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

November 7, 1982

## PREAMBLE

Following the operation carried out on 12 September 1980 by the Turkish Armed Forces in response to a call from the Turkish nation, of which they form an inseparable part, at a time when the approach of a separatist, destructive and bloody civil war unprecedented in the Republican era threatened the integrity of the eternal Turkish nation and motherland and the existence of the sacred Turkish state,

This Constitution was prepared by the Consultative Assembly, given final form by the Council of National Security, which are the legitimate representatives of the Turkish nation, and adopted, approved and directly enacted by the Turkish nation,

And is entrusted for safekeeping by the Turkish Nation to the patriotism of its democracy – loving sons and daughters, in order that it may be understood to embody the Ideas, Beliefs and Resolutions set forth below and be interpreted and implemented accordingly, commanding respect for, and absolute loyalty to, its letter and spirit :

The direction of the concept of nationalism as outlined by Atatürk, the founder of the Republic of Turkey, its immortal leader and unrivalled hero; and in line with the reforms and principles introduced by him;

– The determination to safeguard the everlasting existence, prosperity and material and spiritual well-being of the Republic of Turkey, and to ensure that it attains the standards of contemporary civilization, as a full and honorable member of the world family of nations;

– Recognition of the absolute supremacy of the will of the nation, and of the fact that sovereignty is vested fully and unconditionally in the Turkish Nation and that no individual or body empowered to exercise it on behalf of the nation shall deviate from democracy based on freedom, as set forth in the Constitution and the rule of law instituted according to its requirements;

– The understanding that separation of powers does not imply an order of precedence among the organs of state, but reflects a civilized division of labor and mode of co-operation restricted to the exercise of specific state powers, and that supremacy is vested solely in the Constitution and the laws;

– The determination that no protection shall be afforded to thought or opinions contrary to Turkish national interests, the principle of the existence of Turkey as an indivisible entity with its state and territory, Turkish historical and moral values, or the nationalism, principles, reforms and modernism of Atatürk, and that as

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required by the principle of secularism, there shall be no interference whatsoever of sacred religious feelings in state affairs and politics;

— The understanding that it is the birthright of every Turkish citizen to lead an honorable life and develop his material and spiritual resources under the aegis of national culture, civilization and the rule of law, through the exercise of the fundamental rights and freedoms set forth in this Constitution, in conformity with the requirements of equality and social justice;

— The recognition that all Turkish citizens are united in national honor and pride, in national joy and grief, in their rights and duties towards their existence as a nation, in blessings and in burdens, and in every manifestation of national life, and that they have the right to demand a peaceful life based on absolute respect for one another's rights and freedoms, mutual love and fellowship, and the desire for, and belief in, 'Peace at home, peace in the world'.

## PART ONE

### GENERAL PRINCIPLES

*Art. 1.* The Turkish State is a Republic.

*Art. 2.* The Republic of Turkey is a democratic, secular and social State governed by the rule of law; bearing in mind the concepts of public peace, national solidarity and justice; respecting human rights; loyal to the nationalism of Atatürk and based on the fundamental tenets set forth in the Preamble.

*Art. 3.* The Turkish State, with its territory and nation, is an indivisible entity. Its language is Turkish.

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

Its national anthem is the 'Independence March'.

Its capital is Ankara.

*Art. 4.* the provisions of Article 1 of the Constitution establishing the form of the State as a Republic, the provisions in Article 2 on the characteristics of the Republic, and the provision of Article 3 shall not be amended, nor shall their amendment be proposed.

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

*Art. 6.* Sovereignty is vested in the nation without reservation or condition.

The Turkish nation shall exercise its sovereignty through the authorized organs as prescribed by the principles laid down in the Constitution.

The right to exercise sovereignty shall not be delegated to any individual, group or class. No person or agency shall exercise any State authority which does not emanate from the Constitution.

*Art. 7.* Legislative power is vested in the Grand National Assembly of Turkey on behalf of the Turkish Nation. This power cannot be delegated.

*Art. 8.* Executive power and function shall be exercised and carried out by the President of the Republic and the Council of Ministers in conformity with the Constitution and the laws.

*Art. 9.* Judicial power shall be exercised by independent courts on behalf of the Turkish Nation.

*Art. 10.* All individuals are equal without any discrimination before the law, irrespective of language, race, color, sex, political opinion, philosophical belief, religion and sect, or any such considerations.

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

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

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

Laws shall not be in conflict with the Constitution.

## PART TWO

### FUNDAMENTAL RIGHTS AND DUTIES

#### Chapter one. General Provisions

*Art. 12.* Everyone possesses inherent fundamental rights and freedoms which are inviolable and inalienable.

The fundamental rights and freedoms also include the duties and responsibilities of the individual towards society, his family, and other individuals.

*Art. 13.* Fundamental rights and freedoms may be restricted by law, in conformity with the letter and spirit of the Constitution, with the aim of safeguarding the indivisible integrity of the State with its territory and nation, national sovereignty, the Republic, national security, public order, general peace, the public interest, public morals and public health, and also for specific reasons set forth in the relevant articles of the Constitution.

General and specific grounds for restrictions of fundamental rights and freedoms shall not conflict with the requirements of the democratic order of society and shall not be imposed for any purpose other than those for which they are prescribed.

The general grounds for restriction set forth in this article shall apply for all fundamental rights and freedoms.

*Art. 14.* None of the rights and freedoms embodied in the Constitution shall be

exercised with the aim of violating the indivisible integrity of the State with its territory and nation, of endangering the existence of the Turkish State and Republic, of destroying fundamental rights and freedoms, of placing the government of the State under the control of an individual or a group of people, or establishing the hegemony of one social class over others, or creating discrimination on the basis of language, race, religion or sect, or of establishing by any other means a system of government based on these concepts and ideas.

The sanctions to be applied against those who violate these prohibitions, and those who incite and provoke others to the same end shall be determined by law.

No provision of this Constitution shall be interpreted in a manner that would grant the right of destroying the rights and freedoms embodied in the Constitution.

*Art. 15.* In times of war, mobilization, martial law, or state of emergency the exercise of fundamental rights and freedoms can be partially or entirely suspended, or measures may be taken to the extent required by the exigencies of the situation, which derogate the guarantees embodied in the Constitution, provided that obligations under international law are not violated.

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

*Art. 16.* The fundamental rights and freedoms of aliens may be restricted by law in a manner consistent with international law.

## **Chapter Two. The Rights and Duties of the Individual**

*Art. 17.* Everyone has the right to life and the right to protect and develop his material and spiritual entity.

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

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

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

*Art. 18.* No one shall be required to perform forced labor. Unpaid compulsory work is prohibited.

The term forced labor does not include work required of an individual while serving a court sentence or under detention, services required from citizens during a state of emergency, and physical or intellectual work necessitated by the requirements of the country as a civic obligation, provided that the form and conditions of such labor are prescribed by law.

*Art. 19.* Everyone has the right to liberty and security of person.

No one shall be deprived of his liberty except in the following cases where procedure and conditions are prescribed by law: Execution of sentences restricting liberty and the implementation of security measures decided by courts, apprehension or detention of a person as a result of a court order or as a result of an obligation upon him designated by law; execution of an order for the purposes of the educational supervision of a minor or for bringing him before the competent authority; execution of measures taken in conformity with the relevant legal provision for the treatment, education or correction in institutions of a person of unsound mind, an alcoholic or drug addict or vagrant or a person spreading contagious diseases, when such persons constitute a danger to the public; apprehension or detention of a person who enters or attempts to enter illegally into the country or concerning whom a deportation or extradition order has been issued.

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

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

The person arrested or detained shall be brought before a judge within 48 hours and within fifteen days in the case of offences committed collectively, excluding the time taken to send him to the court nearest to the place of seizure. No one can be deprived of his liberty without the decision of a judge after the expiry of the above-specified periods. These periods may be extended during a state of emergency, under martial law or in time of war.

Notification of the situation of the person arrested or detained shall be made to the next of kin, except in cases of definite necessities pertaining to the risks of revealing the scope and subject of the investigation compelling otherwise.

Persons under detention shall have the right to request to be tried within a reasonable time or to be released during investigation or prosecution. Release may be made conditional on the presentation of an appropriate guarantee with a view to securing the presence of the person at the trial proceedings and the execution of the court sentence.

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

Damages suffered by persons subjected to treatment contrary to the above provisions shall be compensated for according to law, by the State.

*Art. 20.* Everyone has the right to demand respect for his private and family life. Privacy of individual and family life cannot be violated. Exceptions necessitated by judiciary investigation and prosecution are reserved.

Unless there exists a decision duly passed by a judge 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, neither the person nor the private papers, nor belongings of an individual shall be searched nor shall they be seized.

*Art. 21.* The domicile of an individual shall not be violated. Unless there exists a decision duly passed by a judge 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, no domicile may be entered or searched, or the property therein seized.

*Art. 22.* Everyone has the right to freedom of communication.

Secrecy of communication is fundamental.

Communication shall not be impeded nor its secrecy be violated, unless there exists a decision duly passed by a judge 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.

Public establishments or institutions where exceptions to the above may be applied will be defined by law.

*Art. 23.* Everyone has the right to freedom of residence and movement.

Freedom of residence may be restricted by law for the purpose of preventing offences, promoting social and economic development, ensuring sound and orderly urban growth, and protecting public property; freedom of movement may be restricted by law for the purpose of investigation and prosecution of an offence, and prevention of offences. A citizen's freedom to leave the country may be restricted on account of the national economic situation, civic obligations, or criminal investigation or prosecution.

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

*Art. 24.* Everyone has the right to freedom of conscience, religious belief and conviction.

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

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

Education and instruction in religion and ethics shall be conducted under State supervision and control. Instruction in religious culture and moral education shall

be compulsory in the curricula of primary and secondary schools. Other religious education and instruction shall be subject to the individual's own desire, and in the case of minors, to the request of their legal representatives.

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

*Art. 25.* Everyone has the right to freedom of thought and opinion.

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

*Art. 26.* Everyone has the right to express and disseminate his thought and opinion by speech, in writing or in pictures or through other media, individually or collectively. This right includes the freedom to receive and impart information and ideas without interference from official authorities. This provision shall not preclude subjecting transmission by radio, television, cinema, and similar means to a system of licencing.

The exercise of these freedoms may be restricted for the purposes of preventing crime, punishing offenders, withholding information duly classified as a State secret protecting the reputation and rights and the private and family life of others, or protecting professional secrets as prescribed by law, or ensuring the proper functioning of the judiciary.

No language prohibited by law shall be used in the expression and dissemination of thought. Any written or printed documents, phonograph records, magnetic or video tapes, and other means of expression used in contravention of this provision shall be seized by a duly issued decision of judge or, in cases where delay is deemed prejudicial, by the competent authority designated by law. The authority issuing the seizure order shall notify the competent judge of its decision within twenty-four hours. The judge shall decide on the matter within three days.

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

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

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

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

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

Publication shall not be made in any language prohibited by law.

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



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

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

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

Periodical and non-periodical publications may be seized by a decision of a judge in cases of ongoing investigation or prosecution of offences prescribed by law; and, in situations where delay could endanger the indivisible integrity of the State with its territory and nation, national security, public order or public morals, and for the prevention of offence, by order of the competent authority designated by law. The authority issuing the seizure order shall notify the competent judge of its decision within twenty-four hours at the latest. The seizure order shall become null and void unless upheld by the competent court within forty-eight hours at the latest.

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

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

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

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

The publication of periodicals, the conditions of publication, the financial resources and rules relevant to the profession of journalism shall be regulated by law. The law shall not impose any political, economic, financial, and technical conditions obstructing or making difficult the free dissemination of news, thought, or beliefs.

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

*Art. 30.* A printing press or its annexes duly established as a publishing house under law shall not be seized, confiscated, or barred from operation on the grounds of being an instrument of crime, except in cases where it is convicted of offences against the indivisible integrity of the State with its territory and nation, against the fundamental principles of the Republic or against the national security.

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

The law shall not impose restrictions preventing the public from receiving information or forming ideas and opinions through these media, or preventing public opinion from being freely formed, on grounds other than the general restrictions set forth in Article 13.

*Art. 32.* The right of rectification and reply shall be accorded only in cases where personal reputation and honor is attacked or in cases of unfounded allegation and shall be regulated by law.

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

*Art. 33.* Everyone has the right to form associations without prior permission.

Submitting the information and documents stipulated by law to the competent authority designated by law shall suffice to enable an association to be formed. If the information and documents submitted are found to contravene the law, the competent authority shall apply to the appropriate court for the suspension of activities or dissolution of the association involved.

No one shall be compelled to become or remain a member of an association. The formalities, conditions, and procedures governing the exercise of freedom of association shall be prescribed by law.

Associations shall not contravene the general grounds of restriction in Article 13, nor shall they pursue political aims, engage in political activities, receive support from or give support to political parties, or take joint action with labor unions, with public professional organizations or with foundations.

Associations deviating from their original aims or conditions of establishment, or failing to fulfil the obligations stipulated by law shall be considered dissolved.

Associations may be dissolved by decision of a judge in cases prescribed by law. They may be suspended from activity by the competent authority designated by law pending a court decision in cases where delay endangers the indivisible integrity of the State with its territory and nation, national security or sovereignty, public order, the protection of the rights and freedoms of others, or the prevention of crime.

Provisions of the first paragraph of this Article shall not prevent imposition of restrictions on the rights of Armed Forces officials and civil servants to form associations, or the prohibition of the exercise of this right.

This article shall apply equally to foundations and other organizations of the same nature.

*Art. 34.* Everyone has the right to hold unarmed and peaceful meetings and demonstration marches without prior permission.

The competent administrative authority may determine a site and route for the demonstration march in order to prevent disruption of order in urban life.

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

The competent authority designated by law may prohibit a particular meeting and demonstration march, or postpone it for not more than two months in situations where there is a strong possibility that disturbances may arise which would seriously upset public order, where the requirement of national security may be violated, or where acts aimed at destroying the fundamental characteristics of the Republic may be committed. In cases where the law forbids all meetings or demonstration marches in districts of a province for the same reasons, the postponement may not exceed three months.

Associations, foundation, labor unions, and public professional organisations shall not hold meetings or demonstration marches exceeding their own scope and aims.

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

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

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

*Art. 36.* Everyone has the right of litigation either as plaintiff or defendant before the courts through lawful means and procedure.

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

*Art. 37.* No one may be tried by an judicial authority other than the legally designated court.

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

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

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

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

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

Criminal responsibility shall be personal.

General confiscation shall not be imposed as penalty.

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

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

*Art. 39.* In libel and defamation suits involving allegations against persons in the public service in connection with their functions or services, the defendant has the

right to prove the allegations. A plea for presenting proof shall not be granted in any other case unless proof would serve the public interest or unless the plaintiff consents.

*Art. 40.* Everyone whose constitutional rights and freedoms are violated has the right to request prompt access to the competent authorities.

Damages incurred by any person through unlawful treatment by holders of public office shall be compensated by the State. The State reserves the right of recourse to the official responsible.

### Chapter Three. Social and Economic Rights and Duties

*Art. 41.* The family is the foundation of Turkish society.

The State shall take the necessary measures and establish the necessary organisation to ensure the peace and welfare of the family, especially the protection of the mother and children, and for family planning education and application.

*Art. 42.* No one shall be deprived of the right of learning and education.

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

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

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

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

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

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

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

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

*Art. 43.* The coasts are under the sovereignty and at the disposal of the State.

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

The width of coasts, and coastal strips to be determined according to the

purpose of utilization, and the conditions and possibilities of such utilization by individuals shall be determined by law.

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

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

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

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

*Art. 46.* The State and public corporations shall be entitled, where the public interest requires it, to expropriate privately owned real estate wholly or in part or impose administrative servitude on it in accordance with the principles and procedures prescribed by law, provided that compensation is paid in advance.

The method and procedure for calculating compensation for expropriation shall be prescribed by law. In determining the compensation, the law shall take into account tax declarations, current value established by official assesment at the time of expropriation, unit prices and construction costs for real estate, and other objective criteria.

The procedure for taxing and difference between the sum due in compensation and the value declared in the tax declaration shall be prescribed by law.

Compensation shall be paid in cash and in advance. However, the procedure to be applied in paying compensation for land expropriated in order to carry out land reform, major energy and irrigation projects, and housing and resettlement schemes and afforestation, and to protect the coasts and to build tourist facilities shall be regulated by law. In the previous cases where the law may allow payment in instalments, the payment period shall not exceed five years; whence payment shall be made in equal instalments, and an interest rate equivalent to the highest interest paid on the public debt shall be paid for the remainder of instalments.

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

*Art. 47.* Private enterprises performing public service may be nationalized when this is required by the exigencies of public interest.

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

*Art. 48.* Everyone has the freedom to work and conclude contracts in the field of his choice. The establishment of private enterprises is free.

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

*Art. 49.* Everyone has the right and duty to work.

The State shall take the necessary measures to raise the standard of living of workers, to protect them in order to improve the general conditions of labor, to promote labor, and to create suitable economic conditions for prevention of unemployment.

The State shall take facilitating and protecting measures in order to secure labor peace in worker – employer relations.

*Art. 50.* No one shall be required to perform work unsuited to his age, sex, and capacity.

Minors, women and persons with physical or mental disabilities, shall enjoy special protection with regard to working conditions.

All workers have the right to rest and leisure.

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

*Art. 51.* Workers and employers have the right to form labor unions and employers' associations and higher organizations, without prior permission, in order to safeguard and develop their economic and social rights and the interests of their members in their labor relations.

In order to form unions and their higher bodies, it shall suffice to submit the information and documents prescribed by law to the competent authority designated by law. If this information and documentation is not in conformity with law, the competent authority shall apply to the appropriate court for the suspension of activities or the dissolution of the union or the higher body.

Everyone shall be free to become a member of or withdraw from membership in a union.

No one shall be compelled to become a member, remain a member, or withdraw from membership of a union.

Workers and employers cannot hold concurrent memberships in more than one labor union or employers' association.

Employment in a given work-place shall not be made conditional on being, or not being a member of a labor union.

To become an executive in a labor union or in higher organizations of them it is a prerequisite condition that the worker should have held the status of a laborer for at least ten years.

The status, the administration, and the functioning of the labor unions and their higher bodies should not be inconsistent with the characteristics of the Republic as defined in the Constitution, or with democratic principles.

*Art. 52.* Labor Unions, in addition to being under the general restrictions set forth in Article 13, also shall not pursue a political cause, engage in political activity

receive support from political parties or give support to them and shall not act jointly for these purposes with associations, public professional organizations, and foundations.

The fact of engaging in labor union activities in a work-place shall not justify failure to perform one's work.

The administrative and financial supervision of labor unions by the State, and their revenues and expenditures, and the method of payment of membership dues to the labor union, shall be regulated by law.

Labor Unions shall not use their revenues beyond the scope of their professional aims, and shall keep all their funds in State banks.

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

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

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

*Art. 54.* Workers have the right to strike if a dispute arises during the collective bargaining process. The procedures and conditions governing the exercise of this right and the employer's recourse to a lockout, the scope of both actions, and the exceptions to which they are subject shall be regulated by law.

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

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

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

In cases where a strike or a lockout is prohibited or postponed, the dispute shall be settled by the Supreme Arbitration Board at the end of the period of postponement. The disputing parties may apply to the Supreme Arbitration Board by mutual agreement at any state of the dispute.

The decisions of the Supreme Arbitration Board shall be final and have the force of a collective bargaining agreement.

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

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

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

*Art. 55.* Wages shall be paid in return for work.

The State shall take the necessary measures to ensure that workers earn a fair

wage suitable for the work they perform and that they enjoy other social benefits.

In determining the minimum wage, the economic and social conditions of the country shall be taken into account.

*Art. 56.* Everyone has the right to live in a healthy, balanced environment.

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

To ensure that everyone lead their lives in conditions of physical and mental health and to secure co-operation in terms of human and material resources through economy and increased productivity, the State shall regulate central planning and functioning of the health services.

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

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

*Art. 57.* The State shall take measures to meet the needs for housing, within the framework of a plan which takes into account the characteristics of cities and environmental conditions and supports community housing projects.

*Art. 58.* The State shall take measures to ensure the training and development of youth into whose keeping our State, independence, and our Republic are entrusted, in the light of contemporary science, in line with the principles and reforms of Atatürk, and in opposition to ideas aiming at the destruction of the indivisible integrity of the State with its territory and nation.

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

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

The State shall protect successful athletes.

*Art. 60.* Everyone has the right to social security.

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

*Art. 61.* The State shall protect the widows and orphans of those killed in war and in the line of duty, together with the disabled and war veterans, and ensure that they enjoy a decent standard of living.

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

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

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

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

*Art. 62.* The State shall take the necessary measures to ensure the family unity, the education of the children, the cultural needs, and the social security of Turkish



nationals working abroad, and shall take the necessary measures to safeguard their ties with the country, and to help them on their return home.

*Art. 63.* The State shall ensure the conservation of the historical, cultural and natural assets and wealth, and shall take supporting and promoting measures towards this end.

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

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

*Art. 65.* The State shall fulfil its duties as laid down in the Constitution in the social and economic fields, within the limits of its financial resources, taking into consideration the maintenance of economic stability.

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

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

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

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

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

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

Elections and referendums shall be held under the direction and supervision of the judiciary, according to the principles of free, equal, secret, direct, universal suffrage, and public counting of the votes.

All Turkish citizens over 21 years of age shall have the right to vote in elections and to take part in a referendum.

The exercise of these rights shall be regulated by law.

Privates and corporals serving in the Armed Services, students in military schools, and detainees and convicts in prisons cannot vote.

*Art. 68.* Citizens have the right to form political parties, and to join and withdraw from them in accordance with the established procedure. To become a member of a party one must be over 21 years of age.

Political parties are indispensable elements of the democratic political system.

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

The statutes and programs of political parties shall not be in conflict with the indivisible integrity of the State with its territory and nation, human rights, national sovereignty, and the principles of the democratic and secular Republic.

Political parties whose aim is to support and to set up the domination of a class or groups, or any kind of dictatorship cannot be formed.

Political parties shall not organize and function abroad, shall not form discriminative auxiliary bodies such as women's or youth branches, nor shall they establish foundations.

Judges and prosecutors, members of higher judicial organs, members of the teaching staff at institutions of higher education, members of the Higher Education Council, civil servants in public organizations and corporations, and other public servants who are not considered to be laborers by virtue of the services they perform, students, and members of the Armed Forces, shall not become members of political parties.

*Art. 69.* Political parties shall not engage in activities outside the lines of their statutes and programs, and shall not contravene the restrictions set forth in Article 14 of the Constitution; those that contravene them shall be dissolved permanently.

Political parties shall not have political ties and engage in political co-operation with associations, unions, foundations, co-operatives, and public professional organizations and their higher bodies in order to implement and strengthen their party policies, nor shall they receive material assistance from these bodies.

The internal functioning and the decisions of political parties shall not be contrary to the principles of democracy.

The auditing of political parties shall be carried out by the Constitutional Court.

The Office of the Chief Public Prosecutor shall examine, with priority, the conformity of the statutes and programs of new parties and of the status of their founders in view of the Constitution and the law; and shall also follow their activities.

The dissolution of political parties shall be decided the Constitutional Court after the filing of a suit by the Office of the Chief Public Prosecutor of the Republic.

The founding members and administrators at every level of a political party which has been permanently dissolved shall not become founding members administrators, or comptrollers of a new political party; nor shall any new political party be founded, the majority of whose members are former members of a political party previously dissolved.

Political parties shall not receive assistance in kind or cash from foreign States, international organizations, associations and groups in foreign countries, nor shall they take orders from these groups in foreign countries, nor shall they take orders from these bodies, or participate in their decisions and activities which are prejudicial to the independence and territorial integrity of Turkey. Political parties contravening the provisions of this paragraph shall also be dissolved permanently.

The formulation and activities, supervision, and dissolution of political parties shall be regulated by law within the above-mentioned provisions.

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

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

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

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

*Art. 73.* Everyone is under the obligation to pay taxes according to his financial resources, in order to meet public expenditures.

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

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

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

*Art. 74.* Citizens have the right to apply in writing to the competent authorities and to the Grand National Assembly of Turkey with regard to requests and complaints concerning themselves or the public.

The result of the application concerning himself shall be made known to the petitioner in writing.

The way of exercising this right shall be determined by law.

### PART THREE

#### FUNDAMENTAL ORGANS OF THE REPUBLIC

##### Chapter one. Legislative Power

##### 1. GRAND NATIONAL ASSEMBLY OF TURKEY

*Art. 75.* The Grand National Assembly of Turkey shall be composed of four hundred deputies elected by universal suffrage by the nation.

*Art. 76.* Every Turk over the age of 30 is eligible to be a deputy.

Persons who have not completed their primary education, who have been deprived of legal capacity, who have failed to perform compulsory military service, who are banned from public service, who have been sentenced to a prison term totalling one year or more excluding involuntary offences, or to a heavy imprisonment; those who have been convicted for dishonorable offences such as embezzlement, corruption, bribery, theft, fraud, forgery, breach of trust, fraudulent bankruptcy; and persons convicted of smuggling, conspiracy in official bidding tender, or purchases, of offences related to the disclosure of State secrets, of involvement in ideological and anarchistic activities, and incitement and encouragement of such activities, shall not be elected deputies, even if they have been pardoned.

Judges and prosecutors, members of the higher judicial organs, members of the

teaching staff at institutions of higher education, members of the Higher Education Council, employees of public institutions and agencies who have the status of civil servants, other public employees not regarded as laborers on account of the duties they perform, and members of the Armed Forces, shall not stand for election or be eligible to be a deputy unless they resign from office.

*Art. 77.* Elections for the Grand National Assembly of Turkey shall be held every five years.

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

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

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

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

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

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

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

The Supreme Election Council shall execute all the functions to ensure the fair and orderly conduct of the elections from the beginning to the end of polling, carry out investigations take final decisions on all irregularities, complaints and objections concerning the elections during and after the polling, and verify the election returns of the members of the Grand National Assembly of Turkey. No appeal shall be made to any authority against the decisions of the Supreme Election Council.

The functions and powers of the Supreme Election Council and other election councils shall be determined by law.

The Supreme Election Council shall be composed of seven regular members and four substitutes. Six of the members shall be elected by the Plenary Assembly of the High Court of Appeals, and five members shall be elected by the Plenary Assembly of the Council of State from amongst its own members, by secret ballot and by an absolute majority of the total number of members. These members shall elect a Chairman and a Vice-Chairman from amongst themselves, by absolute majority and secret ballot.

Amongst the members elected to the Supreme Election Council by the High Court of Appeals and by the Council of State, two members from each group shall

be designated, by lot, as substitute members. The Chairman and Vice-Chairman of the Supreme Election Council shall not take part in this procedure.

The general conduct and supervision of a referendum on legislation amending the Constitution shall be subject to the same provisions as those relating to the election of deputies.

*Art. 80.* Members of the Grand National Assembly of Turkey represent, not merely their own constituencies or constituents, but the Nation as a whole.

## 2. OATH TAKING

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

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

## 3. ACTIVITIES INCOMPATIBLE WITH MEMBERSHIP

*Art. 82.* Members of the Grand National Assembly of Turkey shall not hold office in State departments and other public corporate bodies and their subsidiaries; in corporations and enterprises affiliated with the State and other public corporate bodies; in the executive or supervisory organs of enterprises and corporations where there is direct or indirect participation of the State and public corporate bodies; in the executive and supervisory organs of public benefit associations, whose special resources of revenue and privileges are provided by law; in the executive and supervisory organs of foundations which enjoy tax exemption and receive financial subsidies from the State; and in the executive and supervisory organs of labor unions and public professional organizations, and in the enterprises and corporations in which the above-mentioned unions and associations or their higher bodies have a share; nor can they be appointed as representatives of the above-mentioned bodies or be party to a business contract, directly or indirectly, and be arbitrators or representatives in their business transactions.

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

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

#### 4. PARLIAMENTARY IMMUNITY

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

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

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

Investigation and prosecution of a re-elected deputy shall be subject to the renewed waiver of immunity by the Assembly.

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

#### 5. LOSS OF MEMBERSHIP

*Art. 84.* The loss of membership by deputies shall be decided by an absolute majority of the total number of members in respect of deputies who resign, who are convicted of an offence precluding election to the Grand National Assembly of Turkey, who are deprived of their legal capacity, who resign from their party in order to join another party, or take up a ministerial post in the Council of Ministers other than a provisional ministerial post during the election period, who assume a function incompatible with membership, or who failed to attend without excuse, five meetings in a period of one month.

A deputy who resigns from his party shall not be nominated as a candidate in the following elections by the central organs of any party existing at the time of his resignation.

The membership of a deputy, whose acts and statements are cited in a judgement of the Constitutional Court as having caused the dissolution of a political party and that of other deputies who belonged to the party on the date when the action for dissolution was brought, shall end on the date when the Presidency of the Grand National Assembly of Turkey is notified of the dissolution order.

## 6. APPLICATION FOR ANNULMENT

*Art. 85.* If the Grand National Assembly of Turkey decides to waive the parliamentary immunity of a member or disqualify him from membership, the member concerned or any member of the Grand National Assembly of Turkey, may, within a week of the decision, appeal to the Constitutional Court for the decision to be annulled on the grounds that it is contrary to the Constitution or to the Rules of Procedure of the Assembly. The Constitutional Court shall decide on the appeal within fifteen days.

## 7. SALARIES AND ALLOWANCES

*Art. 86.* The salaries and allowances of the members of the Grand National Assembly of Turkey shall be regulated by law. The monthly amount of the salary shall not exceed the salary of the most senior civil servant; the travel allowance shall not exceed half of that salary.

The salaries and allowances paid to the members of the Grand National Assembly of Turkey shall not necessitate the suspension of payments of pensions and similar benefits by social security agencies.

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

## II. FUNCTIONS AND POWERS OF THE GRAND NATIONAL ASSEMBLY OF TURKEY

*Art. 87.* The functions and powers of the Grand National Assembly of Turkey comprise the enactment, amendment, and repeal of laws; the supervision of the Council of Ministers and the Ministers; authorization of the Council of Ministers to issue governmental decrees having force of law on certain matters; debating and approval of the budget draft and the draft law of the final accounts; making decisions regarding printing of currency and declaration of war; ratifying international agreements, deciding on the proclamation of amnesties and pardons excluding those who have been convicted for activities set out in Article 14 of the Constitution; confirming death sentences passed by the courts; and exercising the powers and executing the functions envisaged in the other articles of the Constitution.

*Art. 88.* The Council of Ministers and deputies are empowered to introduce laws.

The procedure and principles relating to the debating of draft bills and proposals of law in the Grand National Assembly of Turkey shall be regulated by the Rules of Procedure.

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

He shall, within the same period, refer to the Grand National Assembly of Turkey for further consideration laws which he deems unsuitable for promulgation, together with a statement of his reasons. Budget laws shall not be subject to this provision.

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

Provisions relating to constitutional amendments are reserved.

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

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

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

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

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

*Art. 91.* The Grand National Assembly of Turkey may empower the Council of Ministers to issue decrees having force of law. However, the fundamental rights, individual rights and duties included in the first and second Chapter of the Second Part of the Constitution and the political rights and duties listed in the Fourth Chapter, cannot be regulated by decrees having force of law except during periods of martial law and states of emergency.

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

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

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

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



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

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

Laws of empowering and decrees having force of law which are based on these, shall be discussed in the committees and in the plenary of the Grand National Assembly of Turkey with priority and urgency.

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

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

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

### III. PROVISIONS RELATING TO THE ACTIVITIES OF THE GRAND NATIONAL ASSEMBLY OF TURKEY

*Art. 93.* The Grand National Assembly of Turkey shall convene of its own accord on the first day of September each year.

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

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

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

*Art. 94.* The Bureau of the Assembly of the Grand National Assembly of Turkey shall be composed of the President, the Deputy Presidents, Secretary Members, and the Administrative Members elected from among the Assembly members.

The Bureau of the Assembly shall be so composed as to ensure proportionate

representation to the number of members of each political party in the Assembly. Political party groups shall not nominate candidates for the Presidency.

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

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

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

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

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

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

All security and administrative services of the Grand National Assembly of Turkey regarding all buildings, installations, annexes and its grounds shall be organized and directed by the office of the President of the Assembly.

Sufficient forces to ensure security and other such services shall be allocated to the Office of the President of the Assembly by the relevant authorities.

*Art. 96.* Unless otherwise stipulated in the Constitution, the Grand National Assembly of Turkey shall convene with at least one third of the total number of members and shall take decisions by an absolute majority of those present; however, the quorum for decisions can under no circumstances, be less than a quarter plus one of the total number of members.

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

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

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

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

#### IV. WAYS OF COLLECTING INFORMATION AND SUPERVISION BY THE NATIONAL ASSEMBLY OF TURKEY

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

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

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

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

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

*Art. 99.* A motion for interpellation may be tabled either on behalf of a political party group, or by the signature of at least twenty deputies.

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

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

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

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

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

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

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

The Assembly shall debate the report with priority and, if found necessary, may decide to bring the person involved before the Supreme Court. The decision to bring a person before the Supreme Court shall be taken only by an absolute majority of the total number of members.

Political party groups in the Assembly shall not hold discussions or take decisions regarding Parliamentary investigation.

## **Chapter two. Executive**

### **I. PRESIDENT OF THE REPUBLIC**

*Art. 101.* The President of the Republic shall be elected for a term of office of seven years by the Grand National Assembly of Turkey from among its own members who are over forty years of age and who have completed their higher education or from among Turkish citizens who fulfil these requirements and are eligible to be deputies.

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

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

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

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

The election of the President of the Republic shall begin thirty days before the term of office of the incumbent President of the Republic expires or ten days after

the Presidency falls vacant, and shall be completed within thirty days of the beginning of the election. Candidates shall be declared to the Bureau of the Assembly within the first ten days of this period, and elections shall be completed within the remaining twenty days.

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

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

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

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

*Art. 104.* The President of the Republic is the Head of the State. In this capacity he shall represent the Republic of Turkey and the unity of the Turkish nation; he shall ensure the implementation of the Constitution, and the regular and harmonious functioning of the organs of State.

To this end, the duties he shall perform, and the powers he shall exercise, in accordance with the conditions stipulated in the relevant articles of the Constitution are as follows:

a) Those relating to legislation:

To deliver, if he deems it necessary, the opening address of the Grand National Assembly of Turkey on the first day of the legislative year,

To summon the Grand National Assembly of Turkey to meet, when necessary,

To promulgate laws,

To return laws to the Grand National Assembly of Turkey to be reconsidered,

To submit to referendum, if he deems it necessary, legislation regarding the amendments of the Constitution,

To appeal to the Constitutional Court for the annulment in part or entirety of certain provision of laws, decrees having force of law, and the Rules of Procedure of the Grand National Assembly of Turkey on the grounds that they are unconstitutional in form or in content.

To call new elections for the Grand National Assembly of Turkey.

b) Those relating to the executive functions:

To appoint the Prime Minister and to accept his resignation,

To appoint and dismiss Ministers on the proposal of the Prime Minister,

To preside over the Council of Ministers or to call the Council of Ministers to meet under his chairmanship whenever he deems it necessary,

To accredit representatives of the Turkish State to foreign States and to receive the representatives of foreign States to the Republic of Turkey,

To ratify and promulgate international treaties,

To represent the office of the Commander-in-Chief of the Turkish Armed Forces on behalf of the Grand National Assembly of Turkey,

To decide to use the Turkish Armed Forces,

To appoint the Chief of the General Staff,

To call the National Security Council to meet,

To preside over the National Security Council,

To proclaim martial law or state of emergency, and to issue decrees having force of law, in accordance with the decisions of the Council of Ministers under his chairmanship.

To sign decrees,

To remit, on grounds of chronic illness, disability, or old age, all or part of the sentences imposed on certain individuals,

To appoint the members and the chairman of the State Supervisory Council,

To instruct the State Supervisory Council to carry out enquiries, investigations and inspections,

To appoint the members of the Higher Education Council,

To appoint rectors of universities

c) Those relating to the judiciary:

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

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

*Art. 105.* All presidential decrees except those which the President of the Republic is empowered to enact by himself without the signatures of the Prime Minister and the minister concerned, in accordance with the provisions of the Constitution and other laws, shall be signed by the Prime Minister, and the Ministers concerned. The Prime Minister and the Ministers concerned shall be accountable for these decrees.

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

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

*Art. 106.* In the event of a temporary absence of the President of the Republic on account of illness, travel abroad or similar circumstances, the President of the Grand National Assembly of Turkey shall serve as Acting President of the Republic until the President of the Republic resumes his functions; and in the event that the Presidency falls vacant as a result of death or resignation or for any other reason, until the election of a new President of the Republic.

*Art. 107.* The establishment, the principles of organization and functioning, and the appointment of personnel of the General Secretariat of the Presidency of the Republic shall be regulated by Presidential decrees.

*Art. 108.* The State Supervisory Council which shall be established attached to the office of the Presidency of the Republic with the purpose of performing and furthering the regular and efficient functioning of the administration and its observance of law, will be empowered to conduct upon the request of the President of the Republic all enquiries, investigations and inspections of all public bodies and organizations, all enterprises in which those public bodies and organizations share more than half of the capital, public professional organizations, employers' associations and labor unions at all levels, and public benefit associations and foundations.

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

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

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

## II. COUNCIL OF MINISTERS

*Art. 109.* The Council of Ministers shall consist of the Prime Minister and the Ministers.

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

The Ministers shall be nominated by the Prime Minister and appointed by the President of the Republic, from among the members of the Grand National Assembly of Turkey, or from among those eligible for election as deputies; and they can be dismissed, by the President of the Republic upon the proposal of the Prime Minister when deemed necessary.

*Art. 110.* The complete list of members of the Council of Ministers shall be submitted to the Grand National Assembly of Turkey. If the Grand National Assembly of Turkey is in recess, it shall be summoned to meet.

The Government Program of the Council of Ministers shall be read by the Prime Minister or by one of the Ministers before the Grand National Assembly of Turkey within a week of the formation of the Council of Ministers, following which a vote of confidence shall be taken. Debate on the vote of confidence shall begin two full days after the reading of the program and the vote shall be taken one full day after the end of debate.

*Art. 111.* If the Prime Minister deems it necessary, and after discussing the matter in the Council of Ministers he may ask for a vote of confidence in the Grand National Assembly of Turkey.

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

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

*Art. 112.* The Prime Minister, as Chairman of the Council of Ministers, shall ensure cooperation among the ministers, and supervise the implementation of the government's general policy. The members of the Council of Ministers are jointly responsible for the implementation of this policy.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

II.<sup>1</sup> NATIONAL DEFENCE

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

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

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

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

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

*Art. 118.* The National Security Council shall be composed of the Prime Minister the Chief of the General Staff, the Minister of National Defence, Internal Affairs, and Foreign Affairs, the Commanders of the Army, Navy and the Air Force and the General Commander of the Gendarmerie, under the chairmanship of the President of the Republic.

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

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

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

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

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

## III. PROCEDURE GOVERNING EMERGENCY RULE

*Art. 119.* In the event of natural disaster, dangerous epidemic diseases or a serious economic crisis, the Council of Ministers, meeting under the chairmanship

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<sup>1</sup>In the original text there are 2 chapter headings numbered II, this one and that preceding Article 109. Ed.

of the President of the Republic, may declare a state of emergency in one or more regions or throughout the country for a period not exceeding six months.

*Art. 120.* In the event of the emergence of serious indications of widespread acts of violence aimed at the destruction of the free democratic order established by the Constitution or of fundamental rights and freedoms, or serious deterioration of public order because of acts of violence, the Council of Ministers, meeting under the chairmanship of the President of the Republic, after consultation with the National Security Council, may declare a state of emergency in one or more regions or throughout the country for a period not exceeding six months.

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

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

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

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

be summoned immediately. The Grand National Assembly of Turkey may, when it deems necessary, reduce or extend the period of martial law or lift it.

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

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

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

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

The Martial Law Commanders shall exercise their duties under the authority of the Office of the Chief of the General Staff.

#### IV. ADMINISTRATION

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

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

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

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

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

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

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

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

If the implementation of an administrative act would result in damages which are difficult or impossible to compensate, and at the same time this act is clearly unlawful, then a stay of execution may be decided upon, stating the reasons therefore.

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

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

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

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

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

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

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

The elections for local administrative bodies shall be held every five years in accordance with the principles set forth in Article 67 of the Constitution. Special administrative arrangements may be introduced for larger urban areas.

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

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

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

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

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

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

*Art. 129.* Public servants and other public employees are obliged to carry out their duties within loyalty to the Constitution and the laws.

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

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

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

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

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

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

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

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

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

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

University rectors shall be appointed by the President of the Republic, and

faculty deans by the Higher Education Council, in accordance with the procedures and provisions of the law.

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

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

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

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

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

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

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

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

*Art. 133.* Radio and television stations shall be established only by the State, and shall be administered by an impartial public corporate body.

The law shall provide that broadcasts are made in a manner to safeguard the existence and independence of the Turkish State, the indivisible integrity of the country and the nation, the peace of society, public morals, and the fundamental characteristics of the Republic as outlined in Article 2 of the Constitution; and, it shall observe the principle of impartiality in the administration and supervision of the Corporation, in the formation of its administrative organs, and in all radio and television broadcasts.

The principles governing the selection, treatment and presentation of news and programs, the fulfilment of the task to aid the national culture and education, and the principles ensuring the accuracy of the news; and the election, functions, and responsibilities of the organs shall be regulated by law.

The provisions of paragraph 2 above shall also apply to those news agencies having the character of state economic enterprises and to those receiving financial aid from the State or other public corporate bodies.

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

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

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

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

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



Public professional organizations shall not engage in activities outside the aims for which they were established, nor shall they engage in political activities or take joint action with political parties, labour unions or associations.

Political parties, labor unions and their higher bodies shall not nominate candidates in elections for the organs of public professional organizations or their higher bodies, nor shall they engage in activities or propaganda for or against particular candidates.

Public professional organizations shall be subject to administrative and financial supervision of the State as prescribed by law.

The responsible organs of public professional organizations which engage in activities beyond their objectives or in political activities, shall be dissolved by a court decision, at the request of the authority designated by law; and new organs shall be elected in their place.

In respect of safeguarding the existence and independence of the Turkish State, the indivisible integrity of the country and nation, the peace of society, and, preventing the activities threatening the fundamental characteristics of the State as defined in the Constitution, the highest local administrator, may, in the event delay is deemed prejudicial, temporarily remove these organs from office.

The decision to remove from office shall be communicated to the court within three days. The court shall decide within ten days at the latest whether the decision of removal from office is justified.

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

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

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

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

## PART THREE

### JUDICIAL POWER

#### I. GENERAL PROVISIONS

*Art. 138.* Judges shall be independent in the discharge of their duties; they shall give judgement in accordance with the Constitution, law, and their personal conviction conforming with the Law.

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

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

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

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

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

*Art. 140.* Judges and public prosecutors shall serve as judges and public prosecutors of courts of justice and of administrative courts. These duties shall be carried out by career judges and public prosecutors.

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

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

Judges and public prosecutors shall exercise their duties until they complete the age of sixty-five; the age limit, promotion and the retirement of military judges shall be prescribed by law.

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

Judges and public prosecutors shall be attached to the Ministry of Justice in so far as their administrative functions are concerned.

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

*Art. 141.* Court hearings shall be open to the public. It may be decided to con-

duct all or part of the hearings in closed session only in cases where required absolutely for reasons of public morality or public security.

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

The decisions of all courts shall be made in writing with a statement of justification.

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

*Art. 142.* The organization, functions and jurisdictions of the courts, their functioning and trial procedures shall be regulated by law.

*Art. 143.* Courts of the Security of the State shall be established to deal with offences against the indivisible integrity of the State with its territory and nation, the free democratic order, or against the Republic whose characteristics are defined in the Constitution, and offences directly involving the internal and external security of the State.

The Court of the Security of the State shall consist of a President, two regular and two substitute members, one public prosecutor and a sufficient number of deputy prosecutors.

The President, one regular and one substitute member and the public prosecutor from among first category judges and public prosecutors; one regular and one substitute member from among first category military judges; and deputy public prosecutors from among public prosecutors of the Republic and military judges shall be appointed in accordance with procedures prescribed by their special laws.

The President, members and substitute members, and public prosecutors and deputy public prosecutors of the Court of the Security of the State shall be appointed for four years; those whose term of office expires may be reappointed.

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

Other provisions relating to the functioning, the duties and jurisdiction and the trial procedure of the Court of the Security of the State shall be prescribed by law.

In the event of declaration of martial law within the regions under the jurisdiction of a Court of the Security of the State, the latter may be transformed, in accordance with the provisions prescribed by law, into a Martial Law Military Tribunal with jurisdiction restricted to these regions.

*Art. 144.* Supervision of judges and public prosecutors with regard to the performance of their duties in accordance with laws, regulations, by-laws and circulars (administrative circulars, in the case of judges), investigation into whether they have committed offences in connection with, or in the course of, their duties, whether their behavior and attitude are in conformity with their status and duties and if necessary, inquiry and investigations concerning them shall be made by judiciary inspectors with the permission of the Ministry of Justice. The Minister of Justice may request the investigation or inquiry to be conducted by a judge or public prosecutor who is senior to the judge or public prosecutor to be investigated.

*Art. 145.* Military justice shall be exercised by military courts and military disciplinary courts. These courts shall have jurisdiction to try military personnel: for military offences, for offences committed by them against other military personnel or in military places, or for offences connected with military service and duties.

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

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

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

## II. HIGHER COURTS

### A. The Constitutional Court

*Art. 146.* The Constitutional Court shall be composed of eleven regular and four substitute members.

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

To qualify for appointments as regular or substitute members of the Constitutional Court members of the teaching staff of institutions of higher education, senior administrative officers and lawyers shall be required to be over the age of forty and to have completed their higher education, or to have served at least

fifteen years as a member of the teaching staff of institutions of higher education or to have worked actually at least fifteen years in public service or to have practiced as a lawyer for at least fifteen years.

The Constitutional Court shall elect a President and Deputy President from among its regular members for a term of four years by secret ballot and by an absolute majority of the total number of members. They may be re-elected at the end of their term of office.

The Members of the Constitutional Court shall not assume other official and private functions, besides their main functions.

*Art. 147.* The members of the Constitutional Court shall retire on reaching the age of sixty-five.

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

*Art. 148.* The Constitutional Court shall examine the constitutionality in respect of both form and substance of laws, decrees having force of law, and the Rules of Procedure of the Grand National Assembly of Turkey. Constitutional amendments shall be examined and verified only with regard to their form. However, no action shall be brought before the Constitutional Court alleging the unconstitutionality as to the form or substance of decrees having force of law, issued during a state of emergency, martial law or in time of war.

The verification of laws as to form shall be restricted to consideration of whether the requisite majority was obtained in the last ballot; the verification of constitutional amendments shall be restricted to consideration of whether the requisite majorities were obtained for the proposal and in the ballot, and whether the prohibition on debates under urgent procedure was complied with. Verification as to the form may be requested by the President of the Republic or by one fifth of the members of the Grand National Assembly of Turkey. Applications for annulment on the grounds of defect in form shall not be made more than ten days after the date on which the law was promulgated; nor shall objection be raised.

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

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

The judgments of the Supreme Court shall be final.

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

Art. 149. The Constitutional Court shall convene with its President and ten members, and shall take decisions by absolute majority. Decision of annulment of Constitutional amendments shall be taken by a two-thirds majority.

The Constitutional Court shall give priority to the consideration of, and to decisions on, applications for annulment on the ground of defect in form.

The organization and trial procedures of the Constitutional Court shall be determined by law; its method of work and the division of labour among its members shall be regulated by the Rules of Procedure made by the Court.

The Constitutional Court shall examine cases on the basis of files, except where it acts as the Supreme Court. However when it deems necessary, it may call on those concerned and those having knowledge relevant to the case to present oral explanations.

*Art. 150.* The President of the Republic, Parliamentary Groups of the Party in power and of the main opposition party, and a minimum of one fifth of the total number of members of the Grand National Assembly of Turkey shall have the right to apply for annulment action to the Constitutional Court, based on the assertion of the unconstitutionality of laws in form and in substance, of decrees having force of law, of Rules of Procedure of the Grand National Assembly of Turkey or of specific articles or provisions thereof. If more than one political party is in power, the right of the parties in power to apply for annulment action shall be exercised by the party having the greatest number of members.

*Art. 151.* The right to apply for annulment directly to the Constitutional Court shall lapse sixty days after the publication in the Official Gazette of the contested law, the decree having force of law, or the Rules of Procedure.

*Art. 152.* If a court which is trying a case, finds that the law or the decree having force of law to be applied is unconstitutional, or if it is convinced of the seriousness of a claim of unconstitutionality submitted by one of the parties, it shall postpone the consideration of the case until the Constitutional Court decides on this issue.

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

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

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

*Art. 153.* The decisions of the Constitutional Court are final. Decisions of annulment cannot be made public without a written statement of reasons.

In the course of annulling the whole or a provision of laws or decrees having

force of law, the Constitutional Court shall not act as a law-maker and pass judgement leading to new implementation.

Laws, decrees having force of law, or Rules of Procedure of the Grand National Assembly of Turkey or provisions thereof, shall cease to have effect from the date of publication in the Official Gazette of the annulment decision. Where necessary, the Constitutional Court may also decide on the date on which the annulment decision shall come into effect. The date shall not be more than one year from the date of the publication of the decision in the official Gazette.

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

The annulment decision cannot have retroactive effect.

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

*Art. 154.* The High Court of Appeals is the last instance for reviewing decisions and judgements given by courts of justice and which are not referred by law to other judicial authority. It shall also be the first and last instance for dealing with specific cases prescribed by law.

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

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

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

The organization, the functioning, the qualifications and procedures of election of the President, deputy presidents, the heads of division and members and the Chief Public Prosecutor of the Republic and the deputy chief public prosecutor of the Republic of the High Court of Appeals shall be regulated by law in accordance with the principles of the independence of courts and the security of tenure of judges.

*Art. 155.* The Council of State is the last instance for reviewing decisions and judgments given by administrative courts and which are not referred by law to

other administrative courts. It shall also be the first and last instance for dealing with specific cases prescribed by law.

The Council of State shall try administrative cases, give its opinions on draft legislation submitted by the Prime Minister and the Council of Ministers, examine draft regulations and the conditions and contracts under which concessions are granted, settle administrative disputes and discharge other duties as prescribed by law.

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

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

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

#### D. Military High Court of Appeals

*Art. 156.* The Military High Court of Appeals is the last instance for reviewing decisions and judgements given by military courts. It shall be the first and last instance for dealing with specific cases designated by law concerning military personnel.

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

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

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

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

*Art. 157.* The High Military Administrative Court of Appeals shall be the first and last instance for the judicial supervision of disputes arising from administrative



acts and actions involving military personnel or relating to military service, even if such acts and actions have been carried out by civilian authorities. However in disputes arising from the obligation to perform military service, there shall be no condition that the person concerned be a member of the military body.

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

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

The President, Chief Public Prosecutor and heads of division of the Court shall be appointed from among military judges according to rank and security.

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

#### F. Jurisdictional Conflict Court

*Art. 158.* The Jurisdictional Conflict Court shall be empowered to deliver final judgments in disputes between courts of justice, and administrative and military courts concerning their jurisdiction and decisions.

The organization of the Jurisdictional Conflict Court, the qualifications of its members and the procedure for their election, and its functioning shall be regulated by law. The office of President of this Court shall be held by a member delegated by the Constitutional Court from among its own members.

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

### III. SUPREME COUNCIL OF JUDGES AND PUBLIC PROSECUTORS

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

The President of the Council is the Minister of Justice. The Undersecretary to the Minister of Justice shall be an *ex-officio* member of the Council. Three regular and three substitute members of the Council shall be appointed by the President of the Republic for a term of four years from a list of three candidates nominated

for each vacant office by the Plenary Assembly of the High Court of Appeals from among its own members and two regular and two substitute members shall be similarly appointed from a list of three candidates nominated for each vacant office by the Plenary Assembly of the Council of State. They may be re-elected at the end of their term of office. The Council shall elect a deputy president from among its elected regular members.

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

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

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

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

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

#### IV. AUDIT COURT

*Art. 160.* The Audit Court shall be charged with auditing, on behalf of the Grand National Assembly of Turkey, all the accounts relating to the revenue, expenditure and property of government departments financed by the general and subsidiary budgets, with taking final decisions on the acts and accounts of the responsible officials, and with exercising the functions required of it by law in matters of inquiry, auditing and judgment. Parties concerned may file a single request for reconsideration of a final decision of the Audit Court within fifteen days of the date of written notification of the decision. No applications for judicial review of such decisions shall be filed in administrative courts.

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

The organization, functioning and auditing procedure of the Audit Court, the

qualifications, appointments, duties and powers, rights and obligations of its members, other matters relating to their personnel status, and the security of tenure of the President and members shall be regulated by law. The procedure for auditing, on behalf of the Grand National Assembly of Turkey, of State property in possession of the Armed Forces shall be regulated by law in accordance with the principles of secrecy required by National Defence.

## PART FOUR

### FINANCIAL AND ECONOMIC PROVISIONS

#### Chapter one. Financial provisions

*Art. 161.* The expenditures of the State and those of public corporations other than state economic enterprises shall be determined by annual budgets.

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

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

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

*Art. 162.* The Council of Ministers shall submit the draft of general and subsidiary budgets and the report containing the national budgetary estimates to the Grand National Assembly of Turkey at least seventy-five days before the beginning of the financial year.

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

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

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

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

*Art. 163.* The appropriations granted under the general and subsidiary budgets shall indicate the limit of expenditure allowed. No provisions shall be included in the budget to the effect that the limit of expenditure may be exceeded in pursuance of a decision of the Council of Ministers. The Council of Ministers shall not

be empowered to amend the budget by a decree having force of law. In draft amendments entailing an increase in appropriations under the budget for the current fiscal year and, in draft laws and law proposals providing for additional financial commitments in the budgets for the current or following year, the financial resources which would meet the stated expenditure shall be indicated.

*Art. 164.* Draft final accounts shall be submitted to the Grand National Assembly of Turkey by the Council of Ministers within seven months of the end of the relevant fiscal year, unless a shorter period is prescribed by law. The Audit Court shall submit its notice of conformity to the Grand National Assembly of Turkey within seventy five days of the submission of the draft final accounts in question.

The draft final accounts shall be placed on the agenda of the budget Committee together with the Draft Budget Act for the new fiscal year. The Budget Committee shall submit the draft Budget Act to the Plenary Assembly in conjunction with the draft final accounts; the Plenary Assembly shall consider, and decide on, the draft final accounts in conjunction with the draft Budget Act for the new fiscal year.

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

*Art. 165.* The principles governing the auditing, by the Grand National Assembly of Turkey of the accounts of public establishments and partnerships in which more than half of the capital directly or indirectly belongs to the State, shall be regulated by law.

## Chapter two. Economic provisions

*Art. 166.* The planning of economic, social and cultural development, in particular the speedy, balanced and harmonious development of industry and agriculture throughout the country, and the efficient use of national resources on the basis of detailed analysis and assessment and the establishment of the necessary organization for this purpose are the duty of the State.

Measures to increase national thriftiness and production, to ensure stability in prices and balance in foreign trade transactions, to promote investment and employment, shall be included in the plan; in investments, public benefit and requirements shall be taken into account; the efficient use of resources shall be aimed at. Development activities shall be realized according to this plan.

The procedure and principles governing the preparation of development plans, their approval by the Grand National Assembly of Turkey, their implementation and their revision, and of the prevention of amendments liable to affect the unity of the plan shall be regulated by law.

*Art. 167.* The State shall take measures to ensure and promote the sound, orderly functioning of the money, credit, capital, goods and services markets;

and shall prevent the formation, in practice or by agreement of monopolies and cartels in the markets.

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

*Art. 168.* Natural wealth and resources shall be placed under the control and at the disposal of the State. The right to explore and exploit them belongs to the State. The State may delegate this right to individuals or public corporations for specific periods. Of the natural wealth and resources, those to be explored and exploited by the State in partnership with individuals or public corporations, and those to be directly explored and exploited by individuals, or public corporations shall be subject to the explicit permission of the law. The conditions to be observed in such cases by individuals and public corporations, the procedure and principles governing supervision and control by the State, and the sanctions to be applied shall be prescribed by law.

*Art. 169.* The State shall enact the necessary legislation and take the necessary measures for the protection of forests and the extension of their areas. Forest areas destroyed by fire shall be reafforested; other agricultural and stock-breeding activities shall not be allowed in such areas. All forests shall be under the care and supervision of the State.

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

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

The restraining of forest boundaries shall be prohibited, except in respect of areas whose preservation as forests is considered technically and scientifically useless but whose conversion into agricultural land has been found definitely advantageous, and in respect of fields, vineyards, orchards, olive groves or similar areas which technically and scientifically ceased to be forest before 31 December 1981 and whose use for agricultural or stock-breeding purposes has been found advantageous, and in respect of built-up areas in the vicinity of cities, towns or villages.

*Art. 170.* Measures shall be introduced by law to secure cooperation between the State and the inhabitants of villages located in or near forests in the supervision and exploitation of forests for the purpose of ensuring their conservation and improving the living conditions of their inhabitants; the law shall also regulate

the development of areas which technically and scientifically ceased to be forests before 31 December 1981, the identification of areas whose preservation as forest is considered technically and scientifically useless, their exclusion from forest boundaries, their improvement by the State for the purpose of settling all or some of the inhabitants of forest villages in them, and their allocation to these villages.

The State shall take measures to facilitate the acquisition, by these inhabitants, of farming equipment and other inputs.

The land owned by villagers resettled outside a forest shall immediately be reafforested as a state forest.

*Art. 171.* The State shall take measures, in keeping with national and economic interests, to promote the development of co-operatives, which shall be primarily designed to increase production and protect consumers.

Co-operatives shall be subject in all respects to the supervision and inspection of the State, and shall not engage in political activities and shall not co-operate with political parties.

*Art. 172.* The State shall take measures to protect and inform consumers; shall encourage their initiatives to protect themselves.

*Art. 173.* The State shall take measures to protect and support small traders and craftsmen.

## PART FIVE

### MISCELLANEOUS PROVISIONS

*Art. 174.* No provision of the Constitution shall be construed or interpreted as rendering unconstitutional the Reform Laws indicated below, which aim to raise Turkish society above the level of contemporary civilisation and to safeguard the secular character of the Republic, and which were in force on the date of the adoption by referendum of the Constitution of Turkey.

1. Act No. 430 of 3 March 1340 (1924) on the Unification of the Educational System;

2. Act No. 671 of 25 November 1341 (1925) on the Wearing of Hats;

3. Act No. 677 of 30 November 1341 (1925) on the Closure of Dervish Convents and Tombs, the Abolition of the Office of Keeper of Tombs and the Abolition and Prohibition of Certain Titles;

4. The principle of Civil marriage according to which the marriage act shall be concluded in the presence of the competent official, adopted with the Turkish Civil Code No. 743 of 17 February 1926, and Article 110 of the Code;

5. Act No. 1288 of 20 May 1928 on the Adoption of International Numerals;

6. Act No. 1353 of 1 November 1928 on the Adoption and Application of the Turkish Alphabet;

7. Act No. 2590 of 26 November 1934 on the Abolition of Titles and Appellations such as Efendi, Bey or Pasa;

8. Act No. 2596 of 3 December 1934 on the Prohibition of the Wearing of Certain Garments.

## PART SIX

## PROVISIONAL ARTICLES

*Prov. Art. 1.* On the Proclamation, under lawful procedure, of the adoption by referendum of the Constitution as the Constitution of the Republic of Turkey, the Chairman of the Council of National Security and Head of State at the time of the referendum, shall assume the title of President of the Republic and shall exercise the constitutional functions and powers of the President and the Republic for a period of seven years. The oath he took as Head of State on 18 September 1980 shall remain valid. At the end of the period of seven years the election for the Presidency of the Republic shall be held in accordance with the provisions set forth in the Constitution.

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

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

*Prov. Art. 2.* The Council of National Security formed on 12 December 1980 under Act No. 2356 shall continue to exercise its functions under Act No. 2324 on the Constitutional Order and Act No. 2485 on the Constituent Assembly until the convening of the Grand National Assembly of Turkey and the formation of the Bureau of the Assembly following the first general elections held under the Political Parties Act and the Election Act prepared in accordance with the Constitution.

After the adoption of the Constitution, Article 3 of Act No. 2356 relating to the procedure for filling a seat on the Council of National Security which falls vacant for any reason, shall cease to apply.

After the Grand National Assembly of Turkey has convened and assumed its functions, the Council of National Security shall become the Presidential Council for a period of six years, and the members of the Council of National Security shall acquire the title of members of the Presidential Council. The oath they took on 18 September 1980 as members of the Council of National Security shall remain valid. Members of the Presidential Council shall enjoy the rights and immunity conferred by the Constitution on members of the Grand National Assembly of Turkey. The legal existence of the Presidential Council shall terminate on the expiry of the period on six years.

The functions of the Presidential Council shall be as follows:

- a. To examine laws adopted by the Grand National Assembly of Turkey and

submitted to the President of the Republic concerning: the fundamental rights and freedoms and duties, the principle of secularism, the preservation of the reforms of Atatürk, national security and public order, set forth in the Constitution, the Turkish Radio and Television Corporation, International Treaties, the sending of Armed Forces to foreign countries and the stationing of foreign forces in Turkey, emergency rule, martial law and the state of war, and other laws deemed necessary by the President of the Republic, within the first ten days of the period of fifteen days granted to the President of the Republic for his consideration;

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

To consider and give an opinion on matters relating to: the holding of new general elections, the exercise of emergency powers and the measures to be taken during a state of emergency, the management and supervision of the Turkish Radio and Television Corporation, the training of youth and the conduct of Religious affairs;

c. According to the request of the President of the Republic, to consider and investigate matters relating to internal or external security and such other matters relating to internal or external security and such other matters as are deemed necessary, and to submit its findings to the President of the Republic.

*Prov. Art. 3.* With the convening of the Grand National Assembly of Turkey and the formation of the Bureau of the Assembly following the first general elections held in accordance with the Constitution:

a. Act No. 2324 of 27 October 1980 on the Constitutional Order;

b. Act No. 2356 of 12 December 1980 on the Council of National Security;

c. Act No. 2485 of 29 June 1981 on the Constituent Assembly.

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

*Prov. Art. 4.* (1) Of those political parties dissolved on 16 October 1981 under Act No. 2533:

Those against whose legal personality, or against one of whose central executive officers or one of whose members of Parliament a penal action was brought after 11 September 1980 for any of the offences against the personality of the State set forth in Part II, Chapter 1 of the Turkish Penal Code, and of those political parties which were the party in power, and main opposition party on 11 September 1980:

a. Persons who were chairman, deputy or acting chairman, general secretaries deputy general secretaries and members of the central executive committee or similar organs of those parties on 1 January 1980 and thereafter shall not form political parties for a period of ten years following the adoption by referendum of the Constitution, nor shall they become members of political parties formed under the provisions set forth in the Constitution, or be nominated as candidates by these parties or stand for election either on behalf of such parties or as independent candidates in either general elections by-elections or local elections. They shall not establish relations of any kind with political parties or assume any functions whatsoever in political parties even on an honorary basis.



- b. Persons who were members of the Grand National Assembly of Turkey as deputies and senators on 1 January 1980 shall not form political parties for a period of five years following the adoption by referendum of the Constitution, nor shall they hold office in the central executive organs or similar organs of political parties to be formed.

(2) Of those who were senators appointed under the presidential quota *ex-officio* members of the Senate or independent members of the Grand National Assembly of Turkey on 1 January 1980: persons against whom a penal action has been brought for any of the offences against the personality of the State set forth in Part II, Chapter I of the Turkish Penal Code or those who had become members of one of the political parties defined in the first paragraph shall be subject to the provisions of sub-paragraph b.

*Prov. Art. 5.* On the tenth day following the proclamation by the Supreme Election Council of the results of the first general elections, the Grand National Assembly of Turkey shall convene of its own accord at the premises of the Grand National Assembly of Turkey in Ankara at 15.00 hrs. The eldest Deputy shall take the Chair for this session. At this session the deputies shall take their oaths.

*Prov. Art. 6.* Until the Grand National Assembly of Turkey formed in accordance with the Constitution, adopts the Rules of Procedure which shall govern its sessions and proceedings, those provisions of the Rules of Procedure of the National Assembly which were in force before 12 September 1980 and which are not contrary to the Constitution shall apply.

*Prov. Art. 7.* The present Council of Ministers shall continue in office until the convening of the Grand National Assembly of Turkey and the formation of the new Council of Ministers following the first general elections.

*Prov. Art. 8.* Legislation relating to the organization, duties, powers and functioning of the new organs, institutions and agencies established under the Constitution and other legislation whose introduction or amendment is provided for in the Constitution, shall be enacted during the period of the Constituent Assembly, starting from the date of the adoption of the Constitution; legislation which cannot be dealt with during this period shall be enacted within the year following the first session of the newly elected Grand National Assembly of Turkey.

*Prov. Art. 9.* Within a period of six years following the formation of the Bureau of the Grand National Assembly of Turkey which is to convene after the first general elections, the President of the Republic may refer to the Grand National Assembly of Turkey for further consideration any Constitutional amendments adopted by the Assembly. In this case the re-submission of the Constitutional amendment draft in its unchanged form to the President of the Republic by the Grand National Assembly of Turkey, is only possible with a three-fourths majority of the votes of the total number of members.

*Prov. Art. 10.* Local elections shall be held within a year of the first session of the Grand National Assembly of Turkey.

*Prov. Art. 11.* Regular and substitute members of the Constitutional Court who were in office on the date of the adoption by referendum of the Constitution shall

continue to hold office and exercise their functions. Those previously elected by the Constitutional Court to specific functions shall retain the status thus acquired.

No election shall be held to fill the vacant seats of the regular members of the Constitutional Court until the number of these members falls to eleven, nor shall an election be held to fill the vacant seats of substitute members until the total number of regular and substitute members falls to fifteen. Until the Constitutional Court adapts to the new system, the principles and order of precedence set forth in the Constitution shall be observed in the elections which are to be held because the number of regular members has fallen below eleven, or because the total number of regular and substitute members has fallen below fifteen.

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

*Prov. Art. 12.* Persons appointed by the Head of State as regular and substitute members of the Supreme Judges and Public Prosecutors from among the members of the High Court of Appeals and the Council of State under Provisional Article 1 of Act No. 2461 of 13 May 1981 on the Supreme Council of Judges and Public Prosecutors; as Chief Public Prosecutor and Deputy Chief Public Prosecutor in accordance with the Provisional Article appended to Act No. 1730 on the High Court of Appeals under Act No. 2483 of 25 June 1981; and as President, Chief Public Prosecutor, deputy-presidents and heads of division of the Council of State under Provisional Article 14, paragraph 2 of Act No. 2575 of 6 January 1982 on the Council of State shall continue to exercise their functions until the end of the term of office for which they were elected.

The Provisions of the Provisional Articles of Act No. 2576 of 6 January 1982 which concern the appointment of the Presidents and members of Administrative Courts shall also remain in force.

*Prov. Art. 13.* The elections of one regular and one substitute member to be elected to the Supreme Council of Judges and Public Prosecutors from among the members of the High Court of Appeals shall take place within twenty days of the entry into force of the Constitution.

Until the assumption of office by the elected members, the quorum for meetings of the Council shall be met with the participation of substitute members.

*Prov. Art. 14.* The obligation of the labor unions to deposit their revenues in the State banks shall be fulfilled within two years of the entry into force of the Constitution, at the latest.

*Prov. Art. 15.* No allegation of criminal, financial or legal responsibility shall be made, nor shall an application be filed with a court for this purpose in respect of any decisions or measures whatsoever taken by: the Council of National Security formed under Act No. 2356 which will have exercised legislative and executive power on behalf of the Turkish nation from 12 September 1980 to the date of the formation of the Bureau of the Grand National Assembly of Turkey which is to convene following the first general elections; the governments formed during the term of office of the Council; or the Consultative Assembly which has exercised its function under Act No. 2485 on the Constituent Assembly.

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

No allegation of unconstitutionality shall be made in respect of decisions or measures taken under laws or decrees having force of law enacted during this period or under Act No. 2324 on the Constitutional Order.

*Prov. Art. 16.* Persons who fail to participate in the referendum on the Constitution without valid legal or actual reasons despite being entitled to vote and being included on the register of electors and the polling station register compiled for the referendum, shall neither participate nor stand for election in general elections, by-elections, local elections or referendums for a period of five years following the referendum on the Constitution.

## PART SEVEN

### FINAL PROVISIONS

#### I. AMENDMENT OF THE CONSTITUTION

*Art. 175.* Constitutional amendments shall be proposed in writing by at least one third of the total number of members of the Grand National Assembly of Turkey. Proposals to amend the Constitution shall not be considered under urgent procedure. The adoption of a proposal for an amendment shall require a two-thirds majority of the total number of members of the Assembly.

The consideration and adoption of proposals for the amendment of the Constitution shall be subject to the provisions governing the consideration and adoption of legislation, with the exception of the conditions set forth in the first paragraph of this Article.

If the Assembly adopts unchanged a draft law amending the Constitution which has been referred back to it for further consideration by the President of the Republic, the President may submit the law to referendum.

#### II. PREAMBLE AND HEADINGS OF ARTICLES

*Art. 176.* The Preamble, which states the basic views and principles underlying the Constitution, shall form an integral part of the Constitution.

The headings of articles merely indicate the subject matter of the articles, their order, and the connections between them. These headings shall not be regarded as a part of the text of the Constitution.

#### III. ENTRY INTO FORCE OF THE CONSTITUTION

*Art. 177.* On its adoption by referendum and its publication in the Official Gazette, this Constitution shall become the Constitution of the Republic of Turkey

and shall come into force in its entirety, subject to the following exceptions and the provisions relating to their entry into force:

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

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

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

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

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

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

These provisions shall come into force on the proclamation of the results of the first general elections. However, the provisions relating to the functions and powers of the Grand National Assembly of Turkey which take place in this section shall be exercised by the Council of National Security until the Grand National Assembly of Turkey assumes its functions, the provisions of Act No. 2485 of 29 June 1981 on the Constituent Assembly being reserved.

- d. The provisions of Part III relating to the functions and powers of the President of the Republic and to the State Supervisory Council under the heading 'President of the Republic'; to regulations, National Defence, procedures governing the emergency rule under the heading 'Council of Ministers'; to all other provisions under the heading 'Administration' except local administration, and except the Atatürk High Institution of Culture, Language and History; and all the provisions relating to the judiciary power, except the Courts of the Security of the State, shall come into force on the publication in the Official Gazette of the adoption by referendum of the Constitution. The provisions relating to the President of the Republic and the Council of Ministers which do not come into force shall come into force when the Grand National Assembly of Turkey assumes its functions, and the provisions relating to local administrations and to the Courts of the Security of the State shall come into force on the promulgation of the relevant legislation.

- e. If new legislation, or amendments to existing legislation are required in connection with the constitutional provisions which are to come into force on the proclamation of the adoption by referendum of the Constitution or in connection with existing or future institutions, organizations and agencies, the procedure to be followed shall be subject to those provisions of existing

laws which are not unconstitutional, or to the provisions of the Constitution in accordance with Article 11 of the Constitution.

The second paragraph of Article 164 regulating the procedure for the consideration of draft final accounts shall come into force in 1984.