

COUNCIL OF STATE ACT ⁽¹⁾ ⁽²⁾

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SECTION ONE
*Establishment**Council of State*

Article 1 – The Council of State is the consultation and examination authority of the Supreme Administrative Court assigned by the Constitution of the Republic of Turkey.

Independence and administration

Article 2 – 1. The Council of State is independent. Its administration and representation are under the responsibility of the President of the Council of State.

2. The government related affairs of the Council of State ⁽⁴⁾ are executed by the Prime Ministry ⁽⁴⁾.

Members of the Council of State

Article 3 – The members of the Council of State are the President, the Chief Advocate General, the Vice Presidents of the Council of State and the presidents and members of the chambers of the Council of State.

Security of Tenure

Article 4 – The President, Chief Advocate General, vice presidents of the Council of State and the presidents and members of the chambers, as members of a supreme judicial organ, shall serve with security of tenure provided by the Constitution of the Republic of Turkey and the law.

Decision-making organs ⁽³⁾

Article 5 – The decision-making organs of the Council of State are as follows:

- a) Chambers,
- b) Plenary Assembly of the Council of State,
- c) Board of Administrative Affairs,
- d) Board of the Administrative Law Chambers,
- e) Board of the Tax Law Chambers,
- f) Assembly on the Unification of Conflicting Judgements,

g) (Amended: 8/8/2011-DECREE LAW-650/Article 4; Repealed: With the Decision dated 18/7/2012 and Docket 2011/113 and Decision No 2012/108 of the Constitutional Court; Re-regulated: 27/6/2013-6494/Article 3) Board of Presidents,

h) (Added: 8/8/2011-DECREE LAW-650/Article 4; Repealed: With the Decision dated 18/7/2012 and Docket 2011/113 and Decision No 2012/108 of the Constitutional Court; Re-regulated: 27/6/2013-6494/Article 3) Board of Presidency,

- i) High Disciplinary Board,
- i) Disciplinary Board,

General secretariat

Article 6 – 1. A member to be elected by the President of the Council of State shall serve as the Secretary General.

(1) The phrase “Head of the State” set forth in this Law was amended as “the President of the Republic” in accordance with Article 1 of Law no. 2779 dated 11/1/1983.

(2) The expression “Plenary Session of the Administrative Law Chambers” set forth in this Law was amended as “Board of Administrative Law Chambers”; and the expressions “Plenary Session of the Tax Law Chambers” were amended as “Board of Tax Law Chambers” with Article 15 of Law no. 5183 dated 2/6/2004.

(3) With Article 4 of the Decree Law dated 8/8/2011 and no 650, item (h) was added to this Article after the item (g) and the existing items were continued accordingly.

(4) With Article 184 of Decree Law no. 703 dated 2/7/2018, the expression “government related” set forth in this paragraph was amended as “execution related” and the expression “Prime Ministry” was amended as “Presidency of the Republic”.

2. Not more than two of the first category judge reporters or advocates general of the Council of State may be appointed as deputy secretary general. Sufficient number of advocates general, judge reporters and employees shall be allocated to the Secretariat to carry out the functions of the Office.

Administrative services

Article 7 – There shall be departments in the Council of State entrusted with the status of the Personnel Affairs, Registration, Office Materials, Library and Publication, Archive, Social and Administrative Affairs, Clerical Works as well as other departments as envisaged by the present Act and deemed necessary.

SECTION TWO

Qualification, Election and Appointment

Qualifications of the members of the Council of State ⁽¹⁾⁽²⁾

Article 8 – 1. The members of the Council of State are elected from among those who serve as:

- a) A Judge and advocate general in administrative justice,
- b) Minister, Vice President, deputy minister, ⁽⁴⁾ undersecretary, deputy undersecretary, ambassador, governor,
- c) General, admiral,
- d) Secretary General of the President of the Republic, Head of Administrative Affairs of the Presidency of the Republic, ⁽⁵⁾ Secretary General of the Turkish Grand National Assembly, ⁽¹⁾
- e) **(Added: 2/12/2014-6572/Article 7)** General Secretary of the Supreme Council of Judges and Prosecutors, ⁽²⁾
- f) Director general in the government departments financed by the general and subsidiary budgets or in public institutions, or head of public investigation committees at least at the same level of director-generals, ⁽¹⁾⁽²⁾
- g) Professor of law, economy, finance, public administration at institutions of higher education, ⁽²⁾
- h) **(Amended: 2/7/2012-6352/Article 44)** Chief legal advisor, first category legal advisor, head of legal services and manager of legal affairs in public institutions and organizations, ⁽²⁾.

2. In order to be appointed as a member of the Council of State, judges and advocates general in administrative justice, after being promoted to first category, must successfully serve at this position for three years and must not lose their qualifications required by the position **(Added sentence: 27/6/2013-6494/ Article 4; Abolished sentence: 20/11/2017-DECREE LAW-696/Article 37; Accepted Exactly: 1/2/2018-7079/Article 32) (...)**

3. Those who will be elected as the members of the Council of State from the administrative positions must have worked for fifteen years (...) ⁽³⁾ in the State services after having completed their higher education, must be vested with the right to first class salary and must have the morality and moral quality required by a judge. ⁽¹⁾⁽³⁾

(1) With Article 44 of the Law dated 2/7/2012 and no 6352, the expression “General Secretary of the Turkish Grand National Assembly” was added to the item (d) and the expression “presidents of the regulatory and supervisory boards” was added to the item (e) of the paragraph (1) of this Article and the expression “twenty years” set forth in the paragraph (3) of the same Article was amended as “fifteen years”.

(2) With Article 7 of the Law dated 2/12/2014 and no 6572, the item (e) was added to the first paragraph of this Article after the item (d) and the other items were continued accordingly.

(3) With Article 14 of the Law dated 9/2/2011 and no 6110, the expression “at least three years in total in the aforementioned positions” set forth in this paragraph was abolished.

(4) With Article 184 of the Decree Law dated 2/7/2018 and no 703, the expression “Vice President of the Republic, deputy minister” was added after the expression “Minister” set forth in this item.

(5) With Article 184 of the Decree Law dated 2/7/2018 and no 703, the expression “Head of Administrative Affairs of the President of the Republic” was added after the expression “General Secretary of the President of the Republic” set forth in this item.

Election of the Members ⁽¹⁾

Article 9 – 1. Three out of four of the vacant seats in the Council of State are elected from among the judges and advocates general who serve in administrative justice and one out of four from among the other positions.

2. The judges and advocates general who serve in administrative justice are elected to the membership positions of the Council of State by the Supreme Council of Judges and Prosecutors and those in the other positions are elected by the President of the Republic.

3. **(Added: 1/7/2016 – 6723/Article 1)** The members of the Council of State are elected for twelve years. A person cannot be elected as a Council of State member twice.

4. **(Added: 1/7/2016 – 6723/Article 1)** Those who have been elected to the membership positions of the Council of State by the Supreme Council of Judges and Prosecutors and whose term of office has expired are assigned to a position that is suitable to their class and degree in administrative justice by the relevant chamber of the Supreme Council of Judges and Prosecutors.

5. **(Added: 1/7/2016 – 6723/Article 1)** Those who have been elected to the membership positions of the Council of State by the President of the Republic and who intend to be assigned to a position in administrative justice make a request to serve in administrative justice until one month before the expiration of their term of office. Those who have made a request are assigned to a position that is suitable to their class and degree in administrative justice by the relevant chamber of the Supreme Council of Judges and Prosecutors. Those who have not made a request are notified to the Presidency of the Republic⁽²⁾ by the Presidency of the Council of State to be assigned to another position.

6. **(Added: 1/7/2016 – 6723/Article 1)** The members whose term of office has expired are disengaged from the Council of State; however, their personal rights are continued to be met by the Council of State until their appointment is made.

7. **(Amended: 27/6/2013-6494/Article 5)** When the number of the vacant positions in the Council of State reaches four, the situation is announced by the Presidency of the Council of State to the Presidency of the Republic⁽³⁾ and the Ministry of Justice by also stating that the vacant positions are the positions of the administrative or tax chambers within no later than three days as of the date when the fourth membership position has become vacant.

8. The election shall be made by the President of the Republic and the Supreme Council of Judges and Prosecutors within no later than two months after such announcement.

 (1) With Article 1 of the Law dated 1/7/2016 and no 6723, paragraphs were added to this Article after the second paragraphs and the other paragraphs were continued accordingly.

(2) With Article 184 of the Decree Law dated 2/7/2018 and no 703, the expression “to the Prime Ministry” set forth in this paragraph was amended as “to the Presidency of the Republic”.

(3) With the Article 184 of the Decree Law dated 2/7/2018 and no 703, the expression “to the Prime Ministry” set forth in this paragraph was amended as “to the Presidency of the Republic”.

Qualifications, election and terms of office of the President, Chief Advocate General, Vice Presidents of the Council of State and Presidents of the Chambers

Article 10 – 1. The President, Chief Advocate General, vice presidents of the Council of State and presidents of the Chambers are elected by the Plenary Assembly of the Council of State by an absolute majority of the total number of members.

2. In order to be elected as the President and Chief Advocate General of the Council of State, it is compulsory to have served as a member of the Council of State for six years and in order to be elected as the vice president of the Council of State and the president of a Chamber, it is compulsory to have served as a member of the Council of State for three years.⁽¹⁾⁽²⁾

3. **(Abolished: 22/3/1990 - 3619/Article 12)**

4. The term of office of the President, Chief Advocate General, vice presidents of the Council of State and presidents of the Chambers is four years. Those whose term of office has expired can be re-elected. Those who cannot be re-elected, do not stand for the re-election or resign from office before the expiration of their term of office continue to serve as members of the Council of State.

5. The election is held fifteen days before the date when their term of office will expire or within fifteen days as of the date when the position falls vacant for any other reasons. Judicial recess is not taken into account in the calculation of this period.

6. Those who intend to run as candidate may either file a written application to the Presidency of the Council of State or orally present their candidacy before starting voting at the meeting.

7. The election is held by secret voting. If no result can be obtained in the first three votings, the fourth voting is held between the two candidates who have received the highest number of votes in the third voting. If this majority cannot be achieved in the fourth voting, the election shall be renewed with a new presentation of candidates. If no result can be obtained in the subsequent three votings, the candidate who receives the greatest number of votes in the fourth voting shall be deemed the winner of the election.

8. **(Abolished: 9/2/2011-6110/Article 14)**

(1) With Article 5 of the Decree Law dated 8/8/2011 and no 650, the expression “eight years” set forth in this Article was amended as “four years” and the expression “six years” was amended as “three years” and these amendments were entered into the text.

(2) With Article 2 of the Law dated 1/7/2016 and no 6723, the expression “four” set forth in this Article was amended as “six” and this amendment was entered into the text.

Appointment of the Investigation Judges and Advocates General of the Council of State and their assignment to the chambers

Article 11 – 1. The investigation judges and advocates general of the Council of State are assigned by the Supreme Council of Judges and Prosecutors from among the judges of administrative justice who have served in the profession for five years and who have positive employment records.

2. The places of duty of the investigation judges of the Council of State are determined by the Board of Presidency. The places of duty are changed following the same procedure. Unless it is obligatory for administrative reasons, the places of duty cannot be changed before the end of an employment record period. The employment record period shall be at least six months.⁽¹⁾⁽²⁾

3. The boards and chambers where the investigation judges serve are changed in accordance with the principles and periods to be determined in the regulation.

Qualifications, appointment, employment, transfer and assignment of the officers ⁽³⁾

Article 12 – (Amended: 8/8/2011-DECREE LAW-650/Article 6)

1. The officers who will work in the administrative service departments operating as associated to the General Secretariat and in the departments operating as associated to the Chambers, Boards and Office of the Chief Advocate General and executing the secretariat services must have the qualifications specified in Law no. 657 on Civil Servants.

2. The officers specified in the first paragraph are assigned by transfer or by open appointment. Those who will be assigned as Civil Servants for the first time are assigned by the President of the Council of State upon the proposal of the Secretary General according to the result of the oral and, when necessary, practical exam to be held by the commission of three people, which is established from two investigation judges, under the presidency of the assistant secretary general to be assigned by the Secretary General from among those who have taken the exam held for the entry into Civil Servant positions.

3. The personnel who work in the Council of State and who are subject to the Civil Servants Law can be assigned to the provincial positions of the Ministry without being subject to the open appointment permit in compliance with their vested rights by the Ministry of Justice upon the proposal of the Secretary General and the approval of the President.

4. The principles and procedures regarding the application of this Article are regulated in the regulation.

SECTION THREE

Chambers and Boards

Chambers

Article 13 – 1. (Amended: 9/2/2011-6110/Article 1) The Council of State is composed of ten chambers, nine of which are judicial chambers and one of which is an administrative chamber. ⁽⁴⁾⁽⁵⁾

(1) With Article 6 of the Law dated 27/6/2013 and no 6494, the expression “Board of Presidency” set forth in this paragraph was amended as “the Board of Presidents”.

(2) With Article 8 of the Law dated 2/12/2014 and no 6572, the expression “Presidents” set forth in this paragraph was amended as “Presidency”.

(3) While the heading of this Article was “Qualifications and appointment of the Officers”, it was amended as entered into the text with the Article 6 of the Decree Law dated 8/8/2011 and no 650.

(4) With Article 9 of the Law dated 2/12/2014 and no 6572, the expression “fourteen of which” set forth in this paragraph was amended as “fifteen of which” and the expression “one of which” was amended as “two of which” and the expression “fifteen” was amended as “seventeen”.

(5) With Article 3 of the Law dated 1/7/2016 and no 6723, the expression “fifteen of which” set forth in this paragraph was amended as “nine of which”, the expression “two of which” was amended as “one of which” and the expression “seventeen” was amended as “ten”.

2. **(Amended: 9/2/2011-6110/Article 1)** In each chamber, there is one president and a sufficient number of members. The committees meet with the participation of one president and four members and decides by absolute majority. If the number of the members is sufficient, more than one committee can be established. In this case, the highest ranking member in the committee presides the other committees established. The negotiations are held secretly.

3. In the chambers, there are a sufficient number of investigation judges.

4. In each chamber, there is also one registry under the management of the chief clerk. The registry provides clerical service to the Chamber and makes notifications.

Designation of the president and members to the chambers

Article 14 – 1. The presidents of the chambers are elected as the president of a particular chamber.

2. The members are designated to the chambers with the decision of the Board of Presidency and their chambers can be changed following the same procedure in accordance with the requirements of the service.⁽¹⁾⁽²⁾

3. **(Abolished: 2/12/2014-6572/Article 10)**

4. The deficiencies that will arise in the chambers are completed by taking members from other chambers. These members are determined in advance with the decision of the Board of Presidency.⁽¹⁾⁽²⁾

Plenary assembly of the Council of State

Article 15 – 1. The Plenary Assembly of the Council of State is composed of the President, the Chief Advocate General, Vice Presidents and Secretary General of the Council of State and presidents and members of chambers.

2. The quorum of the Plenary Assembly for meeting and negotiation is more than the half of the total number of the Presidents and members in office.

3. The decisions are taken by majority. In case of equality of votes, the party that includes the President of the Council of State is deemed to have obtained the majority. The special provisions regarding the quorum of the Plenary Assembly are reserved.

Board of administrative affairs

Article 16 – 1. **(Amended: 2/12/2014 – 6572/Article 11) (Amended first sentence: 1/7/2016 – 6723/Article 4.)**

The Board of Administrative Affairs is composed of the president of the administrative chamber and two members to be elected from the administrative chamber by the Board of Presidency at the beginning of each calendar year and one member to be elected from among the presidents or members of each law chamber. If any vacant position arises that is determined by election in the Board, an election is held within thirty days by the Board of Presidency.

2. The Board is presided by the President of the Council of State or one of the vice presidents of the Council of State.

3. The quorum for meeting and negotiation is nine.⁽³⁾

4. In the negotiation of procedures related to the trial of civil servants, the president and members of the chamber that has given the decision on case examined may not participate in the meeting. **(Abolished last sentence: 2/12/2014 – 6572/Article 11)(...)** **(Added sentence: 1/7/2016 – 6723/Article 4)** The quorum for assembling and negotiation in these meetings is seven.

5. The decisions are taken by majority. In case of equality of votes, the party which includes the President of the Council of State is deemed to have obtained the majority.

6. A sufficient number of investigation judges and officers are assigned to the Board of Administrative Affairs.

(1) With Article 7 of the Law dated 27/6/2013 and no 6494, the expression “Board of Presidency” set forth in this paragraph was amended as “Board of Presidents”.

(2) With Article 10 of the Law dated 2/12/2014 and no 6572, the expression “Presidents” set forth in this paragraph was amended as “Presidency”.

(3) With Article 4 of the Law dated 1/7/2016 and no 6723, the expression “is fifteen” set forth in this paragraph was amended as “is nine”.

Boards of administrative and tax law chambers ⁽¹⁾**Article 17- (Amended: 2/6/2004-5183/Article 3)**

1. **(Amended: 2/12/2014-6572/Article 12)** The Board of Administrative Law Chambers is composed of the presidents of the administrative law chambers and two principal members and two substitute members assigned by the Board of Presidency for two years from each administrative law chamber; and the Board of Tax Law Chambers, on the other hand, is composed of the presidents of the tax law chambers and three principal members and three substitute members assigned by the Board of Presidency for two years from each tax law chamber. Whereas half of the members in both boards are re-assigned for two years by the Board of Presidency at the end of the two-year period, the other half are renewed from among the members who have not been assigned before to the boards. The principal members assigned to the boards can be assigned for no more than two periods consecutively. In the event that the principal member cannot temporarily fulfill his duty, the substitute member who is assigned from the relevant chamber or from the other chambers in the mandatory cases participates in the board meetings. In case of any vacant position in the principal or substitute memberships of the boards, a new member is assigned by the Board of Presidency within seven days in order to complete the remaining period.

2. The boards of administrative law chambers are presided by the President of the Council of State or one of his representatives; in their absence, the highest ranking chamber president presides the boards.

3. **(Amended: 9/2/2011-6110/Article 2)** The quorum for meeting and negotiation is fifteen for the Board of Administrative Law Chambers and eleven for the Board of Tax Law Chambers. In the examination of the decisions taken by the administrative law chambers and the tax law chambers as the courts of first instance by appeal or objection and in the examination of the decisions taken at the meeting to be held jointly by both law chambers, those who have participated in the decision in these chambers may not be present in the boards of administrative and tax law chambers. ^{(2) (3)}

4. If the number of members present at the meetings is even, the lowest ranking member shall not participate in the board.

5. In these boards, the decisions are taken by majority.

6. A sufficient number of investigation judges are assigned to each board. Furthermore, there is one section of registry.

Assembly on the unification of conflicting judgments

Article 18 – 1. The Assembly on the unification of conflicting judgments is composed of the President, the Chief Advocate General and vice presidents of the Council of State and the presidents and members of the law chambers.

2. The quorum for meeting and negotiation is at least thirty one. If the number of members present at the meeting is even, the lowest ranking member shall not participate in the Board.

3. The decisions on the merits are taken by absolute majority of the total number of members of the Board at the first meeting. If the quorum for decision cannot be obtained at this meeting, the decisions are taken by the absolute majority of the present members in the second meeting. The other decisions of the Board are taken by the majority of votes.

4. A sufficient number of investigation judges and officers are assigned to the Assembly on the Unification of Conflicting Judgements.

(1) While the heading of this Article was “Plenary Sessions of administrative and tax law chambers”, it was amended as entered into the text with Article 3 of the Law dated 2/6/2004 and no 5183.

(2) With Article 12 of the Law dated 2/12/2014 and no 6572, the expression “thirty one” set forth in this paragraph was amended as “twenty five”.

(3) With Article 5 of the Law dated 1/7/2016 and no 6723, the expression “twenty five” set forth in this paragraph was amended as “fifteen” and the expression “is thirteen” was amended as “is eleven”.

Board of Presidents ⁽¹⁾**Article 19 – (Amended: 22/3/1990 - 3619/Article 2)**

1 – **(Re-regulated: 27/6/2013 – 6494/Article 8)** The Board of Presidents is composed of the Chief Advocate General, vice presidents and the chamber presidents under the presidency of the President of the Council of State.

2 – In case of the excuse of the chamber president, the highest ranking member of the chamber attends the Board.

3 – The decisions are taken by the majority of votes.

4 – In case of equality of votes, the party that includes the President is deemed to have obtained the majority.

Board of Presidency⁽²⁾**Article 19/A – (Added: 8/8/2011-DECREE LAW-650/Article 7; Repealed: With the Decision dated 18/7/2012 and Docket No 2011/113 and Decision No 2012/108 of the Constitutional Court; Re-regulated: 27/6/2013 – 6494/Article 9)**

1. The Board of Presidency is composed of six principal members, three of whom are the chamber presidents and three of whom are the members of the Council of State, and four substitute members, two of whom are the chamber presidents and two of whom are the members of the Council of State, under the presidency of the President of the Council of State.

Election of the members of the Board of Presidency ⁽³⁾**Article 19/B – (Added: 8/8/2011-DECREE LAW-650/Article 7; Repealed: With the Decision dated 18/7/2012 and Docket No 2011/113 and Decision No 2012/108 of the Constitutional Court; Re-regulated: 27/6/2013 – 6494/Article 10)**

1. The principal and substitute members to be elected to the Board of Presidency are elected by the Plenary Assembly of the Council of State. More than one person from the same chamber may not be elected as a member of the Board of Presidency.

2. The Board of Presidency meets with the total number of members. If one of the principal members cannot participate in the Board, this gap is filled in by his substitute.

3. The members of the Board of Presidency may not participate in the Board meetings on issues related to themselves.

4. It is also possible to cast a vote by indicating all of those who will be elected to the Board of Presidency in a voting paper. If there is no candidate or there is no sufficient number of applications, candidates in the number equal to three folds of those who can be elected are nominated apart from the candidates by secret voting and by the majority of votes by the Board of Presidents. The elections are made in accordance with the provisions of Article 10.

5. The term of service of those who have been elected to the Board of Presidency is two years and they may not be re-elected before the expiration of one election period.

6. When the capacities of the chamber presidents and members elected as members of the Board of Presidency are changed, they are deemed to have left membership of the Board.

7. If a position of the Board of Presidency becomes vacant for any reason, an election is held for the vacant position within fifteen days and the elected member completes the term of service of the member in place of whom he is elected.

(1) With Article 10 of the Decree Law dated 8/8/2011 and no 650, while the heading of this Article was “Board of Presidency”, it was amended as “Board of Presidents” and the expression “Board of Presidency” set forth in the first paragraph was amended as “Board of Presidents” and then this regulation was repealed with the Decision dated 18/7/2012 and Docket No 2011/113 and Decision No 2012/108 of the Constitutional Court and re-regulated as entered into the text with Article 8 of the Law dated 27/6/2013 and no 6494.

(2) With Article 9 of the Law dated 27/6/2013 and no 6494, the heading of this Article was re-regulated as entered into the text.

(3) With Article 10 of the Law dated 27/6/2013 and no 6494, the heading of this Article was re-regulated as entered into the text.

Higher disciplinary board

Article 20 – 1. The Higher Disciplinary Board consists of one member to be elected from each chamber by the Plenary Assembly of the Council of State at the beginning of each calendar year and three chamber presidents, two of whom will be elected from among the law chambers and one of whom will be elected from the presidents of the administrative chambers, under the Presidency of the President of the Council of State. The Chief Advocate General of the Council of State is the ordinary member of the Board.

2. Two chamber presidents and five members are elected as substitute to the Board.

3. The Board meets with the total number of the members and decides with a two-third majority of the votes.

4. In case of a position becoming vacant, re-election is made by the Plenary Assembly in accordance with the principles set forth in the first paragraph within no later than ten days for the vacant position.

5. Clerical work of the Board are carried out by the Secretary General.

Disciplinary Board

Article 21 – The Disciplinary Board consists of one chamber president and one member to be elected by the Plenary Assembly at the beginning of each calendar year and one first category investigation judge and one advocate general of the Council of State. One substitute is elected for each member following the same procedure. The Secretary General is the ordinary member of the Board. The President of the Chamber presides the Board. The Board makes decisions by the majority of votes.

Representation of the Presidents and the Chief Advocate General

Article 22 – 1. In case of the office of the President of the Council of State becoming vacant, the President of the Council of State is on leave or has an excuse, the highest ranking vice president represents the President of the Council of State.

2. The highest ranking member in the chambers represents the president. A member of the Council of State to be elected by the President of the Council of State and having the qualification required to be elected as the Chief Advocate General represents the Chief Advocate General.

SECTION FOUR

*Duties of the Council of State, the Chambers and the Boards**Duties of the Council of State*

Article 23 – The Council of State:

a) (**Amended: 22/3/1990 - 3619/Article 3**) Examines and concludes the decisions taken by the Administrative Courts and tax courts and the requests of appeal brought against the decisions related to the actions heard in the Council of State as the court of first instance. (**Added sentence: 1/7/2016 - 6723/Article 6**) The duty of the Council of State as the authority of appeal is limited to inspecting the contradictions to the law arising in the form of non-application or misapplication of a rule of law.

b) Concludes the administrative cases written in this Act as the court of first and last instance.

c) (**Abolished: 2/7/2018 – DECREE LAW-703/Article 184**)

d) (**Amended: 18/12/1999-4492/Article 1**) (...) ⁽¹⁾ Presents its opinion about the concession agreement and contracts related to the public services.

e) (**Abolished: 2/7/2018 – DECREE LAW-703/Article 184**)

f) Fulfills the duties assigned by this Act and other laws.

Actions to be heard in the Council of State as the court of first instance

Article 24 – (**Amended: 2/6/2000 - 4575/ Article 2**)

1. The Council of State, as the court of first instance, concludes the actions of nullity and full remedy actions to be filed against:

a) (**Amended: 2/7/2018 – DECREE LAW-703/Article 184**) the decisions of the President of the Republic,

(1) With Article 184 of the Decree Law dated 2/7/2018 and no 703, the expression "Examines the draft ordinances "set forth in this item was removed from the text of the Article.

b) **(Amended: 2/7/2018 – DECREE LAW-703/Article 184)** the regulatory procedures other than the decree laws of the Presidency of the Republic issued by the President of the Republic,

c) **(Amended: 2/7/2012-6352/Article 45)** The regulatory procedures issued by the ministries and public institutions or professional organizations having the characteristic of public institutions and to be applied throughout the country,

d) the actions and procedures based on the decisions of the Administrative Chamber of the Council of State or the Board of Administrative Affairs, ⁽¹⁾

e) Cases included within the jurisdiction of more than one administrative or tax court,

f) the decisions of the Higher Disciplinary Board of the Council of State and the procedures of the Presidency of the Council of State in relation to the area of duty of the Board

and the administrative actions arising from conditions and contracts concerning public services under which concessions are granted provided that arbitration has not been suggested to settle these disputes.

2. The Council of State examines and concludes the requests concerning the loss of status of the elected organs of the municipalities and the provincial special administrations.

Actions to be heard in the Council of State upon appeal

Article 25 – (Amended: 22/3/1990 - 3619/Article 5)

The final decisions taken by the administrative courts and the tax courts and the final decisions related to the actions heard in the Council of State as the court of first instance are examined and concluded by the Council of State upon appeal.

Jurisdiction in administrative disputes and actions ⁽²⁾

Article 26 – (Amended: 2/6/2000 - 4575/Article 3)

(Amended first paragraph: 9/2/2011-6110/Article 3) The administrative disputes and actions are examined and concluded by the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth and Tenth chambers and the boards of administrative and tax law chambers. ^{(2) (3)}

(Re-regulated: 27/6/2013 – 6494/Article 11; Amended second paragraph: 2/12/2014-6572/Article 13) If any obligation arises in terms of the work load, the Board of Presidency can change the jurisdiction of one or several of the tax law chambers, the administrative law chambers or the administrative chambers and assign these chambers as the tax law chamber, administrative law chamber or administrative chamber.

(Re-regulated: 27/6/2013 – 6494/Article 11) Matters on how the case files of the entrusted Chamber will be transferred to other Chambers in line with rules of jurisdiction on tax and administrative disputes and which Chamber's cases will be referred to the entrusted Chamber is decided by the decision of the Board of Presidency. These decisions are published in the Official Gazette and are applied as of the beginning of the month following the publication. ⁽²⁾

The President and members of the entrusted Chamber participate in the plenary assembly of the law chamber which deals with the works that fall within the jurisdiction of the chamber.

(1) The expression "by the administrative chambers of the Council of State" set forth in this item was amended as "by the Administrative Chamber of the Council of State" with Article 4 of the Law dated 2/6/2004 and no 5183 and entered into the text.

(2) With Article 13 of the Law dated 2/12/2014 and no 6572, the expression "Fourteenth and Fifteenth" set forth in the first paragraph of this Article was amended as "Fourteenth, Fifteenth and Sixteenth", the expression "Presidents" set forth in the third paragraph was amended as "Presidency".

(3) With Article 7 of the Law dated 1/7/2016 and no 6723, the expression "Ninth, Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth, Fifteenth and Sixteenth" set forth in this paragraph was amended as "Ninth and Tenth".

Duties of the second chamber

Article 26/A - (Added: 2/6/2004 - 5183/Article 6; Abolished: 9/2/2011-6110/Article 14)

Duties of the law chambers ⁽¹⁾

Article 27 – (Amended: 9/2/2011-6110/Article 4)

The Third, Fourth, Seventh and Ninth chambers from the law chambers function as tax law chambers; and the other law chambers, on the other hand, function as administrative law chambers.

The administrative law chambers and the tax law chambers work according to the principle of division of labour between them. **(Re-regulated second sentence: 27/6/2013 – 6494/Article 12; Amended second sentence: 2/12/2014-6572/Article 14)** If there is no other provision in the special laws, the division of labor between the law chambers is determined by the Board of Presidency pursuant to the following principles. **(Abolished third and fourth sentences: 2/12/2014-6572/Article 14)(...)**

1. In the determination of the division of labour among the chambers in terms of the actions of nullity and the actions arising from the administrative contracts, the legislation from which the dispute arises is taken as basis.

2. The division of labour in terms of the full remedy actions is determined;

a) according to the chamber which is in charge of settling the dispute arising from the administrative procedure that causes the damage,

b) according to the nature of the service if the damage has arisen from the administrative action.

3. In the determination of the division of labour among the tax law chambers in the actions regarding the taxes, duties, charges and similar financial liabilities, the legislation from which the dispute arises is taken as basis.

4. The chamber which is in charge of making the appellate review is also in charge of hearing the actions to be tried in the Council of State as the court of first instance on the same issue and making the reviews of the extraordinary remedies.

5. In the disputes regarding the duty and authorization among the administrative courts and in the associated cases, the assignment of authority is made by the administrative tax chamber which is in charge of settling the dispute.

6. In the disputes concerning duty and authorization among the tax courts and in associated cases, the assignment of authority is made by the tax law chamber which is in charge of settling the dispute.

7. One administrative law chamber and one tax law chamber are assigned in order to hear the actions which have not been determined to be in the jurisdiction of any of the administrative and tax law chambers in the division of labour.

8. With regard to the settlement of the disputes arising from the same legislation in the division of labour, different procedures can be determined.

If the works of a chamber received within a year have increased at a rate that cannot be met and an imbalance has occurred in terms of work load among the chambers, part of the works can be assigned to another chamber at the beginning of the calendar year in accordance with the procedure determined in the second paragraph.

The decisions taken pursuant to this Article are published in the Official Gazette and are applied as of the beginning of the month following the publication.

(1) While the heading of this Article was “Duties of the third chamber”, it was amended as entered into the text with Article 4 of the Law dated 9/2/2011 and no 6110.

*Duties of the fourth chamber***Article 28 – (Abolished: 9/2/2011-6110/Article 14)***Duties of the fifth chamber***Article 29 – (Abolished: 9/2/2011-6110/Article 14)***Duties of the sixth chamber***Article 30 – (Abolished: 9/2/2011-6110/Article 14)***Duties of the seventh chamber***Article 31 – (Abolished: 9/2/2011-6110/Article 14)***Duties of the eighth chamber***Article 32 – (Abolished: 9/2/2011-6110/Article 14)***Duties of the ninth chamber***Article 33 – (Abolished: 9/2/2011-6110/Article 14)***Duties of the tenth chamber***Article 34 – (Abolished: 9/2/2011-6110/Article 14)***Duties of the eleventh chamber***Article 34/A – (Added: 8/12/1994 - 4055/Article 3; Abolished: 9/2/2011-6110/Article 14)***Duties of the twelfth chamber***Article 34/B – (Added: 8/12/1994 - 4055/Article 3; Abolished: 9/2/2011-6110/Article 14)***Duties of the thirteenth chamber***Article 34/C – (Added: 2/6/2004 – 5183/Article 9; (Abolished: 9/2/2011-6110/Article 14)***Actions regarding the public receivables*

Article 35 – The actions regarding the implementation of the Law on Collection Procedure of Public Receivables are resolved by the law chambers which are in charge of hearing the actions regarding the accrual of the receivable.

Settlement of the disputes related to the new taxes

Article 36 – The disputes arising from the laws that repeals a tax and replaces it with a new tax having the same or similar characteristic are settled by the chamber which is in charge of settling the disputes arising from the previous tax.

*Assignment of certain works to the other chambers***Article 37 – (Abolished: 9/2/2011-6110/Article 14)***Duties of the boards of administrative and tax law chambers***Article 38 – (Amended: 22/3/1990 - 3619/Article 6)**

1. The Board of Administrative Law Chambers examines upon appeal;
 - a) decisions of the administrative courts insisting on their previous decisions,
 - b) the decisions taken by the administrative law chambers as the court of first instance.
2. The Board of Tax Law Chambers examines upon appeal;
 - a) decisions of the tax courts insisting on their previous decisions,
 - b) the decisions taken by the tax law chambers as the court of first instance.

Duties of the Assembly on the Unification of Conflicting Judgments

Article 39 – If any contradiction or dispute arises between the decisions of the law chambers or the boards of the administrative and tax law chambers, either given by the same organ or by different ones, or when it is deemed necessary to modify a previous decision on the unification of conflicting judgements, the Assembly on the Unification of Conflicting Judgements examines the work and if it deems necessary, decides on the unification or amendment of the case law after receiving the opinion of the Chief Advocate General upon the reference of the issue by the President of the Council of State.

Those who are authorized to request the unification of conflicting judgements

Article 40 – 1. The unification of the conflicting judgements or the amendment of the unified judgements can be requested by the President of the Council of State, the relevant chambers and the boards of administrative and tax law chambers or the Chief Advocate General.

2. The persons related to the conflicting judgements may apply to the Presidency of the Council of State with the request for unification.

3. The decisions of the Assembly on the unification or amendment of the judgements are published in the Official Gazette within a month after they are sent.

4. The chambers and boards of the Council of State and the administrative courts and the administration must comply with these decisions.

*Duty in administrative affairs ⁽¹⁾***Article 41 – (Amended: 2/6/2004 – 5183/Article 11)**

Administrative disputes and duties related to administrative affairs are dealt with in the First Chamber and the Board of Administrative Affairs. ⁽²⁾

Duties of the first chamber ⁽³⁾⁽⁴⁾

Article 42 – The First Chamber examines and concludes according to necessity and notifies its opinions about:

- a) **(Abolished: 2/7/2018 – DECREE LAW-703/Article 184)**
- b) **(Abolished: 2/7/2018 – DECREE LAW-703/Article 184)**
- c) **(Amended: 18/12/1999-4492/Article 3)** The concession agreements and contracts related to public services,
- d) **(Abolished: 2/7/2018 – DECREE LAW-703/Article 184)**
- e) The requests regarding the opinions which are written in the Laws to be obtained from the Council of State,
- f) **(Abolished: 2/7/2018 – DECREE LAW-703/Article 184)**

(1) With Article 15 of the Law dated 2/12/2014 and no 6572, the expression “First Chamber” set forth in this Article was amended as “First and Seventeenth Chambers”.

(2) With Article 8 of the Law dated 1/7/2016 and no 6723, the expression “First and Seventeenth Chambers” set forth in this paragraph was amended as “First Chamber and”.

(3) While the heading of this Article was “Duties of the First Chamber”, it was amended as entered into the text with the Article 16 of the Law dated 2/12/2014 and no 6572 and the expression “First Chamber:” was amended as “First and Seventeenth Chambers:”.

(4) While the heading of this Article was “Duties of the First and Seventeenth Chambers”, it was amended as entered into the text with the Article 9 of the Law dated 1/7/2016 and no 6723 and the expression “First and Seventeenth Chambers” set forth in the first paragraph of the same Article was amended as “First Chamber:”.

- g) The disputes arising from the application of the thirtieth Article of the Land Acquisition Act No 6830,
- h) The works assigned to the Council of State directly or by objection in accordance with the Provincial Act on General Administration of Provinces,
- i) The works assigned to the Council of State by the Municipality Law which are not the subject of an administrative action,
- j) The proposals to be made for the associations to be deemed a public benefit association,
- k) **(Amended: 2/6/2004 – 5183/Article 11)** The works to be dealt with pursuant to the legislation on the trial of civil servants and other public officials.

Duties of the second chamber

Article 43 – (Abolished: 2/6/2004 – 5183/Article 13)

Assignment of a part of the works to the other administrative chamber

Article 44 –(Abolished: 2/6/2004 – 5183/Article 13)

Duties of the plenary assembly of the Council of State

Article 45 – The Plenary Assembly of the Council of State fulfills the election duties assigned to this Assembly by this Act and other laws and the other duties and accepts the ordinances and regulations stipulated in this Act.

Duties of the board of administrative affairs

Article 46 – 1. The Board of Administrative Affairs examines and concludes according to necessity or notifies its opinion about:

- a) **(Abolished: 22/3/1990 - 3619/Article 12)**
- b) **(Amended: 18/12/1999 - 4492/Article 4)** The conditions and contracts related to public services under which concessions are granted,
- c) The works designated to the Board of Administrative Affairs of the Council of State by the law,
- d) The disputes of duty to arise between the administrative chambers and boards of the Council of State,
- e) The works to be referred by the President of the Council of State from the administrative chambers other than those written above,
- f) The non-suits taken at the first degree by the relevant chamber in accordance with the provisions of the Law on Prosecution of Public Servants automatically and the trial decisions, on the other hand, upon appeal,
The relevant chamber of the Council of State has to comply with the decisions of reversal of the Board.

2. If the works assigned from one of the administrative chambers and not referred to the Board of Administrative Affairs of the Council of State by the President of the Council of State pursuant to item (e) and the decisions taken are not in compliance with the opinion of the relevant ministry, they are negotiated in the Board of Administrative Affairs of the Council of State upon the request of the minister.

3. If this decision is not considered appropriate by the Board of Administrative Affairs in the decisions for which the administrative chambers do not decide on the merits due to jurisdictional or procedural reasons, the file is sent back to the relevant chamber, examination is made and a decision is reached by this chamber in line with the decision of the Board of Administrative Affairs.

Negotiation of the administrative affairs

Article 47 – In the meetings of the chambers and the boards, it is proceeded with the negotiation of the affairs after the clarifications of the members or the investigation judges are heard. Once the subjects are clarified, first the issues related to duty and procedure, if there are any, and then the other issues are concluded respectively.

Negotiation of the concession agreements and contracts related to public services (...) ⁽²⁾

Article 48 – (Amended: 18/12/1999 - 4492/Article 5) The Council of State has to conclude the notification of its opinion about the concession agreements and contracts related to public services (...) ⁽²⁾ within two months as of the date of arrival.

Bringing documents and hearing the authorities

Article 49 – 1. The authorized officers and experts can be called from the relevant chambers or other places considered appropriate in order to obtain supplementary and informative information, all kinds of documents considered necessary concerning the works being examined could be brought and information can be requested.

2. If the information and documents requested are related to the security and high interests of the State or concern foreign states along with the security and high interests of the State, the relevant authority may not give the information and documents by notifying the reason for it.

Management of the negotiations

Article 50 – The President manages the negotiations and determines issues to be submitted to voting. Those who vote with the minority on the jurisdictional and procedural matters cannot refrain from voting on the merits.

Decisions

Article 51 – In the decisions, the names and surnames of those who participate in the meeting, the subject of the work, a statement of justification, dissenting opinions and the date of the decision are specified. The decisions are signed by the President and members who participate in the meeting.

Duties of the Board of Presidents ⁽¹⁾

Article 52 – (Re-regulated: 27/6/2013-6494/Article 13)

1. The duties of the Board of Presidents are as follows:

a) **(Abolished: 2/12/2014-6572/Article 17)**

b) **(Abolished: 2/12/2014-6572/Article 17)**

c) **(Abolished: 2/12/2014-6572/Article 17)**

d) **(Abolished: 2/12/2014-6572/Article 17)**

e) To conclude the disputes arising among the chambers of the Council of State

f) To assign the authority in disputes regarding duty and authorization between the administrative and tax courts of different judicial districts and associated actions

g) To negotiate and conclude the works which the President of the Council of State considers appropriate for being negotiated

2. The Board of Presidents convene upon the invitation of the President of the Council of State.

3. **(Amended: 2/12/2014-6572/Article 17)** The decisions of the Board of Presidents are final and another judicial body may not be applied to against these decisions.

(1) With Article 10 of the Decree Law dated 8/8/2011 and no 650, while the heading of this Article was "Duties of the Board of Presidency", it was amended as "the Duties of the Board of Presidents", the expression "Board of Presidency" set forth in the first paragraph was amended as "the Board of Presidents", then the heading of this Article and the expression "the Board of Presidents" set forth in the first paragraph and the items a), b) and the third paragraph were repealed with the Decision dated 18/7/2012 and Docket No 2011/113 and Decision No: 2012/108 of the Constitutional Court, and then the aforementioned Article heading and the Article text were re-regulated as entered into the text with the Article 13 of the Law dated 27/6/2013 and no 6494.

(2) With Article 184 of the Decree Law dated 2/7/2018 and no 703, the expression "with the draft laws and ordinances" set forth in the heading of this Article and the expression "its examination on the draft laws and law proposals and the draft ordinances" set forth in the first paragraph were removed from the text of the Article.

Duties of the Board of Presidency ⁽¹⁾

Article 52/A– (Added: 8/8/2011-DECREE LAW-650/Article 8; Repealed: With the Decision dated 18/7/2012 and Docket No 2011/113 and Decision No 2012/108 of the Constitutional Court; Re-regulated: 27/6/2013-6494/Article 14; Amended: 2/12/2014-6572/Article 18)

1. The duties of the Board of Presidency are as follows:

- a) To determine the places of duty of the members in consideration of the work status and needs of the chambers.
- b) To change the chambers of the chamber presidents and members in necessary cases.
- c) To determine the chambers and boards where the investigation judges of the Council of State will work and the works which they will carry out and to replace them when necessary.
- d) To determine the division of labour among the chambers.
- e) To determine the management works for which the place of the competent authority has not been specified or to carry out such works.
- f) To fulfill all other duties assigned by the laws.

2. **(Repealed: With the Decision dated 10/2/2016 and Docket No 2015/18 and Decision No 2016/12 of the Constitutional Court.; Re-regulated: 1/7/2016-6723/Article 10)** An appeal could be made to the Board of Presidents against the decisions of the Board of Presidency within seven days. The Board of Presidents can approve the decisions of the Board of Presidency as it is or by changing it. The decisions reached on appeal are final and another judicial body may not be applied to against these decisions.

Duties of the higher disciplinary board

Article 53 – The Higher Disciplinary Board decides to initiate disciplinary proceedings against the President, the Chief Advocate General, the vice presidents of the Council of State and the chamber presidents and members and to impose disciplinary penalties upon them and fulfills all other works under the provisions of this Act.

Duties of the disciplinary board

Article 54 – The Disciplinary Board:

- a) fulfills the duties of the Higher Disciplinary Board with regards to the officers of the Council of State.
- b) decides at first degree about the employees of the Council of State, in accordance with the provisions of the Law on Prosecution of Public Servants.
- c) fulfills the duty of the board of negotiation and consultation written in paragraph (B) of Article 226 of Law no. 657 on Civil Servants with regard to the employees of the Council of State.

(1) With Article 14 of the Law dated 27/6/2013 and no 6494, the heading of this Article was re-regulated as entered into the text.

SECTION FIVE
Duties and Rights

Duties of the President of the Council of State

Article 55 – (Re-regulated: 27/6/2013-6494/Article 15)

1. The President of the Council of State is responsible for the general functioning of the Council of State. He ensures the orderly functioning of the institution. If necessary, he takes the necessary administrative measures by consulting with the presidents of the relevant chambers or the Board of Presidents.

2. The President of the Council of State presides the Plenary Assembly of the Council of State and the Assembly on the Unification of Conflicting Judgements, the Board of Administrative Affairs, the boards of administrative and tax law chambers, the Higher Disciplinary Board, the Board of Presidents and the Board of Presidency.

Duties of the Vice Presidents of the Council of State

Article 56 – 1. They fulfill the duties of the President of the Council of State assigned by the President of the Council of State.

2. In the absence of the President of the Council of State, they represent him according to seniority.

3. They preside the boards in which the President of the Council of State does not participate.

Duties of the Presidents of the Chambers

Article 57 – 1. The presidents of the chambers ensure the attendance and orderly functioning of those who serve in the chambers, the efficient functioning of chamber affairs and the training of investigation judges and other employees. They manage the negotiations. They participate in the meetings of the board they are a member of, present their opinions and cast their votes.

2. The presidents of the chambers give a report to the Presidency of the Council of State on the status of the works in their chambers and the reasons for any disruptions, if any, in the execution of such works, and notify the measures to be taken that they consider necessary.

Duties of the members

Article 58 – The members examine the files assigned to them by the presidents of the chambers in which they work or by the presidents of the boards they are members of without delay and make the necessary clarifications to the chambers or the board on duty, write down the decisions, participate in the meetings of the chambers and the boards of which they are members, present their opinions and comments, cast their votes, and carry out the other works assigned to them by the president in relation to the chamber.

Duties of the Secretary General

Article 59 – 1. The Secretary General carries out the works entrusted by this Act as well as administrative and clerical works to be assigned by the President of the Council of State.

2. The directorates other than those associated with the Chambers and the Office of Chief Advocate General and the other administrative departments are under the management and supervision of the Secretary General.

Duties of the Chief Advocate General of the Council of State

Article 60 – 1. (Amended first sentence: 2/7/2012-6352/Article 46) The Chief Advocate General refers the action files tried in the Council of State in the capacity of the court of first instance to the prosecutors according to the allocation of duties considered appropriate in order to notify his opinions about the merits. He ensures that his opinions are notified in a timely manner and ensures the attendance and orderly functioning of the prosecutors and other officers on duty in the Office of Chief Advocate General and takes the necessary measures for recording and keeping the files received and for sending the completed files to the relevant organs without any delay.

2. The Chief Advocate General presents his opinions about the action files that he examines and fulfills the other duties assigned to him by law.

3. The Chief Advocate General gives a report to the Presidency of the Council of State about the status of the works and the reasons for any disruptions, if any, in the execution of such works at the end of each calendar year and notifies the administrative measures to be taken that he considers necessary.

4. The Chief Prosecutor may assign one of the advocates general to assist him in the execution of administrative affairs.

Duties of the advocates general

Article 61 – 1. (Amended: 2/7/2012-6352/Article 47) The advocates general examine the action files heard in the Council of State in the capacity of the court of first instance, which are referred to them on behalf of the Chief Advocate General and give their written and justified opinions about the merits within a month. If these periods are exceeded, they notify the Chief Advocate General of the situation with its reasons. They fulfill the other duties to be assigned by the President and Chief Advocate General of the Council of State and comply with the measures to be taken by the Chief Advocate General for maintaining working order and increasing productivity.

2. The advocates general, through the Presidency of the Council of State, may ask for the procedure files to be brought and may request all kinds of information from the relevant places.

3. **(Amended: 2/7/2012-6352/Article 47)** If considered necessary by the law chambers, the advocates general of the Council of State also clarify their orally by being informed in advance.

Duties of the Investigation Judges

Article 62 – 1. The investigation judges examine the works referred to them by the President of the Council of State, the presidents of the chambers and the presidents of the boards and make the necessary clarifications to the chamber or the board in charge. They present their own opinions and comments orally and in writing, write the draft decisions, issue the necessary reports and fulfill the other duties to be assigned by the President of the Council of State, the president of the board and the president of the chamber.

2. In each chamber and board, a first category investigation judge is appointed by the president of that chamber or board to ensure that the officers continue their duties, are trained and work efficiently, that the administrative, filing and other secretarial works and notification works are executed orderly without delay and to carry out the other works to be assigned by the President of the Council of State, the president of the chamber and the president of the board.

Manner of application of the duties

Article 63 – The provisions regarding the application of the duties of the members and investigation judges of the Council of State and the advocates general written in the Articles above, the regulation of the working procedures of the administrative chambers and boards and the performance of the duties of the directorates, offices and secretariats written in Article 7 and the conclusion of the works within specific periods are indicated in the Internal Regulation of the Council of State.

Monthly salaries and allowances and other financial rights of the President, Chief Advocate General and members

Article 64 – The provisions of the law on the First President of the Court of Cassation, the Chief Public Prosecutor, the first vice presidents, the presidents and members of the chambers are applied to the President of the Council of State, the Chief Advocate General of the Council of State, the Vice Presidents, the presidents and members of the chambers in terms of the monthly salaries, allowances, financial, social and other personal rights, respectively.

(Added paragraph: 20/11/2017-DECREE LAW-696/Article 32; Accepted Exactly: 1/2/2018-7079/Article 27)
The health expenses of the President, the Chief Advocate General, the Vice Presidents of the Council of State and the presidents and members of the chambers, retired members and the family members they are obliged to take care of are met from the budget of the Council of State within the framework of the provisions and principles to which the members of the Turkish Grand National Assembly are subjected.

Being sent abroad

Article 65 – 1. The members of the Council of State can be sent to foreign countries where the administrative justice system is applied with the decision of the Board of Presidency for the purpose of conducting scientific research and professional observations on the condition that their monthly salaries and allowances, actual travel expenses and daily allowances will be paid and will not exceed a year.

2. The election of the President, the Chief Advocate General, the vice presidents of the Council of State and the presidents and members of the chambers to be sent abroad and the other related principles are regulated with the regulation to be prepared.

Accepting other works and duties

Article 66 – 1. The members of the Council of State may conduct scientific researches and make publications and may participate in national and international congresses, conferences, seminars and similar scientific meetings to which they are invited without receiving any travel allowance from their institutions with the permission of the President of the Council of State and other meetings in relation to science and their professions. Permissions up to fifteen days are given by the President of the Council of State and permissions exceeding fifteen days are given by the Board of Presidency.

2. In cases set forth in the first paragraph, the Council of State members may be sent as officials with the decision of the Board of Presidency.

3. The members of the Council of State written in the paragraph above may give lectures and conferences in higher education institutions with the decision of the Board of Presidency, in addition to their main duties.

SECTION SIX

Disciplinary Proceedings

Disciplinary Proceedings

Article 67 – If the behaviors and acts of the President, the Chief Advocate General, the vice presidents of the Council of State and the chamber presidents and members are seen or reported to be incompatible with the dignity and honour of a supreme judge or cause the service to delay, disciplinary proceedings are initiated against them pursuant to the provisions of this Act.

Submission of the issue to the higher disciplinary board

Article 68 – If the behaviors and acts of the President, Chief Advocate General, the vice presidents of the Council of State and the presidents and members of the chambers are seen or reported to be in a state written in the above Section, the transfer of the issue to the High Board of Discipline shall be assessed and decided by the Board of the Presidency.

Decision of disciplinary proceedings

Article 69 – 1. The Higher Disciplinary Board decides whether it is necessary to initiate disciplinary proceedings according to the nature of the act and behavior as well as the available information and evidence.

2. If the Board decides to initiate disciplinary proceedings, it assigns three people from among the chamber presidents and the members outside the Board to conduct an investigation. If those against whom complaints are made are members of the Higher Disciplinary Board, they may not participate in the meetings of the Board on this matter. Their places are filled in accordance with the procedure set forth in Article 20.

Form of the investigation

Article 70 – 1. Those who are assigned to conduct an investigation notify the person concerned about the behavior and act attributed to him and obtain his defence, hear the persons considered necessary under oath, collect information about the matter and determine the evidentiary materials.

2. All chambers, boards and institutions and all real and legal persons have to answer the questions asked and fulfill the other requests. However, the provision of Article 49 is reserved.

Giving a report

Article 71 – Those who have made the investigation prepare a report indicating the investigations that they have made and the information and evidences that they have obtained, also stating their opinions about whether it is necessary to impose a disciplinary penalty accordingly, and enter the documents into this report.

Action to be taken after receiving the report

Article 72 – 1. The report prepared in accordance with the Article above is submitted to the Higher Disciplinary Board. Those who have conducted the investigation may not participate in this Board.

2. The President of the Board notifies the result of the investigation to the concerned person in writing and invites him to give his written defence within a period to be determined, which cannot be less than five days.

3. The President of the Board refers the investigation file to one of the members.

4. The Board examines the work on the document and decides to expand or deepen the investigation if necessary.

5. The concerned person can examine this file in the presence of the reporter member.

Disciplinary penalties

Article 73 – 1. If the Higher Disciplinary Board does not consider the behavior and act complained about as substantive, it decides to cancel the file.

2. If the Board considers these behaviors and acts as substantive, it decides to issue a warning to the concerned person according to the nature and weight of such behaviors and acts or invites the person to resign or retire depending on his period of service.

3. If the decision of the Board is about the President of the Council of State, it is notified to him by his representative and if the decision of the Board is about others, it is notified to the concerned person by the President of the Council of State.

Execution of the decisions

Article 74 – If the concerned person does not comply with the decision that invites him to resign or retire within a month as of the date of notification, he is deemed to have resigned. The concerned person is deemed to be on leave for the period of one month.

Legal action against the disciplinary decision

Article 75 – 1. The concerned person may file an action against this decision within fifteen days as of the date of notification of the decision of the Higher Disciplinary Board. These actions are concluded within three months after the defences are obtained or the period for the defence has expired. Judicial recess is not taken into account.

2. The positions of the concerned persons, which have become vacant, are not filled until the case is finalized.

3. Those who have taken the decision or made the investigation in the Higher Disciplinary Board may not participate in the negotiation of the cases regarding the disciplinary penalties.

SECTION SEVEN
Criminal Prosecution

Investigation

Article 76 – 1.- The initial investigation is made by a board that is composed of one chamber president and two members who will be elected by the President of the Council of State, due to the crimes of the President, the Chief Advocate General, the vice presidents of the Council of State and the chamber presidents and members that have been committed in connection with or in the course of their duties.

2. The investigation about the President of the Council of State is conducted by a board that is composed of one chamber president and two members to be elected by the Board of Presidency in which the President of the Council of State will not participate.

3. The Board gives the summary of proceedings and the relevant documents which it will issue at the end of the investigation to the President of the Council of State or to the vice president if the investigation concerns the President of the Council of State. The file on this matter is submitted to the Presidency of the Board of Administrative Affairs by the President of the Council of State or his representative in order to reach the necessary decision. The decisions to be reached by this Board are notified to the defendant or the plaintiff, if any.

4. The decision of not to authorize prosecution is examined automatically and the decisions regarding the commencement of the final investigation are examined upon appeal in the Plenary Assembly of the Council of State in which the President and members of the Board of Administrative Affairs will not participate.

5. The quorum of the Plenary Assembly of the Council of State in these meetings is at least thirty one. If the number of members present in the meeting is even, the lowest ranking member shall not participate in the meeting.

Period of objection:

Article 77 – The period of objection against the decisions taken at first degree in accordance with the provisions of Article 76 is ten days as of the notification of this decision to the defendant or the plaintiff.

Examination in the boards in charge

Article 78 – 1. The examination is made on the document in the boards written in the Articles above. The defendants, upon the notification of the decision authorizing prosecution, can examine the investigation files under the supervision of the investigation judge of the board that has rendered the decision.

2. The decisions are notified to those concerned by the investigation judge of the board in accordance with the provisions of the Notification Law.

Sending the investigation file to judicial organs

Article 79 – After the decision authorizing prosecution, which have been taken in accordance with Article 76, are finalized by being approved or not being objected to by the supreme board, the investigation file is sent to the Chief Public Prosecutor by the President of the Council of State or his representative in order the necessary action to be taken.

Those who cannot participate in the decision

Article 80 – Those who have conducted the investigation cannot participate in the meetings of the boards rendering the decision on the investigations.

Cases in which the Code of Criminal Procedure will be applied

Article 81 – 1. In the investigations to be made and the decisions to be taken in accordance with the provisions of the Articles above, the provisions of the Code of Criminal Procedure regarding the investigation are applied in the cases where there is no provision in this Act.

2. The investigation boards have the powers of the investigating judge.

Prosecution in personal crimes

Article 82 – 1. In the prosecution of personal crimes of the President, the Chief Advocate General, the vice presidents of the Council of State and the chamber presidents and members, the provisions related to the prosecution of personal crimes of the President of the Council of State, Chief Public Prosecutor and members of the Court of Cassation are applied.

2. In accordance with the Martial Law no 1402, the prosecution of the President, the vice presidents, the Chief Advocate General of the Council of State and the chamber presidents and members is subject to the consent of the Board of Presidency.

SECTION EIGHT

*Termination of the Duty**Conviction*

Article 83 – 1. If a member of the Council of State is convicted with heavy imprisonment or with a prison term for six months or longer due to an intentionally committed crime, his duty is automatically terminated.

2. In case of conviction with imprisonment for less than six months due to an intentionally committed crime, if this crime is deemed to be in contradiction with the dignity and honour of the profession, or to be eliminating the general respect and trust to the profession, it is decided by the Higher Disciplinary Board whether it is necessary to dismiss the concerned person.

*Inability to fulfill the duty due to the state of health***Article 84 – (Re-regulated: 27/6/2013-6494/Article 16)**

The termination of the duty of the members of the Council of State, whose inability to discharge his functions has been established by a report from a comprehensive public medical institution, is given by the Board of Presidents.

Right of action

Article 85 – In the cases to be brought by the concerned person against the decision to terminate his duty given under the second paragraph of Article 83 and Article 84 against these decisions, the provisions of Article 75 are applied.

SECTION NINE
Miscellaneous Provisions

Judicial Recess

Article 86 – 1. (Amended: 8/8/2011-DECREE LAW-650/Article 9; Repealed: With the Decision dated 18/7/2012 and Docket No 2011/113 and Decision No 2012/108 of the Constitutional Court; Re-regulated: 27/6/2013-6494/Article 17) The chambers of the Council of State break for recess from 31 July until 31 August starting from the first of September every year.

2. A chamber on duty that is composed of one chamber president and four members and one substitute member is established in order to work during the recess period. The substitute member also performs the duty of the Secretary General.

3. (Re-regulated: 27/6/2013-6494/Article 17) The president and members of this chamber are elected by the Board of Presidents from among the presidents and members of the chambers of the Council of State in a mixed way. The necessary number of prosecutors and investigation judges also continue their duties.

4. During the recess period, the President, the Chief Advocate's General, the vice presidents of the Council of State and the chamber presidents and members and the advocates general and the investigation judges break for recess, except for those who remain on duty. During this period, the chamber president on duty represents the President of the Council of State.

5. Other staff of the Council of State continue working. However, the employees for whom it is not considered necessary to remain on duty according to the requirements of the work use their legal leaves in the recess period.

6. (Amended: 27/6/2013-6494/Article 17) The members of the Council of State who remain on duty in the recess period can use leave, including the travel period, as much as the period of recess in the rest of the year.

Works to be carried out by the chamber on duty

Article 87 – The chamber on duty carries out the following works in the recess period:

- a) Works required by law to be concluded within a specific period of time (...)⁽¹⁾,
- b) Works for the suspension of execution or the determination of evidence,
- c) Works sent to the Council of State about the imprisoned public servants in accordance with the provisions of the Law on Prosecution of Public Servants.

Office of classification and publication

Article 88 – 1. An office is established in order to make the organization and classification of the decisions taken by the chambers and boards of the Council of State and the legislation, to ensure the organization of the library, to conduct the publication work of the Council of State Journal and to follow up the scientific publications related to the public law.

2. The establishment and duties of this office are regulated with a regulation.

Disclosure of confidential information

Article 89 – The members of the Council of State and the investigation judges and advocates general of the Council of State may not disclose confidential information related to public services, even though they have resigned.

(1) With Article 184 of the Decree Law dated 2/7/2018 and no 703, the expression "urgent or... to be given by the government except for the draft laws and law proposals and the draft ordinances" set forth in this item was removed from the text of the Article.

Protection against complaints and defamation

Article 90 – If it is understood at the end of an examination, investigation or prosecution that the notifications and complaints about the Council of State members are not substantive and have been made based on animosity or with the intention to insult or have the nature of a false complaint, the President of the Council of State requests from the Office of the Public Prosecutor to initiate a public prosecution against those who have made the complaints.

*Working hours and leaves***Article 91 – (Amended: 22/3/1990 - 3619/Article 9)**

The provisions of the Law on Civil Servants are applied for the weekly working periods of the Council of State and the casual, illness and unpaid leaves of the Council of State members.

Storage of files and other documents

Article 92 – The periods of storing the case files and other documents in the Council of State, the procedures for destroying them and the other issues regarding the Archive of the Council of State are regulated with a regulation to be issued.

Budget

Article 93 – 1. The Council of State, within the framework of the general budget, is managed by its own budget.

2. The chief of disbursement of the budget is the President of the Council of State. Accounting affairs are conducted by the accounting organization to be established in the Council of State.

3. In the budget negotiations in the legislative assemblies, the Council of State is represented by the President or a person to be assigned by him.

Clothing

Article 94 – The form of the official clothing of the members of the Council of State, the investigation judges of the Council of State and the advocates general of the Council of State and the time and place of wearing these clothes are regulated with a regulation.

Giving information to the press

Article 95 – Information and statements related to the Council of State can be given to the press, news agencies, the radio and television by the President of the Council of State or an official to be authorized by him.

*Directorate of Information Processing Center and its duties***Article 95 /A – (Added: 31/3/2011-6217/Article 16)**

The Information Processing Center performs duty as associated to the Presidency of the Council of State and under the management of a director, is composed of a sufficient number of chiefs, engineers, programmers, analysts, computer operators, data preparation and control operators and technicians.

The duties of the Directorate of Information Processing Center are as follows:

a) To establish the information processing system in the Presidency of the Council of State in coordination with the information system of the courts of first instance and the regional administrative courts, to operate this system, to perform or enable the performance of its maintenance and repairs, to make the necessary updates according to needs by following up the technologies and developments related to the information processing systems, to develop and update software by creating projects according to the needs of the Presidency of Council of State.

b) When necessary, to ensure compatibility with the software developed by other public institutions and organizations, to ensure the online and offline data flow and coordination between the systems within the international scope, to fulfill the duties assigned by the Presidency of Council of State in national and international activities related to information technologies.

c) To provide the necessary support for the decisions, legislations, circulars, opinions, texts and documents prepared with respect to the area of activity of the Council of State and the decisions of the international courts to which Turkey is a member and to which jurisdiction is granted to be submitted to the service of the users.

d) To ensure that the procedures and principles for the security policies in the information systems of the Presidency of the Council of State are determined, applied, updated and inspected.

e) To prepare the principles to be issued by the Presidency of the Council of State in the use of computer and information systems, to provide the necessary trainings in consideration of the requests of the computer users who perform duty in all departments of the Council of State.

f) To carry out similar duties assigned by the Presidency of the Council of State.

SECTION TEN

Final Provisions

Abolished provisions

Article 96 – The Council of State Law no 521 and its annexes and amendments thereof have been abolished.

Additional Article 1 – (Added: 22/3/1990 - 3619/Article 10)

Actions regarding the duty of two law chambers are concluded in a joint meeting of those two law chambers upon the request of the relevant law chamber. The highest ranking chamber president presides this meeting. The quorum for meeting and negotiation is nine. The decisions are taken by the majority of votes.

These actions are assigned the docket and decision numbers of the chamber where the actions are filed.

Additional Article 2- (Added: 20/11/2017-DECREE LAW-696/Article 33; Accepted Exactly: 1/2/2018-7079/Article 28) ⁽¹⁾

The positions included in the attached list no (2) have been created and added to the section for the Presidency of Council of State of the attached schedule no (II) of the Decree Law dated 13/12/1983 and no. 190 on General Staff and Procedure.

Provisional Article 1 – Amongst the officers who are in charge in the Council of State on the date of entry into force of this Law and who are subject to Law no 657 on Civil Servants, those who are more than needed in the Council of State are given to the order of the Ministry of Justice in order to be assigned to regional administrative courts, administrative courts and tax courts. Their positions are added to the courts section of the provincial organization of the Ministry of Justice.

Provisional Article 2 – The title of the chief clerks who are in charge in the Council of State on the date when this Law comes into force was changed as “chief executive”. They do not need to be re-assigned due to this change. They continue to receive supplementary payments over their former titles until their new titles are included in the supplementary payment decree law.

Provisional Article 3 – The provisions of the ordinances and regulations issued in accordance with the abolished Council of State Law no 521 and annexes and amendments thereof, which are not in contradiction with this Act, are continued to be applied until the ordinances, internal regulations and regulations to be issued come into force.

Provisional Article 4 – The relevant provisions of the Council of State Law no 521 are applied about the periods of application and action which have started before the enforcement of this Law.

Provisional Article 5 – The actions which have been filed to the Council of State before the date of entry of this Act are tried and concluded in the Council of State.

Provisional Article 6 – The actions which were previously included in the jurisdiction of the Council of State and which are related to the Law on the Establishment and Duties of the Regional Administrative Courts, Administrative Courts and Tax Courts and the issues included in the jurisdiction of these courts are continued to be filed to the Council of State until these courts begin duty. These actions are concluded by the Council of State.

(1) For the staffs set forth in this Article, refer to the Official Gazette dated 24/12/2017 and no 30280 and the Official Gazette dated 8/3/2018 and no 30354 (Repeating).

Provisional Article 7 – The files related to the civil servants law available in the First Reorganized Chamber, the Seventh Chamber and the Tenth Chamber on the date when this Law comes into force are transferred to the Third Chamber and are concluded by this Chamber.

Provisional Article 8 – The distribution of the works of the chambers and boards established in accordance with the abolished Council of State Law no 521 and the annexes and amendments thereof to the chambers and boards assigned in accordance with this Act is completed within fifteen days as of the establishment of the boards of the chambers. An additional decision is not required to carry out this operation..

Provisional Article 9 – The elections of the Board of Administrative Affairs, the Board of Presidency, the Higher Disciplinary Board and the Disciplinary Board are held within fifteen days from the establishment of the boards of the chambers.

Provisional Article 10 – The works which are written in various laws to be negotiated and concluded in the Plenary Assembly of the Council of State are negotiated and concluded by the Board of Administrative Affairs of the Council of State after the date when this Law comes into force.

Provisional Article 11 – The expression “the judges and advocates general of administrative justice allocated to the first class” set forth in this Act means the judges and advocates general of administrative justice who have received the first degree position until the regulations related to the judges and advocates general of administrative justice are made in the Judges Law.

Provisional Article 12 – The judicial allowance is continued to be given in accordance with Provisional Articles 1 and 2 of Law no 1903, until the necessary regulations are made in the Constitutional Court and Court of Accounts laws.

Provisional Article 13 – The capacities of presidency of the President, Chief Advocates General and chamber presidents of the Council of State are terminated on the date when this Law comes into effect. However, the duties of presidency are continued until the appointments are made in accordance with Provisional Article 14.

Provisional Article 14 – 1. Within thirty days as of the date when this Law comes into force, the vacant positions in the Council of State are filled for only once by election by the President of the Republic from among two folds of candidates to be nominated for the vacant positions by the Supreme Council of Judges and Prosecutors, at least three out of four of whom will be from the judges and advocates general of administrative justice from among those who have the qualifications specified in Article 8 of this Act.

2. Within fifteen days following the election set forth in the first paragraph, the President, Chief Advocates General, vice presidents and chamber presidents of the Council of State are elected for only once by the President of the Republic from among two candidates to be nominated from among the members of the Council of State by the Supreme Council of Judges and Prosecutors.

3. The distribution of the members of the Council of State to the chambers is made by the President of the Republic for only once, upon the recommendation of the Supreme Council of Judges and Prosecutors within the period set forth in the second paragraph.

4. The President of the Republic, upon the recommendation of the Supreme Council of Judges and Prosecutors, may appoint presidents to the regional administrative courts that are under establishment, from among the members of the Council of State for once only. Those who are appointed this way to the presidency of regional administrative courts serve in these positions for four years. This period can be extended upon the request of the concerned person. Those who are appointed in accordance with this paragraph maintain their title of membership of the Council of State, position, monthly salary and allowance and all their personal rights. Their monthly salaries and allowances and all kinds of their other financial and social rights are continued to be paid from the budget of the Council of State.

5. The positions of those who have been appointed to the presidency of regional administrative courts in accordance with the paragraph above in the permanent staff list of the Council of State on the date they resign from these positions regardless of the reason are deemed to have been cancelled.

Provisional Article 15 – The right to be elected as a member of the Council of State of those who have served as the President of the Tax Appeals Commission, the chamber president or chamber member, which is granted by Article 8 of the Council of State Law no 521, amended with Law no 1740, is reserved.

Provisional Article 16 – In the appointments to be made to the positions of investigation judge of the Council of State and the advocate general of the Council of State for a period of five years as of the date when this Act comes into force, the service period of five years set forth in the first paragraph of Article 11 of this Act is not required.

Provisional Article 17 – In the application of this Act, the provisions of the Law dated 27/10/1980 and no 2324 on Constitutional Order are reserved.

Provisional Article 18 – (Added: 22/3/1990 - 3619/Article 11)

The files related to the draft regulations of the Board of Administrative Affairs are immediately sent to the Prime Ministry by the Presidency of the Council of State.

Provisional Article 19 – (Added: 2/6/2000 - 4575/Article 4)

In the appointments to be made to the position of the investigation judge of the Council of State for a period of three years as of the date when this Act comes into force, the service period of five years set forth in paragraph (1) of Article 11 is applied as two years. In these appointments, the approval of the Board of Presidency is obtained.

Provisional Article 20 – (Added: 2/6/2004 - 5183/Article 16)

Due to the amendments made by this Act, the files in the Second Chamber of the Council of State are transferred to the First Chamber and the files regarding the actions and works removed from the jurisdiction of the Tenth Chamber are transferred to the Thirteenth Chamber without requiring any separate decisions.

Provisional Article 21 – (Added: 2/6/2004 - 5183/Article 16)

For appointing an investigation judge to the Council of State for a period of four years as of the date when this Act comes into force, the service period of five years set forth in paragraph (1) of Article 11 of Law no 2575 is not required.

Provisional Article 22 – (Added: 2/6/2004 - 5183/Article 16)

The actions which have been filed to the Council of State as the court of first instance before the date of entry into force of this Act and which have been included in the jurisdiction of administrative courts with this Act are concluded in the Council of State.

Provisional Article 23 – (Added: 25/6/2009-5917/Article 22)

For appointing an investigation judge to the Council of State for a period of ten years as of the date when this Act comes into force, the service period of five years set forth in the first paragraph of Article 11 is not required.

Provisional Article 24 – (Added: 2/7/2012-6352/Article 48) ⁽¹⁾

1. The following provisions are applied on the composition and working procedure of the Board of Administrative Law Chambers of the Council of State until 31/12/2022.⁽¹⁾⁽²⁾⁽³⁾

a) The Board of Administrative Law Chambers is composed of fourteen members who are assigned by the Board of Presidency provided that at least one member will be from each administrative law chamber. The President of the Council of State or one of his representatives presides the Board. In their absence, the highest ranking member of the Board presides the Board.

b) These members continuously perform duty in the Board of Administrative Law Chambers. However, considering the work status, the Plenary Assembly may decide on the participation of the members in the works of the chamber.

c) The quorum for meeting and negotiation is eleven. The decisions are taken by the majority of votes of those participating in the meeting. ⁽¹⁾

Provisional Article 25 – (Added: 2/7/2012-6352/Article 48)

1. The actions which have been filed to the Council of State as the court of first instance before the date of publication of this Act and which have been included in the jurisdiction of the administrative and tax courts with this Act are continued to be examined in the Council of State.

2. The files for which the suspension of execution is requested and the files regarding appeal and correction of decision, to which no opinion has been notified before the date of publication of this Act, even though they have been sent to the Office of Chief Prosecutor of the Council of State in order to obtain an opinion, are sent back to the relevant chambers or boards without providing any opinion.

(1) With Article 11 of the Law dated 1/7/2016 and no 6723, the expression “31/12/2016” set forth in the first paragraph of this Article was amended as “31/12/2019”, the expression “twenty” set forth in item (a) of the same paragraph was amended as “fourteen” and the expression “is fifteen” set forth in item (c) was amended as “is eleven”.

(2) With Article 19 of the Law dated 2/12/2014 and no 6572, the expression “for a period of three years as of the date of publication of this Law” set forth in this paragraph was amended as “until 31/12/2016”.

(3) With Article 34 of the Decree Law dated 20/11/2017 and no 696, the expression “31/12/2019” set forth in this paragraph was amended as “31/12/2022” and then this provision was legalized by being accepted in the exact manner with Article 29 of the Law dated 1/2/2018 and no 7079.

Provisional Article 26 – (Added: 2/12/2014-6572/Article 20)

1. An election is made for membership positions of the Council of State established in accordance with this Act within fifteen days as of the date this Act comes into force.

2. An election is made for chamber presidency positions established with this Act within five days following the completion of the election.

3. The Board of Presidency re-determines the division of labour among the chambers in consideration of the work status and the relevant decision is immediately published in the Official Gazette. This decision starts being applied after ten days as of the date of publication.

4. The Board of Presidency re-determines in which boards and chambers the chamber presidents of the Council of State, the members of the Council of State serving in the boards and chambers, and the investigation judges will serve in consideration of the work status and needs of the boards and chambers within ten days as of the publication of the decision regarding the division of labour in the Official Gazette.

5. The provisions regarding the division of labour before the amendment made with this Act are continued to be applied until the decision of the Board of Presidency regarding the determination of the division of labour starts being applied.

6. The case files, whose chamber has been changed with the new division of labor, are transferred, without requiring a separate decision, to the relevant chamber in their current versions by being included in a list within ten days as of the date of publication of the decision regarding the division of labour in the Official Gazette. Those which will be sent to the Council of State after the decision (including the correction of the decision and renewal of the trial) and the files of the cases reversed by being subjected to legal remedies are concluded by the chambers whose duties have been determined with the decision regarding the division of labour.

Provisional Article 27 – (Added: 1/7/2016-6723/Article 12)

1. On the date of the entry into force of this Act, the membership of the Council of State members is terminated. However, the memberships of those who serve as the President, Chief Advocate General, vice president of the Council of state and chamber president as of this date continue except for those standing proxy.

2. From those whose memberships are terminated pursuant to the first paragraph, the members of the Council of State are elected ;

a) by the Supreme Council of Judges and Prosecutors from among those elected by the Supreme Council of Judges and Prosecutors,

b) by the President of the Republic from among those elected by the President of the Republic, in consideration of the number of positions set forth in the third paragraph of this Article within five days as of the date this Act comes into force.

3. The number of positions of the members of the Council of State is one hundred and sixteen as of the date this Act came into force. Those whose membership continues pursuant to the second sentence of the first paragraph are taken into account in the number of positions.

4. The memberships, which exceed the number of positions specified in the third paragraph, are deemed to have been cancelled without the need for taking any action as of the date this Act comes into force.

5. Those who are within the scope of the provision of item (a) of the second paragraph and who are not elected as a member of the Council of State are appointed to a duty in accordance with their class and degree in administrative justice within ten days as of the date this Act comes into force.

6. From those who are included in the scope of the provision of item (b) of the second paragraph and who are not elected for membership of the Council of State, those requesting for appointment to a duty in administrative justice within five days as of the date of election made pursuant to the second paragraph, are appointed to a duty, in accordance with their class and degree in administrative justice, within five days by the relevant chamber of the Supreme Council of Judges and Prosecutors. Those who do not make a request, on the other hand, are notified to the Prime Ministry in order to be appointed to another duty.

7. Those who are appointed pursuant to the last sentence of the sixth paragraph continue to receive all kinds of monthly salaries, allowances, increases and compensations and all kinds of other financial and social rights provided to the members of the Council of State. The personal rights of those whose memberships are terminated are continued to be covered by the Council of State until their election or appointment is made.

8. Those elected for membership of the Supreme Council of Judges and Prosecutors from the members of the Council of State and whose principal memberships of the Supreme Council of Judges and Prosecutors continue as of the date this Law comes into force, can be re-elected to membership of the Council of State by the Supreme Council of Judges and Prosecutors or the President of the Republic, as the case may be, three months before the expiration of these terms of service. Those who are re-elected serve for twelve years as of the expiration of the period of membership of the Supreme Council of Judges and Prosecutors. The provisions of the fifth and sixth paragraphs, as the case may be, are applied for those who are not re-elected as of the date of expiration of the period of membership of the Supreme Council of Judges and Prosecutors. However, in terms of those who will be appointed to a duty in administrative justice, the provision of item (b) of the third paragraph of Article 28 of the Law dated 11/12/2010 and no 6087 on the Supreme Council of Judges and Prosecutors are applied.

9. The members whose membership continues pursuant to the second sentence of the first paragraph and the members who are elected pursuant to the second paragraph serve for twelve years as of the date this Act comes into force. The duties executed by these members due to the appointment or the election continue until the expiration of these duties. However, if the number of the members whose duty continues in the Board of Administrative Law Chambers is more than fourteen, the Board of Presidency determines which members will continue their duties.

10. The duties executed by the members who are not elected due to the appointment or the election are terminated as of the date this Act comes into force. For these duties, an appointment or election is made within ten days as of the completion of the elections held pursuant to the second paragraph.

11. The periods during which the members whose membership continues pursuant to the second sentence of the first paragraph and the members who are elected pursuant to the second paragraph had previously worked as the members of the Council of State are taken into account in seniority of membership.

12. The Board of Presidency re-determines, by taking into account the work status and needs of the chambers, in which chambers the members of the Council of State will serve, within ten days as of the completion of the elections held pursuant to the second paragraph.

13. The Board of Presidency, in consideration of the work status and needs of the chambers, reduces the number of chambers to the number of chambers stipulated in Article 13 within no later than six years as of the date this Act comes into force. However, these chambers continue their duties until the closure of the Board of Presidency. ⁽¹⁾

14. The Board of Presidency, by taking into account the work status and needs of the chambers, re-determines the division of labour among the chambers after each chamber closure procedure carried out pursuant to the thirteenth paragraph. The relevant decision is immediately published in the Official Gazette and is applied ten days after the date of publication.

15. The Board of Presidency, in consideration of the work status and needs of the chambers, determines in which chambers the chamber presidents, members and investigation judges serving in the chambers that have closed will perform duty within ten days as of the publication of the decision regarding the division of labour in the Official Gazette. The chamber presidents who are not assigned a duty in the chambers serve in the Presidency of the Council of State until the expiration of the presidency. The chamber presidency positions of those whose terms of service as president expired in the Presidency of the Council of State or who have been assigned as the president to another chamber are transferred to a membership position without requiring another action.

(1) With Article 35 of the Decree Law dated 20/11/2017 and no 696, the expression "three" set forth in this paragraph was amended as "six" and this provision was legalized by being accepted in the exact manner with Article 30 of the Law dated 1/2/2018 and no 7079.

16. The case files are transferred, without requiring a separate decision, to the relevant chamber in their current versions by being included in a list within ten days as of the publication of the decision regarding the division of labour in the Official Gazette.

17. A member is appointed each to two membership positions that have become vacant until the number of Council of State members decreases to ninety. The positions for which no appointment has been made are deemed to have been cancelled without requiring another action. The announcement to be made in accordance with Article 9 until the number of the positions decreases to ninety is made within no later than three days as of the eighth membership position becoming vacant.

Provisional Article 28- (Added: 20/11/2017-DECREE LAW-696/Article 36; Accepted exactly: 1/2/2018-7079/Article 31)

For all sixteen Council of State membership positions newly created on the date when this Article came into force, an election is held within no later than six months as of the date of enforcement date of this Article.

In the calculation of the total number of members of the Plenary Assembly of the Council of State, the newly created positions are not taken into account until the members are appointed pursuant to the first paragraph.

Provisional Article 29- (Added: 2/7/2018 – DECREE LAW-703/Article 184)

The health expenses of those who have retired as the President, Chief Advocate General, Chamber President and members from the military judge category of the Military High Administrative Court that has closed, including their family members who they are responsible for taking care of, and those who are included in the scope of the seventh paragraph of Provisional Article 27 and those who have retired are covered from the budget of the Council of State in accordance with the provisions of the mentioned paragraph.

Provisional Article 30- (Added: 2/7/2018 – DECREE LAW-703/Article 184)

The duties and powers of the Council of State regarding the resolutions of the Council of Ministers as the court of first instance, the regulatory procedures put into force with the resolution of the Council of Ministers and the joint decree laws related to the consultants of the Prime Ministry, ministries and other public institutions and organizations continue.

The actions which have been filed to the Council of State as the court of first instance with respect to the procedures specified in the first paragraph before the date when this Article came into force are concluded by being examined in the Council of State.

Enforcement

Article 97 – This Act comes into force on the date of publication.

Execution

Article 98 – The provisions of this Act are executed by the Council of Ministers.

PROVISIONS WHICH CANNOT BE ENTERED INTO THE MAIN TEXT OF LAW NO. 2575 DATED 6/1/1982:

1) Provisional Article of Law no. 3619 dated 22/3/1990:

Provisional Article – The files which have been submitted to administrative justice authorities other than the Council of State with the request for the loss of status of the elected bodies of the municipalities and the provincial special administrations on the date this Act comes into force are sent to the Council of State within fifteen days without taking any decisions.

2) Provisional Article of Law no. 4575 dated 2/6/2000:

Provisional Article 1 – The actions which have been filed to the Council of State as the court of first instance before the date this Act came into effect and which have been included in the jurisdiction of administrative courts with this Act are concluded in the Council of State.

3) Provisional Article of Law no. 6110 dated 9/2/2011: ⁽¹⁾

Provisional Article 1 – (1) The Board of Presidency of the Council of State and the Board of Presidents of the Court of Cassation meet and prepare a draft decision regarding the division of labour among the chambers within one month after election for membership to the position created with this Act takes place and the members to work in these chambers are determined and they submit it to the Plenary Assembly of the Council of State and the Grand General Assembly of the Court of Cassation for approval. The provisions regarding the division of labour before the amendment made with this Act continue to be applied until the decisions of the Plenary Assembly of the Council of State and the Grand General Assembly of the Court of Cassation regarding the approval of the division of labour are published in the Official Gazette and comes into force.

(2) The case files previously dealt with in other chambers and in the chambers that have been changed are sent to the relevant chamber in their current versions.

(3) The First Board of Presidency is re-determined within fifteen days as of the election for membership created in the Court of Cassation with the Act. The newly established Board of Presidency, in consideration of the work status and needs of the chambers, determines the chambers in which the members will serve.

4 – Article 17 of Law no. 6217 dated 31/3/2011:

Article 17 – The positions included in list no (1) attached to this Act have been created and added to the section on the Presidency of the Council of State of schedule no (1), which is the annex of Decree Law no. 190 dated 13/12/1983 on the General Staff and Procedure and the positions included in list no (2) attached to this Act have been created and added to the section on the Presidency of the Court of Cassation of schedule no (1) of Decree Law no 190. ⁽²⁾

5- Article 49 of Law no. 6572 dated 2/12/2014:

Article 49- The positions included in list no (1) attached to this Act have been created and added to the section on the Ministry of Justice of schedule no (II), which is the annex of Decree Law no. 190 dated 13/12/1983 on General Staff and Procedure; the positions included in list no (2) attached to this Act have been created and added to the section on the Presidency of the Court of Cassation of schedule no (1), which is the annex of Decree Law no 190 and the positions included in list no (3) have been created and added to the section on the Presidency of the Court of Cassation of schedule no (II); the positions included in list no (4) attached to this Act have been created and added to the section on the Presidency of the Council of State of schedule no (I), which is the annex of Decree Law no 190, the positions included in list no (5) have been created and added to the section on the Presidency of the Council of State of schedule no (II); and the positions included in list no (6) attached to this Act have been created and added to the section on the Ministry of Justice of schedule no (I), which is the annex of Decree Law no 190. ⁽³⁾

(1) In relation to the positions set forth in this Article, refer to the Official Gazette no. 27846 dated 14/2/2011.

(2) In relation to the positions set forth in this Article, refer to the Official Gazette no. 27905 dated 14/4/2011.

(3) In relation to the positions set forth in this Article, refer to the Official Gazette dated 12/12/2014 with Repeating number 29203.

**LIST INDICATING THE ENFORCEMENT DATE OF THE LEGISLATION THAT MAKES
ADDITIONS AND AMENDMENTS TO ACT NO 2575 OR THE PROVISIONS REPEALED BY THE
CONSTITUTIONAL COURT**

Number of the amending Law/Decree Law and the Repealing Decision of the Constitutional Court	Amended or repealed articles of the Law no 2575	Enforcement Date
3619	–	10/4/1990
4055	–	11/12/1994
4492	–	21/12/1999
4575	–	15/6/2000
5020	–	26/12/2003
5183	Articles 13,16, 24, 26, 26/A, 34/A, 34/B, 37, 41, 42, 43, 44, Provisional Article 20, 21, 22, Articles 17, 34/C	2/6/2004 1/1/2005
5219	86	1/1/2005
5917	Provisional Article 23	10/7/2009
6110	8, 10, 13, 17, 26, 26/A, 27, 28, 29,30, 31, 32, 33, 34, 34/A, 34/B, 34/C, 37 and Provision which cannot be entered into the Law	14/2/2011
6217	52, 95/A and Provision which cannot be entered into the Law	14/4/2011
Decree Law/650	5, 10, 12, 19, 19/A, 19/B, 26, 27, 52, 52/A, 55, 84, 86 85	26/8//2011 1/1/2012
6352	8, 24, 60, 61, Provisional Article 24, 25	5/7/2012

Number of the amending Law/Decree Law and the Repealing Decision of the Constitutional Court	Amended or repealed articles of the Law no 2575	Enforcement Date
Decision dated 18/7/2012 and Docket No 2011/113 and Decision No 2012/108 of the Constitutional Law	5, 19, 19/A, 19/B, 26, 27, 52, 52/A, 55, 84, 86	After six months starting from 1/1/2013 (1/7/2013)
6494	5, 8, 9, 11, 14, 19, 19/A, 19/B, 26, 27, 52, 52/A, 55, 84, 86	7/7/2013
6572	8, 11, 13, 14, 16, 17, 26, 27, 41, 42, 52, 52/A, Provisional Article 24, 26, Provision that cannot be entered into the Law	12/12/2014
Decision dated 10/2/2016 and Docket No 2015/18 and Decision No 2016/12 of the Constitutional Court	52/A	17/5/2016
6723	9, 10, 13, 16, 17, 23, 26, 41, 42, 52/A, Provisional Article 24, Provisional Article 27	23/7/2016
Decree Law/696	8, 64, Ek Article 2, Provisional Article 24, Provisional Article 27, Provisional Article 28	24/12/2017
7079	8, 64, Ek Article 2, Provisional Article 24, Provisional Article 27, Provisional Article 28	8/3/2018
Decree Law/703	2, 8, 9, 23, 24, 42, 48, 87, Provisional Article 29, Provisional Article 30,	On the date (9/7/2018) when the President of the Republic begun duty by taking an oath as a result of the elections of the Turkish Grand National Assembly and the Presidency of the Republic made together on 24/6/2018