

## COUNCIL OF STATE ACT

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### PART ONE

#### **Constitution Council of State**

##### **Section 1.**

The Council of State is the Supreme Administrative Court established by the Constitution of the Republic of Turkey, responsible also for consultation and scrutiny.

#### **Independence and Administration**

##### **Section 2.**

1. The Council of State is independent. It shall be represented and administered by the President of the Council of State.

2. The Council of State's functions relating to the government shall be executed through the agency of the Prime Ministry.

#### **Members of the Council of State**

##### **Section 3.**

The Members of the Council of State are the President, Chief Advocate General, Vice-Presidents of the Council of State and the Presidents and members of the Divisions of the Council of State.

#### **Security of Tenure**

##### **Section 4.**

The President, Chief Advocate General, Vice-Presidents of the Council of the State and the Presidents and Members of the Divisions, as members of a supreme judicial organ, shall serve with security of tenure provided by the Constitution of Turkish Republic and the law.

#### **Decision-making Organs**

##### **Section 5.**

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

- a) Divisions
- b) Plenary Assembly of the Council of State
- c) Board of Administrative Affairs
- d) Plenary Session of the Administrative Law Divisions
- e) Plenary Session of the Tax Law Divisions
- f) Assembly on the Unification of Conflicting Judgments
- g) Committee of Presidents
- h) High Board of Discipline

- i) Board of Discipline

### **General Secretariat**

#### **Section 6.**

1. A member appointed by the President of the Council of State shall serve as the Secretary General of the Council of State.

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

### **Administrative Services**

#### **Section 7.**

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

## **PART TWO**

### **Qualifications, Election and Appointment**

#### **Qualifications of the Members of the Council of State**

##### **Section 8.**

1. The Members of the Council of State shall be appointed amongst those who serve as a

- a) Judge or advocate general in administrative justice,
- b) Minister, permanent secretary, deputy permanent secretary, ambassador, governor,
- c) General, admiral,
- d) Secretary-general of the President of the Republic,
- e) Director-general in the government departments financed by the general and subsidiary budgets or in public institutions, or head of public investigation committees at least at the same level of director-generals,
- f) Professor of law, economy, finance or public administration at institutions of higher education,
- g) Chief legal advisor or a first category legal advisor a government ministry or, being again at the same level, legal advisor, counsel responsible for judicial matters, directors of the department of legal disputes at the Ministry of Finance.

2. In order to be appointed as a member of the Council of State, judges and advocates general in administrative justice, after being promoted to first category, must successfully serve at this position for three years and must not lose their qualifications required by the position.

3. Those who will be appointed as members of the Council of State from administrative positions must work for twenty years in the service of the State after they completed their higher education and at least for three years in one of the positions enumerated above. Those persons must be vested with the right to first class salary. They must also be of high moral character required from a judge.

## **Appointment of the Members**

### **Section 9.**

1. Three-fourth of the vacant seats in the Council of State shall be appointed from judges and advocates general who serve in administrative justice, whereas the remaining one-fourth shall be appointed from the other positions.

2. Judges and advocates general who serve at administrative courts shall be appointed by the Supreme Council of Judges and Public Prosecutors, and those from administrative positions by the President of the Republic.

3. When the number of vacant seats in the Council of State reaches four, the Presidency of the Council of State shall inform the Prime Ministry and Ministry of Justice within three days from the date of the fourth post falls vacant.

4. The appointment shall be made by the President of the Republic and the Supreme Council of Judges and Public Prosecutors in less than two months from this notification.

## **Qualifications, Appointment and Terms of Office of the President, Chief Advocate General, Vice-Presidents of the Council of State and Presidents of the Divisions**

### **Section 10.**

1. The President, Chief Advocate General, Vice-Presidents of the Council of State and Presidents of the Divisions shall be elected by the Plenary Assembly of the Council of State amongst its own members, by an absolute majority of the total number of members.

2. It is compulsory to have served as a member of the Council of State for eight years to be elected as the President and Chief Advocate General of the Council of State, six years to be elected as the Vice-President of the Council of State and the President of a Division.

3. **(Repealed: 22/3/1990- 3619/ s. 12)**

4. The terms of office of the President, Chief Advocate General, Vice-Presidents of the Council of State and Presidents of the Divisions shall be four years. They may be re-elected at the end of their term of office. Those who cannot be re-elected, do not stand for the re-election or resign from office before its normal expiry shall continue to serve as members of the Council of State.

5. The election shall be held fifteen days before the end of the term. If the post falls vacant due to any other reason, the election shall be held within fifteen days after the post falls vacant. Judicial recess shall not be taken into consideration in the calculation of this period.

6. Those who want to stand as a candidate may either file an application to the Presidency of the Council of State or orally present their candidacy in the meeting before the election.

7. The election shall be held by secret ballot. If no result can be obtained in the first three ballots, the fourth ballot shall be held between the two candidates who have received the highest number of votes in the third ballot. If the majority cannot be obtained in the fourth ballot, the election shall be renewed with a new presentation of candidates. However, if no result can be obtained in the first three ballots held after the renewal, the candidate who gets the greatest number of votes in the fourth ballot shall be deemed the winner of the election.

8. At least three-fourth of all members must be present in the sittings of the Plenary Assembly that convene to hold this election.

## **Appointment of Judge Reporters and Advocates General and their Assignment to Divisions**

### **Section 11.**

1. The judge reporters and advocates general of the Council of State shall be appointed by the Supreme Council of Judges and Public Prosecutors among administrative justice judges who have served for five years and have a positive employment record.

2. The service place of the judge reporters shall be determined by the Committee of Presidents. The service place shall be changed following the same procedure. The service place cannot be changed before the end of an employment record period unless it is necessary for administrative reasons. The employment record period shall be at least six months.

3. Committees and Divisions at which the judge reporters serve shall be changed according to principles and periods determined in a by-law.

## **Qualification and Appointment of the Staff**

### **Section 12.**

Employees, who are mentioned in section 7 of this Act, must possess the qualifications set forth in Public Servants Act. Those employees shall be appointed by the Presidency of the Council of State.

## **PART THREE Divisions and Committees**

### **Divisions**

#### **Section 13.**

1. (Amended: 8.12.1994-4055/s. 1) The Council of State shall be composed of ten judicial and two administrative divisions.

2. Each division shall consist of at least a President and four members, the quorum for deliberations being five. Decisions shall be taken by majority.

3. There shall be a sufficient number of judge reporters in the Divisions.

4. There shall be a registry under the direction of the chief reporter in each Division. The registry shall provide clerical service to the Division and make notifications.

## **Designation of the Presidents and Members to the Divisions**

### **Section 14.**

1. The Presidents of the Divisions shall be elected as the President of a particular Division.

2. The Members shall be designated to the Divisions by the decision of the Committee of Presidents. Their Divisions may be changed following the same procedure, in accordance with the requirements of the work.

3. Members who work in the Judicial Divisions of the Council of State must have a first degree either in law or in politics, administrative science, economy and finance that includes law modules in its curriculum.

4. Vacancies that might occur in the Divisions shall be filled by the designation of Members from other Divisions. Those Members shall be determined by the decision of the Committee of Presidents in advance.

## **Plenary Assembly of the Council of State**

### **Section 15.**

1. The Plenary Assembly of the Council of State shall be composed of the President, Chief Advocate General, Vice-Presidents and Secretary-General of the Council of State and Presidents and Members of the Divisions.

2. The quorum of the meetings and deliberations of the Plenary Assembly shall be more than half of the total number of the Presidents and Members in office.

3. Decisions shall be taken by majority. In the event of a tie, the side that includes the President of the Council of State shall be deemed to have obtained the majority. Special provisions concerning the quorum required for the sessions of the Plenary Assembly are reserved.

### **Board of Administrative Affairs**

#### **Section 16.**

1. The Board of Administrative Affairs shall be composed of the Presidents and Members of the administrative Divisions and ten Presidents and Members elected from judicial Divisions by the Plenary Assembly each year.

2. This Board shall be presided by the President or one of the Vice-Presidents of the Council of State.

3. The quorum of the meetings and deliberations of the Board shall be fifteen.

4. In the deliberation of cases concerning the trial of public servants, the Board shall not include the President and Members of the Division that has given the decision on the case examined by the Board. In these sessions, the quorum of the sessions and deliberations shall be eleven.

5. The decisions of the Board shall be taken by majority. In the event of a tie, the side that includes the President of the Board shall be deemed to have obtained the majority.

6. A sufficient number of judge reporters and employees shall be appointed to the Board of Administrative Affairs.

### **Plenary Sessions of the Administrative and Tax Law Divisions**

#### **Section 17.**

1. The Plenary Session of the Administrative Law Divisions shall be composed of the Presidents and Members of the Administrative Law Divisions; whereas the Plenary Session of Tax Law Divisions shall be composed of the Presidents and Members of the Tax Law Divisions.

2. The Plenary Session of Law Divisions shall be presided by the President or one of the Vice-Presidents of the Council of State.

3. **(Amended: 2/6/2000-4575/s. 1)** The quorum of the meetings and deliberations of those Sessions shall be seventeen. If the number of members present in the session is even, the lowest ranking member shall not participate in the session.

4. **(Added: 22/3/1990-3619/ s.1)** In the review of an appeal or an objection made against a judgment or a decision of an administrative law division or a tax law division of the Council of State, which has examined the case as a first instance court, the Plenary Session shall not include the members who participated in the sessions of the relevant division while giving its judgment or doing any judicial act that affect the judgment. The quorum of meeting and deliberation of the Plenary Sessions in the review of such appeals and objections shall be fifteen. However, in the review of the decisions given in a combined session of two law divisions, the quorum of meeting and deliberation of the Plenary Session shall be eleven. If the number of members present in the sessions is even, the lowest ranking member shall not participate in the session.

5. The decisions of these Sessions shall be taken by majority.

6. A sufficient number of judge reporters and employees shall be assigned to the Sessions.

### **Assembly on the Unification of Conflicting Judgments**

#### **Section 18.**

1. The Assembly on the Unification of Conflicting Judgments shall be composed of the President, Chief Advocate General and Vice-Presidents of the Council of State and Presidents and Members of the Divisions.

2. The quorum of meeting and deliberation of the Assembly shall be thirty-one. If the number of members present in the session is even, the lowest ranking member shall not participate in the session.

3. In the first meeting of the Assembly, decisions on the merits shall be given by the absolute majority of all members. If the quorum of decision cannot be obtained in this session, the decision shall be given by the absolute majority of the present members in the second session. Other decisions of the Assembly shall be given by majority.

4. A sufficient number of judge reporters and employees shall be assigned to the Assembly on the Unification of Conflicting Judgments.

### **Committee of the Presidents**

#### **Section 19.**

**(Amended: 22/3/1990-3619/ s. 2)**

1. The Committee of the Presidents shall be composed of the President, Chief Advocate General and Vice-Presidents of the Council of State and Presidents of the Divisions. The Committee shall be presided by the President of the Council of the State.

2. If a Division President is prevented from taking part in the sittings, the highest-ranking member of the Division concerned shall participate in the session of the Committee.

3. The Decisions shall be given by majority.

4. In the event of a tie, the side that includes the President of the Council of State shall be deemed to have obtained the majority.

### **High Board of Discipline**

#### **Section 20.**

1. The High Board of Discipline shall consist of one member from each Division and three Presidents, two from justice Divisions and one from administrative Divisions, all of which will be elected by the Plenary Assembly of the Council of State. The Members of the High Board of Discipline shall be renewed at the beginning of every calendar year in the same way. The High Board of Discipline shall be presided by the President of the Council of State. The Chief Advocate General shall be *ex-officio* member of the High Board.

2. Two Division Presidents and five Members shall be elected as substitutes to the Board.

3. All the members of the High Board shall take part in the deliberations. The quorum of decision shall be two-thirds of the members.

4. When a post falls vacant, the vacancy shall be filled by a new election held by the Plenary Assembly of the Council of State under the procedure shown in the first paragraph of this section, within ten days after the post falls vacant.

5. Clerical work of the High Board shall be carried out by the Secretary-General.

### **Board of Discipline**

#### **Section 21.**

The Board of Discipline shall be composed of a Division President, a Member, a first category judge-reporter and an advocate general of the Council of State. The Members of the Board of Discipline shall be renewed at the beginning of every calendar year. One substitute shall be elected for each member following the same procedure. The Secretary-General shall be *ex-officio* member of the Board. The Division President shall preside over the Board. The Board shall give its decisions by majority.

### **Replacement of the Presidents and Chief Advocate General**

#### **Section 22.**

1. If the office of the President is vacant, or the President is unable to carry out his duties, or he is on leave, the office of the President shall be assumed by the highest-ranking Vice-President.

2. In Divisions, the President shall be replaced by the highest-ranking Member. The Chief Advocate General shall be replaced by a Member who is appointed by the President of the Council of State. This Member must possess the qualifications required to be elected as Chief Advocate General.

## **PART FOUR**

### **Functions of the Council of State, Divisions and Other Organs**

#### **Functions of the Council of State**

##### **Section 23**

The Council of State shall

- a) **(Amended: 22/3/1990-3619/s. 3)** review the appeals brought against the judgments given by administrative or tax courts and judgments rendered in the cases which have been examined by the Council of State as a first instance court,
- b) decide on administrative cases written in the present Act, as a first instance or appellate court,
- c) present its opinion on the draft legislation submitted by the Prime Ministry or the Council of Ministers,
- d) **(Amended: 18/12/1999-4492/ s. 1)** examine draft regulations of the Council of Ministers; present its opinion on the conditions and the contracts concerning public services under which concessions are granted,
- e) present its opinion on the matters submitted by the Presidency of the Republic and the Prime Ministry,
- f) exercise other functions assigned to it by the law.

#### **Actions that shall be Reviewed by the Council of State as the First Instance Court**

##### **Section 24 (Amended: 2/6/2000-4575/ s. 2)**

1. The Council of State shall be the first instance court in the annulment and full remedy actions brought against the following administrative acts and actions:

- a) Decisions of the Council of Ministers,
- b) Joint decrees relating to permanent secretaries, deputy permanent secretaries, director-generals and head of committees of the Prime Ministry and Ministries; permanent secretaries, presidents and director-generals of other public bodies and organizations,
- c) Statutory instruments of the ministries and statutory instruments of public bodies or public professional organizations that apply in the entire country,
- d) Actions and acts based on the decision of an administrative division or the Board of Administrative Affairs of the Council of State,

- e) Cases that fall within the jurisdiction of more than one administrative or tax court,
- f) Decisions of the High Board of Discipline of the Council of State and acts of the Presidency of the Council of State relating to the field of operation of the High Board.

The Council of State shall also decide in cases relating to disputes, which arise, from conditions and contracts concerning public services under which concessions are granted provided that arbitration has not been suggested to settle these disputes.

2. The Council of State shall review the applications concerning the loss of status of elected organs of the municipalities and provinces.

### **Actions that shall be Reviewed by the Council of State upon Appeal**

#### **Section 25 (Amended: 22/3/1990-3619/ s. 5)**

Final decisions given by administrative and tax courts as well as final decisions of the Council of State acting as the first instance court shall be reviewed by the Council of State upon appeal. The Council of State shall adjudicate the dispute.

### **Subject-Matter Jurisdiction in Administrative Disputes and Actions**

#### **Section 26. (Amended: 2/6/2000-4575/ s. 3)**

Administrative disputes and actions shall be reviewed and adjudicated in the Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth divisions and the Plenary Sessions of the Administrative and Tax Law Divisions.

Due to the requirements of the burden of work, the Committee of the Presidents may entrust one of the tax law divisions with the functions of administrative law divisions or one of the administrative law divisions with the functions of tax law divisions.

Matters on how the case files of the entrusted Division will be transferred to other Divisions in line with rules of jurisdiction on tax and administrative disputes and which Division's cases will be referred to the entrusted Division shall be decided by the decision of the Committee of Presidents. These decisions shall be promulgated in the Official Gazette and apply from the first date of the month following the decision.

The President and Members of the entrusted Division shall join the Plenary Session, which reviews the matters that fall within the jurisdiction of the Division.

### **Functions of the Third Division**

#### **Section 27.**

The Third Division shall adjudicate on the following matters:

- a) Disputes between tax courts concerning competence and venue, and the designation of a court to exercise jurisdiction over connected cases,
- b) Matters concerning taxes, fees and duties, which do not fall within the jurisdiction of other divisions.

### **Functions of the Fourth Division**

#### **Section 28.**

The Fourth Division shall adjudicate on cases relating to income and corporate taxes.

### **Functions of the Fifth Division**

#### **Section 29.**

The Fifth Division shall adjudicate on cases relating to the law on public employees.

### **Functions of the Sixth Division**

#### **Section 30.**

The Sixth Division shall adjudicate on disputes arising from

- a) development, expropriation and demolition and other related matters,
- b) the law on antiquities.

### **Functions of the Seventh Division**

#### **Section 31.**

The Seventh Division shall adjudicate on disputes relating to

- a) Custom Duty, transaction tax and taxes concerning exportation,
- b) Business Tax,
- c) Motor Vehicles and Vehicle Purchase Tax,
- d) Inheritance and Gift Tax,
- e) Stamp Duty and taxes relating to expenses made abroad.

### **Functions of the Eighth Division**

#### **Section 32.**

The Eighth Division shall adjudicate on disputes relating to

- a) the application of the law on villages, municipalities and provinces,
- b) the loss of status of elected organs of local administrative bodies,
- c) the law on boundary, housing, the acquisition of land,
- d) the law on mines, stone quarries and forests,
- e) the law on public professional organizations,
- f) matters concerning students and education,
- g) **(Repealed: 22/3/1990-3619/s. 12)**
- h) Highway Traffic Act.

### **Functions of the Ninth Division**

#### **Section 33.**

The Ninth Division shall adjudicate on disputes relating to

- a) Real Property Tax and Real Estate Purchase Tax
- b) Real Estate Betterment Tax,
- c) Taxes, fees, duties and other revenues of villages, municipalities and provinces and their tariffs,
- d) Duties Act.

### **Functions of the Tenth Division**

#### **Section 34.**

The Tenth Division shall adjudicate on the following matters:

- a) disputes between administrative courts concerning competence and venue, and the designation of a court to exercise jurisdiction over connected cases,
- b) matters which do not fall within the jurisdiction of other administrative law divisions except divisions that review tax disputes,
- c) disputes relating to law on the protection of the value of Turkish currency.

### **Functions of the Eleventh Division**

#### **Section 34/A. (Added: 8/12/1994-4055/ s. 3)**

The eleventh Division shall adjudicate the cases relating to Value Added Tax.

### **Functions of the Twelfth Division**

#### **Section 34/B. (Added: 8/12/1994-4055/ s. 3)**

The twelfth Division shall adjudicate the cases relating to public servants.

## **Actions Relating to Public Claims**

### **Section 35.**

Actions relating to the application of the Act on the Procedure of Public Claims' Collection shall be adjudicated by the Division which is empowered to review the actions concerning the assessment of the claim.

## **Adjudication in Disputes Relating to New Taxes**

### **Section 36.**

Disputes arising from the legislation that repeals a tax and replaces it by the same or a similar type of tax shall be adjudicated by the Division which was in charge to adjudicate disputes arising from the repealed tax.

## **Designation of some Matters to other Divisions**

### **Section 37.**

If the burden of work of law divisions is disproportionate, a part of the matters falling within the jurisdiction of a Division may be transferred to another Division by the decision of the Committee of Presidents. The jurisdictional differentiation of the Divisions relating to administrative and tax disputes shall be taken into account in the designation. Decisions on this matter shall be promulgated in the Official Gazette and apply from the first date of the month following the decision.

## **Functions of the Plenary Sessions of the Administrative and Tax Law Divisions**

### **Section 38. (Amended: 22/3/1990-3619/ s. 6)**

1. The Plenary Session of the Administrative Law Divisions shall review the following cases on appeal:

- a) Decisions of administrative courts insisting on their previous judgments, despite the reversal decision of a Division of the Council of State about the previous judgment,
- b) Judgments of the administrative law Divisions of the Council of State given as the first instance court.

2. The Plenary Session of the Tax Law Divisions shall review the following cases on appeal:

- a) Decisions of tax courts insisting on their previous judgments, despite the reversal decision of a Division of the Council of State on the previous judgment,
- b) Judgments of the tax law Divisions of the Council of State given as the first instance court.

## **Functions of the Assembly on the Unification of Conflicting Judgments**

### **Section 39.**

If a difference or conflict arises between the decisions of law Divisions or the Plenary Sessions of the Administrative and Tax Law Divisions, either given by the same organ or by the different ones, or when it is deemed necessary to modify a previous decision on the unification of conflicting judgments, upon the reference of the issue by the President of the Council of State, receiving the opinion of the Chief Advocate General, the Assembly on the Unification of Conflicting Judgments shall examine the matter and decide on the unification of the conflicting judgments or modification of its previous decision if it deems it necessary.

## **Those Who are Authorized to Request the Unification of Conflicting Judgments**

### **Section 40.**

1. The unification of the conflicting judgments or the modification of the previous unification decision may be requested by the President of the Council of State, relevant Divisions, Plenary Sessions of the Administrative and Tax Law Divisions or the Chief Advocate General.

2. Those who are affected by the conflicting decisions may apply to the Presidency of the Council of State with the request of unification.

3. Decisions of the Assembly on the Unification of Conflicting Judgments relating to the unification of the conflicting judgments and the modification of the previous unification decision shall be promulgated in the Official Gazette within a month after they were sent.

4. The Divisions and organs of the Council of State, administrative courts and the administration must comply with these decisions.

### **Jurisdiction in Administrative Matters**

#### **Section 41.**

Administrative disputes and duties relating to administrative matters shall be examined in the First and Second Divisions and the Board of Administrative Affairs.

### **Functions of the First Division**

#### **Section 42.**

The First Division shall examine the following matters:

- a) draft legislation submitted by the Prime Ministry and the Council of Ministers,
- b) draft regulations submitted by the Prime Ministry,
- c) **(Amended: 18/12/1999/4492- s. 3)** the conditions and the contracts concerning public services under which concessions are granted,
- d) disputes arising between administrative authorities relating to competence and venue that are submitted by the Prime Ministry,
- e) requests on subjects about which, according to the law, the opinion of the Council of State must be taken,
- f) matters submitted by the Presidency of the Republic or the Prime Ministry to be examined and advised on by the Council of State,
- g) disputes arising from the application of section 30 of Act No. 6830 on Expropriation,
- h) matters, either directly or through an application, designated to the Council of State pursuant to the Provisional Act on General Administration of Provinces,
- i) matters designated to the Council of State by the Municipalities Act which are not the subject of a judicial action,
- j) requests aimed at getting an authorization for an association to be deemed a public benefit association,
- k) Other matters which do not fall within the jurisdiction of the other administrative division.

The First Division shall decide or present its opinion on the matter as required.

### **Functions of the Second Division**

#### **Section 43.**

The Second Division shall decide on the matters which, under the Act on the Prosecution of Public Servants, must be examined by the Council of State.

### **Designation of Some Matters to the other Administrative Division**

#### **Section 44.**

If the burden of work of divisions is disproportionate, a part of the matters falling within the jurisdiction of a Division may be transferred to another administrative Division by the

decision of the Committee of Presidents. Decisions on this matter shall be promulgated in the Official Gazette and apply from the first date of the month following the decision.

### **Functions of the Plenary Assembly of the Council of State**

#### **Section 45.**

The Plenary Assembly of the Council of State shall carry out the election duties designated to this Assembly by this Act and the law as well as other functions. The Assembly shall also accept the by-laws and internal regulations shown by this Act.

### **Functions of the Board of Administrative Affairs**

#### **Section 46.**

1. The Board of Administrative Affairs shall examine the following matters:

- a) **(Repealed: 22/3/1990-3619/s. 12)**
- b) **(Amended: 18/12/1999-4492/s.4)** conditions and the contracts concerning public services under which concessions are granted,
- c) matters designated to the Board of Administrative Affairs by the law,
- d) disputes arising between the administrative divisions, boards and committees of the Council of State concerning competence,
- e) matters transferred by the President among the matters dealt with by the administrative Divisions apart from the ones shown above,
- f) pursuant to the Act on the Prosecution of Public Servants, all decisions given by the relevant administrative Division not to authorize prosecution and decisions of the Division authorizing prosecution, which were brought to the Board by appeal.

The Board of Administrative shall decide or give its opinion on the matter as required by the law. The relevant administrative division of the Council of State must comply with the reversal.

2. If the decision given on the matters examined by an administrative Division, which has not been transferred to the Board of Administrative Affairs by the President of the Council of State as stated in sub-paragraph (e), are not in line with the opinion of the relevant Ministry, those decisions shall be examined by the Board of Administrative Affairs upon the request of the Minister.

3. In the cases where an administrative Division has not decided on the merits due to jurisdictional or procedural reasons, if the Board of Administrative Affairs does not approve this decision, the file shall be sent back to the relevant Division. The Division shall examine the case in line with the instructions of the Board of Administrative Affairs and reach its decision.

### **Deliberation of the Administrative Matters**

#### **Section 47.**

In the meetings of the Divisions and Committees, after the presentations of the members and judge reporters, deliberations on the matters shall start. Once the subjects have been clarified, first the problems relating to competence and procedure, if there are any, and then the other problems shall be decided upon.

### **Deliberations on Draft Bills, Draft Regulations of the Council of Ministers, Conditions and Contracts concerning Public Services under which Concessions are Granted**

#### **Section 48 (Amended: 18/12/1999-4492/s. 5)**

The Council of State must give its opinion on the draft legislation and draft regulations of the Council of Ministers and on conditions and contracts concerning public services under which concessions are granted within two months from the receipt of the request.

### **Obtaining Documents and Statement of the Authorized Persons**

#### **Section 49.**

1. The Council of State may ask from the relevant organs to bring any document or information required in the case. Authorized employees and experts from the relevant offices or from another institution may be invited to get more information.

2. If the information and documents asked for concern the State's security and high interests or concern a foreign government along with the State's security and high interests, the relevant authority may refuse to give the information and documents provided that it notifies the Council of State of the reasons.

### **Direction of the Deliberations**

#### **Section 50.**

The president shall direct the deliberations and determine the subjects that will be put to vote. Those who vote with the minority on the jurisdictional and procedural matters cannot refrain from voting on the merits.

### **Decisions**

#### **Section 51.**

Names and surnames of the participants, subject of the case, a statement of justification, dissenting opinions and the date of the decision shall be included in the decisions. The Decisions shall be signed by the President and Members who participated in the session.

### **Functions of the Committee of Presidents**

#### **Section 52.**

1. The Committee of Presidents shall examine the following matters:

- a) Designation of Members to the Divisions,
- b) Alteration of Divisions for the Presidents and Members when it is deemed necessary,
- c) Distribution of cases pursuant to sections 37 and 44,
- d) Disputes relating to competence arising between the Divisions of the council of State,
- e) **(Added: 22/3/1990-3619/s. 8)** Disputes relating to competence and venue arising between the administrative and tax courts of the different judicial districts and the designation of a court to exercise jurisdiction over connected cases
- f) Matters transferred by the President of the Council of State.

The Committee of Presidents shall decide or give its opinion on the matter as required.

3. The Committee shall convene with the invitation of the President.

### **Functions of the High Board of Discipline**

#### **Section 53.**

The High Board of Discipline, under the provisions of this Act, shall decide to initiate disciplinary proceedings against the President, Vice-Presidents and Chief Advocate General of the Council of State and against the Presidents and Members of the Divisions, and impose disciplinary penalties upon them. The High Board shall also carry out other duties shown in this Act.

## **Board of Discipline**

### **Section 54.**

The Board of Discipline shall

- a) carry out the functions of the High Board of Discipline with regard to the employees of the Council of State;
- b) examine and decide on, as a first instance organ, the cases of the employees of the Council of State, pursuant to the Provisions of the Act on the Prosecution of Public Servants;
- c) serve as the Committee of Deliberation and Consultation with regard to employees of the Council of State, as provided under section 226, paragraph (B) of the Public Servants Act.

## **PART FIVE**

### **Functions and Rights**

#### **Functions of the President of the Council of State**

##### **Section 55.**

1. The President of Council of State shall be responsible from the general administration of the Council of State. He shall ensure the orderly functioning of the organs of the Council of State. If required, in consultation with the Presidents of the relevant Divisions and the Committee of Presidents, he shall take necessary administrative measures.

2. The President of the Council of State shall preside over the Plenary Assembly of the Council of State, Assembly on the Unification of Conflicting Judgments, Board of Administrative Affairs, Plenary Session of the Administrative Law Divisions, Plenary Session of the Tax Law Divisions, High Board of Discipline and the Committee of Presidents.

#### **Functions of the Vice-Presidents of the Council of State**

##### **Section 56.**

1. They shall carry out the functions of the President which have been delegated to them by the President.

2. They shall act for the President in his absence, according to rank and seniority.

3. They shall preside over the meetings which are not been attended by the President.

#### **Functions of the Presidents of the Divisions**

##### **Section 57.**

1. Presidents of the Divisions shall ensure the attendance and orderly functioning of those who serve in the Division, ensure the training of judge reporters and employees of the Divisions. They shall also secure the productive functioning of the Division. They shall direct the deliberations. They shall attend the meetings of the Committees they are a member of, present their opinions and cast their vote.

2. At the end of each calendar year, the Presidents of the Divisions shall present a report to the Presidency of the Council of State informing the state of the cases examined by the Division and any deficiency in the execution of the functions of the Division. They shall also report the measures that should be taken.

#### **Functions of the Members**

##### **Section 58.**

The Members shall examine the case files assigned to them by the President of the Division in the Divisions and by the President of the Organ in the other Organs of the Council

of State, report the necessary information to the relevant Division or Organ without any delay and write down the decisions. They shall also attend the meetings of the Divisions and Organs of which they are a member, submit their opinions and views, cast their vote and carry out other duties about the Division assigned to them.

### **Functions of the Secretary-General**

#### **Section 59.**

1. The Secretary-General shall carry out the tasks entrusted by the present Act as well as administrative and clerical duties assigned by the President of the Council of State.

2. Directories and other administrative sections that are not connected with the Divisions and the Chief Advocate General shall be under the direction and supervision of the Secretary-General.

### **Functions of the Chief Advocate General**

#### **Section 60.**

1. The Chief Advocate General shall assign the case files to the advocates general according to the jurisdictional classification. He shall ensure the submission of the advocates general's reports on time, secure the attendance and orderly working of the other employees at the office of the Chief Advocate General. He shall take the measures to register and reserve the files received by the office and to submit the files whose examination has been finalized to the relevant organs.

2. The Chief Advocate General shall express his opinion on the cases and carry out other functions designated to him by the law.

3. At the end of each calendar year, the Chief Advocate General shall present a report to the President of the Council of State informing the state of the work and any deficiency in the execution of the functions of the Office. He shall also report the measures that should be taken.

4. The Chief Advocate General may charge one of the advocates general to assist him in the execution of administrative functions.

### **Functions of Advocates General**

#### **Section 61.**

1. The advocates general shall examine the files assigned to them, on behalf of the Chief Advocate General, and give their written and justified opinion within a month in lawsuits and within two days in the applications for stay of execution. When these periods are exceeded they shall inform the Chief Advocate General about the situation and give their reasons for the delay. They shall carry out other duties assigned by the President and the Chief Advocate General of the Council of State, comply with the measures taken by the Chief Advocate General to maintain workplace order and to increase productivity.

2. The advocates general, through the Presidency of the Council of State, may request the relevant authorities to furnish any kind of information. They may also ask from the relevant organs to provide the files concerned.

3. If it is deemed necessary by the law Divisions or Plenary Sessions of the Administrative and Tax Law Divisions, and provided that the advocates general have been informed in advance, the advocates general of the Council of State shall also present their opinions orally.

### **Functions of Judge Reporters**

#### **Section 62.**

1. The judge reporters shall examine the matters assigned to them by the President of the Council of State and the Presidents of Divisions and Organs and make the necessary statements to the Division or Organ concerned. They shall present their own opinions and views both in writing and orally, write the draft decisions and prepare the minutes. They shall also carry out other duties designated by the President of the Council of State, the President of the Division or the Organ.

2. In every Division and Organ, a first category judge reporter, who will be appointed by the President of the Division or Organ concerned, shall supervise the attendance, training and productivity of the employees in the Division or Organ. He shall ensure the orderly execution of administrative and clerical services without delays. He shall also carry out the duties assigned by the President of the Council of State, the President of the Division or Organ.

### **Procedure that is Followed in the Execution of Functions**

#### **Section 63.**

Provisions relating to the execution of the functions of the Members of the Council of State, judge reporters and advocates general stated in the sections above, to the regulation of the working procedure of the administrative Divisions, Boards and Committees, and to the implementation of the functions of the offices, which are enumerated in Section 7, and to the completion of the works within specific periods shall be included in the internal regulations of the Council of State.

### **Salaries and allowances of the President, Chief Advocate General and Members of the Council of State and other Financial Rights**

#### **Section 64.**

As to the salaries, allowances, financial, social and other rights relating to the status; the law that applies to the President of the Court of Cassation, Chief Public Prosecutor of the Republic, Vice-Presidents of the Court of Cassation and the Presidents and Members of the Divisions of the Court of Cassation shall also apply to the President, Chief Advocate General and Vice-Presidents of the Council of State and the Presidents and Members of the Divisions respectively.

### **Visits Abroad**

#### **Section 65.**

1. The Members of the Council of State, by the assignment of the Committee of Presidents, may be sent to foreign countries, where the system of administrative justice is in force to carry out scientific research in the field of administrative and tax law, and to make professional observations provided that this period does not exceed a year. Salaries, allowances, travel expenses and daily wage of the Member shall be paid to him during the visit.

2. Principles relating to the decision to send the President, Chief Advocate General and Vice-Presidents of the Council of State and the Presidents and Members of the Divisions abroad and other related matters shall be regulated by a by-law.

### **Acceptance of Other Jobs and Duties**

#### **Section 66.**

1. The Members of the Council of State may carry out scientific researches and make publications; they can also attend to national and international scientific meetings such as congress, conferences, seminars as well as other meetings concerning their profession with the permission of the President of the Council of State. Leaves up to fifteen days shall be

given by the President of the Council of State, whereas leaves exceeding fifteen days by the Committee of Presidents.

2. The Members of the Council of State may be assigned to the activities stated in the first paragraph by the Committee of Presidents.

3. By a decision of the Committee of Presidents, the Members of the Council of State written in the paragraph above may deliver lectures and conferences in higher education institutions, in addition to their main functions.

## **PART SIX**

### **Disciplinary Proceedings**

#### **Disciplinary Proceedings**

##### **Section 67.**

If the state or the activities of the President, Chief Advocate General, Vice-Presidents of the Council of State and the Presidents and Members of the Divisions are seen or reported to be incompatible with the dignity and honor of a supreme judge or to be causing disruptions to the work of the Council of State, disciplinary proceedings shall be carried out against them under the provisions of the present Act.

#### **Transfer of the Issue to the High Board of Discipline**

##### **Section 68.**

When the President, Chief Advocate General, Vice-Presidents of the Council of State and the Presidents and Members of the Divisions are seen or reported to be in a state written in the above Section, the transfer of the issue to the High Board of Discipline shall be assessed and decided by the Committee of the Presidents.

#### **Initiation of Disciplinary Proceedings**

##### **Section 69.**

1. The High Board of Discipline shall decide whether it is appropriate to initiate disciplinary proceedings, according to the evidence obtained and the nature of the state and activities.

2. If the Board decides to initiate the proceedings, it shall appoint three persons among the Presidents and Members of the Divisions other than the Members of the Board. If the person who is charged is also a member of the High Board of Discipline, he cannot participate in the sessions on this issue. Their places shall be filled according to the procedure shown in Section 20.

#### **Form of the Investigation**

##### **Section 70.**

1. Those who are charged with the investigation shall notify the person concerned about the state and activities attributed to him, hear his defense, hear the testimony of others under oath when needed, gather information about the matter and ascertain the evidence.

2. All public bodies, organizations and institutions as well as natural and legal persons are obliged to answer the questions put by the investigators and to fulfill other requests. However, the provisions of Section 49 are reserved.

#### **Submission of the Report**

##### **Section 71.**

Investigators shall prepare a report about the inquiry that includes the information and evidence obtained and the opinion of the investigators on whether a disciplinary sanction should be imposed.

**Procedure after Receiving the Report**  
**Section 72.**

1. The report prepared according to the above Section shall be submitted to the High Board of Discipline. Those who have carried out the investigation cannot participate in this Board.

2. The Chair of the Board shall notify the person concerned the result of the investigation in writing and invite him to present his defense in a period determined by the Chair, which cannot be less than five days.

3. The Chair of the Board shall assign the investigation file to one of the Members.

4. The Board shall review the matter on the bases of written evidence. If it deems necessary, it may decide to widen and deepen the investigation.

5. The person concerned may examine his file in the presence of the reporter Member.

**Disciplinary Penalties**  
**Section 73.**

1. If the High Board of Discipline concludes that the existence of the attributed state and activities has not been proven, it shall decide to strike the file out of the list.

2. If the Board concludes that the existence of the attributed state and activities have been proven, taking into account the nature and the gravity of the breach, it shall decide to issue a warning to the person concerned or invite him to resign or retire, depending on his service period.

3. If the decision of the Board is about the President of the Council of State, the Vice-President, in all other cases, the President of the Council of State shall notify the decision to the person concerned.

**Execution of Decisions**  
**Section 74.**

If the person concerned does not comply with the decision that invites him to resign or retire within a month after the notification, he shall be deemed resigned. He shall be deemed on vacation for the one-month period.

**Legal Action against the Disciplinary Penalty**  
**Section 75.**

1. The person concerned may file an action against the decision within fifteen days from the notification of the decision of the High Board of Discipline. This action shall be decided upon within three months after the defense is presented or after the period for the defense expired. Judicial recess shall not be taken into consideration in the calculation of this period.

2. Positions of the persons concerned shall not be filled until the case is finalized.

3. Those who have participated in the decision of the High Board of Discipline or carried out the investigation cannot take part in the deliberations of the cases concerning disciplinary penalties.

## **Criminal Procedure**

### **Investigation Section 76.**

1. Preliminary investigation in respect of the crimes of the President, Chief Advocate General, Vice-Presidents of the Council of State and the Presidents and Members of the Divisions that have been committed in connection with, or in the course of their duties, shall be carried out by a committee composed of a President and two Members from the Divisions who will be appointed by the President of the Council of State.

2. The investigation about the President of the Council of State shall be carried out by a committee composed of a President and two Members from the Divisions who will be appointed by the Committee of the Presidents meeting without the President of the Council of State.

3. The Committee shall present its report at the end of the investigation and relevant documents to the President of the Council of State. If the investigation is about the President of the Council of the State, it shall present the report to the Vice-President. The file on the matter shall be assigned to the Presidency of the Board of Administrative Affairs by the President or Vice-President of the Council of State, to be decided upon. The decision of this Committee shall be notified to the accused and the complainants, if there are any.

4. The decision of not to authorise prosecution, automatically, and the decision authorizing prosecution, upon appeal, shall be reviewed by the Plenary Assembly of the Council of State to which the President and Members of the Board of Administrative Affairs will not attend.

5. The quorum of the Plenary Assembly of the Council of State in these Sessions shall be thirty-one. If the number of members present in the session is even, the lowest ranking member shall not participate in the session.

### **Period for the Objection Section 77.**

The period for the objections against the decision given at the preliminary stage pursuant to the provisions of section 76 shall be ten days from the notification of the decision to the accused or complainant.

### **Examination by the Competent Committees Section 78.**

1. The Committees written in the above Sections shall review the matter on the bases of written evidence. The accused, upon the notification of the decision authorizing prosecution, may examine the investigation file under the supervision of the judge reporter of the committee that has rendered the decision.

2. Decisions shall be notified to those concerned by the judge reporter of the committee according to the provisions of the Notification Act.

### **Dispatch of the Investigation File to the Judicial Organs Section 79.**

After the decision authorizing prosecution given pursuant to Section 76 became final by the approval of the higher committee or due to lack of objection, the investigation file shall be sent to the Chief Public Prosecutor of the Republic by the President or Vice-President of the Council of State to take the necessary steps.

### **Those who cannot Participate in the Decision**

**Section 80.**

Those who have carried out the investigation cannot participate in the meetings of the Committees rendering the decision on the investigation.

**Matters on which the Criminal Procedure Act Applies**

**Section 81.**

1. When the present Act is silent on a matter, provisions of the Criminal Procedure Act concerning investigations shall apply in the investigations carried out and the decisions given under the above provisions.

2. The Committees of Investigation shall have the power of the interrogating judge.

**Prosecution in Personal Crimes**

**Section 82.**

1. In the prosecution of the personal crimes of the President, Chief Advocate General, Vice-Presidents of the Council of State and the Presidents and Members of the Divisions, provisions concerning the prosecution of the personal crimes of the President of the Court of Cassation, Chief Public Prosecutor of the Republic, Members of the Court of Cassation shall apply.

2. According to Martial Law Act, No. 1402, the prosecution of the President, Chief Advocate General, Vice-Presidents of the Council of State and the Presidents and Members of the Divisions shall be subject to the permission of the Committee of Presidents.

**PART EIGHT**

**Termination of the Membership**

**Conviction**

**Section 83.**

1. When a Member of the Council of State is sentenced to heavy imprisonment or to a prison term totaling six months or more for an intentionally committed crime, his membership shall automatically terminate.

2. When a Member of the Council of State is sentenced to a prison term less than six months for an intentionally committed crime, if the crime is deemed to be in contradiction with the dignity and honor of the profession, or to be removing the general respect and trust to the profession, whether the dismissal of the person concerned is required shall be decided by the High Board of Discipline.

**Failure in the Discharge of Functions Due to State of Health**

**Section 84.**

The decision to terminate the membership of the Member of the Council of State, whose inability to discharge his functions has been established by a report from a comprehensive public medical institution, shall be given by the Committee of Presidents.

**Right of Action**

**Section 85.**

In the case brought by the person concerned against the decision to terminate his membership given under the second paragraph of Section 83 and Section 84, provisions of Section 75 apply.

**PART NINE**

## **Miscellaneous Provisions**

### **Judicial Recess**

#### **Section 86.**

1. The Divisions of the Council of State shall break for a recess from the twentieth of July to the sixth of September every year.

2. In order to serve during the recess period, an on-duty Division, which consists of a President, four Members and a substitute Member, shall be constituted. The substitute Member shall also carry out the functions of the Secretary-General.

3. The President and Members of this Division shall be elected among the Presidents and Members of the Divisions of the Council of State by the Committee of Presidents in a mixed way. The required number of advocate's general and judge reporters shall also continue their work.

4. During the recess period, the President, Chief Advocate General, Vice-Presidents of the Council of State and the Presidents and Members of the Divisions, as well as advocates general and judge reporters, except those who are on duty, shall recess working. In this period, the President of the Division on duty shall represent the President of the Council of State.

5. Other staff of the Council of State shall continue to serve in this period. However, employees whose service is not required in the recess period shall use their annual leave.

6. The right to annual leave of those who stay on duty in the recess period is reserved.

#### **Matters that will be Dealt with by the On-Duty Division**

##### **Section 87.**

The on-duty Division shall deal with the following matters in the recess period:

- a) urgent issues sent by the Council of Ministers or matters that must be decided within a certain period according to the law except draft legislation and draft regulations of the Council of Ministers,
- b) matters concerning stay of execution and obtaining evidence,
- c) cases of the public servants who are under arrest, transferred to the Council of State pursuant to the provisions of the Act on the Prosecution of Public Servants.

#### **Office of Classification and Publication**

##### **Section 88.**

1. An office shall be constituted to organize and classify the decisions given by the Divisions and Committees of the Council of State, to arrange the library, to publish the Council of State Review and to follow other scientific publications about public law.

2. The formation and functions of this office shall be prescribed by a by-law.

#### **Disclosure of Confidential Information**

##### **Section 89.**

Members of the Council of State, judge reporters and advocates general cannot reveal the confidential documents relating to public service, even if they leave their post.

#### **Protection against Accusation and Defamation**

##### **Section 90.**

If it is understood after an examination, an investigation or a trial that the denunciation and complaint against a Member of the Council of State cannot be proven and that the accusation is made maliciously or to defame the Member or it is a made-up accusation, the

President of the Council State shall request the Chief Public Prosecutor to file a public action against those who made the accusations.

#### **Working Hours and Leaves**

##### **Section 91. (Amended: 22/3/1990-3619/s. 9)**

Provisions of the Public Servants Act apply to matters relating to the weekly working schedule of the Council of State and to the special leave of absence, sickness leave and unpaid leave of absence of the Members of the Council of State.

#### **Storage of Files and Other Documents**

##### **Section 92.**

The period for the storage of case files and other documents, their removal process and other matters relating to the Archive of the Council of State shall be prescribed by a by-law.

#### **Budget**

##### **Section 93.**

1. The Council of State shall, within the framework of the general budget, be administered by its own budget

2. The President of the Council of State is responsible for covering expenses out of the budget. Accounting shall be done by the department of accounts to be established within the framework of the Council of State.

3. The Council of State shall be represented by the President or a person appointed by him in the budget deliberations of the Houses of Parliament.

#### **Clothes**

##### **Section 94.**

The official clothes of the Members, judge reporters and advocates general of the Council of State and the place and time that they must be worn shall be prescribed by a by-law.

#### **Information Given to the Press**

##### **Section 95.**

Information or speeches concerning the Council of State may be given to the press, news agencies, radio and television by the President of the Council of State or a person appointed by him.

### **Part TEN**

#### **Final Provisions**

##### **Repealed Provisions**

###### **Section 96.**

The Council of State Act, No. 521, and its annexes and amendments are repealed.

##### **Additional Section 1. (Added: 22.3.1990-3619/s. 10)**

Cases falling within the jurisdiction of two law Divisions, upon the request of the law Division concerned, shall be decided on in a joint session of those two Divisions. The highest-ranking president shall preside over this session. The quorum of the meetings and deliberations shall be nine. Decisions shall be taken by majority.

This type of cases shall take the file and decision number of the Division to which the case was brought.

**Provisional Section 1.**

Amongst employees serving at the Council of State on the day of the entry into force of this Act and subject to the Public Servants Act, No. 657, those that are more than needed in the Council of State shall be assigned to the service of the Ministry of Justice to be appointed to the regional administrative, administrative or tax courts.

**Provisional Section 2.**

The chief clerk of the Council of State at the time when the present Law comes into force shall from this time be called "chief reporter". No new nominations of the person(s) concerned are required because of the change of title. The person(s) concerned shall continue to receive extra payments in accordance with the former titles until the new titles are recorded in the Government order concerning extra payments.

**Provisional Section 3.**

Provisions of the regulations and by-laws issued according to the Council of State Act, No. 521, and its annexes and amendments, which are not in contradiction with the present act, shall continue to apply until the new regulations, rules of procedure, and by-laws are issued.

**Provisional Section 4.**

Provisions of the Council of State Act, No. 521, shall apply to the time limits of the actions and applications brought before the entry into force of this Act.

Provisional Section 5.

Actions brought to the Council of State before the entry into force of the present Act shall be finalized at the Council of State.

**Provisional Section 6.**

Cases that used to fall within the jurisdiction of the Council of State, but after the enactment of the Act on the Constitution and Functions of the Regional Administrative Courts, Administrative Courts and Tax Courts became the subject of the latter courts' jurisdiction, shall be brought to the Council of State until the mentioned courts start to operate. These cases shall be finalized by the Council of State.

**Provisional Section 7.**

On the date the present Act comes into force, cases relating to public servant law dealt with in the First *Ad Hoc* Division, Seventh and Tenth Divisions shall be assigned to the Third Division and be completed in this Division.

**Provisional Section 8.**

The distribution of the matters dealt with by the Divisions and Organs constituted pursuant to the repealed provisions of the Council of State Act, No. 521, and its amendments to the Divisions and Organs assigned by the present Act shall be completed within fifteen days from the formation of the Divisions and Organs. An additional decision is not needed to carry out this operation.

**Provisional Section 9.**

The elections of the Board of Administrative Affairs, Committee of Ministers, High Board of Discipline and Board of Discipline shall be held within fifteen days from the formation of the Divisions.

**Provisional Section 10.**

Matters that must be dealt with by the General Assembly of the Council of State according to the law shall be examined and decided upon by the Board of Administrative Affairs of the Council of State after the present Act comes into force.

**Provisional Section 11.**

Until the relevant arrangements are made in the Judges Act for judges and advocates general of administrative justice, the term first category judge and advocate general mentioned in this Act shall mean judge and advocate general of administrative justice who acquired the first degree post.

**Provisional Section 12.**

Until the necessary arrangements are made in the Constitutional Court and Supreme Council of Public Accounts Acts, judicial allowances shall be paid according to Provisional Sections 1 and 2 of the Act No. 1903.

**Provisional Section 13.**

The titles of the President and Chief Advocate General of the Council of State and Presidents of Divisions shall terminate on the date of the entry into force of the present Act. However, their presidency shall continue until the appointments are made pursuant to Provisional Section 14.

**Provisional Section 14.**

1. Within thirty days from the entry into force of the present Act, the vacancies in the Council of State shall be filled by the appointment of the President of the Republic for once, amongst the candidates shown by the Supreme Council of Judges and Public Prosecutors who fulfill the requirements prescribed in Section 8. At least the three-fourth of the candidates must be judges and advocates general of administrative justice. The number of candidates shall be the double of the post that will be filled.

2. Within fifteen days following the election prescribed in paragraph one, the President, Chief Advocate General, Vice-Presidents of the Council of State and the Presidents of the Divisions shall be appointed by the President of the Republic for once, among two candidates shown by the Supreme Council of Judges and Public Prosecutors.

3. The assignment of the Members of the Council of State to the Divisions shall be made by the President of the Republic within the period shown in paragraph 2, for once, upon the suggestion of the Supreme Council of Judges and Public Prosecutors.

4. The President of Republic, upon the suggestion of the Supreme Council of Judges and Public Prosecutors, may appoint Presidents to the Regional Administrative Courts, which are in the formation process, among the Members of the Council of State, for once. Those who will be appointed to the Presidency of a Regional Administrative Court shall serve in this position for four years. This period might be extended upon the request of the person concerned. Those who are appointed pursuant to the present paragraph shall keep their title of the membership of the Council of State, as well as degrees, salaries, allowances and all other rights relating to their status. Their allowances and salaries and all other financial and social rights shall continue to be paid from the budget of the Council of State.

5. The position of those who are appointed to the presidency of a regional administrative court in the permanent staff list of the Council of State shall be deemed cancelled on the date they leave their post regardless of the reason.

**Provisional Section 15.**

The right to be appointed as a Member of the Council of State of those who have been the Presidency of Tax Appeal Commission, presidents and members of divisions, which is provided by Section 8 of the Council of State Act, No. 521, amended by Act No. 1740, is reserved.

**Provisional Section 16.**

In the first five years from the entry into force of the present Act, the five year service period prescribed in Section 11, paragraph 1 as to the appointments to the position of judge reporters and advocates general shall not be sought.

**Provisional Section 17.**

In the application of this Act, provisions of the Constitutional Order Act, No. 2324, dated 27/10/1980 are reserved.

**Provisional Section 18. (Added: 22.3.1990-3619/s. 11)**

The files held by the Board of Administrative Affairs concerning draft regulations of the Council of Ministers shall be sent to the Prime Ministry immediately by the Presidency of the Council of State.

**Provisional Section 19. (Added: 2.6.2000-4575/s. 4)**

In the first three years from the entry into force of the present Act, instead of five years as prescribed in Section 11, paragraph 1, as to the appointments to the position of judge reporter's two years service period shall apply. In these appointments, confirmation of the Committee of Presidents shall be obtained.

**Coming into force**

**Section 97.**

The present Act shall become effective upon the date of publication.

**Execution**

**Section 98.**

The provisions of the present Act shall be executed by the Council of Ministers.

**Provisions that cannot be Inserted into the Main Text of the Act No. 2575, dated 6/1/1982**

**1) Provisional Section of the Act no 3619, dated 22/3/1990**

**Provisional Section**

The files that are transferred to the organs of administrative justice other than the Council of State, before the present Act comes into force, with the request for the loss of status of elected organs of the municipalities and provinces shall be transmitted to the Council of State within fifteen days without giving a separate decision.

**2) Provisional Section of the Act no 4575, dated 2/6/2000**

**Provisional Section**

Cases that have been filed to the Council of State as a first instance court before the present Act came into force, and now contained in the jurisdiction of administrative courts by virtue of the present Act, shall be completed at the Council of State.