



Strasbourg, 30 November 2010

Opinion no. 600 / 2010

CDL(2010)125
Engl. only

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**DRAFT LAW
ON THE HIGH COUNCIL
FOR JUDGES AND PROSECUTORS
OF TURKEY**

(Preliminary draft as of 27 September 2010)

PART ONE
General Provisions

CHAPTER ONE
Purpose, Scope and Definitions

Purpose and scope

ARTICLE 1 - The purpose of this Law is to set forth the procedures and principles concerning the establishment, organization, duties and functioning of the High Council for Judges and Prosecutors in compliance with the principle of independency of courts and tenure of judge.
Definitions

ARTICLE 2 - (1) For the purposes of this Law, following terms shall have the following definitions:

- a) "Minister" means the Justice Minister;
- b) "Ministry" means the Justice Ministry;
- c) "President" means the President of the High Council for Judges and Prosecutors;
- ç) "Deputy President" means the Deputy President of the High Council for Judges and Prosecutors;
- d) "Chamber" means each of the first, second and third chamber of the Council;
- e) "Head of Chamber" means each of the heads of the first, second and third chamber of the High Council for Judges and Prosecutors;
- f) "Plenary" means the General Assembly of the High Council for Judges and Prosecutors;
- f) "Secretary General" means the Secretary General of the High Council for Judges and Prosecutors;
- ğ) "Office of the Secretary General" means the Office of the Secretary General of the High Council for Judges and Prosecutors;
- h) "Judge" means the judges who are defined by the Law on Judges and Prosecutors (Law No: 2802 dated 24/02/1983)
- i) "Council" means the High Council for Judges and Prosecutors;
- i) "Council Inspector" means the President, Deputy President, Chief Inspectors and Inspectors working at the Inspection Board of the High Council for Judges and Prosecutors;
- j) "Elected Council member" means each of the members of the High Council for Judges and Prosecutors except the Justice Minister and the Undersecretary;
- k) "Council member" means each of the regular members of the High Council for Judges and Prosecutors;
- l) "Prosecutor" means the prosecutors who are defined by the Law on Judges and Prosecutors (Law No: 2802 dated 24/02/1983)
- m) "Inspection Board" means the Inspection Board of the High Council for Judges and Prosecutors;
- n) "President of the Inspection Board" means the President of the Inspection Board of the High Council for Judges and Prosecutors
- o) "Rapporteur judge" means judge or prosecutor who works at the High Council for Judges and Prosecutors.

CHAPTER TWO
Establishment and Duties

Establishment and Independency of the Council

ARTICLE 3 - (1) The High Council for Judges and Prosecutors, consisting of twenty-two regular and twelve substitute members, shall be a public legal entity with an administrative and financial autonomy. The correlated ministry with the Council is the Ministry of Justice.
(2) The Council functions through its three chambers.

(3) The President of the Council is the Minister.

(4) The Undersecretary of the Justice Minister is the ex officio member of the Council. In case of non-participation of the Undersecretary, his/her acting deputy attends the meetings.

(5) The Council shall consist of the Minister, Undersecretary of the Justice Minister, four regular members to be elected by the President of the Republic, three regular and three substitute members to be elected from the Court of Cassation, two regular and two substitute members to be elected from the Council of State, one regular and one substitute member to be elected from the Turkish Justice Academy, seven regular and four substitute members to be elected from among the first class civil judiciary judges and prosecutors, three regular and two substitute members to be elected from among the first class administrative judges and prosecutors.

(6) The Council shall be independent in the exercise of the duties and authorities set forth in the law. No organ, authority, office or individual may give orders or instructions to the High Council.

(7) The Council shall perform its duties taking into consideration of the principle of independence of courts and the security of tenure of judges and prosecutors and within the framework the principles of fairness, impartiality, accuracy, honesty, consistency, equality, competence and qualification.

Duties of the Council

ARTICLE 4 - (1) The Council shall have the following duties:

a) to make final decisions about the Ministry's proposals concerning abolishment of a court or a change in a court's jurisdiction;

b) to perform the following transactions concerning judges and prosecutors:

1) to start their careers;

2) to appoint or transfer to another locality;

3) to equip them with temporary authorizations;

4) to promote them or allocate them as first class;

5) to distribute cadres;

6) to make final decisions about those who are not considered appropriate to continue to perform their profession;

7) to issue disciplinary punishments;

8) to suspend from office;

c) to supervise whether judges and prosecutors perform their duties in compliance with laws, regulations, by-laws and circulars (circulars of administrative nature for judges); to examine whether they commit offenses in connection with or during the exercise of their duties, or whether their behaviours and acts are in compliance with the requirements of their capacities and duties, and if necessary, to launch examination or investigation about them, excluding;

1) those who work at the Ministry's central, attached and affiliated organization as well as its abroad organization and at international courts or organizations as liaison judges or prosecutors

2) Judges and prosecutors who are assigned to abroad organizations of the public institutions, boards and organizations established within international organizations,

3) Prosecutors regarding their administrative tasks

4) Head and members of the justice commissions concerning their tasks with regard to commission affairs

ç) to issue circulars concerning

1) the administrative duties of judges other than those related to the matters related to the exercise of the judicial power,

2) the judicial tasks of prosecutors other than those related to the power of assessment of evidence and determination of crime

d) to elect members to the Court of Cassation and the Council of State.

(2) All staff matters concerning judges and prosecutors, except those explicitly assigned to the Ministry by the laws, shall be conducted by the Council.

PART TWO
Composition of the Council

CHAPTER ONE
Organization of the Council

Organization of the Council

ARTICLE 5 - (1) The Council shall consist of the Office of the Presidency, the Plenary, chambers and service units.

(2) the service units of the Council are the Office of the Secretary General and the Office of the Inspection Board

Office of the Presidency, Tasks and Powers

ARTICLE 6 - (1) The Office of the Presidency shall consist of the President and the Deputy President.

(2) The President shall have the following duties and authorities:

- a) to administer and represent the Council;
- b) to chair the Plenary works and to vote excluding the circumstances laid down in the laws
- c) to appoint the Secretary General from among three candidates proposed by the Plenary
- ç) upon the request of the relevant chamber, to consent procedures of inspection, examination, investigation and prosecution regarding judges and prosecutors,
- d) to perform other duties set forth in the laws

(3) The President cannot participate in;

- a) the Plenary meetings regarding disciplinary procedures
- b) the works of chambers.

(4) The President may delegate in writing part of his/her authorities to the Deputy President.

(5) The Plenary shall elect a Deputy President from among the heads of chambers by secret ballot with an absolute majority of the total number of its members. The Deputy President shall designate which of the three heads of the chambers will act as proxy in his/her absence.

(6) The Deputy President shall have the following duties and authorities:

- a) to preside over the Plenary works in the absence of the President;
- b) to exercise the powers delegated to him/her by the President;
- c) to assign members to a chamber from other chambers in case of vacancies on legal or de facto grounds impeding convention of that chamber
- ç) to perform other duties set forth in the laws.

Composition and Duties of the Plenary

ARTICLE 7 - (1) The Plenary shall consist of twenty-two regular members of the Council.

(2) The Plenary shall have the following duties:

- a) to elect the Deputy President, and the heads of the chambers of the Council;
- b) to determine the chambers that each member will work at;
- c) to examine and render decisions about the objections raised against the decisions taken by chambers;
- ç) to render final decisions about the disputes regarding duties or division of labor among the chambers;
- d) to decide on the competent authority within the Council for a matter which falls within the jurisdiction of the Council, but is not explicitly specified within the jurisdiction of the Plenary or a specific chamber;
- e) to transfer part of the excessive workload of a specific chamber to another which cannot be handled;
- f) to conduct transactions concerning criminal and disciplinary investigation or prosecution regarding Council Members and render decisions;

- g) to render final decisions about the Ministry's proposals concerning abolishment of a court or a change in a court's jurisdiction;
- ğ) to elect members to the Court of Cassation and the Council of State;
- h) to propose three candidates to the President to appoint the Secretary General;
- ı) to appoint the President and Deputy Presidents of the Inspection Board, Deputies of the Secretary General, Chief Inspectors and Inspectors of the Council, rapporteur judges who shall temporarily or permanently work for the Council;
- İ) to adopt by-laws or issue circulars concerning Council's own jurisdiction;
- İ) to approve Council's strategic plan and follow up its implementation;
- k) to deliver opinions on draft laws, regulations and by-laws concerning Council's own jurisdiction;
- l) to perform other duties set forth in laws.

Composition of Chambers, Election of Head of Chambers and their Duties and Powers

ARTICLE 8 - (1) a) The First Chamber of the Council shall consist of seven regular members; the Undersecretary of the Ministry of Justice, one member elected from the Court of Cassation, two members elected from among the judges and prosecutors working at civil and criminal courts, one member elected from among the judges and prosecutors working at administrative courts, one member elected by the Plenary of the Turkish Justice Academy, and one member assigned by the President of the Republic;

b) The Second Chamber of the Council shall consist of seven regular members; one member elected from the Court of Cassation, one member elected by the Council of State, three members elected from among the judges and prosecutors working at civil and criminal courts, one member elected from among the judges and prosecutors working at administrative courts, and one member assigned by the President of the Republic ,

c) The Third Chamber of the Council shall consist of seven regular members; one member elected from the Court of Cassation, one member elected by the Council of State, two members elected from among the judges and prosecutors working at civil and criminal courts, one member elected from among the judges and prosecutors working at administrative courts, and two members assigned by the President of the Republic.

(2) The Plenary shall, according to the abovestated principles, determine members' chambers through election.

(3) The Plenary shall elect Heads of Chambers from among the members of the related Chamber with an absolute majority of the total number of its members by secret ballot. The Undersecretary of the Ministry of Justice cannot be elected as head of chamber.

(4) The Head of Chamber shall designate which member of that Chamber will act as proxy in his/her absence.

(5) The Head of Chamber shall be responsible for representing the Chamber, preparing the agenda, chairing the Chamber, ensuring the efficient and harmonious functioning of the Chamber and taking to the Plenary the disputes on duties or division of labors among Chambers.

Duties of the Chambers

ARTICLE 9 - (1) The First Chamber shall have the following duties:

a) to carry out following procedures concerning judges and prosecutors:

- 1) appointment and transfer;
 - 2) temporary authorizations;
 - 3) distribution of cadres;
 - 4) permanent authorizations;
 - 5) granting all sorts of permissions other than those relating to annual or excuse leaves;
 - 6) granting permissions in conformity with the requests, for participation to in-service training activities in accordance with the planning conducted by the Turkish Justice Academy.
- b) to designate trainee-ship courts for pre-service training,

c) to perform other jobs assigned by the Plenary.

(2) The Second Chamber shall have the following duties:

a) to accept candidate judges and prosecutors in profession;

b) to make decisions concerning requests for reassignment as a judge or a prosecutor or for assignment as a judge or a prosecutor from other professions;

c) to carry out the following concerning judges and prosecutors:

1) all kinds of procedures regarding the promotion and classification as first class;

2) rendering decisions upon the investigation as to whether the judges and prosecutors have committed an offence in connection with or during the exercise of their duties, or their manners and acts have been in compliance with the requirements of their capacities and duties,

3) transfer to another locality with temporary authorizations or remove from office due to disciplinary or criminal investigations;

4) rendering decisions concerning withdrawal or to be considered as withdrawn from the profession and termination of the office;

5) conducting procedures concerning the permission requests as to temporary assignment and to transfer to other institutions;

ç) to perform other jobs assigned by the Plenary.

(3) The Third Chamber shall have the following duties:

a) to have the Inspection Board inspect as to whether judges and prosecutors perform their duties in compliance with laws, regulations, by-laws and circulars (circulars of administrative nature for judges);

b) to examine notices and complaints about judges or prosecutors and to act accordingly;

c) to scrutinize, by way of Council Inspectors or senior judges or prosecutors who are invested with the powers and authorities of an inspector, whether judges or prosecutors commit offenses in connection with or during the exercise of their duties or whether their manners and acts are in compliance with the requirements of their capacities and duties. If necessary, to carry out authorization procedures as regards examination and investigation procedures about them;

ç) to designate the nearest heavy penal, regional court of appeal and regional administrative courts as for the execution of duties defined by the relevant laws

d) to perform other jobs assigned by the Plenary.

CHAPTER TWO

Office of the Secretary General

The Composition and duties of the Office of the Secretary General

ARTICLE 10 - (1) The Office of the Secretary General established to perform the secretariat, administrative and financial duties of the Council shall consist of the Secretary General, three Deputy Secretaries-General, and sufficient number of rapporteur judges and bureaus.

(2) The Office of the Secretary General shall have the following duties:

a) to conduct clerical services for the Council;

b) to follow up the cases and matters concerning the Council;

c) to keep the records and personal dossiers of judges and prosecutors ;

ç) to carry out the archive services of the Council;

d) to prepare and implement Council's budget, strategic plan and performance program;

e) to conduct the procedures concerning the leaves and retirement of judges and prosecutors;

f) carry out the staff matters, health and social service procedures of the personnel working at the Council;

g) to ensure that the National Judicial Network Information System is utilized in connection with the matters concerning the Council;

ğ) to perform other duties set forth in the laws and those given by the Presidency, the Plenary or the chambers.

Appointment, Duties and Powers of the Secretary General and Deputy Secretary-General

ARTICLE 11 - (1) The Secretary General shall be appointed by the President from among the three first-class judges and prosecutors who are proposed by the Plenary with their consent . The President cannot attend the election of the Secretary General candidates. In this election, each member of the Plenary may cast votes for three candidates. The three candidates having the highest number of votes shall be deemed as proposed.

(2) The General Secretary:

a) shall be the chief of the Office of the Secretary General, and perform his/her duties in compliance with the legislation, the Council's strategic plan, performance criteria and service quality standards.

b) shall ensure the efficient, harmonious and orderly functioning of the Office of the Secretary General.

(3) The Secretary General shall designate the Deputy Secretary General that will act as proxy in his/her absence.

(4) The Deputy Secretary General shall, upon proposal by the Secretary General, be appointed by the Plenary from among first-class judges and prosecutors with their consent.

(5) The Deputies of the Secretary General:

a) shall work according to division of labor determined by the Secretary General.

b) shall ensure that the effective, harmonious and orderly functioning of the bureaus attached to them.

c) shall perform the jobs given to them by the relevant Head of Chamber or by the Secretary General.

Rapporteur Judges

ARTICLE 12 - (1) There shall be rapporteur judges in sufficient number attached to the Office of the Secretary General to be employed at the Council.

(2) Rapporteur judges shall be appointed by the Plenary, upon proposal of the Secretary General and with their consent, with a permanent or temporary assignment, from among the people who have worked previously as judges or prosecutors for at least five years and who are deemed to provide beneficial services to the Council with their extraordinary achievements,

(3) The rapporteur judges shall perform the jobs assigned to them by the President, the Head of Chambers and the Secretary General depending on their relevance.

Bureaus and Administrative Personnel

ARTICLE 13 - (1) Bureaus shall be established in sufficient numbers attached to the Office of the Secretary General to assist the Council to perform its duties.

(2) The establishment, duties and powers of the bureaus and other matters concerning them shall be specified in a regulation to be issued by the Council.

(3) The administrative personnel shall be appointed by the President or Deputy President upon proposal by the Secretary General from among those who passed the central exam and qualified for employment as civil servants, or via transfer from other state institutes. They shall be subject to the provisions of the Law No: 657, Law on Civil Servants dated 14/07/1965. Working procedures and principles of administrative personnel shall be regulated by a by-law.

CHAPTER THREE Inspection Board

Composition of Inspection Board and its Duties

ARTICLE 14 - (1) The Inspection Board shall comprise of the President of the Inspection Board, two deputy presidents and Board inspectors in sufficient number and bureaus.

(2) The Council Inspection Board performs its duties on behalf of the Board and under the supervision of the Head of the Third Chamber.

(3) The Council Inspectors are responsible to the President of the Council Inspection Board when exercising their functions. The President of the Inspection Board is responsible to the Council.

(4) The duties and powers of the Council Inspection Board are as follows:

a) to inspect in accordance with the procedures and principles set out in the regulation whether administrative and civil judiciary judges and prosecutors perform their duties in compliance with laws, regulations, by-laws and circulars (circulars of administrative nature for judges); to examine whether they commit offenses in connection with or during the exercise of their duties, or whether their manners and acts are in compliance with the requirements of their capacities and duties, and if necessary, to launch examination or investigation proceedings about them.

b) to perform necessary inquiries and examinations on matters which fall within their remit concerning the gaps and defects in the relevant legislation and to bring recommendations to the Council about judicial and administrative measures to be taken,

c) to send examination, inquiry and investigation reports as well as inspection reports to the relevant Chambers; to send individual assessment reports as regards judges and prosecutors to the office of the Secretary General; to send the advise reports regarding the investigated units to the relevant institutions.

ç) to carry out duties set out in the laws, regulations and by-laws or similar duties assigned by the Council,

(5) A by-law shall be drafted on working methods of the Council Inspection Board and Council Inspectors as well as on the procedures and principles as regards inspections, inquiries, examinations and investigations.

Procedures of Appointment

ARTICLE 15 - 1) the Plenary shall, with the consent of appointees, appoint;

a) the President of the Council Inspection Board from among the first class judges or prosecutors,

b) Deputy Presidents of the Council Inspection Board, upon proposal of the President of the Inspection Board, from among first class judges or prosecutors,

c) the Council chief inspectors, upon proposal of the President of the Council Inspection Board, according to order of seniority, from among inspectors who have actually completed five years of service in the Council Inspection Board, who have classified as first class or who have not lost qualifications for classification to first class,

ç) the Council Inspectors, upon proposal by the President of the Council Inspection Board, from among those who have actually worked as judges and prosecutors for a minimum of eight years and whose significant achievements have been understood to be beneficial as a Council Inspector.

(2) The appointment from the Ministry Inspection Board to the Council Inspection Board and vice versa is possible with the consent of appointees. The tenure spent at the previous Council Inspection Board is deemed to have been spent at the subsequent Inspection Board.

ARTICLE 16 - Duties and Powers of President and Deputy Presidents of the Council Inspection Board

1) the duties and powers of the President of the Council Inspection Board are as follows;

a) to represent, to administer and to ensure effective, harmonious and orderly functioning of the Council Inspection Board,

b) to arrange the division of labor between President Deputies,

c) to determine the Deputy President as proxy in his/her absence, or one of the Council Chief Inspectors in the absence of the deputies,

ç) to prepare the draft annual inspection programme and to submit it to the Third Chamber, and to ensure its implementation upon the consent of the President,

- d) upon the permission with regard to inspection, scrutiny, examination and investigation to assign inspectors and to follow-up its implementation,
 - e) to carry out duties set out in the laws, regulations and by-laws or similar duties assigned by the Head of the relevant Chamber,
- (2) the duties and powers of the Deputy President of the Council Inspection Board are as follows;
- a) to perform the duties determined by the President of the Council Inspection Board in accordance with the division of labor,
 - b) to carry out the duties assigned by the President of the Inspection Board or to have these duties carried out.

Duties and Powers of the Council Inspectors

ARTICLE 17 - (1) Duties and powers of the Council inspectors are as follows;

- a) to supervise whether judges and prosecutors perform their duties in compliance with laws, regulations, by-laws and circulars (circulars of administrative nature for judges);
 - b) to examine whether judges and prosecutors commit offenses in connection with or during the exercise of their duties, or whether their manners and acts are in compliance with the requirements of their capacities and duties, and if necessary, launch examination or investigation proceedings about them.
- (2) During the exercise of these duties, Council inspectors may;
- a) obtain sworn statements from persons they deem necessary, issue letter rogatory when necessary and directly collect evidence and required information from public institutions, boards and agencies in the inspections, scrutinies, examinations and investigations,
 - b) proceed in accordance with the Criminal Procedure Code dated 4/12/2004 (Law number 5271) in addition to the powers vested in them in this Law and use all powers given to the public prosecutors in laws with regard to conducting investigation,
- (3) Relevant institutions and persons are amenable to provide all information and documentation requested during inspections, examinations and investigations conducted by the Council inspectors,
- (4) Council inspectors performing in accordance with the principles of independence of the courts and tenure of judges cannot interfere with the judicial power and judicial discretion during inspections, cannot make recommendations and suggestions.
- (5) Council inspectors shall;
- a) make recommendations about defects identified in the inspected units.
 - b) upon gaining sufficient opinion and depending on their observations as well as examined documentation, issue individual assessment documents regarding the judges and prosecutors in relation to their field of competency.

PART THREE

Election of Council Members and Termination of Membership

I- General provisions

A. Election of members

ARTICLE 18 - (1) The members of the Council shall be designated for four years according to the following;

- a) Four regular members shall be assigned by the President of the Republic from among the academics who have served for at least 15 years in the law discipline of higher education institutions and from among counsels who have actually worked for at least 15 years,
- b) Three regular and three substitute members shall be elected by the General Assembly of the Court of Cassation from among the members of the Court of Cassation,
- c) Two regular and two substitute members shall be elected by the General Assembly of the Council of State from among the members of the Council of State,

- ç) One regular and one substitute member shall be elected by the General Assembly of the Turkish Justice Academy from among its own members,
- d) Seven regular and four substitute members shall be elected by civil judiciary judges and prosecutors from among first class civil judiciary judges and prosecutors who still hold qualifications regarding classification criteria for first class,
- e) Three regular and two substitute members shall be elected by administrative judges and prosecutors from among first class administrative judges and prosecutors who still hold qualifications regarding classification criteria for first class,
- (2) Members may be re-elected at the end of their tenure and may cast vote in the election of membership of the Council.
- (3) At the latest, three months prior to the end of terms of office of the regular and substitute members of the Council, the General Secretariat of the Presidency, office of the First President of the Court of Cassation and offices of the President of the Council of State, Turkish Justice Academy and Supreme Election Board shall be notified of this issue.

B. Time and Principles of Elections

- ARTICLE 19** - (1) Elections for Council membership shall be hold once every four years within sixty days prior to the end of the terms of office of the members.
- (2) For each member of Council to be elected out of the general assemblies of the Court of Cassation, the Council of State and the Turkish Justice Academy, every member; For each member of Council to be elected from among first class civil and administrative judges and prosecutors, every judge and prosecutor shall vote for the total number of regular and substitute Council members to be elected among themselves.
- In case votes have been cast for more candidates than the total number of regular and substitute members, ballot paper shall be deemed invalid.
- Candidates having the highest number of votes shall be deemed elected as regular and substitute members in order of the number of votes.
- (3) These elections shall be held once for each term depending on the principles of secret, free, equal, single stage voting and in accordance with open counting and sorting. Lots shall be drawn in case of equality of votes.

II- Election of members to the Council by the Court of Cassation, the Council of State and Turkish Justice Academy

- ARTICLE 20** – (1)The First President of the Court of Cassation, the President of the Council of State and the President of the Turkish Justice Academy shall start the election process and announce dates of application for candidature for Council membership sixty days prior to the end of office of the Council members.
- (2) The candidates shall apply to the relevant office of the presidency within ten days starting from announcement date. The final candidate list shall be declared within five days starting from the deadline for applications.
- (3) Elections shall be held in the general assemblies of the Court of Cassation, Council of State and Turkish Justice Academy within thirty days after the final candidate lists have been declared.

III- Election of members to the Council by the civil and administrative judges and prosecutors

A. Right to elect and to be elected

- ARTICLE 21** - (1) During the election of civil and administrative judges and prosecutors;
- a) All civil and administrative judges and prosecutors have the right to vote.

b) civil judiciary judges and prosecutors may vote for candidates who are civil judiciary judges and prosecutors, and administrative judges and prosecutors may vote for candidates who are administrative judges and prosecutors.

c) Every first class judge and prosecutor who still hold qualifications for classification criteria to first class has the right to be elected as regular and substitute member for the Council.

B. Management and supervision of elections

ARTICLE 22 - (1) Elections shall be held under the management and supervision of the Supreme Election Board.

(2) For election of members to the Council by civil judiciary judges and prosecutors, in the elections that shall be held in every province under the management and supervision of the provincial election board and judges and prosecutors working in that province and districts of that province shall vote.

(3) For election of members to the Council by administrative judges and prosecutors, in the elections that shall be held in every province with a regional administrative court under the management and supervision of the provincial election board and administrative judges and prosecutors working at that regional administrative court or in places which are within the jurisdiction of that regional administrative court shall vote.

(4) In the elections to be held ballot boxes shall be put in courthouses that are in that provincial election board for the civil judiciary and in the administrative courts for the administrative judiciary.

In determination of the place of the ballot boxes, it will be taken into consideration that voters can vote easily, freely and secretly. Ballot boxes will be placed to suitable points in courthouses.

(5) The provision of Article 17 of the Law No: 298 on Basic Provisions on Elections and Voter Registers dated 26/04/1961 shall not be applicable to Council elections.

(6) The provincial election boards shall establish ballot-box committees each composed of a chairperson, four regular members and two substitute members to be assigned from among civil servants. Complaints and objections against to procedures, actions and decisions of ballot-box committees shall be concluded by the provincial election board.

(7) Ballot papers shall be regulated by the Supreme Election Board in the alphabetical order of the surnames of candidates by using the Supreme Election Board's watermark. These ballot papers shall be sent to provincial election boards as civil and administrative judiciary ballot papers by taking the numbers of voters into account. Other matters pertaining to ballot papers shall be determined by the Supreme Election Board. The Supreme Election Board may have ballot papers printed on its own or through provincial election boards which it shall deem appropriate.

(8) Every judge and prosecutor may participate as observers in the counting and sorting out of votes and integration of election minutes in the provincial election boards and ballot-box committees.

(9) In the elections to be held the provisions of the Law No: 298 which do not conflict with this present Law shall be applied.

C. Establishment of voter lists

ARTICLE 23 - (1) The Supreme Election Board shall establish lists of judges and prosecutors who will vote in provinces and send them to provincial election boards sixty days at the latest prior to the end of terms of office of members. The provincial election boards shall post the lists within latest five days after reception. Objection against the lists may be filed to the Supreme Election Board through the provincial election boards within ten days after date of posting. Objections filed after deadline shall not be accepted.

(2) The Supreme Election Board shall evaluate objections by examining documentation and decide on objections within five days after deadline for objections, announce the final voter lists

on the internet and send the lists to provincial election boards thirty days before at the latest after starting of the election schedule.

(3) Judges and prosecutors working within the organizations of the Court of Cassation, the Council of State, the Council and the Ministry of Justice and those assigned abroad shall vote in Ankara and those assigned elsewhere with temporary authorization shall vote in their locality of assignment. Judges and prosecutors who are temporarily assigned or on sick or unpaid leave elsewhere may vote in their present locality in case they apply to the Supreme Election Board for that purpose before voter lists are finalized.

(4) Individuals whose names are included in the lists but who have quitted profession due to any reason as of starting of the election schedule shall be notified to the Supreme Election Board by the Council and such individuals shall not be entitled to vote.

Ç. Determination of Application and Candidate Lists and the Date of Election

ARTICLE 24 - (1) The Supreme Election Board shall determine the election schedule and announce it on the website of the Supreme Election Board sixty days prior to the end of terms of office of Council members. Candidates shall apply to the Supreme Election Board within ten days after date of announcement. The Supreme Election Board shall examine applications of candidates and announce the provisional lists within five days after the deadline for applications. Judges and prosecutors may object to candidature by presenting justification and concrete evidence within five days after the announcement date.

(2) The Supreme Election Board shall evaluate objections by examining documentation and decide on objections within five days after deadline for objections, announce the final voter lists and send the lists to provincial election boards within thirty days at the latest after starting of the election schedule.

(3) The elections shall be held on the second Sunday after the date of announcement of the final candidate list by the Supreme Election Board.

D. Prohibition of electioneering

ARTICLE 25 - (1) Candidates may not carry out electioneering activities, they may only post their résumés on a designated website in accordance with the procedures and principles set out by the Supreme Election Board.

E. Withdrawal from candidature or losing eligibility

ARTICLE 26 - (1) In case of withdrawals from candidature or losing eligibility within the period of time from the announcement of the final candidate list until finalization of election results the list shall not be changed. However, the circumstance shall be announced on the website of the Supreme Election Board.

VI- Election in case of membership vacation

ARTICLE 27 - (1) In case Council membership is vacated for the members appointed by the President due to reasons like death, retirement and resignation, new members shall be appointed by the President within sixty days after vacation. Substitute members for the regular member shall serve the remaining time of the term of office.

(2) In case of vacation of memberships in such manner that quorum for Plenary meetings cannot be reached, a new election shall be held for vacated regular and substitute memberships within sixty days. Regular and substitute members elected as a result of this election shall serve the remaining terms of office of the members they have substituted.

V. Termination of membership

ARTICLE 28 - (1) With the exception of the President, the membership of regular and substitute members of the Council;

a) 1) if the member is convicted of a crime which requires removal from the profession of judgeship or prosecutors under the Law on Judges and Prosecutors,

2) if they withdraw

3) if they have turned 65 years of age

shall be spontaneously terminated in the above cases.

b) if it is understood afterwards that they do not carry one of the qualifications to be member of the Council or they have lost this qualification in the office, the membership to the Council shall be terminated by decision of the absolute majority of the total number of members of the Plenary.

(2) Council membership shall be terminated by decision of the absolute majority of the total number of members of the Plenary in case it is ascertained with the report of health committee that the Council member is unable to continue to function or in case the Council member fails to attend to work for a consecutive fifteen days or for thirty days in one year without permission and excuse.

(3) a) Those, elected from among the high courts and whose Council membership has ended, shall return to their previous membership to the high court without need for any proceedings and vacant position; the first left position for membership shall be entrusted to them.

b) The members elected from among the judges and prosecutors of the civil and administrative judiciary;

1) Those whose Council membership has ended before their term shall be appointed by the Plenary,

2) Those whose Council membership has ended due to the completion of their term shall be appointed by the Plenary to be established after them;

to the appropriate positions suitable to their achievement, taking into consideration their demands.

c) Those, elected from among other public officials and whose Council membership has ended, shall be, upon their applications, appointed to their previous posts by their respective institutions or to other posts suitable to their acquired rights, salaries and classes.

ç) The appointments envisaged in (b) and (c) sub-paragraphs shall be made within thirty days following the termination of Council membership. The persons concerned shall be considered to be on leave until the appointment is made, and they continue to enjoy the personal rights of being a member of the Council.

(4) The period which the Council members serve in the Council shall be considered in their service according to the provisions of the law to which they are subject.

CHAPTER FOUR

Working methods

Quorum for Plenary Meetings and Decisions

ARTICLE 29 - (1) The Plenary shall convene in January of every year upon invitation by the President and set annual regular meeting dates.

(2) The President can call the Plenary for extraordinary meeting upon his/her own motion or the written request of an absolute majority of total number of its members which contain the topic to be discussed. The President shall call the Plenary for extraordinary meeting upon a written request of an absolute majority of total number of its members which contain the topic to be discussed.

(3) The Plenary shall convene with at least fifteen members.

(4) The Plenary take decisions with an absolute majority of the total number of its members. In case absolute majority is not achieved, the same topic shall be discussed again during the next

agenda meeting and concluded with an absolute majority of attending members without prejudice to the circumstances prescribed in the law.

(5) The meeting agenda of the Plenary shall be prepared by the President based on the importance, urgency or time-bound nature of each item. The agenda shall include the date and time of the meeting and the list and order of the items to be discussed by the Council. Any agenda item which is not concluded shall be included as a priority item for discussion in the agenda of the next meeting.

(6) Changes in the agenda shall be subject to the decision of the Plenary upon the request by the President or one of the members and only in case urgent and time-bound items arise after the agenda has been prepared. Requests which are not urgent and time-bound may not be handled in this manner. Change of order of discussion, postponement or removal of any agenda item shall be subject to the same procedure.

Quorum for meetings and decisions of chambers

ARTICLE 30 - (1) The chambers shall convene in January every year upon invitation by the head of chamber and set annual regular meeting dates.

(2) The head of chamber may call the chamber for extraordinary meeting upon his/her own motion. The head of chamber shall call the chamber for extraordinary meeting upon a written request of an absolute majority of total number of its members which contain the topic to be discussed.

(3) The chambers shall convene with at least five members and take decisions with an absolute majority of the total number of its members.

(4) The meeting agenda of the chambers shall be prepared by the head of the chamber based on the importance, urgency or time-bound nature of each item. The agenda shall include the date and time of the meeting and the list and order of the items to be discussed. Any agenda item which is not finalized shall be included as a priority item for discussion in the agenda of the next meeting.

(5) Changes in the agenda shall be subject to the decision of the chamber upon written request by the head of chamber or one of the members and only in case urgent and time-bound items arise after the agenda has been prepared. Requests which are not urgent and time-bound may not be handled in this manner. Change of order of discussion, postponement or removal of any agenda item shall be subject to the same procedure.

Voting

ARTICLE 31 - (1) Voting in the Council and chambers shall commence upon completion of discussion of topics. Voting shall be open unless provided otherwise in the provisions or decisions.

(2) Voting shall be secret ballot in the election proceedings of the Plenary.

(3) Procedural matters shall be voted first. Members who remain the minority on the procedure must attend the meritorious voting. The President of the Council or the head of chamber shall collect votes starting from the youngest member and cast his/her vote at the end. The votes shall be affirmative or dissenting. Abstention votes shall be deemed dissenting votes.

(4) In case of scattered votes, the votes most against the concerned item shall be gradually added to the votes closest to such dissenting tendency until majority is established.

(5) In case of equal division of the votes, the item shall be discussed and voted again during the next agenda meeting. In case the equal division of votes sustains, the chairperson shall have the casting vote.

(6) The chairperson shall determine and announce the result of voting.

Council decisions and minutes

ARTICLE 32 - (1) The issues discussed by the Council and chambers shall be kept by minutes and the acts concluded shall be determined with a decision.

(2) The decisions shall include;

- a) Summary of the topic, claim and, if available, the defense,
- b) Justification of the decision and, if any, of the dissenting vote,
- c) Legal remedies against the decision, relevant judicial bodies and deadlines for such actions.

(3) Justified decisions shall be written within latest fifteen days after date of decision.

(4) Decisions of the Plenary and chambers shall be published on the official website of the Council without prejudice to protection of personal data.

(5) Plenary and chambers shall:

a) notify judges and prosecutors of the decisions pertaining to their personal matters and disciplinary proceedings,

b) notify results of application to the concerned party.

(6)) Decisions upon complaint or notice about judges and prosecutors shall not be notified to the same unless their defense statement has been obtained.

Re-examination, Objection and Judicial Review

Article 33- (1) The President or the concerned ones may request, from the Plenary, re-examination of decision, within ten days after notification of the decisions which are established for the first time by the Plenary. Decisions taken upon re-examination requests are final.

(2) The President or the concerned ones may request re-examination of decision from chambers, within ten days after notification of the decisions taken by the chambers.

(3) President or the concerned ones may object to the Plenary within ten days after date of notification against decisions taken by chambers after re-examination. In this case, decisions of the Plenary on objection are final.

(4) Complainants have also right to objection and re-examination against decisions pertaining to discipline.

(5) No appeal may be made to judicial authorities for decisions of Plenary and chambers other than those for removal from profession. The Council of State shall review cases against removal from profession as the first instance court. Such cases shall be deemed urgent matters by the Council of State.

PART FIVE

Legal Status and Investigation and Prosecution of Members

CHAPTER ONE

Legal Status of Members

Legal Status and Personal Rights of Members

Article 34. (1) The elected members of the Council shall benefit from the same financial, social, retirement and benefit rights as set out in the relevant legislation for head of chambers of the Court of Cassation.

(2) The Council members with the exception of the President shall be paid an additional monthly benefit the amount of which shall be the sum of the indicator value of 30.000 multiplied by the co-efficient applied to salaries of civil servants. Entitlement to and payment of this benefit shall be subject to the salary provisions of the Law No:2802 and this benefit shall not be subject to any taxes other than the stamp tax.

(3) The elected members of the Council, shall be dissociated from their original cadres and duties.

(4) The elected members of the Council are subject to the provisions for judges and prosecutors during their Council membership. Personal affairs and rights designated in other laws shall not be taken into consideration.

(5) Those who are elected as substitute members to the Council shall continue to serve their principal duties. A substitute member who replaces a vacated membership for any reason shall have the same rights and obligations as the Council member from the date they start working.

(6) Elected members of the Council shall be entitled to annual leave which is equivalent to judicial leave.

(7) Provisions regarding financial rights of elected members of the Council shall be regulated by a by-law which is to be issued by the Plenary.

Other engagements and duties

Article 35 - The elected members of the Council;

a) shall not assume any official or private duty other than those specified in laws and shall not engage in lucrative activities.

b) may engage in scientific studies, attend national and international assembly meetings, congresses, conferences and similar scientific meetings and deliver lectures and conferences on topics pertaining to their profession and the judiciary in education institutions and at pre-service, in-service and vocational education activities on the condition that these activities not interrupt with their functions and that they notify the President.

c) shall notify the Council of the situation at the date they start their duty at the Council, in case their spouses or minor or incapacitated children are engaged in continuous income-generating activities. In the event that this circumstance arises after they have started their duty, they shall notify the Council of the circumstance within one month after this date.

ç) may not be assigned or elected to another duty by the Council as long as Council membership continues.

CHAPTER TWO

Investigation and Prosecution of Members

Procedures of disciplinary investigation and prosecution of members

ARTICLE 36 - (1) Disciplinary investigation and prosecution of elected members due to their acts which constitute disciplinary offense shall be conducted by the Plenary in accordance with the provisions of this present Law.

(2) In case of notices and complaints about elected members of the Council, the President may assign one of the heads of chambers with the task of preliminary examination. The assigned head of chamber shall carry out the examination and report the situation to the President.

(3) The President shall submit the notice or complaint to the Plenary directly or after having the examination carried out. After the discussion, it may be decided either that an investigation is not necessary or to launch one. In case the Plenary decides for launching an investigation, an investigation committee of three members shall be elected by a secret ballot from among members. The investigation committee shall be chaired by the member with the highest vote or, in case of equal division of the votes, by the elderly member.

(4) The investigation committee shall collect information about the topic, establish evidence and obtain sworn statements from persons it deems necessary, notify the concerned party of the attributed manner and act and take the defense statement of the concerned party. The concerned party shall be entitled to examine investigation documentation in person or through his/her attorney from the moment his/her defense is requested.

(5) The investigation committee shall prepare a report indicating the proceedings of the investigation, information it has obtained and evidence it has gathered and its opinion on whether disciplinary punishment is necessary and submit the report and appendices to the Plenary.

(6) The concerned party shall be notified the result of the investigation in writing and be invited to provide oral or written defense in person or through his/her attorney before the Plenary within a determined period of time which shall not be less than three days.

(7) The Plenary shall examine the dossier and report of the disciplinary investigation, read the defense statement in case the concerned party has provided one in written or hear the oral defense in case the concerned party has so preferred and, considering the whole scope of documentation, it shall decide;

a) to extend or deepen the investigation if necessary,

b) on revocation of the dossier in case it determines the attributed manner and act has not occurred,

c) on a disciplinary punishment consistent with the act in case it determines that the attributed manner and act has occurred.

(8) Launching a criminal investigation or prosecution shall not hinder conducting of a separate disciplinary investigation and imposing of disciplinary punishment.

(9) A disciplinary investigation may not be launched in case three years have passed after commitment of the acts about which disciplinary investigation is required. A disciplinary punishment may not be issued in case five years have passed after commitment of the act about which disciplinary punishment is required. In case the act which requires disciplinary punishment also constitutes an offense and a longer prescription period is provided for in the law for such offense and a criminal investigation or prosecution is launched, these longer periods shall apply than those set out in this paragraph. In case the Plenary decides to wait for the result of the prosecution, the power to punish shall be barred by prescription two years after the finalization of the decision of the court.

(10) The disciplinary investigation and prosecution of elected members of the Council due to acts prior to Council membership shall be carried out by the Council from its present stage. The Council shall decide on, according to the procedure mentioned in this law, taking into consideration the provisions applicable to the concerned party in their special laws.

Disciplinary Punishments and Execution

ARTICLE 37 - (1) In case elected members of the Council cause interruption of services or act and behave in contrast with their oath or dignity and honor of Council membership, they shall be warned or invited to withdraw from Council membership depending on the nature and gravity of the act.

(2) Request for re-examination may be made against the Plenary decisions on disciplinary punishment. Decisions given by the Plenary after re-examination shall be final. This decision shall be notified to the concerned party . In case the concerned party fails to withdraw from Council membership within one month after decision of invitation of withdrawal from membership, the concerned party shall be deemed to be withdrawn. The concerned party shall be deemed on leave within the said period of one month.

Procedure of investigation and prosecution as regards judicial offenses of members

ARTICLE 38 - (1) The authorization to launch an investigation and prosecution for the offences committed by the elected Council members due to or during performance of their duties and personal offenses shall be made by the Plenary. The decision to initiate a prosecution and the determination of prosecution authorities shall be carried out by the competent authorities pursuant to the provisions of this present Law.

(2) In case of notices and complaints about elected members of the Plenary, the President may assign one of the head of chambers with the task of preliminary examination before he informs this situation to the Plenary. After the completion of the examination by the assigned head of chamber, he/she reports the situation to the President

(3) The President shall submit the notice or complaint of offense to the Plenary directly or after having the examination carried out. In consequence of negotiation conducted, it is decided that an investigation is either necessary or not. In case the Plenary decides for launching an

investigation, an investigation committee of three members shall be elected in a secret ballot from among members. The investigation committee shall be chaired by the member with the highest vote or, in case of equal division of the votes, by the elderly member.

(4) The investigation committee shall proceed pursuant to the Criminal Procedure Code and use all powers granted to prosecutors by the laws. In case a decision of the judge is needed in the course of the investigation, the concerned party shall apply to the prosecution bodies set out in accordance with the nature of offense.

(5) After completion of the investigation, the investigation committee shall prepare a report including its opinion on whether prosecution is necessary and submit the report and appendices to the Plenary.

(6) After having examined the dossier and ensured elimination of any deficiencies in the dossier, The Plenary decides for revocation of the documents in case it deems prosecution not necessary or launching prosecution if it deems so necessary.

(7) After the finalization of the permission for prosecution, the dossier shall be sent to the office of the Chief Public Prosecutor of the Court of Cassation to open criminal case before;

a) the Constitutional Court acting as the Supreme Court for offenses related with function,

b) the General Penal Board of the Court of Cassation for personal offenses,

(8) The Chief Public Prosecutor of the Court of Cassation shall send the prepared indictment to the relevant penal chamber of the Court of Cassation. The relevant penal chamber of the Court of Cassation shall notify a copy of the indictment to the concerned party pursuant to the provisions of the Criminal Procedure Code. In case the concerned party requests gathering of evidence within the period defined in the Law or makes an acceptable request upon such notification, such request shall be taken into account and the investigation shall be extended if necessary. After these proceedings, a decision to prosecute or not prosecute shall be given. In case a decision to prosecute is given, the documentation shall immediately be sent to the prosecution bodies provided for in this present Law. In case of decision of not to prosecute, objection may be filed to the subsequent penal division or, in case the decision of not to prosecute is given by the penal chamber with the last number, objection may be filed to the first penal chamber in accordance with the procedures.

(9) In *flagrante delicto* cases which fall into the jurisdiction of the heavy criminal court, the investigation shall be conducted in accordance with general provisions and the situation shall immediately be notified to the Plenary. As a result of the investigation, the dossier shall be submitted to the Plenary together with the brief of proceedings.

(10) The proceedings with regard to investigation or permission of prosecution due to acts which constitute offense prior to Council membership as regards elected members of the Council shall be carried out by the Council pursuant to the provisions of this present Law from the present stage of such proceedings.

Common Provisions

ARTICLE 39 - (1) In disciplinary investigation and prosecution of elected members due to their acts which constitute disciplinary offense and the offences they commit due to their duties or during their duties as well as their personal crimes:

a) Relevant public institutions, boards, agencies and real and legal persons must provide every information and documentation requested by the investigation committee,

b) Notices and complaints which are understood to lack signature, address or real name or those which do not pertain to specific events or causes and those which do not include evidence and basis for allegations shall not be processed.

c) President, members of the investigation committee and the investigated member may not take part in meetings of the Plenary.

ç) The Plenary shall take such decisions with an absolute majority of the total number of its members.

(2) The provisions of this law shall be applied for the investigations and prosecutions as regards the Undersecretary of the Ministry of Justice due to;

- the disciplinary acts which constitute disciplinary offenses because of the Council membership,
- the offenses committed because of or during the Council membership,
- his/her individual offenses.

CHAPTER THREE **Recusation, Withdrawal and Rejection**

Recusation

ARTICLE 40 - (1) The President and members of the Council may not take part in the activities of the Council or resume their functions in any manner:

- a) In case the proceeding is related with themselves,
- b) In case of spousal relationship -even if the marriage bond has been dissolved, antecedent-descendant kinship due to blood or affinity relation with the concerned party or in case of adoption bond or in case of blood relation with the concerned party up to (and including) second degree and in case of affinity relation with the concerned party up to (and including) second degree,
- c) In case the Chairperson or the member of the Council has been heard as a witness or served as an expert, attorney, judge or prosecutor in the same proceeding or has been previously assigned with the investigation of the proceeding,
- ç) In case of a previous litigation pertaining to the proceeding between the Chairperson or member of the Council and the concerned party.

Withdrawal and rejection

ARTICLE 41 - (1) In case of recusation of Council members or in case of a conflict or a serious situation which will impair impartiality between the Council members and the concerned party, they may withdraw from duty or be rejected by the related parties.

(2) Rejection should be executed within fifteen days starting from the date of being informed of the reason for rejection, in case it occurred before the examination or in case the reason for rejection emerged afterwards. In any case, rejection should be executed before the decision is given.

(3) The request for rejection shall be examined and concluded in the absence of members who are requested to be rejected.

(4) In case of rejection of members, which prevents convening of the chamber, the request for rejection shall be examined and concluded by the Plenary in the absence of members who are requested to be rejected. In the event that the request for rejection is appropriate, the Plenary shall also decide on the very essence of this matter.

(5) A rejection request for a number of members which will result in the obstruction of the convening of the Plenary is unacceptable.

PART 6 **Various and final provisions**

Reappointment

ARTICLE 42 - (1) Upon the decision of the Plenary; rapporteur judges who serve at the Council and Council inspectors shall be appointed to a suitable assignment in one of the five places on their demand or by assignment, by the First Chamber, taking into consideration their acquired rights.

Cadres

ARTICLE 43 - (1) Determination, foundation, utilization and cancellation of cadres subject to the Law on Public Servants as well as other issues relating to the cadres shall be regulated according to the provisions of the Decree-Law No:190 (Dated 13/12/1983) on General Personnel Cadres and Procedures.

(2) Personnel cadres specified in the Attached List No:1 of this Law is appended to the relevant sections of the Table No:1 of the Decree-Law 190 on General Personnel Cadres and Procedures, Dated 14/12/1983 under the title of the chapter of "the High Council of Judges and Prosecutors"

Budget

ARTICLE 44 - (1) The council is an administration with special budget dependent on Public Finance Management and Control Law No: 5012 (Dated 10.12.2003).

(2) Expenses related to the execution of the tasks within the scope of this Law are realized from the budget of the Council.

(3) Sources of income for the Council are;

- a) Treasury grants from the national budget.
- b) Incomes derived from appraising the incomes of the Presidency.
- c) Other incomes.

(4) The Deputy President shall be the Senior Director of the Council, The Secretary General shall be the spending authority. The Secretary General shall appoint a Deputy Secretary General as the realization officer.

(5) The Secretary General of the Council shall be present during the budget deliberations in the Turkish Grand National Assembly. The Deputy Chairperson of the Council and members may not be invited to make explanations.

By-Law

ARTICLE 45 - (1) The by-laws foreseen in this Law shall be adopted by the Council after obtaining the opinion of the Ministry.

(2) Until the adoption of the by-laws foreseen in the first paragraph, the provisions of the by-laws in force that are not against this Law shall be continued to be applied.

References

ARTICLE 46 - (1) References in the legislation to the repealed Law dated 13.5.1981 and numbered 2461 shall be deemed to be made to the relevant provisions of this present Law.

Amended and repealed provisions

ARTICLE 47 - (1) In the Vehicles Law, Law No:237, (dated 5/1/1961);

a) The phrase "President of High Council for Judges" in Table (1) has been amended as below.
"1 Vehicle for 5 Years for Deputy President of the High Council for Judges and Prosecutors

b) The phrase "Presidents of Regulatory and Auditing Authorities" in Table (2) shall be followed by the following expression.

"2 Vehicles for 5 Years for Heads of Chambers of the High Council for Judges and Prosecutors"

(2) The phrase "the President, Members, Expert Advisors, Experts and Expert Assistants of the Supreme Audit Board of the Prime Ministry" in Article 33(b) of the Law 6245 on Per Diem Allowances dated 10/02/1954 shall be followed by the expression below.

"Inspectors of the High Council for Judges and Prosecutors",

(3) The phrase "1) High Council of Judges and Prosecutors" is added to section "B – Other Special Budgeted Administrations" of Table (II) of Appendices of the Law dated 10.12.2003 numbered 5018 and order numbers are kept according to this.

(4) The Law No:2461 on the High Council for Judges and Prosecutors (dated 14.05.1981) and its appendices and amendments are hereby repealed.

PROVISIONAL ARTICLE 1 - (1) Until the Council is assigned a special budget;

a) All expenses of the Council shall be met by the Ministry.

b) All supporting facilities such as premises, vehicles, equipments, materials, furniture and furnishing required for the Council to serve its functions shall be provided by the Ministry. For this purpose sufficient allowance shall be transferred from the Ministerial budget. In addition, expenses may be made from the budget of Workshop Institutions founded by the Law No: 4301 on Organization and Management of Workshop Institutions of Penal Institutions and Prisons and Detention Houses (dated 6.8.1997).

(2) Until the service units of the Council are constituted and are entered in force,

a) Secretariat services shall be provided by the Ministry.

b) Open and confidential records and personal files of judges and prosecutors and documents pertaining to discipline, offense and inspection shall be preserved where they are kept. These documents shall be taken over with a minute to be signed within six months at the latest after the service units of the Council are constituted.

PROVISIONAL ARTICLE 2 - (1) All actions and decisions taken by authorized bodies prior to coming into force of this present Law shall be deemed valid and actions needed as of their present stage shall be taken by authorized bodies of the Council according to the provisions of this present Law.

Entry into force

ARTICLE 48 - (1) The present law shall become effective upon the date of publication.

Enforcement

ARTICLE 49 - (1) The provisions of this present law shall be executed by the Council of Ministers.