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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**TÜRKİYE**

**LAW ON**  
**THE COUNCIL OF JUDGES AND PROSECUTORS**

**Law on  
The Council of Judges and Prosecutors<sup>1</sup>**

**Law No: 6087**

**Date of Adoption: 11.12.2010**

**PART ONE  
General Provisions**

**SECTION ONE  
Purpose, Scope and Definitions**

**Purpose and scope**

**ARTICLE 1**

(1) The purpose of this Law is to set out the establishment, organization, duties and powers, and the operating principles and procedures of the Council of Judges and Prosecutors on the basis of the principles of courts and security of tenure of judges and prosecutors.<sup>2</sup>

**Definitions<sup>3,4</sup>**

**ARTICLE 2**

(1) The referents of the terms used in this Law are as follows:

- a) 'Minister' means the Minister of Justice;
- b) 'Ministry' means the Ministry of Justice;
- c) 'President' means the President of the Council of Judges and Prosecutors;
- ç) 'Deputy President' means the Deputy President of the Council of Judges and Prosecutors;
- d) 'Chamber' means each of the first and second chambers of the Council of Judges and Prosecutors;
- e) 'Head of the Chamber' means each of the heads of the first and second chambers of the Council of Judges and Prosecutors;
- f) 'Plenary' means the Plenary of the Council of the Judges and Prosecutors;
- g) 'Secretary-General' means the Secretary-General of the Council of Judges and Prosecutors;
- ğ) 'Secretariat-General' means the Secretariat-General of the Council of Judges and Prosecutors;

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<sup>1</sup> Amendment by *Decree-Law No 703/208 of 2.7.2018* renaming the Law 'on the High Council of Judges and Prosecutors' as 'the Council of Judges and Prosecutors'.

<sup>2</sup> Amendment by *Decree-Law No 703/208 of 2.7.2018* deleting the word 'High' in Article 1.1.

<sup>3</sup> Amendment by *Decree-Law No 703/208 of 2.7.2018* deleting the word 'High' in sub-paras (c), (ç), (d), (e),(f), and replacing the phrase 'first, second, third' with 'first and second' in the sub-paras (d) and (e) under Article 2.1.

<sup>4</sup> Amendment by *Decree-Law No 703/208 of 2.7.2018* deleting the word 'High' in sub-paras (g), (ğ), (i), (i), (j), (k), (m), (n), and the word 'regular' in the sub-paras (j) and (k) under Article 2.1; replacing the word 'Undersecretary' with "relevant Deputy Minister of Justice" in sub-para (j) under Article 2.1.

- h) 'Judge' means both the judge as defined by Law No 2802 of 24/2/1983 on Judges and Prosecutors, and the judge assigned to another institution or organization through temporary authorization or any type of assignment;
- i) 'Council' means the Council of Judges and Prosecutors;
- j) 'Council Inspector' means ...<sup>5</sup> the Chief Inspectors and Inspectors who serve in the Inspection Board of the Council of Judges and Prosecutors;
- k) 'Elected member of Council' means each member of the Council of Judges and Prosecutors except for the Minister of Justice and relevant Deputy Minister of Justice;<sup>6</sup>
- l) 'Member of Council' means each member of the Council of Judges and Prosecutors;
- m) 'Prosecutor' means both the prosecutor as defined by Law No 2802 and the prosecutor assigned to another institution or organization through temporary authorization or any type of assignment;
- n) 'Inspection Board' means the Inspection Board of the Council of Judges and Prosecutors;
- o) 'President of the Inspection Board' means the President of the Inspection Board of the Council of Judges and Prosecutors;
- p) 'Rapporteur Judge' means the judge and the prosecutor who serve in the Council of Judges and Prosecutors.

## SECTION TWO

### Establishment and Duties

#### Establishment and Independence of the Council

##### ARTICLE 3

- (1) **(As amended by Decree-Law No 703/208 of 2.7.2018)** The Council of Judges and Prosecutors comprises of thirteen members.
- (2) The Council shall work in two chambers<sup>6</sup>
- (3) The President of the Council is the Minister of Justice.
- (4) **(Repealed by Decree-Law No 703/208 of 2.7.2018).**
- (5) **(As amended by Decree-Law No 703/208 of 2.7.2018)** The Council shall comprise of the Minister, relevant Deputy Minister, four members to be elected by the President of the Republic and seven members to be elected by the Turkish Grand National Assembly.<sup>7</sup>

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<sup>5</sup> Amendment by *Law No 6524/21 of 15.2.2014* deleting the phrase 'President, deputy presidents' in sub-para (i) under Article 2.1

<sup>6</sup> Constitutional Court's decision dated 7/12/2023, E: 2018/117, K: 2023/212, the phrases "...the relevant deputy minister..." and "...and the Ministry of Justice..." in this subparagraph have been cancelled. The Decision shall enter into force twelve months after its publication in the Official Gazette (4/6/2025).

<sup>6</sup> Amendment by *Decree-Law No 703/208 of 2.7.2018* replacing the word 'three' with 'two' in Article 3.2.

<sup>7</sup> Constitutional Court's decision dated 7/12/2023, E: 2018/117, K: 2023/212, the phrase "...the relevant deputy minister of the Ministry of Justice..." in this paragraph has been cancelled. It is hereby provided that the decision shall enter into force twelve months after its publication in the Official Gazette (4/6/2025).

(6) The Council shall be independent in performing its duties and exercising its powers. No organ, authority, office or individual may give orders or instructions to the Council

(7) The Council shall perform its duties respecting the principles of independence of courts and security of tenure of judges and prosecutors, and within the framework of the principles of fairness, impartiality, integrity, consistency, equality, competence and merits.

#### **Duties of the Council**

#### **ARTICLE 4**

(1) The Council shall—

a) make the final decision on the proposals from the Ministry for the abolition of a court or a change in the jurisdiction of a court;

b) carry out the following procedures concerning the judges and prosecutors:

- 1) admission to the profession;
- 2) appointment and transfer;
- 3) granting temporary authorization;
- 4) promotion and the first-class allocation;
- 5) distribution of cadres;
- 6) deciding about those whose stay in the profession is deemed inconvenient;
- 7) imposing disciplinary sanctions;
- 8) suspension from the office.

c) inspect whether judges and prosecutors perform their duties in compliance with law and other legislation (administrative circulars for judges); to examine whether they have committed offenses in connection with or during the exercise of their duties, or whether their conduct and actions are as required by their positions and duties, and if deemed necessary, to hold an examination or investigation,<sup>8</sup> except for—

- 1) those who serve in the central, attached and affiliate bodies of the Ministry and the international courts or organizations;
- 2) those who serve in any other government institutions, councils, or organizations through temporary authorization or assignment;
- 3) the prosecutors in terms of their administrative duties;
- 4) the heads and members of the justice commissions in terms of their tasks related to the works of commissions.

ç) **(As amended by Law No 6524/22 of 15.2.2014)** issue circulars exclusively on the matters including admission, appointment and transfer; granting temporary authorisation, promotion and the first-class allocation; distribution of cadres; deciding on those whose stay in the profession is deemed inconvenient; imposing disciplinary sanctions, suspension and conducting the inspections, examinations and investigations about the civil and administrative judiciary judges and prosecutors;

d) elect members to the Court of Cassation and the Council of State;

e) perform the other duties assigned by the constitution and laws.

(2) All the personnel affairs of judges and prosecutors, except those explicitly assigned to the Ministry by law, shall be conducted by the Council.

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<sup>8</sup> Amendment by Decree-Law No 703/208 of 2.7.2018 replacing the phrase 'laws, rules, regulations and circulars' in sub-para (c) with 'laws and other legislation' under Article 4.1

**PART TWO**  
**Composition of the Council**

**SECTION ONE**  
**Organization of the Council**

**Organization of the Council**

**ARTICLE 5**

(1) The Council shall comprise of the Presidency, the Plenary, the chambers and the service units.

(2) The Secretariat-General and the Inspection Board are the service units of the Council.

**The Presidency, Duties and Powers**

**ARTICLE 6**

(1) The Presidency shall comprise of the President and the Deputy President.

(2) President has the following duties and powers<sup>9</sup>:

a) to administer and represent the Council;

b) to preside over the works of the Plenary and to vote with the exceptions laid down in the laws;

c) to appoint the Secretary-General from among three candidates proposed by the Plenary;

ç) **(Added by Law No 6524/23 of 15.2.2014)** to consent, upon the proposal of the relevant chamber, to the inspection, examination and investigation, and non-examination and non-prosecution of the judges and prosecutors<sup>9</sup>;

d) **(Added by Law No 6524/23 of 15.2.2014)** to appoint the deputy secretaries-general;<sup>10</sup>

e) **(Added by Law No 6524/23 of 15.2.2014)** to perform the duties assigned by this Law regarding the criminal investigations and disciplinary investigations and prosecutions related to the members of the Council.<sup>9</sup>

f) to perform the other duties assigned by law.

(3) President may not participate in—

a) the sessions of the Plenary on disciplinary procedures;

b) the works of chambers.

(4) The President may delegate in writing the powers in part to the Deputy President.

(5) The Plenary shall elect one of the heads of chambers as deputy president. **(The second sentence as amended by Decree-Law No 703/208 of 2.7.2018)** The head of the other chamber shall act as a proxy in the absence of deputy president, and the President shall designate the member to act as a proxy in the absence of both heads of chambers.

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<sup>9</sup> Amendment by Law No 6524/23 of 15.2.2014 adding sub-paras (d) and (e) and inserting sub-para (f) in lieu of sub-para (d) under Article 6.2

<sup>10</sup> The *Constitutional Court Decision No. E.: 2014/57, K.: 2014/81 of 10.4.2014 annulling the phrase 'The President and deputy presidents of the Inspection Board and...'* in Article 6.2 has become effective within 3 months from its publication in *the Official Gazette of 14/5/2014*.

(6) The Deputy President has the following duties and powers:

- a) to preside over the Plenary works in the absence of the President;
- b) to exercise the powers delegated to him/her by the President;
- c) to perform the other duties assigned by law.

## **Composition and Duties of the Plenary**

### **ARTICLE 7**

(1) The Plenary shall comprise of the members of the Council <sup>11</sup>

(2) The Plenary shall—

- a) elect the Deputy President and heads of the chambers;
- b) examine and decide on the objections raised against the decisions of the chambers;
- c) render final decisions on the disputes raised over duties or division of labour between the chambers;
- ç) determine the authority competent for the matters that are within the remit of the Council but not assigned to the Plenary or the chambers;
- d) **(Repealed by Law No 6524/24, 15.2.2014; Re-amended by Decree-Law No 703/208 of 2.7.2018)** determine the code of ethics that judges and prosecutors are required to comply with;
- e) **(As amended Decree-Law No 703/208 of 2.7.2018)** perform the duties assigned by this Law regarding the criminal investigations and disciplinary proceedings against the members of the Council;
- f) decide upon the proposals given by the Ministry of Justice for the abolition of a court or a change in the territorial jurisdiction of a court;
- g) elect members to the Court of Cassation and the Council of State;
- ğ) propose three candidates to the President to appoint as the Secretary-General;
- h) appoint ...<sup>2</sup>, the President and deputies of the President of Inspection Board, the chief inspectors and inspectors of the Council, rapporteur judges to work on temporary or permanent base at the Council,<sup>12,13</sup>
- ı) **(As amended by Law No 6524/24 of 15.2.2014)** issue regulation and circulars exclusively for the admission, appointment and transfer, granting temporary authorisation, promotion and the first-class allocation, distribution of cadres, making decisions on those whose stay in the profession is deemed inconvenient, imposing disciplinary sanctions, suspension from office and the inspections, examinations and investigations about the civil, criminal and administrative judiciary judges and prosecutors;

<sup>11</sup> Amendment by *Decree-Law No 703/208 of 2.7.2018* replacing the phrase 'twenty-two regular members of the Council' with 'members of the Council' in Article 7.1

<sup>12</sup> Amendment by Law No. 6524/24 of 15.2.2014 deleting the phrase 'the President and deputy presidents of the Inspection Board, deputy secretaries-general' from sub-para (h) under Article 7.2 and later on, this amendment was annulled by *the Constitutional Court Decision No. E.: 2014/57, K.:2014/81 of 10.4.2014* ruling on its entry into force three months after the date of its publication in *the Official Gazette of 14.5.2014*.

<sup>13</sup> Amendment by *Law No 6545/90 of 18.6.2014* adding the phrase 'The President and deputy presidents of the Inspection Board' to the beginning of sub-para (h) under Article 7.2

- i) approve the strategic plan of the Council and follow up its implementation;
- j) deliver opinion on the draft laws and other draft legislations<sup>14</sup> concerning the jurisdiction of the Council;
- k) perform the other duties assigned by law.

### **Composition of the chambers, the election of the heads of the chambers and their duties and powers**

#### **ARTICLE 8**

##### **(1) (As Amended by Decree-Law No 703/208 of 2.7.2018)**

a) The First Chamber shall comprise of six members including the relevant Deputy Minister of Justice, one member elected from among members of the Court of Cassation, two members elected from among the civil and criminal judiciary judges and prosecutors, one member elected from among the administrative judiciary judges and prosecutors and one member elected from among faculty members or lawyers;

b) The Second Chamber shall comprise of six members of which two elected from among members of the Court of Cassation, one elected from among members of the Council of State, one elected from among civil and criminal judiciary judges and prosecutors, and two elected from among faculty members or lawyers.<sup>15</sup>

**(2) (Amended by Law No 6524/25 of 15.2.2014; annulled by the Constitutional Court Decision No. E.: 2014/57, K.: 2014/81 of 10.4.2014; amended by Law No 6545/91 of 18.6.2014)** The Plenary shall determine through voting the distribution of regular and supplementary members across the chambers under the above-stated principles.

**(3) (As amended by Law No 6545/91, 18.6.2014)** The Plenary shall elect the heads of each chamber from among members of the respective chamber. **(Second sentence repealed by Decree-Law No 703/208 of 2.7.2018).**

(4) The head of a chamber shall designate one member of the chamber to act as a proxy in his/her absence.

(5) The head of the chamber is assigned to represent the chamber, prepare its agenda, chair its meetings, ensure the efficient, harmonious and proper functioning of the chamber, and take the disputes over duties and division of labour between chambers to the Plenary.

#### **Duties of the chambers<sup>16,17</sup>**

#### **ARTICLE 9**

(1) The First Chamber shall—

- a) carry out the following procedures relating to the judges and prosecutors:
  - 1) appointment and transfer;

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<sup>14</sup> Amendment by *Decree-Law No 703/208 of 2.7.2018* replacing the phrase 'law, rules and regulation' with 'laws and other legislation' in sub-para (j) under Article 7.2

<sup>15</sup> Constitutional Court's decision dated 7/12/2023, E: 2018/117, K: 2023/212, the phrase "...the relevant deputy minister of the Ministry of Justice..." in this paragraph has been cancelled. It is stipulated that the decision shall enter into force twelve months after its publication in the Official Gazette (4/6/2025).

<sup>16</sup> Amendment by *Law No 7035/26 of 20.7.2017* inserting new sub-para (c) after sub-para (b) and replacing former sub-para (c) with sub-para (ç) under Article.9.1

<sup>17</sup> Amendment by *Decree-Law No 703/208 of 2.7.2018*, replacing the phrase 'training in accordance with the requests and the planning made by the Turkish Justice Academy' with 'Training' in sub-para (a-6) under Article 9.1

- 2) granting temporary authorization;
- 3) distribution of cadres;
- 4) regulating the permanent authorizations;
- 5) granting all kinds of leave, except for annual and casual leave;
- 6) granting permission for attending the training programmes;

b) **(Added by Decree-Law No 703/208 of 2.7. 2018)** have the Inspection Board carry out inspections whether judges and prosecutors perform their duties in compliance with laws and other legislation (administrative circulars for judges);

c) **(Added by Decree-Law No 703/208 of 2.7. 2018)** examine notices and complaints raised against the judges or prosecutors and act accordingly;

ç) **(Added by Decree-Law No 703/208 of 2.7. 2018)** have the Council inspectors or senior judges or prosecutors with the inspecting powers investigate whether judges and prosecutors have committed any offense in connection with or during the exercise of their duties and whether their conduct and actions are as required by their positions and duties, and if necessary, to propose either to examine and investigate or not to examine and investigate;

d) **(Added by Decree-Law No 703/208 of 2.7. 2018)** determines the nearest courts or magistrates to ensure the performance of the duties assigned by the relevant laws;

e) determine the traineeship courts for pre-service training;

f) **(Added by Law No 7035/26 of 20.7.2017)** determine the division of labour between the chambers of the regional courts of administration and justice and distribution of tasks across the courts of the first instance;

g) perform the other duties assigned by the Plenary.

(2) The Second Chamber shall—<sup>18</sup>

a) carry out the following procedures for judges and prosecutors:

- 1) all kinds of promotion and the first-class allocation;
- 2) deciding on the results of the criminal investigations and the disciplinary investigations and prosecutions in connection with or during the exercise of their duties;
- 3) deciding on the transfer with temporary authorization or suspension from office due to the disciplinary or criminal investigation and prosecution;
- 4) deciding on the cases of those who are deemed to be inappropriate to remain in the profession;
- 5) conducting the permission process for other institutions' requests on temporary assignments and transfer;

b) **(Added by Decree-Law No 703/208 of 2.7. 2018)** admit the candidate judges and prosecutors to the profession;<sup>19</sup>

c) **(Added by Decree-Law No 703/208 of 2.7. 2018)** decide on requests for reassignment as a judge or prosecutor and assignment as a judge or prosecutor;

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and inserting (b),(c),(ç) and (d) after the same sub-para (a), and other subparagraphs have been reordered accordingly.

<sup>18</sup> Amendment by *Decree-Law No 703/208 of 2.7. 2018*, inserting sub-paras (b),(c), (ç) after sub-para (a) and replacing former sub-para (b) with sub-para (d) under Article 9.2.

<sup>19</sup> By Article 21 of the Law dated 23/6/2022 and numbered 7413, the phrase "candidate" in this subparagraph was changed as "assistant".



ç) **(Repealed by Decree-Law No 703/208 of 2.7. 2018)** decide on the withdrawal, being considered as withdrawn and dismissal from profession

d) perform the other duties assigned by the Plenary;

**(3) (Repealed by Decree-Law No 703/208 of 2.7. 2018)**

## SECTION TWO SECRETARIAT-GENERAL

### Composition and duties of the Secretariat-General

#### ARTICLE 10

(1) The Secretariat-General, as the unit established for conducting the secretarial, administrative and financial services of the Council, shall comprise of the Secretary General, five deputy secretaries general, one of whom shall be appointed from among the administrative judiciary judges and prosecutors, and a sufficient number of rapporteur judges and bureaux.<sup>20</sup>

(2) Secretariat-General shall—

a) conduct clerical services of the Council;

b) represent the Council through lawyers in the civil, criminal and administrative cases and debt enforcement proceedings to which the Council is a party, follow up cases and have them followed up, and conduct the legal services;

c) keep the personnel records and files of judges and prosecutors;

ç) conduct archival services of the Council;

d) perform the duties assigned by the laws to the financial services and strategic development units;

e) conduct the procedures concerning the leaves and retirement of judges and prosecutors;

f) conduct personnel affairs of the Council members and other personnel working at the Council;

g) ensure that the National Judicial Network Information System is used for the matters within the remit of the Council;

ğ) perform the other duties specified in the laws and assigned by the Presidency, the Plenary or the chambers.

### Appointment, and the duties and powers of the Secretary-General and Deputy Secretaries-General

#### ARTICLE 11

(1) The President shall appoint the Secretary-General from among three first-class judges and prosecutors who have been proposed by the Plenary with their consents. **(Second sentence as amended by Decree-Law No 6524/28 of 15.2.2014)** The President may/shall not attend

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<sup>20</sup> By Article 27 of the Law no. 6524 dated 15/2/2014, the phrase "four" in this paragraph has been amended as "five", one of whom shall be elected from among the administrative judiciary judges and prosecutors.

the meeting at which the candidates of the Plenary are elected and each member of the Council may cast vote for only one candidate in the election. **(The third and fourth sentences annulled by the Constitutional Court Decision No. E.: 2014/57, K.: 2014/81 of 10.4.2014)**

(2) The Secretary General shall—

- a) perform the duties in compliance with the legislation, the strategic plan of the Council, performance criteria and service quality standards;
- b) ensure the efficient, harmonious and proper functioning of the Secretariat-General;

(3) The Secretary-General shall designate the deputy secretary-general to act as a proxy in his or her absence.

(4) The President shall appoint the deputy secretaries-general from among the first-class judges and prosecutors with their consent.<sup>21,22</sup>

(5) The deputy secretaries-general shall—

- a) **(As amended by Decree-Law No 6524/28 of 15.2.2014)** work in line with the division of labour worked out by the Secretary-General and approved by the President;
- b) ensure the efficient, harmonious and proper functioning of the bureaux under them;
- c) perform the duties assigned by the Secretary General.<sup>23</sup>

## Rapporteur Judges

### ARTICLE 12

(1) A sufficient number of rapporteur judges shall be employed under the Secretariat-General at the Council.

(2) **(Amended by Law No 6524/29 of 15.2.2014; annulled by the Constitutional Court, Decision No E.: 2014/57, K.: 2014/81 of 10.4.2014; amended by Law No 6545/92 of 18.6.2014.** The Plenary shall appoint the rapporteur judges, on a permanent or temporary basis, with their consent, from among those who have virtually exercised the profession of judgeship and prosecution for at least five years and those who are, for their overachievement, deemed to be beneficial to the Council.

(3) The rapporteur judges shall perform the duties assigned by the President, the relevant head of chamber and the Secretary General.

## Bureaux and Non-Judicial Staff

### ARTICLE 13

(1) A sufficient number of bureaux shall be set up under the Plenary to ensure the performance of the duties of Council.

(2) **(As amended by Law No 6524/30 of 15.2.2014)** The non-judicial staff of the Council shall be appointed by way of transfer or extramural appointment. The President shall make the appointments by way of transfer. The President shall make the first-time appointments from among the applicants who have passed the central exam for the civil service entrance, based on the results of the interview and, if necessary, a practical exam before a three-member

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<sup>22</sup> Amendment by *Law No 6524/ 28 of 15.2.2014* replacing the phrase 'the Plenary' with 'the President' under Article 11.4

<sup>23</sup> Amendment by *Law No 6524/28, 15.2.2014* deleting the phrase 'the relative head of the chamber' in sub-para (c) under Article 11.5.

committee formed by the President. The number of candidates to be called for the competition exam shall be up to five times the number of vacancies announced. The non-judicial staff of the Council shall be subject to the provisions of Law No 657. The President may assign the justice specialists and assistant specialists with their consent at the Council.

(3) **(As amended by Law No 6524/30, 15.2.2014)** The procedures and principles for the implementation of Article shall be provided by regulation.

(4) For the lawsuits or enforcement proceedings concluded in favour of the Council, the provisions of *Law No 1389 of 2.2.1929 on Attorney Fees to be Paid for Attorneys and Others Who Pursue the Legal Actions of the State* shall be applied by analogy in the distribution of the attorney fees determined and collected from the counterparties among the attorneys.

(5) **(As amended by Law No 6545/93 of 18.6.2014)** Upon the proposal of the Secretary-General and with the approval of the President, the non-judicial staff of the Council who are subject to the provisions of *Law No 657*, may be appointed by the Ministry of Justice, according to their vested rights, to cadres of the central organization and provincial agencies of the Ministry.

### SECTION THREE Inspection Board

#### Composition and Duties of the Inspection Board<sup>24</sup> ARTICLE 14

(1) The Inspection Board shall comprise of the President and three deputies of president and a sufficient number of chief inspectors and inspectors along with the bureaux.

(2) The Inspection Board shall act on behalf of the Council under the supervision of the President of the Council.

(3) The inspectors of the Council shall be accountable to the President of the Inspection Board while performing their duties. The President of the Inspection Board is accountable to the Council.<sup>22</sup>

(4) The Inspection Board shall have the following duties and powers:

a) to inspect whether the civil and administrative judiciary judges and prosecutors perform their duties in compliance with laws and other legislation (administrative circulars for judges); to examine whether they commit offenses in connection with or during the exercise of their duties, or whether their conduct and actions comply with the requirements of their positions and duties, and if necessary, to conduct an examination or investigation about them;<sup>23</sup>

b) to conduct the necessary inquiry and research about the legal gaps observed in practice related to matters falling within its remit and to propose necessary judicial and administrative measures to the Council;

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<sup>24</sup> Amendment by *Law No 6524/ 31 of 15.2.2014* replacing the word 'two' with 'three' in Article 14.1; replacing the phrase 'the Head of the Third Chamber' with 'the President' in Article 14.2 and replacing the word 'Council' with 'President' in Article 14.3.

<sup>22</sup> Amendment by *Law No 6524/ 31 of 15.2.2014* replacing the word 'the Council' by the 'President' in Article 14.3 has been annulled by *the Constitutional Court Decision No. E.: 2014/57, K.: 2014/81 of 10.4.2014* deciding on the annulment to be effective three months from its publication on *the Official Gazette of 14.5.2014* and later on the word 'President' in Article 14.3 has been replaced by 'Council' by *Law No 6545/94, 18.6.2014*.

<sup>23</sup> Amendment by *Decree-Law No 703/208 of 2.7.2018* replacing the phrase 'laws, statutes, regulations, and circulars' in sub-para (a) with 'laws and other legislation' and replacing the phrase 'laws, statutes and regulations' in sub-para (c) with 'laws and other legislation under Article 14.4'.

c) to perform the similar duties specified in the laws and other legislation or assigned by the Council.<sup>24</sup>

(5) Working methods of the Inspection Board and council inspectors functioning under the principles of independence of courts and tenure of judges and the procedures and principles as regards inspections, inquiries, examinations, and investigations shall be provided by regulation.

### **Procedures of Appointment**

#### **ARTICLE 15- (As amended by Law No 6524/95 of 15.12.2014)**

(1) The Plenary shall—

a) **(As amended by Law No 6545/95 of 18.6.2014)** elect the President and deputies of president of the Inspection Board from among the first-class judges and prosecutors with their consent;

b) appoint the chief inspectors from among the inspectors, by their seniority, who have actually completed five years of service in the Inspection Board, allocated as the first-class and not lost qualifications for the first-class allocation.

(2) **(Annulled by the Constitutional Court Decision No. E.: 2014/57, K.: 2014/81 of 10.4.2014; Amended by Law No 6545/95 of 18.6.2014)** The Plenary shall appoint the Council inspectors, with their consent, from among those who have actually exercised judgeship and prosecution for at least five years and been deemed to be beneficial to the Council for their overachievement.

(3) Judicial inspectors may be appointed as Council inspectors or as internal auditors at the Ministry; Council inspectors may be appointed as judicial inspectors or internal auditors at the Ministry; and the internal auditors of the Ministry may be appointed as Council inspectors or as judicial inspectors with their consent. In such appointments, the tenure spent at the previous inspection unit shall be counted as time spent at the subsequent inspection unit. And this provision shall be applied to the cases of those who have resigned from the offices of inspection in the Council or Ministry or internal audit in the Ministry and been re-appointed as an inspector or an internal auditor at the Ministry.

### **Duties and Powers of the President and Deputy Presidents of the Inspection Board<sup>25</sup>**

#### **ARTICLE 16**

(1) The President of the Inspection Board shall have the following duties and powers:

a) to represent, administer, ensure the efficient, harmonious and proper functioning of the Inspection Board;

b) to regulate the division of labour among the deputies of president;

c) to designate the deputy president to act as a proxy in his or her absence and/or the chief inspector to act as a proxy in the absence of deputy presidents;

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<sup>24</sup> Amendment by *Law No 6524/ 31 of 15.2.2014* replacing the word 'Council' with 'President' in sub-para (c) In Article 14.4; subsequently, this amendment was annulled by *the Constitutional Court Decision No. E.: 2014/57, K.: 2014/8 of 10.4.2014* to enter into force three months from the publication of the annulment in *the Official Gazette of 14.5.2014* and accordingly, the word 'President' herein has been replaced by the word 'Council' by *Law No 6545/94 of 18.6.2014*.

<sup>25</sup> Amendment by *Decree-Law No 703/208 of 2.7.2018*, replacing the word 'Third' with 'First' in sub-para (ç) and replacing the phrase 'laws, statutes, regulations' with 'law and other regulation' in sub-para ( e) under Article 16.1.

ç) to prepare and submit a draft annual inspection program to the First Chamber and ensure the implementation thereof upon the Presidential approval through this Chamber;<sup>25</sup>

d) to assign the inspectors upon the approvals for inspection, inquiry, examination and investigation, and to follow up on the implementation;

e) **(As amended by Law No 6545/96 of 18.6.2014)** to perform or have performed the similar duties specified in the law and other legislation or assigned by the head of the relevant chamber.<sup>25</sup>

(2) Deputies of President of the Inspection Board shall have the following duties and powers:

a) to perform the duties assigned in line with the division of labour to be regulated by the President of the Inspection Board;

b) to perform or have performed the other duties assigned by the President of the Inspection Board.

(3) **(Added by Law No 6524/33 of 15.2.2014)** The President and deputies of president of the Inspection Board shall have all kinds of entitlements, including financial rights as with the Council inspectors.

### **Duties and Powers of the Council Inspectors**

#### **ARTICLE 17**

(1) The council inspectors shall have the following duties and powers:

a) to inspect whether the judges and prosecutors perform their duties in compliance with the laws and other legislation (administrative circulars for judges);<sup>26</sup>

b) to inquire whether the judges and prosecutors commit offense in connection with or during the exercise of their duties, or whether their manners and acts comply with the requirements of their capacities and duties, and if necessary, to conduct examination and investigation of them.

(2) In the exercise of their duties the council inspectors may—

a) take sworn statements of the persons they deem material, if necessary, execute a letter rogatory, and collect the required information directly from the public institutions, councils and agencies in the inquiries, examinations and investigations;

b) conduct the examinations and investigations according to the *Criminal Procedure Code No.5271 of 4.12.2004* in addition to the powers vested in them by this Law; may use all the powers vested in them and public prosecutor by legislation to conduct investigations. The powers vested by Law No 5271 in them in the cases of prejudicial delay are out of this provision.

(3) the relevant institutions and persons shall be liable to provide all the information and documents on request for the inspections, examinations and investigations conducted by the council inspectors.

(4) The council inspectors shall conduct inspections without interfering with the matters within the jurisdiction and judicial discretion and may not make any recommendation or suggestion.

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<sup>26</sup> Amendment by *Decree-Law No 703/208 of 2.7.2018* replacing the phrase 'laws, statutes, regulations and circulars' with 'law and other legislation' in sub-para (a) under Article 17.1

**PART THREE**  
**Election of the Council Members and Termination of Membership**

**SECTION ONE**  
**General Provisions**

**Election of members**

**ARTICLE 18 – (As amended by Decree-Law No 703/ 208 of 2.7.2018)**

(1) The members of the Council shall be elected for a term of four years as follows:

a) three members from among the civil judiciary judges and prosecutors who are allocated as first-class and still hold the qualifications required for the first-class allocation; one member from among the administrative judiciary judges and prosecutors who are allocated as the first-class and still hold the qualifications required for the first-class allocation, by the President of Republic;

b) three members from among the members of the Court of Cassation, one member from among the members of the Council of State, and three members from among the law faculty members who are qualified for a judgeship and from among the lawyers who have actually completed 15 years of service at the profession, by the Turkish Grand National Assembly. Nevertheless, the members elected from among the faculty members and lawyers shall include at least one faculty member and one lawyer;

(2) The members may be re-elected for once at the end of their terms of office.

(3) The Presidency of Republic and the Presidency of the Turkish Grand National Assembly shall be notified of the expiry of tenure of the Council members at the latest two months before the expiry date.

(4) The list of the judges and prosecutors having eligibility to be elected as members to the Council shall be sent to the Presidency of Republic.

**Time of Elections<sup>27</sup>**

**ARTICLE 19 – (As amended by Decree-Law No 703/208 of 2.7.2018)**

(1) The member election for the Council shall be held within 30 days before the expiry of the tenure of the Council members.

**SECTION TWO**

**Election of members to the Council by the Turkish Grand National Assembly<sup>28</sup>**

**Election procedure**

**ARTICLE 20 – (As amended by Decree-Law No 703/208 of 2.7.2018)**

(1) The Turkish Grand National Assembly shall commence the election process for the Council membership and announce the deadline for candidacy application sixty days before the termination of tenure of the members.

(2) The candidates with the qualifications specified in Article 18.1(b) shall apply to the Presidency of the Turkish Grand National Assembly. Following the expiry of the application

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<sup>27</sup> Amendment by *Decree-Law No 703/208 of 2.7.2018* changing the title of Article 19 from 'Time and Principles of Elections' to 'Time of Elections'.

<sup>28</sup> Amendment by *Decree-Law No 703/208 of 2.7.2018* changing the title of Section Two from 'Election of members to the Council by the Court of Cassation, Court of State and Justice Academy of Turkey' to 'Election of members to the Council by the Turkish Grand National Assembly'.

deadline, the Presidency of the Turkish Grand National Assembly shall send the applications to the Joint Committee comprising of the members of the Committee on Constitution and the Committee on Justice.

(3) The Joint Committee shall nominate three candidates from among the applicants meeting the application requirements for each membership by a two-third majority of the total number of members. If the candidates cannot attain this majority in the first ballot, then the second round of ballot shall be held. In the second ballot, a three-fifths majority of the total number of members shall be required. If again the candidates cannot attain the required majority, the nomination process shall be completed by drawing lots between two candidates receiving the most votes. The Joint Committee shall send the names of the three candidates for each membership to the Presidency of the Parliament to submit to the General Assembly of the Parliament.

(4) General Assembly of the Turkish Grand National Assembly shall hold voting by a secret ballot for each member from among the candidates nominated by the Joint Committee. In the first voting, a two-thirds majority of the total number of members shall be required. But if no result is obtained in the first ballot, then the second ballot shall be held by a three-fifths majority of the total number of members. If no member can be elected either, the election process is ended with a lot drawing between two candidates with the most votes.

(5) The Internal Regulation of the Turkish Grand National Assembly shall be applied in the cases related to the election by the Parliament but for which there is no provision in this Law.

### **SECTION THREE**

#### **Election of members to the Council by civil, criminal and administrative judiciary judges and prosecutors**

##### **Right to elect and be elected**

**ARTICLE 21 – (Repealed by Decree-Law No 703/208 of 2.7.2018)**

##### **Management and supervision of elections**

**ARTICLE 22 – (Repealed by Decree-Law No 703/208 of 2.7.2018)**

##### **Determination of voter lists**

**ARTICLE 23 – (Repealed by Decree-Law No 703/208 of 2.7.2018)**

##### **Applications, the compilation of candidacy lists and the date of election**

**ARTICLE 24 – (Repealed by Decree-Law No 703/208 of 2.7.2018)**

##### **Prohibition of electioneering**

**ARTICLE 25 – (Repealed by Decree-Law No 703/208 of 2.7.2018)**

##### **Withdrawal of candidacy or loss of eligibility for election**

**ARTICLE 26 – (Repealed by Decree-Law No 703/208 of 2.7.2018)**

### **SECTION FOUR**

#### **Vacancy and Termination of Membership**

##### **Election of members in the case of a vacancy**

**ARTICLE 27 – (As amended by Decree-Law No 703/208, 2.7.2018)**

(1) In the case of a vacancy in the Council membership due to the reasons including death, retirement and resignation, either the Presidency of Republic or the Turkish Grand National

Assembly, according to their relevance, shall be immediately notified of the vacancy and a new election shall be held within 30 days following the vacancy.

### **Expiry of membership**

#### **ARTICLE 28**

(1) The Council membership, except for the President, shall end as follows:<sup>29</sup>

a) automatically in the cases of being convicted for an offense requiring dismissal from the profession of judgeship or prosecution, withdrawal or attaining age 65 according to the Law on Judges and Prosecutors;

b) by the decision of a two-thirds majority of the total number of members of the Plenary establishing that they have been subsequently proved not to meet or have lost any one of the membership qualifications during their membership term.

(2) The membership of the elected members of the Council shall end by the decision of a two-thirds majority of the total number of members of the Plenary if it is ascertained from the report of a committee on health that they are unable to continue to function or if they fail to attend to their office for fifteen consecutive days or thirty days in total in one year without any excuse or permission.

(3) a) the members elected from among the high court members, upon the end of the membership to the Council, shall return their high court membership without requiring further action and vacant position, and the first vacated position shall be allocated to them;

b) **(As amended by Decree-Law No 703/208 of 2.7.2018)** upon the end of their Council membership for any reason, the members elected from among the civil and administrative judiciary judges and prosecutors, shall be appointed by the Plenary, considering their vested rights, to an appropriate position at one of three locations they prefer;

c) upon the end of their Council membership, the members elected from other public offices shall be appointed upon their application to their previous offices or the other offices corresponding to their vested rights;

ç) The procedures of appointment prescribed in sub-paragraphs (b) and (c) shall be completed within 30 days from the expiry date of the term of Council membership. The persons concerned shall be deemed on leave and continue to enjoy the personnel rights provided for the Council membership.

(4) The term of office spent by the Council members within the Council shall be deemed as part of their services under the legal provisions to which they are subject.

## **PART FOUR**

### **Working Procedures**

#### **The quorum for meeting and decision-making at the Plenary**

#### **ARTICLE 29 (As amended by Law No 6524/35 of 15.2.2014)**

(1) The President shall set the dates of the Plenary sessions.

(2) **(As amended by Law No 6545/98 of 18.6.2014)** The President may call the Plenary for an extraordinary meeting, if necessary. President shall call for an extraordinary meeting upon

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<sup>29</sup>Amendment by *Decree-Law No 703/208 of 2/7/2018* replacing the phrase 'members and substitute members' with the word 'members' in Article 28.1.



written request, including the agenda item, by an absolute majority of the total number of members.

(3) The Plenary shall convene and decide by an absolute majority of the total number of its members, with the exceptions provided for in the law

(4) The President shall set the agenda of the Plenary based on the importance, urgency or time-boundedness of the agenda items. The agenda shall include the date and time of the meeting, and the list and order of the items to be discussed at the Plenary.

(5) Any change in the agenda shall be subject to the decision by an absolute majority of the total number of members of the Plenary upon written request of the President or one of the members at least one day before the meeting date but only if urgent and time-bound matters come up after the agenda is set. Thus, the requests without any urgency and deadlines shall not be considered. The same procedure shall apply to the changes in the order of discussion, postponement, or removal of one or the other agenda item.

### **The quorum for meeting and decision-making at the chambers**

#### **ARTICLE 30**

(1) The chambers shall convene every year in January upon the invitation by their respective head and set the dates for annual regular meetings.

(2) The heads of the chambers may call their respective chambers for an extraordinary meeting, if deemed necessary. The heads of the chambers shall call their respective chambers for an extraordinary meeting upon a written request, including the agenda item, by an absolute majority of the total number of members.

(3) **(As amended by Law No 6524/36 of 15.2.2014)** The chambers shall convene and decide by an absolute majority of the total number of its members.

(4) The heads of chambers shall set the meeting agendas for their respective chambers based on the importance, urgency and time-boundedness of the agenda items. The agenda shall specify the date and time of the meeting, and the list and order of the items to be discussed. Incomplete agenda items shall be tabled as the first item on the next agenda.

(5) **(As amended by Law No 6524/36 of 15.2.2014)** Any changes to the agenda shall be subject to the decision by an absolute majority of the total number of members upon a written request of the head of the chamber or one of the members at least one day before the date of the meeting but only if urgent and time-bound matters come up after the agenda is set. Thus, the requests without any urgency and deadlines shall not be considered. The same procedure shall apply to the changes in the order of discussion, postponement or removal of one or other agenda item.

### **Voting**

#### **ARTICLE 31**

(1) Voting shall commence upon the completion of deliberations at the Plenary and the chambers. Open voting shall apply unless otherwise prescribed by law or decided.

(2) Voting shall be held by a secret ballot in the Plenary.

(3) Procedural matters shall be put to a vote first. Members with a minority of votes on procedural matters shall be required to attend the voting on the substance. President of the Council or the head of the chamber shall collect the votes starting from the youngest member and cast his or her vote at the end. Abstention shall not be allowed in the voting.

(4) When the votes are scattered in the voting regarding disciplinary proceedings, the highest negative vote against the person concerned shall be added up to the nearest vote until the majority is attained.

(5) The chairperson shall establish and declare the result of voting.

### **The decisions and minutes**

#### **ARTICLE 32**

(1) Deliberations held in the Plenary and Chambers are recorded in minutes and the actions taken are recorded in the decision.

(2) The decisions shall include—

- a) a summary of the subject, if any, claim and defence;
- b) reasoning of the decision and, if any, dissenting vote;
- c) legal remedies and authorities to be applied against the decision and deadlines for such applications;

(3) The reasoned decision shall be written at the latest within 15 days from the date of the decision.

(4) The Council shall publish—

- a) the decisions deemed necessary, in the Official Gazette;
- b) the decisions on disciplinary matters on its website without prejudice to the protection of personal data.

(5) The Plenary and the chambers shall notify—

- a) the judges and prosecutors themselves, of the decisions on the personnel affairs and disciplinary matters concerning them;
- b) the person concerned, of the results of their applications.

(6) The judges and prosecutors shall not be notified of the decisions upon the complaints or notices against them unless their statements of defence are received.

### **Re-examination, Objection and Judicial Review**

#### **ARTICLE 33**

(1) In the case of the decisions taken by the Plenary for the first time, the President or the parties concerned may request re-examination from the Plenary within ten days from the date of notification of those decisions. The decisions taken after the re-examination shall be final.

(2) The President or the parties concerned may request re-examination from the chambers for their decisions within ten days from the date of notification.

(3) Against the decisions taken by the chambers after re-examination, The President or the parties concerned may object to the Plenary within ten days from the date of notification. Decisions taken upon objection requests are final.

(4) Also, the complainants shall have the right to object against and request re-examination of the decisions on disciplinary matters.

(5) Final decisions on dismissal from profession taken by the Plenary or Chambers may be challenged before the court; however, other decisions shall not be subject to judicial review. The Council of State shall review cases against dismissals from profession as the first instance court. Such cases shall be deemed urgent matters.

## **PART FIVE**

### **The Legal Status of and the Investigations and Prosecutions against the Members**

#### **SECTION ONE**

##### **The legal status of members**

##### **The legal status of members and personnel matters**

###### **ARTICLE 34**

(1) During their term of office, the elected members of the Council shall enjoy all the financial and social rights that the head of the chamber of the Court of Cassation has under the relevant legislation. Social security rights and obligations of the elected Council members shall be determined on that of the head of the chamber at the Court of Cassation under Article 4. 1 (c) of *Law No 5510 of 31.5.2006*, on Social Insurances and General Health Insurance.

(2) The Council members, except for the President, shall be paid monthly supplementary benefits to be calculated by multiplying the indicative figure (30,000) by the coefficient applicable to the salaries of the civil servants. This benefit shall be entitled and paid under the salary-related provisions of Law no 2802 and shall not be subject to any tax or cut other than the stamp tax.

(3) The elected members of the Council shall be disassociated from their previous cadres and offices.

(4) As for the personal affairs and rights except those specified in this law, the elected members of the Council shall be subject to the same provisions as apply to the heads of chambers at the Court of Cassation during their term of office at the Council.

(5) **(Repealed by Decree-Law No 703/208 of 2.7.2018)**

(6) The elected members of the Council shall be entitled to annual leaves in an amount equal to the period of judicial vacation.

##### **Other engagements and duties**

###### **ARTICLE 35**

(1) The elected members of the Council—

a) shall not undertake any official or private assignment other than those specified in the laws and they shall not engage in any income generating activities;

b) may engage in scientific studies and publications; may attend scientific and professional meetings at national and international levels, such as assemblies, congresses, conferences, seminars; may deliver lectures or papers at the congresses on judiciary or professional matters, provided that they do not neglect their duties and notify the Presidency;

c) if their spouses and children have engaged in a continuous income generating activity, shall be required to notify the Council hereof from the start of their term; and if this is

disclosed after the start of their term, they shall be required to notify the Council within one month from the date of the disclosure;

ç) may not be reassigned or elected to any other duty for the duration of their membership.

## **SECTION TWO**

### **Investigations and Prosecutions against the Members**

#### **Investigation and prosecution proceedings against the members**

##### **ARTICLE 36**

(1) **(As amended by Law No 6545/99 of 18.6.2014)** The Plenary shall conduct the disciplinary investigations and prosecutions against the elected members of the Council for their disciplinary offenses in accordance with the provisions of this Law.

(2) President may assign one of the heads of chambers with the task of preliminary examination for the notices and complaints raised against the elected members of Council before bringing the matter to the Plenary. After having completed the preliminary examination the head of the chamber shall submit a report to the Plenary.

(3) **(As amended by Law No 6545/99 of 18.6.2014)** The President shall submit the notice or complaint to the Plenary immediately or after having the examination done. As a result of discussions, it shall be decided that either an investigation is not necessary or to be launched. **(Third sentence as amended by Decree-Law No 703/208 of 2.7.2018)** If it is decided to launch an investigation, the Plenary shall elect one of its members by a secret ballot to conduct the investigation. **(Forth sentence repealed by Decree-Law No 703/208 of 2.7.2018)**

(4) The member elected to conduct investigation shall collect the information and find the substantiating evidence on the issue, hear the sworn statements of those deemed necessary, notify the concerned persons of the acts and manners alleged against them and take their defence statements. The persons concerned shall be entitled to examine the investigation files in person or through their attorney from the moment their defence statements are requested.<sup>30</sup>

(5) The member conducting the investigation shall prepare and submit to the President a report with its appendices putting forward the investigation proceedings, information and evidence along with his/her opinion as to whether any disciplinary punishment is necessary;  
<sup>31,32</sup>

(6) **(As amended by Law No 6524/37 of 15.2.2014)** The President shall report the result of the investigation in writing to the persons concerned and submit the investigation dossier to the Plenary to conduct the prosecution. The Plenary shall give the persons concerned at least seven days for presenting the written or oral defence statements in person or through their attorneys in connection with the stage of prosecution.

(7) The Plenary shall examine the dossier and report on the disciplinary investigation within the scope of the disciplinary prosecution, read the written defence, if any, presented or hear the oral defence, if it is so preferred by the persons concerned; and considering the whole scope of the document, it shall decide on—

a) extending and deepening the investigation, if necessary;

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<sup>30</sup>Amendment by *Decree-Law No 703/208 of 2.7.2018* replacing the word 'Council' with the phrase 'member elected to' in Article 36.4

<sup>31</sup> Amendment by *Law No 6524/ 37 of 15.2.2014* replacing the word 'the Plenary' with 'the President' herein.

<sup>32</sup> Amendment by *Decree-Law No 703/208 of 2.7.2018* replacing the phrase 'Investigation Committee' with 'the member conducting the investigation' in Article 36.5

b) revocation of the dossier if it is found that the acts and manners alleged have not occurred;

c) a corresponding disciplinary sanction if it is found that the alleged acts and manners have occurred.

(8) The fact that a criminal investigation or prosecution has been launched shall not hinder conducting a disciplinary investigation or imposing a disciplinary sanction.

(9) If three years have passed since the commitment of act requiring the disciplinary investigation, no disciplinary investigation may be launched. If five years have passed since the commitment of act, no disciplinary penalty may be imposed. If the act requiring disciplinary penalty constitutes an offence and for such offence a longer period of prescription is specified in the law and a criminal investigation or prosecution is launched at the same time, these periods shall be applied instead of those set out in this paragraph. If the Plenary decides to wait for the results of prosecution, the power to impose penalty shall be barred by the prescription of two years from the final decision of the court.

(10) The disciplinary investigations and prosecutions against the elected members due to their acts before their Council membership shall be concluded by the Plenary starting from its current stage, according to the procedures prescribed in this Law and the provisions of the special laws applicable to the persons concerned.<sup>33</sup>

### **Disciplinary penalties and execution**

#### **ARTICLE 37**

(1) The elected members of Council shall be warned or invited to withdraw from the Council membership depending on the nature and gravity of the acts if it is established that their acts and manners have caused delays in the service or been incompatible with the dignity and honour of the Council membership. The decisions on this matter shall be notified to the persons concerned.

(2) Re-examination may be requested against the Plenary decisions imposing disciplinary punishment. The decisions taken after re-examination by the Plenary shall be final.

(3) If the persons concerned have failed to withdraw from the Council membership within one month from the notification of the final decision, their membership shall end. They shall be deemed on leave in that period of one month.

### **Procedures of investigation and prosecution for the criminal offences of members**<sup>34</sup>

#### **ARTICLE 38**

(1) **(As amended by Law No 6545/100 of 18.6.2014)** The Plenary shall conduct the procedures for the authorization to launch investigation and prosecution for the personal offences and the offences related to their duties, while the specified competent authorities shall decide on launching the prosecution and designate the proper prosecution authorities, as provided for in this Law.

(2) The President may assign one of the heads of chambers with the task of preliminary examination for the notices and complaints raised against the elected members of Council

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<sup>33</sup> In Article 36.10, the phrase 'by the Plenary' replaced by 'by the President and the Plenary according to the procedures stated above' by *Law No 6524/37 of 15.2.2014*; later on the phrase 'by the President and... according to the procedure stated above' was annulled by *Constitutional Court Decision No. E.: 2014/57, K.: 2014/81 of 10.4.2014*, ruling on its entry into force to be three months from the publication of annulment in *the Official Gazette of 14.5.201*.

<sup>34</sup> Amendment by *Decree-Law No 703/208 of 2.7.2018*, replacing the word 'Council' with 'member elected to' in Article 38.4; replacing the phrase 'Investigation Committee' with 'the member conducting the investigation' in Article 38.5.

before bringing the matter to the Plenary. After having completed the preliminary examination, the assigned head of the chamber shall submit a report to the Plenary.

(3) **(As amended by Law No 6545/100 of 18.6.2014)** The President shall submit the notice or complaint in question to the Plenary immediately or after having the examination done. As a result of discussions, it shall be decided that either an investigation is not necessary or to be launched. **(Third sentence as amended by Decree-Law No 703/208 of 2.7.2018)** If it is decided to launch an investigation, a member shall be elected by a secret ballot to conduct the investigation. **(The fourth sentence repealed by Decree-Law No 703/208 of 2.7.2018)**

...

(4) The member elected for conducting the investigation shall carry out the procedures in accordance with Law No 5271 and use all the powers given by law to the public prosecutor; shall apply to the prosecution authorities designated depending on the nature of offence charged on the persons concerned for the matters requiring the decision of the judge.

(5) **(As amended by Law No 6524/38 of 5.2.2014)** The member investigating, after having completed the task, shall prepare a report with an opinion as to whether it is necessary or not to launch prosecution and present it with its appendices to the President to submit to the Plenary.

(6) After having examined the dossier and ensured the deficiencies fixed the Plenary shall decide on revocation of the dossier if it deems prosecution not necessary or otherwise shall permit the prosecution.

(7) After the final decision permitting prosecution, the dossier shall be sent to—

- a) the Constitutional Court acting as Supreme Court for offences related to duties;
- b) the relevant criminal chamber of the Court of Cassation for personal offences;<sup>35</sup>

so that the Office of the Chief Public Prosecutor of the Court of Cassation file criminal case.

(8) **(As amended by Law No 680/14 of 2.1.2017; accepted verbatim by Law No 7072/13 of 1.2.2018)** The Chief Public Prosecutor of the Court of Cassation shall draw up and send the indictment with the prosecution document to the Constitutional Court to sit as the Supreme Court in the case of the offenses related to duty, while in the case of personal offences to the relevant chamber of the Court of Cassation.

(9) In cases of *flagrante delicto* which fall within the jurisdiction of the court of assizes, the investigation shall be conducted according to the general provisions and the Council shall immediately be notified thereof. After the investigation completed the dossier with a summary of proceedings shall be sent to the Office of the Chief Public Prosecutor of the Court of Cassation. **(Sentences added by Decree-Law No 690/5 of 17.4.2017; accepted verbatim by Law No 7077/ 4 of 1.2.2018)** The subsequent proceedings and actions carried out by the Office of the Chief Public Prosecution shall be subject to the provisions under Article 46.6 of Law No 2797 on Court of Cassation of 4.2.1983. If an indictment is prepared, the offenses related to duties shall be prosecuted by the Constitutional Court to sit as the Supreme Court, while the prosecutions of personal crimes shall be conducted by the relevant criminal chamber of the Court of Cassation<sup>36</sup>

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<sup>35</sup>Amendment by *Decree-Law No 680/14 of 2.1.2017*, replacing the phrase 'the General Assembly of Criminal Chambers of the Court of Cassation' with 'the relevant criminal chamber of the Court of Cassation' in sub-para (b) under Article 38.7; and later on this provision were accepted verbatim and enacted by *Law No 7072/ 13 of 1.2.2018*.

<sup>36</sup> Amendment by *Decree-Law No 690/ 5 of 17.4.2017*, replacing the word 'the Council' with 'Office of the Chief Public Prosecutor of the Court of Cassation' in the second sentence of Article 38.9; and later on this provision was accepted verbatim and enacted by *Law No 7077/4 of 1.2.2018*.

(10) **(As amended by Law No 6524/38 of 15.2.2014)** The investigations and permission for prosecutions against the elected members of Council due to their offenses before the Council membership, shall be carried out as from its current stage under the article.

### **Common provisions**<sup>37</sup>

#### **ARTICLE 39**

(1) In the case of the investigations and prosecutions against the elected members of Council due to the acts which constitute disciplinary offences, the offences relating to duties and personal offences—

- a) Relevant institutions and persons shall be liable to provide all the information and documents requested;
- b) The President shall not process any notices and complaints which have apparently no signature, address or true name or are not based on any specific event or cause and do not include any evidence or ground;
- c) The President, the member who is subject to the investigation and the member conducting the investigation shall not attend the Plenary sessions.

(2) The provisions of this Law shall apply to the investigations and prosecutions against the relevant deputy Minister of Justice due to the acts that constitute disciplinary offences and offences in connection with the Council membership, and personal offences.

### **SECTION THREE**

#### **Recusation, Withdrawal and Rejection**

### **Recusation**

#### **ARTICLE 40**

(1) The President and members of the Council shall not participate in the works of the Council and chambers, and not engage in the proceedings if—

- a) the proceedings are related to themselves;
- b) they have a spousal relationship, even if the marital bond has ended, antecedent or descendant kinship due to blood or in-law relation or bond by adoption, or blood relation up to (and including) second degree or in-law relation through marital bond has ended, up to (and including) second degree with the concerned person;
- c) they have been heard as witnesses, have delivered an opinion, served as an expert, counsel, attorney, judge or prosecutor or been previously assigned with the investigation in the same proceeding;
- ç) there has been a previous lawsuit filed between them and the concerned person before the event on which the current proceeding is based.

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<sup>37</sup> Amendments by *Law No 703/208 of 2.7.2018*, adding the phrase 'by the President' after the phrase "complaints" in sub-para (b) under Article 39.1; replacing the phrase 'the members of the investigation committee' with 'the member conducting the investigation' in sub-para (c) under Article 39.1 and replacing the word 'Undersecretary' with 'the relevant deputy minister' in Article 39.2

## **Withdrawal and Rejection**

### **ARTICLE 41**

(1) In the case of recusation or any conflict or a serious situation with the party concerned that would cast doubt on their impartiality, the Council members may withdraw from a proceeding or be rejected by the party concerned.

(2) Rejection shall be required to be executed before the examination or if the reason for rejection has occurred later, within fifteen days from the notification thereof, and in any case before the decision is given.

(3) The Plenary or the chamber shall examine and make final decision on the request for rejection in the absence of the members against whom the rejection has been requested.

(4) If the total of rejected members exceed the required number for a chamber to convene, the Plenary shall examine and make final decision on the rejection request in the absence of the members against whom rejection has been requested. If the rejection request is deemed appropriate, the Plenary shall decide on the merits thereof.

(5) The rejection requests which exceed the number of members required for the Plenary to convene shall not be accepted.

(6) The rejection requests which have not been made on time, do not include the reasons and convincing evidence for the request or do not meet the requirements under the law, may be denied also in the presence of the members against whom rejection has been requested.

(7) The rejection requests which have not been accepted after the examination by an absolute majority of the total number of the members of the Plenary or chambers shall be deemed denied.

## **PART SIX**

### **Miscellaneous and Final Provisions**

#### **Re-appointment**

#### **ARTICLE 42**

(1) Upon the decision of the Plenary, the First Chamber shall appoint the Secretary-General, deputy secretaries-general, rapporteur judges and council inspectors who serve in the Council on their demand or ex-officio to an appropriate assignment considering their vested rights.

#### **Cadres<sup>41</sup>**

#### **ARTICLE 43**

(1) The determination, foundation, utilization and cancellation of cadres are subject to the Law on Public Servants and the other cadre-related issues in the Council shall be regulated as provided for in Decree-Law No 190 of 13.12.1983 on General Personnel Cadres and Procedures Hereof.

(2) Personnel cadres specified in the attached lists (1) and (2) have been founded and appended respectively to the Tables I and II of Decree-Law No 190 under the chapter titled the...<sup>38</sup> Council of Judges and Prosecutors”.

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<sup>41</sup> For the cadres herein, see the Official Gazette No 27789 of 18.12.2010.

<sup>38</sup> Amendment by *Decree-Law No 703/208 of 2.7.2018* omitting the word 'High'.



**Budget**  
**ARTICLE 44**

- (1) The Council shall be administered with its budget as part of the general budget.
- (2) The Deputy President is the administrative head of the Council.
- (3) The President shall represent the Council in the budget debates before the Turkish Grand National Assembly; the Deputy President and the Council members shall not be invited to make statements.

**Regulation**  
**ARTICLE 45**

- (1) The regulations laid down by this Law shall be issued by the Council.

**Amended and Repealed Provisions and References**  
**ARTICLE 46**

- (1) **(Related to Law No 6245 of 10.2.1954 on Per Diem Allowances and written down therein);**
- (2) **(Related to Law No 237 of 5.1.1961 on Vehicles and written down therein);**
- (3) **(Related to Decree-Law No 375 of 27.6.1989, and written down therein);**
- (4) **(Related to Law No 3717 of 8.5.1991 on the Travel Expenses and Reimbursement for the Judicial Personnel and Those Pursuing the Government Lawsuits and The Law on the Repeal of One Article of the Law No 492 on Fees and written down therein.);**
- (5) **(Related to Law No 5018 of 10.12.2003 on Public Financial Management and Control, and written down therein);**
- (6) The Law No 2461 of 13.5.1981 on The High Council of Judges and Prosecutors, including addenda and amendments, has been hereby repealed.
- (7) The references by legislation to Law No 2461, repealed by this Law, shall be deemed made to the relevant provisions of this Law.

**References****ADDITIONAL ARTICLE 1 – (Added by Decree-Law No 703/208, 2.7.2018) <sup>43</sup>**

The references in other legislation to the High Council of Judges and Prosecutors shall be deemed made to the Council of Judges and Prosecutors.

**ADDITIONAL ARTICLE 2 – (Added by Decree-Law No 703/208, 2.7.2018)**

The duties assigned to the undersecretary of the Ministry of Justice in other legislation shall be deemed assigned to the Deputy Minister of Justice in charge of these duties.

**Allocation of budget, operation of service units and regulations**  
**PROVISIONAL ARTICLE 1**

- (1) Until the budget is allocated to the Council—
  - a) expenses of the Council shall be covered by the Ministry's budget;

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<sup>43</sup> This article was annulled by the Constitutional Court Decision No. E.: 2018/117, K.: 2023/212 of 07.12.2023 which shall enter into force twelve months from its publication in *the Official Gazette of 04.6.2025*.

b) all support services such as premises, equipment and furnishings necessary for the Council to perform its services shall be provided by the Ministry. Besides, the expenses may be met from the budget of the Workshop Institutions, founded by Law No: 4301 of 06/08/1997, on Organization and Management of Workshop Institutions of Penal Institutions and Prisons and Detention Houses.

(2) Until the service units of the Council start to operate—

a) Secretariat services shall be provided by the Ministry;

b) The documents related to discipline, inspection and offenses, open and confidential records and personnel files of judges and prosecutors shall be preserved where they have been kept. These documents handed over to the Council within six months at the latest after the service units start to operate.

(3) Regulations laid down by this Law shall be issued within one year from the entry into force of this Law. Until these regulations are issued, the provisions of the effective regulations that are not in conflict with this Law shall remain applicable.

(4) For the cadres which are created by Article 43 of this Law and shown in the annexed List I, appointments within one year from the entry into force of this Law shall not be subject to the restrictions under the budget laws.

#### **Financial and social rights and retirement PROVISIONAL ARTICLE 2**

(1) **(Repealed by Law No 6572/46 of 2.12.2014)**

(2) Of the elected members of the High Council of Judges and Prosecutors established by Article 159 of the Constitution amended under Law on Amendment of Certain Articles of the Constitution of the Republic of Turkey (Law No 5982 of 7.5.2010), for those who are subject to the Provisional Article 4 of Law No 5510, the rights and obligations of retirement shall be determined based on the head of the chamber of the Court of Cassation under the Provisional Article 16 of Law No 2802.

#### **State of those who have been dismissed from the profession PROVISIONAL ARTICLE 3**

(1) The judges and prosecutors who have been dismissed by the High Council of Judges and Prosecutors established under Law No 2461 shall be required to apply to the Council within sixty days from the entry into force of this Law before filing an administrative lawsuit for the abolition of this punishment.

(2) Upon an application properly made, the Plenary shall decide on either accepting or rejecting the application, after examining the dossier, and if requested, after taking an oral or written defence by the applicant in person or through his or her legal counsel,

(3) If the Plenary accepts the application, it shall decide on:

a) abolishing the previous decision;

b) re-appointing the person concerned, provided that he or she has not lost qualifications for admission to the profession of judgeship and prosecution;

c) if it deems necessary, imposing a different disciplinary sanction corresponding to the actions previously resulted in dismissal from the profession;

(4) The President or the person concerned may request from the Plenary for the re-examination of the decisions made under the second and third paragraphs, within ten days from the notification of the decision. Decisions taken upon the re-examination requests shall be final.

5) The Council of State as the court of first instance may be appealed for annulment of the final decisions rejecting the application under the second paragraph. This case shall be deemed urgent. Decisions made under the third paragraph are out of the judicial review.

#### **PROVISIONAL ARTICLE 4 – (Added by Law No 6524/39 of 15.2.2014)**

(1) **(Annulled by the Constitutional Court Decision No. E.: 2014/57, K.: 2014/81 of 10.4.2014)**

(2) **(Annulled by the Constitutional Court Decision No. E.: 2014/57, K.: 2014/81 of 10.4.2014)**

(3) **(Annulled by the Constitutional Court Decision No. E.: 2014/57, K.: 2014/81 of 10.4.2014)**

(4) **(Annulled by the Constitutional Court Decision No. E.: 2014/57, K.: 2014/81 of 10.4.2014)**

(5) **(Annulled by the Constitutional Court Decision No. E.: 2014/57, K.: 2014/81 of 10.4.2014)**

(6) a) all the circulars issued by the Council shall repeal at the entry into force of this Law;

b) the provisions of the Council regulations which are not in conflict with this Law shall remain applicable.

(7) The limitations laid down in the Central Government Budget Law of 2014 shall not be applied to the appointments of the administrative staff of the Council.

(8) **(Annulled by the Constitutional Court Decision No. E.: 2014/57, K.: 2014/81 of 10.4.2014)<sup>39</sup>**

#### **PROVISIONAL ARTICLE 5 - (Added by Law No 6524/39 of 15.2.2014)**

(1) The amendment by this Law related to the Council member election shall be implemented at the elections to be held following the entry into force of this Law.

#### **PROVISIONAL ARTICLE 6 – (Added by Law No 6572/47 of 2.12.2010)**

(1) Candidates who have not been admitted to the profession by the Council, though having passed the written examination at the end of the candidacy period for judgeship and prosecution, may apply for admission to the relevant chamber of the Council within 60 days from the entry into force of this Law.

#### **PROVISIONAL ARTICLE 7– (Added by Decree-Law No 694/160 of 15.8.2017; accepted verbatim by Law No 7078/155 of 1.2.2018)**

(1) For the Council inspectors to be appointed for three years' term from the entry into force of this

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<sup>39</sup> This article was annulled by the Constitutional Court Decision No. E.: 2014/57, K.: 2014/81 of 10.4.2014 of which entry into force was determined to be three months from its publication in *the Official Gazette of 14.5.2014*.

Article, three years' term of service shall be applied instead of the five years term of service set out in Article 15.

**Entry into force**  
**ARTICLE 47**

(1) This Law shall enter into force on the day of its publication.

**Execution**  
**ARTICLE 48**

(1) This Law shall be implemented by the Council of Ministers.

## TABLE

**THE DATES OF THE ENTRY INTO FORCE OF  
THE LEGISLATION MAKING AMENDMENTS AND ADDENDA TO,  
AND  
THE CONSTITUTIONAL COURT'S ANNULMENT DECISIONS ON  
THE LAW NO 6087**

| Number of the amending Law and Decree-Law or the Annulment Decision of the Constitutional Court | Amended or annulled articles of Law No 6087  | Entry into force   |
|---|--|--|
| Decree-Law No 650   | 15   | 26.8.2011  |
| Law No 6524   | 2, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 19, 29, 30, 36, 38; PROVISIONAL ARTICLE 4, PROVISIONAL ARTICLE 5   | 27.2.2014  |
| Constitutional Court Decision (Stay of Execution) No. E: 2014/57, K.: 2014/8 of 10.4.2014       | 8, 12, 15  | 13.4.2014  |
| Constitutional Court Decision (Stay of Execution) No. E: 2014/57, K.: 2014/81 of 10.4.2014      | para 2 under Article 8, para 2 under Article 12, para 2 under Article 15, paras 1,2,3,4,5 of the Provisional Article 4   | 14.5.2014  |
|   | 6, 7, 8, 11, 14, 15, 16, 19, 29, 36, 38; Provisional Article 4   | (14.8.2014)<br>Three months from 14.5.2014   |
| Law No 6545   | 7, 8, 12, 13, 14, 15, 16, 19, 29, 36, 38   | 28.6.2014  |
| Law No 6572   | Provisional Article 2, Provisional Article 6   | 12.12.2014   |
| Decree-Law No 680   | 38   | 6.1.2017   |
| Decree-Law No 690   | 38   | 29.4.2017  |
| Law No 7035   | 9  | 5.8.2017   |
| Decree-Law No 694   | Provisional Article 7  | 25.8.2017  |
| Law No 7072   | 38   | 8.3.2018   |
| Law No 7077   | 38   | 8.3.2018   |
| Law No 7078   | Provisional Article 7  | 8.3.2018   |
| Decree-Law No 703   | Name of the law, 1, 2, 3, 4, 6, 7, 8, 9, 14, 16, 17, 18, 19;<br>Title of the Section Two under the Part Three, 20, 21, 22, 23, 24, 25, 26, 27, 28, 34, 36, 38, 39, 43;<br>Amendment 1, Amendment 2 | From the date (9.7.2018) the President of Republic was sworn in after the Turkish Grand National Assembly and Presidential elections held on 24.6.2018 |