

REPUBLIC OF TURKEY - PRIME MINISTRY



SECRETARIAT GENERAL FOR EU AFFAIRS

# **Law No 5982 Amending Certain Provisions of the Constitution\***

Translated by Secretariat General for European Union Affairs

---

\* Updated version following the Constitutional Court's decision dated 7 July 2010.

THE CONSTITUTION (1982)	PROPOSAL
<p><b>X. Equality before the Law</b></p> <p><b>ARTICLE 10.</b> All individuals are equal without any discrimination before the law, irrespective of language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such considerations.</p> <p>Men and women have equal rights. The State shall have the obligation to ensure that this equality exists in practice.</p> <p>No privilege shall be granted to any individual, family, group or class.</p> <p>State organs and administrative authorities shall act in compliance with the principle of equality before the law in all their proceedings.</p>	<p><b>X. Equality before the Law</b></p> <p><b>ARTICLE 10.</b> All individuals are equal without any discrimination before the law, irrespective of language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such considerations.</p> <p>Men and women have equal rights. The State shall have the obligation to ensure that this equality exists in practice. <b><u>Measures taken for this purpose shall not be interpreted as contrary to the principle of equality.</u></b></p> <p><b><u>Measures taken for the persons that require special care such as children, the elderly and the disabled cannot be considered as contrary to the principle of equality.</u></b></p> <p>No privilege shall be granted to any individual, family, group or class.</p> <p>State organs and administrative authorities shall act in compliance with the principle of equality before the law in all their proceedings.</p>

THE CONSTITUTION (1982)	PROPOSAL
<p><b>ARTICLE 20.</b> Everyone has the right to demand respect for his or her private and family life. Privacy of an individual or family life cannot be violated.</p> <p>Unless there exists a decision duly passed by a judge on one or several of the grounds of national security, public order, prevention of crime commitment, protection of public health and public morals, a written order of an agency authorised by law in cases where delay is prejudicial, again on the above-mentioned grounds, neither the person nor the private papers, nor belongings, of an individual shall be searched nor shall they be seized. The decision of the authorized agency shall be submitted for the approval of the judge having jurisdiction within 24 hours. The judge shall announce his decision within 48 hours from the time of seizure; otherwise, seizure shall automatically be lifted.</p>	<p><b>ARTICLE 20.</b> Everyone has the right to demand respect for his or her private and family life. Privacy of an individual or family life cannot be violated.</p> <p>Unless there exists a decision duly passed by a judge on one or several of the grounds of national security, public order, prevention of crime commitment, protection of public health and public morals, a written order of an agency authorised by law in cases where delay is prejudicial, again on the above-mentioned grounds, neither the person nor the private papers, nor belongings, of an individual shall be searched nor shall they be seized. The decision of the authorized agency shall be submitted for the approval of the judge having jurisdiction within 24 hours. The judge shall announce his decision within 48 hours from the time of seizure; otherwise, seizure shall automatically be lifted.</p> <p><b><u>All individuals have the right to request the protection of their personal data. This right includes being informed of, having access to and requesting the correction and deletion of their personal data and to be informed whether these are used in consistency with envisaged objectives. Personal data can be processed only in cases envisaged by law or by the individual's own consent. The principles and procedures regarding the protection of personal data are laid down in law.</u></b></p>

THE CONSTITUTION (1982)	PROPOSAL
<p><b>ARTICLE 23.</b> Everyone has the right to freedom of residence and movement.</p> <p>Freedom of residence may be restricted by law for the purpose of preventing offences, promoting social and economic development, ensuring sound and orderly urban growth, and protecting public property; Freedom of movement may be restricted by law for the purpose of investigation and prosecution of an offence, and prevention of offences.</p> <p>A citizen's freedom to leave the country may be restricted <del>on the basis of civic obligations, or criminal</del> investigation or prosecution.</p> <p>Citizens may not be deported, or deprived of their right of entry to their homeland</p>	<p><b>ARTICLE 23.</b> Everyone has the right to freedom of residence and movement.</p> <p>Freedom of residence may be restricted by law for the purpose of preventing offences, promoting social and economic development, ensuring sound and orderly urban growth, and protecting public property; Freedom of movement may be restricted by law for the purpose of investigation and prosecution of an offence, and prevention of offences.</p> <p>A citizen's freedom to leave the country may be restricted <u>only by a court decision based on criminal</u> investigation or prosecution.</p> <p>Citizens may not be deported, or deprived of their right of entry to their homeland.</p>

<b>THE CONSTITUTION (1982)</b>	<b>PROPOSAL</b>
<p><b>I. Protection of the Family</b></p> <p><b>ARTICLE 41.</b> The family is the foundation of the Turkish society and based on the equality between the spouses.</p> <p>The State shall take the necessary measures and establish the necessary organization to ensure the peace and welfare of the family, especially where the protection of the mother and children is involved, and recognizing the need for education in the practical application of family planning.</p>	<p><b>I. Protection of the Family and <u>Children's Rights</u></b></p> <p><b>ARTICLE 41.</b> The family is the foundation of the Turkish society and based on the equality between the spouses.</p> <p>The State shall take the necessary measures and establish the necessary organization to ensure the peace and welfare of the family, especially where the protection of the mother and children is involved, and recognizing the need for education in the practical application of family planning.</p> <p><b><u>Every child has the right to adequate protection and care and the right to have and maintain a personal and direct relation with his/her parents unless it is contrary to his/her high interests.</u></b></p> <p><b><u>The State shall take measures for the protection of the child against all kinds of abuse and violence.</u></b></p>

THE CONSTITUTION (1982)	PROPOSAL
<p><b>C. Right to Organize Labour Unions</b></p> <p><b>ARTICLE 51.</b> Employees and employers have the right to form labour unions employers' associations and higher organizations, without obtaining permission, and they also possess the right to become a member of a union and to freely withdraw from membership, in order to safeguard and develop their economic and social rights and the interests of their members in their labour relations. No one shall be forced to become a member of a union or to withdraw from membership.</p> <p>The right to form a union shall be solely be restricted by law and with the purposes of safeguarding national security and public order and to prevention of crime commitment, protection of public health and public morals and the rights and freedoms of others.</p> <p>The formalities, conditions and procedures to be applied in exercising the right to form union shall be prescribed by law.</p> <p><del><b>Membership in more than one labour union cannot be obtained at the same time and in the same work branch.</b></del></p> <p>The scope, exceptions and limits of the rights of civil servants who do not have a worker status are prescribed by law in line with the characteristics of their job.</p> <p>The regulations, administration and functioning of labour unions and their higher bodies should not be inconsistent with the fundamental characteristics of the Republic and principles of democracy.</p>	<p><b>C. Right to Organize Labour Unions</b></p> <p><b>ARTICLE 51.</b> Employees and employers have the right to form labour unions employers' associations and higher organizations, without obtaining permission, and they also possess the right to become a member of a union and to freely withdraw from membership, in order to safeguard and develop their economic and social rights and the interests of their members in their labour relations. No one shall be forced to become a member of a union or to withdraw from membership.</p> <p>The right to form a union shall be solely be restricted by law and with the purposes of safeguarding national security and public order and to prevention of crime commitment, protection of public health and public morals and the rights and freedoms of others.</p> <p>The formalities, conditions and procedures to be applied in exercising the right to form union shall be prescribed by law.</p> <p><b><u>The fourth paragraph is repealed.</u></b></p> <p>The scope, exceptions and limits of the rights of civil servants who do not have a worker status are prescribed by law in line with the characteristics of their job.</p> <p>The regulations, administration and functioning of labour unions and their higher bodies should not be inconsistent with the fundamental characteristics of the Republic and principles of democracy.</p>

THE CONSTITUTION (1982)	PROPOSAL
<p><b>A. Right of Collective Labour Agreement</b></p> <p><b>ARTICLE 53.</b> Workers and employers have the right to conclude collective labour agreements in order to regulate reciprocally their economic and social position and conditions of work..</p> <p>The procedure to be followed in concluding collective labour agreements shall be regulated by law.</p> <p><del>The unions and their higher organizations, which are to be established by the public employees mentioned in the first paragraph of Article 128 and which do not fall under the scope of the first and second paragraphs of the same article and also Article 54, may appeal to judicial authorities on behalf of their members and may hold collective bargaining meetings with the administration in accordance with their aims. If an agreement is reached as a result of collective bargaining, a text of the agreement will be signed by the parties. Such text shall be presented to the Council of Ministers so that administrative or judicial arrangements can be made. If such a text cannot be concluded by collective bargaining, the agreed and disagreed points will also be submitted for the consideration of the Council of Ministers by the relevant parties. The regulations for the execution of this article are stipulated by law.</del></p> <p><del>More than one collective bargaining agreement at the same place of work for the same period shall not be concluded or put into effect.</del></p>	<p><b>A. Right of Collective Labour Agreement and <u>Collective Agreement</u></b></p> <p><b>ARTICLE 53.</b> Workers and employers have the right to conclude collective labour agreements in order to regulate reciprocally their economic and social position and conditions of work..</p> <p>The procedure to be followed in concluding collective labour agreements shall be regulated by law.</p> <p><b><u>The third paragraph is repealed.</u></b></p> <p><b><u>The fourth paragraph is repealed.</u></b></p>
	<p><b><u>Public servants and other public employees have the right to conclude collective agreements.</u></b></p>

THE CONSTITUTION (1982)	PROPOSAL
	<p><b><u>The parties may apply to Reconciliation Board if a dispute arises during the process of collective agreement. The decisions of the Reconciliation Board shall be final and have the force of a collective agreement.</u></b></p> <p><b><u>The scope of and the exceptions to the right of collective agreement, the persons to benefit from and the form, procedure and entry into force of collective agreement and the extension of the provisions of collective agreement, as well as the organization and operating procedures and principles of the Reconciliation Board and other matters shall be laid down in law.</u></b></p>



THE CONSTITUTION (1982)	PROPOSAL
<p><b>B. Right to Strike and Lockout</b></p> <p><b>ARTICLE 54.</b> Workers have the right to strike if a dispute arises during the collective bargaining process. The procedures and conditions governing the exercise of this right and the employer's recourse to a lockout, the scope of both actions, and the exceptions to which they are subject shall be regulated by law.</p> <p>The right to strike, and lockout shall not be exercised in a manner contrary to the principle of goodwill to the detriment of society, and in a manner damaging national wealth.</p> <p><del><b>During a strike, the labour union is liable for any material damage caused in a work place where the strike is being held, as a result of deliberately negligent behaviour by the workers and the labour union.</b></del></p> <p>The circumstances and places in which strikes and lockouts may be prohibited or postponed shall be regulated by law.</p> <p>In cases where a strike or a lockout is prohibited or postponed, the dispute shall be settled by the Supreme Arbitration Board at the end of the period of postponement. The disputing parties may apply to the Supreme Arbitration Board by mutual agreement at any stage of the dispute. The decisions of the Supreme Arbitration Board shall be final and have the force of a collective labour agreement.</p>	<p><b>B. Right to Strike and Lockout</b></p> <p><b>ARTICLE 54.</b> Workers have the right to strike if a dispute arises during the collective bargaining process. The procedures and conditions governing the exercise of this right and the employer's recourse to a lockout, the scope of both actions, and the exceptions to which they are subject shall be regulated by law.</p> <p>The right to strike, and lockout shall not be exercised in a manner contrary to the principle of goodwill to the detriment of society, and in a manner damaging national wealth.</p> <p><u><b>The third paragraph is repealed.</b></u></p> <p>The circumstances and places in which strikes and lockouts may be prohibited or postponed shall be regulated by law.</p> <p>In cases where a strike or a lockout is prohibited or postponed, the dispute shall be settled by the Supreme Arbitration Board at the end of the period of postponement. The disputing parties may apply to the Supreme Arbitration Board by mutual agreement at any stage of the dispute. The decisions of the Supreme Arbitration Board shall be final and have the force of a collective labour agreement.</p>
<p>The organisation and functions of the Supreme Arbitration Board shall be regulated by law.</p>	<p>The organisation and functions of the Supreme Arbitration Board shall be regulated by law.</p>

THE CONSTITUTION (1982)	PROPOSAL
<p><del>Politically motivated strikes and lockouts, solidarity strikes and lockouts, occupation of work premises, labour go-slows, and other forms of obstruction are prohibited.</del></p> <p>Those who refuse to go on strike, shall in no way be barred from working at their work-place by strikers.</p>	<p><u>The seventh paragraph is repealed.</u></p> <p>Those who refuse to go on strike, shall in no way be barred from working at their work-place by strikers.</p>

THE CONSTITUTION (1982)	PROPOSAL
<p><b>VII. Right of Petition</b></p> <p><b>ARTICLE 74.</b> Citizens and foreigners resident considering the principle of reciprocity have the right to apply in writing to the competent authorities and to the Turkish Grand National Assembly with regard to the requests and complaints concerning themselves or the public.</p> <p>The result of the application concerning himself shall be made known to the petitioner in writing without delay.</p>	<p><b>VII. Right of Petition, <u>Right to Information and Appeal to the Ombudsman</u></b></p> <p><b>ARTICLE 74.</b> Citizens and foreigners resident considering the principle of reciprocity have the right to apply in writing to the competent authorities and to the Turkish Grand National Assembly (TGNA) with regard to the requests and complaints concerning themselves or the public.</p> <p>The result of the application concerning himself shall be made known to the petitioner in writing without delay.</p> <p><b><u>Everyone has the right to obtain information and appeal to the Ombudsman.</u></b></p> <p><b><u>The Institution of the Ombudsman established under the TGNA examines complaints on the functioning of the administration.</u></b></p> <p><b><u>The Ombudsman shall be elected by the TGNA for a term of four years by secret ballot. In the first two ballots, a two-thirds majority of the component members and in the third ballot, an absolute majority of the component members shall be required. If an absolute majority cannot be obtained in the third ballot, a fourth ballot shall be held between the two candidates who have received the greatest number of votes in the third ballot; the candidate who receives the greatest number of votes in the fourth ballot shall be elected.</u></b></p>

THE CONSTITUTION (1982)	PROPOSAL
The way of exercising <del>this right shall be determined by law.</del>	The way of exercising <u>the rights referred to in this article, the establishment, duties, functioning and actions of the Ombudsman institution to be taken after the examination and the procedures and principles regarding the qualifications, elections and personnel rights of the Ombudsman and his/her officials shall be laid down in law.</u>

THE CONSTITUTION (1982)	PROPOSAL
<p><b>5. Loss of Membership</b></p> <p><b>ARTICLE 84.</b> The loss of membership of a deputy who has resigned shall be decided upon by the plenary of the Turkish Grand National Assembly (TGNA) after the Bureau of the TGNA attests to the validity of the resignation.</p> <p>The loss of membership, through a final judicial sentence or deprivation of legal capacity, shall take effect after the final court decision in the matter has been communicated to the plenary of the TGNA.</p> <p>The loss of membership of a deputy who insists on holding a position or continues an activity incompatible with membership according to Article 82, shall be decided by a secret plenary vote, upon the submission of a report drawn up by the authorized commission setting out the factual situation.</p> <p>Loss of membership by a deputy who fails to attend without excuse or permission, five meetings in a period of one month shall be decided by an absolute majority of the total number of members after the Bureau of the TGNA determines the situation.</p>	<p><b>5. Loss of Membership</b></p> <p><b>ARTICLE 84.</b> The loss of membership of a deputy who has resigned shall be decided upon by the plenary of the Turkish Grand National Assembly (TGNA) after the Bureau of the TGNA attests to the validity of the resignation.</p> <p>The loss of membership, through a final judicial sentence or deprivation of legal capacity, shall take effect after the final court decision in the matter has been communicated to the plenary of the TGNA.</p> <p>The loss of membership of a deputy who insists on holding a position or continues an activity incompatible with membership according to Article 82, shall be decided by a secret plenary vote, upon the submission of a report drawn up by the authorized commission setting out the factual situation.</p> <p>Loss of membership by a deputy who fails to attend without excuse or permission, five meetings in a period of one month shall be decided by an absolute majority of the total number of members after the Bureau of the TGNA determines the situation.</p>

THE CONSTITUTION (1982)	PROPOSAL
<p><del>The membership of a deputy whose statements and acts are cited in a final judgment by the Constitutional Court as having caused the permanent dissolution of his party shall terminate on the date when the decision in question and its justifications are published in the Official Gazette. The speaker of the Turkish Grand National Assembly shall immediately take the necessary action concerning such decision and shall inform the plenary of the Turkish Grand National Assembly accordingly.</del></p>	<p><u>The final paragraph is repealed.</u></p>

THE CONSTITUTION (1982)	PROPOSAL
<p><b>B. Bureau of the Turkish Grand National Assembly</b></p> <p><b>ARTICLE 94.</b> The Bureau of the Turkish Grand National Assembly (TGNA) shall be composed of the Speaker, the Deputy Speaker, Secretary Members, and Administrative Members elected from among the Assembly members.</p> <p>The Bureau of the TGNA shall be so composed as to ensure proportionate representation to the number of members of each political party group in the Assembly. Political party groups shall not nominate candidates for the Office of the Speaker.</p> <p>Two elections to the Bureau of the TGNA shall be held in the course of one legislative term. The term of office of those elected in the first round is two years and the term of office of those elected in the second round <del>is three years.</del></p>	<p><b>B. Bureau of the Turkish Grand National Assembly</b></p> <p><b>ARTICLE 94.</b> The Bureau of the Turkish Grand National Assembly (TGNA) shall be composed of the Speaker, the Deputy Speaker, Secretary Members, and Administrative Members elected from among the Assembly members.</p> <p>The Bureau of the TGNA shall be so composed as to ensure proportionate representation to the number of members of each political party group in the Assembly. Political party groups shall not nominate candidates for the Office of the Speaker.</p> <p>Two elections to the Bureau of the TGNA shall be held in the course of one legislative term. The term of office of those elected in the first round is two years and the term of office of those elected in the second round <u>shall continue until the end of the relevant legislative term.</u></p>
<p>The candidates from among the members of the TGNA for the Office of the Speaker of the TGNA shall be announced, within five days of the convening of the TGNA, to the Bureau of the TGNA. Election of the Speaker shall be held by secret ballot. In the first two ballots, a two-thirds majority of the total number of members, and in the third ballot an absolute majority of the total number of members is required. If an absolute majority cannot be obtained in the third ballot a fourth ballot shall be held between the two candidates who have received the highest number of votes in the third ballot; the member who receives the greatest number of votes in the fourth ballot shall be elected Speaker. The election of the Speaker shall be completed within five days of the expiry of the period for the nomination of candidates.</p>	<p>The candidates from among the members of the TGNA for the Office of the Speaker of the TGNA shall be announced, within five days of the convening of the TGNA, to the Bureau of the TGNA. Election of the Speaker shall be held by secret ballot. In the first two ballots, a two-thirds majority of the total number of members, and in the third ballot an absolute majority of the total number of members is required. If an absolute majority cannot be obtained in the third ballot a fourth ballot shall be held between the two candidates who have received the highest number of votes in the third ballot; the member who receives the greatest number of votes in the fourth ballot shall be elected Speaker. The election of the Speaker shall be completed within five days of the expiry of the period for the nomination of candidates.</p>

THE CONSTITUTION (1982)	PROPOSAL
<p>The quorum required for election, the number of ballots and its procedure, the number of Deputy Speakers, Secretary Members and Administrative Members, shall be stipulated by the Assembly Rules of Procedure.</p> <p>The Speaker and Deputy Speaker of the <b>TGNA</b> cannot participate in the activities of the political party or party group in which they are a member, nor in debates, within or outside the Assembly, except in cases required by their functions; the Speaker and the Deputy Speaker who is presiding over the session shall not vote.</p>	<p>The quorum required for election, the number of ballots and its procedure, the number of Deputy Speakers, Secretary Members and Administrative Members, shall be stipulated by the Assembly Rules of Procedure.</p> <p>The Speaker and Deputy Speaker of the <b>TGNA</b> cannot participate in the activities of the political party or party group in which they are a member, nor in debates, within or outside the Assembly, except in cases required by their functions; the Speaker and the Deputy Speaker who is presiding over the session shall not vote.</p>



THE CONSTITUTION (1982)	PROPOSAL
<p><b>B. Recourse to Judicial Review</b></p> <p><b>ARTICLE 125.</b> Recourse to judicial review shall be available against all actions and acts of administration. National or international arbitration may be suggested to settle the disputes which arise from conditions and contracts under which concessions are granted concerning public services. Only those disputes involving foreign elements can be solved by international arbitration.</p> <p>The acts of the President of the Republic on his or her own competence, and the decisions of the Supreme Military Council are outside the scope of judicial review.</p> <p>In suits filed against administrative acts, the statute of limitations shall be effective from the date of written notification.</p> <p>Judicial power is limited to the verification of the conformity of the actions and acts of the administration with law. No judicial ruling shall be passed which restricts the exercise of the executive function in accordance with the forms and principles prescribed by law, which has the quality of an administrative action and act, or which removes discretionary powers.</p>	<p><b>B. Recourse to Judicial Review</b></p> <p><b>ARTICLE 125.</b> Recourse to judicial review shall be available against all actions and acts of administration. National or international arbitration may be suggested to settle the disputes which arise from conditions and contracts under which concessions are granted concerning public services. Only those disputes involving foreign elements can be solved by international arbitration.</p> <p>The acts of the President of the Republic on his or her own competence, and the decisions of the Supreme Military Council are outside the scope of judicial review. <b><u>Nonetheless, recourse to judicial review shall be available against all decisions taken by the Supreme Military Council regarding expulsion from the Armed Forces.</u></b></p> <p>In suits filed against administrative acts, the statute of limitations shall be effective from the date of written notification.</p> <p>Judicial power is limited to the verification of the conformity of the actions and acts of the administration with law <b><u>and in no case it can be used as review of expediency.</u></b> No judicial ruling shall be passed which restricts the exercise of the executive function in accordance with the forms and principles prescribed by law, which has the quality of an administrative action and act, or which removes discretionary powers.</p>
<p>If the implementation of an administrative act should result in damages which are difficult or impossible to compensate for, and at the same time this act is clearly unlawful, then a stay of execution may be decided upon, stating the reasons why.</p>	<p>If the implementation of an administrative act should result in damages which are difficult or impossible to compensate for, and at the same time this act is clearly unlawful, then a stay of execution may be decided upon, stating the reasons why.</p>

<b>THE CONSTITUTION (1982)</b>	<b>PROPOSAL</b>
<p>The law may restrict the issuing of stay of execution orders in cases of state of emergency, martial law, mobilisation and state of war, and for reasons of national security, public order and public health.</p> <p>The administration shall be liable to compensate for damages resulting from its actions and acts.</p>	<p>The law may restrict the issuing of stay of execution orders in cases of state of emergency, martial law, mobilisation and state of war, and for reasons of national security, public order and public health.</p> <p>The administration shall be liable to compensate for damages resulting from its actions and acts.</p>

THE CONSTITUTION (1982)	PROPOSAL
<p><b>1. General Principles</b></p> <p><b>ARTICLE 128.</b> The fundamental and permanent functions required by the public services that the state, state economic enterprises and other public corporate bodies are assigned to perform, in accordance with principles of general administration, shall be carried out by public servants and other public employees.</p> <p>The qualifications of public servants and other public employees, procedures governing their appointments, duties and powers, their rights and responsibilities, salaries and allowances, and other manners related to their status shall be regulated by law.</p> <p>The procedure and principles governing the training of senior administrators shall be specially regulated by law.</p>	<p><b>1. General Principles</b></p> <p><b>ARTICLE 128.</b> The fundamental and permanent functions required by the public services that the state, state economic enterprises and other public corporate bodies are assigned to perform, in accordance with principles of general administration, shall be carried out by public servants and other public employees.</p> <p>The qualifications of public servants and other public employees, procedures governing their appointments, duties and powers, their rights and responsibilities, salaries and allowances, and other manners related to their status shall be regulated by law, <b><u>without prejudice to provisions on collective agreement concerning financial and social rights.</u></b></p> <p>The procedure and principles governing the training of senior administrators shall be specially regulated by law.</p>

THE CONSTITUTION (1982)	PROPOSAL
<p><b>2. Duties and Responsibilities, and Guarantees During Disciplinary Proceedings</b></p> <p><b>ARTICLE 129.</b> Public servants and other public employees are obliged to carry out their duties with loyalty to the Constitution and the laws.</p> <p>Public servants, other public employees and members of public professional organisations or their higher bodies shall not be subjected to disciplinary penalties without being granted the right of defence.</p> <p>Disciplinary decisions shall be subject to judicial review, <del>with the exception of warnings and reprimands.</del></p> <p>Provisions concerning the members of the Armed Forces, judges and prosecutors are reserved.</p> <p>Actions for damages arising from faults committed by public servants and other public employees in the exercise of their duties shall be brought against the administration only in accordance with the procedure and conditions prescribed by law, and subject to recourse to them.</p> <p>Prosecution of public servants and other public employees for alleged offences shall be subject, except in cases prescribed by law, to the permission of the administrative authority designated by law.</p>	<p><b>2. Duties and Responsibilities, and Guarantees During Disciplinary Proceedings</b></p> <p><b>ARTICLE129.</b> Public servants and other public employees are obliged to carry out their duties with loyalty to the Constitution and the laws.</p> <p>Public servants, other public employees and members of public professional organisations or their higher bodies shall not be subjected to disciplinary penalties without being granted the right of defence.</p> <p>Disciplinary decisions shall be subject to judicial review</p> <p>Provisions concerning the members of the Armed Forces, judges and prosecutors are reserved.</p> <p>Actions for damages arising from faults committed by public servants and other public employees in the exercise of their duties shall be brought against the administration only in accordance with the procedure and conditions prescribed by law, and subject to recourse to them.</p> <p>Prosecution of public servants and other public employees for alleged offences shall be subject, except in cases prescribed by law, to the permission of the administrative authority designated by law.</p>

THE CONSTITUTION (1982)	PROPOSAL
<p><b>G. Supervision of Judges and Public Prosecutors</b></p> <p><b>ARTICLE 144. <del>Supervision of judges and public prosecutors with regard to the performance of their duties in accordance with laws, regulations, by laws and circulars (administrative circulars, in the case of judges), investigation into whether they have committed offences in connection with, or in the course of their duties, whether their behaviour and attitude are in conformity with their status and duties and if necessary, inquiry and investigations concerning them shall be made by judiciary inspectors with the permission of the Ministry of Justice. The Minister of Justice may request the investigation or inquiry to be conducted by a judge or public prosecutor who is senior to the judge or public prosecutor to be investigated.</del></b></p>	<p><b>G. Supervision of judicial services</b></p> <p><b>ARTICLE 144. <u>Supervision, inquiry, inspection and investigation proceedings of judicial services and public prosecutors with regard to their administrative duties shall be carried out by the Ministry of Justice through judiciary inspectors and internal inspectors who are from the profession of judge and public prosecutor. The procedures and principles regarding supervision shall be laid down in law.</u></b></p>

THE CONSTITUTION (1982)	PROPOSAL
<b>H. Military Justice</b>	<b>H. Military Justice</b>
<p><b>ARTICLE 145.</b> Military justice shall be exercised by military courts and military disciplinary courts. These courts shall have jurisdiction to try military personnel for military offences, <del>for offences committed by them against other military personnel or in military places, or for offences connected with military service and duties.</del></p>	<p><b>ARTICLE 145.</b> Military justice shall be exercised by military courts and military disciplinary courts. These courts shall only have jurisdiction to try military personnel for military offences <u>related to military services and duties. Cases regarding crimes against the security of the State, constitutional order and its functioning shall be heard before the civil courts in any event.</u></p>
<p><del>Military courts also have jurisdiction to try non-military persons for military offences specified in the special law; and for offences committed while performing their duties specified by law, or against military personnel on military places specified by law.</del></p>	<p><u>Non-military personnel shall not be tried in military courts, except war time.</u></p>
<p>The offences and persons falling within the jurisdiction of military courts in time of war <del>or under martial law</del>, their organisation and the appointment, where necessary, of judges and public prosecutors from civil courts to military courts shall be regulated by law.</p>	<p>The offences and persons falling within the jurisdiction of military courts in time of war, their organisation and the appointment, where necessary, of judges and public prosecutors from civil courts to military courts shall be regulated by law.</p>
<p>The organisation of military judicial organs, their functions, matters relating to the status of military judges, relations between military judges acting as military prosecutors and the office of commander under which they serve, shall be regulated by law in accordance with the principles of the independence of courts and the security of tenure of judges <del>and with the requirements of military service. Relations between military judges and the office of commander under which they serve, regarding the requirements of military service apart from judicial functions, shall also be prescribed by law.</del></p>	<p>The organisation of military judicial organs, their functions, matters relating to the status of military judges, relations between military judges acting as military prosecutors and the office of commander under which they serve, shall be regulated by law in accordance with the principles of the independence of courts and the security of tenure of judges.</p>

THE CONSTITUTION (1982)	PROPOSAL
<p><b>A. Constitutional Court</b></p> <p><b>1. Organisation</b></p> <p><b>ARTICLE 146.</b> The Constitutional Court shall be composed of <del>eleven regular and four substitute</del> members.</p>	<p><b>A. Constitutional Court</b></p> <p><b>1. Organisation</b></p> <p><b>ARTICLE 146.</b> The Constitutional Court shall be composed of <u>seventeen</u> members.</p> <p><u><b>Turkish Grand National Assembly (TGNA) shall elect two members among the presidents and members of the Court of Auditors, from among three candidates to be nominated for each vacant position, and one member by secret ballot, from among three candidates nominated from among self-employed lawyers by the heads of the Bar Associations. In this election to be carried out in the TGNA, two thirds majority of the component members for each vacant position shall be required for the first ballot, and absolute majority of component 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.</b></u></p>

THE CONSTITUTION (1982)	PROPOSAL
<p>The President of the Republic shall <del>appoint two regular and two substitute members from the High Court of Appeals, two regular and one substitute member from the Council of State, and one member each from the Military High Court of Appeals, the High Military Administrative Court and the Court of Auditors, three candidates being nominated for each vacant office by the Plenary Assemblies of each court from among their respective presidents and members, by an absolute majority of the total number of members; the President of the Republic shall also appoint one member from a list of three candidates nominated by the Higher Education Council from among members of the teaching staff of institutions of higher education who are not members of the Council, and three members and one substitute member from among senior administrative officers and lawyers.</del></p>	<p>The President of the Republic shall <u>choose three members from High Court of Appeals, two members from Council of State, one member from the Military High Court of Appeals, one member from the High Military Administrative Court from among three candidates to be nominated for each vacant position by their respective plenary assemblies; shall choose three members from among three candidates to be nominated for each vacant position by the Council of Higher Education from among academicians in the fields of law, economics and political sciences who are not members of the Council; shall choose four members from among high level executives, self-employed lawyers, first category judges and public prosecutors or rapporteurs of the Constitutional Court.</u></p> <p><u>In the elections to be held in the respective plenary assemblies of the High Court of Appeals, Council of State, Military High Court of Appeals, High Military Administrative Court, the Court of Auditors and the Council of Higher Education for nominating candidates for membership of the Constitutional Court, three persons obtaining the greatest number of votes shall be nominated for each vacant position. In the elections to be held for the three candidates nominated from among self-employed lawyers by the heads of Bar Associations, three persons obtaining the greatest number of votes shall be nominated.</u></p>



THE CONSTITUTION (1982)	PROPOSAL
<p>To qualify for appointments as <del>regular or substitute members of the Constitutional Court, members of the teaching staff of institutions of higher education, senior administrative officers and lawyers shall be required to be over the age of forty and to have completed their higher education, or to have served at least fifteen years as a member of the teaching staff of institutions of higher education or to have actually worked at least fifteen years in public service or to have practiced as a lawyer for at least fifteen years.</del></p> <p>The Constitutional Court shall elect a president and <del>Deputy president</del> from among its <del>regular</del> members for a term of four years by secret ballot and by an absolute majority of component members. They may be re-elected at the end of their term of office.</p> <p>The members of the Constitutional Court shall not assume other official and private functions, apart from their main functions.</p>	<p>To qualify for appointments as <u>members of the Constitutional Court; academicians shall be required to possess the title of associate professor or 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 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 period of candidacy, provided that they are all over the age of forty five.</u></p> <p>The Constitutional Court shall elect a president and <u>two deputy presidents</u> from among its members for a term of four years by secret ballot and by an absolute majority of component members. They may be re-elected at the end of their term of office.</p> <p>The members of the Constitutional Court shall not assume other official and private functions, apart from their main functions.</p>

THE CONSTITUTION (1982)	PROPOSAL
<p><b>2. Termination of membership</b></p> <p><b>ARTICLE 147.</b> The members of the Constitutional Court shall retire on reaching the age of sixty-five.</p> <p>Membership in the Constitutional Court shall terminate automatically if a member is convicted of an offence requiring his dismissal from the judicial profession, it shall terminate by a decision of an absolute majority of the total number of members of the Constitutional Court if it is definitely established that he is unable to perform his duties on account of ill-health.</p>	<p><b>2. Term of office of the members <u>and termination of membership</u></b></p> <p><b><u>ARTICLE 147. The members of the Constitutional Court shall be elected for a term of twelve years. A member shall not be re-elected.</u></b>  The members of the Constitutional Court shall retire on reaching the age of sixty-five. <b><u>The appointment of the members to another office whose term of office expires prior to their mandatory age of retirement and matters regarding their employment rights shall be laid down in law.</u></b></p> <p>Membership in the Constitutional Court shall terminate automatically if a member is convicted of an offence requiring his dismissal from the judicial profession, it shall terminate by a decision of an absolute majority of the total number of members of the Constitutional Court if it is definitely established that he is unable to perform his duties on account of ill-health.</p>

THE CONSTITUTION (1982)	PROPOSAL
<p><b>3. Functions and Powers</b></p> <p><b>ARTICLE 148.</b> The Constitutional Court shall examine the constitutionality, in respect of both form and substance, of laws, decrees having the force of law, and the Rules of Procedure of the Turkish Grand National Assembly (<b>TGNA</b>). Constitutional amendments shall be examined and verified only with regard to their form. However, no action shall be brought before the Constitutional Court alleging unconstitutionality as to the form or substance of decrees having the force of law issued during a state of emergency, martial law or in time of war.</p> <p>The 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 urgent procedure was complied with. Verification as to form may be requested by the President of the Republic or by one-fifth of the members of the <b>TGNA</b>. Applications for annulment on the grounds of defect in form shall not be made more than ten days after the date <del>on which the law was promulgated; nor shall objection be raised.</del></p>	<p><b>3. Functions and Powers</b></p> <p><b>ARTICLE 148.</b> The Constitutional Court shall examine the constitutionality, in respect of both form and substance, of laws, decrees having the force of law, and the Rules of Procedure of the Turkish Grand National Assembly (<b>TGNA</b>) <b><u>and decide on individual applications.</u></b> Constitutional amendments shall be examined and verified only with regard to their form. However, no action shall be brought before the Constitutional Court alleging unconstitutionality as to the form or substance of decrees having the force of law issued during a state of emergency, martial law or in time of war.</p> <p>The 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 urgent procedure was complied with. Verification as to form may be requested by the President of the Republic or by one-fifth of the members of the <b>TGNA</b>. Applications for annulment on the grounds of defect in form shall not be made more than ten days after the date.</p>
	<p><b><u>Everyone may apply to the Constitutional Court on the grounds that one of the fundamental rights and freedoms within the scope of the European Convention on Human Rights which are guaranteed by the Constitution has been violated by public authorities. In order to make an application, ordinary legal remedies must be exhausted.</u></b></p>

THE CONSTITUTION (1982)	PROPOSAL
<p>The President of the Republic, members of the Council of Ministers, presidents and members of the Constitutional Court, of the High Court of Appeals, of the Council of State, of the Military High Court of Appeals, of the High Military Administrative Court of Appeals, their Chief Public Prosecutors, Deputy Public Prosecutors of the High Court of Appeals, and the presidents and members of the Supreme Council of Judges and Public Prosecutors, and of the Court of Auditors shall be tried for offences relating to their functions by the Constitutional Court in its capacity as the Supreme Court.</p>	<p><b><u>In the individual application, judicial review shall not be made for matters which would be taken into account during the process of recourse to legal remedies.</u></b></p> <p><b><u>Procedures and principles concerning the individual application shall be laid down in law.</u></b></p> <p>The President of the Republic, <b><u>the Speaker of the TGNA</u></b>, members of the Council of Ministers, presidents and members of the Constitutional Court, of the High Court of Appeals, of the Council of State, of the Military High Court of Appeals, of the High Military Administrative Court of Appeals, their Chief Public Prosecutors, Deputy Public Prosecutors of the High Court of Appeals, and the presidents and members of the Supreme Council of Judges and Public Prosecutors, and of the Court of Auditors shall be tried for offences relating to their functions by the Constitutional Court in its capacity as the Supreme Court.</p> <p><b><u>The Commander of Turkish Armed Forces (Chief of Staff), the Commanders of the Land Forces, Naval Forces and Air Forces and the General Commander of the Gendarmerie shall be tried for offences relating to their functions in the Supreme Court.</u></b></p>
<p>The Chief Public Prosecutor of the High Court of Appeals or Deputy Chief Public Prosecutor of the High Court of Appeals shall act as public prosecutor in the Supreme Court.</p> <p><del>The decisions of the Supreme Court shall be final.</del></p>	<p>The Chief Public Prosecutor of the High Court of Appeals or Deputy Chief Public Prosecutor of the High Court of Appeals shall act as public prosecutor in the Supreme Court.</p> <p><b><u>Applications for judicial review can be made against the decisions of the Supreme Court. Decisions taken by the plenary assembly regarding this application shall be final.</u></b></p>

<b>THE CONSTITUTION (1982)</b>	<b>PROPOSAL</b>
The Constitutional Court shall also perform the other functions given to it by the Constitution.	The Constitutional Court shall also perform the other functions given to it by the Constitution.

THE CONSTITUTION (1982)	PROPOSAL
<p><b>4. Functioning and Trial Procedure</b></p> <p><del>ARTICLE 149. – The Constitutional Court shall convene with its president and ten members, and shall take decisions by absolute majority. Decision of annulment of Constitutional amendments and closure in the cases of the political parties shall be taken by three-fifths majority.</del></p> <p>The Constitutional Court shall give priority to the consideration of, and to decisions on, applications for annulment on the grounds of defect in form.</p>	<p><b>4. Functioning and Trial Procedure</b></p> <p><u>ARTICLE 149. – Constitutional Court consists of two sections and a plenary assembly. The sections convene under the chairmanship of the deputy president with the participation of four members under the chairmanship of the head of the chamber. The plenary assembly shall convene with the participation of at least twelve members under the chairmanship of the President of the Constitutional Court or a deputy president appointed by the president. The sections and the plenary assembly shall take decisions by absolute majority. Preliminary investigation committees may be established to examine the admissibility of the individual applications</u></p> <p><u>The plenary assembly shall hear the cases and applications concerning political parties, actions for annulment and objection and trials where it acts as the Supreme Court, the sections shall take the decision on individual applications</u></p> <p><u>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.</u></p> <p>The Constitutional Court shall give priority to the consideration of, and to decisions on, applications for annulment on the grounds of defect in form.</p>

THE CONSTITUTION (1982)	PROPOSAL
<p><del>The organisation and trial procedures of the Constitutional Court shall be determined by law; its method of work and the division of labour among its members shall be regulated by the Rules of Procedure made by the Court.</del></p> <p>The Constitutional Court shall examine cases on the basis of documents in the case file, except where it acts as the Supreme Court. <b>However,</b> when it deems necessary, <del>it</del> may call on those concerned and those having knowledge relevant to the case, to present oral explanations and in lawsuits on whether to permanently dissolve a political party or not, the Constitutional Court shall hear the defence of the chairman of the party whose dissolution is in process or of a proxy appointed by the chairman, after the Chief Public Prosecutor of the High Court of Appeals.</p>	<p><u>The organisation of the Constitutional Court and trial procedures of the plenary assembly and the sections, disciplinary matters of the president, the deputy presidents and members shall be laid down in law; its operating principles, organisation of the sections and commissions, and the division of labour shall be set out by the Rules of Procedure drawn up by the Court.</u></p> <p>The Constitutional Court shall examine cases on the basis of documents in the case file, except where it acts as the Supreme Court. <b><u>Nonetheless, it may be decided to hold a hearing for individual applications.</u></b> When it deems necessary, <b><u>the Court also</u></b> may call on those concerned and those having knowledge relevant to the case, to present oral explanations and in lawsuits on whether to permanently dissolve a political party or not, the Constitutional Court shall hear the defence of the chairman of the party whose dissolution is in process or of a proxy appointed by the chairman, after the Chief Public Prosecutor of the High Court of Appeals.</p>

THE CONSTITUTION (1982)	PROPOSAL
<p><b>D. Military High Court of Appeals</b></p> <p><b>ARTICLE 156.</b> The Military High Court of Appeals is the last instance for reviewing decisions and judgements given by military courts. It shall also be the first and last instance for dealing with specific cases designated by law concerning military personnel.</p> <p>Members of the Military High Court of Appeals shall be appointed by the President of the Republic from among three candidates nominated for each vacant office by the Plenary Assembly of the Military High Court of Appeals from among military judges of the first category, by secret ballot and by an absolute majority of the total number of members.</p> <p>The president, chief public prosecutor, second presidents and heads of division of the Military High Court of Appeals shall be appointed according to rank and seniority from among the members of the Military High Court of Appeals.</p> <p>The organisation and functioning of the Military High Court of Appeals, and disciplinary and personnel matters of its members shall be regulated by law in accordance with the <b>requirements</b> of the independence of the courts and the security of tenure of judges <del>and of military service.</del></p>	<p><b>D. Military High Court of Appeals</b></p> <p><b>ARTICLE 156.</b> The Military High Court of Appeals is the last instance for reviewing decisions and judgements given by military courts. It shall also be the first and last instance for dealing with specific cases designated by law concerning military personnel.</p> <p>Members of the Military High Court of Appeals shall be appointed by the President of the Republic from among three candidates nominated for each vacant office by the Plenary Assembly of the Military High Court of Appeals from among military judges of the first category, by secret ballot and by an absolute majority of the total number of members.</p> <p>The president, chief public prosecutor, second presidents and heads of division of the Military High Court of Appeals shall be appointed according to rank and seniority from among the members of the Military High Court of Appeals.</p> <p>The organisation and functioning of the Military High Court of Appeals, and disciplinary and personnel matters of its members shall be regulated by law in accordance with the <b>principles</b> of the independence of the courts and the security of tenure of judges.</p>



THE CONSTITUTION (1982)	PROPOSAL
<p><b>E. High Military Administrative Court</b></p> <p><b>ARTICLE 157.</b> The High Military Administrative Court shall be the first and last instance court for the judicial supervision of disputes arising from administrative acts and actions involving military personnel or relating to military service, even if such acts and actions have been carried out by civilian authorities. However, in disputes arising from the obligation to perform military service, there shall be no condition that the person concerned be a member of the military body.</p> <p>Members of the High Military Administrative Court who are military judges shall be appointed by the President of the Republic from a list of three candidates nominated for each vacant office by the president and members of the Court, who are also military judges, by secret ballot and by an absolute majority of the compenent members, from among military judges of the first category; members who are not military judges shall be appointed by the President of the Republic from a list of three candidates nominated for each vacant office by the Chief of the General Staff from among officers holding the rank and qualifications prescribed by law.</p> <p>The term of office of members who are not military judges shall not exceed four years.</p> <p>The president, chief public prosecutor and head of division of the Court shall be appointed from among military judges according to rank and seniority.</p>	<p><b>E. High Military Administrative Court</b></p> <p><b>ARTICLE 157.</b> The High Military Administrative Court shall be the first and last instance court for the judicial supervision of disputes arising from administrative acts and actions involving military personnel or relating to military service, even if such acts and actions have been carried out by civilian authorities. However, in disputes arising from the obligation to perform military service, there shall be no condition that the person concerned be a member of the military body.</p> <p>Members of the High Military Administrative Court who are military judges shall be appointed by the President of the Republic from a list of three candidates nominated for each vacant office by the president and members of the Court, who are also military judges, by secret ballot and by an absolute majority of compenent members, from among military judges of the first category; members who are not military judges shall be appointed by the President of the Republic from a list of three candidates nominated for each vacant office by the Chief of the General Staff from among officers holding the rank and qualifications prescribed by law.</p> <p>The term of office of members who are not military judges shall not exceed four years.</p> <p>The president, chief public prosecutor and head of division of the Court shall be appointed from among military judges according to rank and seniority.</p>

THE CONSTITUTION (1982)	PROPOSAL
<p>The organisation and functioning of the High Military Administrative Court, its procedure, disciplinary affairs and other matters relating to the status of its members shall be regulated by law in accordance with the <b>requirements</b> of the independence of the courts and the security of tenure of judges <b>and of military service.</b></p>	<p>The organisation, functioning and trial procedures of the High Military Administrative Court, and disciplinary and personnel matters of its members shall be regulated by law in accordance with the <b><u>principle</u></b> of the independence of the courts and the security of tenure of judges.</p>

<b>THE CONSTITUTION (1982)</b>	<b>PROPOSAL</b>
<p><b>III. Supreme Council of Judges and Public Prosecutors</b></p> <p><b>ARTICLE 159.</b> The Supreme Council of Judges and Public Prosecutors shall be established and shall exercise its functions in accordance with the principles of the independence of the courts and the security of tenure of judges.</p>	<p><b>III. Supreme Council of Judges and Public Prosecutors</b></p> <p><b>ARTICLE 159.</b> The Supreme Council of Judges and Public Prosecutors shall be established and shall exercise its functions in accordance with the principles of the independence of the courts and the security of tenure of judges.</p> <p><b><u>The Supreme Council of Judges and Public Prosecutors shall be composed of twenty-one regular and ten substitute members and shall comprise three chambers.</u></b></p>

THE CONSTITUTION (1982)	PROPOSAL
<p>The President of the Council is the Minister of Justice. The Undersecretary to the Minister of Justice shall be an ex-officio member of the Council. <del>Three regular and three substitute members of the Council shall be appointed by the President of the Republic for a term of four years from a list of three candidates nominated for each vacant office by the Plenary Assembly of the High Court of Appeals from among its own members and two regular and two substitute members shall be similarly appointed from a list of three candidates nominated for each vacant office by the Plenary Assembly of the Council of State. They may be re-elected at the end of their term of office. The Council shall elect a deputy president from among its elected regular members.</del></p>	<p>The President of the Council is the Minister of Justice. The Undersecretary to the Minister of Justice shall be an ex-officio member of the Council. <u>For a term of four years, four regular members of the Council, the qualities of whom are defined by law, shall be appointed by the president from among academicians in the field of law, and lawyers; three regular and two substitute members shall be appointed by the plenary assembly of the High Court of Appeals from among members of the High Court of Appeals; one regular and one substitute member shall be appointed by the plenary assembly of the Council of State from among members of the Council of State; one regular and one substitute member shall be appointed by the plenary assembly of the Turkish Justice Academy from among its members; seven regular and four substitute members which are first category judges and maintain the qualifications for being first category judges shall be selected by civil judges and public prosecutors from among civil judges and public prosecutors; three regular and two substitute members which are first category judges and maintain the qualifications for being first category judges shall be selected by administrative judges and public prosecutors for four years from among administrative judges and public prosecutors. They may be re-elected at the end of their term of office.</u></p>

THE CONSTITUTION (1982)	PROPOSAL
	<p><u>Election of members to the Council shall be held within sixty days before the expiry of their term of office. In case of vacancies for members appointed to the Council by the president prior to the expiry of the term of office, new members shall be appointed within sixty days following this vacancy. In the event that other memberships become vacant, the remaining term of office shall be completed by the substitute.</u></p> <p><u>In the elections where each member from the High Court of Appeals, the Council of State and the Turkish Justice Academy shall vote for one nominee for membership to the Council which shall be elected by the plenary assembly of the High Court of Appeals and plenary assembly of the Council of State and where each judge and public prosecutor from civil and administrative courts shall vote for membership to the Council which shall be elected from among the first category judges and public prosecutors from civil and administrative courts, the candidates who receive the greatest number of votes shall be elected as regular and substitute members respectively. These elections shall be held once for each term and by secret ballot.</u></p> <p><u>The regular members of the Council other than the Minister of Justice and the Undersecretary to the Minister of Justice shall not assume any duties other than those prescribed by law or be appointed or elected to another office by the Council during their term of office.</u></p>

THE CONSTITUTION (1982)	PROPOSAL
<p>The Council <del>of Judges and Public Prosecutors shall</del> deal with the admission of judges and public prosecutors of civil and administrative courts into the profession, appointments, transfers to other posts, the delegation of temporary powers, promotion, and promotion to the first category, <del>the allocation of posts,</del> decisions concerning those whose continuation in the profession is found to be unsuitable, the imposition of disciplinary penalties and removal from office. It shall take final decisions on proposals by the Ministry of Justice concerning the abolition of a court or an office of judge or public prosecutor, or changes in the jurisdiction of a court. It shall also exercise the other functions given to it by the Constitution and laws.</p>	<p><b><u>The administration and the representation of the Council are carried out by the President of the Council. The President of the Council shall not participate in the work of the chambers. The Council shall elect the heads of chambers and one deputy president from among the heads of chambers from among its members. The president may delegate some of his/her powers to the deputy president.</u></b></p> <p>The Council shall deal with the admission of judges and public prosecutors of civil and administrative courts into the profession, appointments, transfers to other posts, the delegation of temporary powers, promotion, and promotion to the first category, decisions concerning those whose continuation in the profession is found to be unsuitable, the imposition of disciplinary penalties and removal from office. It shall take final decisions on proposals by the Ministry of Justice concerning the abolition of a court or an office of judge or public prosecutor, or changes in the jurisdiction of a court. It shall also exercise the other functions given to it by the Constitution and laws.</p>

THE CONSTITUTION (1982)	PROPOSAL
<p><del>There shall be no appeal to any judicial instance against the decisions of the Council.</del></p>	<p><u>Supervision of judges and public prosecutors with regard to the performance of their duties in accordance with laws, regulations, by-laws and circulars (administrative circulars, in the case of judges), investigation into whether they have committed offences in connection with, or in the course of their duties, whether their behaviour and conduct are in conformity with their status and duties and if necessary, inquiries and investigations concerning them shall be carried out by the Council’s inspectors, upon the proposal of the related chambers and with the permission of the President of the Supreme Council of Judges and Public Prosecutors. The inquiries and investigations may also be carried out by a judge or public prosecutor who is senior to the judge or public prosecutor to be investigated.</u></p> <p><u>Apart from the decisions regarding the prohibition of the pursuit of the profession, there shall be no recourse to any judicial remedy against the decisions of the Council.</u></p> <p><u>A Secretariat General affiliated with the Council shall be established. The Secretary General shall be appointed by the President of the Council from among first category judges and public prosecutors, three of whom are proposed by the Council. The Council is empowered to appoint the Council’s inspectors, judges and public prosecutors, with their consent, to temporary or permanent functions in the Council.</u></p>

THE CONSTITUTION (1982)	PROPOSAL
<p><del>The functioning of the Council and methods of performing its duties, the procedure governing election and working methods, the principles relating to the examination of objections within the Council shall be regulated by law.</del></p> <p>The Minister of Justice is empowered to appoint judges and public prosecutors with their consent, to temporary or permanent functions in the central <del>offices of</del> the Ministry of Justice.</p> <p><del>The Minister of Justice may, in cases where delay is deemed prejudicial, confer temporary powers on judges or public prosecutors to prevent the disruption of services, subject to the approval of the Supreme Council of Judges and Public Prosecutors at its first meeting thereafter.</del></p>	<p><u>The election of the members of the Council, formation of the chambers and the division of labour between chambers, the duties of the Council and its chambers, quorum for meetings and decisions, operating procedures and principles, objections to be made against the decisions and proceedings of the chambers, the examination procedure for these objections, and the establishment and the functions of the Secretariat General shall be laid down in law.</u></p> <p>The Minister of Justice is empowered to appoint judges and public prosecutors <u>and judiciary inspectors</u> with their consent, to temporary or permanent functions in the central, <u>affiliated or relevant institutions of</u> the Ministry of Justice.</p>



THE CONSTITUTION (1982)	PROPOSAL
<p><b>I. Planning</b></p> <p><b>ARTICLE 166.</b> The planning of economic, social and cultural development, in particular the speedy, balanced and harmonious development of industry and agriculture throughout the country, and the efficient use of national resources on the basis of detailed analysis and assessment and the establishment of the necessary organisation for this purpose are the duties of the state. Measures to increase national efficiency and production, to ensure stability in prices and balance in foreign trade transactions, to promote investment and employment, shall be included in the plan; investments, public benefit and requirements shall be taken into account; the efficient use of resources shall be aimed at. Development activities shall be realised according to this plan.</p> <p>The procedure and principles governing the preparation of development plans, their approval by the Turkish Grand National Assembly, their implementation and their revision, and the prevention of amendments liable to affect the unity of the plan shall be regulated by law.</p>	<p><b>I. Planning, <u>Economic and Social Council</u></b></p> <p><b>ARTICLE 166.</b> The planning of economic, social and cultural development, in particular the speedy, balanced and harmonious development of industry and agriculture throughout the country, and the efficient use of national resources on the basis of detailed analysis and assessment and the establishment of the necessary organisation for this purpose are the duties of the state. Measures to increase national efficiency and production, to ensure stability in prices and balance in foreign trade transactions, to promote investment and employment, shall be included in the plan; investments, public benefit and requirements shall be taken into account; the efficient use of resources shall be aimed at. Development activities shall be realised according to this plan.</p> <p>The procedure and principles governing the preparation of development plans, their approval by the Turkish Grand National Assembly (<b>TGNA</b>), their implementation and their revision, and the prevention of amendments liable to affect the unity of the plan shall be regulated by law.</p> <p><b><u>The Economic and Social Council shall be established to provide the Government with consultative opinions in the formulation of economic and social policies. The establishment and functioning of the Economic and Social Council shall be laid down in law.</u></b></p>

THE CONSTITUTION (1982)	PROPOSAL
<p><del><b>PROVISIONAL ARTICLE 15. No allegation of criminal, financial or legal responsibility shall be made, nor shall an application be filed with a court for this purpose in respect of any decisions or measures whatsoever taken by: the Council of National Security formed under Act No. 2356 which will have exercised legislative and executive power on behalf of the Turkish Nation from 12 September 1980 to the date of the formation of the Bureau of the Turkish Grand National Assembly which is to convene following the first general elections; the governments formed during the term of office of the Council, or the Consultative Assembly which has exercised its functions under Act No. 2485 on the Constituent Assembly.</b></del></p> <p><del><b>The provisions of the above paragraphs shall also apply in respect of persons who have taken decisions and adopted or implemented measures as part of the implementation of such decisions and measures by the administration or by the competent organs, authorities and officials.</b></del></p>	<p><b><u>PROVISIONAL ARTICLE 15 is repealed.</u></b></p>
	<p><b>PROVISIONAL ARTICLE 18.</b> The current substitute members of the Constitutional Court shall acquire the status of regular members on the date of entry into force of this Law.</p> <p>Within thirty days of the date of entry into force of this Law, the Turkish Grand National Assembly (TGNA) shall elect one member each from among three candidates nominated by the plenary assembly of the Court of Auditors and the heads of Bar Associations.</p> <p>In order to nominate candidates for the membership elections to be held by the TGNA:</p>

THE CONSTITUTION (1982)	PROPOSAL
	<p><b>a)</b>The President of the Court of Auditors shall announce the beginning of the application process for candidacy within five days of the date of entry into force of this law. Candidates shall apply to the Presidency within five days following the final date of the announcement. The plenary assembly of the Court of Auditors shall hold elections within five days following the final date of application. The three candidates obtaining the greatest number of votes shall be nominated in these elections in which each member of the Court of Auditors may vote.</p> <p><b>b)</b>The Head of the Turkish Union of Bar Associations shall announce the beginning of the application process for candidacy within five days of the date of entry into force of this law. Candidates shall apply to the Turkish Union of Bar Associations within five days following the date of announcement. The election shall be held at the place and time indicated in the announcement of the Turkish Union of Bar Association within five days following the final date of application by the heads of the Bar Associations. The three candidates obtaining the greatest number of votes shall be nominated in these elections in which each member of the Turkish Union of Bar Associations may vote.</p> <p><b>c)</b> The names of those nominated through the elections held in accordance with subparagraphs (a) and (b) shall be notified to the Presidency of the TGNA by the Presidency of the Court of Auditors and of the Turkish Union of Bar Associations on the day following the elections.</p> <p><b>ç)</b> Elections shall be held at the TGNA within ten days of the notification made in accordance with paragraph (c). In each election held for each vacant position, a two-thirds majority of component members in the first ballot and the absolute majority of component</p>

THE CONSTITUTION (1982)	PROPOSAL
	<p>members of in the second ballot shall be required; if the absolute majority cannot be attained in the second ballot, a third ballot shall be held between two candidates obtaining the greatest number of votes in the second ballot; the candidate who obtains the greatest number of votes in the third ballot shall be elected.</p> <p>Following the vacancy of the positions allocated to the High Court of Appeals and the Council of State, the President of the Republic shall choose one member each from among three candidates to be nominated for each vacant position by the Council of Higher Education from among academicians from the fields of law, economics and political sciences who are not members of the Council of Higher Education.</p> <p>The current members, as well as substitute members elected from the quotas allocated to institutions which have nominated members for the Constitutional Court shall be taken into consideration in the final election.</p> <p>The status of those who have been appointed to certain posts in the Constitutional Court shall continue until the end of their term of office. Those who are members on the date of entry into force of this Law shall continue in their post until the statutory age limit.</p> <p>Necessary legal arrangements on individual applications shall be completed within two years. Individual applications shall be accepted as from the date of the entry into force of the implementing law.</p>
	<p><b>PROVISIONAL ARTICLE 19.</b>The members of the Supreme Council of Judges and Public Prosecutors shall be elected within thirty days as of the date of entry into force of this Law in accordance with the principles and procedures indicated below:</p>

THE CONSTITUTION (1982)	PROPOSAL
	<p><b>a)</b> The President of the Republic shall select four members from among academicians who have been working in the field of law, for at least fifteen years, and lawyers who have completed fifteen years of active professional service, for whom there is no impediment to becoming a judge.</p> <p><b>b)</b> The plenary assembly of the High Court of Appeals shall select three regular and two substitute members from among members of the Court. The First President of the High Court of Appeals shall announce the beginning of the application process for candidacy within seven days of the entry into force of this Law. The candidates shall apply to the First President within seven days of the date of the announcement. The plenary assembly of the High Court of Appeals shall hold elections within fifteen days from the final date of application. In the elections, where each member of the High Court of Appeals may vote, the candidates with the greatest number of votes are elected regular and substitute members respectively.</p> <p><b>c)</b> The plenary assembly of the Council of State shall select one regular and one substitute member from among members of the Court. The President of the Council of State shall announce the beginning of the application process for candidacy within seven days of the entry into force of this Law. The candidates shall apply to the Presidency within seven days of the date of the announcement. The plenary assembly of the Council of State shall hold elections within fifteen days from the final date of application. In the elections, where each member of the Council of State may vote, the candidates with the greatest number of votes are elected regular and substitute members respectively.</p> <p><b>ç)</b> The plenary assembly of the Turkish Justice Academy shall select</p>

THE CONSTITUTION (1982)	PROPOSAL
	<p>one regular and one substitute member from among its members to the Supreme Council of Judges and Prosecutors. The President of the Turkish Justice Academy shall announce the beginning of the application process for candidacy within seven days of the entry into force of this Law. The candidates shall apply to the Presidency within seven days of the date of the announcement. The plenary assembly of the the Turkish Justice Academy shall hold elections within fifteen days from the final date of application. In the elections, where each member may vote, the candidates with the greatest number of votes are elected regular and substitute members respectively.</p> <p><b>d)</b> Seven regular and four substitute members which are first category judges, shall be selected by civil judges and public prosecutors under the direction and supervision of the Supreme Election Council from among civil judges and public prosecutors maintaining the qualifications for being first category judges. Within five days of the date of entry into force of this Law, the Supreme Election Council shall announce the applications for candidacy. The candidates shall apply within three days of the date of announcement. The Supreme Election Council shall examine the applications, finalize the list of candidates and announce this within two days following the expiry of the date of application. Objections to this list may be made within the following two days. The objections shall be examined and finalised and the definitive list of candidates shall be announced within two days following the expiry of the objection period. Judges and public prosecutors working in provinces or districts shall vote in elections to be held in each province and district on the second Sunday following the date of announcement of the definitive list by the Supreme Election</p>

<b>THE CONSTITUTION (1982)</b>	<b>PROPOSAL</b>
	<p>Council, under the direction and supervision of the provincial election boards. The provincial election boards shall establish ballot councils according to the number of judges and public prosecutors that are to vote in that province. Provincial election boards shall give decision in relation to complaints on and objections to proceedings, measures and decisions of the ballot councils. Candidates may not conduct campaigns. They may publish their resumé on an internet site allocated for this purpose within the framework of the principles and procedures defined by the Supreme Election Council. The candidates that obtain the greatest number of votes shall be considered to have been elected as regular and substitute members respectively. The Supreme Election Council shall determine the voting ballots as well as other matters. The Supreme Election Council may have the voting ballots printed or may have these printed through provincial election boards as it may deem appropriate. In the elections to be held, the provisions of the Law No. 298 on Basic Rules on Elections and Voting Registers, 26.4.1961, that are not in conflict with this subparagraph are to be applied.</p> <p>e) Three regular and two substitute members which are first category judges, shall be selected by civil judges and public prosecutors under the direction and supervision of the Supreme Election Council from among civil judges and public prosecutors maintaining the qualifications for being first category judges. In provinces where there are regional administrative courts, these elections shall be held under the direction and supervision of the provincial election boards and judges and public prosecutors working in these regional administrative courts and in courts that are subject to authority of those courts shall vote. The provisions of subparagraph (d) shall be applied to these</p>

<b>THE CONSTITUTION (1982)</b>	<b>PROPOSAL</b>
	<p>elections.</p> <p>The regular members of the Supreme Council of Judges and Public Prosecutors, who have been elected in accordance with subparagraphs (a), (ç), (d) and (e) of the first paragraph, shall take their office on the working day following the date of entry into force of this Law.</p> <p>At the first meeting of the Council to be held after the members that have been elected in accordance with this Article have taken their office, the duties of one of the substitute members of the Supreme Council of Judges and Public Prosecutors, coming from the High Court of Appeals, determined by way of drawing lots, shall end. The remaining regular and substitute members shall continue their duties until the end of their term of office. The members who have been elected in accordance with subparagraph (b) of the first paragraph shall take office in place of those whose term of office expires.</p> <p>At the first meeting of the Council to be held after the members that have been elected in accordance with this Article have taken their office, the duties of one of the regular and substitute members of the Supreme Council of Judges and Public Prosecutors, coming from the Council of State, determined by way of drawing lots, shall end. The remaining regular and substitute members shall continue their duties until the end of their term of office. The members who have been elected in accordance with subparagraph (c) of the first paragraph shall take office in place of those whose term of office expires.</p> <p>From among those members elected in accordance with subparagraph (b) and (c) of the first paragraph, the term of office of those who take office in accordance with the third and fourth paragraph shall expire on the date of the end of the term of office of the other Council members elected in</p>



THE CONSTITUTION (1982)	PROPOSAL
	<p>accordance with subparagraph (a), (ç), (d) and (e) of the first paragraph. Regular members elected to the Supreme Council of Judges and Public Prosecutors shall benefit from the same financial, social and pension rights envisaged for the Head of Chamber of the High Court of Appeals in the relevant legislation, until the necessary arrangements are made. Furthermore, regular members of the Council except for the president, shall receive additional compensation on a monthly basis in the amount to be calculated by multiplying the index of 30000 by the coefficient applied to salaries of civil servants.</p> <p>Until arrangements are made in the relevant laws, the Supreme Council of Judges and Public Prosecutors:</p> <ul style="list-style-type: none"> <li><b>a)</b> shall operate in the form of a Council in accordance with legal provisions in force without prejudice to the provisions of the Constitution,</li> <li><b>b)</b> shall convene under the chairmanship of the Minister of Justice within one week following the date that the regular members take office in accordance with the second paragraph and shall elect a temporary deputy chairman,</li> <li><b>c)</b> shall convene with at least fifteen members and take decisions by the simple majority of the component members,</li> <li><b>ç)</b> the secretariat functions shall be conducted by the Ministry of Justice.</li> </ul> <p>Until inspectors of the Council are appointed, the existing judiciary inspectors shall carry out their duties under the title of inspectors of the Council.</p> <p>The provisions of this Article shall be applied until the necessary</p>

<b>THE CONSTITUTION (1982)</b>	<b>PROPOSAL</b>
	arrangements are made in the relevant laws.

<b>THE CONSTITUTION (1982)</b>	<b>PROPOSAL</b>
	<b>ARTICLE 26 (of the Draft Constitutional Amendments Proposal)</b> This law shall enter into force on the date of its publication and shall be voted on in its entirety when submitted to referendum