State shall carry out its duties to attain the social and economic goals provided in this section only in so far as economic development and its financial resources permit.

CHAPTER FOUR

Political rights and duties

1. Citizenship :

ARTICLE 54 — Every individual who is bound to the Turkish State by ties of citizenship is a Turk.

The child of a Turkish father or a Turkish mother is a Turk. The citizenship status of a child of a Turkish mother and a foreign father shall be regulated by law.

Citizenship is acquired under the conditions provided by law, and is lost only under circumstances provided by law.

No Turk shall be deprived of his citizenship unless he commits an act irreconcilable with loyalty to the homeland.

The right to litigate in cases of decisions and procedures involving deprivation of citizenship shall not be obstructed.

II. The right to elect and be elected :

ARTICLE 55 — All citizens are entitled to elect and be elected, pursuant to the conditions provided in the law.

Elections shall be free, and secret and shall be conducted on the basis of equality, direct suffrage, open counting and classification.

III. Provisions concerning political parties :

a) The right to found political parties and their place in political life :

ARTICLE 56 — Citizens are entitled to found political parties and to join in or withdraw from them pursuant to pertinent rules and procedures.

Political parties can be founded without prior authorization and shall operate freely.

Whether in power or in opposition political parties are indispensable entities of democratic political life.

Financial assistance to political parties which have won at least five per cent of the total valid votes in the latest general elections for the National Assembly or to those which have gained enough number of seats in the National Assembly to enable them to form a group in the said Assembly shall be regulated by law.

b) Principles to which political parties must conform :

ARTICLE 57 — The statutes, programs and activities of political parties shall conform to the principles of a democratic and secular republic, based on human rights and liberties, and to the fundamental principle of the State's territorial and nation-

al integrity. Parties failing to conform to these provisions shall be permanently dissolved.

Political parties shall account for their sources of income and expenditures to the Constitutional Court.

The internal affairs and activities of political parties, the manner in which they shall be accountable to the Constitutional Court, and the manner in which this Court shall audit their finances, shall be regulated by law in accordance with democratic principles.

Actions in law involving the dissolution of political parties shall be heard at the Constitutional Court, and the verdict to dissolve them shall be rendered only by the same Court.

IV. The right to enter public service :

a) Entry into public service :

ARTICLE 58 — Every Turk is entitled to enter public service.

In hiring personnel no discrimination shall be made other than job qualifications.

b) Declaration of property :

ARTICLE 59 — The law shall prescribe the conditions of declaration of property for persons entering public service. Those assuming duties the legislative and executive organs shall not be exempt from this obligation.

V. Patriotic service :

ARTICLE 60 — Every Turk has the right and obligation of patriotic service. The method of accomplishment of this obligation to serve in the armed forces or in public services shall be regulated by law.

VI. Tax obligation :

ARTICLE 61 — To meet public expenditures, every individual is under obligation to pay taxes in proportion to his financial capacity.

Taxes, dues, charges and similar financial obligations shall be imposed only in virtue of a law.

The Council of Ministers may be authorized to make modifications in the provisions concerning the exemptions and exceptions, as well as in the proportions and limits of taxes, dues and charges, provided they remain within the highest and lowest limits determined by law and conform with principles and criteria.

VII. The right to petition :

ARTICLE 62 — Citizens are entitled to petition in writing singly or collectively to the competent authorities, and the Grand National Assembly concerning requests and complaints involving themselves or the public.

The action taken as a result of petitioning involving the applicants in person shall be communicated to them in writing.

PART THREE

The basic organization of the Republic

CHAPTER ONE

Legislative Power

A) THE GRAND NATIONAL ASSEMBLY

I. Organization of the T. G. N. A. :

ARTICLE 63 — The Grand National Assembly of Turkey is composed of the National Assembly and the Senate of the Republic.

The two bodies meet in joint session in such instances as provided in the Constitution.

II. Duties and powers of the T. G. N. A. :

a) General Provisions :

ARTICLE 64 — The Turkish Grand National Assembly is empowered to enact, amend and repeal laws, to debate and adopt the bills on the State budget and final accounts, to pass resolutions with regard to minting currency, proclaiming pardons and amnesties, and to confirm death sentences passed by courts.

The Turkish Grand National Assembly may authorize the Council of Ministers, by virtue of a law and for definite objects, to promulgate decrees having the force of law. The law concerning such authorization should clearly indicate the aim of the decrees to be promulgated, their extent and their principles, as well as the duration of the exercise of this right, and the provisions of law to be abrogated. The decree having the force of law should also indicate the law by virtue of which it is promulgated.

These decrees shall go into force as of the day of their publication in the Official Gazette. However, a later date can be indicated in the decree as the date of its entry into force. Such decrees shall be submitted to Grand National Assembly on the day of their publication in the Official Gazette.

The authorization laws and the decrees submitted to the Grand National Assembly are debated and decided upon in conformity with the rules established for the discussion of laws by the Constitution and by the internal regulations of the Legislative Assemblies; however, they receive priority and urgency in the committees and plenary sessions of the Assemblies over other draft resolutions and bills of law.

Decrees not submitted to the Turkish Grand National Assembly on the day of their publication become ineffective as of that date; and those rejected by the Turkish Grand National

Assembly shall cease to be effective as of the date of publication of such rejection in the Official Gazette. Modified provisions of decrees adopted under modification shall go into force as of the date of publication of these modifications in the Official Gazette.

Basic rights and freedoms cited in the first and second chapters of Part II of the Constitution, and the political rights and obligations mentioned in chapter IV of the same Part cannot be regulated by decrees having the force of law. The Constitutional Court will also control the constitutionality of such decrees.

b) Ratification of International Treaties :

ARTICLE 65 — The ratification of treaties negotiated with foreign States and international organizations in behalf of the Turkish Republic is dependent upon its approval by the Turkish Grand National Assembly through the enactment of a law.

Treaties which regulate economic, commercial and technical relations, and which are not effective for a period longer than one year, may be put into effect through promulgation, provided they do not entail a commitment of the State's finances and provided they do not infringe upon the status of individuals or upon the rights of ownership of Turkish citizens in foreign lands. In such cases, these treaties must be brought to the attention of the Turkish Grand National Assembly within two months following their promulgation.

Agreements concluded in connection with the implementation of an international treaty, and economic, commercial, technical or administrative treaties concluded pursuant to the authority provided by laws are not required to be approved by the Turkish Grand National Assembly provided however that economic and commercial treaties or treaties affecting the rights of individuals shall not be put into effect unless promulgated.

The provisions of paragraph 1 shall apply in all treaties involving amendments in Turkish legislation.

International treaties duly put into effect carry the force of law. No recourse to the Constitutional Court can be made as provided in articles 149 and 151 with regard to these treaties.

c) The authority to permit the use of armed forces :

ARTICLE 66 — The authority to declare a state of war in cases deemed legitimate by international law, and exclusive of cases rendered necessary by international treaties to which Turkey is a party, or by rules of international courtesy, to send Turkish armed forces to foreign lands and to allow foreign armed forces to be stationed in Turkey, is vested in the Turkish Grand National Assembly.

For the granting of such authorization the National Assembly and the Senate shall pass resolutions in joint session.

III. The National Assembly :

a) Organization :

ARTICLE 67 — The National Assembly is composed of 450 deputies elected by direct general ballot.

b) Election qualifications for deputies :

ARTICLE 68 — Every Turk who has completed his thirtieth year may be elected deputy.

Persons who are illiterate, under interdiction, those who have not done or those who are considered as not to have done their active military service despite the fact that they are liable for and not exempted from such service, those who are barred from public service, those who have been convicted by final judgment to a term of penal servitude or who have been sentenced to five years imprisonment, except in cases of conviction for negligence, or those who have been sentenced by final judg-

ment for any offense such as defalcation, misappropriation, embezzlement, bribery, theft, fraud, forgery, breach of confidence, and those who have been convicted of such defamatory offense as fraudulent bankruptcy are not eligible for election as deputies, even though they may have been pardoned.

Placing one's candidacy shall not be made dependent upon resignation from public service.

To ensure that elections are conducted safely, provision shall be made in the law as to which public servants may place their candidacy and under what conditions.

Judges, army, officers, military employees and non-commissioned officers are not entitled to place their candidacy or to be elected unless they resign from office.

c) The term of office of the National Assembly :

ARTICLE 69 —Elections to the National Assembly shall be held every four years.

The Assembly may decide to hold new elections before the termination of the four-year period. Deputies whose term of office expires shall be eligible for re-election.

The National Assembly remains in office until a new National Assembly is elected.

IV. The Senate of the Republic :

a) Organization :

ARTICLE 70 — The Senate of the Republic is composed of 150 members elected by general ballot, and 15 members appointed by the President of the Republic.

The Chairman and members of the National Unity Committee whose names are listed under law 157 dated December 13, 1960, and the former Presidents of the Republic are ex officio members of the Senate of the Republic regardless of their age.

The ex officio members are subject to the same provisions as the other members of the Senate of the Republic, provided, however that paragraphs 1 and 2 of Article 73, and paragraph 1 of temporary article 10 of chapter V of this Constitution are not applicable to these members. Ex officio members who join a political party subsequent to their joining the Senate shall lose their status as ex officio members on the date of the first senatorial election held thereafter.

b) The right to elect members to the Senate :

ARTICLE 71 — All Turks entitled to vote in the election of the National Assembly shall enjoy the same rights under the aforesaid conditions in the election of the Senate.

c) Qualifications for Senate membership :

ARTICLE 72 — Every Turk who has completed his fortieth year, and received a higher education, and who has no cause impeding his election to the National Assembly, may be elected to the Senate of the Republic.

Members appointed by the President of the Republic shall be selected from among people distinguished for their services in various fields and shall have completed their fortieth year. At least ten of such members shall be appointed from among persons who are not members of any political party.

d) Term of office of Senate members :

ARTICLE 73 — The term of office of Senate members is six years. Members completing their term of office may be re-elected.

One third of the Senate members elected by general ballot and by the President of the Republic shall be rotated every two years.

When elections for renewal coincides with the same year as the general elections for the National Assembly, the two elections are held together; and those not coinciding shall be held two years after the general elections for the National Assembly in the same month assigned for the above mentioned elections.

In cases of decision to postpone elections in accordance with article 74 or to renew them in accordance with article 96 and 108, the elections for the renewal of the members of the Senate of the Republic will be postponed or moved to an earlier date for the purpose of holding them together with those of the National Assembly. The following elections for the renewal of the members of the Senate shall be held in accordance with the dispositions of paragraph 3.

When the term of office of the members appointed by the President of the Republic expires or when a vacancy occurs in these memberships for any other reason, the President of the Republic shall appoint a new member within a month.

The person appointed to fill a vacancy shall be appointed for the remainder of the term of office of the member he replaces.

V. Postponement of elections for the Grand National Assembly and by-elections :

ARTICLE 74 — If new elections cannot be held due to a state of war, they may be postponed for one year in virtue of a law.

By-elections to both legislative bodies of the Grand National Assembly shall be held every two years at the same time as the senatorial elections.

No by-elections shall be held one year prior to the general elections for the National Assembly.

VI. Procedures governing the holding and supervision of elections :

ARTICLE 75 — Elections shall be conducted under the control and supervision of judicial organs.

To implement and cause to implement all procedures necessary to the fair and orderly conduct of elections from inception to completion, to review and pass final judgment on all irregularities, complaints and objections regarding election matters during and after elections, and to certify the validity of election credentials are functions devolving upon the High Election Board.

The High Election Board shall be composed of seven regular members and four alternates. Six of the members shall be elected by the general assembly of the Court of Cassation, and five by the general assembly of the Council of State from among their own members by secret ballot, and by an absolute majority of their plenary session. These members in turn shall elect from among themselves by secret ballot and by absolute majority, a chairman and a vice-chairman.

The four alternate members of the High Election Board shall be elected by lot, two from the members chosen by the Court of Cassation and two from the members chosen by the Council of State. The Chairman and Vice-Chairman of the High Election Board are exempt from the drawing of lots.

B. PROVISIONS APPLICABLE TO BOTH LEGISLATIVE BODIES :

I. Provisions governing membership in the Grand National Assembly :

a) Representation of the Nation :

ARTICLE 76 — Members of the Grand National Assembly represent neither their constituencies nor their constituents, but the nation as a whole.

b) Oath taking :

ARTICLE 77 — The members of the Grand National Assembly of Turkey shall take the following oath at their induction into office :

«I promise upon my honour that I will protect the independence of the State, and the integrity of the homeland and the nation, that I will remain committed to the unconditional sovereignty of the nation, and to the principles of a democratic and secular Republic, and that I will strive to promote the happiness of the people.»

c) Activities incompatible with membership :

ARTICLE 78 — No person may become a member of both legislative bodies.

Members of the Turkish Grand National Assembly may not be employed by any governmental department or other public corporate bodies, nor by enterprises and corporations in which the State or other corporate bodies participate directly or indirectly, nor may they hold positions in the administrative boards and in other public welfare societies of which the private sources of income and special facilities are provided by law, and neither may they directly or indirectly undertake any of their activities.

Members of the Turkish Grand National Assembly may not be charged with any official or private responsibility which entails proposals, recommendations, appointments, or approval by the Executive organ. A member may accept a temporary assignment not exceeding six months on a specific subject only with the approval of the particular legislative body to which he belongs.

Other occupations and functions incompatible with membership in the Turkish Grand National Assembly are set forth by law.

d) Legislative immunities :

ARTICLE 79 — Members of the Turkish Grand National Assembly may not be held legally liable for their votes and statements, for the ideas and opinions they express in the Assembly, nor for repeating and disclosing them outside the Assembly.

No member of either Assembly, who is alleged to have committed an offense before or after his election to office may be taken into custody, questioned, held in custody nor brought to trial without the decision of the legislative body to which he belongs.

This provision does not apply to cases where the accused was apprehended in flagrante delicto which entail heavy penalties, provided however, that in such instances the competent authority is under obligation to inform directly and forthwith the particular legislative body to which the member belongs.

The execution of a penal sentence passed against a member of either Assembly before or after his election is suspended until his membership expires. Prescription does not operate for the duration of his term of office.

Prosecution of an elected member of a legislative body is dependent upon the suspension of his immunity by the legislative body to which he belongs.

Political party groups in either Assembly shall not hold debates and pass resolutions in connection with legislative immunities.

e) Disfranchisement of a member :

ARTICLE 80 — A member of the Turkish Grand National Assembly shall be disfranchised in cases of final conviction rendered by a competent court for an offense preventing his election as a member and in cases where he resigns, is interdicted,

accepts a duty incompatible with his status as a member, or when the legislative body to which he belongs decides to disfranchise him for failure to attend the functions of the Assembly for a non-intermittent period of one month without taking leave or without offering an acceptable reason for his absence.

f) Request for invalidation :

ARTICLE 81 — In the event of a member being deprived of legislative immunities or being definitely disfranchised from membership by the vote of the Assembly, the member concerned or any member of the Turkish Grand National Assembly may within one week from the date of such decision, apply to the Constitutional Court for an annulment of the decision of invalidation on grounds that it conflicts with the Constitution or with the regulations of the National Assembly. The Constitutional Court shall render a decision on the request for invalidation within fifteen days.

g) Allowances and travel expenditures :

ARTICLE 82 — The allowances and travel expenditures of the members of the Turkish Grand National Assembly shall be regulated by law. The monthly amount of the allowance may not exceed the monthly salary of a government official in the highest pay bracket; travel expenditures may not exceed half the amount of the allowance.

Allowances and travel expenditures paid in advance may not exceed their total for three months.

II. Provisions governing the functioning of the Turkish Grand National Assembly :

a) Convocation and adjournment :

ARTICLE 83 — The Turkish Grand National Assembly shall convene on the first day of November each year without summons.

Each year the Turkish Grand National Assembly may take vacations not exceeding five months. Both legislative bodies shall take these vacations at the same time.

During recess or vacation the Turkish Grand National Assembly shall be convened either directly by the President of the Republic or upon the request of the Council of Ministers. The chairman of each legislative body shall, either directly or upon the request of one fifth of its membership, convene his respective body.

When one legislative body is convened, the other convenes without summons.

Legislative bodies convened while in recess or on vacation, shall first debate the reasons necessitating the meeting.

b) Chairmanship :

ARTICLE 84 — The chairmanship council of each legislative body shall be so composed as to give proportionate representation to each political party represented in that particular legislative body.

The chairmen of the National Assembly and of the Senate of the Republic shall be elected by a two thirds majority of the plenary session of their respective bodies, and by secret ballot for a term of two years. If this specified majority cannot be obtained in the first two ballotings, an absolute majority shall suffice. Political party groups represented in the legislative bodies may not nominate candidates for the chairmanship thereof.

The Chairman and vice-chairman may not participate inside or outside the Turkish Grand National Assembly in the activities of the political parties or political party groups to which they belong, neither can they take part in the debates of the Assembly except in cases required by their functions. The Chairman may not vote.

In joint sessions of the Turkish Grand National Assembly the Chairmanship council of the National Assembly shall preside

c) Regulations, political party groups and disciplinary measures :

ARTICLE 85 — The functions of the Turkish Grand National Assembly and those of each legislative body shall be governed by the provisions of their own regulations.

The provisions of the regulations shall be so conceived as to assure to each political party group participation in all the activities of both legislative bodies in proportion to their size. A political party group shall consist of at least ten members.

The legislative bodies shall their own disciplinary rules and enforce them.

d) Quorums for meetings and resolutions :

ARTICLE 86 — An absolute majority of its plenary session, shall constitute a meeting quorum for each legislative body, and unless otherwise provided in the Constitution, an absolute majority of the attending members shall constitute a quorum of decision.

The quorum for the Turkish Grand National Assembly shall be the absolute majority of the plenary session of both legislative bodies.

e) Publicity and publication of debates :

ARTICLE 87 — Debates in both legislative bodies are public and published *in extenso* in the record of proceedings of the legislative body concerned.

Subject to the provisions of their respective rules of procedure, each legislative body may hold closed sessions; the publication of the debates of such sessions is subject to the decision of the legislative body concerned.

The publication by every means of public proceedings in legislative bodies shall in no way be prevented.

III. Ways of Supervision by the Turkish Grand National Assembly :

a) Generally :

ARTICLE 88 — Questions, general debates, parliamentary investigations and parliamentary inquiries fall under the jurisdiction of both legislative bodies.

Parliamentary inquiries are investigations conducted with a view to obtaining information on a specific subject.

b) Interpellation :

ARTICLE 89 — The power of interpellation is vested exclusively in the National Assembly. The motion for interpellations is made either in the name of the group of a political party, or under the signature of at least ten deputies.

Inclusion of a motion of interpellation in the order of the day is debated within three sessions following its submission. During such debate only one of the signatories of the motion, one deputy for each party group, and the Prime Minister or one Minister on behalf of the Council of Ministers can take the rostrum.

Provisions for the printing and distribution of the motions of interpellation beforehand, if need be, and those for regulating the balanced functioning of the Assembly are designated in the Regulations.

The day on which the interpellation is to be debated shall be determined at the same time as the decision to place the the interpellation on the agenda.

The interpellation may not be debated before the lapse of two days following the date of the decision to place it on the agenda and may not be delayed for more than seven days.

Motion of no confidence accompanied by a statement of the reasons therefor during the debate of an interpellation, or the request for a vote of confidence on the part of the Council of Ministers shall be put to vote only after the lapse of one full day.

An absolute majority of the plenary session has the power to unseat a Minister or the Council of Ministers from office.

c) Parliamentary investigation :

ARTICLE 90 — Requests for parliamentary investigation concerning the Prime Minister or other Ministers shall be debated and voted upon at the joint session of the Turkish Grand National Assembly.

The investigation shall be carried out by a committee composed of an equal number of members from each legislative body.

The resolution to refer the matter to the High Court of Justice shall be voted on at a plenary session.

No debates may be conducted and no resolutions may be adopted at political party groups in either legislative body with regard to parliamentary investigation.

C) ENACTMENT OF LAWS

I. General Principles :

a) The right to initiate legislation :

ARTICLE 91 — — The Council of Ministers and the members of the Turkish Grand National Assembly are entitled to initiate legislation.

The members may defend the proposed legislation at the relevant committees of both legislative bodies.

b) The debate and enactment of laws :

ARTICLE 92 — Bills and proposals shall be debated first in the National Assembly.

Bills and proposals adopted with or without modification, or rejected outright by the National Assembly shall be referred to the Senate of the Republic.

If the draft adopted by the National Assembly is endorsed by the Senate of the Republic without modification, such draft becomes law.

If the Senate of the Republic endorses with amendments the submitted draft, such draft becomes law, provided the National Assembly approves the modifications made by the Senate.

In case National Assembly refuses to accept the amended draft referred by the Senate of the Republic, a mixed committee composed of an equal number of members from among the relevant committees of both legislative bodies shall be set up.

The draft prepared by this committee shall be submitted to the National Assembly which is under obligation to adopt without change either the draft of the mixed committee or that of the Senate of the Republic or the one previously prepared by itself.

When the proposed amendment to articles is adopted by a vote of absolute majority of the plenary session of the Senate of the Republic, the National Assembly may adopt its own original and unamended draft only by a vote of absolute majority of its plenary session. In such instances the voting shall be by open ballot.

If a bill or proposal rejected by the National Assembly is also rejected by the Senate of the Republic, it is void.

If a bill or a proposal rejected by the National Assembly is adopted by the Senate of the Republic either with or without amendments, the National Assembly shall review the draft approved by the Senate of the Republic. If the draft of the Senate

of the Republic is adopted by the National Assembly it becomes law; if it is rejected the draft or proposal becomes void. If the draft sent by the Senate of the Republic is approved with amendments, the provisions of paragraph 5 shall apply.

An absolute, majority vote of a plenary session of the National Assembly is required in order to approve a draft rejected into by an absolute majority of a plenary session of the Senate. In such cases the voting shall be by open ballot.

If a bill or proposal is rejected into by a two thirds majority vote of a plenary session of the Senate, it can become law only if it is approved by a two thirds majority vote of a plenary session of the National Assembly. In such cases the voting shall be by open ballot.

The Senate of the Republic shall vote on a draft referred to, it within a period not exceeding the length of time devoted to debate on that draft both in the committees and in the plenary session of the National Assembly. Such period may not exceed three months, and in cases of emergency it may not be less than fifteen days, and in normal times it may not be less than one month. Draft not voted on within such periods shall be considered as approved by the Senate in the form received from the National Assembly. When the legislative bodies are on vacation, such time shall not be included in the periods specified in this paragraph.

The provisions of the foregoing paragraphs shall apply to the passage or rejection of bills concerning the election of the legislative and local administrative bodies and in the approval or rejection of drafts and proposals concerning the political parties, provided however, that in cases calling for the establishment of a mixed committee, the report of this committee shall be debated and resolved upon at a lenary session of the Turkish Grand National Assembly. For the adoption of the initial draft

of the National Assembly at the session of the Grand National Assembly, the absolute majority of the plenary session is required; the provisions of paragraphs 8 and 9 are reserved.

c) Promulgation of laws by the President of the Republic :

ARTICLE 93 — The President of the Republic shall promulgate the laws enacted by the Turkish Grand National Assembly within ten days. Any law disapproved by him shall be returned to the Grand National Assembly for reconsideration together with his reasons within the same period. The budget laws and the Constitution do not fall within the scope of this provision. Should the Turkish Grand National Assembly re-enact the law so returned, the President of the Republic shall promulgate the said law within ten days from re-enactment.

II. Debate and adoption of the budget; proposals to result in increases in State expenditures and decreases in State income :

ARTICLE 94 — The report incorporating the bills relating to the general and annexed budgets, and the national budget estimates shall be submitted to the Turkish Grand National Assembly by the Council of Ministers at least three months before the beginning of the new fiscal year.

These budget bills and budget estimate reports shall be entrusted to a mixed committee consisting of thirty five deputies and fifteen Senate members. In forming this committee at least thirty of the fifty seats shall be assigned to members of the party or parties in power, and the remaining seats shall be distributed proportionately among the other political parties and independents.

The budgetary drafts submitted to the mixed committee shall be acted upon within a period not exceeding eight weeks, and the text thus approved by the mixed committee shall then

be debated by the Senate of the Republic, and voted upon within a length of time not exceeding ten days.

Thereafter the draft approved by the Senate of the Republic shall be referred back to the mixed committee for its reconsideration which must be completed within one week. The final draft approved by the mixed committee shall be debated by the National Assembly and voted upon before the beginning of the fiscal year.

Members of the Grand National Assembly shall express their views on the budgets of the Ministries, the budgets of the various government departments, and the annexed budgets, at the time each of these budgets is being debated in its entirety at the plenary sessions of their respective legislative bodies. The Chapters of the various budgets, and motions for amendment shall be read and put to vote without being debated.

Members of the Turkish Grand National Assembly shall make no motions entailing increases in expenditure or decreases in specific incomes at the budget debates conducted in plenary sessions.

CHAPTER TWO

Executive Function

A) THE PRESIDENT OF THE REPUBLIC

I. Election and impartiality :

ARTICLE 95 — The President of the Turkish Republic shall be elected for a term of seven years from among those members of the Turkish Grand National Assembly who have completed their fortieth year and received higher education; election shall be by secret ballot, and by a two thirds majority of the plenary session. In case this majority is not obtained in the first two ballots, an absolute majority shall suffice

The President is not eligible for re-election.

The President elect shall dissociate himself from his party, and his status as a regular member of the Grand National Assembly shall be terminated.

II. Oath taking :

ARTICLE 96 — The President of the Republic shall take the following oath at his induction :

«As President of the Republic, I promise upon my honour that I will fight against any threat directed to the independence of the Turkish State or against the integrity of the fatherland and the Nation, that I will respect and defend the unconditional sovereignty of the Nation, that I will not deviate from the principles of a democratic State based on the rule of law and human rights, that I will be free from all bias, and that I will do my utmost to protect and exalt the glory of the Turkish Republic and fulfil the task I have undertaken.»

III. Duties and authority :

ARTICLE 97 — The President of the Republic is the head of the State. In this capacity he shall represent the Turkish Republic and the integrity of the Turkish Nation.

The President of the Republic shall preside over the Council of Ministers whenever he deems it necessary, shall send representatives of the Turkish State to foreign states, shall receive the representatives of foreign states, shall ratify and promulgate international treaties and may commute or pardon on grounds of chronic illness, infirmity or old age the sentences of convicted individuals.

IV. Presidential immunities :

ARTICLE 98 — The President of the Republic shall not be accountable for his actions connected with his duties.

All decrees emanating from the President of the Republic shall be signed by the Prime Minister, and the relevant Ministers. The Prime Minister and the Minister concerned shall be responsible for these decrees.

V. Presidential responsibility :

ARTICLE 99 — The President of the Republic may be impeached for high treason upon the proposal of one third of the plenary session of the Turkish Grand National Assembly, and conviction of high treason shall require the vote of at least a two thirds majority of the joint plenary session of both legislative bodies.

VI. Deputation for the President of the Republic :

ARTICLE 100 — In the event the President of the Republic is temporarily absent on account of illness, or foreign travel, the chairman of the Senate of the Republic shall act as his deputy until the President returns to his post; and in the event of the demise or resignation of the President or in the event of a vacancy for any other reason, the chairman of the Senate of the Republic shall act as his deputy until a new President of the Republic is elected.

VII. Termination of the President's duties and election of a new President :

ARTICLE 101 — The Turkish Grand National Assembly shall elect the new President of the Republic fifteen days prior to the expiration of the term of office of the outgoing president or in case of vacancy. The Grand National Assembly is immediately asked to convene in case it is not already in session.

B) THE COUNCIL OF MINISTERS

I. Organization :

ARTICLE 102 — The Council of Ministers shall consist of the Prime minister and the Ministers.

The Prime Ministers shall be designated by the President of the Republic from among the members of the Turkish Grand National Assembly.

The Ministers shall be nominated by the Prime Minister, and appointed by the President of the Republic from among the members of the Turkish Grand National Assembly, or from among those qualified for election as deputies.

II. Taking office and vote of confidence :

a) Vote of confidence at the time of taking office :

ARTICLE 103 — The full list of members of the Council of Ministers shall be submitted to each legislative body. If these bodies are not in session, they shall be convened.

The Prime Minister or any of the Ministers shall read the government program before each legislative body not later than a week after the formation of the Council of Ministers, whereupon the program shall be submitted to the National Assembly for a vote of confidence. Debate on the vote of confidence shall begin after two full days following the reading of the program, and the vote shall be taken after one full day following the termination of the debates.

b) Vote of confidence while in office :

ARTICLE 104 — If the Prime Minister deems it necessary, he may ask for a vote of confidence from the National Assembly after discussing the matter at the Council of Ministers.

The request for a vote of confidence shall not be debated until after one full day has elapsed from the time it was submitted to the National Assembly, and shall be put to vote only one full day after the debate.

A request for a vote of confidence may be rejected only by an absolute majority of the lenary session.

III. Duties and political responsibility :

ARTICLE 105 — As head of the Council of Ministers, the Prime Minister promotes cooperation among the Ministers, and supervises the implementation of the government's general policy. The members of the Council of Ministers are jointly responsible for the manner in which this policy is implemented.

Each Minister shall be further responsible for the conduct of affairs in his field of authority and for the actions and activities of his subordinates.

The Ministers are subject to the same immunities and liabilities as the members of the Turkish Grand National Assembly.

IV. Formation of the Ministries, and Ministers :

ARTICLE 106 — The Ministries shall be formed in accordance with the principles prescribed by law.

A Minister shall become the acting Minister for a Ministry in which there is a vacancy or for a Minister who is on leave or is absent for some valid reason. In no case, however, may a Minister act for more than one Minister. A Minister who is brought to trial before the High Court of Justice by decision of the Turkish Grand National Assembly shall be deprived of his ministerial status.

When a ministerial post is vacated for any reason whatsoever a new appointment shall be made within a length of time not exceeding fifteen days.

V. Regulations :

ARTICLE 107 — The Council of Ministers may draw up regulations governing the mode of enforcement of laws, provided that these are not in conflict with existing laws and have been examined by the Council of State.

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

VI. Renewal of the elections for the National Assembly by the President of the Republic :

ARTICLE 108 — If the Council of Ministers has been unseated twice by a vote of no confidence according to articles 89 and 154 of the Constitution within a period of eighteen months and if thereafter a third vote of no confidence is voted, the Prime Minister may request the President of the Republic to call new elections for the National Assembly. Whereupon, the President of the Republic, after consultation with the Chairmen of the legislative bodies, may decide to call new elections. Such decision shall be published in the Official Gazette and immediately thereafter steps shall be taken to hold new elections.

VII. Provisional Council of Ministers during elections :

ARTICLE 109 — The Ministers of Justice, Interior, and Communications shall resign prior to the elections for the National Assembly.

In the event of a decision being taken to call new elections before the regular expiration of the legislative session, new Ministers of Justice, Interior, and Communications shall be appointed by the Prime Minister from among the independent members of the Turkish Grand National Assembly within five days after the date of such decision, and not less than three days before the date on which elections are to be held.

Upon the decision being reached to hold new elections in accordance with Article 108, the Ministers shall resign and the Prime Minister shall form a Provisional Council of Ministers.

The Provisional Council of Ministers shall consist of members of the party groups in proportion to their representation in the National Assembly, provided that the Ministers of Justice, Interior and Communications are chosen from among the independent deputies in the Turkish Grand National Assembly.

The number of members to recruited from party groups shall be established by the Chairman of the National Assembly and submitted to the Prime Minister.

Those party members who refuse to accept the ministerial posts offered or who resign subsequently shall be replaced by independents in the National Assembly or outside it.

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

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

VII. National Defence :

a) The office of the Commander-in-Chief and the Chief of the General Staff :

ARTICLE 110 — The office of the Commander-in-Chief is integrated in the moral existence of the Turkish Grand National Assembly and is represented by the President of the Republic.

The Council of Ministers shall be responsible to the Turkish Grand National Assembly for ensuring national security and preparing the armed forces for war.

The Chief of the General Staff is the Commander of the armed forces.

The Chief of the General Staff shall be appointed by the President of the Republic upon his nomination by the Council of Ministers, and his duties and powers shall be regulated by law. The Chief of the General Staff is responsible to the Prime Minister in the exercise of his duties and powers.

The functions and prerogatives of the Ministry of National Defence and its relations with the Chief of the General Staff and the Commanders of Forces are regulated by law.

b) The National Security Council :

ARTICLE 111 — The National Security Council is composed of the Prime Minister, the Chief of the General Staff, the Ministers as provided by law, and the Commanders of Forces.

The President of the Republic shall preside over the National Security Council, and in his absence this function shall be discharged by the Prime Minister

The National Security Council recommends to the Council of Ministers the necessary basic views for decisions to be taken in connection with national security and coordination.

The National Security Council recommends to the Council of Ministers the necessary basic views for decisions to be taken in connection with national security and coordination.

C) ADMINISTRATION

1. Fundamentals of Administration :

a) The indivisibility of the administration and its legal personality :

ARTICLE 112 — The organization and functions of the administration are based both on the principles of centralization and decentralization.

In terms of organization and functions, the administration is a whole, and is regulated by law.

Public corporate bodies shall be created only in virtue of a law or on the authority expressly granted by law.

b) By-laws :

ARTICLE 113 — The Ministries and public corporate bodies may issue by-laws with the purpose of assuring the enforcement of the law and regulations related to their particular fields of operation, and in conformity with such laws and regulations. By-laws shall be published in the Official Gazette.

c) The way to prosecution :

ARTICLE 114 — The way to prosecution shall be open against all acts and proceeding of the administration.

Juridical power cannot be exercised in such manner as to restrain the fulfillment of the executive function carried out in conformity with the forms and principles prescribed by law.

In court actions instituted as a result of administrative acts, prescription shall start as of the date of written notification.

The administration is liable for the damages resulting from its acts and operations.

II. Administrative organization :

a) Central administration :

ARTICLE 115 — In terms of central administrative organization, Turkey is divided into provinces based on geographical and economic factors and on the requirements of public service, and provinces are further divided into smaller administrative districts.

Provincial administration is based on the principle of self government.

Regional self governing organizations comprising several provinces may be established with the purpose of carrying out specific public services.

b) Local administration :

ARTICLE 116 — Local administrative bodies are public corporate entities created to meet the common local needs of the citizens of provinces, municipal districts, villages, whose policymaking organs are elected by the people.

The elections of local administrative bodies shall be held at such times as prescribed by law and subject to the provisions of article 55 of this Constitution.

Jurisdiction concerning the acquisition or loss of the status of an administrative organ shall be exercised only by courts.

The organization, and incorporation of local administrative bodies into unions, their functions, powers, financial and disciplinary matters and their mutual ties and relationships with the central administration shall be regulated by law. Sources of income shall be provided for these administrative bodies in proportion to their functions.

III. Provisions governing Civil Service :

a) General Rules :

ARTICLE 117 — The basic and continuing activities of the public services that the State and other public corporate bodies are expected to provide, in accordance with principles of general administration, shall be carried out by civil servants.

The qualifications of civil servants, the procedures governing their appointment, their duties and powers, their rights and responsibilities, their salaries and allowance and other matters of their career be regulated by law.

b) Protection of Civil Servants :

ARTICLE 118 — In cases of disciplinary action initiated against civil servants or against members of the staffs of professional organizations having the status of a public institution,

It is an indispensable condition that the allegation be communicated to the defendant openly and in writing, and that he be requested to submit a written defense and accorded a definite period of time prepare and present such defense.

No disciplinary action can be taken unless the above procedures are observed.

Disciplinary action shall not be left outside the control of jurisdictional authorities.

The provisions applicable to military personnel are reserved.

c) Provisions prohibiting civil servants from joining political parties trade unions :

ARTICLE 119 — Civil servants and staff members employed in an administrative or supervisory capacity in public economic enterprises, and those who are employed in the central offices of public welfare institutions, whose private facilities and sources of income are provided by law, may not join political parties or trade unions. Civil servants and those employed in public economic enterprises may, in the performance of their official duties, make no discrimination whatsoever among citizens on account their political views.

Those whose violation the above principles is established by court judgment shall be permanently dismissed from public service.

The provisions binding the organisations having the aim of safeguarding and promoting the professional interests of employees not qualified as workers shall be regulated by law.

IV. Autonomy of Universities, impartiality radio and television and news agencies :

a) Universities :

ARTICLE 120 — Universities shall be established only by the State and in virtue of a law. The Universities are public

corporate bodies enjoying autonomy. The autonomy of the universities is exercised within the provisions designated in this article, and the said autonomy shall not prevent legal proceedings against offenses and offenders within the university buildings and its annexes.

Universities shall be governed, under the supervision and control of the State, by the organs chosen by themselves. Provisions concerning the State universities founded in pursuance of a special law are reserved.

The organs, members of the teaching staff and their assistants may not, for any reason whatsoever, be removed from their office by authorities other than those of the universities. The provisions of the last paragraph are reserved.

Members of the teaching staff of the universities and their assistants may freely engage in research and publication activities.

The establishment and functioning of the universities, their organs and the election held to form such organs, the functions and powers thereof, the manner in which the State shall exercise its right of supervision and control over the universities, the responsibilities of the organs of the university, the measures to prevent all acts directed toward impeding learning and teaching, the assignment, when need be, of the members of the teaching staff and their assistants attached to one university to duties in other universities, and the rules for the execution of learning and instruction in freedom and under guarantee and in conformity with the exigencies of modern science and technology, and principles of the development plan are regulated by law.

The budgets of universities are enforced and controlled in conformity with the principles applied for general and supplementary budgets.

The Council of Ministers shall take charge of the management of the universities, or of the faculties, organisations and establishments attached to such universities, in case the freedom of learning and teaching in these universities and their faculties, organisations and establishments is endangered, and should such danger is not averted by the university organs. The Council of Ministers shall submit each decision without delay to the approval of the joint session of the Turkish Grand National Assembly. Cases necessitating such undertaking, procedures of publication and implementation regarding decisions of seizure, its duration, and the nature and extent of the powers of the Council of Ministers during its application are regulated by law.

b) Broadcasting and television administration and news agencies :

ARTICLE 121 — The broadcasting and television stations are instituted only by the State, and their administration in the form of public corporate bodies is regulated by law. The law cannot impose any provisions violating the principle of impartiality in the administration, control and establishment of its administrative organs.

All radio and television broadcasts shall be made with due regard to the principles of impartiality.

Conformity to the requisites of the integrity of the State with its territory and people, to the national, democratic, secular and social Republic based on human rights, and to the national security and public morale in the selection of news and programs, in their elaboration and presentation and in the performance of their functions to assist culture and education, as well as in the principles of ensuring the authenticity of news and in the

selection of the organs, their powers, and their duties and their responsibilities shall be regulated by law.

Impartiality is the rule for news agencies established or subsidized by State.

V. Professional Organisations bearing the character of public institutions :

ARTICLE 122 — Professional organisations bearing the character of public institutions shall be formed in virtue of a law.

The administration may not remove permanently or temporarily without a court judgment the elected organs from office.

The by-laws of professional organisations, their administration and activities shall not conflict with democratic principles.

VI. Emergency administration :

a) Cases of emergency :

ARTICLE 123 — Procedures governing the imposition of financial or corporal obligations or obligations in nature on citizens in cases of emergency, shall be regulated by law, including the proclamation, enforcement, and termination of such obligation.

b) Martial law and state of war :

ARTICLE 124 — In the event of war, or of a situation likely to lead to war, or in case of a revolt or of a forceful and open uprising against the motherland and the Republic endangering the indivisibility of the land and the nation from within or without, or the emergence of definite indications of widespread acts of violence directed towards suppressing the free democratic order or the basic rights and freedoms recognized by the Constitution, the Council of Ministers may declare martial law in one or more regions or the whole of the country

for a duration not exceeding two months, and shall submit such decision immediately to the approval of the Turkish Grand National Assembly. The Assembly, when it deems necessary, can reduce the duration of the martial law, or lift it entirely.

The extension of martial law, not exceeding two months each, time, is subject to the decision of the Turkish Grand National Assembly. Such decisions shall be taken at the joint session of both legislative bodies.

In the event of martial law, or war in general, specific provisions to be enforced, the manner in which government operations shall be conducted and the manner in which freedoms shall be curtailed or suspended, or the obligations that may be imposed on citizens in the case of outbreak of war, or a situation likely to lead to war, shall be regulated by law.

II. Illegal orders :

ARTICLE 125 — Persons employed in public services in any capacity or manner whatsoever shall not carry out an order of a superior if the person receiving the order considers it contrary to the provisions of by-laws, regulations, laws or the Constitution, and shall inform the person issuing the order of this contradiction. However, should the superior insist on the performance of this order and reiterate it in writing, such order shall be carried out. In this case the person carrying out the order shall not be held liable.

An order, which by its very nature, constitutes an offense shall not be enforced in any manner whatsoever; any person carrying out such an order shall not be absolved from responsibility.

The performance of military duties, and the exceptions provided by law for the preservation of public order and security in cases of emergency are reserved.

D) ECONOMIC AND FISCAL PROVISIONS

I. The Budget :

ARTICLE 126 — The expenditures of the State and of public corporate bodies other than public economic enterprises, shall be effected in accordance with the provisions of the annual budgets.

The law may prescribe special periods and procedures in connection with investments related to development plans, or for work and services likely to last more than one year.

The manner in which the general and annexed budgets are to be drawn up and applied shall be defined by law.

No provisions other those pertaining to the budget shall be incorporated in the budget law.

II. Court of Accounts; auditing of the assets of the armed forces and the accounts of public economic enterprises :

ARTICLE 127 — The Court of Accounts is in charge of auditing on behalf of the Turkish Grand National Assembly all accounts of revenue and expenditure and property of Government departments financed from general and annexed budgets, and is in charge of reaching a definite decision concerning the accounts and operations of those responsible; and in general is in charge of examining, auditing and deciding matters prescribed by law.

The organisation of the Court of Accounts, its functioning, auditing procedures, the qualifications of its staff members, their appointments, their duties and powers, their rights and obligations and other matters concerning their careers as well as the guarantees of its Chairman and members shall be regulated by law.

The procedures for auditing, on behalf of the Turkish Grand National Assembly, the State properties in the possession

of the armed forces, with due regard to principles of secrecy demanded by the national defence services, shall be regulated by law.

The auditing of the accounts of public economic enterprises by the Turkish Grand National Assembly shall be regulated by law.

III. Final auditing :

ARTICLE 128 — The drafts of final audit reports shall be submitted to the Turkish Grand National Assembly not later than one year starting from the end of the relevant fiscal year, provided that no shorter term is specified by law. The Court of Accounts shall submit its general audits to the Turkish Grand National Assembly within six months at the latest, beginning from the submittal of the final audit report.

IV. Development :

a) Development projects and the State Planning Organization :

ARTICLE 129 — Economic, social and cultural development is based on a plan. Development is carried out according to this plan.

The organization and functions of the State Planning Organization, the principles to be observed in the preparation and execution, and application and revision of the plan, and the measures designed to prevent changes tending to impair the unity of the plan, shall be regulated by a special law.

b) The exploration and exploitation of natural resources :

ARTICLE 130 — Natural wealth and resources shall be under the jurisdiction and at the disposal of the State. The right to explore and exploit these resources belongs to the State. Carrying out exploration and exploitation activities by the

State in conjunction with private enterprise, or directly by private enterprise is dependent on the explicit authorization of the law.

c) The protection of the forests and the population living therein, the development of forests :

ARTICLE 131 — The State shall enact requisite laws and shall adopt the necessary measures for the conservation and expansion of forested areas. All forests shall be under State supervision.

State forests shall be administered and exploited by the State according to law. The ownership, administration and exploitation of State forests may not be turned over to private persons. Such forests may not be acquired through prescription and may not be made subject to administrative servitude, unless in public interest.

No activity likely to harm forests shall be allowed.

Measures deemed necessary to improve the living conditions of the population inhabiting the forests or their immediate vicinity, as well as the measures required to insure the cooperation of this population with the State for the conservation and development of the forests and, if need be, the resettlement of this population in another area shall be regulated by law.

No restriction can be made in the limit of forests outside those lands such as fields, vineyards, orchards, olive-groves whose complete loss of their character as a forest has been scientifically and technically established before the date of the enforcement of the Constitution and whose use present advantage in different fields of agriculture or in stock breeding as well as urban, municipal or communal centers. Forested areas destroyed by fire shall be reforested, and no farming or stock breeding shall be allowed in such areas.

No political propaganda likely to lead to the destruction of forests shall be permitted.

CHAPTER THREE

Jurisdictional Power

A) GENERAL PROVISIONS

I. Independence of courts :

ARTICLE 132 — Judges shall be independent in the discharge of their duties. They shall pass judgment in accordance with the Constitution, law, justice and their personal convictions.

No organ, office, agency or individual may give orders of instructions to courts or judges in connection with the discharge of their duty, send them circulars, or make recommendations or suggestions.

No questions may be raised, debates held, or statements issued in legislative bodies in connection with the discharge of judicial power concerning a case on trial. Legislative and executive organs, and the Administration are under obligation to comply with the court rulings and not delay their execution.

II. Guarantees for judges :

ARTICLE 133 — Judges may not be dismissed. Unless they so desire, they may not be retired before the age limit provided in the Constitution; they may not be deprived of their salaries even for reason of the abolishment of a court or of a post therein.

The exceptions prescribed by law concerning those convicted for an offence entailing dismissal from office, those whose incapacity to discharge duty for reasons of ill-health is definitely established, and those pronounced unsuitable to remain in the profession, are reserved.

III. Provisions concerning judges :

ARTICLE 134 — The qualifications of judges, their appointment, rights and duties, salaries and allowances, their promotion, the temporary or permanent change of their functions or places of service, the initiations of disciplinary proceedings, and the subsequent disciplinary actions taken against them, for offenses arising from the discharge of their functions; decisions to question and try them for offenses connected with the discharge of their functions, conviction, for crimes necessitating dismissal from the profession on instances of incompetence and other matters concerning their career are regulated by law in accordance with the principle of independence of the courts.

Judges shall remain in office until they complete their sixty - fifth year. The age limit, the promotion and the retirement from service of the military judges is prescribed by law.

Judges may undertake no private or public duties other than those prescribed by law.

IV. Open court proceedings and verdict justification :

ARTICLE 135 — Court proceedings shall be open to all. The conduct of all or of a part of the proceedings in secret may be decided only in cases definitely required by public morality or public security.

Special provision shall be made for the trial of minors.

All court verdicts shall be put down in writing and shall be accompanied by the justification of the verdict.

V. Organisation of courts :

ARTICLE 136 — The organisation of courts, their functions and jurisdiction, operations and trial procedures shall be regulated by law.

State Security Courts shall be established in order to deal with offences directed against the State's territorial and nati-

onal integrity, the free democratic system and the Republic, including offences the nature of which is defined in the Constitution, and offences which directly involve the security of the State. However, the provisions concerning time of war and martial law are reserved.

The State Security Court shall consist of a chairman, four regular and two substitute members, one public prosecutor and a sufficient number of deputy public prosecutors. The chairman, two regular and one substitute members and the public prosecutor shall be appointed from among first class judges and public prosecutors, the other two regular and one substitute members from among first class military judges and the deputy public prosecutor shall be appointed from among the State public prosecutors and military judges.

In the appointment of the chairman, of the regular and substitute members, of the public prosecutor, and of the deputy public prosecutors for the State Security Court, the Cabinet of Ministers shall nominate double the number of candidates for vacant seats. From among these candidates, the appointment of the judges shall be made by the High Council of judges, the appointment of the public prosecutors and deputy public prosecutors by the High Council of Public Prosecutors, and the appointment of the regular and substitute members and deputy public prosecutors from among military judges shall be made in accordance with the procedures stipulated by their special laws.

The chairman, regular and substitute members, public prosecutor and deputy public prosecutor are appointed for a three-year term to the State Security Courts and they are eligible for re-appointment at the end of the term mentioned above.

A section or sections to be formed within the Court of Cassation shall deal with the finalization of the judgments of the State Security Courts and its General Assembly is the Ge-

neral Assembly of the Penal Departments of the Court of Cassation.

The formation and function, as well as the responsibilities and authorities of the State Security Courts and other provisions concerning their procedures of giving judgment shall be defined by the law concerned.

VI. Public prosecutor :

ARTICLE 137 — Public prosecutors are attached to the Ministry of Justice in so far as their administrative functions are concerned.

With the exception of their election as members of the Court of Cassation, the power to decide on all questions concerning the career of public prosecutors, on disciplinary actions to be taken against them, or their discharge from the profession, shall be vested in the High Council of Prosecutors. The decisions of this council are final and no appeal can be made against them before any other authority. However, the Minister of Justice and the Public Prosecutor against whom action is taken may request the revision of such decisions concerning disciplinary measures or discharge from the profession.

The High Council of Prosecutors is under the chairmanship of the Minister of Justice and is also composed of the Chief Prosecutor of the Republic, three regular and two substitute members chosen by the General Assembly of Penal Departments of the Court of Cassation, and the Under - Secretary of State and the Director - General of the Personnel Department of the Ministry of Justice. In the absence of the Minister of Justice, the Chief Prosecutor of the Republic acts as Chairman of the Council.

In cases where delay is deemed undesirable, the Ministry of Justice shall commission temporary powers for the Public Prosecutors and shall submit each decision for the approval of

the Council at its first meeting. The authority to appoint Public Prosecutors, subject to their consent, to temporary or permanent duties in the central administration of the Ministry of Justice rests with the Minister.

The inspection of Public Prosecutors and inquiries concerning them are made by inspectors of the Ministry of Justice, or by senior grade Public Prosecutors.

The establishment of the High Council of Prosecutors, its working procedures, its quorum for meetings and decisions, the election procedures and terms of office of the regular and substitute members to be chosen by the General Assembly of the Penal Departments of the Court of Cassation shall be regulated by law.

The Chief Prosecutor of the Republic is subject to the same rules as the judges of the high court.

VII. Military justice :

ARTICLE 138 — Military justice is exercised by military and disciplinary courts. These courts are entitled to try military personnel for military offences, for offences committed by these against military personnel or in military areas, or offences connected with military service and duties.

Military courts are empowered to try cases concerning military offenses as prescribed by a special law committed by non-military persons, and those offenses committed against the military during the performance of their duties as specified by law, or in military areas designated by law.

The specific offenses and persons over which military courts shall have jurisdiction in time of war, or during a period of martial law, are prescribed by law.

It is imperative that the majority of members of military courts should possess the qualification of a judge. However, in time of war, this stipulation is not binding.

The organisation of military judicial organs, their function, matters concerning the career of military judges, relations between military judges acting as military prosecutors and the commanders under whom they serve, the independence of the courts and judicial tenure shall be regulated by law in accordance with requirements of military service.

B) HIGHER COURTS

I. The Court of Cassation :

ARTICLE 139 — The Court of Cassation is the highest court for the review of decisions and verdicts rendered by the courts of law. It has original and final jurisdiction in cases specifically defined by law.

The members of the Court of Cassation are chosen by secret ballot and by the absolute majority of the High Council of Judges from among the first class judges and prosecutors of the Republic, or of those considered to be of the same standing.

The Court of Cassation shall choose its Chairman and the Chief Prosecutor of the Republic from among its members by secret ballot and by absolute majority.

The term of office of the Chairman and Vice-Chairmen of the Court of Cassation, and that of the Chief Prosecutor of the Republic shall be four years. However, they may be re-elected after the said term expires.

The organisation, functions and the qualifications of the Chairman, members and other personnel and procedures for the election of Vice Chairmen of the Court of Cassation shall be regulated by law.

II. The Council of State :

ARTICLE 140 — The Council of State is an administrative court in the first instance for matters not referred by law to

other administrative courts, and an administrative court of the last instance in general.

The Council of State shall hear and settle administrative disputes and suits, shall express opinions on draft laws submitted by the Council of Ministers, shall examine draft regulations, specifications and contracts of concessions, and shall discharge such other duties as prescribed by law.

The members of the Council of State shall be elected by a two thirds majority vote of the Constitutional Court composed of its permanent and reserve members, and by secret ballot from among the two lists of nominees corresponding to the number of vacancies, submitted separately by the Council of Ministers and the General Assembly of the Council of State. If such majority is not obtained in two ballots, an absolute majority shall suffice.

The Council of State shall elect its Chairman and its Chief Attorney from among its own members by secret ballot and a two thirds majority. The term of office of the Chairman, the Chief Attorney and Heads of Departments is four years. However, they shall be eligible for re-election.

The organisation, functions, judicial procedure and methods applicable to the election of Heads of Departments of the Council of State, the qualifications and appointment, rights and duties, salaries and allowances, and promotion of its members, the initiation of disciplinary measures and the execution of disciplinary penalties against such members, shall be prescribed by law in accordance with the principles of independence of the courts and tenure of judges.

Juridical control of administrative acts and deeds concerning military personnel shall be held by the Military Administrative court. The organisation, judicial procedure, the qualifications and appointment of the Chairman and members of the

Military Administrative Court, and the career and disciplinary affairs of members, shall be prescribed by law in accordance with the principles of tenure of judges and the requirements of military service.

III. The Military Court of Cassation :

ARTICLE 141 — The Military Court of Cassation is a court of the last instance for the review of decisions and verdicts rendered by military courts. It shall also try specific cases as a court of the first and last instances involving military personnel as prescribed by law.

The members of the Military Court of Cassation are chosen by the President of the Republic from among senior grade military judges, holding at least the rank of Colonel, from a list of candidates proposed by an absolute majority of the General Assembly of the Military Court of Cassation, and comprising three times the number of nominees as there are vacancies.

The Chairman, Chief Prosecutor, Vice - Chairmen and Heads of Departments of the Military Court of Cassation are appointed from among its members with due regard to their rank and seniority in service.

The organisation, functions and the judicial procedure of the Military Court of Cassation and disciplinary measures concerning its members, the careers of its members shall be prescribed by law according to the principles of independence of the courts and tenure of judges.

IV. Court of Jurisdictional Disputes :

ARTICLE 142 — The Court of Jurisdictional Disputes is empowered to settle definitively disputes among civil administrative and military courts arising from disagreements on jurisdictional matters and verdicts.

The organisation and functioning of the Court of Jurisdictional Disputes shall be regulated by law. This court shall be presided over by a member delegated by the Constitutional Court from among its regular or alternate members.

C) THE HIGH COUNCIL OF JUDGES

I. Organisation :

ARTICLE 143 — The High Council of Judges shall consist of eleven regular and three reserve members. Members shall be chosen by absolute majority of the General Assembly of the Court of Cassation and by secret ballot from among its own members.

The High Council of Judges shall elect its Chairman and Heads of Divisions from among its own members by a vote of absolute majority of its plenary session.

The term of office of members of the High Council of Judges is four years. However, they are eligible for re-election at the end of their term of office.

The members of the High Council of Judges may not undertake any other duties or functions during their term of office.

The organisation, methods of procedure of the High Council of Judges, its divisions, functions and the quorums for meetings and decisions, salaries and allowances of the Chairman and members thereof shall be regulated by law.

The Minister of justice may preside, when he deems it necessary, over meetings of the High Council of Judges.

II. Functions and powers :

ARTICLE 144 — The High Council of Judges shall pass final judgement in all matters pertaining to the careers of judges

of judicial courts. These decisions are final and cannot be put before any other authority. However, in cases involving disciplinary action and discharge from the profession, the Minister of Justice or the judge against whom the decision is made may ask for a review of the said decision.

The decision to dismiss a judge for any reason whatsoever is taken by absolute majority of the General Assembly of the High Council of judges.

The Minister of Justice, should he deem it necessary, may ask the High Council of Judges to initiate disciplinary action against a judge.

The abolition of a court or the post of a judge, or the alteration of the area of jurisdiction of a court is dependent upon the approval of the High Council of judges.

The supervision of judges and inquiries into their conduct are made by inspector-judges attached to the High Council of Judges, and permanently employed therein. Inspector-judges are appointed by the High Council of Judges from among judges and prosecutors of the Republic and those considered to be worthy. The qualifications and procedures of appointment of inspector-judges, their rights, duties, salaries and travelling expenses, their promotion and disciplinary inquiries made into their conduct or penalties given to them shall be regulated by law in accordance with the principles of tenure of judges.

D) THE CONSTITUTIONAL COURT

I. Organisation :

a) Selection of members :

ARTICLE 145 — The Constitutional Court consists of fifteen regular and five reserve members. Four regular members are elected by the General Assembly of the Court of Cassation,

three by the General Assembly of the Council of State from among its Chairmen, members, the Chief Prosecutor of the Republic and the Chief Attorney by the absolute majority of their plenary session and by secret ballot; one member is elected by the Court of Accounts from among its Chairmen and members according the above procedure. Three members are elected by the National Assembly, two by the Senate of the Republic and two by the President of the Republic. One of the two members designated by the President of the Republic is selected from among three candidates nominated by the General Assembly of the Military Court of Cassation by absolute majority of its plenary session and by secret ballot. The Legislative Assemblies make these selections by absolute majority and by secret ballot, from among individuals outside the Grand National Assembly. Principles and procedures concerning application for candidacy and the elections to be made by the Legislative Assemblies shall be regulated by law.

The Constitutional Court elects a Chairman and a Vice-Chairman from among its own members by absolute majority and by secret ballot for a term of four years; re-election is permissible.

A regular or reserve member of the Constitutional Court shall have completed his fortieth year and shall have served as Chairman, member, Chief Prosecutor or Chief Attorney in the Court of Cassation or the Council of State, or the Military Court of Cassation, or the Court of Accounts; or he shall have served on the teaching staffs of the Schools of Law, Economics, or Political Sciences of the universities for at least five years; or he shall have practiced law as a barrister for fifteen years.

The Court of Cassation shall elect two, and the Council of State, and each of the legislative bodies, one reserve member respectively to the Constitutional Court. The procedure followed

in the election of the reserve members shall be the same as in the case of the elections of regular members.

The members of the Constitutional Court shall undertake no public or private duties.

b) Termination of membership :

ARTICLE 146 — The members of the Constitutional Court shall be retired at the age of sixty five.

Membership in the Constitutional Court shall terminate by itself in the case of a member being convicted of a crime entailing dismissal from judgeship; in case it is definitely established that a member is incapable of discharging his duties for reasons of health, membership shall be terminated by the absolute majority vote of the plenary session of the Constitutional Court.

II. Functions and powers :

ARTICLE 147 — The Constitutional Court shall review the constitutionality of laws, the internal regulations of the Turkish Grand National Assembly, and the conformity of the Constitutional amendments within the set conditions prescribed by the Constitution.

The Constitutional Court shall bring to trial as a High Court of Justice, the President of the Republic, the members of the Council of Ministers, the Chairman and members of the Court of Cassation, the High Council of Judges and the Court of Accounts, the Chief Prosecutor of the Republic, the Chief Attorney, the Chief Prosecutor of the Military Court of Cassation, as well as its own members for offenses connected with their duties; and it discharges such other duties as prescribed by the Constitution.

In case the Constitutional Court sits as a High Court of Justice, the duty of public prosecutor shall be discharged by the Chief Prosecutor of the Republic.

III. Procedures governing trials and functions :

ARTICLE 148 — The organization and trial procedures of the Constitutional Court shall be determined by law; its method of operation and the division of labor among its members shall be determined by its own self-drafted by-laws.

«The Constitutional Court shall perform its task on the basis of written records, except in cases in which it acts as a High Court of justice and in cases connected with the dissolution of political parties. However, when it deems necessary, it may call the interested parties to present oral explanations.»

IV. Annulment suits :

a) Right of Litigation :

ARTICLE 149 — The President of the Republic, political party groups in the legislative assemblies, political parties represented in the Turkish Grand National Assembly, political parties which have obtained at least ten per cent of the total valid votes cast in the previous elections, or one sixth of all the members of one legislative body, and, in cases concerning their existence and functions, high Council of Judges, the Court of Cassation, the Council of State, the Military Court of Cassation and the universities, may initiate annulment suits in the Constitutional Court based on the unconstitutionality of laws, or the internal Regulations of the Turkish Grand National Assembly, or specific articles or provisions thereof.

b) The term of litigation :

ARTICLE 150 — The right to introduce an annulment action directly to the Constitutional Court is consummated after ninety days beginning with the promulgation of the contested law or internal Regulations in the Official Gazette.

c) Contention of unconstitutionality by other courts :

ARTICLE 151 — A court which considers unconstitutional the provisions of the relevant law or is convinced of the seriousness of a claim of unconstitutionality put forward by one of the parties, shall postpone a case under consideration until the Constitutional Court decides on the matter.

If the court is not convinced of the seriousness of the claim of unconstitutionality, such claim shall be decided upon by the upper court of appeal along with main contention.

The Constitutional Court shall decide on the matter and pronounce judgment within six months of receipt of the contention.

If no decision is reached within this period, the court shall settle the claim of unconstitutionality according to its own conviction, and shall thus decide on the case under consideration. However, if the decision of the Constitutional Court should arrive before the judgment concerning the main case is finalized, the courts shall comply therewith.

ARTICLE 152 — Rulings of the Constitutional Court are final. They cannot be made public before statement of reasons for the ruling is written out.

Laws and regulations or their provisions which have been invalidated by the Constitutional Court for being contrary to the Constitution shall become void as of the date of publication of the decision, together with the motivations for it, in the Official Gazette. The Constitutional Court may, in certain cases, set the date for the annulment decision to go into effect. Such dates may not exceed one year from the date of its publication in the Official Gazette.

The annulment decision cannot be retroactive.

The Constitutional Court may also rule that decisions, based on claims of unconstitutionality by other courts, are

restricted in scope with the case in question and binding only the parties involved.

Decisions of the Constitutional Court shall be published immediately in the Official Gazette, and shall be binding on the legislative, executive and judicial organs of the State, as well as on the administration and real corporate bodies.

PART FOUR

Miscellaneous Provisions

ARTICLE 153 — No provision of this Constitution shall be construed or interpreted as rendering unconstitutional the following Reform Laws which aim at raising the Turkish society to the level of contemporary civilization and at safeguarding the secular character of the Republic, which were in effect on the date this Constitution was adopted by popular vote :

1. The Law on the unification of education, of March 3, 1340 (1924), No. 430.
2. The Hat Law, of November 25, 1341 (1925), No. 671.
3. The Law on the closing down of dervish convents and mausoleums, and the abolition of the office of keepers of tombs, the Law on the abolition and prohibition of certain titles, of November 30, 1941 (1925).
4. The conduct of the act of marriage according to article 110 of the Civil Code of February 17, 1926, No. 743.
5. The Law concerning the adoption of international numerals of May 20, 1928. No. 1288.
6. The Law concerning the adoption and application of the Turkish alphabet, of November 1, 1928, No. 1353.
7. The Law on the abolition of titles and appellations such as efendi, bey, paşa, of November 26, 1934, No. 2590.

8. The Law concerning the prohibition to wear certain garments, of December 3, 1934, No. 2596.

II. The Department of Religious Affairs :

ARTICLE 154 — The Department of Religious Affairs, which is incorporated in the general administration, discharges the function prescribed by a special law.

PART FIVE

Temporary Provisions

I. The election and convention of the Turkish Grand National Assembly :

a) The joint election of the National Assembly and the Senate of the Republic; the first session :

TEMPORARY ARTICLE 1 — The elections for the National Assembly and the Senate of the Republic, established according to this Constitution, shall be held on the same day.

On the fifth day following the publication of the election results by the High Electoral Board both legislative bodies shall convene without summons in joint session on the premises of the Turkish Grand National Assembly in Ankara at 15:00 hours. The eldest deputy shall preside over this meeting where the members of the Senate of the Republic shall first take the oath followed by the deputies.

b) The establishment of the Senate of the Republic :

TEMPORARY ARTICLE 2 — The first elections for the Senate of the Republic to be established according to this Constitution, shall be held for all the members to be elected by general ballot.

The Senate of the Republic shall acquire legal status before the election of the fifteen members to be nominated by the President of the Republic. The President shall nominate these members within one month beginning from the date of his own election.

c) Provisional Regulations :

TEMPORARY ARTICLE 3 — The provisions of the Regulations of the Turkish Grand National Assembly which were in effect prior to October 27, 1957, shall be enforceable with respect to the sessions and activities of the Turkish Grand National Assembly, National Assembly and the Senate of the Republic until the time these Assemblies enact their own Regulations.

II. The termination of the legal status of the Constituent Assembly, the National Unity Committee and the Assembly of Representatives; reform measures :

TEMPORARY ARTICLE 4 — With the convention of the Turkish Grand National Assembly established pursuant to this Constitution, the Constituent Assembly, the Committee of National Unity and the Assembly of Representatives established according to Constitutional Act No. 491 of April 20, 1940 (1924) and Law No. 1 of June 12, 1960, and Law No. 157 of December 13, 1960 shall lose their legal status and dissolve by themselves.

No penal, financial or legal responsibility claim may be set forth before any jurisdictional authority with respect to the decisions and acts of the Committee of National Unity and the revolutionary government which have exercised legislative and executive powers on behalf of the Turkish nation from May 27, 1960, until the day of convention of the Constituent Assembly on January 6, 1961, nor against the administration, or authorized organs, which took decisions, acted upon and enforced them accordingly.

The laws enacted between May 27, 1960, and January 6, 1961, with the purpose of establishing a normal democratic regime with all its safeguards, shall be amended or abolished only according to the rules applicable to the amendment and abolition of all other laws of the Turkish Republic. However, no claim for annulment may be set forth before the Constitutional Court regarding these laws on grounds of unconstitutionality, neither may the assertion of unconstitutionality be raised as a legal objection before courts.

In the event of amendment or abolition of the laws enacted or actions undertaken between May 27, 1960, and January 6, 1961, the provisions of paragraph 2 are reserved.

III. The election of the President of the Republic :

TEMPORARY ARTICLE 5 — The President of the Republic shall be elected the day following the oath taking by the members of the Turkish Grand National Assembly.

With the election of the President of the Republic the prerogatives of the Head of the State, established by Law No. 1 of June 12, 1960, shall terminate by themselves.

IV. The establishment of the Council of Ministers :

TEMPORARY ARTICLE 6 — With the establishment of the new Council of Ministers according to article 102 of this Constitution, the duties of the incumbent Council of Ministers established pursuant to Law No. 1 of June 12, 1960, shall terminate automatically.

V. The organs, institutions and councils prescribed by the Constitution :

a) The establishment of new organs, institutions and councils :

TEMPORARY ARTICLE 7 — The laws concerning the establishment and activities of the new organs, institutions and councils prescribed by this Constitution shall be enacted within six months at the latest, beginning from the first ses-

sion of the Turkish Grand National Assembly, the other laws stipulated by this Constitution shall be enacted within a period not exceeding two years.

b) The status of former organs, institutions and councils :

TEMPORARY ARTICLE 8 — The relevant provisions of existing laws shall remain in force until the organizational laws concerning the establishment and functioning of the organs, institutions and councils to be established according to this Constitution, become enforceable.

c) The ruling on the constitutionality of previous legislation :

TEMPORARY ARTICLE 9 — No claim of unconstitutionality shall be set forth before courts and no judgment shall be passed by courts on grounds of unconstitutionality until notice of the establishment and functioning of the Constitutional Court has been published in the Official Gazette,

Annulment action based on the unconstitutionality of a law, which was valid at the time the Constitutional Court began its activities, may be initiated. In such cases the right to file an annulment action shall terminate six months after the functioning of the Constitutional Court has been announced in the Official Gazette.

VI. Lot drawing at the first Senate of the Republic :

TEMPORARY ARTICLE 10 — The Senate members to be rotated two years after their election shall be selected by lot two months before election time in accordance with paragraph 2 of article 73 concerning the rotation of the Senate members elected by popular vote, and those Senate members appointed by the President of the Republic; for those members whose election term expires after four years, lots are drawn by following the same procedure as above; however, members elected at the end of the second year shall not participate in this lot drawing.

The Chairman of the Senate of the Republic shall not be subject to lot drawing.

The legal provisions concerning the election for the Senate of the Republic shall be enforced during Senate election to be held two and four years after the election of the first Senate of the Republic.

VII. The election rights of the amnestied :

TEMPORARY ARTICLE 11 (*) — Persons convicted by final verdict for non-defamatory offenses and who have been pardoned by amnesty prior to the acceptance of the Constitution by popular vote shall not be deprived of the right to be elected as prescribed by article 68.

TEMPORARY ARTICLE 12 — The elections to be held on 10 October 1971 for the renewal of one third of the members of the Senate of the Republic and for the filling in of vacancies there and in the National Assembly have been deferred until 12 October 1973 in order to hold them at the same time as the general election for members of the National Assembly. Members of the Senate of the Republic whose terms of office expire will continue in office until the elections are held.

Paragraph 5 of Article 73 of the Constitution remains applicable to those members of the Senate appointed by the President of the Republic and whose term of office expires.

TEMPORARY ARTICLE 13 — Within one month of the enactment of the present Constitutional amendments new elections will be held for the replacement of those who have completed their four years in office as Chief President of the Court of Cassation and Prosecutor - General of the Republic by the date at which the amendments go into force.

The law prescribing the organisation and functioning of the Court Cassation, the qualifications of its President, its members and other personnel, and procedures pertaining to

(*) This Temporary Article was abrogated on 16/4/1974 Law No : 1801

the election of its Vice - Presidents shall be issued within six months of the date at which the Constitutional amendments go into force. Within one month of the enactment of the present Constitutional amendments new elections shall be held for the replacement of Vice-Presidents who will have completed their four years in office by the the date at which the said amendments go into force.

TEMPORARY ARTICLE 14 — Within one month following the date at which the present Constitutional amendments go into force new elections shall be held for the replacement of the Chairman and the Chief Attorney of the Council of State who will have completed their four years of office by the date at which the said amendments go into force.

In accordance with the amendments made in Articles 114 and 140 of the Constitution, the Council of State law number 521 shall be modified within six months of the enactment of the present Constitutional amendments. Within one month following the date at which the present Constitutional amendments go into force elections shall be held for the replacement of the Heads of Departments in the Council of State who will have completed four years in office by the date at which the said amendments go into force.

The Chairman, the Chief Attorney and Heads of Departments of the Council of State who have not been re-elected shall become members of the Council of State.

TEMPORARY ARTICLE 15 — Those occupying the posts of Prosecutor and Vice-Prosecutor of the Republic in the Court of Cassation at the time of the enactment of the present Constitutional amendment law shall become members of the Court of Cassation.

The posts they hold will become those of Counsellors of the Court Cassation.

Those affiliated to the office of the Prosecutor-General of the Republic, the General Assembly of the High Council of Judges and its divisions shall continue to hold office until such time as the necessary modifications are made in Law 45 pertaining to the High Council of Judges.

TEMPORARY ARTICLE 16 — The activities of the syndicates of public personnel established by virtue of Law 624 shall cease from the date of entry into force of the amendments to Articles 46 and 49 of the Constitution.

The establishment of public personnel organizations and the change of syndicates into these organisations shall be regulated by law. Such a law shall be promulgated within six months of the date of entry into force of the Constitutional amendments.

TEMPORARY ARTICLE 17 — Conforming with Articles 134, 138, 140 and 141 of the Constitution, laws concerning military jurisdiction shall be amended within six months of the date when the present law goes into force.

Elections and appointments necessitated by new laws to be promulgated in compliance with the above paragraph shall be carried out within one month of the date of entry into force of these laws.

TEMPORARY ARTICLE 18 — The law concerning the organisation and functioning procedures of the High Council of Judges mentioned in Article 137 of the Constitution of the Turkish Republic shall be issued within six months of the date on which this Constitutional amendment goes into force.

Laws 2556 and 45, together with their amendments and supplementary clauses, shall continue to be implemented until such time as the law mentioned in the preceding paragraph goes into force.

TEMPORARY ARTICLE 19 — In accordance with the amendments made in Articles 143 and 144 of the Constitution of the Turkish Republic, Law 45 concerning the High Council of Judges shall be amended within six months after the said amendment goes into force.

The terms of office of the existing members of the High Council of Judges shall continue until such time as the final results are obtained of the elections to be made in conformity with the amended form of Law 45 concerning the High Council of Judges.

TEMPORARY ARTICLE 20 — The modifications which will have to be made in accordance with the amendments made in the Constitution of the Turkish Republic and the provisions supplemented thereby, and other laws which remain outside the scope of temporary Articles 13, 14, 15, 16, 17, 17, and 19, shall be completed within one year after the said Constitutional amendments go into force.

TEMPORARY ARTICLE 21 — Trials and proceedings going on in martial law courts at the time of the abrogation of martial law are carried on and concluded under the jurisdiction of the said courts. Affairs that have not yet been brought before the courts with an indictment or/and actions in which the hearing has been suspended are transferred to the competent authorities, according to their state and nature and in conformity with legal dispositions.

TEMPORARY ARTICLE 22 — Political parties that had a parliamentary group in the Turkish Grand National Assembly as of November 1st 1972 and retained their group until March 30th 1973 and have acquired the capacity of taking part in the general elections for the National Assembly are entitled to State aid as provided by law without having to fulfil the conditions laid down in Article 56 of the Constitution.

PART SIX

Final Provisions

I. The amendment of the Constitution :

ARTICLE 155 — Proposals for the amendment of the Constitution may be submitted in writing by at least one third majority of the plenary session of the Turkish Grand National Assembly, but may not be debated with urgency. An amendment proposal shall be adopted by a two thirds majority vote of the plenary session of each legislative body.

Outside of the requirements of paragraph 1, the debate and adoption of proposals for the amendment of the Constitution are subject to the provisions governing the debate and enactment of laws.

II. Preamble and sub - titles of articles :

ARTICLE 156 — The Preamble which sets the basic views and principles on which this Constitution rests, is an integral part of the text of the Constitution.

The sub-titles of the articles refer only to the subjects of these articles, and their order and relationship. The sub-titles are not a part of the text of the Constitution.

III. Entry into force of the Constitution :

ARTICLE 157 — Upon its approval by popular vote, this Constitution shall become the Constitution of the Turkish Republic, and shall be promulgated forthwith in the Official Gazette together with the results of the referendum.

The provisions of the Constitution concerning the organisation, election and convention of the Turkish Grand National Assembly shall enter into force subsequent to promulgation according to paragraph 1; the other provisions shall take effect after the election of the Turkish Grand National Assembly, in accordance with the principles set forth in the temporary articles.