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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

DRAFT LAW ON JUDGES AND PROSECUTORS
OF TURKEY

Comparative table of the current law
and the draft law

TEXTS OF THE LAW AND THE PRELIMINARY DRAFT LAW ON JUDGES AND PROSECUTORS

GUIDE FOR READING

- The text on the left column refers to the Law on Judges and Prosecutors which is currently in force. The text on the right column refers to the consolidated version of the Law on Judges and Prosecutors which has been based on the preliminary draft law that will amend the mentioned Law.
- The preliminary draft law is currently being studied by the Ministry of Justice and is still subject to changes due to opinions to be received from judicial bodies, members of the judiciary, universities, bar associations etc. The draft will be given its final form at the Prime Minister's Office and afterwards will be sent to the Parliament as a Cabinet proposal. Further changes will be possible in its readings at the Justice Committee or the General Assembly of the Parliament.
- The draft aims to adapt the provisions of the existing Law on Judges and Prosecutors with the recent constitutional changes regarding the judiciary. Most of the articles remained untouched since those articles do not require any amendment or adjustment. The heavy workload and limited time of the Parliament before the upcoming general elections prevent Government to go ahead with a more comprehensive draft on the mentioned law.
- **The abolished articles, paragraphs, sentences or words of the current Law can be found as ~~scratched out~~ and coloured in red on the left column.**
- **The newly introduced articles, paragraphs, sentences or words to the current Law through the preliminary draft are written in blue colour.**
- **Explanations on amendments are written in green colour and these explanations normally will not be seen in the consolidated text.**
- Articles, paragraphs, sentences or words which will not be subject to any change and remain as they are shown in black colours in both columns.
- **Articles, paragraphs, sentences or words which are highlighted in yellow colours indicate that a final decision has not been taken on the text and there is possibility of keeping or skipping those provisions the draft text.**

<p style="text-align: center;">LAW ON JUDGES AND PROSECUTORS</p> <p>Law No : 2802 Adoption Date : 24.02.1983 Official Gazette Date : 26.02.1983 Official Gazette No : 17971</p>	<p style="text-align: center;">LAW ON JUDGES AND PROSECUTORS</p> <p style="text-align: center;">(CONSOLIDATED PRELIMINARY DRAFT VERSION AS OF 24 DECEMBER 2010)</p> <p>Law No : 2802 Adoption Date : 24.02.1983 Official Gazette Date : 26.02.1983 Official Gazette No : 17971</p>
<p style="text-align: center;">CHAPTER ONE General Provisions SECTION ONE Purpose and Scope</p> <p>Purpose</p> <p>Article 1 – This Law aims to regulate the following issues:</p> <p>a) The qualifications, appointment, rights and duties, salaries and allowances, promotion, temporary or permanent change in duties or posts, the initiation of disciplinary proceedings and subsequent imposition of disciplinary penalties, the conduct of investigation or prosecution for the crimes committed in the course of duties, instances of incompetence requiring dismissal from the profession, in-service training and other matters relating to personnel status of judges and public prosecutors of justice and of administrative courts;</p> <p>b) Salaries and allowances and other financial, social rights of members and Presidents of the Court of Cassation, the Council of State and the Constitutional Court.</p>	<p style="text-align: center;">CHAPTER ONE General Provisions SECTION ONE Purpose and Scope</p> <p>Purpose</p> <p>Article 1 – This Law aims to regulate the following issues:</p> <p>a) The qualifications, appointment, rights and duties, salaries and allowances, promotion, temporary or permanent change in duties or posts, the initiation of disciplinary proceedings and subsequent imposition of disciplinary penalties, the conduct of investigation or prosecution for the crimes committed in the course of duties, instances of incompetence requiring dismissal from the profession, in-service training and other matters relating to personnel status of judges and public prosecutors of justice and of administrative courts;</p> <p>b) Salaries and allowances and other financial, social rights of members and Presidents of the Court of Cassation, the Council of State and the Constitutional Court.</p>

<p>Scope</p> <p>Article 2- This Law applies to judges and public prosecutors of civil and administrative judiciary.</p> <p>In terms of personal rights, members and presidents of the Court of Cassation, the Council of State and the Constitutional Court are also subject to the Article 1(b).</p>	<p>Scope</p> <p>Article 2- This Law applies to judges and public prosecutors of civil and administrative judiciary.</p> <p>In terms of personal rights, members and presidents of the Court of Cassation, the Council of State and the Constitutional Court are also subject to the Article 1(b).</p>
<p>Definitions</p> <p>Article 3- For the application of this Law;</p> <p>a) Judge means;</p> <p>1) in civil judiciary: heads and members of the courts, judges, rapporteur judges of the Court of Cassation and judges employed in administrative positions at the central units of the Ministry of Justice and its affiliated and associated institutions.</p> <p>2) in administrative judiciary: heads and members of the courts, judges, rapporteur judges of the Council of State and judges employed in administrative positions at the central units of the Ministry of Justice and its affiliated and associated institutions.</p> <p>b) Public Prosecutor means;</p> <p>1) (Amended by Law No: 12.02.1989-KHK-360/1, adopted by Law No: 3611 Art.1, 24.01.1990) in civil judiciary: chief public prosecutors of provinces and sub-provinces, their deputies, public prosecutors, public prosecutors of the Court of Cassation and public prosecutors employed at the administrative positions of the central units of the Ministry of Justice and its affiliated and associated institutions.</p> <p>2) in administrative judiciary: prosecutors of the Council of State and public prosecutors employed at the administrative positions of the central units of the Ministry of Justice and its affiliated and associated institutions.</p>	<p>Definitions</p> <p>Article 3- For the application of this Law;</p> <p>a) Minister: the Minister of Justice</p> <p>b) Ministry: the Ministry of Justice</p> <p>c) Judge:</p> <p>1. In civil judiciary; presidents, heads of chambers and members at the regional courts of appeal, presidents, members and judges at the first instance courts, rapporteur judges of the Court of Cassation, and judges employed in administrative positions at the High Council of Judges and Prosecutors; at the central, provincial and abroad units of the Ministry of Justice and its affiliated and associated institutions; at international organizations and courts or those temporarily assigned to other institutions, boards or organizations.</p> <p>2. In administrative judiciary; presidents and members at the regional courts of appeal, presidents and members at the first instance courts, rapporteur judges of the Council of State, and judges employed in administrative positions at the High Council of Judges and Prosecutors; at the central, provincial and abroad units of the Ministry of Justice and its affiliated and associated institutions; at international organizations and courts or those temporarily assigned to other institutions, boards or organizations.</p> <p>d) Council: the High Council of Judges and Prosecutors</p>

	<p>e) Prosecutor;</p> <ol style="list-style-type: none"> 1. In civil judiciary; chief public prosecutors, deputy chief public prosecutors and prosecutors at the regional courts of appeals, chief public prosecutors of provinces and sub-provinces, deputy chief public prosecutors, public prosecutors, public prosecutors of the Court of Cassation and public prosecutors employed at the High Council of Judges and Prosecutors; at the central, provincial and abroad units of the Ministry of Justice and its affiliated and associated institutions; at international organizations and courts or those temporarily assigned to other institutions, boards or organizations. 2. In administrative judiciary; prosecutors of the Council of State and public prosecutors employed at the High Council of Judges and Prosecutors; at the central, provincial and abroad units of the Ministry of Justice and its affiliated and associated institutions; at international organizations and courts or those temporarily assigned to other institutions, boards or organizations.
<p style="text-align: center;">SECTION TWO</p> <p style="text-align: center;">Main Principles of Rights and Duties</p> <p>Independence, security of tenure and duties</p> <p>Article 4- Judges shall discharge their duties in accordance with the principles of the independence of the courts and the security of tenure judges. No organ, authority, office or individual may give orders or instructions to courts or judges, send them circulars, make recommendations or suggestions.</p> <p>Judges shall be independent in the discharge of their duties, they shall give judgement in accordance with the Constitution, law and their personal conviction confirming with the law.</p>	<p style="text-align: center;">SECTION TWO</p> <p style="text-align: center;">Main Principles of Rights and Duties</p> <p>Independence, security of tenure and duties</p> <p>Article 4- Judges shall discharge their duties in accordance with the principles of the independence of the courts and the security of tenure judges. No organ, authority, office or individual may give orders or instructions to courts or judges, send them circulars, make recommendations or suggestions.</p> <p>Judges shall be independent in the discharge of their duties, they shall give judgement in accordance with the Constitution, law and their personal conviction confirming with the law.</p>

<p>Right of supervision and inspection</p> <p>Article 5- (Amended by Decree Law No: 12.02.1989- KHK-360/2, adopted identically by Law No: 3611/2 24.01.1990) The Court of Cassation has the right of supervision and monitoring over all the civil courts and respectively; the Council of State over all the administrative courts; Chief Public prosecutor of the Court of Cassation over public prosecutors of the Court of Cassation; Chief public prosecutor of the Council of State over prosecutors of the Council of State, Chief public prosecutor of a province over prosecutors of his province and chief public prosecutors and prosecutors of affiliated sub-provinces under his jurisdiction.</p> <p>Heads of courts has the right of supervision over judges of their courts in terms of proper functioning of the exercise of jurisdiction.</p> <p>The Minister of Justice has the right of supervision over judges and prosecutors except for their duties related to exercise of jurisdictional functions.</p> <p>Judges and public prosecutors shall be attached to the Ministry of Justice in so far as their administrative functions are concerned.</p>	<p>Right of supervision and inspection</p> <p>Article 5- (Amended by Law No: 12.02.1989- KHK-360/2, adopted by 3611/2 24.01.1990) The Court of Cassation has the right of supervision and monitoring over all the civil courts and respectively; the Council of State over all the administrative courts; Chief Public prosecutor of the Court of Cassation over public prosecutors of the Court of Cassation; Chief public prosecutor of the Council of State over prosecutors of the Council of State, Chief public prosecutor of a province over prosecutors of his province and chief public prosecutors and prosecutors of affiliated sub-provinces under his jurisdiction.</p> <p>Heads of courts has the right of supervision over judges of their courts in terms of proper functioning of the exercise of jurisdiction.</p> <p>(3rd paragraph shall be amended as follows)</p> <p>Except for the circumstances for judges within the context of judicial power, the competence for supervision over judges and prosecutors belongs to the Council. However, the competence for supervision shall belong to the Ministry with regard to administrative tasks of prosecutors, works and functioning of civil and administrative justice commissions and for judges and prosecutors who hold administrative tasks at the central, provincial and abroad units of the Ministry of Justice and its affiliated and associated institutions; at international organizations and courts or those temporarily assigned or seconded to other institutions, boards or organizations.</p> <p>(4th paragraph shall be abolished)</p>
<p>Supervision, inspection, investigation and prosecution</p> <p>Article 6- Supervision, inspection, investigation and prosecution of judges and prosecutors is subject to this law.</p>	<p>Article 6- shall be abolished</p>

<p style="text-align: center;">CHAPTER TWO</p> <p style="text-align: center;">Recruitment of judges and prosecutors</p> <p style="text-align: center;">SECTION ONE</p> <p style="text-align: center;">Traineeship Period</p> <p>Traineeship</p> <p>Article 7- Nobody shall be appointed as a judge or a prosecutor, unless he/she proves his/her qualification in accordance with the below conditions following completion of the traineeship period.</p> <p style="padding-left: 40px;">This provision applies without prejudice to Article 39.</p> <p style="padding-left: 40px;">Trainee judges and prosecutors are classified under the General Administrative Category of the Public Servants Law and they are not counted within the classes and degrees of judges and prosecutors and the provisions of the Public Servants Law which are not contrary to this Law apply to them.</p>	<p style="text-align: center;">CHAPTER TWO</p> <p style="text-align: center;">Recruitment of judges and prosecutors</p> <p style="text-align: center;">SECTION ONE</p> <p style="text-align: center;">Traineeship Period</p> <p>Traineeship</p> <p>Article 7- Nobody shall be appointed as a judge or a prosecutor, unless he/she proves his/her qualification in accordance with the below conditions following completion of the traineeship period.</p> <p style="padding-left: 40px;">This provision applies without prejudice to Article 39.</p> <p style="padding-left: 40px;">Trainee judges and prosecutors are classified under the General Administrative Category of the Public Servants Law and they are not counted within the classes and degrees of judges and prosecutors and the provisions of the Public Servants Law which are not contrary to this Law apply to them.</p>
<p>Qualifications of Trainees</p> <p>Article 8- The following conditions are required to be appointed as a trainee judge or prosecutor:</p> <ul style="list-style-type: none"> a) Being a Turkish citizen, b) Being under the age of 30 for graduates and postgraduates and 35 for PhD degree holders, as of the last day of the January of the year when the entry examination is held. c) For the trainees of the civil judiciary, being graduated from Turkish law faculties or from foreign law faculties on the condition that he/she is awarded with success certificate for taking the exams to pass the differentiating courses of the Turkish law faculties. <p>(Amended paragraph: 22.12.2005, Law No:5435, Art.1) For the trainees of administrative judiciary, being graduated from Turkish law faculties or from foreign law faculties on the condition that he/she is awarded with success certificate for taking the exams to pass the differentiating courses of the Turkish law faculties or being graduated from the</p>	<p>Qualifications of Trainees</p> <p>Article 8- The following conditions are required to be appointed as a trainee judge or prosecutor:</p> <ul style="list-style-type: none"> a) Being a Turkish citizen, b) Being under the age of 30 for graduates and postgraduates and 35 for PhD degree holders, as of the last day of the January of the year when the entry examination is held. c) For the trainees of the civil judiciary, being graduated from Turkish law faculties or from foreign law faculties on the condition that he/she is awarded with success certificate for taking the exams to pass the differentiating courses of the Turkish law faculties. <p>(Amended paragraph: 22.12.2005, Law No:5435, Art.1) For the trainees of administrative judiciary, being graduated from Turkish law faculties or from foreign law faculties on the condition that he/she is awarded with success certificate for taking the exams to pass the differentiating courses of the Turkish law faculties or being graduated from the</p>

departments of social sciences, administrative sciences, finance and economics which sufficiently includes law courses in their curriculum or from foreign universities whose equivalence is recognised. For this last category, namely, for the graduates of departments other than law faculties, trainees shall not exceed % 20 percent of the total number of the trainees to be recruited in each recruitment period. (amended by 5435/ Article 1, 22.12.2005)

d) Not to be deprived of public rights,

e) **(Abolished by Law no: 5435 / Art.43, date: 22.12.2005.)**

f) Not to be under the duty of military service or this duty has been accomplished or postponed,

g) Not to have physical or mental health problems or disabilities which will prevent to perform the profession of judgeship and prosecutorship throughout the country, or not to have handicaps such as unusual difficulties for speaking or controlling movement of organs that may be regarded as odd by other people.

h) **(Amended by Decree Law Dated: 11.09.1987- No: KHK-276/3, adopted identically by Law No: 3409/3 24.02.1988)** ~~Except for negligent offenses,~~ not to be sentenced more than 3 months imprisonment term or not to be imprisoned for crimes against ~~the personality of the State or dishonourable or disgraceful offences such as~~ embezzlement, extortion, bribery, theft, swindling, forgery, breach of trust, fraudulent bankruptcy ~~or the following crimes of smuggling, conspiracy in official bidding or purchasing or the disclosure of State secrets~~ even if those crimes have been subject to pardon ~~or not to be prosecuted or adjudicated for the mentioned crimes or crimes which require an imprisonment term of more than 3 months except~~ negligent offenses.

i) To succeed in written examinations and oral interview

j) Not to behave in an inconvenient way for the profession of judgeship and prosecutorship,

k) For lawyers to be appointed as a judge or a prosecutor all the above conditions excluding

departments of social sciences, administrative sciences, finance and economics which sufficiently includes law courses in their curriculum or from foreign universities whose equivalence is recognised. For this last category, namely, for the graduates of departments other than law faculties, trainees shall not exceed % 20 percent of the total number of the trainees to be recruited in each recruitment period. (amended by 5435/ Article 1, 22.12.2005)

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(sub-paragraph -h- shall be amended as follows)

h) Even if the time limits indicated under Article 53 of the Turkish Penal Code (Dated:26.9.2004, Law No:5237) have been elapsed for all mentioned crimes; not to be convicted of an intentionally committed crime for more than six months imprisonment or regardless of being pardoned, of crimes against the security of the State, crimes against the constitutional order or functioning of the constitutional order, crimes against national defence, crimes against State secret, espionage, crimes of embezzlement, extortion, bribery, theft, swindling, forgery, breach of trust, fraudulent bankruptcy, fraud during tender, fraud during discharge of contractual obligations, laundering of assets acquired from an offence, illegal trafficking or of crimes against sexual integrity or not to have the decision of suspension of announcement on the same crime.

i) To succeed in written examinations and oral interview

j) Not to behave in an inconvenient way for

<p>(i) should be fulfilled. In addition, a five years experience as a lawyer; to be under the age of 35 as of the last day of January of the year that the examination will be given and to succeed in written examination and oral interview for lawyers are the other conditions. (additional Article by Law no:5720 / 1., 01.12.2007)</p>	<p>the profession of judgeship and prosecutorship,</p> <p>k) For lawyers to be appointed as a judge or a prosecutor all the above conditions excluding (i) should be fulfilled. In addition, a five years experience as a lawyer; to be under the age of 35 as of the last day of January of the year that the examination will be given and to succeed in written examination and oral interview for lawyers are the other conditions. (additional Article by Law no:5720 / 1., 01.12.2007)</p>
<p>Appointment to the traineeship</p> <p>Article 9 – The number of trainees including the ones to be selected among attorneys, shall be determined by the Ministry of Justice taking into account the need and staff. The Justice Academy shall be consulted on this procedure. (Amended by Law no 5435/Article 2, 22.12.2005)</p> <p>(Second paragraph is annulled by the decision of the Constitutional Court, dated 12.12.1995, E: 1995/19, K: 1995/64, Revised version: 15.01.2003 – 4790/article 1) Those who fulfil the above conditions and succeed in examinations are listed in accordance with their success degrees and appointed by the Ministry of Justice taking into account the needed number of positions which have already been determined. The trainees shall be appointed with all rights obtained from their previous duties. Their postgraduate and PhD degrees shall be taken into consideration for this appointment. Two third of the previous service period of attorneys shall be taken into consideration for this appointment. The persons who are not appointed may not claim rights.</p> <p>Candidates with PhD degrees are just subject to oral interview.</p> <p>(Paragraphs 4, 5 and 6 have been abolished by Law no 5435/Article 43, 22.10.2005).</p> <p>(The last paragraph has been abolished by Law No:5720/2, 01.12.2007)</p>	<p>Appointment to the traineeship</p> <p>Article 9 – The number of trainees including the ones to be selected among attorneys, shall be determined by the Ministry of Justice taking into account the need and staff. The Justice Academy shall be consulted on this procedure. (Amended by Law no 5435/Article 2, 22.12.2005)</p> <p>(Second paragraph is annulled by the decision of the Constitutional Court, dated 12.12.1995, E: 1995/19, K: 1995/64, Revised version: 15.01.2003 – 4790/article 1) Those who fulfil the above conditions and succeed in examinations are listed in accordance with their success degrees and appointed by the Ministry of Justice taking into account the needed number of positions which have already been determined. The trainees shall be appointed with all rights obtained from their previous duties. Their postgraduate and PhD degrees shall be taken into consideration for this appointment. Two third of the previous service period of attorneys shall be taken into consideration for this appointment. The persons who are not appointed may not claim rights.</p> <p>Candidates with PhD degrees are just subject to oral interview.</p> <p>(Paragraphs 4, 5 and 6 have been abolished by Law no 5435/Article 43, 22.10.2005).</p> <p>(The last paragraph has been abolished by Law No:5720/2, 01.12.2007)</p>

Procedure of Written Examination and Interview

Article 9/A-(Added by Law No: 5720/3, Dated:01.12.2007) Written examination is held by the Centre for Student Selection and Placement according to a protocol signed with the Ministry of Justice.

The announcement including the number of free positions, their degrees and posts and classes, required qualifications of the applicants and matters concerning the exam and the application is made for once in one of the daily newspapers having one of the five highest circulation rates and published on the official website of the Ministry of Justice at least fifteen days before the end of the duration of the application.

The written exam shall consist of the subjects of general skills and culture which cover the followings: Turkish Language, Mathematics, Turkish Culture and Civilizations, The Principles of Atatürk and the History of Reforms and Basic Information of Citizenship. Along with those subjects, questions on the following legal field subjects will be asked in the exam:

- a) In Civil Judiciary; Constitutional Law, Civil Law, Law on Obligations, Civil Procedure Law, Commercial Law, Enforcement and Insolvency Law, Penal Law, Penal Procedure Law, Administrative Procedure Law and Administrative Law,
- b) In Administrative Judiciary; Constitutional Law, Administrative Law, Administrative Procedure Law, Civil Procedure Law, Law of Obligations (General Provisions), Civil Law, Penal Law (General Provisions), Tax Law, Tax Procedure Law and Finance – Economics.

In the written exam, questions regarding general skill and general culture are calculated as they have 20 % gravity and questions regarding field of law are calculated as they have 80 % gravity. During the evaluation of the questions concerning both the general skill and the field of

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- a) In Civil Judiciary; Constitutional Law, Civil Law, Law on Obligations, Civil Procedure Law, Commercial Law, Enforcement and Insolvency Law, Penal Law, Penal Procedure Law, Administrative Procedure Law and Administrative Law,
- b) In Administrative Judiciary; Constitutional Law, Administrative Law, Administrative Procedure Law, Civil Procedure Law, Law of Obligations (General Provisions), Civil Law, Penal Law (General Provisions), Tax Law, Tax Procedure Law and Finance – Economics.

In the written exam, questions regarding general skill and general culture are calculated as they have 20 % gravity and questions regarding field of law are calculated as they have 80 % gravity. During the evaluation of the questions concerning both the general skill and the field of

law are graded equally for each type of questions.

Among successful applicants in the written exam, ~~one~~ times of the number of free positions announced shall be invited to the interview by starting from the one who gets the highest point to the one who gets 70 out of 100 which will be the lowest limit. However, in case the number of successful applicants in the written exam is lower than the number of ~~one~~ times of the positions announced, then only the successful applicants shall be invited to the interview. In this way, all the applicants having the same point with the person found eligible for oral interview with the lowest mark shall be invited to oral interview.

The Interview Board shall consists of seven members; the Undersecretary of the Ministry of Justice or in his absence one of the Deputy Undersecretaries as the president of the Board, Head of the Inspection Board, Director General for Penal Affairs, Director General for Civil Affairs and Director General for Personnel Affairs and two members who are selected by the Executive Board of the Justice Academy from among its members.

In cases where only one justice from the Court of Cassation and one justice from the Council of State are members of the Executive Board of the Justice Academy, those members shall be assigned as regular members of the Interview Board.

If there are members more than one from the Court of Cassation and more than one member from the Council of State, the member to be assigned for the Interview Board shall be chosen by a secret vote for the quota of the Court of Cassation, and for the quota of the Council of State separately. In cases where no members come from the Court of Cassation or the Council of State to the Executive Board of the Justice Academy, the members of the Interview Board are assigned from amongst other members of the Executive Board by secret voting.

In case the original members cannot attend the Interview Board due to legal or personal excuses, the deputies of the Head of Inspection Board, Directorate General for Penal Affairs, Directorate General for Civil Affairs and

law are graded equally for each type of questions.

Among successful applicants in the written exam, **one** times **more** of the number of free positions announced shall be invited to the interview by starting from the one who gets the highest point to the one who gets 70 out of 100 which will be the lowest limit. However, in case the number of successful applicants in the written exam is lower than the number of **one** times **more** of the positions announced, then only the successful applicants shall be invited to the interview. In this way, all the applicants having the same point with the person found eligible for oral interview with the lowest mark shall be invited to oral interview.

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In case the original members cannot attend the Interview Board due to legal or personal excuses, the deputies of the Head of Inspection Board, Directorate General for Penal Affairs,

Directorate General for Personnel Affairs attend the Interview Board. Where the members coming from the Justice Academy cannot attend, substitute members who are selected by secret vote from amongst the members of the Executive Board of Justice Academy attend Interview Board.

The interview is the method of evaluation of the following qualifications of the applicants by giving marks:

- a) the ability of judgment,
- b) the ability to understand a particular subject and to make a summary,
- c) the appropriateness of the applicants to the profession from his/her physical appearance, behaviour and reactions point of view,
- d) the capability and the culture,
- e) the openness towards the contemporary scientific developments and technological improvements.

The interview is carried out by giving marks out of 20 points for each of the abovementioned qualifications. Each grade given by each member of the Interview Board is recorded separately. In order to be successful, the arithmetic mean of the marks given by all the members of the Board should be at least 70 out of 100.

At the end of the interviews, the success list of the interviews is prepared by starting from the interviewee who gets the highest point. The list is signed by the Interview Board and handed over to the Directorate General for Personnel Affairs.

The excuses of the ones who did not attend the written exam shall not be accepted. If the Interview Board accepts the excuse of an applicant who could not attend the interview the day and the venue of the interview will be fixed and the applicant will be invited to the interview. The applicants shall be presumed unsuccessful where the excuses of unattended interviewees are rejected or although they are accepted the interviewees did not attend the interview within the time limit notified to him/her.

70 % of the written exam and 30 % of

Directorate General for Civil Affairs and Directorate General for Personnel Affairs attend the Interview Board. Where the members coming from the Justice Academy cannot attend, substitute members who are selected by secret vote from amongst the members of the Executive Board of Justice Academy attend Interview Board.

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- d) the capability and the culture,
- e) the openness towards the contemporary scientific developments and technological improvements.

The interview is carried out by giving marks out of 20 points for each of the above-mentioned qualifications. Each grade given by each member of the Interview Board is recorded separately **and undersigned and this record includes nothing except those marks. There shall be no audio-visual recording during the interviews.** In order to be successful, the arithmetic mean of the marks given by all the members of the Board should be at least 70 out of 100.

At the end of the interviews, the success list of the interviews is prepared by starting from the interviewee who gets the highest point. The list is signed by the Interview Board and handed over to the Directorate General for Personnel Affairs.

The excuses of the ones who did not attend the written exam shall not be accepted. If the Interview Board accepts the excuse of an applicant who could not attend the interview the day and the venue of the interview will be fixed and the applicant will be invited to the interview. The applicants shall be presumed unsuccessful where the excuses of unattended interviewees are rejected or although they are accepted the

<p>interview marks are added and a final success list is formed starting from highest according to those final results. In case the final marks are equal for some of the applicants, the one who had higher mark in the written exam will have the priority. In case the marks taken in the written exams are equal, the rank shall be determined by lot and all of the process shall be shown on separate minutes.</p> <p>The persons who have PhD degrees in the field of law may apply for the announced vacant positions. They are only subject to interview. For these applicants, a separate final success list is prepared based on interview marks.</p> <p>The secretariat services for the written exam and the interviews are carried out by the Directorate General for Personnel Affairs of the Ministry of Justice.</p> <p>The exam results shall be deemed invalid for those who provided with inaccurate information and their appointment procedures shall not be concluded. If they have already been appointed, their appointments shall be annulled. These persons cannot claim for any right.</p> <p>Appointments of the persons who have been successful at the exam and appointed but have not started profession, within the legal duration which is fixed under Article 62 of Law on Public Servants (Law No: 657), without any force majeure which can be proved by document shall be cancelled. Their application for re-appointment shall not be accepted.</p>	<p>interviewees did not attend the interview within the time limit notified to him/her.</p> <p>70 % of the written exam and 30 % of interview marks are added and a final success list is formed starting from highest according to those final results. In case the final marks are equal for some of the applicants, the one who had higher mark in the written exam will have the priority. In case the marks taken in the written exams are equal, the rank shall be determined by lot and all of the process shall be shown on separate minutes.</p> <p>The persons who have PhD degrees in the field of law may apply for the announced vacant positions. They are only subject to interview. For these applicants, a separate final success list is prepared based on interview marks.</p> <p>The secretariat services for the written exam and the interviews are carried out by the Directorate General for Personnel Affairs of the Ministry of Justice.</p> <p>The exam results shall be deemed invalid for those who provided with inaccurate information and their appointment procedures shall not be concluded. If they have already been appointed, their appointments shall be annulled. These persons cannot claim for any right.</p> <p>Appointments of the persons who have been successful at the exam and appointed but have not started profession, within the legal duration which is fixed under Article 62 of Law on Public Servants (Law No: 657), without any force majeure which can be proved by document shall be cancelled. Their application for re-appointment shall not be accepted.</p> <p>(The following paragraph shall be added as a new and last paragraph of Article 9)</p> <p>Those who have been found three times unsuccessful in interviews of civil and administrative judiciary exams may not attend future written exams.</p>
<p>The Duration of Traineeship and Training</p> <p>Article 10- The duration of traineeship is subject to the provisions of the Law on Turkish</p>	<p>The Duration of Traineeship and Training</p> <p>Article 10- The duration of traineeship is subject to the provisions of the Law on Turkish Justice</p>

Justice Academy (Amended by Law no: 4954 dated 23.07.2003)

The pre-service training of the trainees is carried out in accordance with the provisions of the Law no: 4954. The pre-service training which lasts 6 months for the trainees who are appointed from the profession of attorneyship, shall be carried out at the Training Centre of the Justice Academy in line with the principles laid down in the By-Law which will be issued by the Presidency of the Justice Academy on condition that the opinion of the Ministry of Justice is received.

Those who leave the profession before completing the pre-service training and those who leave the profession after completing the pre-service training and are accepted to the profession however did not serve at least for the duration of the pre-service training shall pay back the salary, allowance, compensation and all kinds of payments in proportion with the incomplete duration of compulsory service.

The trainees from civil judiciary who complete ~~one year~~ of the pre-service training and trainees who have been appointed from the profession of attorneyship and completed three months of the pre-service training shall be designated for either judgeship or prosecutorship by the Ministry of Justice taking into account the need of the civil judiciary and the documents and the reports drawn up in accordance with article 11 and the will of the trainees as much as possible and the opinion of the High Council of Judges and Prosecutors. Turkish Justice Academy determines the curricula of the last period of training according to this designation.

Academy (Amended by Law no: 4954 dated 23.07.2003)

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The trainees from civil judiciary who complete ~~one year~~ **six months** of the pre-service training and trainees who have been appointed from the profession of attorneyship and completed three months of the pre-service training shall be designated for either judgeship or prosecutorship by the Ministry of Justice taking into account the need of the civil judiciary and the documents and the reports drawn up in accordance with article 11 and the will of the trainees as much as possible and the opinion of the High Council of Judges and Prosecutors. Turkish Justice Academy determines the curricula of the last period of training according to this designation.

<p>The documents prepared about trainees</p> <p>Article 11- The information regarding capability and success and loyalty to the profession and moral characteristics of the trainee is derived from documents prepared and sent to the Justice Commission by head of the relevant unit in which the trainee served and the opinion of the Justice Commission and reports of the judicial inspectors. The reports about those trainees who conduct traineeship at the Court of Cassation or the Council of State are prepared at the end of the duration of particular part of the traineeship by the chief justice of relevant chamber and submitted either to the Presidency of the Court of Cassation or the Presidency of Council of State in order to be sent to the Ministry of Justice.</p> <p>(Second paragraph has been abolished by Law: 5435, Art.43, 22.12.2005)</p> <p>The abovementioned authorities shall write their opinions concerning the relevant matters on the fiches prepared by the Ministry of Justice.(Amended by Decree Law Dated: 11.09.1987-No: KHK-276/5, adopted identically by Law No: 3409/5 24.02.1988)</p>	<p>The documents prepared about trainees</p> <p>Article 11- The information regarding capability and success and loyalty to the profession and moral characteristics of the trainee is derived from documents prepared and sent to the Justice Commission by head of the relevant unit in which the trainee served and the opinion of the Justice Commission and reports of the judicial inspectors. The reports about those trainees who conduct traineeship at the Court of Cassation or the Council of State are prepared at the end of the duration of particular part of the traineeship by the chief justice of relevant chamber and submitted either to the Presidency of the Court of Cassation or the Presidency of Council of State in order to be sent to the Ministry of Justice.</p> <p>(Second paragraph has been abolished by Law: 5435, Art.43, 22.12.2005)</p> <p>The abovementioned authorities shall write their opinions concerning the relevant matters on the fiches prepared by the Ministry of Justice.(Amended by Decree Law Dated: 11.09.1987- No: KHK-276/5, adopted identically by Law No: 3409/5 24.02.1988)</p>
<p>Dismissal from the office within the traineeship period</p> <p>Article 12- The trainees shall be dismissed from the office by the Ministry of Justice according to the following circumstances:</p> <ul style="list-style-type: none"> a) When it is realized afterwards that the trainee does not meet some of the recruitment requirements, b) In case the trainee lose one of the requirements after being accepted to the traineeship, c) When it is determined that the behaviour and the attitudes of the trainee are incompatible with the judgeship profession and he/she attend irregularly at work and his/her knowledge and the capability is not sufficient enough. <p>Those who are suspended because of an investigation or a prosecution against themselves,</p>	<p>Dismissal from the office within the traineeship period</p> <p>Article 12- The trainees shall be dismissed from the office by the Ministry of Justice according to the following circumstances:</p> <ul style="list-style-type: none"> a) When it is realized afterwards that the trainee does not meet some of the recruitment requirements, b) In case the trainee lose one of the requirements after being accepted to the traineeship, c) When it is determined that the behaviour and the attitudes of the trainee are incompatible with the judgeship profession and he/she attend irregularly at work and his/her knowledge and the capability is not sufficient enough. <p>Those who are suspended because of an investigation or a prosecution against themselves,</p>

<p>after the decision not to prosecute or of acquittal, can be taken to the traineeship again provided that they have the relevant qualifications specified in the law.</p>	<p>after the decision not to prosecute or of acquittal, can be taken to the traineeship again provided that they have the relevant qualifications specified in the law.</p>
<p>Appointment</p> <p>Article 13- (Amended by Law No:5435, Art.5, Date:22.12.2005)The High Council of Judges and Prosecutors shall decide on accepting trainees to the profession who pass the written exam given at the end of the pre-service training provided that they have no obstacle for acceptance and male trainees prove with document that they have already done the military service or they have no connection with the military service.</p> <p>The working place of civil judiciary trainees and working place and posts of the administrative judiciary trainees who are accepted to the profession are determined by the High Council of Judges and Prosecutors by lot taking into consideration the needs of the civil and the administrative judiciary and as well as trainees' family status.</p> <p>Appointments are carried out by the High Council of Judges and Prosecutors by adding one grade and one degree to the grade and the degree of the trainees when they start to the pre-service training. All decisions of the High Council of Judges and Prosecutors regarding the appointments are published in the Official Gazette.</p> <p>Furthermore, the period passed in the duration of judge traineeship and the period spent for the part of court practice of lawyer internship are taken into account while deciding on grade and degree promotion.</p>	<p>Appointment</p> <p>Article 13- (Amended by Law No:5435, Art.5, Date:22.12.2005)The High Council of Judges and Prosecutors shall decide on accepting trainees to the profession who pass the written exam given at the end of the pre-service training provided that they have no obstacle for acceptance and male trainees prove with document that they have already done the military service or they have no connection with the military service.</p> <p>The working place of civil judiciary trainees and working place and posts of the administrative judiciary trainees who are accepted to the profession are determined by the High Council of Judges and Prosecutors by lot taking into consideration the needs of the civil and the administrative judiciary and as well as trainees' family status.</p> <p>Appointments are carried out by the High Council of Judges and Prosecutors by adding one grade and one degree to the grade and the degree of the trainees when they start to the pre-service training. All decisions of the High Council of Judges and Prosecutors regarding the appointments are published in the Official Gazette.</p> <p>Furthermore, the period passed in the duration of judge traineeship and the period spent for the part of court practice of lawyer internship are taken into account while deciding on grade and degree promotion.</p>
<p>Evaluation of Military Service</p> <p>Article 14 - The period served during the military service carried out by those appointed as a judge or prosecutor shall be taken into consideration in respect of their grade and degree promotion following the fulfilment of the military service.</p>	<p>Evaluation of Military Service</p> <p>Article 14 - The period served during the military service carried out by those appointed as a judge or prosecutor shall be taken into consideration in respect of their grade and degree promotion following the fulfilment of the military service.</p>

<p style="text-align: center;">SECTION TWO</p> <p style="text-align: center;">Classes and Degrees of Judgeship and Prosecutorship</p> <p>Classes and seniority</p> <p>Article 15 – (Amended by Law No:5435, Art.6, Date:22.12.2005)The profession of judgeship and prosecutorship is classified under following classes: third class, second class, designated to the first class and first class.</p> <p>Upon the designation to the first class, judges and prosecutors who serve successfully for 3 years and do not lose the qualifications necessary for promotion to the first class shall become first class.</p> <p>Seniority of judges and prosecutors is determined according to the degree and class they hold. It is calculated since the date in which they are appointed to that degree and class. Judges and prosecutors who hold upper class or degree are viewed as more senior than those who hold lower class and degree. In that calculation, the degrees and grades obtained and the period served in other public services upon which trainee status starts according to the second paragraph of Article 9 are not taken into consideration.</p> <p>In case that the class or degree being held is the same, the date of promotion to this class or degree, the starting date of traineeship, starting date of entry to the profession, the result of the written exam held in pre-service training shall be taken into consideration respectively to determine the seniority. In case all of them are the same, the one whose birth date is older is presumed to be senior.</p>	<p style="text-align: center;">SECTION TWO</p> <p style="text-align: center;">Classes and Degrees of Judgeship and Prosecutorship</p> <p>Classes and seniority</p> <p>Article 15 –(Amended by Law No:5435, Art.6, Date:22.12.2005) The profession of judgeship and prosecutorship is classified under following classes: third class, second class, designated to the first class and first class.</p> <p>Upon the designation to the first class, judges and prosecutors who serve successfully for 3 years and do not lose the qualifications necessary for promotion to first class shall become first class.</p> <p>Seniority of judges and prosecutors is determined according to the degree and class they hold. It is calculated since the date in which they are appointed to that degree and class. Judges and prosecutors who hold upper class or degree are viewed as more senior than those who hold lower class and degree. In that calculation, the degrees and grades obtained and the period served in other public services upon which trainee status starts according to the second paragraph of Article 9 are not taken into consideration.</p> <p>In case that the class or degree being held is the same, the date of promotion to this class or degree, the starting date of traineeship, starting date of entry to the profession, the result of the written exam held in pre-service training shall be taken into consideration respectively to determine the seniority. In case all of them are the same, the one whose birth date is older is presumed to be senior.</p>
<p>The table on civil judiciary</p> <p>Article 16 – The classes, degrees and titles with regard to judges and prosecutors of civil judiciary are indicated on the table (1) attached to this law.</p>	<p>The table on civil judiciary</p> <p>Article 16 – The classes, degrees and titles with regard to judges and prosecutors of civil judiciary are indicated on the table (1) attached to this law.</p>

<p>The table on administrative judiciary</p> <p>Article 17 –The classes, degrees and titles with regard to judges and prosecutors of the administrative judiciary are indicated on the table (2) attached to this law.</p>	<p>The table on administrative judiciary</p> <p>Article 17 –The classes, degrees and titles with regard to judges and prosecutors of the administrative judiciary are indicated on the table (2) attached to this law.</p>
<p style="text-align: center;">SECTION THREE</p> <p style="text-align: center;">Degree and Grade Promotion</p> <p>General Rule</p> <p>Article 18 – Judges and prosecutors shall get grade promotion every year and get degree promotion once every two years in accordance with the procedure and criteria prescribed by the following articles.</p> <p>Grade promotion of those who complete the duration of service is attained in accordance with conditions set out under Article 20. Degree promotion is decided by the High Council of Judges and Prosecutors as it shall be valid from the last day of April, August and December.</p>	<p style="text-align: center;">SECTION THREE</p> <p style="text-align: center;">Degree and Grade Promotion</p> <p>General Rule</p> <p>Article 18 – Judges and prosecutors shall get grade promotion every year and get degree promotion once every two years in accordance with the procedure and criteria prescribed by the following articles.</p> <p>Grade promotion of those who complete the duration of service is attained in accordance with conditions set out under Article 20. Degree promotion is decided by the High Council of Judges and Prosecutors as it shall be valid from the last day of April, August and December.</p>
<p>Procedure and criteria on grade promotion</p> <p>Article 19 – In order for judges and prosecutors to have grade promotion within the existing degree;</p> <ul style="list-style-type: none"> a) they shall work for at least a year or be presumed to work b) (Amended by Law No:5435, Art.7, Date:22.12.2005)there shall be no definite court judgment or disciplinary sanction that hinders grade promotion c) Abolished by Decree Law No:276/13, Dated:24.02.1988; Approved Identically by Law No: 3409, Art.13, Dated:24.02.1988) 	<p>Procedure and criteria on grade promotion</p> <p>Article 19 – In order for judges and prosecutors to have grade promotion within the existing degree;</p> <ul style="list-style-type: none"> a) they shall work for at least a year or be presumed to work b) (Amended by Law No:5435, Art.7, Date:22.12.2005)there shall be no definite court judgment or disciplinary sanction that hinders grade promotion c) Abolished by Decree Law No:276/13, Dated:24.02.1988; Approved Identically by Law No: 3409, Art.13, Dated:24.02.1988)
<p>Grade promotion</p> <p>Article 20 – Those who meet the conditions set out under Article 19 are presumed to proceed to one grade ahead on the date of completion of one</p>	<p>Grade promotion</p> <p>Article 20 – Those who meet the conditions set out under Article 19 are presumed to proceed to one grade ahead on the date of completion of one</p>

<p>year awaiting period without taking additional action. It is registered in personal dossier by the Directorate General for Personnel Affairs and reported to whom it concerns. Decision to promote or not to promote by grade for judges and prosecutors who do not meet the conditions set under Article 19 shall be taken by the High Council of Judges and Prosecutors. If it is figured out afterwards that those presumed to make grade promotion do not deserve the promotion, their grade promotion shall be annulled as valid from the date they are presumed to get promotion.</p>	<p>year awaiting period without taking additional action. It is registered in personal dossier and reported to whom it concerns. Decision to promote or not to promote by grade for judges and prosecutors who do not meet the conditions set under Article 19 shall be taken by the High Council of Judges and Prosecutors. If it is figured out afterwards that those presumed to make grade promotion do not deserve the promotion, their grade promotion shall be annulled as valid from the date they are presumed to get promotion.</p>
<p>Conditions for degree promotion</p> <p>Article 21 – (Amended by Law No:5435, Art.8, Date:22.12.2005)In order for judges and prosecutor to get degree promotion;</p> <ol style="list-style-type: none"> a. They should have spent for two years in the degree or presumed to have spent this term according to the provisions of this Law, b. There should not be definite court judgment or disciplinary sanction that hinders degree promotion, c. They should meet the requirements declared by the High Council of Judges and Prosecutors on degree promotion based on moral characteristics, professional knowledge and understanding, efforts and diligence, accumulations of work that they deal with, quantity and quality of work accomplished, loyalty to the profession and attendance, appraisal files filled by judicial inspectors, the number of judgments examined through appeal and notes given upon the examination, professional works, writings and professional in-service and expertise trainings if they have attended. 	<p>Conditions for degree promotion</p> <p>Article 21 – (Amended by Law No:5435, Art.8, Date:22.12.2005)In order for judges and prosecutor to get degree promotion;</p> <ol style="list-style-type: none"> a. They should have spent for two years in the degree or presumed to have spent this term according to the provisions of this Law, b. There should not be definite court judgment or disciplinary sanction that hinders degree promotion, c. They should meet the requirements determined in the by-law which will be issued by the Council considering professional knowledge and understanding, efforts and diligence, accumulations of work that they deal with, quantity and quality of work accomplished, works that have been reviewed through legal remedies, loyalty to duties, obeying the rules on professional ethics, performance evaluation and development forms and performance forms filled by inspectors and superiors, professional works, writings and professional in-service and expertise trainings if they have attended.
<p>Publication of the list for degree promotion</p> <p>Article 22 – The lists showing the names of judges and prosecutors who fulfil the period necessary for degree promotion and not</p>	<p>Publication of the list for degree promotion</p> <p>Article 22 – The lists showing the names of judges and prosecutors who fulfil the period necessary for degree promotion and not</p>

<p>sentenced by a penal court judgment or disciplinary sanction that hinder the promotion shall be prepared by the High Council of Judges and Prosecutors to be published in the Official Gazette in April, August and December.</p> <p>Whose names are not shown in the list may request re-examination of their status from the High Council of Judges and Prosecutors through a written application submitted within 30 days following the publication of the list.</p> <p>The Council dismisses the application if it considers that the application is not submitted within the prescribed time-limit or finds it unjustified. The person concerned may bring an objection before the Objection Examination Board within ten days following the notification of the decision.</p> <p>In case of approval of application or objection, the names are published as an annex to the list published in the Official Gazette regardless of the periods mentioned under the first paragraph.</p>	<p>sentenced by a penal court judgment or disciplinary sanction that hinder the promotion shall be prepared by the High Council of Judges and Prosecutors to be published on the website of the Council in April, August and December.</p> <p>Whose names are not shown in the list may request re-examination of their status through a written application submitted within 30 days following the publication of the list.</p> <p>The relevant chamber of the Council dismisses the application if it considers that the application is not submitted within the prescribed time-limit or finds it unjustified. The person concerned may bring an objection within ten days following the notification of the decision.</p> <p>In case of approval of the application or the objection, the names are published as an annex to the list published on the website of the Council regardless of the periods mentioned under the first paragraph.</p>
<p>Evaluation reports drawn up by superiors</p> <p>Article 23 – (Amended 1st para. by Law No:5435, Art.9, Date:22.12.2005) An evaluation report is drawn up by:</p> <ol style="list-style-type: none"> a) Chief public prosecutors of regional courts of appeal for deputy chief public prosecutors and public prosecutors under the jurisdiction of these courts, b) Chief public prosecutors of heavy criminal court centres for deputy public prosecutors and public prosecutors functioning within that centre as well as chief public prosecutors and public prosecutors of district courts. <p>The report shall be sent to the High Council of Judges and Prosecutors one month before the end of the period in which their status are evaluated as they attach copies of at least their sealed five indictments and decisions of not to prosecute, having regard to conditions set out under Article 21/e.</p> <p>(Abolished paragraph by Law No:5435,</p>	<p>(Article 23 shall be amended along with its title as follows)</p> <p>Performance Form and Success Form</p> <p>Article 23 –Performance and success forms shall be filled:</p> <ol style="list-style-type: none"> a)1. By the First President of Court of Cassation, the President of Council of State, heads of chambers or boards, the Chief Public Prosecutor of the Court of Cassation or the Chief Prosecutor of the Council of State for judges and prosecutors who serve at the Court of Cassation and the Council of State depending on the position of the person in question. 2. By the Chief Public Prosecutor of the regional courts of appeal for deputy chief public prosecutors and public prosecutors serving at the mentioned courts. 3. By the Chief Public Prosecutor for deputy chief public prosecutors and public prosecutors serving at the heavy penal court centres and for chief public prosecutors and public prosecutors serving in sub-provinces

Art.43, Date 22.12.2005)

~~If judges and prosecutors whom will be subject to preparation of evaluation report~~ have served in different locations within the degree and grade promotion term, the abovementioned procedures shall be carried out by the authorities where they have served the longest period.

~~Principles for degree and grade promotions and qualification to first class of members of second class administrative judges who have been appointed to regional administrative courts shall be determined by the High Council for Judges and Prosecutors and published in the Official Gazette.~~

attached to that centre.

b) 1. By the Secretary General for judges, public prosecutors and deputy secretary generals serving at the Council; by the President of the Inspection Board for inspectors at the Council; by the Head of Chamber who has the supervision task for the President of the Inspection Board; by the Deputy President of the Council for the Secretary General,

2. By heads of departments for judges, public prosecutors, judicial inspectors and internal auditors who serve at the central and provincial units of the Ministry of Justice; by the Undersecretary of the Ministry of Justice for heads of departments and deputy undersecretaries only for success forms,

3. By the Undersecretary of the Ministry of Justice for judges and public prosecutors who work at the abroad units of the Ministry and at international organizations.

Performance forms are filled for the judges and prosecutors indicated in the first paragraph until they become first class, success forms are filled after they become first class.

Points mentioned in Article 21 (c) shall be taken into consideration when filling the performance and success forms according to the sub-paragraph (a) of the first paragraph.

Those who will be subject to evaluation by filling performance and success forms and served in different locations within the degree and grade promotion term, the above-mentioned procedures shall be carried out by the authorities where they have served for the longest period.

~~Appraisal Reports Arranged by the Judicial Inspectors~~

Article 24 – Judicial inspectors shall send ~~evaluation reports which have been prepared for judges and prosecutors~~ relying on documents searched and observation made ~~during the inspection~~, to the Presidency of Inspection Board so that they are put in the confidential files of those concerned.

(Article 24 shall be amended along with its title as follows)

Performance Evaluation and Development Forms Prepared by Inspectors

Article 24- Council inspectors and judicial inspectors shall prepare performance evaluation and development forms after having sufficient belief from the documents that they have examined and data gained from the National Judicial Network Informatics System, evaluation form prepared by persons in question,

	<p>information obtained by means of interviews or observations. The prepared performance evaluation and development forms shall be sent either to the Council Inspection Board or to the Ministry Inspection Board so that they are put in the confidential files of those concerned. The procedures and merits of performance evaluation and development forms are regulated through by-law.</p>
<p>Judges and Prosecutors Functioning in the Ministry of Justice and Attached and Affiliated Institutions</p> <p>Article 25 — (Abolished paragraph by Law No:5435, Art.10, Date 22.12.2005)</p> <p>The appraisal reports of judges and prosecutors who work within the headquarters, affiliated or associated bodies of the Ministry of Justice and are not in first class shall be drawn up by their heads of departments who should be a member of judiciary.</p>	<p>Article 25 shall be abolished.</p>
<p>Judges and Prosecutors Serving at the Court of Cassation and the Council of State</p> <p>Article 26 — (Amended 22/12/2005 — 5435/11)</p> <p>The promotion report for those who serve at the Court of Cassation and the Council of State and have not been qualified to first class shall be prepared depending on person in question by; the First President of Court of Cassation, the President of Council of State, heads of chambers or boards, the Chief Public Prosecutor of the Court of Cassation or the Chief Prosecutor of the Council of State.</p>	<p>Article 26 shall be abolished.</p>
<p>Publications</p> <p>Article 27- The persons concerned may give a copy of their professional publications to the department responsible for personnel affairs.</p> <p>The publications and written works are recorded and kept in personnel files of judges and prosecutors. They will be taken into</p>	<p>Publications</p> <p>Article 27- The persons concerned may give a copy of their professional publications to the department responsible for personnel affairs.</p> <p>The publications and written works are recorded and kept in personnel files of judges and prosecutors. They will be taken into</p>

<p>consideration by the High Council for Judges and Prosecutors during evaluations for grade and degree promotions and for qualification to the first class.</p>	<p>consideration by the High Council for Judges and Prosecutors during evaluations for grade and degree promotions and for qualification to the first class.</p>
<p>Marks Given by the Court of Cassation, Council of State, Regional Court of Appeals and civil courts</p> <p>Article 28 (Abolished paragraph by Law No:5435, Art.12, Date 22.12.2005)</p> <p>During the appeal phase, chambers at the Court of Cassation and the Council of State evaluate judges by giving marks of excellent, good, average and poor who take the judgment as either an individual or as a panel and to public prosecutors who prepare indictment, participate in proceedings in which judgment is taken and apply for legal remedies. In giving marks; accuracy of the judgment, conducting trials, preparedness for trials and not causing delays, fulfilment of procedural rules free of defects and on time, management of the subject matter of the proceedings, success in writing, analysis and conclusion of the reasoning, observance of landmark decisions, particularities of prosecution, compliance of the indictment shall be taken into consideration and forms for marking are filled accordingly.</p> <p>Upholding or quashing of judgments may not constitute a sufficient reason for giving positive or negative marks.</p> <p>(Abolished paragraph by Law No:5435, Art.12, Date 22.12.2005)In case there is no positive or negative opinion reached over the examined judgment, a report is prepared with its reasoning to indicate that no mark is given. In addition, negative marks shall not be given if a dissenting opinion is raised in compliance with the judgment under examination.</p> <p>The procedure for giving marks is carried out by way of a decision jointly taken by President and members of the Chamber examining the judgment. The prepared reports are forwarded to the First Presidency of the Court of Cassation or to the Presidency of the Council</p>	<p>Article 28 shall be abolished.</p>

~~of State so that they are sent to the Ministry of Justice.~~

~~As regards the examination conducted in the plenary sessions, the above paragraphs statements are also applied.~~

~~(Abolished paragraph by Law No:5435, Art.12, Date 22.12.2005) Pursuant to above mentioned principles the High Council of Judges and Prosecutors shall decide on in what conditions and how will the judges and prosecutors will receive marks during the appeal process at the regional courts of appeal. The filled documents will be submitted to the presidency of the regional courts of appeal in order to be sent to the Ministry of Justice.~~

~~The High Council of Judges and Prosecutors determines the situations and method for giving marks to administrative judges by regional administrative courts deciding on the files upon objection.~~

<p>Types of Promotion</p> <p>Article 29- Taking the above mentioned principles into consideration, the High Council of Judges and Prosecutors categorizes judges and prosecutors who will receive promotion into three groups:</p> <ul style="list-style-type: none"> a) Eligible to promotion b) Eligible to preferred promotion c) Eligible to distinguished promotion <p>Individuals in each group are listed in sequence among them, recorded in a book and notified to the concerned person. These books are also published in the Official Gazette.</p> <p>The concerned persons are entitled to raise written objection and ask for re-examination of their positions by the High Council of Judges and Prosecutors within ten days after the notification of the decisions on the sequence and type of their promotion, or the decision of non promotion.</p> <p>The High Council shall reject the application if it has not been raised within the time limit or finds the objection groundless. The concerned person may raise a further objection against this decision to the Board of Examination of Objections within ten days after notification.</p> <p>If there is a change in the books upon the application or objection, this shall be published in the Official Gazette.</p>	<p>Types of Promotion</p> <p>Article 29- Taking the above mentioned principles into consideration, the High Council of Judges and Prosecutors categorizes judges and prosecutors who will receive promotion into three groups:</p> <ul style="list-style-type: none"> a) Eligible to promotion b) Eligible to preferred promotion c) Eligible to distinguished promotion <p>Individuals in each group are listed in sequence among them, recorded in a book and notified to the concerned person. These books are also published on the website of the Council.</p> <p>The concerned persons are entitled to raise written objection and ask for re-examination of their positions within ten days after the notification of the decisions on the sequence and type of their promotion, or the decision of non promotion.</p> <p>The relevant chamber of the Council shall reject the application if it has not been raised within the time limit or finds the objection groundless. The concerned person may raise a further objection against this decision within ten days after notification.</p> <p>If there is a change in the books upon the application or objection, this shall be published on the website of the Council.</p>
<p>Judges and Public Prosecutors who are not deemed eligible to promotion</p> <p>Article 30-Judges and public prosecutors who are not found eligible to promotion by the High Council of Judges and Prosecutors, will be subject to promotion examination after two years. These may receive grade promotion if they fulfil the conditions.</p> <p>The High Council of Judges and Prosecutors decides on whether it is appropriate or not to keep a judge or prosecutor in the profession who have not been found eligible for promotion twice in the same degree or three times in the same class. (Additional Sentence by Law No:5435,</p>	<p>Judges and Public Prosecutors who are not deemed eligible to promotion</p> <p>Article 30-Judges and public prosecutors who are not found eligible to promotion by the High Council of Judges and Prosecutors, will be subject to promotion examination after two years. These may receive grade promotion if they fulfil the conditions.</p> <p>The High Council of Judges and Prosecutors decides on whether it is appropriate or not to keep a judge or prosecutor in the profession who have not been found eligible for promotion twice in the same degree or three times in the same class. (Additional Sentence by Law No:5435,</p>

<p>Art.13, Date 22.12.2005) This decision shall apply as of the date it has been taken.</p> <p>(Amended by Law No:5435, Art.13, Date 22.12.2005)Judges and prosecutors who are sentenced to imprisonment for a intentional crime which does not require dismissal from profession, or fined for crimes related to his function, or condemned twice in a degree term or three times in a class term or sentenced for suspension of grade promotion shall not be evaluated for grade or degree promotion for one year after the finalization of the sentence; Those who are sentenced to suspension of degree promotion or change of location shall not be evaluated for grade or degree promotion for two years after the finalization of the sentence. These offences shall not be taken into consideration in degree promotion examination if they become final or enforced during the period of suspension of grade promotion.</p> <p>(Abolished paragraph by Law No:5435, Art.43, Date 22.12.2005)</p>	<p>Art.13, Date 22.12.2005) This decision shall apply as of the date it has been taken.</p> <p>Judges and prosecutors who are sentenced to imprisonment for a intentional crime which does not require dismissal from profession, or fined for crimes related to his function, or condemned twice in a degree term or three times in a class term or sentenced for suspension of grade promotion shall not be evaluated for grade or degree promotion for one year after the finalization of the sentence; Those who are sentenced to suspension of degree promotion or change of location shall not be evaluated for grade or degree promotion for two years after the finalization of the sentence. These offences shall not be taken into consideration in degree promotion examination if they become final or enforced during the period of suspension of grade promotion.</p> <p>(Abolished paragraph by Law No:5435, Art.43, Date 22.12.2005)</p>
<p>Post Graduate and Expertise Training</p> <p>Article 31-(Amended by Law No:5435, Art.14, Date 22.12.2005) Judges and public prosecutors who wish to have a post graduate or PhD degree in fields regarding their profession and who wants to participate to the expertise programmes at Turkey and Middle East Public Administration Institute or the Turkish Justice Academy; have to get permission from the High Council of Judges and Prosecutors. However, it is suffice to inform the High Council of Judges and Prosecutors if these judges and public prosecutors want to participate with these trainings without having a leave or without prejudice to their service.</p> <p>The persons who attend training programmes in accordance with the abovementioned provisions shall be deemed on leave during the training period and their degree promotion, grade promotion, allocation to the first class judgeship are continued and they enjoy rights for salaries and allowances and other financial and social rights.</p>	<p>Post Graduate and Expertise Training</p> <p>Article 31-(Amended by Law No:5435, Art.14, Date 22.12.2005) Judges and public prosecutors who wish to have a post graduate or PhD degree in fields regarding their profession and who wants to participate to the expertise programmes at Turkey and Middle East Public Administration Institute or the Turkish Justice Academy; have to get permission from the High Council of Judges and Prosecutors. However, it is suffice to inform the High Council of Judges and Prosecutors if these judges and public prosecutors want to participate with these trainings without having a leave or without prejudice to their service.</p> <p>The persons who attend training programmes in accordance with the abovementioned provisions shall be deemed on leave during the training period and their degree promotion, grade promotion, allocation to the first class judgeship are continued and they enjoy rights for salaries and allowances and other financial and social rights.</p>

<p>However, these judges and prosecutors shall be subject to compulsory service for a term equal to the term they were on leave. Those who leave the profession without serving the compulsory term shall pay a proportionally compensation for the salaries, allowances, compensation and all kind of payments which will be calculated as two times of the remaining days of the compulsory service.</p> <p>A grade promotion shall be granted to the judges and prosecutors who have accomplished a master degree or who are graduated from master programmes of Turkey and Middle East Public Administration Institute. And a degree promotion shall be granted to PhD holders. If master degree holders graduate from a PhD programme they shall be granted a grade promotion. The successful expertise training periods up to two years at the Turkish Justice Academy shall be taken into consideration in the degree and grade promotion. At this implementation the period lapsed at the lower grade and degree shall be taken into account as if it lapsed at the upper degree or grade.</p> <p>Judges and prosecutors who have started their training at the pre-service period shall continue their training under these provisions after their appointment.</p>	<p>However, these judges and prosecutors shall be subject to compulsory service for a term equal to the term they were on leave. Those who leave the profession without serving the compulsory term shall pay a proportionally compensation for the salaries, allowances, compensation and all kind of payments which will be calculated as two times of the remaining days of the compulsory service.</p> <p>A grade promotion shall be granted to the judges and prosecutors who have accomplished a master degree or who are graduated from master programmes of Turkey and Middle East Public Administration Institute. And a degree promotion shall be granted to PhD holders. If master degree holders graduate from a PhD programme they shall be granted a grade promotion. The successful expertise training periods up to two years at the Turkish Justice Academy shall be taken into consideration in the degree and grade promotion. At this implementation the period lapsed at the lower grade and degree shall be taken into account as if it lapsed at the upper degree or grade.</p> <p>Judges and prosecutors who have started their training at the pre-service period shall continue their training under these provisions after their appointment.</p>
<p style="text-align: center;">SECTION FOUR</p> <p style="text-align: center;">Conditions and Methods for Allocation of First Class and Evaluation of Works of First Class Judges and Prosecutors</p> <p>Conditions for Allocation of First Class</p> <p>Article 32- In order to be allocated to the first class, the following conditions are required:</p> <ul style="list-style-type: none"> a) to promote to the first degree, b) (Amended by Law No:4087, Art.1, Date 09.03.1995) to complete ten years experience at the profession of judgeship and prosecutorship, c) to distinguish among equals from scientific power and capability and professional 	<p style="text-align: center;">SECTION FOUR</p> <p style="text-align: center;">Conditions and Methods for Allocation of First Class and Evaluation of Works of First Class Judges and Prosecutors</p> <p>Conditions for Allocation of First Class</p> <p>Article 32- In order to be allocated to the first class, the following conditions are required:</p> <ul style="list-style-type: none"> a) to promote to the first degree, b) (Amended by Law No:4087, Art.1, Date 09.03.1995) to complete ten years experience at the profession of judgeship and prosecutorship, c) to distinguish among equals from scientific power and capability and professional success

success points of view.

d) not to be sanctioned for change of location,

e) not to be sanctioned more than once for condemnation, suspension of grade and degree promotion even if the sanctions are not given for the same nature.

f) not to be convicted of any crime damaging the dignity and honour of the profession or personal dignity and honour or of any crime concerning the profession even if it has been pardoned.

(Amended by Law No:5435, Art.15, Date 22.12.2005)Nine years of professional experience is sufficed for allocation to the first class for master degree holders in the fields related to the profession, or for those who have successfully completed the master programmes of Turkey and Middle East Public Administration Institute or the expertise courses at the Turkish Justice Academy which lasts at least one year. For PhD degree holders in the fields related to the profession, eight years of professional experience is sufficed. Moreover, 2/3 of the terms performed as an advocate, traineeship periods of the trainee judges and prosecutors that exceed the periods prescribed by the Law No: 4954 (Law on Justice Academy), 2/3 of the pre-service training period for advocacy, 1/2 of the military service period shall be taken into account in the calculation of the time for allocation to the first class. However, in all circumstances, performance in the profession for at least three degree promotion terms shall be required in order to be allocated to the first class.

The provisions of Article 22 related to the publication of the lists, re-examination and objection shall be applied for those who will be subject to assessment for being allocated to the first class.

(Amended by Law No:5435, Art.15, Date 22.12.2005)The principles on the conditions and methods for being allocated to be first class shall be determined and published in the Official Gazette by the High Council for Judges and Prosecutors in accordance with the principles foreseen in the Law.

points of view.

d) not to be sanctioned for change of location,

e) not to be sanctioned more than once for condemnation, suspension of grade and degree promotion even if the sanctions are not given for the same nature.

f) not to be convicted of any crime damaging the dignity and honour of the profession or personal dignity and honour or of any crime concerning the profession even if it has been pardoned.

(Amended by Law No:5435, Art.15, Date 22.12.2005)Nine years of professional experience is sufficed for allocation to the first class for master degree holders in the fields related to the profession, or for those who have successfully completed the master programmes of Turkey and Middle East Public Administration Institute or the expertise courses at the Turkish Justice Academy which lasts at least one year. For PhD degree holders in the fields related to the profession, eight years of professional experience is sufficed. Moreover, 2/3 of the terms performed as an advocate, traineeship periods of the trainee judges and prosecutors that exceed the periods prescribed by the Law No: 4954 (Law on Justice Academy), 2/3 of the pre-service training period for advocacy, 1/2 of the military service period shall be taken into account in the calculation of the time for allocation to the first class. However, in all circumstances, performance in the profession for at least three degree promotion terms shall be required in order to be allocated to the first class.

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(Amended by Law No:5435, Art.15, Date 22.12.2005)The principles on the conditions and methods for being allocated to be first class shall be determined and published in the Official Gazette by the High Council for Judges and Prosecutors in accordance with the principles foreseen in the Law.

Evaluation of Works of the First Class Judges and Prosecutors

Article 33.-(Amended by Law No:5435, Art.16, Date 22.12.2005) The issue of whether first class judges and prosecutors are successful or not, shall be determined through evaluation ~~by the High Council of Judges and Prosecutors~~ in every three years according to their inspection ~~assessment—documents~~, work performance records, grade rates, and other information related to the professional and academic works.

The principles on conditions and procedures for assessment of works of the first class judges and prosecutors shall be determined by the ~~High Council of Judges and Prosecutors~~ in line with the Law and published in the Official Gazette.

Evaluation of Works of Judges and Prosecutors Allocated to the First Class and of First Class Judges and Prosecutors

Article 33.- The Council assesses once in every three years whether judges and prosecutors who have been allocated to the first class and judges and prosecutors in the first class are successful or not taking into consideration inspectors' evaluation and development forms, work performance records, works which were subject to review through legal remedies, and other information related to the professional and academic works.

The principles on conditions and procedures for evaluation of works of judges and prosecutors allocated to the first class and judges and prosecutors in the first class shall be determined by the Council in line with the Law and published in the Official Gazette.

SECTION FIVE

Equality and Change of Location

Equality

Article 34- Judges and prosecutors ~~working~~ at the central units of the Ministry of Justice or its affiliated or associated institutions are subject to the provisions for judges and prosecutors. ~~They are classified and graded under the principles for judges and prosecutors and they fully enjoy the rights granted to judges and prosecutors.~~ The period served at these posts are deemed to be served in the profession of judgeship and prosecutorship.

~~Judges and prosecutors working in the civil judiciary are equal to judges and prosecutors working at the central units of the Ministry of Justice or its affiliated or associated institutions in terms of their classes and degrees.~~

~~Judges and prosecutors working in the administrative judiciary are equal to judges and prosecutors working at the central units of the Ministry of Justice or its affiliated or associated institutions in terms of their classes and degrees.~~

SECTION FIVE

Equality and Change of Location

Equality

Article 34- Judges and prosecutors employed in administrative positions at the Council; at the central, provincial and abroad units of the Ministry of Justice and its affiliated and associated institutions; at international organizations and courts or those temporarily assigned to other institutions, boards or organizations are subject to the provisions for judges and prosecutors working at civil and administrative judiciary. These periods are deemed to be served in the profession of judgeship and prosecutorship.

Appointment by change of location

Article 35- Judges and prosecutors shall be appointed to the equal or higher posts with their acquired rights, salaries and degrees by change of location pursuant to the By-law on Appointment and Transfer issued by the High Council of Judges and Prosecutors.

The places where civil and administrative judiciary organizations exist are classified as regions according to their geographic, economic conditions and social, health and cultural opportunities and deficiencies, transportation and other facilities. The term of office in each region shall be determined accordingly.

(Amended by Law No:5435, Art.17, Date 22.12.2005) A place where regional court of appeal is established is superior to other places within the same region; and a place where heavy criminal court is established is superior to other places where general courts of first instance in terms of place of office.

In the administrative judiciary, a place where regional administrative courts are established is superior to other places in terms of place of office.

Without regard to fulfilment of the service term in a region and to the length of service in the profession, judges and prosecutors who have been found unsuccessful in the regions and incompatible with the requirements of the office through documents can be appointed to another region where they may serve or to a place equivalent to the place where they recently served.

Judges and prosecutors, who raise personal or familial health reasons or any other legitimate reasons identified in the By-law on Appointment and Transfer, may be appointed by change of location.

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In the administrative judiciary, a place where regional administrative courts are established is superior to other places in terms of place of office.

Without regard to fulfilment of the service term in a region and to the length of service in the profession, judges and prosecutors who have been found unsuccessful in the regions and incompatible with the requirements of the office through documents can be appointed to another region where they may serve or to a place equivalent to the place where they recently served.

Judges and prosecutors, who raise personal or familial health reasons or any other legitimate reasons identified in the By-law on Appointment and Transfer, may be appointed by change of location.

<p>Change of Post</p> <p>Article 36- According to the requirements of the service, needs of the judiciary or upon the request of the concerned person;</p> <p>a) Judges serving at the civil judiciary may be appointed as a prosecutor or prosecutors serving at the civil judiciary may be appointed as a judge.</p> <p>b) Judges serving in the administrative judiciary may be appointed as a prosecutor in administrative judiciary; prosecutors in administrative judiciary may be appointed as a judge in administrative judiciary;</p> <p>by the High Council of Judges and Prosecutors.</p> <p>c-d) (Additional: 12/5/1988 – art. 3446/2; Annulment: Decision of Constitutional Court dated 28/2/1989 and number E.1988/32, K. 1989/10)</p>	<p>Change of Post</p> <p>Article 36- According to the requirements of the service, needs of the judiciary or upon the request of the concerned person;</p> <p>a) Judges serving at the civil judiciary may be appointed as a prosecutor or prosecutors serving at the civil judiciary may be appointed as a judge.</p> <p>b) Judges serving in the administrative judiciary may be appointed as a prosecutor in administrative judiciary; prosecutors in administrative judiciary may be appointed as a judge in administrative judiciary;</p> <p>by the High Council of Judges and Prosecutors.</p> <p>c-d) (Additional: 12/5/1988 – art. 3446/2; Annulment: Decision of Constitutional Court dated 28/2/1989 and number E.1988/32, K. 1989/10)</p>
<p>Conditions and procedures of appointment to central organization of the Ministry of Justice</p> <p>Article 37–(Amended:22/12/2005–5435/art. 18)</p> <p>a) The appointment as a judge rapporteur at the Ministry is made by the Minister of Justice with the consent of those who have worked as a judge or prosecutor for at least 5 years and proved to be useful at Ministerial services upon their prevailing success.</p> <p>b) 1. The appointment to the post of judicial inspectors is made from among those who worked as a judge or prosecutor for at least 8 years and proved to be useful at judicial inspection services upon their prevailing success with their consent,</p> <p>2. The appointment to the posts of the Undersecretary of Ministry of Justice, high counsellors, deputy undersecretaries, the President of Inspection Board, director generals, the President of Research, Planning and Coordination Board, vice-presidents of the Inspection Board; from among first class judges and prosecutors who have not lost the right to be</p>	<p>(Article 37 shall be amended along with its title as follows)</p> <p>Conditions and procedures of appointment to central, provincial and abroad organization of the Ministry and its affiliated and associated institutions</p> <p>Article 37–Appointments to the central, provincial and abroad organization of the Ministry and its affiliated and associated institutions shall be made by the Minister:</p> <p>a)1. To the post of judge rapporteur at the Ministry from amongst those who have worked as a judge or prosecutor for at least 5 years and proved to be useful at Ministerial services upon their prevailing success with the condition of receiving their consent.</p> <p>2. To the post of internal auditor at the Ministry, upon the proposal of the Undersecretary, from amongst those who have worked as a judge or prosecutor for at least 8 years and proved to be useful at Ministerial services upon their prevailing success with the condition of receiving their consent.</p> <p>3. To the posts at the provincial organization</p>

elected as members of Court of Cassation and Council of State, and the appointment as autonomous head of departments, as deputy director generals and the Head of Prison Workshop Institution; from among those who are allocated as first class,

is made by a joint decree bearing the signatures of Minister, Prime Minister and President.

Appointments to the post of head of departments within directorate generals and ~~members of the Research, Planning and Coordination Board~~ are made with ~~the approval of the Minister~~ from among judges and prosecutors who have completed 8 years in the profession and promoted to the second degree.

~~Appointments to post of counsellors of the Ministry are made with approval of the Minister.~~

For appointments to the central units of the Ministry from among judicial posts, consent of the appointees who are not working at the Ministry is required.

of the Ministry and at the abroad organizations from amongst judges and prosecutors who serve at the central organization of the Ministry.

4. To the posts of head of departments within directorate generals and the [Head of Strategy Development Department](#) are made with the approval of the Minister from among judges and prosecutors who have completed eight years in the profession and promoted to the second degree.

b) The followings shall be appointed by a joint decree bearing the signatures of Minister, Prime Minister and President:

1. The Undersecretary of the Ministry of Justice, high counsellors, deputy undersecretaries, the President of Inspection Board, director generals, the [Head of Strategy Development Department](#), the [Head of Internal Auditing Unit](#), vice-presidents of the Inspection Board; from among first class judges and prosecutors who have not lost the right to be elected as members of the Court of Cassation and the Council of State; and [legal counsellor](#), autonomous head of departments, deputy director generals and the Head of Prison Workshop Institution; from among those who have been allocated as first class,

2. Judicial inspectors from among those who worked as a judge or prosecutor for at least 8 years and proved to be useful at judicial inspection services upon their prevailing success with the condition of receiving their consent,

[Assignment and appointment power belongs to the Minister upon request from Ministry's affiliated and associated institutions for judges and prosecutors to be worked on permanent or temporary basis with the condition of receiving their consent.](#)

[Except those who are not assigned or temporarily seconded to international institutions and courts, the consent of the individuals who are assigned from among judicial posts is required for assignments to the central, provincial and abroad units of the Ministry.](#)

<p>Re-appointment to profession as judge and prosecutor</p> <p>Article 38 –(Amended: 2275/1996 – 4141/art.2)</p> <p>Except the Undersecretary, judges and prosecutors working at the central organization, attached and associated bodies of the Ministry may be appointed to the profession again as judges and prosecutors within maximum 30 days to the places determined by the High Council of Judges and Prosecutors upon proposal of the Minister of Justice, preserving the rights gained during the Ministerial services. Those coming from the civil judiciary shall be appointed to posts in the civil judiciary and those coming from administrative judiciary shall be appointed to posts in the administrative judiciary.</p>	<p>Re-appointment to profession as judge and prosecutor</p> <p>Article 38 –(Amended: 2275/1996 – 4141/art.2)</p> <p>Except the Undersecretary, judges and prosecutors working at the central organization, attached and associated bodies of the Ministry may be appointed to the profession again as judges and prosecutors within maximum 30 days to the places determined by the High Council of Judges and Prosecutors upon proposal of the Minister of Justice, preserving the rights gained during the Ministerial services. Those coming from the civil judiciary shall be appointed to posts in the civil judiciary and those coming from administrative judiciary shall be appointed to posts in the administrative judiciary.</p>
<p>Appointment to the profession from other services</p> <p>Article 39 – (Rearrangement: 15/1/2003-4790/art.2) Professors and associate professors teaching substantial and procedural law at the law faculties may be appointed as a judge or prosecutor in the civil judiciary at a class and degree equivalent to their position they are being paid for in their current position; professors and associate professors teaching administration, finance and economics at faculties of law, political sciences, economics, management, administrative sciences may be appointed as a judge or prosecutor in the administrative judiciary at a class and degree equivalent to their position they are being paid for in their current position.</p> <p>Abolished second and third paragraphs: 22/12/2005 – 5435/ art. 43)</p> <p>High Council of Judges and Prosecutors determines whether the applicants meeting the necessary conditions will be accepted to the profession or not and classes and degrees they will possess if they will be accepted.</p>	<p>Appointment to the profession from other services</p> <p>Article 39 – (Rearrangement: 15/1/2003-4790/art.2) Professors and associate professors teaching substantial and procedural law at the law faculties may be appointed as a judge or prosecutor in the civil judiciary at a class and degree equivalent to their position they are being paid for in their current position; professors and associate professors teaching administration, finance and economics at faculties of law, political sciences, economics, management, administrative sciences may be appointed as a judge or prosecutor in the administrative judiciary at a class and degree equivalent to their position they are being paid for in their current position.</p> <p>Abolished second and third paragraphs: 22/12/2005 – 5435/ art. 43)</p> <p>High Council of Judges and Prosecutors determines whether the applicants meeting the necessary conditions will be accepted to the profession or not and classes and degrees they will possess if they will be accepted.</p>

Re-appointment:

Article 40 – Provided that they have not lost the necessary conditions to be accepted to the profession, persons who previously resigned or retired from the profession upon their own consents and want to return to the profession again may be appointed by the High Council of Judges and Prosecutors at the same degree and level of salary they were paid at the date they retired or resigned.

(Second paragraph annulled: Decision of Constitutional Court dated 14/12/1995 and number E. 1995/19, K.1995/64; Rearrangement:15/1/2003- 4790/ art.3) The entire period of these nominees spent as professor or associate professor and two third of the time spent as attorney after resignation or retirement shall be assessed as being spent in the profession of judgeship or prosecutorship in determination of the class and degree they will occupy.

The decision about whether to accept the above-mentioned applicants to profession or not will be given by the High Council of Judges and Prosecutors.

If the persons who have been accepted according to this Article leave the profession, they will never be accepted to profession again.

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The decision about whether to accept the above-mentioned applicants to profession or not will be given by the High Council of Judges and Prosecutors.

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Returning to service after discharge from military service

Article 41 – (Amended: 11/9/1987 – KHK- art. 276/11; Adapted as same: 24/2/1988 –3409/ art. 11)

Persons who were conscripted to military service when serving as a judge or prosecutor will be regarded to be on leave without salary during this period. After completing the military service and being discharged, these persons should apply to the ~~Ministry of Justice~~ within 30 days of discharge; and the ~~Ministry of Justice~~ must ensure that they start their services within 30 days of this application.

Returning to service after discharge from military service

Article 41 – (Amended: 11/9/1987 – KHK- art. 276/11; Adapted as same: 24/2/1988 –3409/ art. 11)

Persons who were conscripted to military service when serving as a judge or prosecutor will be regarded to be on leave without salary during this period. After completing the military service and being discharged, these persons should apply to the ~~Council~~ within 30 days of discharge; and the ~~Council~~ must ensure that they start their services within 30 days of this application.

<p>Persons who made their application after the mentioned period will be considered as resigned and the provisions of Article 40 shall apply.</p> <p>The period of time spent during military service will be assessed for grade advance and degree promotion.</p>	<p>Persons who made their application after the mentioned period will be considered as resigned and the provisions of Article 40 shall apply.</p> <p>The period of time spent during military service will be assessed for grade advance and degree promotion.</p>
<p>Departure to the place of service and time to start working after appointment</p> <p>Article 42 – The ones who have been appointed for the first time or again or upon changing of place:</p> <p>a) to work at the same place should start working on the day following the date the appointment order is served on them,</p> <p>b) to work at a different place should depart to that place within fifteen days of the day the appointment order is served on them and should start working on the day following the time necessary to arrive.</p> <p>The above-mentioned periods start:</p> <ol style="list-style-type: none"> 1. On the date the vacation granted ends for the ones who were appointed to a different function during the time they were on vacation, 2. For the ones to whom the exclusive judicial competence is given in the same place, on the date when those who replace them arrive or on the date of notification of the abolishment of the competence. <p>In case of appointments with changing the place, the transportation allowance shall be paid immediately by the accounting office without requirement for payment order. Being on vacation or having medical rest upon a medical report does not constitute an obstacle for serving the appointment order, but the periods mentioned in paragraphs (a) and (b) start at the end of vacation or medical rest durations.</p>	<p>Departure to the place of service and time to start working after appointment</p> <p>Article 42 – The ones who have been appointed for the first time or again or upon changing of place:</p> <p>a) to work at the same place should start working on the day following the date the appointment order is served on them,</p> <p>b) to work at a different place should depart to that place within fifteen days of the day the appointment order is served on them and should start working on the day following the time necessary to arrive.</p> <p>The above-mentioned periods start:</p> <ol style="list-style-type: none"> 1. On the date the vacation granted ends for the ones who were appointed to a different function during the time they were on vacation, 2. For the ones to whom the exclusive judicial competence is given in the same place, on the date when those who replace them arrive or on the date of notification of the abolishment of the competence. <p>In case of appointments with changing the place, the transportation allowance shall be paid immediately by the accounting office without requirement for payment order. Being on vacation or having medical rest upon a medical report does not constitute an obstacle for serving the appointment order, but the periods mentioned in paragraphs (a) and (b) start at the end of vacation or medical rest durations.</p> <p>(The third paragraph shall be followed by this paragraph)</p> <p>Appointments of spouses of judges and prosecutors working at other public institutions or organizations shall be made before all else in connection with judges and prosecutors who have</p>

	<p>been assigned on temporary or permanent basis or whose appointment has been made.</p>
<p>The Measure upon failure to start working:</p> <p>Article 43 – Unless proved through documents to be under compelling circumstances, for those who are appointed for the first time or reappointed and did not start working at the end of the period indicated under Article 42, the appointment procedure shall be annulled.</p> <p>Unless proved through documents to be under compelling circumstances, those whose place of jurisdiction is changed and did not start working at the end of the period indicated under Article 42, shall be considered to resign.</p>	<p>The Measure upon failure to start working:</p> <p>Article 43 – Unless proved through documents to be under compelling circumstances, for those who are appointed for the first time or reappointed and did not start working at the end of the period indicated under Article 42, the appointment procedure shall be annulled.</p> <p>Unless proved through documents to be under compelling circumstances, those whose place of jurisdiction is changed and did not start working at the end of the period indicated under Article 42, shall be considered to resign.</p>
<p style="text-align: center;">CHAPTER THREE</p> <p style="text-align: center;">Tenure of Judges and Prosecutors</p> <p style="text-align: center;">SECTION ONE</p> <p style="text-align: center;">Tenure</p> <p>Tenure of Judges and Prosecutors</p> <p>Article 44 – Judges and prosecutors cannot be dismissed. Even on the grounds that a court or post is abolished, they cannot be deprived of their salaries and payments and other rights of essential character, they cannot be retired before the age of 65 without their own will. The exceptions set out by the law are reserved for those who are convicted of a crime which requires to be dismissed, who are definitely incapable of performing their job because of health problems and who are decided to be inappropriate for the profession.</p>	<p style="text-align: center;">CHAPTER THREE</p> <p style="text-align: center;">Tenure of Judges and Prosecutors</p> <p style="text-align: center;">SECTION ONE</p> <p style="text-align: center;">Tenure</p> <p>Tenure of Judges and Prosecutors</p> <p>Article 44 – Judges and prosecutors cannot be dismissed. Even on the grounds that a court or post is abolished, they cannot be deprived of their salaries and payments and other rights of essential character, they cannot be retired before the age of 65 without their own will. The exceptions set out by the law are reserved for those who are convicted of a crime which requires to be dismissed, who are definitely incapable of performing their job because of health problems and who are decided to be inappropriate for the profession.</p>
<p>Making Proposal</p> <p>Article 45 – Judgeship or prosecutorship posts equal to the salary and degree levels for the vacant positions at the time of abolishment of the court or post or for the positions to be opened at the nearest future will be proposed for those who</p>	<p>Making Proposal</p> <p>Article 45 – Judgeship or prosecutorship posts equal to the salary and degree levels for the vacant positions at the time of abolishment of the court or post or for the positions to be opened at the nearest future will be proposed for those who</p>

<p>remained without function due to the abolishment of a court or post.</p> <p>The person concerned may refuse the first proposal. The person who does not accept the second proposal will be considered to resign from profession.</p>	<p>remained without function due to the abolishment of a court or post.</p> <p>The person concerned may refuse the first proposal. The person who does not accept the second proposal will be considered to resign from profession.</p>
<p>Appointment in special circumstances:</p> <p>Article 46 – Spouses, relatives to the second degree including the relationship by marriage cannot function in the same chamber of a courthouse.</p> <p>Among those who cannot function in this way, the person appointed later; the person willing to be appointed to a different place in case of emerging of such reasons after the appointment, in case none is willing, the person with less seniority will be appointed to a different place within the region they are in.</p> <p>The ones who are decided to be incapable of working in their current place because of the determination that they cannot function with honour and impartiality or their existence in that place breaches the influence and esteem of the profession upon the prosecution or documental facts without their faults, will be appointed without their consent to another place within the region they are in.</p> <p>Taking into consideration the workload and variety of works in their place of duty, upon the prosecution or documental facts, the ones who are assessed to be failing to meet the necessary speed and success will be appointed to a different duty regardless from their seniority in terms of regions worked in and experience.</p>	<p>Appointment in special circumstances:</p> <p>Article 46 – Spouses, relatives to the second degree including the relationship by marriage cannot function in the same chamber of a courthouse.</p> <p>Among those who cannot function in this way, the person appointed later; the person willing to be appointed to a different place in case of emerging of such reasons after the appointment, in case none is willing, the person with less seniority will be appointed to a different place within the region they are in.</p> <p>The ones who are decided to be incapable of working in their current place because of the determination that they cannot function with honour and impartiality or their existence in that place breaches the influence and esteem of the profession upon the prosecution or documental facts without their faults, will be appointed without their consent to another place within the region they are in.</p> <p>Taking into consideration the workload and variety of works in their place of duty, upon the prosecution or documental facts, the ones who are assessed to be failing to meet the necessary speed and success will be appointed to a different duty regardless from their seniority in terms of regions worked in and experience.</p>
<p style="text-align: center;">SECTION TWO</p> <p style="text-align: center;">Temporary competencies and tasks</p> <p>Commissioning with temporary competence</p> <p>Article 47 – High Council of Judges and Prosecutors has the power to commission the judges and prosecutors with temporary</p>	<p style="text-align: center;">SECTION TWO</p> <p style="text-align: center;">Temporary competencies and tasks</p> <p>Commissioning with temporary competence</p> <p>Article 47 – High Council of Judges and Prosecutors has the power to commission the judges and prosecutors with temporary</p>

<p>competence in a different jurisdiction area other than their permanent place of duty or in the same place as a requirement of service. The distinction between judges and prosecutors is disregarded in cases of commissioning them in a place other than their permanent place of duty.</p> <p>Those who are commissioned with temporary competence in a place other than their permanent place of jurisdiction cannot be ordered to work there for more than four months. However, this period may be extended upon their own consent or requirements of the service.</p> <p>In urgent situations, in order to prevent disruption of service, Minister of Justice may commission a judge or prosecutor to work temporarily in a different place of jurisdiction where necessary. (Additional sentence: 22/12/2005 – 5435/ art.20) Besides, Minister of Justice — may — abolish — the — temporary commissioning he made without approval of High Council of Judges and Prosecutors during the yearly judicial holiday. In this occasion, the decision made will be submitted to the Council’s first meeting for approval. In cases where the temporarily commissioned judge or prosecutor is changed by the Council, the operations done by the previous authorized will be valid until the new judge or prosecutor authorized by the Council arrives and starts working.</p> <p>The temporary appointment of judges and prosecutors to the Ministerial services with their consent shall be made directly by the Minister of Justice without any decision by the Council. The provision on durations in the second paragraph shall not be applied with regard to them.</p> <p>It shall be made a pre-payment to be deducted from travelling allowances to be realized by accounting office without waiting for a payment order to those appointed by temporary authorisation.</p>	<p>competence in a different jurisdiction area other than their permanent place of duty or in the same place as a requirement of service. The distinction between judges and prosecutors is disregarded in cases of commissioning them in a place other than their permanent place of duty.</p> <p>Those who are commissioned with temporary competence in a place other than their permanent place of jurisdiction cannot be ordered to work there for more than four months. However, this period may be extended upon their own consent or requirements of the service.</p> <p>In urgent situations, in order to prevent disruption of service, the head of the relevant chamber of the Council or a member assigned by him/her may commission a judge or prosecutor to work temporarily in a different place of jurisdiction where necessary. In this occasion, the decision made will be submitted to first meeting of the relevant chamber of the Council for approval. In cases, where the temporarily commissioned judge or prosecutor is changed, the operations done by the previous authorized will be valid until the new judge or prosecutor authorized by the relevant chamber arrives and starts working.</p> <p>The temporary appointment of judges and prosecutors to the Ministerial services with their consent shall be made directly by the Minister of Justice without any decision by the Council. The provision on durations in the second paragraph shall not be applied with regard to them.</p> <p>It shall be made a pre-payment to be deducted from travelling allowances to be realized by accounting office without waiting for a payment order to those appointed by temporary authorisation.</p>
<p>Other duties and tasks</p> <p>Article 48 – (Amended first paragraph: Article 21 of the Law 5435 of 22.12.2005) Judges and prosecutors may engage in scientific</p>	<p>Other duties and tasks</p> <p>Article 48 – (Amended first paragraph: Article 21 of the Law 5435 of 22.12.2005) Judges and prosecutors may engage in scientific</p>

<p>researches and publications. They may participate, on the condition not hindering their tasks, in domestic or international boards, congresses, conferences and similar scientific meetings, and in other meetings related to their professions which they are invited to or assigned by their competent authorities. It is subject to permission to attend such meetings in working days and times.</p> <p>In this matter, provisions on public servants shall be applied.</p> <p>Provided that the Minister of Justice gives permission, judges and prosecutors may deliver lectures and conferences related to the professions in judicial academies and courses of pre-service, in-service or preparation for a higher position.</p> <p>Judges and prosecutors shall not assume any official or private jobs other than set out by laws and engage in profit-making activities. They are obliged to notify the Ministry of Justice within fifteen days permanent profit-making activities of their spouses, children who are not adults or in ward.</p>	<p>researches and publications. They may participate, on the condition not hindering their tasks, in domestic or international boards, congresses, conferences and similar scientific meetings, and in other meetings related to their professions which they are invited to or assigned by their competent authorities. It is subject to permission to attend such meetings in working days and times.</p> <p>In this matter, provisions on public servants shall be applied.</p> <p>Provided that the Council gives permission, judges and prosecutors may deliver lectures and conferences related to the professions in judicial academies and courses of pre-service, in-service or preparation for a higher position.</p> <p>Judges and prosecutors shall not assume any official or private jobs other than set out by laws and engage in profit-making activities. They are obliged to notify the Council within fifteen days permanent profit-making activities of their spouses, children who are not adults or in ward.</p>
<p>Sending abroad</p> <p>Article 49 – (Amended: Article 22 of the Law 5435 of 22.12.2005) Judges and prosecutors who are selected so as to improve their knowledge and experience or benefit from a domestic or foreign scholarship may be sent abroad for two years at most by the Ministry of Justice; those who are assigned to work in international organisations or judicial bodies for three years at most. Where necessary, these periods may be extended for the same durations at most.</p> <p>With regard to judges and prosecutors other than those works in central, attached or relevant units of the Ministry, it shall be taken the opinion of the High Council for Judges and Prosecutors.</p> <p>Those who go abroad and stay more than three months shall be obliged to carry out compulsory service for five years following the date when they return to the country and resume their professions. Those who want to leave their</p>	<p>(Article 49 shall be amended along with its title as follows)</p> <p>Abroad Training and Financial Rights</p> <p>Article 49 – (Amended: Article 22 of the Law 5435 of 22.12.2005) Judges and prosecutors who are selected so as to improve their knowledge and experience or benefit from a domestic or foreign scholarship may be sent abroad, for maximum two years; those who are assigned to carry out PhD studies may be sent abroad for maximum three years. Where necessary, these periods may be extended for the same durations at most.</p> <p>The judges and prosecutors working at the central, provincial and abroad organization of the Ministry and its affiliated and associated institutions or those assigned or temporarily seconded at other organizations, boards or institutions may be sent by the Ministry; the rest may be sent by the Council.</p> <p>Those who go abroad and stay more than three months shall be obliged to carry out compulsory service following the date when they</p>

professions without carrying out their compulsory service shall be obliged to pay twofold the amount of wages, allowances, compensation and all kinds of payments made to them which is proportionate to part of the compulsory service which lacks.

~~Procedures and principles for sending abroad shall be set out by a by law to be issued.~~

return to the country and resume their professions for an equal period that they stay abroad. However, those who want to leave the profession without carrying out their compulsory service shall be obliged to pay twofold the amount of wages, allowances, compensation and all kinds of payments made to them which is proportionate to part of the compulsory service which lacks.

Those who have been sent abroad for training or internship shall be paid 60% of their salaries and all other legal payments remaining after all legal deductions in addition to a payment equal to 2/3 of the monthly stipends paid to diplomatic officers serving at the 1st grade of the 9th degree in the country where the training or internship is carried out. Those who have been sent after receiving a domestic or foreign scholarship shall be paid the difference between the scholarship and the 2/3 of the mentioned monthly abroad stipend. However, persons who received scholarships through their own initiatives and granted a leave without payment by the Ministry for using this scholarship may not benefit from the provisions of this paragraph.

Payments to be made for persons who will be sent according to this Article and based on the monthly stipends of the diplomatic officers shall be exempted from all kinds of taxes.

All rights and obligations of persons who will be sent abroad for a temporary or permanent assignment shall be continued.

Rights, obligations and expenses

~~Article 50—The provisions relating to the public servants shall be applied to matters of their financial rights, obligations, meeting their expenses, transfer of their wages and allowances.~~

~~Degree promotions, grade promotions, retirement, wages, allowances, and all other personal rights and obligations of those who are sent abroad in accordance with this law shall continue.~~

(Article 50 shall be amended along with its title as follows)

Permanent or Temporary Abroad Assignment and Financial Rights

Article 50-Assignment of judges and prosecutors serving at the central and provincial organization of the Ministry and its affiliated and associated institutions to the international courts or organizations shall be made by approval of the Minister; such assignment for the rest of judges and prosecutors shall be made by the Ministry upon the permission of the Council, with obtaining subject persons' consent.

Those assigned persons may be sent for a term not exceeding four years. In case of a need,

this term may be extended to maximum one time.

Those who are appointed to the positions before international courts or organizations with the permission of the Minister shall be deemed on leave without receiving any payment. Judges and prosecutors who want to return to the profession should apply to the Council within 30 days after they leave their prior positions, and they shall be appointed to a position appropriate to their acquired rights by the Council within 30 days starting by the application date. Those who apply after mentioned time limit shall be deemed to be resigned and provisions of Article 40 shall be applied for these persons. Periods that passed in these positions shall be evaluated as they passed in judgeship or prosecutorship and taken into consideration for grade and degree promotions and also deducted from the compulsory service periods envisaged under Article 49. Pension rights for the periods of service at the mentioned positions shall be reserved upon the condition that provisions of Article 31 of the Law on Pension Fund (Law No: 5434, Dated:08.06.1949) have been obeyed.

Those who are appointed to the abroad organizations of the Ministry shall be paid whole of the monthly stipend paid for the diplomatic officers at the same grade and degree and equal to their positions who serve in the same country that they have been assigned and the judiciary allowance arranged under Article 106 shall be paid.

Those who are assigned before international courts or organizations on permanent or temporary terms through approval of the Minister

Shall be paid 60% of their salaries and all other legal payments remaining after all legal deductions in addition to the whole of the monthly stipends paid to diplomatic officers serving at the 1st grade of the 9th degree on permanent basis in the country where they have been assigned. Payments granted by international courts or organizations to the assigned persons shall be deducted from the amount that will be paid on the basis of monthly stipends of diplomatic officers.

The procedures and merits for sending

	<p>abroad for training and assignment on permanent or temporary basis shall be regulated by a by-law to be issued by the Ministry.</p>
<p style="text-align: center;">SECTION THREE</p> <p style="text-align: center;">Termination of Judgeship or Prosecution Posts</p> <p>Resignation from the profession</p> <p>Article 51 – Judges and prosecutors may make a request for resignation from the profession by applying to the Ministry in writing.</p> <p>Anyone who makes the request for resignation shall continue her/his post until acceptance of her/his request; however she/he may leave her/his job unless a reply is received within one month following the date of the request.</p> <p>Those who resign from their professions due to their extraordinary excuses shall not subject to the one-month condition on condition of informing the Ministry of Justice.</p> <p>Those who leave their posts without permission or any acceptable excuses and carry on the leaving for ten days without interruption, and those do not come to their jobs for thirty days a year in total shall be deemed to be resigned from the profession.</p> <p>Judges and prosecutors may not be member of political parties; those who become members deemed to be resigned from the profession. (Last sentence was abolished: Article 4 of the Law 4087 of 09.03.1995).</p>	<p style="text-align: center;">SECTION THREE</p> <p style="text-align: center;">Termination of Judgeship or Prosecution Posts</p> <p>Resignation from the profession</p> <p>Article 51 – Judges and prosecutors may make a request for resignation from the profession by applying to the Council in writing.</p> <p>Anyone who makes the request for resignation shall continue her/his post until acceptance of her/his request; however she/he may leave her/his job unless a reply is received within one month following the date of the request.</p> <p>Provided that they informed the Council, resigned persons who have extraordinary excuses shall not subject to the one-month condition.</p> <p>Those who leave their posts without permission or any acceptable excuses and carry on the leaving for ten days without interruption, and those do not come to their jobs for thirty days a year in total shall be deemed to be resigned from the profession.</p> <p>Judges and prosecutors may not be member of political parties; those who become members deemed to be resigned from the profession. (Last sentence was abolished: Article 4 of the Law 4087 of 09.03.1995).</p>
<p>Procedures for resignation in extraordinary circumstances and consequences of the resignation in general</p> <p>Article 52 – In extraordinary circumstances and in cases of martial law, mobilization or a war, judges and prosecutors working in those places may not leave their posts unless their request for resignation is accepted or those appointed in their places start their jobs.</p> <p>Those who breach the paragraph above shall not be accepted to the profession any more, and</p>	<p>Procedures for resignation in extraordinary circumstances and consequences of the resignation in general</p> <p>Article 52 – In extraordinary circumstances and in cases of martial law, mobilization or a war, judges and prosecutors working in those places may not leave their posts unless their request for resignation is accepted or those appointed in their places start their jobs.</p> <p>Those who breach the paragraph above shall not be accepted to the profession any more, and</p>

<p>they may not work in public institutions and bodies.</p>	<p>they may not work in public institutions and bodies.</p>
<p>Termination of the judgeship or prosecutorship posts</p> <p>Article 53 – The posts of judges and prosecutors shall terminate in following cases when:</p> <p>a) It is decided to dismiss them from their professions or that their stay in the profession is found inconvenient,</p> <p>b) It is realized later on that they do not carry qualifications for entrance to the profession except for existence of an investigation or a prosecution concerning them,</p> <p>c) They lose any qualifications written in sub-paragraphs (a), (d) and (g) while being on duty,(Amended by Law No:5435, Art.23, Date 22.12.2005)</p> <p>d) They resign from the profession or are deemed to be resigned,</p> <p>e) Their retirement upon their will, age limitation or disability,</p> <p>f) Their death.</p>	<p>Termination of the judgeship or prosecutorship posts</p> <p>Article 53 – The posts of judges and prosecutors shall terminate in following cases when:</p> <p>a) It is decided to dismiss them from their professions or that their stay in the profession is found inconvenient,</p> <p>b) It is realized later on that they do not carry qualifications for entrance to the profession except for existence of an investigation or a prosecution concerning them,</p> <p>c) They lose any qualifications written in sub-paragraphs (a), (d) and (g) while being on duty,(Amended by Law No:5435, Art.23, Date 22.12.2005)</p> <p>d) They resign from the profession or are deemed to be resigned,</p> <p>e) Their retirement upon their will, age limitation or disability,</p> <p>f) Their death.</p>
<p style="text-align: center;">CHAPTER FOUR</p> <p style="text-align: center;">Working Hours, Leaves</p> <p style="text-align: center;">SECTION ONE</p> <p style="text-align: center;">Working Hours</p> <p>Working hours</p> <p>Article 54 – (Amended: Article 24 of the Law 5435 of 22.12.2005) Judges and prosecutors are subject to the provisions of the Law on Public Servants in terms of weekly and daily working times. However, they shall be on guard in times out of working hours and in holidays in circumstances stemming from the requirement of the profession or speciality of their posts.</p> <p>Days and hours on duty, and right to rest of those on duty shall be decided, considering the</p>	<p style="text-align: center;">CHAPTER FOUR</p> <p style="text-align: center;">Working Hours, Leaves</p> <p style="text-align: center;">SECTION ONE</p> <p style="text-align: center;">Working Hours</p> <p>Working hours and place of residence</p> <p>Article 54 – (Amended: Article 24 of the Law 5435 of 22.12.2005) Judges and prosecutors are subject to the provisions of the Law on Public Servants in terms of weekly and daily working times. However, they shall be on duty out of working hours and during official holidays due to requirements of the profession or speciality of their posts.</p> <p>(A new second paragraph shall be introduced for Article 54 as follows)</p>

<p>state of work and judicial posts, by chief public prosecutors for prosecutors and by presidents of judicial commissions for judges in accordance with principles to be set out by the High Council for Judges and Prosecutors.</p> <p>Provisions in special laws are reserved.</p> <p>(Last paragraph was abolished: Article 7 of the Law 5536 of 29.06.2006)</p>	<p>Additional Article 20 of the Public Servants Law shall not be applied for judges and prosecutors provided that no hindrances occur on office hours, standby duties and works.</p> <p>Days and hours on duty, and right to rest of those on duty shall be decided, considering the state of work and judicial posts, by chief public prosecutors for prosecutors and by presidents of judicial commissions for judges in accordance with principles to be set out by the High Council for Judges and Prosecutors.</p> <p>Provisions in special laws are reserved.</p> <p>(Last paragraph was abolished: Article 7 of the Law 5536 of 29.06.2006)</p>
<p>Benefit from annual recess</p> <p>Article 55 – Judges and prosecutors shall benefit from annual recess set out in procedural codes.</p> <p>It shall be no longer granted annual leave to judges and prosecutors who benefited from the annual recess.</p> <p>Conditions and procedures for benefiting from the annual recess shall be decided by the High Council for Judges and Prosecutors.</p>	<p>Benefit from annual recess</p> <p>Article 55 – Judges and prosecutors shall benefit from annual recess set out in procedural codes.</p> <p>It shall be no longer granted annual leave to judges and prosecutors who benefited from the annual recess.</p> <p>Conditions and procedures for benefiting from the annual recess shall be decided by the High Council for Judges and Prosecutors.</p>
<p style="text-align: center;">SECTION TWO</p> <p style="text-align: center;">Leaves</p> <p>Leaves</p> <p>Article 56 – Judges and prosecutors who do not benefit from the annual recess shall be granted thirty days leave excluding travel duration for days considered appropriate by the Ministry of Justice.</p> <p>Annual leaves of last subsequent two years may be granted together, or by dividing into parts. Rights of annual leaves for previous years are lost.</p> <p>In urgent and necessary cases, public prosecutors at heavy penal courts centres or presidents of judicial commissions, depending on those concerned, may grant compassionate leave of three days. Granted leaves shall be notified to</p>	<p style="text-align: center;">SECTION TWO</p> <p style="text-align: center;">Leaves</p> <p>Leaves</p> <p>Article 56 – Judges and prosecutors who do not benefit from the annual recess shall be granted thirty days leave excluding travel duration for days considered appropriate by the Council.</p> <p>Annual leaves of last subsequent two years may be granted together, or by dividing into parts. Rights of annual leaves for previous years are lost.</p> <p>In urgent and necessary cases, public prosecutors at heavy penal courts centres or presidents of judicial commissions, depending on those concerned, may grant compassionate leave of three days. Granted leaves shall be notified to</p>

<p>the Ministry of Justice.</p> <p>Provisions of the Law on Public Servants shall be applied with regard to compassionate, sick or unpaid leave.</p>	<p>the Council.</p> <p>Provisions of the Law on Public Servants shall be applied with regard to compassionate, sick or unpaid leave.</p>
<p>Return to the post in case of recovery</p> <p>Article 57 – Judges or prosecutors who get a medical report about their recovery from a mental or psychological disorder shall be directed to the Forensic Medicine Institute in order to get a final medical report, where it is realized after recovery that they cannot fulfil their duties in an appropriate way, taking into account their attitudes and conducts in the performance of their professions. It shall be proceeded in accordance with this final medical report.</p>	<p>Return to the post in case of recovery</p> <p>Article 57 – Judges or prosecutors who get a medical report about their recovery from a mental or psychological disorder shall be directed to the Forensic Medicine Institute in order to get a final medical report, where it is realized after recovery that they cannot fulfil their duties in an appropriate way, taking into account their attitudes and conducts in the performance of their professions. It shall be proceeded in accordance with this final medical report.</p>
<p style="text-align: center;">CHAPTER FIVE</p> <p style="text-align: center;">Records</p> <p>Records and Appraisal Files</p> <p>Article 58 – (Amended by Art. 25 of the Law 5435, 22.12.2005) Badge numbers shall be given to judges and prosecutors, documents related to them shall be kept in their secret and open appraisal files and personal files. Besides, this information may also be kept in electronic medium.</p>	<p style="text-align: center;">CHAPTER FIVE</p> <p style="text-align: center;">Records</p> <p>Records and Appraisal Files and Professional Identity Cards</p> <p>Article 58 – (Amended by Art. 25 of the Law 5435, 22.12.2005) Badge numbers shall be given to judges and prosecutors, documents related to them shall be kept in their secret and open appraisal files and personal files. Besides, this information may also be kept in electronic medium.</p> <p>(A new second paragraph shall be introduced for Article 54 as follows)</p> <p>Judges and prosecutors are given professional identity cards by the Council. The professional identity cards shall be accepted by all official and private organizations as official identity cards.</p>
<p>Confidential Records</p> <p>Article 59 – A confidential record shall be kept for each of judges and prosecutors. Appraisal reports prepared by those entitled, evaluation reports submitted by inspectors and declarations</p>	<p>Confidential Records</p> <p>Article 59 – A confidential record shall be kept for each of judges and prosecutors. Performance forms prepared by those entitled, performance evaluation and development forms submitted by</p>

<p>of property shall be put in the confidential records .</p>	<p>inspectors and declarations of property shall be put in the confidential records.</p>
<p>Open Records and Appraisal Files</p> <p>Article 60 – It shall be kept in the open records matters such as identity of the person concerned, academic background, foreign languages spoken, professional works and written essays, family status, places she/he worked, promotions, leaves, medical reports, authorisations, acceptance to the profession, disciplinary and penal investigations and prosecutions and their results, military status, retirement procedures, compulsory service, service passed in other posts.</p> <p>Appraisal files shall be kept with regard to those in the posts of judgeship or prosecution. It shall be put in this file documents concerning matters in the open records, and other certificates and documents.</p> <p>(Last paragraph was abolished: Article 43 of the Law 5435 of 22.12.2005)</p>	<p>Open Records and Appraisal Files</p> <p>Article 60 –It shall be kept in the open records matters such as identity of the person concerned, academic background, foreign languages spoken, professional works and written essays, family status, places she/he worked, promotions, leaves, medical reports, authorisations, acceptance to the profession, disciplinary and penal investigations and prosecutions and their results, military status, retirement procedures, compulsory service, service passed in other posts.</p> <p>Appraisal files shall be kept with regard to those in the posts of judgeship or prosecution. It shall be put in this file documents concerning matters in the open records, and other certificates and documents.</p> <p>(Last paragraph was abolished: Article 43 of the Law 5435 of 22.12.2005)</p>
<p>Those having authority of making appraisal and principles to be followed</p> <p>Article 61 – Those who have authority to make appraisal of judges and prosecutors, and principles to be applied in this matter and the format of appraisal documents shall be set out in a by-law to be drawn up by the High Council for Judges and Prosecutors in accordance with the provisions of this Law.</p>	<p>Those having authority of filling performance forms and principles to be followed</p> <p>Article 61 – Those who have authority to fill performance forms of judges and prosecutors, and principles to be applied in this matter and the format of performance forms shall be set out in a by-law to be drawn up by the High Council for Judges and Prosecutors in accordance with the provisions of this Law.</p>
<p style="text-align: center;">CHAPTER SIX</p> <p style="text-align: center;">Disciplinary Sanctions, Dismissal from Profession</p> <p>Disciplinary Sanctions</p> <p>Article 62 – One of the following disciplinary sanctions shall be imposed on judges and prosecutors by the High Council for Judges and</p>	<p style="text-align: center;">CHAPTER SIX</p> <p style="text-align: center;">Disciplinary Sanctions, Dismissal from Profession</p> <p>Disciplinary Sanctions</p> <p>Article 62 – One of the following disciplinary sanctions shall be imposed on judges and prosecutors by the High Council for Judges and</p>

<p>Prosecutors upon the fact that it is established that behavior of them are incompatible with requirements of their professions and posts, taking circumstances and gravity of the situation into account.</p> <ul style="list-style-type: none"> a) Warning, b) Cut from salary, c) Condemnation, d) Suspension of grade advance, e) Suspension of degree promotion, f) Change of location, g) Dismissal from profession. <p>(Amended by Decree Law No:360/4, Date:12.02.1989; Adopted Identically by Law No:3611, Art.4, 24.01.1990) Presidents of Justice Commission and Chief Public Prosecutors affiliated with the Heavy Penal Courts shall notify the Ministry of Justice of the disciplinarily sanctioned conducts of judges and prosecutors in charge of their jurisdiction.</p>	<p>Prosecutors upon the fact that it is established that behavior of them are incompatible with requirements of their professions and posts, taking circumstances and gravity of the situation into account.</p> <ul style="list-style-type: none"> a) Warning, b) Cut from salary, c) Condemnation, d) Suspension of grade advance, e) Suspension of degree promotion, f) Change of location, g) Dismissal from profession. <p>Presidents of Justice Commission and Chief Public Prosecutors affiliated with the Heavy Penal Courts depending on its relevance shall notify the Council or the Ministry of Justice of the disciplinarily sanctioned conducts of judges and prosecutors in charge of their jurisdiction.</p>
<p>Warning</p> <p>Article 63- Warning is a written notification indicating that more careful discharge of duties is necessary.</p> <p>Warning shall be imposed under the following circumstances:</p> <ul style="list-style-type: none"> a) Disorderliness and carelessness on duty, b) Improper conduct towards colleagues, staff and people he contacts with on duty, c) Coming to office late and leaving early without excuse, d) Negligence, any incomplete or untimely performance of duties explicitly envisaged by the relevant legislation, e) Having the similar conducts mentioned above in terms of gravity and nature. 	<p>Warning</p> <p>Article 63- Warning is a written notification indicating that more careful discharge of duties is necessary.</p> <p>Warning shall be imposed under the following circumstances:</p> <ul style="list-style-type: none"> a) Disorderliness and carelessness on duty, b) Improper conduct towards colleagues, staff and people he contacts with on duty, c) Coming to office late and leaving early without excuse, d) Negligence, any incomplete or untimely performance of duties explicitly envisaged by the relevant legislation, e) Having the similar conducts mentioned above in terms of gravity and nature.
<p>Cut from salary</p>	<p>Cut from salary</p>

<p>Article 64- Cut from the salary: is cutting of per diem from salary of those who do not come to the office one or two days without any permission or an admissible excuse for each day of absence.</p>	<p>Article 64- Cut from the salary: is cutting of per diem from salary of those who do not come to the office one or two days without any permission or an admissible excuse for each day of absence.</p>
<p>Condemnation</p> <p>Article 65- Condemnation: A written notification indicating that a certain conduct is deemed faulty.</p> <p>Condemnation shall be imposed under the following circumstances:</p> <ul style="list-style-type: none"> a) Conducts which can harm respect and trust required by his official position either on or out of duty b) Discrediting of the service by dressing inappropriate manner. c) Using state owned instruments for his private purposes. d) Ill-treatment towards colleagues, staff and people he contacts with on duty e) Not notifying the Ministry of Justice of the commercial or fetching activities of his wife, children under legal age or interdicted children within 15 days. f) Not fulfilling instructions given by the Ministry under the relevant legislation and neglecting supervision over offices and bureaus. g) Conducts that prevent the harmony of the service. h) Not coming to the office for 3 continuous days without permission or admissible excuse. i) Having the similar conducts mentioned above in terms of gravity and nature. 	<p>Condemnation</p> <p>Article 65- Condemnation: A written notification indicating that a certain conduct is deemed faulty.</p> <p>Condemnation shall be imposed under the following circumstances:</p> <ul style="list-style-type: none"> a) Conducts which can harm respect and trust required by his official position either on or out of duty b) Discrediting of the service by dressing inappropriate manner. c) Using state owned instruments for his private purposes. d) Ill-treatment towards colleagues, staff and people he contacts with on duty e) Not notifying the Council the commercial or fetching activities of his/her spouses, children under legal age or interdicted children within 15 days. f) Not fulfilling instructions given by the Ministry under the relevant legislation and neglecting supervision over offices and bureaus. g) Conducts that prevent the harmony of the service. h) Not coming to the office for 3 continuous days without permission or admissible excuse. i) Having the similar conducts mentioned above in terms of gravity and nature.
<p>Suspension of grade advance</p> <p>Article 66- Suspension of grade advance is stopping grade advance for one year in the same grade.</p>	<p>Suspension of grade advance</p> <p>Article 66- Suspension of grade advance is stopping grade advance for one year in the same grade.</p>

<p>This sanction shall be imposed under the following circumstances:</p> <ul style="list-style-type: none"> a) Having the habit of coming to office lately or leaving the office early without excuse, b) Incurring a debt over his ability to pay and failure to pay his debts or being subject to judicial process for not paying deliberately debts of definite nature, c) Not making declaration of property in time and properly, d) Not coming to the office for 4-9 continuous days without permission or an admissible excuse, e) Having the similar conducts mentioned above in terms of gravity and nature. 	<p>This sanction shall be imposed under the following circumstances:</p> <ul style="list-style-type: none"> a) Having the habit of coming to office lately or leaving the office early without excuse, b) Incurring a debt over his ability to pay and failure to pay his debts or being subject to judicial process for not paying deliberately debts of definite nature, c) Not making declaration of property in time and properly, d) Not coming to the office for 4-9 continuous days without permission or an admissible excuse, e) Having the similar conducts mentioned above in terms of gravity and nature.
<p>Suspension of degree promotion</p> <p>Article 67- Suspension of degree promotion: is suspension of one's promotion to a higher degree for two years.</p> <p>This sanction shall be imposed under the following circumstances:</p> <ul style="list-style-type: none"> a) Not coming to the office for 15 days in total during one calendar year without permission or an admissible excuse b) Involving activities which are banned for the members of the profession or commercial activities in compliance with the requirements of the profession. 	<p>Suspension of degree promotion</p> <p>Article 67- Suspension of degree promotion: is suspension of one's promotion to a higher degree for two years.</p> <p>This sanction shall be imposed under the following circumstances:</p> <ul style="list-style-type: none"> a) Not coming to the office 15 days in total during one calendar year without permission or an admissible excuse b) Involving activities which are banned for the members of the profession or commercial activities in compliance with the requirements of the profession.
<p>Change of Location</p> <p>Article 68- Change of location: is change of place of office to stay at the region which is at least one degree below than the existing region for the minimum service term of that region.</p> <p>The sanction of change of location shall be imposed under the following circumstances:</p> <ul style="list-style-type: none"> a) Lose of the honor and ascendancy of profession or personal honor and dignity by 	<p>Change of Location</p> <p>Article 68- Change of location: is change of place of office to stay at the region which is at least one degree below than the existing region for the minimum service term of that region.</p> <p>The sanction of change of location shall be imposed under the following circumstances:</p> <ul style="list-style-type: none"> a) Lose of the honor and ascendancy of profession or personal honor and dignity by

<p>faulty or improper conducts and affairs,</p> <p>b) Causing a perception that he cannot perform his duty properly and impartially by his performance and conducts,</p> <p>c) Causing a perception that he performs his duties according to his individual emotions or in one's favors,</p> <p>d) Being fractious with his colleagues in a way that affect the service because of his own faults</p> <p>e) Causing a perception that he has been involved in bribery or extortion even though no material evidence is obtained.</p> <p>f) Demanding gifts directly or through an intermediary or accepting gifts given for obtaining benefits even out of duty or requesting or taking debt from clients in courts.</p>	<p>faulty or improper conducts and affairs,</p> <p>b) Causing a perception that he cannot perform his duty properly and impartially by his performance and conducts,</p> <p>c) Causing a perception that he performs his duties according to his individual emotions or in one's favors,</p> <p>d) Being fractious with his colleagues in a way that affect the service because of his own faults,</p> <p>e) Causing a perception that he has been involved in bribery or extortion even though no material evidence is obtained.</p> <p>f) Demanding gifts directly or through an intermediary or accepting gifts given for obtaining benefits even out of duty or requesting or taking debt from clients in courts.</p>
<p>Dismissal</p> <p>Article 69- (Amended by Law No:5720, Art.4, Date:01.12.2007) Dismissal: is termination of the profession without the possibility of re-employment.</p> <p>Those who are sanctioned twice with change of location under subparagraph (e) of Article 68 regardless of his degree and grade, for other reasons sanctioned twice at the same degree or three times sanctioned with change of location or suspension of degree promotion regardless of his degree and grade or except negligent offences, convicted with a final judgment under Article 8/h even though he is imprisoned with minimum 6 months or a pardon is granted, shall be sanctioned with dismissal.</p> <p>However, where punishment is not imposed for the offences listed in Article 8/h and postponed and converted into one of the sanctions envisaged in Article 50 of Penal Code or punishment is a judicial fine for more than 180 days, change of location shall be sanctioned instead of dismissal.</p> <p>Considering the nature of offence,</p>	<p>Dismissal</p> <p>Article 69- (Amended by Law No:5720, Art.4, Date:01.12.2007) Dismissal: is termination of the profession without the possibility of re-employment.</p> <p>Those who are sanctioned twice with change of location under subparagraph (e) of Article 68 regardless of his degree and grade, for other reasons sanctioned twice at the same degree or three times sanctioned with change of location or suspension of degree promotion regardless of his degree and grade or except negligent offences, convicted with a final judgment under Article 8/h even though he is imprisoned with minimum 6 months or a pardon is granted, shall be sanctioned with dismissal.</p> <p>However, where punishment is not imposed for the offences listed in Article 8/h and postponed and converted into one of the sanctions envisaged in Article 50 of Penal Code or punishment is a judicial fine for more than 180 days, change of location shall be sanctioned instead of dismissal.</p> <p>Considering the nature of offence,</p>

<p>disciplinary sanctions covered by Articles 64, 65, 66, 67 or 68 shall be imposed regardless of whether penal convictions excluding the convictions under the first paragraph have been suspended or converted into punishments or sanctions in Article 50 of the Penal Code or not.</p> <p>Where it is considered that the offence requiring conviction is of a nature violating the dignity and honor of the profession or general respect and trust in profession, unless a lesser disciplinary sanction is envisaged by the Law, dismissal shall be imposed regardless of the amount of the punishment or whether it has been suspended or converted into one of the punishments or sanctions in Article 50 of the Penal Code or not.</p> <p>Even though the disciplinary conduct does not result a criminal offence and not require a conviction, dismissal shall be imposed where it is considered that it violates the honor and dignity of the profession or ascendancy and honor of the position he/she holds.</p>	<p>disciplinary sanctions covered by Articles 64, 65, 66, 67 or 68 shall be imposed regardless of whether penal convictions excluding the convictions under the first paragraph have been suspended or converted into punishments or sanctions in Article 50 of the Penal Code or not.</p> <p>Where it is considered that the offence requiring conviction is of a nature violating the dignity and honor of the profession or general respect and trust in profession, unless a lesser disciplinary sanction is envisaged by the Law, dismissal shall be imposed regardless of the amount of the punishment or whether it has been suspended or converted into one of the punishments or sanctions in Article 50 of the Penal Code or not.</p> <p>Even though the disciplinary conduct does not result a criminal offence and not require a conviction, dismissal shall be imposed where it is considered that it violates the honor and dignity of the profession or ascendancy and honor of the position he/she holds.</p>
<p>Application of a lower or higher disciplinary sanction</p> <p>Article 70- A higher sanction shall be imposed where a conduct resulting the application of a disciplinary sanction which is subject to deletion from personnel records is recommitted within the periods of time envisaged by Article 75 regarding deletion of disciplinary records from personal files or where actions and conducts exist more than one at once which require the same kind of disciplinary sanction.</p> <p>Those who committed a disciplinary offence for the first time excluding offences requiring dismissal shall be punished with a lower sanction provided that they have positive records for their works throughout their career and been granted distinguished and preferential promotion and had good and very good grade records.</p>	<p>Application of a lower or higher disciplinary sanction</p> <p>Article 70- A higher sanction shall be imposed where a conduct resulting the application of a disciplinary sanction which is subject to deletion from personnel records is recommitted within the periods of time envisaged by Article 75 regarding deletion of disciplinary records from personal files or where actions and conducts exist more than one at once which require the same kind of disciplinary sanction.</p> <p>Those who committed a disciplinary offence for the first time excluding offences requiring dismissal shall be punished with a lower sanction provided that they have positive records for their works throughout their career and been granted distinguished and preferential promotion and had good and very good grade records.</p>
<p>Right of Defense</p> <p>Article 71- Judges and prosecutors shall not be</p>	<p>Right of Defense</p> <p>Article 71- Judges and prosecutors shall not be disciplinarly sanctioned without having their</p>

<p>given disciplinary sanctions without having their defense.</p> <p>The concerned person who has not exercised his/her defense rights within the time limits set by the investigating person or the High Council of Judges and Prosecutors, which cannot be less than 3 days, shall be deemed to have waived his right of defense.</p>	<p>defense.</p> <p>The person concerned who has not made written or oral defence on the date set within the period which is not less than seven days and determined by the investigator at the investigation level or by the Council at the prosecution level shall be considered to have given up his/her right to defence.</p> <p>(Third and fourth paragraphs shall be introduced for Article 71 as follows)</p> <p>The person concerned shall be informed in a way which includes separately and clearly the attributed actions, the subject-matters of the investigation and the place, time and occurring aspects of the actions.</p> <p>The persons concerned have the right to demand testimony of the witness and collection of evidence in their favour from the moment when their defence at investigation phase is asked. They have the right to examine the files concerning themselves from the moment when their defence at the prosecution phase is asked by the Council, in person or through their legal representatives and to receive copy and to defend themselves orally or in written before the Council in person or via their legal representatives except the re-examination phase.</p>
<p>Concurrent Conduct of Prosecution or Criminal Proceedings and Disciplinary Investigation and Lapse of Time</p> <p>Article 72- (Amended by Law No:5435, Art.27, Date:22.12.2005) Initiating a prosecution or criminal proceedings concerning judges and prosecutors does not necessarily require a disciplinary investigation for the same subject-matter but also the conviction or acquittal of the concerned person does not prevent imposition of a disciplinary sanction.</p> <p>A disciplinary investigation may not be initiated after 3 years from the occurrence of conducts requiring disciplinary investigation under this Law, excluding conducts sanctioned with dismissal and change of location. After 5 years from the date of the conduct requiring disciplinary action occurred, disciplinary sanction may not be imposed.</p> <p>Where a conduct requiring disciplinary sanction constitutes an offence in the meanwhile and a longer lapse of time is envisaged for this</p>	<p>Concurrent Conduct of Prosecution or Criminal Proceedings and Disciplinary Investigation and Lapse of Time</p> <p>Article 72- (Amended by Law No:5435, Art.27, Date:22.12.2005) Initiating a prosecution or criminal proceedings concerning judges and prosecutors does not necessarily require a disciplinary investigation for the same subject-matter but also the conviction or acquittal of the concerned person does not prevent imposition of a disciplinary sanction.</p> <p>A disciplinary investigation may not be initiated after 3 years from the occurrence of conducts requiring disciplinary investigation under this Law, excluding conducts sanctioned with dismissal and change of location. After 5 years from the date of the conduct requiring disciplinary action occurred, disciplinary sanction may not be imposed.</p> <p>Where a conduct requiring disciplinary sanction constitutes an offence in the meanwhile and a longer lapse of time is envisaged for this</p>

<p>offence and a criminal prosecution or proceedings have been initiated, this period of time shall be applied instead of the lapse of time set out by second paragraph. For those whom the High Council of Judges and Prosecutors has decided to wait for finalization of criminal proceedings, the authority to impose sanction is barred by the lapse of time after two years from the final date of the judgment.</p>	<p>offence and a criminal prosecution or proceedings have been initiated, this period of time shall be applied instead of the lapse of time set out by second paragraph. For those whom the High Council of Judges and Prosecutors has decided to wait for finalization of criminal proceedings, the authority to impose sanction is barred by the lapse of time after two years from the final date of the judgment.</p>
<p>Review and objection</p> <p>Article 73 Within 10 days of receiving notification of decision concerning disciplinary sanctions imposed on judges and prosecutors, either the Minister of Justice or the person concerned may request the review of the decision.</p> <p>(Amended by Law No:5435, Art.28, Date:22.12.2005) In this case, the Council shall make a decision after conducting necessary examination.</p> <p>The concerned persons may raise objection against the reexamined decisions of the Council within ten days from the date of notification.</p> <p>Objections are examined and concluded by the Board of Re-examination of Objections.</p> <p>Decisions given on objection are irrevocable. No further applications to any other judicial authority against these decisions may be filed.</p> <p>Judges and prosecutors against whom dismissal from profession is sought have the right to defend themselves or have the right to be represented by their advocates in written or orally before the Board of Re-examination of Objections.</p>	<p>Article 73 shall be abolished</p>
<p>Execution</p> <p>Article 74- Disciplinary sanctions become effective on the date of its finalization and are executed by the Ministry of Justice immediately.</p> <p>However judges and prosecutors who are sanctioned with dismissal from the profession</p>	<p>Execution</p> <p>Article 74- Disciplinary sanctions become effective on the date of its finalization and are executed by the Council immediately.</p> <p>However judges and prosecutors who are sanctioned with dismissal from the profession</p>

<p>shall be suspended temporarily from the office until finalization of sanction. They are paid half of their salaries and allowances during this period. Second paragraph of Article 78 shall apply for judges and prosecutors whose temporary suspension sanction has been lifted.</p>	<p>shall be suspended temporarily from the office until finalization of sanction. They are paid half of their salaries and allowances during this period. Second paragraph of Article 78 shall apply for judges and prosecutors whose temporary suspension sanction has been lifted.</p>
<p>Deletion of disciplinary sanctions from personal records</p> <p>Article 75- Judges and prosecutors who have not been sanctioned with dismissal from profession or change of location but with the sanctions of cut of salary, warning and condemnation may apply to the High Council of Judges and Prosecutors for deletion of the disciplinary sanctions from their personal records after four years from finalization of the decision and those sanctioned for suspension of grade advance and suspension of degree promotion penalties may apply for deletion of sanctions from personal records six years after the finalization of decision.</p> <p>If, within the above mentioned time limits, attitude and behavior of the concerned person proven by the existing documents in the personal record file and his/her professional success justify his/her application for deletion of disciplinary sanction, it will be decided to deletion of disciplinary sanction and the discipline section will be removed from the personal record file and new one will be issued.</p>	<p>Removal of disciplinary sanctions from personal record</p> <p>Article 75- Judges and prosecutors who have not been sanctioned with dismissal from profession or change of location but with the sanctions of cut of salary, warning and condemnation may apply to the High Council of Judges and Prosecutors for deletion of the disciplinary sanctions from their personal records after four years from finalization of the decision and those sanctioned for suspension of grade advance and suspension of degree promotion penalties may apply for deletion of sanctions from personal records six years after the finalization of decision.</p> <p>If, within the above mentioned time limits, attitude and behavior of the concerned person proven by the existing documents in the personal record file and his/her professional success justify his/her application for deletion of disciplinary sanction, it will be decided to deletion of disciplinary sanction and the discipline section will be removed from the personal record file and new one will be issued.</p>
<p>Denunciation and complaint</p> <p>Article 76- A disciplinary investigation conducted upon a person's complaint may not be ended even in case of withdrawal of the complaint.</p> <p>Article 329 of Law No.5271 Criminal Procedure Law is applicable for expenses covered by the State, if a complaint which requires assignment of a special inspector or an agent for investigation has been found unjust.</p> <p>Where denunciation and complaint are made with bad faith or evidence is fabricated, the</p>	<p>Denunciation and complaint</p> <p>Article 76- A disciplinary investigation conducted upon a person's complaint may not be ended even in case of withdrawal of the complaint.</p> <p>Article 329 of Law No.5271 Criminal Procedure Law is applicable for expenses covered by the State, if a complaint which requires assignment of a special inspector or an agent for investigation has been found unjust.</p> <p>(Third and fourth paragraphs of Article 76</p>

<p>court not only implement the above paragraph, but also impose the penalty mentioned in the first paragraph of Article 267 of the Turkish Penal Code (Law No.5237). However, prosecution is subject to the permission of the Ministry of Justice.</p> <p>In such cases, the judges and prosecutors who have been complaint shall be prosecuted by prosecutors working at the nearest Heavy Criminal Court Center and tried by that nearest Heavy Criminal Court.</p>	<p>shall be abolished.)</p>
<p style="text-align: center;">SECTION TWO</p> <p style="text-align: center;">Suspension from the Office</p> <p>Suspension from the Office</p> <p>Article 77- If it is decided that continuation of profession of investigated judge and prosecutor will harm sound operation of investigation or ascendancy and honor of judicial power, he/she may be suspended from the office or appointed to another judicial province until the end of the investigation by decision of the High Council of Judges and Prosecutors.</p> <p>Above measures may be taken at any stage of investigation or criminal proceedings.</p>	<p style="text-align: center;">SECTION TWO</p> <p style="text-align: center;">Suspension from the Office</p> <p>Suspension from the Office</p> <p>Article 77- If it is decided that continuation of profession of investigated judge and prosecutor will harm sound operation of investigation or ascendancy and honor of judicial power, he/she may be suspended from the office or appointed to another judicial province until the end of the investigation by decision of the High Council of Judges and Prosecutors.</p> <p>Above measures may be taken at any stage of investigation or criminal proceedings.</p>
<p>Rights of suspended judges and prosecutors</p> <p>Article78- Suspended judges and prosecutors are paid two thirds of their salaries and allowances and half of their salaries and allowances are paid in case they are arrested or taken into custody irrespective of whether the concerned crime is related to the profession or not. They are entitled to enjoy other social rights and benefits stated in this Law.</p> <p>Judges and prosecutors who are arrested, taken into custody or suspended from the profession who have been subject to proceedings under the first paragraph of Article 79 or Article 80 are entitled to receive their deducted salaries and allowances provided that they are returned to office, and the period during which they are away from profession is considered for their grade</p>	<p>Rights of suspended judges and prosecutors</p> <p>Article78- Suspended judges and prosecutors are paid two thirds of their salaries and allowances and half of their salaries and allowances are paid in case they are arrested or taken into custody irrespective of whether the concerned crime is related to the profession or not. They are entitled to enjoy other social rights and benefits stated in this Law.</p> <p>Judges and prosecutors who are arrested, taken into custody or suspended from the profession who have been subject to proceedings under the first paragraph of Article 79 or Article 80 are entitled to receive their deducted salaries and allowances provided that they are returned to office, and the period during which they are away from profession is considered for their grade</p>

<p>advance and degree promotions. However, those whose convictions are not postponed under Article 80/e, are not paid their deducted salaries and allowances, and their executed conviction period are not taken into consideration in grade advance and degree promotions.</p> <p>(Last paragraph was abolished by Law No:5435, Art.43, Date:22.12.2005)</p>	<p>advance and degree promotions. However, those whose convictions are not postponed under Article 80/e, are not paid their deducted salaries and allowances, and their executed conviction period are not taken into consideration in grade advance and degree promotions.</p> <p>(Last paragraph was abolished by Law No:5435, Art.43, Date:22.12.2005)</p>
<p>Lifting the suspension decision</p> <p>Article 79- In cases where it is realized at the end of the investigation that there is no need to impose dismissal from profession or to continue with criminal proceedings stage; suspension from profession shall be lifted by High Council of Judges and Prosecutors immediately.</p> <p>In cases where the acts investigated do not impede continuation of profession, measures for suspension from the profession or temporarily authorization can be lifted by the High Council of Judges and Prosecutors at any stage.</p>	<p>Rescission of temporary dismissal decision</p> <p>Article 79- In cases where it is realized at the end of the investigation that there is no need to impose dismissal from profession or to continue with criminal proceedings stage; suspension from profession shall be lifted by High Council of Judges and Prosecutors immediately.</p> <p>In cases where the acts investigated do not impede continuation of profession, measures for suspension from the profession or temporarily authorization can be lifted by the High Council of Judges and Prosecutors at any stage.</p>
<p>The cases where return to office is compulsory</p> <p>Article 80- At the end of the investigation or trial upon the finalization of the following decisions, the measure for suspension from the profession shall be lifted and the persons concerned shall return to the office;</p> <ul style="list-style-type: none"> a) where it is decided not to continue with the criminal proceedings or to continue with criminal proceedings but subject-matter of investigation does not require dismissal from profession, b) where disciplinary sanction other than dismissal from the profession is imposed, c) where acquittal decision or decision on final investigation is taken , d) where the criminal proceedings is quitted due to a pardon before judgment is delivered, e) where a sanction which does not require dismissal from profession, whether it is 	<p>The cases where return to office is compulsory</p> <p>Article 80- At the end of the investigation or trial upon the finalization of the following decisions, the measure for suspension from the profession shall be lifted and the persons concerned shall return to the office;</p> <ul style="list-style-type: none"> a) where it is decided not to continue with the criminal proceedings or to continue with criminal proceedings but subject-matter of investigation does not require dismissal from profession, b) where disciplinary sanction other than dismissal from the profession is imposed, c) where acquittal decision or decision not to prosecute is taken, d) where the criminal proceedings is quitted due to a pardon before judgment is delivered, e) where a sanction which does not require dismissal from profession, whether it is

<p>related to their duties or not.</p>	<p>related to their duties or not.</p>
<p>Duration</p> <p>Article 81- Maximum duration of suspension from profession as a requirement of disciplinary investigation shall not exceed three months. If considered necessary, this period can be extended for two months by the High Council of Judges and Prosecutors. Where a new decision is not given, the person concerned shall be returned to the office at the end of this period.</p> <p>Where suspension from office is a requirement of criminal investigation or proceedings, the High Council of Judges and Prosecutors shall take a decision after examining his/her situations within the periods not exceeding two months whether the person concerned shall return to the office or not. This decision shall be notified to the person concerned.</p>	<p>Duration</p> <p>Article 81- Maximum duration of suspension from profession as a requirement of disciplinary investigation shall not exceed three months. If considered necessary, this period can be extended for two months by the High Council of Judges and Prosecutors. Where a new decision is not given, the person concerned shall be returned to the office at the end of this period.</p> <p>Where suspension from office is a requirement of criminal investigation or proceedings, the High Council of Judges and Prosecutors shall take a decision after examining his/her situations within the periods not exceeding two months whether the person concerned shall return to the office or not. This decision shall be notified to the person concerned.</p>
<p style="text-align: center;">CHAPTER SEVEN</p> <p style="text-align: center;">Investigation and Prosecution</p> <p style="text-align: center;">SECTION ONE</p> <p style="text-align: center;">Investigation</p> <p>Investigation</p> <p>Article 82- It is subject to the permission of the Justice Minister to undertake examination and investigation against judges and prosecutors for offences committed during the performance of their duties or related to the duty and for their conducts incompatible with their profession and status. The Ministry of Justice may carry out the investigation through judicial inspectors or the judge or prosecutor more senior than the person under investigation.</p> <p>Judges and prosecutors assigned for the investigation have competencies of the judicial inspectors stated under Article 101</p>	<p style="text-align: center;">CHAPTER SEVEN</p> <p style="text-align: center;">Investigation and Prosecution</p> <p style="text-align: center;">SECTION ONE</p> <p style="text-align: center;">Investigation</p> <p>(The first paragraph of Article 82 shall be amended along with its title and a new second paragraph shall be added as follows)</p> <p>The authority for permission and investigation on disciplinary and service-related offences</p> <p>Article 82- The inquiry and if need be, investigation and examination on whether judges and prosecutors have committed an offence in connection or in the course of their duties or on their conducts have been compatible with the requirements of their status and duties shall be carried out through Council’s inspectors with the approval of the Council President upon the proposal of the relevant chamber. Examination and investigation may also be carried out through a judge or prosecutor more senior than the one to be investigated and examined. Judges and prosecutors assigned for the examination and</p>

	<p>investigation have competencies of the Council inspectors.</p> <p>The inquiry, examination and investigations on the judges and prosecutors working at the central, provincial and abroad units of the Ministry of Justice and its attached and associated institutions, the judges and prosecutors working at the international institutions or courts, the judges and prosecutors working at other institutions, boards or organizations on a temporarily authorization or secondment, the prosecutors in view of their administrative duties, the President and members of the justice commission in view of their commission-related duties shall be undertaken by judicial inspectors upon the permission of the Minister. Examination and investigations may also be undertaken by a judge or a prosecutor more senior than the one to be examined. Judges and prosecutors assigned for the examination and investigation have competencies of the judicial inspectors.</p>
<p>Circumstances not requiring permission beforehand</p> <p>Article 83- The permission in advance is not needed for the investigation of the matters which the judicial inspectors have learned during the examination or investigation and cannot be belated. However, Ministry of Justice is informed about the situation promptly.</p>	<p>The procedure which can be applied without a prior approval or permission</p> <p>Article 83- The Council inspectors or judicial inspectors shall inform the Council or the Ministry about the situation promptly and shall collect the evidence likely to be lost in order to get approval or permission for the acts which they have learned during the inspection, inquiry, examination or investigation and require disciplinary penalty and constitute service-related offences.</p>
<p>Defence in investigation</p> <p>Article 84- Defence of judges and prosecutors is taken in the duration which cannot be less than 3 days or on the date which the officer conducting the investigation determines. Those who do not give their defence on time or on the determined date are considered to give up this right.</p>	<p>(The first paragraph of Article 84 shall be amended along with its title and a new second paragraph shall be added as follows)</p> <p>Defence in investigation on service-related offence</p> <p>Article 84- The defence of judges and prosecutors within the scope of the investigation on service-related offences shall be taken in written within the time limit set by the officer conducting investigation which is not less than seven days or taken orally on the date determined. The person concerned shall be informed about the rights granted to suspects</p>

	<p>under the Criminal Procedure Code (Law No. 5271) and about the substantial facts in a way which covers separately and clearly the acts attributed and the subject-matters of the investigation and the place, time and occurring aspects of the act. Those who have not made their defence within the time-limit or on the prescribed date shall be considered to have given up this right.</p> <p>If disciplinary and service-related offences co-exist within the scope of the investigation, defence shall be made according to this Article, and the provisions on service-related offence shall apply to the whole file.</p>
<p>The authority to decide on arrest</p> <p>Article 85- The requests for arrest are examined and decided by the authority which is authorized to open final investigation.</p>	<p>The authority to decide on arrest</p> <p>Article 85- The requests for arrest are examined and decided by the authority which is authorized to open prosecution.</p>
<p>Joining in commission of offences</p> <p>Article 86- Jointly perpetrators in commission of offences committed by judges and prosecutors are subject to same procedure.</p>	<p>Article 86 shall be abolished</p>
<p>Completion of investigation</p> <p>Article 87- Completed investigation files concerning judges and prosecutors shall be sent to Ministry of Justice General Directorate for Penal Affairs. Upon the written opinion of this General Directorate after its examination, The Ministry of Justice shall exercise its discretion to decide whether to undertake prosecution or to apply disciplinary penalty. Then the file shall be referred to the relevant authorities or struck off.</p>	<p>(Article 87 shall be amended along with its title as follows)</p> <p>The proceedings to be carried out upon the completion of inquiry, examination and investigation</p> <p>Article 87- The completed inquiry, examination and investigation file on judges and prosecutors shall be sent to the Council. The following decisions shall be taken by the relevant chamber of the Council;</p> <ul style="list-style-type: none"> a) not to investigate or to make proposal to get investigation permission upon the inquiry and examination file; b) upon the investigation file; <ul style="list-style-type: none"> 1. to strike off the investigation file in case initiation of disciplinary and criminal prosecution has not been found necessary, 2. not to impose penalty or to impose

	<p>disciplinary penalty compatible with the act after taking defence of the person concerned in case initiation of disciplinary prosecution has been found necessary,</p> <p>3. to send the file to competent judicial authority in case initiation of criminal prosecution has been found necessary.</p> <p>The prepared examination and investigation files shall be sent to the Ministry in relation to the acts which require disciplinary penalties or constitute service-related offences of judges and prosecutors working at the central units of the Ministry of Justice and its provincial and abroad and attached and associated institutions, the judges and prosecutors working at the international institutions or courts, the judges and prosecutors temporarily authorized to institutions, the prosecutors in view of their administrative duties, the President and members of the justice commission. Upon the opinion of the DG for Penal Affairs of the Ministry, the following decisions shall be taken by the Ministry;</p> <p>a) To permit the investigation after the inquiry or examination or not to conduct investigation,</p> <p>b) At the end of the investigation</p> <p>1. to strike off the investigation file in case initiation of disciplinary and criminal prosecution has not been found necessary,</p> <p>2. to send the file to the Council in case initiation of disciplinary investigation has been found necessary,</p> <p>3. to sent the file to the competent judicial authority in case initiation of criminal prosecution has been found necessary.</p>
<p>Procedure on apprehension and interrogation</p> <p>Article 88- Except in the <i>flagrante delicto</i> circumstances falling under the jurisdiction of heavy penal courts, judges and prosecutors claimed to have committed an offence cannot be apprehended, searched and interrogated and their houses cannot be searched. However, the</p>	<p>Procedure on apprehension and interrogation</p> <p>Article 88- Except in the <i>flagrante delicto</i> circumstances falling under the jurisdiction of heavy penal courts, judges and prosecutors claimed to have committed an offence cannot be apprehended, searched and interrogated and their houses cannot be searched. However, the Council</p>

<p>Ministry of Justice shall be informed immediately about the situation.</p> <p>Direct investigation and prosecution by the authorized prosecution office shall be carried out against the police and gendarmerie commanders and officers who act contrary to the first paragraph of this article</p>	<p>shall be informed immediately about the situation.</p> <p>Direct investigation and prosecution by the authorized prosecution office shall be carried out against the police and gendarmerie commanders and officers who act contrary to the first paragraph of this article</p>
<p style="text-align: center;">SECTION TWO</p> <p style="text-align: center;">Prosecution</p> <p>Prosecution decision and preliminary investigation</p> <p>Article 89- Initiation of prosecution for the offences committed by judges and prosecutors in connection with, or in the course of, their duties, is found necessary, the file shall be sent by the Ministry of Justice to the Prosecution Office of the Heavy Penal Court nearest to the Heavy Penal Court whose jurisdiction covers the person concerned. The file concerning judges and prosecutors working at the Central Unit of the Ministry of Justice and its attached and associated institutions shall be sent to Ankara Public Prosecution Office.</p> <p>Having prepared the indictment within five days, the prosecutor shall give the file to the Heavy Penal Court so that decision on whether to open final investigation is taken.</p> <p>In accordance with the Penal Procedure Law, a copy of the indictment shall be notified to the person under the prosecution. Upon this notification, in case the person concerned asks the collection of evidence or makes an acceptable request, this shall be taken into consideration and if needed, the investigation shall be deepened by the president.</p>	<p style="text-align: center;">SECTION TWO</p> <p style="text-align: center;">Prosecution</p> <p>The authorities to which the file is sent upon permission for prosecution and the proceedings which these authorities will apply</p> <p>Article 89- In case initiation of prosecution for the offences committed by judges and prosecutors in connection with or in the course of their duties has been found necessary, the file shall be sent by the Council or the Ministry, depending on the nature of the offence, to the following places;</p> <p>a) for the ones working at the regional courts of appeal, to the prosecution office of the regional court of appeal nearest to the regional court of appeal whose jurisdiction covers him/her</p> <p>b) for the ones working at the first instance civil and administrative courts, to the chief public prosecution office of the heavy penal court nearest to the heavy penal court whose jurisdiction covers the person concerned</p> <p>c) for the ones working at the High Council, at the central units of the Ministry of Justice and its provincial and abroad and attached and associated institutions, the judges and prosecutors working at the international institutions or courts, the judges and prosecutors temporarily authorized to institutions, to the Ankara Chief Public Prosecution Office.</p> <p>Chief prosecutor or the deputy prosecutors assigned by him/her shall prepare the indictment within fifteen days. Then he/she shall give the file to the competent criminal chamber of the regional court of appeal or the heavy penal court so that the decision on whether to open prosecution is taken.</p> <p>A copy of the indictment shall be notified to the person concerned in accordance with the Criminal Procedure Code by the competent</p>

	<p>criminal chamber of the regional court of appeal or the heavy penal court. Upon this notification, the person concerned may ask collection of evidence within the prescribed time-limit or if he/she makes an acceptable request, this shall be taken into account. If need be, the investigation is deepened. Following this procedure applied, a decision on whether to open a prosecution shall be taken. In case a decision to open prosecution has been taken, the file shall be sent to the authorities specified in this law.</p>
<p>Final investigation authorities:</p> <p>Article 90- Among the ones against whom an investigation is decided to be opened, for the judges and prosecutors who are designated to the first class and the ones who are the members of the heavy penal courts, the final investigation shall be conducted by the competent penal chamber of Court of Cassation.</p> <p>The final investigations of the judges and prosecutors other than the ones stated in the first paragraph shall be conducted by the heavy penal court within whose jurisdiction they are working.</p>	<p>(Article 90 shall be amended along with its title as follows)</p> <p>Prosecution Authorities</p> <p>Article 90: Among the ones against whom a prosecution is decided to be initiated for their offences committed during the service or because of the service:</p> <p>a) Prosecutions against those judges and prosecutors who are working at the regional courts of appeal shall be conducted by the relevant chamber of the regional court of ,</p> <p>b) Prosecutions against those judges and prosecutors who are working at the first instance courts of civil and administrative judiciary shall be conducted by the relevant chamber of the regional courts of appeal depending on the type of the offence.</p> <p>Prosecutions of those, whose files have been sent to Ankara Chief Public Prosecution Office, shall be conducted by the Ankara Regional Court of Appeal.</p> <p>Investigations and prosecutions of those who have committed offences jointly with judges and prosecutors shall not be merged with those of judges and prosecutors; these shall be conducted under their respective procedures.</p>
<p>Determination of the final—investigation authority:</p> <p>Article 91- In determining the final investigation authority for the ones against whom prosecution will be undertaken in accordance with this law, their positions shall be taken into consideration at the time of final investigation and their position</p>	<p>Determination of the Prosecution Authority:</p> <p>Article 91-In determining the prosecution authority for the ones against whom prosecution will be undertaken in accordance with this law, their positions shall be taken into consideration at the time of prosecution and their position before the prosecution for those who left their position</p>

<p>before the final investigation for those who left their position before the final investigation.</p> <p>In determining the authorities of investigation and prosecution for the temporary authorized ones, their positions in the place where they are competent shall be taken into consideration.</p>	<p>before the prosecution.</p> <p>In determining the authorities of investigation and prosecution for the temporary authorized ones, their positions in the place where they are competent shall be taken into consideration.</p>
<p>Objection procedure in the first investigation</p> <p>Article 92-The decisions for arrest, release and not initiating the final investigation taken by the authorities envisaged in Article 89 can be objected by the public prosecutor or the person under prosecution according to the general provisions. This objection shall be examined by the heavy penal court nearest to the court that has given the decision except by the heavy penal court whose jurisdiction covers the person concerned.</p>	<p>Objection procedure in the first investigation</p> <p>Article 92-The decisions for arrest, release and not initiating a prosecution taken by the authorities envisaged in Article 89 can be objected by the public prosecutor or the person under prosecution according to the general provisions. This objection shall be examined by the heavy penal court nearest to the court that has given the decision except by the heavy penal court whose jurisdiction covers the person concerned.</p>
<p style="text-align: center;">SECTION THREE</p> <p style="text-align: center;">Personal Offences</p> <p>Investigation and prosecution in the personal offences :</p> <p>Article 93- The investigation for the personal offences of judges and prosecutors shall be conducted by the chief public prosecutor of the heavy penal court closest to the heavy penal court whose jurisdiction covers the person concerned, and the final investigation shall be conducted by the same heavy penal court.</p> <p>The investigation and prosecution on judges and prosecutors working at the central units of the Ministry of Justice, its attached or associated institutions shall be conducted by the Ankara Chief Public Prosecutor and the heavy penal court.</p>	<p style="text-align: center;">SECTION THREE</p> <p style="text-align: center;">Personal Offences</p> <p>(The first and second paragraphs of Article 93 shall be amended along with its title and third and fourth paragraphs shall newly be added to this Article as follows)</p> <p>Personal Offences and Misdemeanors</p> <p>Article 93: The investigation for the personal offences of judges and prosecutors shall be conducted by the chief public prosecutor of the heavy penal court closest to the heavy penal court whose jurisdiction covers the person concerned or by the deputy assigned by the mentioned chief public prosecutor, and trial shall be conducted by the same heavy penal court.</p> <p>The investigation on judges and prosecutors who are working at the Council, at the central and provincial organizations of the Ministry and its associated and affiliated institutions, at international organizations and courts and who are temporarily authorized at other institutions, boards and organizations shall be conducted by</p>

	<p>Ankara Chief Public Prosecutor or his deputy assigned by him, and the trial shall be conducted by the Ankara Heavy Penal Court.</p> <p>The authority to impose administrative sanctions on judges and prosecutors for their misdemeanors belongs to the chief public prosecutor or his deputy of the heavy penal court closest to the heavy penal court whose jurisdiction covers judges or prosecutors concerned. For the ones who are working at the Council, at the central and provincial organizations of the Ministry and its associated and affiliated institutions, at international organizations and courts and who are temporarily authorized at other institutions, boards and organizations, this power shall be used by the Ankara Chief Public Prosecutor or his authorized deputy.</p> <p>All proceedings related to misdemeanors shall be conducted under the Misdemeanors Law (Law No:5326). However, the power to review the applications and objections shall be exercised by the courts which exist at the same place with the chief public prosecution office which issued the administrative sanction.</p>
<p style="text-align: center;">SECTION FOUR Common Provisions</p> <p><i>Flagrante delicto</i> offences which fall within the competence of heavy penal courts</p> <p>Article 94- (Amended first paragraph: 12/2/1989- Decree law- article 360/5; adopted identically: 24/1/1990-art.3611/5) For the <i>flagrante delicto</i> offences which fall within the competence of heavy penal courts, the preliminary prosecution shall be undertaken according to the general provisions. Preliminary prosecution shall be undertaken by the authorized public prosecutors, in person.</p> <p>In this case, it is obligatory to inform the Ministry of Justice about the situation immediately.</p>	<p style="text-align: center;">SECTION FOUR Common Provisions</p> <p><i>Flagrante delicto</i> offences which fall within the competence of heavy penal courts</p> <p>Article 94- (Amended first paragraph: 12/2/1989- Decree law- article 360/5; adopted identically: 24/1/1990-art.3611/5) For the <i>flagrante delicto</i> offences which fall within the competence of heavy penal courts, the preliminary prosecution shall be undertaken according to the general provisions. Preliminary prosecution shall be undertaken by the authorized public prosecutors, in person.</p> <p>In this case, it is obligatory to inform the Council about the situation immediately.</p>

<p>Cases</p> <p>Article 95- The cases related to judges and prosecutors shall be considered as urgent cases. Unless there are obstacles stemming from the legal obligations, these cases cannot continue for more than three months. Public prosecutors shall inform the Ministry of Justice about the process of these cases and the reasons for delay if there any, after each hearing. (Additional phrase: 22/12/2005-art.5345/33) The appeal for these cases shall be examined before all else.</p>	<p>Cases</p> <p>Article 95- The cases related to the judges and prosecutors shall be considered as urgent cases. Unless there are obstacles stemming from the legal obligations, these cases cannot continue for more than three months. Public prosecutors shall inform the Council about the process of these cases and the reasons for delay if there any, after each hearing. (Additional phrase: 22/12/2005-art.5345/33) The appeal for these cases shall be examined before all else.</p>
<p>Sending the file</p> <p>Article 96- The case file, after the verdict or judgment become definite, shall be sent to the Ministry of Justice so that the file is examined in view of discipline and sent back afterwards.</p>	<p>Sending the file:</p> <p>Article 96- The case file, after the verdict or judgment become definite, shall be sent to the Council so that the file is examined in view of discipline and sent back afterwards.</p>
<p>Denouncements and complaints:</p> <p>Article 97-(Amended:22/12/2005, Law No:5435, Art.34) The following denouncements and complaints regarding judges and prosecutors are not processed:</p> <ul style="list-style-type: none"> a) The ones which do not have a certain subject or are not based on a concrete evidence, b) The ones which do not contain the name, surname, signature, address and Turkish ID number of the applicant for the Turkish citizens, c) The ones which do not contain any new evidence though they were examined before, d) The ones which could be claimed as the reasons for the appeal or the ones related to the issues which fall within the competence and discretionary power of judges e) The ones submitted by the persons who are under custody due to mental illness and the ones who are not under custody yet but their mental problem is diagnosed by the report of a medical 	<p>Denouncements and complaints:</p> <p>Article 97-(Amended:22/12/2005, Law No:5435, Art.34) The following denouncements and complaints regarding judges and prosecutors are not processed:</p> <ul style="list-style-type: none"> a) The ones which do not have a certain subject or are not based on a concrete evidence, b) The ones which do not contain the name, surname, signature, address and Turkish ID number of the applicant for the Turkish citizens, c) The ones which do not contain any new evidence though they were examined before, d) The ones which could be claimed as the reasons for the appeal or the ones related to the issues which fall within the competence and discretionary power of judges e) The ones submitted by the persons who are under custody due to mental illness and the ones who are not under custody yet but their mental problem is diagnosed by the report of a medical

<p>board.</p> <p>In case the denouncements and complaints which do not meet the requirements stated in the sub-paragraph (b) are based on the concrete evidence, necessary investigation and examination shall be carried out.</p>	<p>board.</p> <p>In case the denouncements and complaints which do not meet the requirements stated in the sub-paragraph (b) are based on the concrete evidence, necessary investigation and examination shall be carried out.</p>
<p>Provisions applicable to the first class judges and prosecutors</p> <p>Article 98- First class judges and prosecutors working at the central units of the Ministry of Justice and its attached and associated institutions are subject to the same provisions applied to the members of Court of Cassation in terms of disciplinary measures, investigation and prosecution. However, carrying out an investigation depends shall be subject to request of the Minister of Justice.</p>	<p>Provisions applicable to the first class judges and prosecutors</p> <p>Article 98- First class judges and prosecutors working at the central units of the Ministry of Justice and its attached and associated institutions are subject to the same provisions applied to the members of Court of Cassation in terms of disciplinary measures, investigation and prosecution. However, carrying out an investigation depends shall be subject to request of the Minister of Justice.</p>
<p style="text-align: center;">CHAPTER EIGHT</p> <p style="text-align: center;">Inspection</p> <p>Inspection Board:</p> <p>Article 99- An Inspection Board composed of a president attached to the Minister, a vice president and a sufficient number of judicial inspectors exist at the Ministry of Justice.</p> <p>The class, degree and official titles of the judicial inspectors are shown in the list (1) and (2) attached to this Law.</p>	<p style="text-align: center;">CHAPTER EIGHT</p> <p style="text-align: center;">Inspection</p> <p>(Article 99 shall be amended along with its title as follows)</p> <p>Inspection of Judges and Prosecutors</p> <p>Article 99- a) The inspection proceedings concerning judges and prosecutors on whether they perform their duties in accordance with the laws, regulations, by-laws, and circulars (administrative circulars for the judges), and inquiring judges and prosecutors on whether they commit a crime due to their work or during their work and whether their behaviors and conducts are compatible with the requirements of their profession and status, and conducting examination and investigation where necessary shall be undertaken by the Council Inspectors.</p> <p>b) Inquiry, examination and investigation proceedings for judges and prosecutors who are working at the central and provincial organizations of the Ministry and its attached and associated institutions, at international organizations and courts and who are temporarily</p>

	<p>authorized at other institutions, boards and organizations, and for prosecutors concerning their administrative tasks, and for the presidents of justice commissions and their members concerning their administrative tasks, judicial inspectors and internal auditors originally coming from the profession of judgeship and prosecutorship, shall be conducted by judicial inspectors under the provisions stated by the relevant laws.</p> <p>The class, degree and professional titles of the council inspectors, judicial inspectors and internal auditors are stated in the annexed tables (1) and (2).</p>
<p>Judicial Inspectors</p> <p>Article 100 Judicial inspectors carry out the tasks of inspecting both judges and prosecutors whether they perform their duties in accordance with the laws, regulations, by laws, and circulars (– administrative circulars for judges) and also inspecting courts in civil and administrative judiciary; investigating judges, prosecutors and court personnel whether they commit a crime due to their work or during their work and whether their behavior and conducts are compatible with the requirements of their profession and status and ultimately conducting investigation and inquiry if needed. The judicial inspectors appointed from the administrative judiciary shall be assigned only to inspect regional administrative, administrative and tax courts and to investigate administrative judges and prosecutors.</p>	<p>Article 100 shall be abolished.</p>
<p>Competences:</p> <p>Article 101 If deemed necessary, judicial inspectors may listen to the persons under oath and apply for rogatory process and carry out searches in the circumstances which the investigation requires. They may directly collect substantial evidence and the needed information from all institutions. In the inspections, investigations and inquiries conducted by the judicial inspectors, the concerned persons and</p>	<p>Article 101 shall be abolished.</p>

~~organizations must give all the necessary information and documents.~~

<p style="text-align: center;">CHAPTER NINE</p> <p style="text-align: center;">Financial and social rights and benefits</p> <p style="text-align: center;">SECTION ONE</p> <p style="text-align: center;">Financial rights</p> <p>Financial rights</p> <p>Article 102-(Amended: 29/6/2006, Law No:5536, Art.1) The financial rights including monthly and judicial allowances of the ones stated in Article 2 of this Law shall be subject to the provisions of this Law.</p> <p>In this Law,</p> <ul style="list-style-type: none">a) Allowance based on criteria means the gross amount of the total of all payments being made to the highest ranking state officer,b) Judicial allowance means the amount of the gross monthly payment calculated with the rate indicated in Article 106 according to the qualification and necessity of the assignment.	<p style="text-align: center;">CHAPTER NINE</p> <p style="text-align: center;">Financial and social rights and benefits</p> <p style="text-align: center;">SECTION ONE</p> <p style="text-align: center;">Financial rights</p> <p>Financial rights</p> <p>Article 102- (Amended: 29/6/2006, Law No:5536, Art.1) The financial rights including monthly and judicial allowances of the ones stated in Article 2 of this Law shall be subject to the provisions of this Law.</p> <p>In this Law,</p> <ul style="list-style-type: none">a) Allowance based on criteria means the gross amount of the total of all payments being made to the highest ranking state officer,b) Judicial allowance means the amount of the gross monthly payment calculated with the rate indicated in Article 106 according to the qualification and necessity of the assignment.
<p style="text-align: center;">SECTION TWO</p> <p style="text-align: center;">Monthly Payment Chart and Monthly Payments</p> <p>Monthly Payment Chart</p> <p>Article 103- (Amended: 29.06.2006-Law No:5536, Art.2) The monthly payments are made considering the following rates of each component composing the allowance based on criteria:</p> <ul style="list-style-type: none">a) %100 for the President of the Constitutional Court, President of the Court of Cassation, President of the Council of State, President of the Court of Jurisdictional Disputes, the Chief Public Prosecutor of the Court of Cassation, the Chief Prosecutor of the	<p style="text-align: center;">SECTION TWO</p> <p style="text-align: center;">Monthly Payment Chart and Monthly Payments</p> <p>Monthly Payment Chart</p> <p>Article 103-(Amended: 29.06.2006-Law No:5536, Art.2) The monthly payments are made considering the following rates of each component composing the allowance based on criteria:</p> <ul style="list-style-type: none">a) %100 for the President of the Constitutional Court, President of the Court of Cassation, President of the Council of State, President of the Court of Jurisdictional Disputes, the Chief Public Prosecutor of the Court of Cassation, the Chief Prosecutor of the Council of State,

<p>Council of State,</p> <p>b) % 86 for the Vice President of the Constitutional Court, the members of the Constitutional Court, Vice Presidents of the Court of Cassation and the Council of State, the Deputy Chief Public Prosecutor of the Court of Cassation, the Presidents of the Chambers of the Court of Cassation and the Council of State and Undersecretary of the Ministry of Justice</p> <p>c) % 83 for members of the Court of Cassation and the Council of State</p> <p>ç) % 79 for the first class judges and prosecutors</p> <p>d) % 65 for the judges and prosecutors who are designated to first class</p> <p>e) %55 for the other judges and prosecutors in the first degree</p> <p>f) % 53 for the judges and prosecutors in the second degree</p> <p>g) % 51 for the judges and prosecutors in the third degree</p> <p>h) % 49 for the judges and prosecutors in the fourth degree</p> <p>i) % 47 for the judges and prosecutors in the fifth degree</p> <p>j) % 45 for the judges and prosecutors in the sixth degree</p> <p>k) % 43 for the judges and prosecutors in the seventh degree</p> <p>l) % 41 for the judges and prosecutors in the eighth degree</p> <p>In the calculation of the premium which is one of the payment components stated in this article, one twelfth of the total amount of the premium within the allowance based on criteria in one fiscal year is considered.</p> <p>Two percentage points are added to the monthly payment rates of the first class judges and prosecutors in every 3 years provided that this rate does not exceed the rate indicated in the sub-paragraph (c) as long as those judges and prosecutors do not lose their adequacy to be elected as a member of the Court of Cassation</p>	<p>b) % 86 for the Vice President of the Constitutional Court, the members of the Constitutional Court, Vice Presidents of the Court of Cassation and the Council of State, the Deputy Chief Public Prosecutor of the Court of Cassation, the Presidents of the Chambers of the Court of Cassation and the Council of State and Undersecretary of the Ministry of Justice</p> <p>c) % 83 for members of the Court of Cassation and the Council of State</p> <p>ç) % 79 for the first class judges and prosecutors</p> <p>d) % 65 for the judges and prosecutors who are designated to first class</p> <p>e) %55 for the other judges and prosecutors in the first degree</p> <p>f) % 53 for the judges and prosecutors in the second degree</p> <p>g) % 51 for the judges and prosecutors in the third degree</p> <p>h) % 49 for the judges and prosecutors in the fourth degree</p> <p>i) % 47 for the judges and prosecutors in the fifth degree</p> <p>j) % 45 for the judges and prosecutors in the sixth degree</p> <p>k) % 43 for the judges and prosecutors in the seventh degree</p> <p>l) % 41 for the judges and prosecutors in the eighth degree</p> <p>In the calculation of the premium which is one of the payment components stated in this article, one twelfth of the total amount of the premium within the allowance based on criteria in one fiscal year is considered.</p> <p>Two percentage points are added to the monthly payment rates of the first class judges and prosecutors in every 3 years provided that this rate does not exceed the rate indicated in the sub-paragraph (c) as long as those judges and prosecutors do not lose their adequacy to be elected as a member of the Court of Cassation and the Council of State.</p>
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<p>and the Council of State.</p> <p>The judges and prosecutors promoted to a higher degree are qualified to receive the payment of their new degree by the fifteenth of the month following the validity dates of their promotion.</p> <p>The ones who are not subject to any tax or other cuts in the payment components composing the allowance based on criteria are not subject either to any tax or other cuts in the payments effected according to this Law.</p>	<p>The judges and prosecutors promoted to a higher degree are qualified to receive the payment of their new degree by the fifteenth of the month following the validity dates of their promotion.</p> <p>The ones who are not subject to any tax or other cuts in the payment components composing the allowance based on criteria are not subject either to any tax or other cuts in the payments effected according to this Law.</p>
<p>Co-efficient Article 104-(Abolished:29/6/2006–Art. 5536/7)</p>	<p>Co-efficient Article 104-(Abolished: 29/6/2006–Art. 5536/7)</p>
<p>Gross monthly payment: Article 105-(Abolished: 29/6/2006–Art. 5536/7)</p>	<p>Gross monthly payment: Article 105-(Abolished: 29/6/2006–Art. 5536/7)</p>
<p>Judicial allowance and supplementary payment</p> <p>Article 106-(Amended: 29/6/2006- Art.3 of the Law No:5536) The persons whose titles have been mentioned in article 103 shall be paid a judiciary allowance equal to %10 of gross salary paid according to the same article.</p> <p>If leaves due to illness exceed 15 days in a calendar year, the judiciary allowance shall be paid less than %50 for those exceeding dates except the sick leaves given upon a medical committee report or leaves which require long term medical treatment such as cancer, tuberculosis, mental diseases, diabetes, open heart surgery e.g. or the period which has been spent in a hospital in bed.</p> <p>Trainee judges and prosecutors shall be paid an extra allowance equal to %25 of the base (reference) salary.</p> <p>Judicial inspectors shall be paid an extra allowance equal to %5 of their gross salaries paid</p>	<p>Judicial allowance and supplementary payment</p> <p>Article 106-(Amended: 29/6/2006- Art.3 of the Law No:5536) The persons whose titles have been mentioned in article 103 shall be paid a judiciary allowance equal to %10 of gross salary paid according to the same article.</p> <p>If leaves due to illness exceed 15 days in a calendar year, the judiciary allowance shall be paid less than %50 for those exceeding dates except the sick leaves given upon a medical committee report or leaves which require long term medical treatment such as cancer, tuberculosis, mental diseases, diabetes, open heart surgery e.g. or the period which has been spent in a hospital in bed.</p> <p>Trainee judges and prosecutors shall be paid an extra allowance equal to %25 of the base (reference) salary.</p> <p>Council inspectors, judicial inspectors and internal auditors shall be paid of an extra</p>

<p>under article 103.</p> <p>The persons who receive payments under this article or Article 103 shall not be paid allowances paid according to the Decree No: 375 and allowances for performance, post and high judgeship, and also the allowances under the Article 152 of the Law on Public Servants. (Additional Sentence: 24/7/2008, Art.5 of the Law No:5793) However, payment of the base salary envisaged for the trainee magistrates according to the Article 1 of the Decree No: 375 shall be continued.</p> <p>The payments under this article are subject to the provisions for salaries and no extra taxes shall be applied other than stamp taxes.</p> <p>The judiciary allowance shall not be taken into account in any case for calculation of other payments.</p>	<p>allowance equal to %5 of their gross salaries paid under Article 103.</p> <p>The persons who receive payments under this article or Article 103 shall not be paid allowances paid according to the Decree No: 375 and allowances for performance, post and high judgeship, and also the allowances under the Article 152 of the Law on Public Servants. (Additional Sentence: 24/7/2008, Art.5 of the Law No:5793) However, payment of the base salary envisaged for the trainee magistrates according to the Article 1 of the Decree No: 375 shall be continued.</p> <p>The payments under this article are subject to the provisions for salaries and no extra taxes shall be applied other than stamp taxes.</p> <p>The judiciary allowance shall not be taken into account in any case for calculation of other payments.</p>
<p>Lecturing and Conference Allowances</p> <p>Article 107- The hourly allowances for lectures or conferences of judges and prosecutors who are assigned at educational or training institutions or courses shall be determined each year in the budget laws.</p>	<p>Lecturing and Conference Allowances</p> <p>Article 107- The hourly allowances for lectures or conferences of judges and prosecutors who are assigned at educational or training institutions or courses shall be determined each year in the budget laws.</p>
<p>Timing of Payments of Salaries and Allowances</p> <p>Article 108- Salaries and allowances are paid in advance for every month.</p> <p>In cases of retirement and death, pre-paid salaries or allowances for the subject matter month shall not be recovered.</p>	<p>Timing of Payments of Salaries and Allowances</p> <p>Article 108- Salaries and allowances are paid in advance for every month.</p> <p>In cases of retirement and death, pre-paid salaries or allowances for the subject matter month shall not be recovered.</p>
<p>Acquiring the Right to Receive Salaries and Allowances in cases of Appointment from Traineeship Status and Direct Appointment</p> <p>Article 109- The judges and prosecutors who have been appointed to the profession from traineeship status or extra traineeship status shall</p>	<p>Acquiring the Right to Receive Salaries and Allowances in cases of Appointment from Traineeship Status and Direct Appointment</p> <p>Article 109- The judges and prosecutors who have been appointed to the profession from traineeship status or extra traineeship status shall</p>

<p>have the right to receive salaries and allowances starting from the first day of their office.</p> <p>In such cases, the first salary and allowance shall be calculated on day criteria.</p>	<p>have the right to receive salaries and allowances starting from the first day of their office.</p> <p>In such cases, the first salary and allowance shall be calculated on day criteria.</p>
<p>Benefitting From State-Sponsored Residence</p> <p>Article 110-The need of those mentioned in Article 2 of this Law for state-sponsored residence shall be determined by the Ministry of Justice and shall be met with the allowance to be put in the budget of the institutions to which the person concerns are subject in accordance with the programs approved by the Council of Ministers.</p> <p>The allocation and management of State-sponsored residence and amount of the rent to be received shall be regulated via the by-law.</p>	<p>Benefitting From State-Sponsored Residence</p> <p>Article 110-The need of those mentioned in Article 2 of this Law for state-sponsored residence shall be determined by the Ministry of Justice and shall be met with the allowance to be put in the budget of the institutions to which the person concerns are subject in accordance with the programs approved by the Council of Ministers.</p> <p>The allocation and management of State-sponsored residence and amount of the rent to be received shall be regulated via the by-law.</p>
<p>Other Social Aids</p> <p>Article 111-The provisions on social rights and aids granted to public officers shall apply to those mentioned in Article 2 of this Law.</p>	<p>Other Social Aids</p> <p>Article 111-The provisions on social rights and aids granted to public officers shall apply to those mentioned in Article 2 of this Law.</p>
<p>Support for Professional Attire, Books and Computers</p> <p>Article 112- The designs, wearing times and places of attire for judges and prosecutors shall be regulated by a by-law to be issued by the High Council for Judges and Prosecutors.</p> <p>The attire shall be provided by the Ministry of Justice.</p> <p>Books and journals related to the profession either published or bought by the Ministry of Justice shall be sent to the members of the profession.</p> <p>(Additional paragraph: 29/6/2006-Art.4 of the Law No:5536) For the usage of their works, judges and prosecutors may be given computers as registered property. The procedures and principles for leaving and transferring ownership of the computers to judges and prosecutors shall be designed by the Ministry of Justice upon the</p>	<p>Support for Professional Attire, Books and Computers</p> <p>Article 112- The designs, wearing times and places of attire for judges and prosecutors shall be regulated by a by-law to be issued by the High Council for Judges and Prosecutors.</p> <p>The attire shall be provided by the Ministry of Justice.</p> <p>Books and journals related to the profession either published or bought by the Ministry of Justice shall be sent to the members of the profession.</p> <p>(Additional paragraph: 29/6/2006- Art.4 of the Law No:5536) For the usage of their works, judges and prosecutors may be given computers as registered property. The procedures and principles for leaving and transferring ownership of the computers to judges and prosecutors shall be designed by the Ministry of Justice upon the</p>

views of the Court of Auditors and the Ministry of Finance.	views of the Court of Auditors and the Ministry of Finance.
<p style="text-align: center;">CHAPTER TEN</p> <p style="text-align: center;">Establishment and Duties of the Justice Commissions</p> <p>Establishment</p> <p>Article 113- a) Justice commissions of first instance courts of the civil judiciary: In the jurisdictional area of an heavy criminal court, a Justice Commission of first instance courts of the civil judiciary shall be comprised of a president, a regular member and a substitute member to be assigned by the High Council for Judges and Prosecutors and the public prosecutor of that province.</p> <p style="text-align: center;">(Amended: 12.2.1989-Art.6 of the Decree Law No:360; Identical Approval: 24.1.1990 Art.6 of the Law No:3611)</p> <p>In the absence of the president, the regular member undertakes the presidency. The substitute member joins the commission in absence of the president or where the regular member undertakes the presidency. In the absence of chief public prosecutor his deputy joins the commission.</p> <p>b) Justice commissions of administrative judiciary: Where the regional administrative courts exist, the commission is composed of the president of the regional administrative court as president and two regular and one substitute members who are administrative judges to be assigned by the High Council for Judges and Prosecutors.</p> <p style="text-align: center;">(Additional second paragraph: 22.12.2005-Art 35 of the Law No:5435) In cases of absence of the members indicated under indents a) and b) of the second paragraph, the commission is set up in an order of seniority among judges apart from the ones who are not seen eligible for first class in the evaluation process.</p> <p>The senior member undertakes the presidency in case of absence of the president.</p>	<p style="text-align: center;">CHAPTER TEN</p> <p style="text-align: center;">Establishment and Duties of the Justice Commissions</p> <p>Establishment</p> <p>Article 113- a) Justice commissions of first instance courts of the civil judiciary: In the jurisdictional area of an heavy criminal court, a Justice Commission of first instance courts of the civil judiciary shall be comprised of a president, a regular member and a substitute member to be assigned by the High Council for Judges and Prosecutors and the public prosecutor of that province.</p> <p style="text-align: center;">(Amended: 12.2.1989-Art.6 of the Decree Law No:360; Identical Approval: 24.1.1990 Art.6 of the Law No:3611)</p> <p>In the absence of the president, the regular member undertakes the presidency. The substitute member joins the commission in absence of the president or where the regular member undertakes the presidency. In the absence of chief public prosecutor his deputy joins the commission.</p> <p>b) Justice commissions of administrative judiciary: Where the regional administrative courts exist, the commission is composed of the president of the regional administrative court as president and two regular and one substitute members who are administrative judges to be assigned by the High Council for Judges and Prosecutors.</p> <p style="text-align: center;">(Additional second paragraph: 22.12.2005-Art 35 of the Law No:5435) In cases of absence of the members indicated under indents a) and b) of the second paragraph, the commission is set up in an order of seniority among judges apart from the ones who are not seen eligible for first class in the evaluation process.</p> <p>The senior member undertakes the presidency in case of absence of the president. The substitute member joins the commission</p>

<p>The substitute member joins the commission when the senior member undertakes presidency or he is absent.</p> <p>In each judicial commission, an office comprising of a chief clerk and sufficient number of public servants shall exist.</p>	<p>when the senior member undertakes presidency or he is absent.</p> <p>In each judicial commission, an office comprising of a chief clerk and sufficient number of public servants shall exist.</p>
<p>Duties</p> <p>Article 114- (Amended: 22/12/2005- Art.36 of the Law No:5435) The duties of Justice Commissions are as follows:</p> <p>a) For the personnel in the civil and administrative judiciary and in prisons and detention houses other than those appointed directly by the Ministry of Justice;</p> <ol style="list-style-type: none"> 1. To carry out oral and if necessary practical examinations of persons who will be appointed for the first time to public servant positions after being successful in the central examinations and to propose the appointment of these successful persons by giving priority to graduates of law faculties and high vocational schools of justice. 2. To carry out works related to appointments to public servant positions on permanent basis, personal record and disciplinary works, removal from office, salaries and allowances and other personnel affairs under this Law, Public Servants Law and other relevant legislation. 3. To carry out appointments because of transfer or necessity of service within its jurisdictional area after asking opinions of related presiding judge, judge or public prosecutor. 4. To carry out temporal assignment within its jurisdictional area not exceeding 6 months <p>b) To carry out other tasks given by laws.</p> <p>The appointment procedures shall be conducted by the Ministry for the personnel whose assignment to public servant positions will be proposed for the first time. The procedures</p>	<p>Duties</p> <p>Article 114- (Amended: 22/12/2005- Art.36 of the Law No:5435) The duties of Justice Commissions are as follows:</p> <p>a) For the personnel in the civil and administrative judiciary and in prisons and detention houses other than those appointed directly by the Ministry of Justice;</p> <ol style="list-style-type: none"> 1. To carry out interviews and if necessary practical examinations of persons who will be appointed for the first time to public servant positions after being successful in the central examinations and to propose the appointment of these successful persons by giving priority to graduates of law faculties and high vocational schools of justice. 2. To carry out works related to appointments to public servant positions on permanent basis, personal record and disciplinary works, removal from office, salaries and allowances and other personnel affairs under this Law, Public Servants Law and other relevant legislation. 3. To carry out appointments because of transfer or necessity of service within its jurisdictional area after asking opinions of related presiding judge, judge or public prosecutor. 4. To carry out temporal assignment within its jurisdictional area not exceeding 6 months <p>b) To carry out other tasks given by laws.</p> <p>The appointment procedures shall be conducted by the Ministry for the personnel whose assignment to public servant positions will be proposed for the first time. The procedures</p>

<p>and principles on appointment, training of these personnel shall be stated by law.</p> <p>The power belongs to the Ministry of Justice for transfer or assignment of the personnel under the scope of this Article to another justice commission's jurisdictional area on temporal basis upon approval, proposal of the justice commission or due to necessity of the profession.</p>	<p>and principles on appointment, training of these personnel shall be stated by law.</p> <p>The power belongs to the Ministry of Justice for transfer or assignment of the personnel under the scope of this Article to another justice commission's jurisdictional area on temporal basis upon approval, proposal of the justice commission or due to necessity of the profession.</p>
<p>Assignment in Compulsory Situations</p> <p>Article 115- (Amended: 22/12/2005- Art.37 of the Law No:5435) The President of the Justice Commission assigns one of the judges in his jurisdictional area instead of the judge who does not appear in his office for any reason. This assignment will be valid until that judge starts to work or until an assignment is made by the High Council for Judges and Prosecutors. The chief public prosecutor assigns one of the prosecutors in his jurisdictional area instead of the prosecutor who does not appear in his office for any reason. This assignment will be valid until that prosecutor starts to work or until an assignment is done by the High Council for Judges and Prosecutors.</p>	<p>Assignment in Compulsory Situations</p> <p>Article 115- (Amended: 22/12/2005- Art.37 of the Law No:5435) The President of the Justice Commission assigns one of the judges in his jurisdictional area instead of the judge who does not appear in his office for any reason. This assignment will be valid until that judge starts to work or until an assignment is made by the High Council for Judges and Prosecutors. The chief public prosecutor assigns one of the prosecutors in his jurisdictional area instead of the prosecutor who does not appear in his office for any reason. This assignment will be valid until that prosecutor starts to work or until an assignment is done by the High Council for Judges and Prosecutors.</p>
<p>Investigation and Prosecution Procedures</p> <p>Article 116- The investigation and prosecution for the crimes of the public servants mentioned under this section shall be carried out directly under general provisions by public prosecutor's office where they work.</p>	<p>Investigation and Prosecution Procedures</p> <p>Article 116- The investigation and prosecution for the crimes of the civil servants mentioned under this section shall be carried out directly under general provisions by public prosecutor's office where they work.</p>
<p>Attire</p> <p>Article 117- The designs, wearing time and places and renewal time for clothes of clerks and ushers that must be worn on duty shall be stated by a by-law that will be issued by the Ministry of Justice. These clothes are provided by the Ministry of Justice.</p>	<p>Attire</p> <p>Article 117- The designs, wearing time and places and renewal time for clothes of clerks and ushers that must be worn on duty shall be stated by a by-law that will be issued by the Ministry of Justice. These clothes are provided by the Ministry of Justice.</p>

<p style="text-align: center;">CHAPTER ELEVEN Miscellaneous Provisions</p> <p>Resolutions</p> <p>Article 118-The resolutions issued by the High Council for Judges and Prosecutors and published in the Official Gazette according to this Law shall be reconsidered each year in January on the basis of features and necessities of the profession and where needed, amendments shall be introduced and published in the Official Gazette.</p>	<p style="text-align: center;">CHAPTER ELEVEN Miscellaneous Provisions</p> <p>Resolutions</p> <p>Article 118-The resolutions issued by the High Council for Judges and Prosecutors and published in the Official Gazette according to this Law shall be reconsidered each year in January on the basis of features and necessities of the profession and where needed, amendments shall be introduced and published in the Official Gazette.</p>
<p>In-Service Trainings</p> <p>Article 119-(Amended: 22/12/2005- Art.38 of the Law No:5435) The procedures and principles for in-service trainings of judges and prosecutors shall be regulated by a by-law which will be issued jointly by the Ministry of Justice and the Turkish Justice Academy.</p>	<p>In-Service Trainings</p> <p>Article 119-(Amended: 22/12/2005- Art.38 of the Law No:5435) The procedures and principles for in-service trainings of judges and prosecutors shall be regulated by a by-law which will be issued jointly by the Council and the Turkish Justice Academy.</p>
<p>Applicable Provisions</p> <p>Article 120- The provisions of the Law on High Council for Judges and Prosecutors (Law No:2461) which are not in contradiction with this Law shall be continued to be implemented.</p>	<p>Applicable Provisions</p> <p>Article 120- The provisions of the Law on High Council for Judges and Prosecutors (Law No:2461) which are not in contradiction with this Law shall be continued to be implemented.</p>
<p>By-Law</p> <p>Article 121-By-laws envisaged to be issued under this Law shall be issued within six months at the latest.</p>	<p>By-Law</p> <p>Article 121-By-laws envisaged to be issued under this Law shall be issued within six months at the latest.</p>
<p>Abolished Provisions</p> <p>Article 122- a)The Law on Judges and Prosecutors (Law No:2556) and its annexes and amendments b) The Law on Official Clothes of Judges</p>	<p>Abolished Provisions</p> <p>Article 122- a)The Law on Judges and Prosecutors (Law No:2556) and its annexes and amendments b) The Law on Official Clothes of Judges</p>

<p>and Members of Judiciary (Dated: 3 April 1340; Law No:461)</p> <p>have been repealed.</p> <p>Additional provisional articles 7 and 8 of the Law on Public Servants shall not be applied for the persons subject to this Law.</p>	<p>and Members of Judiciary (Dated: 3 April 1340; Law No:461)</p> <p>have been repealed.</p> <p>Additional provisional articles 7 and 8 of the Law on Public Servants shall not be applied for the persons subject to this Law.</p>
<p>Entry into Force</p> <p>Article 123- This Law shall enter into force by its publication.</p>	<p>Entry into Force</p> <p>Article 123- This Law shall enter into force by its publication.</p>
<p>Implementation</p> <p>Article 124- This Law shall be implemented by the Council of Ministers.</p>	<p>Implementation</p> <p>Article 124- This Law shall be implemented by the Council of Ministers.</p>