

Constitutional Court of Turkey





Prof. Dr. Zühtü Arslan
President

THE PRESIDENT'S MESSAGE

First of all, I would like to extend my heartfelt greetings to all readers of this booklet and express my thanks for their genuine interest in the Constitutional Court of the Republic of Turkey. This booklet provides brief information on the general structure, the jurisdiction and proceedings as well as the physical properties of the Constitutional Court.

The Turkish Constitutional Court, being one of the oldest constitutionality review organs established in Europe, has accumulated a sizeable amount of experience in its history of more than fifty years. You will find reflections of the development of constitutional justice in our country and the Court's transformation process up to present in this booklet.

The basic function of the Constitutional Court of Turkey can be summarized as safeguarding and promoting democracy, rule of law and the fundamental rights and freedoms. In performing this crucial

function, the Court has learned a lot from its past experiences and continuously developed its jurisprudence to better address the needs of the time.

I am more than happy to express that Turkish Constitutional Court has shown a significant progress to achieve a paradigm shift and adopted a "rights-based paradigm" in the recent years. Our Court strives to establish constitutional and individual justice through constitutionality review and individual application. Consequently, the Constitutional Court has become the bulwark of fundamental rights and freedoms to a considerable extent.

This paradigm shift can be tracked down especially in our judgments concerning individual applications. In these judgments, the Constitutional Court adopted an approach which broadens the scope of protection and enhances the standards for fundamental rights and freedoms. These judgments also increase the prestige of the Court in international arena by providing us the opportunity to contribute to corpus of universal law.

We are more than willing to share our knowledge and experience with our counterparts in other countries and improve the Court by learning from theirs. We firmly believe that a strong cooperation among the organs of constitutional justice all around the world will make significant contribution to realizing our common ideal of a fair and peaceful world.

Therefore, we welcome all requests and proposals to establish means of communication and cooperation with other constitutional courts and equivalent institutions. If our guests would like to learn more about the Constitutional Court of Turkey, they may visit our website at www.constitutionalcourt.gov.tr or request specific information from our relevant departments.



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1. THE HISTORY OF CONSTITUTIONAL REVIEW IN TURKEY



“No provision of the Constitution can, under any pretext whatsoever, be suspended or neglected.”

Kanun-u Esasi of 1876

(The First Constitution of Ottoman Empire), Article 115

BEFORE THE 1961 CONSTITUTION

Considering the fact that the European model of constitutional adjudication developed after the World War II, it is not surprising that the earliest versions of Turkish Constitutions such as *Kanun-u Esasi* (Ottoman Basic Law), the first written Constitution of Turkish history dated 1876, and 1921 and 1924 Constitutions did not have provisions establishing a constitutional review mechanism.

However, there are some provisions which bear hints of constitutionality review as early as in *Kanun-u Esasi* of 1876. For instance, Article 115 of *Kanun-u Esasi* adopts the principle of the supremacy of constitution by stating *“No provision of the Constitution can, under any pretext whatsoever, be suspended or neglected.”* Similarly, Article 64 prescribes not a legal but a political review of constitutionality by stating *“The Senate examines the Bills or Budget transmitted to it by the Chamber of Deputies. If in the course of the examination of a Bill the Senate finds a provision contrary to the sovereign rights of the Sultan, to liberty, the Constitution, the territorial integrity of the Empire, the internal security of the country, to the interests of the defence of the country, or to morality, it rejects it definitely by a vote, assigning its reasons; or it sends it back, accom-*

panied by its observations, to the Chamber of Deputies, demanding that it should be amended or modified in the sense of those observations.”

The 1921 Constitution contained no provision relating to the constitutional adjudication. Later on, the 1924 Constitution adopted the supremacy of the constitution and explicitly prescribed that laws cannot be contrary to the Constitution by stating in Article 103 *“None of the provisions of this Constitution may be arbitrarily modified on any pretext; neither may the enforcement of any provision be suspended. No law shall be in contradiction to the Constitution.”* However, the 1924 Constitution introduced no mechanism carrying out the constitutionality review of the norms.

THE 1961 CONSTITUTION

The Turkish Constitutional Court was first established by the 1961 Constitution. In that period, only a few countries in Europe (Austria, Germany and Italy) had a constitutional adjudication mechanism. Therefore, Turkish Constitutional Court is one of the oldest constitutional courts established in Europe.

Article 8 of the 1961 Constitution adopted the supremacy and the binding force of the Constitution by stating



“Laws shall not be in conflict with the Constitution. The provisions of the Constitution shall be fundamental legal principles binding the legislative, executive and judicial organs, administrative authorities and individuals” The Constitution also established a Constitutional Court to carry out the constitutional review of laws under Article 145 and subsequent articles of the Constitution. As stated above, Turkey is one of the first countries to adopt the constitutional adjudication, which is considered to be the most important and ultimate level in the development of the rule of law. The Court started operating in 1962 following the enactment of the Law

No. 44 on Establishment and Rules of Procedures of the Constitutional Court (dated 22.4.1962)

THE 1982 CONSTITUTION

The system of constitutional review established by the 1961 Constitution was preserved in the 1982 Constitution with a few changes. Articles 146-153 of the Constitution lay down in detail the composition, duties, working methods of the Constitutional Court and other issues concerning constitutional review. The Constitutional Court carried out its duties until 2011 according to the Law No. 2949 (dated 10.11.1983).



The First Justices of the Constitutional Court

Since the composition, powers and structure of the Court were changed considerably by the constitutional amendments in 2010, a new law was enacted in 2011. The new Law on Establishment and Rules of Procedures of the Constitutional Court (No. 6216, 30.3.2011), spelling out the provisions of the Constitution, stipulates its organization, independence, proceedings, disciplinary infractions and disciplinary proceedings. The Law No. 6216 vested in the Plenary of the Court the authority to regulate its rules of procedure. Therefore, the more detailed rules on the organization and

procedure of the Constitutional Court are established by the Rules of Procedure of the Court.

The introduction of individual application mechanism through the constitutional amendments in 2010 provided for an effective means to ensure better protection of the fundamental rights and freedoms of individuals. With the amendments made to that end, the citizens are entitled the right to individual application, and Constitutional Court is assigned the duty to examine and rule on such applications for the protection of individual rights and freedoms.

2. THE ORGANIZATION OF THE COURT

THE CONSTITUTIONAL COURT

The Constitutional Court is composed of seventeen justices and is represented and presided by a President to be elected from among the justices.

The Court takes its decisions in the forms of Plenary, Sections and Commissions. The Plenary is participated by all justices and chaired by the President. The Court has two Sections each chaired by a vice-president and each of these Sections has three Commissions consisting of two justices.

THE PRESIDENT OF THE CONSTITUTIONAL COURT

The Constitutional Court elects a president and two vice-presidents from among its members for a term of four years by secret ballot and by absolute majority of the total number of its members. They may be re-elected at the end of their term of office.

The President of the Constitutional Court represents the Court, takes charge of the administrative affairs, sets the agenda of the Plenary and presides over the Plenary Meeting, approves the regulations of the Court, inspects the conformity of expenditures with

the budget of the Court. For proper functioning of the Sections, the President assigns justices to the Sections and takes necessary precautions in order to ensure the balanced distribution of the workload among the Sections in line with the leading decisions of the Plenary.

The duties and authorities of the President shall be fulfilled by the senior vice-president in the event that the Presidency is vacant; these shall be fulfilled by the vice-president to be determined by the President in the event that the President is on excused absence or leave.

JUSTICES

According to Article 146 of the Constitution, the Constitutional Court is composed of seventeen members. The term of office of the members is twelve years and non-renewable. But in any case the mandate of a justice expires at the age of 65.

The justices of the Court come from different professions (judges, auditors, university professors, governors, lawyers, ambassadors, rapporteurs of the Constitutional Court), from different institutions and different socio-political fields. The justices represent

a diversity of experience based on different backgrounds and professions.

Three of the members are appointed by the Turkish Grand National Assembly (TGNA) among the three candidates nominated by the Court of Accounts and presidents of the Bar Associations for each vacant seat. In the first ballot two thirds majority of the total number of members of TGNA is required in order to elect a justice and absolute majority is needed in the second ballot. If an absolute majority cannot be obtained in the second ballot, a third ballot is held between the two candidates who have received the greatest number of votes in the second ballot; the member who receives the greatest number of votes in the third ballot is elected.

Other fourteen members of the Court are appointed by the President of the Republic. The President appoints three members from the Court of Cassation, two members from the Council of State, one member each from the Military Court of Cassation and the Supreme Military Administrative Court from among three candidates to be nominated for each vacant position by their respective plenary assemblies. The President also appoints three members from a list of three can-

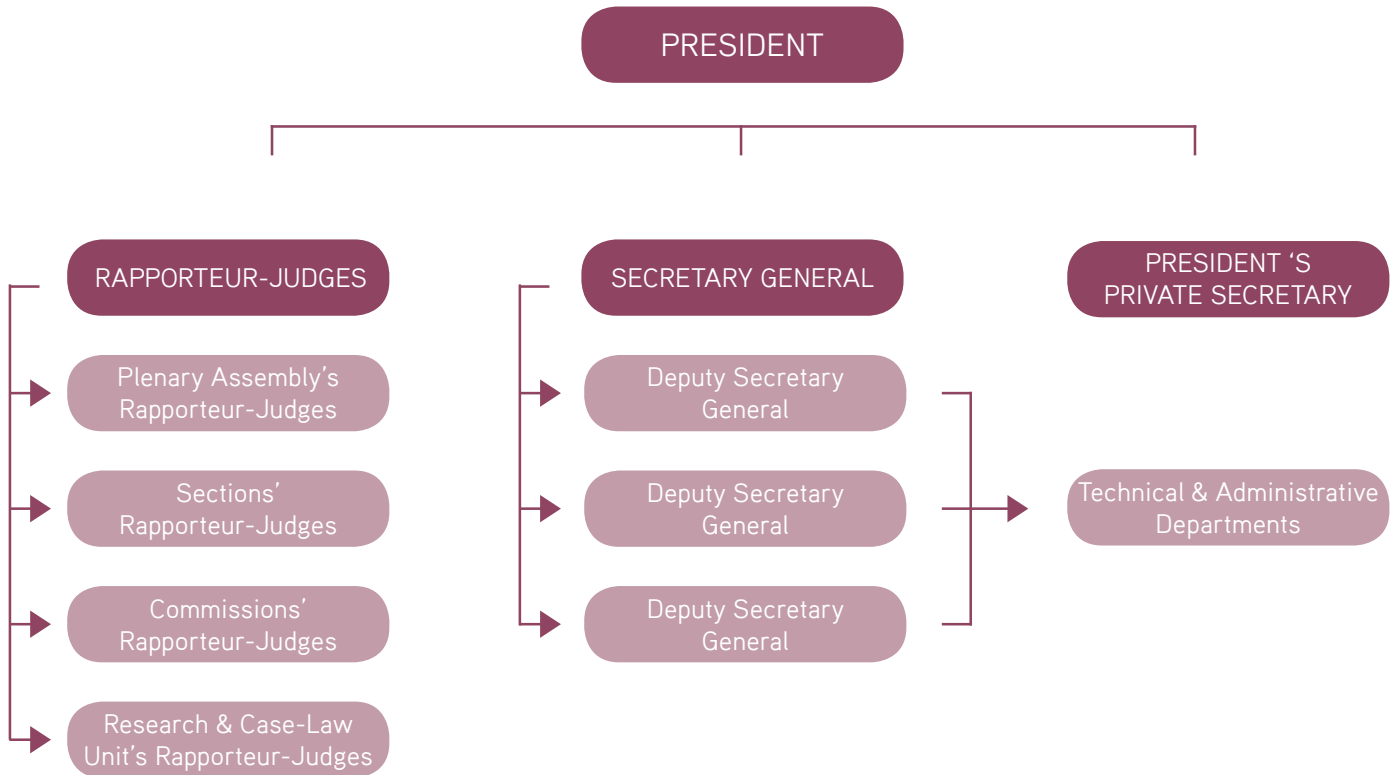
didates nominated for each vacant seat by the Council of Higher Education from among university professors or associate professors who are not members of the Council. Finally, the President appoints four members directly from among senior civil service officials, senior judges and public prosecutors, self-employed lawyers or rapporteurs of the Constitutional Court.

To qualify for appointments as members of the Constitutional Court; academicians are required to possess the title of associate professor or professor; lawyers are required to have practiced as a lawyer for at least twenty years; high level officials are required to have completed higher education and to have worked for at least twenty years in public service, and first category judges and public prosecutors with at least twenty years of work experience including their training period provided that they are all over the age of forty five.





ADMINISTRATIVE ORGANIZATION



The majority of the members of the Constitutional Court are appointed from among the presidents and members of the high courts. However, contrary to the 1961 Constitution, where the high courts used to elect their members on their own, the 1982 Constitution stipulates that the President of the Republic is granted the power to select one of each three candidates nominated by the high courts.

RAPPORTEUR-JUDGES

According to the Law on the Constitutional Court, there shall be enough rapporteur-judges and assistant rapporteurs to assist the works of the Court. Rapporteur-judges are responsible for the preparation and presentation of reports and drafting of judgments.

The rapporteur-judges prepare non-binding reports on which the members of the Court deliberate and decide.

The rapporteur-judges are selected from among judges and prosecutors with at least five years of judicial experience, academics at the law, economy or political sciences departments of higher education institutions and auditors of the Court of Accounts. Administratively, they are responsible to the President of the Court, not to the members of the Court. The case files are assigned by the President to rapporteur-judges and they present their reports to the President, the Plenary and the Sections.

The rapporteur-judges prepare non-binding reports on which the members of the Court deliberate and decide. Once the decision is taken by the members, the rapporteur-judge prepares the judgment in accordance with that decision.

GENERAL SECRETARIAT

The Secretary General shall be appointed by the President of the Court from among the rapporteur-judges.

Under the supervision and inspection of the President, the Secretary General shall register and transfer applications, manage the administrative affairs regarding the meetings of the Plenary and the Sections, follow up on the implementation of the decisions of the Court and to inform the Plenary regarding the matter, manage the budget and to provide information to the President regarding the matter, and carry out other duties assigned by the President within the framework of the provisions of the Law No. 6216, Rules of Procedure and regulations.

The Secretariat General shall be composed of the Secretary General, the Deputy Secretary Generals and a sufficient number of personnel to be assigned by the Presidency. The duties of the civil servants and attendants working in the organization of the Secretariat General and how these duties are to be conducted shall be regulated with the regulation to be issued by the Presidency.

3. THE ADJUDICATION PROCEEDINGS OF THE COURT

The Constitutional Court examines cases on the basis of documents in the case file, except where it acts as the Supreme Criminal Court.

According to Article 149 of the Constitution, the Constitutional Court consists of two sections and a plenary. Each section convenes under the chairmanship of a vice-president with the participation of four members. The plenary shall convene with the participation of at least twelve members under the chairmanship of the President of the Constitutional Court or a vice-president determined by the President. The sections and the plenary shall take decisions by absolute majority. Commissions may be established to examine the admissibility of the individual applications.

It is within the competence of the plenary to hear the cases and applications concerning political parties, actions for annulment and objection and trials where it acts as the Supreme Criminal Court. The sections are endowed with the power to decide on admissibil-

ity and merits of individual applications. The commissions are solely responsible for decisions of admissibility of individual applications.

The Constitutional Court examines cases on the basis of documents in the case file, except where it acts as the Supreme Criminal Court. Nonetheless, it may decide to hold hearings for individual applications. When it deems necessary, the Court also may call on those concerned and those having knowledge relevant to the case, to present oral explanations. The Constitutional Court, in cases relating to dissolution of a political party, shall hear the indictment of the Chief Public Prosecutor of the Court of Cassation and the defense of the chairman of the relevant political party or a proxy appointed by the chairman.

4. THE DECISION MAKING BODIES OF THE COURT

The plenary shall convene with the participation of at least twelve members under the chairmanship of the President of the Constitutional Court or a vice-president determined by the President.



PLENARY OF THE CONSTITUTIONAL COURT

The Plenary, consisting of seventeen members including the President of the Court, shall convene with the participation of at least twelve members under the chairmanship of the President or a vice-president determined by the President. As a rule, the Plenary shall take decisions by absolute majority. However, annulment of constitutional amendments, dissolution of political parties, or their deprivation from state aid, shall be decided with a two-thirds majority of members attending the meeting. The Plenary:

- ◆ carries out abstract and concrete review of the constitutionality of norms
- ◆ tries, for offences relating to their offices, the President of the Republic, the Speaker of the TGNA, members of the Council of Ministers; presidents and members of the High Judicial Organs and the Chief of Staff and the Commanders of Land, Air and Naval Forces
- ◆ decides on the cases related to the dissolution of political parties
- ◆ carries out the financial audit of political parties
- ◆ reviews and decides on the individual applications referred to the Plenary by the Section
- ◆ reviews the decisions of the Parliament with regard to the annulment of the parliamentary immunity or disqualification from membership
- ◆ elects the President and Vice-President of the Court of Jurisdictional Disputes from among the justices of the Constitutional Court.

SECTIONS OF THE CONSTITUTIONAL COURT

There are two Sections of the Court each consisting of seven members and presided by a vice-president. The Sections shall convene with five justices and take their decisions with a simple majority.

The main duty of the Sections is to examine and adjudicate on the merits of individual applications. However, if a Commission deems it necessary for the adoption of a principal judgment, then the application is referred to the Section where the admissibility review may be carried out together with the review on the merits.

COMMISSIONS OF THE CONSTITUTIONAL COURT

There are three Commissions under each Section. Each commission consists of two members and shall decide unanimously. When unanimity cannot be ensured, the case shall be referred to the Section.

The Commissions are mainly responsible for deciding on the admissibility of individual applications. The draft decisions on admissibility prepared by the rapporteur-judges of the Commissions shall be ruled upon by the Commissions.

If the admissibility review of an individual application requires to determine whether the relevant application bears importance for interpreting and implementing the Constitution and defining the scope and limits of the fundamental rights or to ascertain whether the applicant sustained a significant damage, then the Commission may refer the case file to the Section without deciding on the admissibility review of the application. The Commissions may refer the case file to the Sections as well if a principle decision is to be made by the Sections in order for the application to be concluded or if the decision to be made is likely to conflict a previous decision of the Court.

5. THE JURISDICTION OF THE COURT



The constitutionality of laws, decree laws and the Rules of Procedure of Turkish Grand National Assembly or the provisions thereof may be challenged directly before the Constitutional Court through an annulment action by persons and organs empowered by the Constitution.

The Constitutional Court does not act *ex officio*. It has to work on the basis of relevant applications filed in the Court. The Constitution defines a strictly limited range of bodies that are authorized to access to the Constitutional Court. Under the Constitution, access to the Court can be made in the following ways:

A. CONSTITUTIONAL REVIEW OF NORMS

ACTION FOR ANNULMENT (ABSTRACT REVIEW OF NORMS)

The constitutionality of laws, decree laws and the Rules of Procedure of Turkish Grand National Assembly or the provisions thereof may be challenged directly before the Constitutional Court through an annulment action by persons and organs empowered by the Constitution. The President of the Republic, parliamentary group of the party in power and of the main opposition party and a minimum of one-fifth of the total number of members of the Parliament have the power to apply for an annulment action to the Constitutional Court. If more than one political party is in power, the party having the greatest number of deputies exercises the power to apply for an annulment action.

The power to apply for annulment directly to the Constitutional Court lapses sixty days after publication in the Official Gazette of the contested law, the decree laws, or the Rules of Procedure of Parliament.

The examination and verification of laws as to form shall be restricted to consideration of whether the requisite majority was obtained in the last ballot; the verification of constitutional amendments shall be restricted to consideration of whether the requisite majorities were obtained for the proposal and in the ballot, and whether the prohibition on debates under expedited procedure was observed. Verification as to form may be requested by the President of the Republic or by one-fifth of the members of the Parliament.

Applications for annulment on the grounds of defect in form shall not be made after ten days have elapsed from the date of publication of the law; and it shall not be appealed by other courts to the Constitutional Court on the grounds of defect in form.

CONTENTION OF UNCONSTITUTIONALITY (CONCRETE REVIEW OF NORMS)

Contention of unconstitutionality can be initiated by the general, administrative and military courts *ex officio* or upon the request of parties involved in a case that is heard by the relevant court. Applications are made by correspondence.

According to Article 152 of the Constitution, if a *court a quo* finds that the law or the decree law or a provision thereof to be applied in a pending case is unconstitutional, or if it is convinced of the seriousness of a claim of unconstitutionality that may be submitted by one of the parties, it applies to the Constitutional Court to decide on constitutionality and it postpones the proceeding of the case until the Constitutional Court decides on the issue. The Constitutional Court should decide on the matter within five months of receiving the contention. If no decision is reached within this period, the applicant *court a quo* should decide the case under existing legal provisions. No allegation of unconstitutionality may be made with regard to the same legal provision unless ten years elapse after publication in the Official Gazette of the decision of the Constitutional Court dismissing the application on its merits.



Bureau

B. INDIVIDUAL APPLICATION (CONSTITUTIONAL COMPLAINT)

Individual application was introduced into the Turkish legal system by the 2010 constitutional amendments and 23 September 2012 was determined as the first day of receiving applications. Article 148 of the Constitution stipulates that anyone who considers that his/her constitutional rights set forth in the European Convention on Human Rights have been infringed by a public authority will have a right to apply to the Constitutional Court after having exhausted other administrative and judicial remedies.

The Law No. 6216 provides the conditions and procedures of the individual application.

The jurisdiction of the Court *ratione materiae* comprises fundamental rights and liberties which are regulated by both the Constitution and the European Convention on Human Rights. But some acts of public power exempted from the scope of individual application. No application can be lodged against legislative acts and regulatory administrative acts. The rulings of the Con-

stitutional Court and transactions that have been excluded from judicial review by the Constitution cannot be the subject of individual application.

The jurisdiction of the Court *ratione personae* comprises both real and legal persons. However, public legal persons cannot lodge individual applications while, private-law legal persons may apply solely on the ground that their rights concerning legal personality have been violated. Foreigners may not lodge individual applications concerning rights exclusive to Turkish citizens.

According to the Constitution and the Law, individual applications must be filed within thirty days, from the date of the notification of the final proceeding which exhausts all legal remedies.

Admissibility examination of individual applications is to be made by commissions. The structure of the commissions has not been regulated by the Law and it was left to the Rules of Procedure. A commission which consists of two justices of the Court may decide unanimously that an application is inadmissible. If



Individual Application Desk

a Commission cannot reach a conclusion in examining the admissibility of an application, then the President of the relevant section may decide to conduct joint examination of admissibility and merits of the application. The aim of the admissibility examination is to control whether the application is within the jurisdiction of the Court. But the Law empowered the Court to eliminate some trivial applications. The Court may declare an application inadmissible if it is manifestly ill-founded or if it does not bear any significance for the interpretation or application of the Constitution or for the determination of the scope and limits of fundamental rights and the applicant did not suffer any significant damage. The rationale behind the recognition of the admissibility criteria is to protect the Court from excessive workload and to provide more time to deal with serious fundamental rights allegations.

Before lodging an individual application, all legal and administrative remedies must be exhausted.

If an application is found admissible, it is examined by a section on the merits. The sections convene with

four members under the chairmanship of a vice-president. Principally the examination is to be made on the file, but section may decide to hold a hearing if it deems necessary to do so.

In order to prevent any conflict between the Constitutional Court and other courts both the Constitution and the Law provided that examination of the sections on the merits is limited to determine whether a fundamental right has been violated and they cannot examine the matters which will be dealt with at the appeal or cassation stages. This provision is interpreted by the Constitutional Court in a manner that its role in examination of individual application consists solely of determining whether the applicant's fundamental rights have been violated. The Court refrains from further commenting on the actions of the judicial bodies, the facts of the case and the proper interpretation of laws by other courts.

The Law also provides that individual applications are subject to payment of a court fee. However, the Court may grant legal aid for those who cannot afford. The

Court may impose a fine of up to 2000 Turkish Liras in addition to the costs arising from the proceedings on the applicants who clearly abused the right of individual application.

C. DISSOLUTION OF POLITICAL PARTIES

According to Article 69 of the Constitution, the dissolution of political parties shall be decided by the Constitutional Court, following the filing of a suit to that effect by the Office of the Chief Public Prosecutor of the Court of Cassation. The Constitutional Court examines the case and gives its judgment on the basis of verbal hearings including the defense made by the defendant party and assertions made by the Chief Public Prosecutor; and on the basis of the report prepared in respect of merits by the appointed rapporteur-judge.

Article 68/4 of the Constitution stipulates that the statutes, programs and the activities of political parties shall not be contrary to the independence of the State, its indivisible integrity with its territory and nation, human rights, the principles of equality and rule of law, sovereignty of the nation, the principles of the democratic and secular republic. The Turkish Constitution enumerates certain prohibitions that could lead to the dissolution of political parties. A political party may be dissolved, if:

- ◆ Its statute and program of a political party is contrary to Article 68/4 of the Constitution.
- ◆ It becomes center of activities contrary to Article 68/4 of the Constitution.
- ◆ It receives financial aid from foreign countries, international institutions and from real persons and legal entities not belonging to Turkish nationality.
- ◆ It involves in commercial activities

The Constitutional Court may rule, instead of dissolving them permanently, that the concerned political party be deprived of state financial aid wholly or in

part, in accordance with the severity of the actions brought before the Court.

D. FINANCIAL AUDIT OF POLITICAL PARTIES

According to Article 69 of the Constitution, the auditing of the income, expenditure and acquisitions of political parties is within the competence of the Constitutional Court. The Court receives assistance from the Court of Accounts in performing its task of auditing. The judgments rendered by the Court as a result of the auditing are final.

E. TRIAL OF STATESMEN BEFORE THE SUPREME CRIMINAL COURT

The Constitutional Court, acting as the Supreme Criminal Court, tries for offences relating to their official functions the President of the Republic, Speaker of the TGNA, Prime Minister and Ministers, presidents and members of the Constitutional Court, the Court of Cassation, the Council of State, the Military Court of Cassation, the Supreme Military Administrative Court and the Chief Public Prosecutors, Deputy Public Prosecutors, and the presidents and members of the High Council of Judges and Prosecutors and of the Court of Accounts, the Commander of Turkish Armed Forces (Chief of Staff), the Commanders of the Land, Naval and Air Forces and the General Commander of the Gendarmerie.

The prosecution in matters concerning the Supreme Criminal Court is exercised by the Chief Public Prosecutor or his deputy. One or several of the assistants to the Chief Public Prosecutor may also participate in the trials.

The parties to trial may request the Court to review its judgments. The Plenary, acting as Supreme Criminal Court, shall take the decision which will be final.

6. NATURE & EFFECTS OF THE COURT'S JUDGMENTS

The decisions of the Court bind legislative, executive and judicial organs, administrative authorities and persons and corporate bodies.

Laws, decree laws, the Rules of Procedure of the Turkish Grand National Assembly, or relevant provisions thereof, cease to have effect from the date of publication of the annulment decision in the Official Gazette. In other words, when a law is invalidated by the Constitutional Court, it becomes ineffective as from the date of publication of the Court's decision. If the Court deems it necessary, it may also decide to postpone the date of the entry into force of its decision. This date cannot be more than one year from the date of publication of the decision in the Official Gazette. According to Article 153 of the Constitution, the annulment decision cannot have a retroactive effect.

Judgments of the Constitutional Court are final. However, judgments of the Court when acting as the Supreme Criminal Court may be re-examined upon request. Annulment decisions cannot be made public without a statement of reasons (Art. 153).

No law can be in conflict with the Constitution. The Constitutional Court is given the power to interpret the Constitution and to invalidate the unconstitutional

laws. The decisions of the Court bind legislative, executive and judicial organs, administrative authorities and persons and corporate bodies (Art. 153). In other words, legislative, executive and judicial branches have no power to modify or delay the execution of the decisions of the Constitutional Court.

In individual application cases, the Constitutional Court decides whether the fundamental rights of the applicant have been violated or not. If it finds violation, it may also decide what should be done in order to redress the violation and its consequences.

In case the violation has been caused by a court decision, the Constitutional Court sends the file to the competent court for retrial in order to restore the fundamental rights of the applicant. But if the Constitutional Court deems that there will be no use of a re-trial, then it may decide on compensation for the applicant or it may ask the applicant to file a case before the competent first-instance court to seek compensation for the damages s/he suffered.



7. THE COURT BUILDING

THE FIRST BUILDING OF THE COURT IN SELANIK STREET (1962-1989)

Upon its establishment in 1962, the Constitutional Court started to serve in the office premises hired on a contract. The initiatives to construct a building that suits its place and importance among state organs started in 1973.

THE BUILDING OF THE COURT IN SIMON BOLIVAR STREET (1989-2009)

This building was originally constructed to serve other public institutions. However, the needs of those public institutions changed in the course of the construction of the building and, as the building sufficed the requirements of the Constitutional Court at the time, it was allocated to the use of the Court with a few extensions such as a new hearing room for the Supreme Criminal Court.



1962-1989



1989-2009

THE NEW & CURRENT BUILDING OF THE COURT (2009-)

A national competition was opened by the Ministry of Public Works for the design & project works of the current Court building in 2004. In the result of that competition, one project was selected from among 79 projects.

The construction of the building was completed by the end of March 2009 and the Constitutional Court has been serving in this building since then.

The Court Building was designed to best satisfy the current and future needs of the Court and it was developed as a smart building which ensures maximum use of natural resources such as sunlight and rain water. The glass walls of the building reduces the energy need for lightening and heating and the rainwater recycle system minimizes the water need for irrigating the Court's vast garden.



2009-...

THE SUPREME CRIMINAL COURT HALL (GRAND HALL)

As it was explained, the Constitutional Court, acting as the Supreme Criminal Court, tries the high ranking statesmen for offences relating to their official functions. The main function of this grand hall is to accommodate such trials as they are open to public and attract huge public interest.

The solemn hearings for the anniversary of the Court and the oath taking ceremonies of the newly-elected justices are also held in this hall with the participation of all state protocol.

The Grand Hall also hosts various international scientific conferences and symposia throughout the year and serves a convention center of the international law circles.





THE OFFICES & MEETING ROOMS

The Court building provides comfortable and modern offices to the staff for their efficient and productive working environment. The offices are furnished with ergonomic furniture and state of the art office equipments.

The Court has various meeting rooms of different sizes. All technical and aesthetic details are considered in the design of these meeting rooms.

THE LIBRARY

When the Court was first established in 1962, the library of the Court also started to originate as a collection of different books in a few bookshelves.

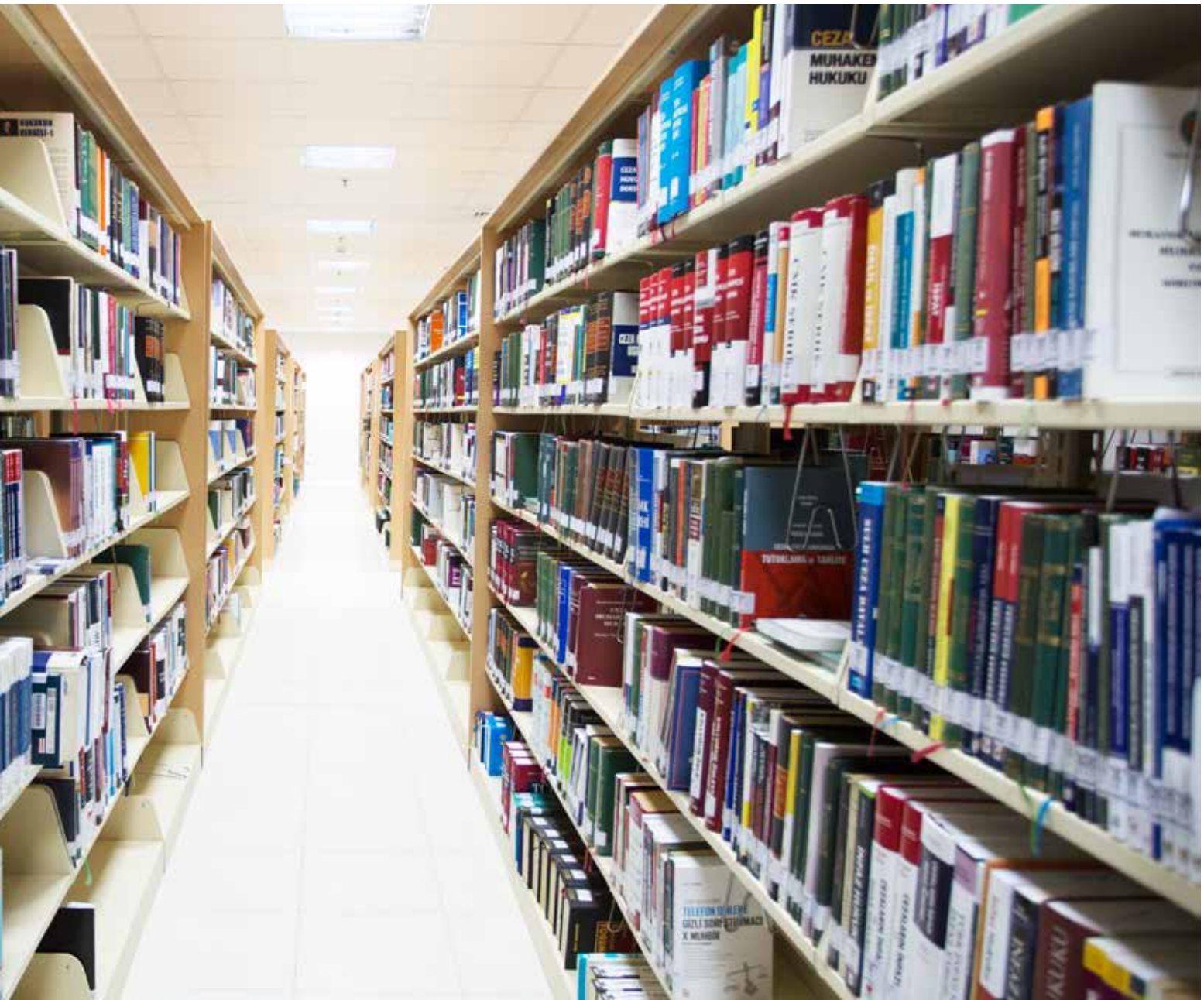
With the developments in technology and the increases in the needs and requirements of the Court, the library evolved into its current status. Currently, the library is located on an area of 550 m² which consists of Information Desk, Reading Hall, Periodicals Unit, Foreign Publications Unit, Laws and Official Gazettes Unit, Human Rights Publications Unit.

The founding purpose of the library is to efficiently support constitutional adjudication and research activities and staff's access to various constitution and law-related information.

The Library carries out functions including formulation of collection development policies, collection and sorting of materials, information technology management, reference service, and interaction with relevant institutions in and outside Turkey. The collections are obtained through purchase, exchange and donation, and most of them are domestic and international materials related to the constitution, law, and constitutional adjudication.

As of March 2016, the Library houses a collection of 16.544 volumes, including 14.099 domestic and 2.445 foreign publications. The number of periodicals that the library subscribes to is approximately 7,500.

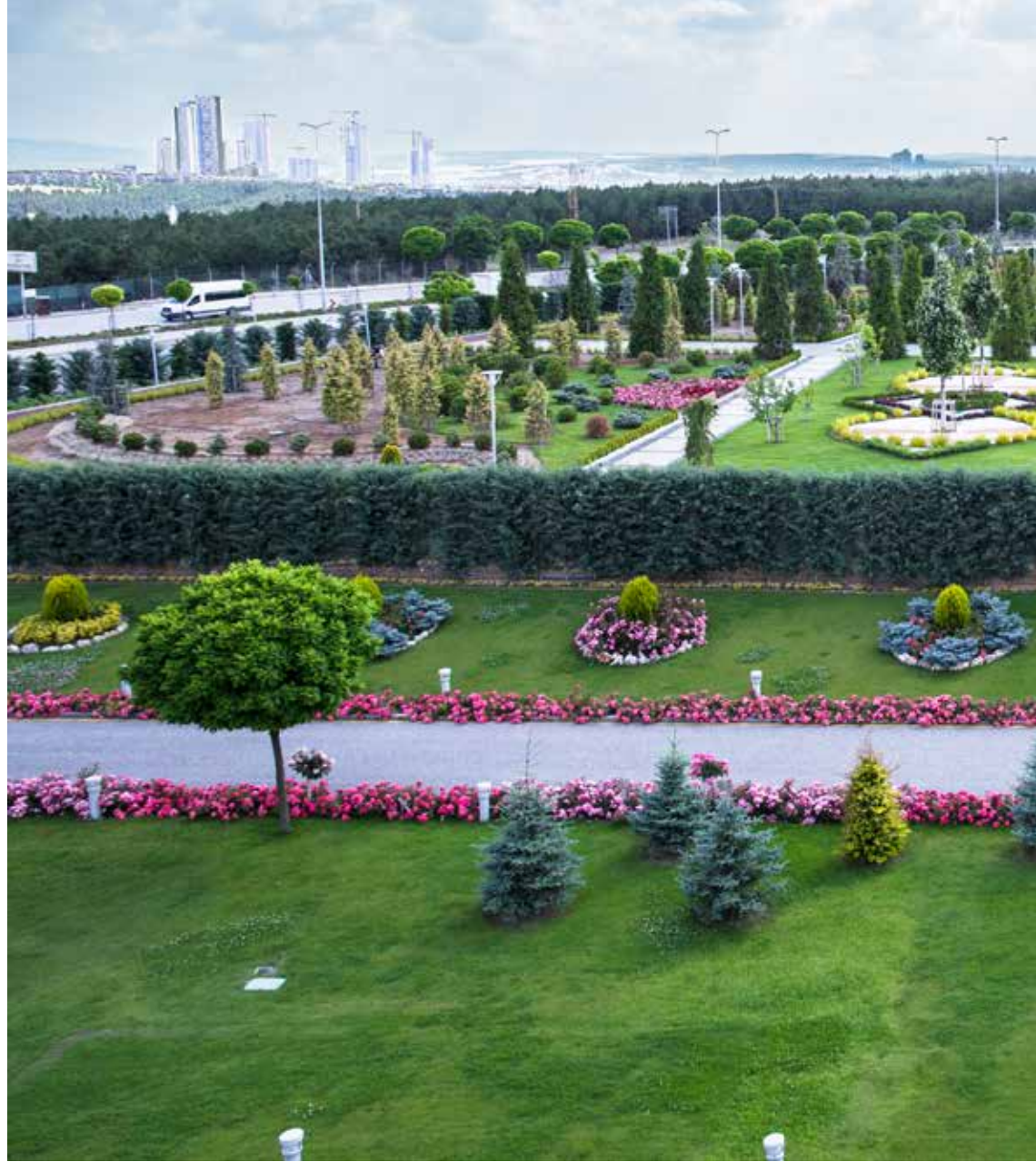




THE GARDEN OF THE COURT

The Court is located amidst a vast forest land in one of the most tranquil and peaceful places of Ankara. To harmonize the Court building with such beautiful location, it is surrounded by a vast garden created with utmost care.

With various species of trees, flowers and other plants, the garden provides a climate of serenity to the staff and visitors of the Court.





8. INTERNATIONAL COOPERATION

The Constitutional Court of Turkey maintains constant professional contact with national and international courts. There is ample opportunity for such exchange when the justices of the Court visit their counterparts within and outside Europe and Asia and receive foreign delegations in Ankara.

The Constitutional Court of Turkey, being one of the oldest constitutional justice organs of the world, has always seen itself as part of the international legal order and the global community of constitutional courts. The Court has become a centre of interest in recent years due to its landmark decisions in the field of human rights and constitutional interpretation.

The Constitutional Court maintains constant professional contact with national and international courts. There is ample opportunity for such exchange when the justices of the Court visit their counterparts within and outside Europe and Asia and receive foreign delegations in Ankara.

Being the constitutional justice organ of Turkey, a country with unique geographic location, diverse cultural links and rich heritage of history, Turkish Constitutional Court is among the first members of both “Conference of the European Constitutional Courts” and “Association of Asian Constitutional Courts and Equivalent Institutions”. The Turkish Constitutional Court is also one of the founding members of the World Conference on Constitutional Justice, which is an umbrella organization for all the constitutional justice organs and organizations from around the world.

A. COOPERATION WITH INTERNATIONAL ORGANIZATIONS

The Constitutional Court of Turkey attaches utmost importance to its relations with the Council of Europe, especially with the European Court of Human Rights and the Venice Commission (The European Commission for Democracy through Law).



A project titled “Supporting the Individual Application to the Constitutional Court in Turkey (SIAC)” is being implemented by the Ankara Programme Office of the Council of Europe under the coordination of the Constitutional Court of Turkey. This project is co-funded by the Council of Europe, EU and Turkey. Among the stakeholders of the project are the Court of Cassation, the Council of State, Ministry of Justice, the High Council of Judges and Prosecutors, the Military

Court of Cassation, the Supreme Military Administrative Court, Union of Turkish Bar Association and Justice Academy. The overall objective of the Project is to ensure the effectiveness of the individual application system in Turkey.

The Constitutional Court has always been an active member in the global community of constitutional courts. The Court is member to the following international organizations in the field of constitutional justice:

WORLD CONFERENCE ON CONSTITUTIONAL JUSTICE

The World Conference on Constitutional Justice unites 98 Constitutional Courts and Councils and Supreme Courts in Africa, the Americas, Asia and Europe. It promotes constitutional justice-understood as constitutional review including human rights case-law-as a key element for democracy, the protection of human rights and the rule of law.



THE CONFERENCE OF EUROPEAN CONSTITUTIONAL COURTS

The Conference of European Constitutional Courts, which was established in Dubrovnik in 1972, brings together representatives of 40 European constitutional or equivalent courts conducting a constitutional review.

ASSOCIATION OF ASIAN CONSTITUTIONAL COURTS AND EQUIVALENT INSTITUTIONS



Association of Asian Constitutional Courts and Equivalent Institutions, or AACC, is an Asian regional forum for constitutional justice established in July of 2010 to promote the development of democracy, rule of law and fundamental rights in Asia by increasing the exchanges of information and experiences related to constitutional justice and enhancing cooperation and

friendship between institutions exercising constitutional jurisdiction.

Turkish Constitutional Court undertook the term presidency for the period between 2012-2014. As a member of the AACC, the Court has been organising the “Summer School” of the Association since 2013.

B. COOPERATION WITH NATIONAL CONSTITUTIONAL COURTS

In the last decade, the Court signed around eighteen memoranda of understanding with other constitutional and supreme courts in order to enhance bilateral cooperation activities. In this respect, the Court hosts foreign delegations, judges, researchers and staff members of constitutional courts with the spirit of traditional Turkish hospitality and friendship. Such Protocols of Cooperation serve as a basis for mutually beneficial exchanges that we organize with our counterpart institutions for the benefit of both parties.



Turkish Constitutional Court signed Memorandum of Understanding with the following Constitutional Courts or Equivalent Institutions:

COUNTRY	COURT - INSTITUTION	DATE OF SIGNATURE
Indonesia	The Constitutional Court of Indonesia	24 April 2007
Macedonia	The Constitutional Court of Macedonia	26 April 2007
Azerbaijan	The Constitutional Court of Azerbaijan	10 May 2007
Chile	The Constitutional Court of Chile	07 June 2007
Korea	The Constitutional Court of the Republic of Korea	24 April 2009
Ukraine	The Constitutional Court of Ukraine	24 April 2009
Pakistan	The Federal Supreme Court of Pakistan	24 April 2009
Bosnia and Herzegovina	The Constitutional Court of Bosnia and Herzegovina	24 April 2009
Bulgaria	The Constitutional Court of Bulgaria	07 April 2011
Tajikistan	The Constitutional Court of Tajikistan	26 April 2012
Montenegro	The Constitutional Court of Montenegro	28 April 2012
Afghanistan	The Independent Commission for Overseeing the Implementation of Constitution of the Islamic Republic of Afghanistan	25 April 2013
Albania	The Constitutional Court of Albania	10 June 2013
Thailand	The Constitutional Court of the Kingdom of Thailand	29 April 2014
Kyrgyzstan	The Constitutional Chamber of the Supreme Court of the Kyrgyz Republic	28 September 2014
Romania	The Constitutional Court of Romania	17 October 2014
Algeria	The Constitutional Council of Algeria	26 February 2015
Turkish Republic of Northern Cyprus	The Supreme Court of Northern Cyprus	29 June 2015

9. CURRENT & FORMER JUSTICES

CURRENT JUSTICES

PRESIDENT



Zühtü ARSLAN

VICE-PRESIDENTS



Burhan ÜSTÜN



Engin YILDIRIM

JUSTICES



Serdar ÖZGÜLDÜR



Serruh KALELİ



Osman Alifeyyaz
PAKSÜT



Recep KÖMÜRCÜ



Alparslan ALTAN



Nuri NECİPOĞLU



Hicabi DURSUN



Celal Mümtaz AKINCI



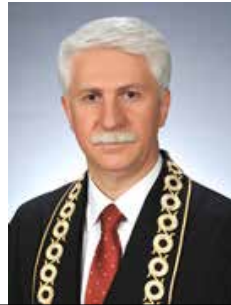
Erdal TERCAN



Muammer TOPAL



M. Emin KUZ



Hasan Tahsin
GÖKCAN



Kadir ÖZKAYA



Rıdvan GÜLEÇ

FORMER JUSTICES

Haşim KILIÇ
24.11.1990 - 10.02.2015Z. Ayla PERKTAŞ
27.06.2007 - 15.12.2014Mehmet ERTEN
02.07.2002 - 09.02.2014Fulya
KANTARÇIOĞLU
19.12.1995 - 17.02.2013Ahmet AKYALÇIN
16.06.2000 - 16.03.2012Fettah OTO
27.04.2004 - 01.12.2011Şevket APALAK
19.07.2005 - 02.11.2010A. Necmi ÖZLER
11.02.2004 - 01.04.2010Sacit ADALI
24.02.1993 - 05.03.2010Mustafa YILDIRIM
04.02.2007 - 01.02.2010Cafer ŞAT
01.07.2003 - 03.01.2010Ali GÜZEL
25.02.2004 - 15.10.2008H. Tülay TUĞÇU
22.12.1999 - 12.06.2007Mustafa BUMİN
02.11.1992 - 26.06.2005Fazıl SAĞLAM
21.08.2003 - 23.02.2005Ertuğrul ERSOY
02.12.1999 - 01.01.2005Ali HÜNER
15.09.1993 - 28.05.2004Aysel PEKİNER
20.12.1995 - 10.04.2004Samia AKBULUT
25.10.1990 - 12.02.2004Yalçın ACARGÜN
27.05.1991 - 03.01.2004Mustafa
Yaşar AYĞÜN
20.09.2000 - 01.07.2003Enis TUNGA
09.08.2001 - 10.06.2003Nurettin TURAN
10.01.1995 - 24.01.2003Rüştü SÖNMEZ
28.05.1998 - 03.06.2002M. Can ILICAK
03.02.1998 - 05.08.2001Mustafa YAKUPOĞLU
16.05.1994 - 14.07.2000A. Necdet SEZER
27.09.1988 - 05.05.2000Güven DİNÇER
29.06.1990 - 24.11.1999Lütfi F. TUNCEL
10.10.1993 - 01.10.1999Selçuk TÜZÜN
28.04.1988 - 14.02.1998Y. Güngör ÖZDEN
11.01.1979 - 01.01.1998M. Yılmaz
ALİEFENDİOĞLU
11.01.1979 - 15.11.1995İhsan PEKEL
17.03.1988 - 01.11.1995Mustafa GÖNÜL
26.01.1985 - 20.08.1994A. Oğuz AKDOĞANLI
23.03.1987 - 19.11.1993Servet TÜZÜN
08.07.1981 - 02.08.1993Mustafa ŞAHİN
07.05.1985 - 01.07.1993Yavuz NAZAROĞLU
09.04.1990 - 01.07.1992Erol CANSER
07.12.1988 - 23.06.1992Necdet DARICIOĞLU
18.10.1977 - 04.05.1991Lemi ÖZATAKAN
17.10.1989 - 20.08.1990M. Nuri ÇINARLI
06.04.1981 - 01.07.1990Muammer TURAN
05.02.1981 - 10.06.1990M. Celalettin CUHRUK
25.09.1981 - 01.03.1990M. Şerif ATALAY
30.09.1986 - 01.07.1999Vural Fuat SAVAŞ
11.09.1986 - 19.10.1988Adnan KÜKNER
21.12.1985 - 01.07.1988Selahattin METİN
08.07.1981 - 15.04.1988Orhan ONAR
27.03.1980 - 01.03.1988O. Vahdettin OKTAY
20.02.1985 - 01.03.1987Kenan TERZIOĞLU
18.09.1978 - 01.08.1986H. Semih ÖZMERT
25.09.1981 - 27.07.1986Osman Mikdat KILIÇ
15.03.1982 - 01.07.1985A. Hamdi BOYACIOĞLU
17.09.1970 - 06.04.1985Mithat ÖZOK
13.09.1982 - 10.01.1985Hüseyin
KARAMÜSTANTIKOĞLU
18.09.1978 - 01.12.1984

FORMER JUSTICES



Nahit SAÇLIOĞLU
16.08.1978 - 01.07.1984



Adil ESMER
30.05.1974 - 01.07.1983



Hakkı MÜDERRİSOĞLU
04.12.1980 - 01.07.1983



Nihat O. AKÇAKAYALIOĞLU
04.10.1973 - 19.01.1983



Şevket MÜFTÜĞİL
05.10.1970 - 07.06.1982



Ahmet ZEYNELOĞLU
15.12.1980 - 01.07.1982



Muammer YAZAR
18.09.1978 - 01.03.1982



Ahmet Salih ÇEBİ
13.06.1974 - 14.05.1981



İ. Necdet TANYILDIZ
02.04.1979 - 09.03.1981



Bülent OLÇAY
14.07.1978 - 08.01.1981



Osman TOKCAN
25.04.1978 - 01.12.1980



Ali Rüştü ARAL
14.07.1978 - 15.11.1980



Ahmet ERDOĞDU
07.10.1976 - 14.03.1980



Ö. Lütfi ÖMERBAŞ
24.05.1962 - 18.07.1979



Muhittin GÜRÜN
24.05.1962 - 19.03.1979



Kani VRANA
07.10.1970 - 13.10.1978



Fahrettin ULUÇ
16.10.1975 - 16.07.1978



Abdullah ÜNER
14.12.1972 - 13.07.1978



Ahmet KOÇAK
24.01.1974 - 13.07.1978



S. Şekip ÇOPUROĞLU
27.03.1975 - 13.07.1978



Y. Ziya ÖNEL
12.10.1966 - 14.04.1978



H. Hülki ZARBUN
30.03.1967 - 05.12.1977



Hasan GÜRSEL
12.08.1974 - 14.07.1977



Ahmet AKAR
24.05.1962 - 13.07.1977



İhsan ECEMİŞ
06.10.1966 - 14.07.1976



Şahap ARIÇ
15.09.1969 - 19.09.1975



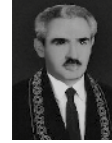
Muhittin TAYLAN
01.12.1965 - 13.07.1975



A. Kemal BERKEM
26.04.1973 - 14.03.1975



Avni GİVDA
24.05.1962 - 13.07.1974



Sait KOÇAK
08.03.1965 - 19.01.1974



A. Fazıl ULUOCAK
01.06.1962 - 14.07.1973



A. Nuri ÜLGENALP
11.11.1970 - 22.06.1973



Mustafa KARAOĞLU
07.10.1968 - 23.03.1973



Ahmet Recai SEÇKİN
03.02.1966 - 17.10.1972



İ. Hakkı KETENOĞLU
28.05.1962 - 14.07.1971



M. Celalettin KURALMEN
28.05.1962 - 27.04.1971



A. Şeref HOCAOĞLU
24.10.1963 - 14.07.1970



Ahmet Fazlı ÖZTAN
12.10.1966 - 14.07.1970



Feyzullah USLU
10.10.1966 - 14.07.1970



Salim BAŞOL
24.05.1962 - 14.07.1970



İhsan KEÇECİOĞLU
24.05.1962 - 14.07.1969



İ. Hilmi SENİL
24.05.1962 - 14.07.1968



M. Şemsettin AKÇOĞLU
24.05.1962 - 21.02.1968



Mustafa Ekrem TÜZEMEN
24.05.1962 - 05.09.1966



Mehmet Asım ERKAN
11.06.1964 - 14.07.1966



Rifat Orhan GÖKSU
24.05.1962 - 14.07.1966



Ö. Lütfi AKADLI
24.05.1962 - 08.07.1966



Y. Cemalettin KÖSEOĞLU
14.09.1964 - 19.01.1966



Yekta AYTAZ
16.06.1962 - 22.05.1965



İsmail Hakkı ÜLKMEN
24.05.1962 - 08.02.1965



M. İ. Sünuhi ARSAN
24.05.1962 - 13.07.1964



Osman YETEN
24.05.1962 - 26.05.1964



Ekrem KORKUT
24.05.1962 - 01.01.1964



Tevfik GERÇEKER
24.05.1962 - 13.07.1963

Constitutional Court of Turkey

