



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 building of the Constitutional Court.

The Turkish Constitutional Court, one of the oldest constitutional courts 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 the present in this booklet.

The basic function of the Constitutional Court of Turkey can be summarized as safeguarding and promoting democracy, the rule of law and the fundamental rights and freedoms. In performing this crucial function, the Court builds upon its past experiences and continuously develops its jurisprudence to better address the contemporary needs.

I am more than happy to express that the 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 in the last decade.

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 reputation of the Court in the international arena by providing us the opportunity to contribute to the corpus of universal law.

We are eager 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 a significant contribution to realizing our common ideal of a just 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 you would like to learn more about the Constitutional Court of Turkey, please visit our website at www.anayasa.gov.tr/en or contact our relevant departments to request specific information.



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1. THE ORIGINS OF CONSTITUTIONAL JURISDICTION IN TURKEY



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

*Kanun-ı Esasi (The First Constitution of the Ottoman Empire of 1876),
Article 115*

BEFORE THE CONSTITUTION OF 1961

The first marks of constitutionalism appeared during the first half of the 19th century in the Ottoman Empire. *Kanun-ı Esasi* (Ottoman Basic Law) was the first written constitution of Turkish history adopted on the 23th of December 1876. It established the first parliament of the country and enshrined individual rights and liberties.

The earliest versions of Turkish Constitutions, namely, *Kanun-ı Esasi*, the Constitutions of 1921 and 1924 did not prescribe provisions on a constitutional review mechanism. It is not surprising considering the fact that the European model of constitutional adjudication has developed after World War II.

However, there were some provisions which bear hints of constitutionality review in the *Kanun-ı Esasi*. For instance, Article 115 adopted 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 prescribed 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, the liberty, the Constitution, the territorial integrity of the Empire, the internal security of the country, the interests of the defense of the country, or to the morality, it rejects the bill definitively by a vote assigning its reasons; or it sends the bill back, accompanied by its observations, to the Chamber of Deputies, demanding to amend or modify it in the sense of those observations.*”

The Constitution of 1921 was the founding Constitution of the Republic without any referral to the constitutional adjudication. In the subsequent Constitution of 1924, the supremacy of the constitution was explicitly recognized in Article 103, which stipulated that: “*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 had not introduced any mechanism of constitutionality review yet.

THE CONSTITUTION OF 1961

The Constitution of 1961 was the fundamental text establishing the Turkish Constitutional Court.

With Article 8 of the 1961 Constitution 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 superiority and binding force of the Constitution was emphasized once again. This Constitution empowered the Constitutional Court to exercise constitutional review of laws under Article 145 and subsequent articles thereof. The Court started operating in April 1962 following the enactment of the Law No. 44 on Establishment and Rules of Procedures of the Constitutional Court.

At that time, only a few countries in Europe (Austria, Germany and Italy) had constitutional adjudication mechanism. Therefore, the Turkish Constitutional Court is one of the oldest constitutional courts established in Europe, which was a considerable development in terms of the rule of law.



THE CONSTITUTION OF 1982

The system of constitutional review established by the 1961 Constitution was preserved in the Constitution of 1982 with minor changes. Articles 146-153 of the 1982 Constitution laid down in details the composition, powers and duties, working methods of the Constitutional Court and other aspects of the constitutionality review.

With the constitutional amendment of 2010, the mechanism of individual application was introduced

into the Turkish legal system and the powers, composition and structure of the Court were altered accordingly. Following this amendment, according to the provisions of Article 149 of the Constitution, a new law entitled “*Code on Establishment and Rules of Procedures of the Constitutional Court*” (“the Law No. 6216”) replacing the Law No. 2949 (law dated 10 November 1983) was enacted on 30 March 2011. The Law No. 6216 specifies the new rules of functioning and procedures of the Turkish Constitutional Court, including the individual application mechanism.



The First Members of the Constitutional Court

For instance, the individual application mechanism provides an effective means to ensure protection of the fundamental rights and freedoms of individuals. Through this mechanism, individuals in Turkey have been granted a remedy on domestic level for alleged violations of their fundamental rights. The Constitutional Court is vested with power to examine and adjudicate such applications for the protection of individual rights and freedoms.

With the more recent constitutional amendment of 2017, the political form of government has been

transformed from parliamentary to presidential, and the jurisdiction of the Court is expanded to review the constitutionality of Presidential decrees. The Presidential decrees are subject to both abstract and concrete norm review.

With the amendment of 2017, the judiciary, in addition to “independence” has been defined as “impartial” in the new text. Also, the military court system has been abolished and, accordingly, the number of members of the Court has been reduced from seventeen to fifteen.

2. THE COMPOSITION OF THE CONSTITUTIONAL COURT

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

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

THE PRESIDENT OF THE CONSTITUTIONAL COURT

The Constitutional Court elects a President and two Deputy-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, sets the agenda of the Plenary and presides over the Plenary Sessions, oversees the administrative affairs, approves the regulations of the Court, and ensures the conformity of expenditures with the budget of the Court. The President assigns Members

to the Sections and takes necessary precautions in order to ensure the balanced distribution of the workload among the Sections.

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

MEMBERS

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

The Members 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 composition of the Court represents a diversity of experience based on different backgrounds and professions.

Three Members of the Court are elected by The Grand National Assembly of Turkey (GNAT) by secret ballot. It shall elect, two Members from among three candidates to be nominated by and from among the president and members of the General Assembly of the Court of Accounts, for each vacant position, and one Member from among three candidates nominated by the heads of the bar associations from among self-employed lawyers. In this election to be held in the Grand National Assembly of Turkey, for each vacant position, two thirds majority of the total number of members shall be required for the first ballot, and absolute majority of total number of members shall be required for the second ballot. If an absolute majority cannot be obtained in the second ballot, a third ballot shall be 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 shall be elected.

Other twelve Members of the Court are appointed by the President of the Republic. The President shall appoint three Members from the Court of Cassation, two Members from Council of State from among three candidates to be nominated, for each vacant position,

by their respective general assemblies, from among their presidents and members; three Members, at least two of whom being law graduates, from among three candidates to be nominated for each vacant position by the Council of Higher Education from among members of the teaching staff who are not members of the Council, in the fields of law, economics and political sciences; four Members from among high level executives, self-employed lawyers, senior judges and public prosecutors or rapporteurs who have served for at least five years in the Constitutional Court.

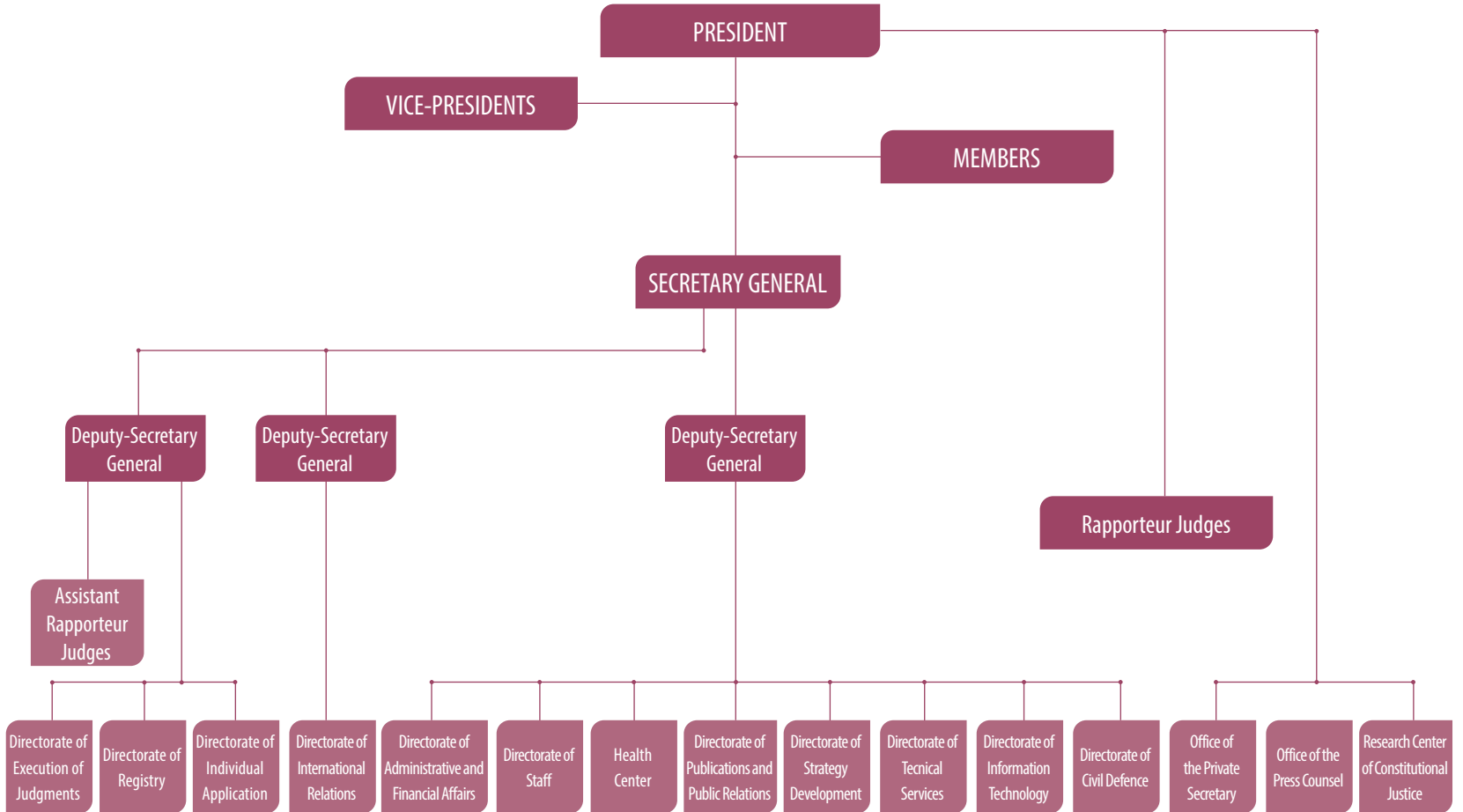
To qualify for appointments as a Member of the Constitutional Court, members of the teaching staff shall be required to possess the title of professor or associate professor; lawyers shall be required to have practiced as a lawyer for at least twenty years; high level executives shall be required to have completed higher education and to have served for at least twenty years in public service, and senior judges and public prosecutors with at least twenty years of professional experience, provided that they all shall be over the age of forty five.





ADMINISTRATIVE ORGANIZATION

THE CONSTITUTIONAL COURT OF THE REPUBLIC OF TURKEY ORGANIZATION CHART



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 fulfill administrative duties, register and transfer applications, follow up on the implementation of the decisions of the Court and inform

the Plenary regarding the matter, manage the budget and 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 Vice-Secretary Generals and a sufficient number of personnel to be assigned by the

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

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.

RAPPORTEUR-JUDGES

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

The rapporteur-judges are selected from among judges and prosecutors with at least five years of judicial

experience, auditors of the Court of Accounts, and academics in the field of law, economy, or political sciences with a PhD degree. Administratively, Rapporteurs are responsible to the President of the Court, and they are not associated individually with Members of the Court. The President of the Court assigns case files to rapporteur, and they present their reports to the President, the Plenary and the Sections.

The rapporteur-judges prepare non-binding reports and draft judgment on which the Members deliberate and decide. Once the decision is taken by the Members, the rapporteur-judge finalizes the judgment in accordance with that decision.

3. THE ADJUCATION PROCEEDINGS

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

The principles regarding procedure and functioning of the Court are set out in Article 149 of the Constitution. The Article provides that specific rules on trial procedures of the Court and disciplinary matters of the Members shall be regulated by law, and specific matters on functioning of the Court, formation of the Sections and committees shall be set out by the internal regulations to be issued by the Plenary of Court.

The Constitutional Court carried out its duties until 2011 according to the Law No. 2949 (dated 10 November 1983). Following the constitutional amendment of 2010, the aforementioned Law No. 6216 (dated 30 March 2011) was enacted to specify the rules on the functioning of the Court. The by-laws of the Court (Internal Regulation No. 28351, dated 12 July 2012) was adopted in accordance with the Law No. 6216.

Under Article 149, the Constitutional Court consists of the Plenary and two Sections. Committees may be established to examine the admissibility of the individual applications.

The Plenary is competent to hear the cases and applications concerning political parties, actions for annulment or objection and trials where it acts as the Supreme Criminal Tribunal. The Sections are endowed with the power to decide on admissibility 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 hear their oral submissions. In cases relating to dissolution of a political party, the Court shall hear the defense of the chairperson of the political party or of a proxy appointed by the chairperson, after hearing the Chief Public Prosecutor of the Court of Cassation.

4. THE DECISION-MAKING BODIES OF THE COURT

The Plenary shall convene with the participation of at least ten Members under the chairmanship of the President of the Constitutional Court or a Deputy-President designated by the President.



THE PLENARY

The Plenary, consisting of fifteen Members including the President of the Court, shall convene with the participation of at least ten Members under the chairmanship of the President or a Deputy-President designated 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 (laws, Presidential decrees and the Rules of Procedure of the GNAT)
- ◆ tries, for offences relating to their offices, the President of the Republic, the Speaker of the GNAT, members of the Council of Ministers; presidents and members of the High Courts 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 Sections
- ◆ reviews the decisions of the GNAT with regard to the annulment of the parliamentary immunity or disqualification from membership
- ◆ elects the President of the Court of Jurisdictional Disputes from among the Members of the Constitutional Court.

SECTIONS

There are two Sections of the Court each consisting of six Members and presided by a Deputy-President. The Sections shall convene with four Members including the Deputy-President and take their decisions with an absolute 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 may be referred to the Section where the admissibility review may be carried out together with the review on the merits.

COMMISSIONS

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 also the legal question requires development or alteration of case-law principle.

5. THE JURISDICTION OF THE COURT



The constitutionality of laws, Presidential decrees and the Rules of Procedure of the Grand National Assembly of Turkey or the provisions thereof may be challenged before the Constitutional Court through an annulment action or claim of unconstitutionality.

The Constitutional Court does not act *ex officio*. It has to receive applications in order to exercise constitutional review. The Constitution enumerates the persons and bodies 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, Presidential decrees 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, the groups of two political parties which have the highest number of members in the Grand National Assembly of Turkey and a minimum of one-fifth of the total number of members of the GNAT have the power to apply for an annulment action to the Constitutional Court.

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

The Constitutional Court shall examine the constitutionality, in respect of both form and substance, of laws, Presidential decrees and the Rules of Procedure of the GNAT. Constitutional amendments shall be examined and verified only with regard to their form. However, Presidential decrees issued during a state of emergency or in time of war shall not be brought before the Constitutional Court alleging their unconstitutionality as to form or substance.

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.

CLAIM OF UNCONSTITUTIONALITY (CONCRETE REVIEW OF NORMS)

Claim of unconstitutionality can be initiated by the civil, criminal or administrative courts and High Courts *ex officio* or upon the request of parties involved in a case.

If a court hearing a case finds that the law or the Presidential decree to be applied is unconstitutional, or if convinced of the seriousness of a claim of unconstitutionality submitted by one of the parties, it shall postpone the consideration of the case until the Constitutional Court decides on the issue.

The Constitutional Court shall decide on the matter within five months of receiving the claim. If no decision is reached within this period, the trial court shall decide the case under legal provisions in force. No claim 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)

The individual application was introduced into the Turkish legal system by the 2010 constitutional amendments and it started to function on 23rd of September 2012. Article 148 of the Constitution states that everyone may apply to the Constitutional Court on the grounds that one of the fundamental rights and freedoms under joint protection of the Constitution and the European Convention on Human Rights has been violated by public authorities after having exhausted ordinary legal 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 enshrined by both the Constitution and the European Convention on Human Rights. However, individual application may be filed against only public actions or omissions; not against parliamentary laws,

Presidential decrees, or regulatory administrative acts. Besides, the rulings of the Constitutional Court and certain other acts 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 are not allowed to lodge individual applications while private-law legal persons may apply solely on the ground that their rights concerning legal personality have been violated. Non-citizens may not lodge individual applications concerning rights exclusive to Turkish citizens.

According to the Law No: 6216, the individual application must be filed within thirty days starting from the exhaustion of legal remedies; or from the date when the violation is known if no remedies are available.

Admissibility examination of individual applications is to be made by commissions. The structure of the commissions has not been regulated by the Rules of



Individual Application Desk

Procedure. A commission consisting of two Members of the Court shall decide unanimously that an application is inadmissible. In case unanimity cannot be achieved by the commission on admissibility, the application shall be forwarded to the Sections. The President of the relevant Section may decide to conduct joint examination of admissibility and merits of the application. The admissibility examination is made to determine whether the application meets the conditions such as time-limit. It is within the authority of the Court to dismiss applications which do not bear any significance for the interpretation of the Constitution or for the determination of the scope and limits of fundamental rights provided that the applicant did not suffer any significant damage. The Court may also dismiss the applications which are manifestly ill-founded. This criterion aims to protect the Court from excessive work-load in order to allocate more time to review 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 Deputy-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. Accordingly, the matters to be reviewed during appeal stage cannot be subject to examination of individual applications. 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 an application. 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 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 assigned 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 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 permanent dissolution, 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 TRIBUNAL

The Constitutional Court, acting as the Supreme Criminal Tribunal, tries for offences relating to their official functions the President of the Republic, Speaker of the GNAT, Ministers, President and Members of the Constitutional Court, the Court of Cassation, the Council of State 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 Tribunal is conducted by the Chief Public Prosecutor. 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 Tribunal, shall take the decision which will be final.

6. LEGAL EFFECT OF THE COURT'S JUDGMENTS

The decisions of the Court are binding upon legislative, executive and judicial organs, administrative authorities, and natural and legal persons.

Laws, Presidential decrees, the Rules of Procedure of the Grand National Assembly of Turkey, 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 up to one year. According to Article 153 of the Constitution, the annulment decisions are not retroactive.

Judgments of the Constitutional Court are final. However, judgments of the Court when acting as the Supreme Criminal Tribunal 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 laws which are contrary to the Constitution. 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. 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. INTERNATIONAL COOPERATION

The Constitutional Court of Turkey maintains constant institutional contact with national and international courts. There is ample opportunity for such exchange when the Members 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 center of interest in recent years due to its landmark decisions in the field of human rights and constitutional interpretation.

The Constitutional Court maintains constant institutional contact with national and international courts. There is ample opportunity for such exchange when the Members 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.

The Constitutional Court is also the initiator of the First Judicial Conference of the Constitutional and Supreme Courts/Councils and Equivalent Institutions of the Member States of the Organization of Islamic Cooperation (OIC) that convened for the first time in 2018 in Istanbul.

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)” was implemented by the Ankara Program Office of the Council of Europe under the coordination of the Constitutional Court of Turkey. This project was co-funded by the Council of Europe, the European Union and Turkey. Among the stakeholders of the project were the Court of Cassation, the Council of State, Ministry of Justice, the High Council of Judges and Prosecutors and the Union of Turkish Bar Associations. The overall objective of the Project was 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:

THE WORLD CONFERENCE ON CONSTITUTIONAL JUSTICE

The World Conference on Constitutional Justice unites 118 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 (CECC), established in Dubrovnik in 1972, brings together representatives of 41 European constitutional or equivalent courts conducting a constitutional review.

President Mr. Zühtü Arslan and the accompanying delegation attended XVII Congress of the CECC held in Batumi, Georgia on June 28 – July 1, 2017. Mr. Arslan delivered a speech titled “Upholding Constitutional Principles in a State of Emergency.”

THE ASSOCIATION OF ASIAN CONSTITUTIONAL COURTS AND EQUIVALENT INSTITUTIONS

The Association of Asian Constitutional Courts and Equivalent Institutions (AACC) is a regional organization of constitutional justice established in July of 2010 to promote the development of democracy, rule of law and fundamental rights in Asia. It aims to increase exchange of information and experiences on constitutional matters and enhance cooperation among respective national courts/institutions exercising constitutional justice.

Turkish Constitutional Court undertook the term presidency of the AACC for the period between 2012-2014. The Court held the 2nd Congress of the AACC in Istanbul on 27 April-1 May, 2014. The Court also assumed the Centre for Training and Human Resources Development, which is one of the three permanent Secretariats of the AACC. Within this scope , the



Court has been organizing the “Summer School” of the Association every year since 2013 on the different aspects of human rights.

The 9th Summer School was held in September 2021 under the theme of “Current Problems in Execution of Judgments: Constitutional Justice.” In the 9th Summer School, the apex courts of **twenty-seven** countries from Asia, Africa and Europe were represented. Just like the previous summer schools, the 9th Summer School was an excellent forum to share knowledge and information thanks to the active contribution of the participants.

CONFERENCE OF CONSTITUTIONAL JURISDICTIONS OF MEMBER STATES OF THE ORGANIZATION OF ISLAMIC COOPERATION (CCJ-OIC)

In 2018, the first Judicial Conference of the Constitutional and Supreme Courts/Councils and equivalent Institutions of the Member States of the OIC was convened in Istanbul with the participation of 42 Courts/Institutions and the “Istanbul Declaration” was adopted which emphasizes the importance of the establishment of a judicial forum among the constitutional and supreme courts/councils of the OIC member states in order to exchange information and experiences and to improve cooperation.

During the second Judicial Conference of Constitutional and Supreme Courts/Councils of the OIC Member States/Observer States held in Bandung, Indonesia on September 2021, the “Bandung Declaration” was

unanimously adopted and it was agreed to establish a new platform under the name of “Conference of Constitutional Jurisdictions of Member States of the Organization of Islamic Cooperation (CCJ-OIC)”. It was also decided that the inaugural Congress of the Conference, envisaged to be established through the Istanbul Declaration be held in Istanbul in 2022 and the necessary steps be taken for the completion of the establishment process.

THE CONFERENCE OF CONSTITUTIONAL JURISDICTIONS OF AFRICA

The Turkish Constitutional Court has acquired the observer status to the Conference of Constitutional Jurisdictions of Africa (CCJA) on February 26, 2018. President Mr. Zühtü Arslan attended the 5th Congress of the CCJA in Luanda, Angola between 9-13 June 2019, representing the Turkish Constitutional Court as well as the AACC.



B. COOPERATION WITH NATIONAL CONSTITUTIONAL COURTS

The Court has signed twenty-seven 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

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:

Indonesia The Constitutional Court of Indonesia	24 April 2007
North Macedonia Constitutional Court of North Macedonia	26 April 2007
Azerbaijan Constitutional Court of Azerbaijan	10 May 2007
Chile Constitutional Court of Chile	07 June 2007
Korea Constitutional Court of the Republic of Korea	24 April 2009
Ukraine Constitutional Court of Ukraine	24 April 2009
Pakistan Federal Supreme Court of Pakistan	24 April 2009
Bosnia and Herzegovina Constitutional Court of Bosnia and Herzegovina	24 April 2009
Bulgaria Constitutional Court of Bulgaria	07 April 2011
Tajikistan Constitutional Court of Tajikistan	26 April 2012
Montenegro Constitutional Court of Montenegro	28 April 2012
Afghanistan Independent Commission for Overseeing the Implementation of Constitution of the Islamic Republic of Afghanistan	25 April 2013
Albania 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 Constitutional Court of Romania	17 October 2014
Algeria Constitutional Council of People's Democratic Republic of Algeria	26 February 2015

Turkish Republic of Northern Cyprus Supreme Court of Northern Cyprus	29 June 2015
Kosovo Constitutional Court of Kosovo	27 April 2016
Iraq Federal Supreme Court of Iraq	25 April 2017
Kazakhstan Constitutional Council of the Republic of Kazakhstan	25 April 2017
Mongolia Constitutional Court of Mongolia	25 April 2017
Georgia Constitutional Court of Georgia	28 April 2017
Russia Constitutional Court of the Russian Federation	30 March 2018
Bolivarian Republic of Venezuela The Supreme Tribunal of Justice of the Bolivarian Republic of Venezuela	10 May 2018
Somalia Supreme Court of Somalia	19 December 2018
Djibouti Constitutional Council of Djibouti	17 June 2019



8. CURRENT MEMBERS

CURRENT MEMBERS

PRESIDENT



Zühtü ARSLAN

VICE-PRESIDENTS



Hasan Tahsin GÖKCAN



Kadir ÖZKAYA

MEMBERS



Engin YILDIRIM



Hicabi DURSUN



Muammer TOPAL



M. Emin KUZ



Rıdvan GÜLEÇ



Recai AKYEL



Yusuf Şevki HAKYEMEZ



Yıldız SEFERİNOĞLU



Selahaddin MENTEŞ



Basri BAĞCI



İrfan FİDAN



Kenan YAŞAR



1. FIRST SECTION

The Members serving in the First Section is as follows:

No	Name SURNAME	Title
1	Hasan Tahsin GÖKCAN	President
2	Hicabi DURSUN	Members
3	Muammer TOPAL	Members
4	Recai AKYEL	Members
5	Yusuf Şevki HAKYEMEZ	Members
6	Selahaddin MENTEŞ	Members
7	İrfan FİDAN	Members



2. SECOND SECTION

The Members serving in the Second Section is as follows:

No	Name SURNAME	Title
1	Kadir ÖZKAYA	President
2	Engin YILDIRIM	Members
3	M. Emin KUZ	Members
4	Rıdvan GÜLEÇ	Members
5	Yıldız SEFERİNOĞLU	Members
6	Basri BAĞCI	Members
7	Kenan YAŞAR	Members

9. 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 Tribunal.



1962-1989

1989-2009

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

A national competition was opened by the Ministry of Public Works for the design & project 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 reduce the energy need for lightening and heating and the rainwater recycle system minimizes the water need for irrigating the Court's vast garden.



2009-Present

THE SUPREME CRIMINAL TRIBUNAL HALL (GRAND HALL)

As it was explained, the Constitutional Court, acting as the Supreme Criminal Tribunal, 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 swearing-in ceremonies of the newly-elected Members 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 DELIBERATION ROOMS & OFFICES

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 equipment.

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 increase in the needs and requirements of the Court, the library evolved into its current status. Recently, the library is expanded and it is located on an area of 800 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 January 2022, the Library houses a collection of 27.332 volumes, including 24.021 domestic and 3.311 foreign publications. The number of periodicals that the library subscribes to is approximately 8000.





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.







Constitutional Court of Turkey