



Strasbourg, 21 July 2020

**CDL-REF(2020)032**

**Opinion No. 991 / 2020**

Engl. only

**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**TURKEY**

**ATTORNEYSHIP LAW (NO. 1136 OF 19 MARCH 1969),  
BEFORE THE 2020 AMENDMENTS\***

(\* ) Unofficial translation

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## **ATTORNEYSHIP LAW**

### **PART ONE**

#### **Attorneyship And The Attorney**

##### **Nature of attorneyship**

Article 1 – Attorneyship is a public service and a self employed profession. (Amended on the basis of Article 4667/1 dated 2 May 2001) The attorney freely represents the independent defence which is one of the constituents of the judiciary.

##### **Purpose of attorneyship**

Article 2 – (First paragraph amended on the basis of Article 4667/2 dated 2 May 2001) The purpose of attorneyship is to ensure with juridical bodies at every level, arbitrators, public and private entities, boards and agencies the arrangement of legal relations, the just and fair settlement of all kinds of legal issues and disputes, and the full implementation of legal rules. The attorney places his/her legal knowledge and expertise in the service of justice and at the disposal of individuals for this purpose.

(Amended on the basis of Article 4667/2 dated 2 May 2001) Juridical bodies, police departments, other public institutions and agencies, state economic enterprises, private and public banks, notaries public, insurance companies and foundations must assist attorneys in carrying out their duties. These entities are required to submit to attorneys for their review the information and documents they require, without prejudice to special provisions in Laws relating thereto. Getting copies of such documents is subject to the presentation of a power of attorney. In cases pending, writs may be received from the court without waiting until the date of hearing.

### **PART TWO**

#### **Admission Into The Profession Of Attorney**

##### **Conditions for admission**

Article 3 – (Amended on the basis of Article 2178/1 dated 30 January 1979)  
The conditions below shall be met for admission into the profession of attorney:

- a) Being a citizen of the Republic of Turkey.
- b) Being a graduate of one of the Turkish faculties of law; or being a graduate of a faculty of law in a foreign country and having passed examinations in the extra courses in the curriculum of Turkish faculties of law.
- c) Having received an apprenticeship completion certificate after having served apprenticeship.
- d) (Supplementary provision on the basis of Article 4667/3 dated 2 May 2001; repealed 28/11/2006-5558/1 article 3) Having passed the attorneyship examination.
- e) Having a legal domicile in the jurisdictional area of the bar association in the directory of which registration is sought.
- f) Not having a status which is unfit, pursuant to current law, for attorneyship.

##### **Exceptions**

Article 4 – (Amended on the basis of Article 4667/4 dated 2 May 2001)

The conditions set forth in Article 3, Subparagraphs c and d shall be waived for those who have served for four years in the posts of judge and prosecutor in civil, administrative, and military branches of the judiciary, rapporteur at the Constitutional Court; member in the Council of State, and professor, associate professor, and assistant professor of courses of jurisprudence in faculties subordinate to universities; and ten years in the posts of legal advisor with government agencies.

Of Turkish citizens and individuals who have acquired Turkish citizenship, those who have graduated from foreign faculties of law and have served as judge, prosecutor, or attorney at

all levels of courts where they came from for four years and those who have taken up attorneyship as a profession shall be exempt from the conditions set forth in Article 3, Subparagraphs c and d provided that they have passed examinations administered on the basis of relevant procedures in the extra courses in the curriculum of Turkish faculties of law as stated in Article 3, Subparagraph b and that their proficiency in the Turkish language has been established by passing a language examination.

For registration in the bar association, those identified in the first and second paragraphs shall be required to furnish a certified copy of a synopsis of their professional records in addition to the documents indicated in Article 17, Subparagraphs 1 and 2.

### **Impediments to admission into attorneyship**

Article 5 – The request for admission into attorneyship shall be denied in the presence of any one of the circumstances below:

a) (Amendment: 23/1/2008-5728/article 326) Conviction for offences committed with intent and incurring punishment by imprisonment for a period of more than two years, for offences against the security of the State, for offences against the Constitutional order or the operation of that order (...) [this section was cancelled by judgment of the Constitutional Court] for embezzlement, corruption, bribery, theft, fraud, forgery, abuse of trust, fraudulent bankruptcy; corrupt interference in competitive tender procedures, corrupt interference in performance [of project contracts], or laundering of the proceeds of crime or smuggling, even if the periods specified in article 53 of the Turkish Criminal Code have elapsed.

b) (Amended on the basis of Article 3256/2 dated 22 January 1986) Having forfeited one's eligibility for the posts of judge, public servant or attorney as a result of a disciplinary sentence that has become final.

c) (Cancelled: By Constitutional Court judgment number E 2012/116, K 2013/32 of 28/2/2013).

d) Being engaged in occupations not compatible with the profession of attorneyship.

e) Having been declared incompetent by a court.

f) Not having one's credit restored after bankruptcy (Those convicted of negligent and fraudulent bankruptcy shall not be admitted even if their credit has been restored).

g) Not having had a formerly issued certificate of insolvency rescinded.

h) Having a bodily or mental handicap hindering one from practicing attorneyship permanently in an appropriate manner.

(Amended on the basis of Article 4667/5 dated 2 May 2001)) Those who have been convicted of one of the infamous crimes enumerated in Subparagraph a of the first paragraph shall not be admitted into attorneyship even if their sentences have been deferred, commuted to a fine, or pardoned.

(Amended on the basis of Article 3256/2 dated 22 January 1986)) The decision regarding a candidate's request for admission into attorneyship may be suspended pending the completion of a prosecution in the event that one has been initiated against him/her for an offence punishable by one of the penalties stated in Subparagraph a of the first paragraph.

However, the request shall be decided upon without waiting for the conclusion of the prosecution in instances where the request should be denied regardless of the outcome.

Request for registration in the bar association

Article 6 – (Amended on the basis of Article 4667/6 dated 2 May 2001)

Those who have passed the attorneyship examination or those satisfying the conditions in Article 4 may request in writing to be registered in the directory of the bar association to which they have applied.

### **Decision**

Article 7 – The management board of the bar association must issue a reasoned decision within one month of the date of delivery of the written request for registration in the bar association.

If a decision is not made during this period, the candidate's request for admission shall be considered as having been denied. In such a case, the candidate shall be at liberty to file an objection with the Union of Turkish Bar Associations within fifteen days as of the expiration of the one-month period. The terms of Article 8 shall be applied by analogy in the event of an objection.



Objection to denial of request or to decision to wait until the completion of prosecution

Article 8 – If the management board of the bar association denies the request for admission into attorneyship or decide to wait until the completion of the prosecution, it will indicate the reason in its decision.

The candidate may object to this decision within fifteen days as of the date of notice by petitioning the Union of Turkish Bar Associations through the bar association that made the decision. The bar association concerned will give the candidate a document certifying the date of objection. No taxes, duties, or charges will be levied for this document.

The Union of Turkish Bar Associations will accept or reject the objection after examining the file. The objection shall be considered as having been rejected if a decision is not made by the Union of Turkish Bar Associations within one month as of the date of objection.

(Amended on the basis of Article 4667/7 dated 2 May 2001) The decisions of the management boards of bar associations regarding the registration of candidates in their directories will be forwarded to the Union of Turkish Bar Associations within fifteen days as of the date of decision. The Union of Turkish Bar Associations will make its own decisions as to the appropriateness of the bar associations' decisions and the sustaining or overruling of the objections within one month of receiving them; and will submit its own decisions to the Ministry of Justice within one month as of the date they were made. These decisions will become final if no decision is made by the Ministry of Justice within two months as of the date of their receipt by the Ministry of Justice or if the decisions are approved. However, the Ministry of Justice will return the decisions it does not deem appropriate to the Union of Turkish Bar Associations for reconsideration together with the reasons for return. The decisions thus returned will be considered as approved if passed unchanged by a two thirds majority vote of the Management Board of the Union of Turkish Bar Associations; otherwise they will be considered as not approved. The result will be communicated to the Ministry of Justice by the Union of Turkish Bar Associations.

The decisions of the management boards of bar associations regarding the rejection of a request for admission into attorneyship or waiting until the completion of prosecution will become final if not objected to within the period allowed.

(Amended on the basis of Article 4667/7 dated 2 May 2001) Suits may be filed with administrative tribunals by the Union of Turkish Bar Associations, the candidate, and the bar association concerned against the decisions made by the Ministry of Justice under the fourth paragraph; and by the Ministry of Justice, the candidate, and the bar association concerned against the decisions made by the Union of Turkish Bar Associations after reconsideration of the decisions found inappropriate and returned by the Ministry of Justice.

The bar associations must implement immediately the decisions that have become final.

#### **Licence of attorneyship and oath**

Article 9 – A candidate admitted into the profession of attorneyship will be issued a licence by the bar association concerned.

Admission into attorneyship will become effective from the moment the licence is issued.

Once admitted into attorneyship in this manner, the candidate becomes entitled to use the title of "attorney", which is communicated to the Union of Turkish Bar Associations.

(Amended fourth paragraph: 13/1/2004 - 5043/Article 1) Licences and attorney identity cards shall be drawn up and printed in a uniform format by the Union of Turkish Bar Associations. When the decision for approval has been issued by the Management Board of the Union of Turkish Bar Associations, as specified in the fourth paragraph of article 8, the licences shall be signed by the President of the Union and by the relevant Bar Association President. Attorney identity cards shall have the status of official identification documents which shall be recognised by all official and private organisations.

When being issued his/her licence, an attorney admitted into the profession is made to take the following oath before the management board of his/her bar association:

(Amended on the basis of Article 4667/8 dated 2 May 2001) "I swear on my honour and conscience to abide by the law, the principles of morality, and the rules of this profession; and to uphold its respectability."

That the attorney was made to take an oath will be noted in a memorandum and kept in his/her file together with the wording of the oath. The memorandum will be signed by the attorney taking the oath as well as the members of the management board of the bar association.

#### **Notification of the decision of rejection**

Article 10 – Once the decision becomes final regarding the rejection of the request of a candidate for admission into the profession of attorneyship or regarding waiting until the completion of an ongoing prosecution, the bar association concerned will pass on the candidate's name to the other bar associations and the Union of Turkish Bar Associations. Once this has been done, no bar association will be allowed to register that candidate in its directory unless the reasons for the rejection or delay cease to exist.

### **PART THREE**

#### **Circumstances of Prohibition**

##### **Activities incompatible with attorneyship**

Article 11 – Services and duties rendered in exchange for payments such as a monthly salary, a fee, a daily wage, or dues; working as an insurance agent, a merchant, or a tradesman; and all activities not consistent with the respectability of the profession are incompatible with attorneyship.

##### **Activities compatible with attorneyship**

Article 12 – (Amended on the basis of Article 3256/3 dated 22 January 1986)

The activities listed below fall outside the scope of Article 11:

- a) Membership in parliament, a provincial general assembly, or a municipal council.
- b) (Amended on the basis of Article 4667/9 dated 2 May 2001) Professorship and associate professorship in the field of law.
- c) Legal consultancy and permanent attorneyship with legal entities under private law, and salaried attorneyship in a law office.
- d) Arbitratorship, liquidatorship, or any duty or service assigned by or being rendered for judicial bodies or a judicial office.
- e) Position of president or member of the management board or auditor with state economic enterprises, public economic organisations and their affiliates, joint ventures and subsidiaries falling under the scope of Legislative Decree, number 233, on State Economic Enterprises; as well as corporations other than state economic enterprises and public economic organisations whose capital is owned by the State or other legal entities, provided that engaging in another occupation or service is not prohibited on the basis of the aforementioned Legislative Decree.
- f) Partnership, board chairmanship, board membership, and auditorship in joint stock corporations, limited companies, and cooperative companies; and silent partnership.
- g) Board chairmanship, board membership, and auditorship in charitable, scientific, and political organisations.
- h) Publishing a newspaper or a periodical publication or editorship of same.

The provisions of Law number 3069 on Activities Incompatible with Membership in the Grand National Assembly of Turkey are reserved as far as members of parliament are concerned.

(Amended on the basis of Article 4667/9 dated 2 May 2001) Those indicated in Subparagraph e are prohibited from conducting court action against the Treasury, municipalities and provincial special administrations, agencies and organisations under the management and supervision of provincial and municipal administrations, village legal entities, and companies and organisations with publicly owned stock. Likewise, provincial general assembly and municipal council members are prohibited from conducting court action against the legal entities they are associated with; and professors and associate professors in higher education are prohibited from conducting court action against institutions and organisations of higher education.

This prohibition also covers the partners of the attorneys concerned and the attorneys they employ.

Legal consultants and attorneys holding a post of employment in and receiving a regular salary or fee from the budget of the State, a province, or a municipality; or from agencies, organisations or companies under the management and supervision of the State, a province, or a municipality may practice attorneyship only in the affairs of these agencies, organisations or companies.

**The attorney's relation of kinship or marriage with a judge or prosecutor**

Article 13 – An attorney who is the spouse of a judge or a public prosecutor, or a legal or sanguinary ascendant or descendant, or a relative up to the second degree (included) may not practice attorneyship in lawsuits and legal action conducted by that judge or public prosecutor.

**Prohibition from practicing attorneyship after termination of certain duties**

Article 14 – (Cancelled first paragraph: By Constitutional Court judgment number E 2009/67 K 2009/119 of 1/10/2009)

The above provision will be applied also to members of the Constitutional Court and judges of the Appeal Courts.

(Amended on the basis of Article 3256/4 dated 22 January 1986) Those employed by the State, a municipality, a provincial special administration, and the state economic enterprises, public economic organisations, and their affiliates, joint ventures and subsidiaries falling under the scope of Legislative Decree number 233, on State Economic Enterprises may not take cases and conduct court action against their former employer within a period of two years following their departure.

(Amended on the basis of Article 2442/1 dated 1 April 1981; Repealed paragraph: 2/7/2018-Legislative Decree-700/Article 56)

**PART FOUR**

**Apprenticeship**

**General**

Article 15 – (Amended on the basis of Article 2178/4 dated 30 January 1979)

The duration of attorney apprenticeship is one year. The first six months are served in courts and the remaining six months with an attorney with a minimum of five years in the profession (this five-year period is calculated by including the time spent in the services mentioned in Article 4 of this Law.) The courts and judicial offices where apprenticeship will be served and the manner thereof will be specified in the relevant regulations.

**Qualifications required**

Article 16 – (Amended on the basis of Article 4667/11 dated 2 May 2001)

Of those having the qualifications stated in Article 3, Subparagraphs a, b, and f, those who do not have engagements which would prevent them from serving an uninterrupted apprenticeship and are not impeded by the circumstances mentioned in Article 5 will apply in writing to the bar association where they will serve their apprenticeship.

**Documents to be enclosed with the letter of application**

Article 17 – The following documents will be enclosed with the letter of application to be submitted on the basis of Article 16:

1. The originals and two certified copies each of the documents pertaining to the qualifications required by this Law.
2. A personal statement that the candidate is free of the circumstances mentioned in Article 3, Subparagraph f and Article 5, Subparagraph a.
3. Written consent of the attorney with whom apprenticeship will be served.
4. A testimonial drawn up by two attorneys enrolled in the bar association concerned describing the candidate's moral character.

One copy each of these documents will be certified by the president of the bar association and forwarded to the Union of Turkish Bar Associations. The other copy and the original will be

kept in the candidate's file in the bar association concerned. The written consent of the attorney with whom apprenticeship will be served will not be sought in cases described in Article 22, Subparagraphs 2 and 3.

(Addition under Law no. 3256/Article 5 dated 22 January 1986. Amended third paragraph: 23/1/2008-5728/Article 328)

If it emerges that the personal statement submitted by the person requesting notification is false, a fine of two hundred Turkish Lira shall be imposed upon the candidate by the public prosecutor.

#### **Announcement of the request**

Article 18 – The candidate's request will be announced within ten days of the date of request by being posted, together with the enclosures listed in the preceding Article, where suitable in the premises of the bar association or the judicial office for fifteen days.

Any attorney or apprentice or other parties may raise objections to the inclusion of the candidate in the apprentice list. However, clear evidence or incidences must be shown if the objection is to be taken into consideration.

#### **Report**

Article 19 – Before the request is announced, the president of the bar association will task one of the lawyers enrolled in the bar association with preparing a report by investigating whether the candidate possesses the required qualifications and whether he/she is engaged in any activities incompatible with attorneyship.

The attorney thus tasked will be under the obligation to submit the report to the bar association within fifteen days at the latest.

#### **Decision**

Article 20 – Taking into account the report mentioned in Article 19, the management board of the bar association will make a decision with a rationale within one month as of the expiration of the objection period as to whether the candidate should be put in the apprentice list. While the decision is communicated to the candidate, a copy is submitted to the local public prosecutor for review together with the candidate's personal file.

The members of the management board of the bar association may object to the decision within fifteen days as of the date of decision, the local public prosecutor as of the date of his/her receipt of the decision, and the candidate as of the date the decision was communicated to him/her.

The absence of a decision within the period mentioned in the first paragraph will mean that the request has been denied in which case the candidate may submit an objection to the Union of Turkish Bar Associations within fifteen days as of the expiration of the one-month period.

(Amended on the basis of Article 4667/12 dated 2 May 2001) The decisions made by the Union of Turkish Bar Associations regarding the objections will become final if no decision is made by the Ministry of Justice within two months as of the date of receipt of the Union decisions by that Ministry or if the Union decisions are approved by the Ministry. However, the Ministry of Justice will return to the Union of Turkish Bar Associations for reconsideration the decisions it does not find appropriate together with the reasons for returning. The decisions thus returned will be considered as approved if passed unchanged by a two thirds majority vote of the Management Board of the Union of Turkish Bar Associations; otherwise they will be considered as not approved. The result will be communicated to the Ministry of Justice by the Union of Turkish Bar Associations.

(Amended on the basis of Article 4667/12 dated 2 May 2001) Suits may be filed with administrative tribunals by the Union of Turkish Bar Associations, the candidate, and the bar association concerned against the decisions made by the Ministry of Justice in accordance with the preceding paragraph; and by the Ministry of Justice, the candidate, and the bar association concerned against the decisions made by the Union of Turkish Bar Associations after reconsideration of the decisions found inappropriate and returned by the Ministry of Justice.

### **Commencement of apprenticeship**

Article 21 – The attorney apprenticeship commences with the inclusion of the candidate in the apprentice list. Objections will halt the inclusion process.

### **Attorney with whom apprenticeship will be served**

Article 22 – Candidates approved by the local public prosecutor and recommended to the bar association to commence apprenticeship with an attorney will start working with the attorney indicated in their application as having already accepted them.

Upon the request of the president of the bar association or the application of parties concerned, the management board of the bar association may decide to have an apprenticeship served with an attorney other than the one indicated in the candidate's application.

The president of the bar association will determine the attorneys with whom candidates who were unable to obtain the document mentioned in Article 17, Subparagraph 3 will serve their apprenticeship.

An attorney must accept a candidate assigned to serve apprenticeship with him/her on the basis of the circumstances described in the second and third paragraphs above.

### **Serving the apprenticeship and the duties of the apprentice**

Article 23 – (Amended on the basis of Article 4667/13 dated 2 May 2001)

Apprenticeship is served without interruption. The days of absence with a valid excuse will be authorised to be served to completion by a decision of the judicial committee for apprenticeship in courts, and of the management board of the bar association for apprenticeship with an attorney, provided that such a request is made by the candidate within one month after the ending of the excuse. In the presence of a valid excuse, the chairperson of the judicial committee or the president of the bar association, depending on where apprenticeship is being served, may grant the candidate a leave of absence not to exceed thirty days by receiving also the opinion of the attorney with whom the apprenticeship is being served.

The apprentice must attend hearings together with the attorney, to conduct the attorney's business with courts and administrative offices, to manage lawsuit files and correspondence, to participate in training activities organized by the bar association, and to perform other tasks assigned by the management board of the bar association and designated in regulations. Apprentices have to abide by the rules of the profession and the principles set forth in regulations.

### **Apprenticeship reports**

Article 24 – (Amended on the basis of Article 2178/5 dated 30 January 1979)

Apprenticeship will be served under the supervision of the judicial committee, the bar association, and the host attorney.

The judges and public prosecutors with whom the apprentice serves will issue a report evaluating his/her performance as an apprentice, their interest in the profession, and moral character.

The host attorney will issue a report at the end of the first three months and a final one at the completion of the apprenticeship period evaluating the performance of the apprentice, his/her interest in the profession, and moral character.

### **Extension of the duration of apprenticeship**

Article 25 – (Amended on the basis of Article 4667/14 dated 2 May 2001)

After studying the reports issued about the apprentice and, if necessary, taking into consideration the outcome of a review to be conducted by a designated board member, the management board of the bar association may decide to issue an apprenticeship completion certificate or to extend the duration of the apprenticeship by up to six months.

This decision of the management board is final.

### **Tasks that apprentices may perform**

Article 26 – (Amended on the basis of Article 4667/15 dated 2 May 2001)

After starting apprenticeship with an attorney, apprentices may, with the written consent and under the supervision and responsibility of the latter, attend hearings concerning the court actions and other business being conducted by their host attorney in civil courts of peace, criminal courts of peace, and enforcement courts as well as conduct business at enforcement offices.

This power will terminate with the issuance of the apprenticeship completion certificate or deletion from the apprentice list.

### **Bar associations' aid to apprentices**

Article 27 – (Amended on the basis of Article 4667/16 dated 2 May 2001)

The Union of Turkish Bar Associations will loan money to apprentices throughout the duration of apprenticeship.

The source of the loans to be paid is the cost of the revenue stamps attorneys will affix to the powers of attorney to be presented to authorities concerned and the money coming in from repayments and their revenues. The revenue stamps are printed by the Union of Turkish Bar Associations. (Amended third sentence: 13/1/2004 - 5043/Article 2) The nominal value of the revenue stamps to be affixed shall equal the value of the tariffs applied to standard powers of attorney in the Judicial Fees section of the Charges Law, Law no. 492 dated 2.7.1964. (Additional sentences: 13/2/2011-6111/Article 195) An additional five percent shall also be applied to the value of a power of attorney which is renewed annually. The resources obtained in this way shall be used to pay the general health insurance premiums of apprentice attorneys. If such resources prove insufficient, premium payments shall be covered by transfers from the apprenticeship loan fund. These premiums shall be paid by the Union of Turkish Bar Associations. (Additional sentence: 13/1/2004 - 5043/Article 2) All stamp sums collected in this way shall be subject to financial supervision by the Court of Accounts.

Authorities to whom attorneys present powers of attorney may not accept powers of attorney not bearing any revenue stamps or those bearing less than the specified amounts. Where necessary, the person submitting the power of attorney will be granted ten days during which to complete the outstanding amount of revenue stamps. The power of attorney will not be processed unless the outstanding amount is completed within this period.

Any amount remaining after the payment of credit to apprentices will be spent for supporting colleagues and promoting the profession.

The policy of this credit and the conditions for entitlement, the definition of the beneficiaries, the manner of repayment, the principles for dividing between bar associations and the Union of Turkish Bar Associations, and spending, the money coming in from repayments and the amount remaining after credit payments, and other points will be stipulated in the regulations to be prepared by the Management Board of the Union of Turkish Bar Associations and to be approved by the Ministry of Justice.

The division and expenditure of the cost of the revenue stamps, the money coming in from credit repayments and their revenues, and the amount remaining after credit payments will be audited annually by the Ministry of Justice in accordance with the terms and procedures set forth in Supplementary Article 4.

### **Social assistance and mutual support fund**

Article 27/A - (Annex: 13/1/2004 - 5043/Article 3)

A "Social Assistance and Mutual Support Fund" has been established at the Union of Turkish Bar Associations to provide funds for use in social security, social assistance and mutual support services, and the said fund shall receive half of the revenues referred to in the second paragraph of article 27 of this Law.

The principles and procedures and other details with respect to expenditure made from this fund will appear in a regulation which will be prepared by the Board of Management of the Union of Turkish Bar Associations and approved by the Ministry of Justice.

The fund income and expenditure shall be audited annually by the Ministry of Justice on the basis of the principles and procedures sent out in supplementary article 4.

## **PART FIVE**

### **Attorneyship Examination**

#### **Examination**

Article 28 – (Revised: 2/5/2001 - 4667/Article 17; Repealed: 28/11/2006-5558/Article 1)

#### **Eligibility for the examination**

Article 29 – (Revised: 2/5/2001 - 4667/Article 18; Repealed: 28/11/2006-5558/Article 1)

#### **The nature and topics of the examination**

Article 30 – (Revised: 2/5/2001 - 4667/Article 19; Repealed: 28/11/2006-5558/Article 1)

#### **Examination results**

Article 31 – (Revised: 2/5/2001 - 4667/Article 20; Repealed: 28/11/2006-5558/Article 1)

Articles 32-33 – (Repealed on the basis of Article 2178/8 dated 30 January 1979)

## **PART SIX**

### **The Rights and Duties Of The Attorney**

#### **General**

Article 34 – (Amended on the basis of Article 4667/21 dated 2 May 2001)

Attorneys must carry out the duties they assume with care, accuracy, and integrity in a manner becoming the sacredness of their profession; to comport themselves in a manner suitable to the respect and trust the profession requires; and the comply with the professional rules set by the Union of Turkish Bar Associations.

#### **Work exclusive to attorneys**

Article 35 – (Amended on the basis of Article 1238/1 dated 26 February 1970)

Providing opinion in legal matters; litigating and defending the rights of real persons and legal entities before courts, arbitrators, and other bodies invested with jurisdictional powers; and managing all documentation associated therewith are the sole prerogative of attorneys enrolled in bar associations.

Attorneys enrolled in bar associations may conduct all types of action with public offices other than those mentioned in the first paragraph.

(Amended third paragraph: 23/1/2008-5728/Article 329) All persons competent to bring proceedings are entitled to prepare documents for their own legal proceedings, and may themselves bring proceedings and monitor the progress of such proceedings. However, incorporated companies with a principal capital equivalent to five times the principal capital amount specified under article 272 of the Turkish Commercial Code or more, and building cooperatives with a membership of 100 or more must retain a contracted attorney. Organisations in breach of the provisions of this article shall be subject to an administrative fine imposed by the public prosecutor in the sum of the gross two month minimum salary of a worker in the industrial sector above 16 years of age as of the date of the offence for each month that they failed to retain an attorney.

This shall be without prejudice to the Codes of Civil and Criminal Procedure and other provisions of law.

#### **Seeking conciliation**

Article 35/A – (Amended on the basis of Article 4667/23 dated 2 May 2001)

In actions and cases that have been entrusted to them, attorneys, together with their clients, may invite the other party to conciliation before a suit has been filed or before hearings have commenced for an already filed suit, provided that such conciliation relates exclusively to matters in which the parties obtain resulting from their intentions in the claim. If the other party

takes up the invitation and conciliation is reached, the subject of the conciliation, its place and date, and the actions that each party will carry out are laid out in a memorandum and signed jointly by the attorneys and the clients. Such memoranda are in the nature of a court decision in the sense of Article 38 of the Enforcement and Bankruptcy Law, number 2004, dated 9 June 1932.

#### **Keeping information confidential**

Article 36 – Attorneys are prohibited from disclosing information that has been entrusted to them or that they come upon in the course of performing their duties both as an attorney and as members of the Union of Turkish Bar Associations and various bodies of bar associations.

Attorneys' testimony on matters mentioned in the first paragraph is contingent upon their having received the client's consent. However, even with this condition satisfied, the attorney may refrain from testimony. (Additional sentence on the basis of Article 4667/24 dated 2 May 2001) Exercising the right to refrain will not entail legal and criminal responsibility. The foregoing provisions apply to the clerks employed by the Union of Turkish Bar Associations and bar associations, as well.

#### **Notification of refusal of commission**

Article 37 – Attorneys may refuse without stating a reason a commission offered to them. The refusal must be communicated to the client without delay.

A person whose offer of commission has been refused by two attorneys may request the president of the bar association to assign an attorney to him/her. (Amended on the basis of Article 4667/25 dated 2 May 2001) The attorney thus assigned must render services at the fee decided by the president of the bar association.

#### **Statutory refusal of commission**

Article 38 – Attorneys must refuse a commission if,

- a) They find the commission irregular or unjust when it is offered, or later arrive at this conclusion;
- b) They have given their services or opinion as an attorney to a party with conflicting interests in the commission offered;
- c) (Amended on the basis of Article 4667/26 dated 2 May 2001) They have previously been involved in the commission offered as judge, arbitrator, public prosecutor, expert witness, or clerk;
- d) They find themselves in the position of claiming the invalidity of a bond or a contract drawn up earlier by themselves;
- e) (repealed on the basis of Constitutional Court decision 43/84 dated 2 June 1977)
- f) The commission they have been offered contradicts the policy of professional solidarity and order laid down by the Union of Turkish Bar Associations.

The circumstances for statutory refusal apply to the attorneys' partners and other attorneys in their employ.

(Third paragraph repealed on the basis of Constitutional Court decision 19/9 dated 21 January 1971)

(Last paragraph repealed on the basis of Constitutional Court decision 43/84 dated 2 June 1977)

#### **Attorneys' right to keep documents and lien**

Article 39 – Attorneys must keep the documents given to them for three years after the termination of their commission. However, if a written notice has been sent to the client to retrieve his/her documents, such obligation will cease to exist at the end of three months as of the date of such notice.

Attorneys are not obliged to return the documents in their keeping unless they have received their fee and have been reimbursed for their expenses.

#### **Statute of limitations in claims for damages**

Article 40 – (Amended on the basis of Article 4667/27 dated 2 May 2001)



Claims for damages made by the client on the basis of the contract will be abated one year after the date of first knowledge of the acquisition of this right and in any case after five years from the event causing the damages.

#### **Resignation from rendering services**

Article 41 – The representation duty of an attorney who resigns from rendering a specific service or from defence of his own volition will continue for fifteen days as of the date the attorney informs the client of the situation.

However, an attorney assigned by the legal aid office or the president of the bar association may not desist from performing this duty in the absence of force majeure or a valid excuse. The evaluation of the force majeure or the valid excuse is at the discretion of the authority assigning the attorney.

#### **Temporary assignment of an attorney**

Article 42 – In the event of an attorney's death, or dismissal from the profession or the commission, or prohibition from practice, or temporary incapacity, the president of the bar association will assign another attorney to temporarily render and take charge of services by receiving the written consent of the client(s) and will have the files transferred to the him/her. (Additional sentence on the basis of Article 4667/28 dated 2 May 2001) The president will also report the situation to the courts and other parties he/she may consider necessary. These provisions will also apply to attorney partnerships by analogy.

The statutory periods for the actions stated in the above paragraph will not commence until the files are submitted. However, such period may not exceed three months.

(Repealed on the basis of Article 4667/28 dated 2 May 2001)

The newly assigned attorney may refuse the assignment by giving just reasons. It is at the discretion of the management board of the bar association to decide whether the reasons given are just.

The representation duty will proceed under the responsibility of the attorney who has assumed this duty and will not be contingent upon the instructions of the represented attorney. The fee for the work done will be paid by the attorney represented. The amount of the fee will be determined by the management board of the bar association in the event of a dispute.

#### **Requirement to establish office**

Article 43 – Every attorney must establish an office in the jurisdictional area of the bar association in whose directory he/she is enrolled. The specifications of the office will be defined by the bar association.

(Additional two sentences: 30/4/2013 - 6460/Article 3) Flat owners may use the independent units of a flat building which are shown as residential units pursuant to the Law on Flat Ownership, Law no. 634 dated 23/6/1965 as attorneyship offices without the requirement for consents or similar conditions. No provisions which contravene the building management plan may be implemented.

An attorney may not have more than one office. Attorneys working together may not have separate offices. (Additional sentences: Article 4667/29 dated 2 May 2001) An attorney partnership may not open a branch in Turkey. Members of parliament may not practice attorneyship during their term in parliament.

Attorneys moving their residence or office must inform the bar association of their new addresses within one week.

#### **Attorneys working together or as an attorney partnership**

Article 44 – (Amended on the basis of Article 4667/30 dated 2 May 2001)

Attorneys may practice their profession together in the same office or as an attorney partnership.

##### ***A) Working together in the same office***

Working together is when more than one attorney enrolled in the same bar association practice their profession using the same office. Such togetherness does not constitute a legal entity; nor is the work done deemed to be commercial.

It is mandatory to juxtapose the expression "Attorneyship Office" with the name(s) and/or last name(s) of one or several of the attorneys working together. The mutual rights and obligations, the sharing of revenues and expenditures, office management, and the termination of togetherness are defined by those working together and submitted in writing to the bar association they are enrolled in.

*B) Attorney partnership*

An attorney partnership is a legal entity formed by more than one attorney enrolled in the same bar association to practice their profession in accordance with the present Law. The work done by an attorney partnership is professional and not considered commercial. It is subject to the same provisions as applied to privately owned companies as far as taxation is concerned. The name of the attorney partnership is made up by the addition of the expression "Attorney Partnership" to the name(s) and/or last name(s) of one or several partners. Foreign attorney partnerships wishing to operate in Turkey within the framework of the current laws on incentives for foreign capital may only offer services of consultancy in foreign laws and international law provided that they have been formed in compliance with the present Law and the arrangements stipulated for attorney partnerships. This restriction also applies to attorneys who are citizens of the Republic of Turkey or of foreign countries working for the foreign attorney partnership. The condition that the partners be enrolled in a bar association is not required for this type of attorney partnerships. The implementation of this rule is contingent upon reciprocity.

An attorney partnership with a basic contract modelled after the standard basic contract assumes legal personality upon being recorded in the Attorney Partnership Register of the Bar Association by the management board of the bar association with which its partners are enrolled. A request for registration may only be refused on the grounds of discordance with the present Law and the standard basic contract. In such a case, the provisions of Article 8 will be applied by analogy. A copy of the basic contract will be forwarded to the Union of Turkish Bar Associations.

*a) The rights and liabilities of the partners*

1. The shares and percentages of partnership are determined freely. Partners may transfer their shares only to partners or third parties that are attorneys. In the event that a partner is prohibited from transferring his/her shares by the contract, or the other partners do not approve the transfer of the shares, or an inheritor is not an attorney or disclaims the inheritance, or the partner discontinues his/her practice because of retirement or health reasons, or is deleted from the directory of the bar association, or quits or is dismissed from the profession, or his/her share is attached, his/her share in the partnership will be bought by the other partners at its basis value in proportion to their shares. The provisions for liquidation in the regulations will be applied if the transfer actions are not concluded within three months.

2. Powers of attorney are drawn up in the name of the partnership. The partnership issues a document of authorization to the attorneys charged with conducting court action.

3. An attorney partnership may not acquire privileges or property outside its purpose; may not establish partnerships with third parties; and may not take over the shares of legal entities. The partners may not be partner to more than one attorney partnership; may not have an office other than that of the partnership; and may not conduct court action on a freelance basis.

4. An attorney partnership carries unlimited joint and several liability together with its partners and the attorneys it employs for all their actions, deeds, and debts connected with the partnership. The responsibilities of the partners and the attorneys the partnership employs regarding their professional duties are reserved under the Attorneyship Law and professional rules. The disciplinary actions and penalties in the present Law will be applied to attorney partnerships, as well.

5. The partner charged with the management and representation of the partnership will be responsible for the keeping of books and records. Attorney partnerships must keep a lawsuits and actions book, a shares book, a decisions book, a revenues and expenses book, and a fixtures book.

*b) Settlement of disputes*

Any and all disputes to arise between attorneys working together, or between attorneys in partnership in connection with their mutual affairs with one another, the affairs of the

partnership, or affairs with third parties regarding price in the transfer and succession of partnership shares will be settled in accordance with the provisions of the present Law and relevant regulations by the board of arbitration defined in Article 167 of the present Law.

c) The legal and formal conditions of points which must be addressed in the standard basic contract of the attorney partnership such as the identification data of the partners, the title and address of the partnership, the shares in partnership, the relationship between the partners, the division of labour concerning lawsuits and cases, the powers of the managing partners, the management and representation of the partnership, [the board of partners, the terms of reference of the [board], the sharing of revenues and expenditures, auditing, leaving the partnership, dismissal from the partnership, transfer of shares, termination of the partnership, voluntary and statutory dissolution, and liquidation will be provided for in the regulations prepared by the Union of Turkish Bar Associations and published in the Official Gazette after approval by the Ministry of Justice.

#### **Persons eligible for employment in attorney offices**

Article 45 – (Amended on the basis of Article 4667/31 dated 2 May 2001)

Attorneys and attorney partnerships may only employ help that is required for the profession of attorneyship in their offices.

Persons convicted of one of the crimes that are an impediment to attorneyship may not be collaborated with or employed in attorneys' offices by any means.

(Amended on the basis of Article 4667/31 dated 2 May 2001) Failure to abide by the foregoing provisions will be punished with dismissal from the job in the first instance and from the profession upon reoccurrence in the case of attorneys; and dismissal from the job in the first instance and deletion from the attorney partnership register upon reoccurrence in the case of attorney partnerships.

#### **Conducting legal business, review of lawsuit files, and obtaining copies of documents by apprentices or secretaries**

Article 46 – (Amended on the basis of Article 4667/32 dated 2 May 2001)

An attorney may have his legal business conducted and have facsimiles of documents obtained by photocopying or other means by the apprentice under his responsibility or by the secretary working for him/her. The copies that the attorney does not want approved are not subject to charges.

The attorney or the apprentice may review lawsuit and legal action files without a power of attorney. A request for review of files must be fulfilled by those concerned. Attorneys not presenting a power of attorney may not obtain copies or photocopies of the papers and documents in the files.

#### **Prohibition of appropriation of contested rights**

Article 47 – Attorneys are prohibited from acquiring or mediating in the acquisition of contested rights relating to work they have taken on. This prohibition remains effective for one year after the termination of the service.

The provision in the first paragraph also covers the attorney's partners and the attorneys in his employ.

(Addition under Law No. 4667/Article 33 dated 2 May 2001) However, the provisions of Article 164 are reserved.

#### **Offering an attorney commission in exchange for personal interest**

Article 48 – Persons who mediate in soliciting commission for an attorney in exchange for a fee or any kind of gain promised or given by the attorney or the client, and attorneys who resort to the services of an agent will be punished with imprisonment from six months to one year.

The imprisonment sentence shall be no less than one year in the event the perpetrators are public servants.

#### **Official attire of attorneys**

Article 49 – Attorneys must be dressed in the official attire designated by the Union of Turkish Bar Associations when they appear in court.

**Space to be allocated to the bar association and attorneys**

Article 50 – It is obligatory to allocate adequate space for the use of the local bar association in every judicial office and for attorneys in every courtroom and enforcement office. (Addition under Law No. 4667/Article 34 dated 2 May 2001) Additionally, a consultation room appropriate to the respectability and importance of the profession will be designated in every jailhouse and police station. The repair and maintenance of these rooms will be undertaken by the Ministry of Justice or the Ministry of Interior Affairs depending on which authority is responsible for them.

**Places inappropriate for conducting consultation**

Article 51 – Attorneys are prohibited from conducting legal consultation with clients and offering their services in places other than their offices registered with the bar association, in courtrooms, and the justice building. The provision in the foregoing paragraph is not applied in the event the attorney is expressly summoned.

**Keeping files**

Article 52 – Attorneys must keep regular files on every commission they receive or every point they provide an opinion on. Attorneys must sign every document written or drafted by themselves.

**Minutes of discussions**

Article 53 – Attorneys will note down in a memorandum the salient points of the discussions they hold in connection with their services which they think are important. The memorandum is signed at the bottom by those present at the discussion.

**Registration booklet**

Article 54 – A registration booklet patterned after a sample to be provided by the Union of Turkish Bar Associations will be kept for every attorney in the bar association he/she is enrolled in. Albeit confidential, this registration booklet may be viewed and notes taken from its contents at any time by its owner or another attorney duly authorised by the owner. In the event of the owner's transfer to another bar association, the registration booklet shall be forwarded to the president of the receiving bar association.

**Prohibition of publicity**

Article 55 – Attorneys are prohibited from engaging in any kind of activity or enterprise which may be regarded as being in the nature of publicity in order to offer their services and particularly from displaying any other title than that of attorney and their academic titles in their signs and letterheads.

(Additional paragraphs on the basis of Article 4667/35 dated 2 May 2001)

This prohibition also applies to the attorneys sharing an office and to attorney partnerships. The provisions governing the above prohibitions will be determined by means of regulations to be prepared by the Union of Turkish Bar Associations.

**The right to obtain copies and to serve notice**

Article 56 – Powers of attorney properly drawn up and given to an attorney will be kept in the file mentioned in Article 52. An attorney may produce a facsimile of a power of attorney and use it by certifying its authenticity with his/her signature. Copies of powers of attorney produced by attorneys bear the nature of an official copy for all judicial bodies, public offices and organisations, and private and legal entities. Where an original document is not expressly required by law, attorneys may present copies of all manner of papers and documents to judicial bodies and other legal offices in the legal business they conduct by authenticating the copies themselves.

(Amended third paragraph: 23/1/2008-5728/Article 330) Any attorney who certifies a copy of a power of attorney or any other paper or document in the absence of an original, or who

supplies a copy which is not consistent with the original shall be punished by imprisonment of from three to six years.

An attorney authenticating copies of powers of attorney or of other papers and documents lacking an original or presenting a copy not reflecting the original will be punished by heavy imprisonment from three to six years.

Attorneys may deliver judicial papers and documents to the opposite party in cases where they have been appointed as attorneys through the judicial body concerned and in the absence of any decision by this judicial body regarding service of process. One copy each of the documents thus delivered will be inserted in the files of the judicial body concerned provided that the required charges, taxes, and duties have been paid.

(Additional paragraphs on the basis of Article 4667/36 dated 2 May 2001)

Attorneys or attorney partnerships may give another attorney or attorney partnership a certificate of authorization that will pass for a power of attorney covering all the powers of attorney authorising the former to delegate agents. Such certificates of authorization bear the strength of a power of attorney.

Powers of attorney are in standard form for Turkey, and their form and content are designed by the Union of Turkish Bar Associations and the Union of Notaries Public of Turkey.

### **Crimes against attorneys**

Article 57 – Crimes committed against attorneys during or in connection with the performance of their duties will be subject to the same provisions as if they were committed against judges.

### **Public prosecutor with the power to conduct investigation**

Article 58 –

(Amended: 23/1/2008-5728/Article 331) Investigations in connection with offences committed by lawyers during their duties as legal representatives or arising from their duties in organs of the Union of Turkish Bar Associations or the [local] bar associations shall, subject to the consent of the Ministry of Justice, be conducted by the public prosecutor at the location where the offence was committed. The offices and residences of attorneys may only be searched on the basis of an order by a court in connection with the incident specified in the court decision, under the supervision of the public prosecutor and in the presence of a representative of the bar association. No attorney may be subjected to a search of his or her person other than in circumstances of *in flagrante delicto* in connection with an offence under the jurisdiction of a criminal court.

This is without prejudice to the provisions of the Code of Civil Procedure and the Code of Criminal Procedure governing maintenance of order in court. However, attorneys may not on the basis of those provisions be remanded in custody, nor may they be subjected to disciplinary confinement or fines.

### **Permission to prosecute, decision to initiate final investigation, and the court where trial will be held**

Article 59 – The file for the investigation conducted in accordance with Article 58 will be delivered to the Directorate General of Criminal Affairs of the Ministry of Justice. If a prosecution is considered necessary as a result of the review of the file, the file will be sent to the office of the public prosecutor of the high criminal court nearest the high criminal court in whose jurisdictional area the crime was committed.

The public prosecutor will prepare an indictment within five days and forward the file to the high criminal court for a decision as to whether the initiation of a final investigation is required or not.

A copy of the indictment is delivered to the attorney on whom a prosecution is being conducted in accordance with the provisions of the Code of Criminal Procedure. If the attorney so requests, within the statutory period after the delivery of the indictment, collection of certain evidence or make any other reasonable request, such will be taken into consideration and the investigation may be taken further by the chairperson of the court.

The trials of attorneys on whom a final investigation is decided to be initiated will be held in the high criminal court of the location where the crime was committed. (Supplementary

sentence: Article 4667/38 dated 2 May 2001) The situation will be reported to the bar association in which the attorney is enrolled.

#### **Right of objection**

Article 60 – The public prosecutor or the accused may object in accordance with general provisions to the decisions of the courts cited in Article 59 regarding detention or release or the decision not to initiate a final investigation.

Such objection will be reviewed by the high criminal court nearest the court which passed the contested decision, excluding the high criminal court in the location where the crime was committed.

#### ***In flagrante delicto***

Article 61- (Amended: 23/1/2008-5728/Article 332)

In circumstances of *in flagrante delicto* in connection with an offence under the jurisdiction of a criminal court, the investigation shall be conducted personally by the public prosecutor on the basis of general provisions.

Article 62- (Amended: 23/1/2008-5728/Article 333)

An attorney who abuses the office and authority accorded to him/her in his/her status as an attorney or as an officer of the organs of the Union of Turkish Bar Associations or a bar association pursuant to this Law and other laws shall be punished according to the provisions of article 257 of the Turkish Criminal Code.

#### **Exclusivity to attorneys of the exercise of attorneyship powers**

Article 63 – Attorneys not entered in the directory of the bar association and those prohibited from practice may not prepare lawsuit documents for individuals other than themselves, may not follow up enforcement actions, and may not exercise any other powers associated with attorneyship and nor may those who do not appear on the directory use the title of attorney. (Additional sentence on the basis of Article 4667/40 dated 2 May 2001) However, of the attorneys who have completed twenty years on the directory, those who have closed down their office and had their tax records deleted may continue to use only the title of attorney provided that they report their status and fulfil their duties and obligations to the bar association.

(Amended second paragraph: 23/1/2008-5728/Article 334) An administrative fine of between five hundred Turkish Lira and two thousand Turkish Lira shall be imposed by the public prosecutor upon persons acting in breach of the provisions set out in the first paragraph.

(Amended third paragraph: 23/1/2008-5728/Article 334) Persons who, without authority to act as an attorney, exercise powers accorded to attorneys in the course of obtaining receivables by fictitious means or abusing other rights granted by laws shall be punished by imprisonment for a term of from one year to three years and a judicial fine equivalent to 1000 days.

Courts, enforcement and bankruptcy offices, and bar associations must notify the public prosecutor when an incident falling under the scope of this Article comes to their knowledge. The result of the prosecution to be conducted will be reported to the bar association.

#### **Special duties toward the management board of the bar association**

Article 64 – In matters pertaining to inspections and objections, attorneys must furnish information and deliver the relevant files upon request to the president of the bar association, the management board, or one of the members assigned by them; and to make himself/herself present when invited for a hearing by the president of the bar association, the management board, or one of the board members to the extent that this does not contradict the obligation to keep professional information confidential prescribed by the present Law.

(Amended on the basis of Article 3256/8 dated 22 January 1986) The management board of the bar association may impose a fine from ten thousand to one hundred thousand Turkish Liras on an attorney who fails to fulfil the obligation stated in the first paragraph above. This punishment may be re-imposed at every instance of nonacceptance of a request or an

invitation. However, the letter of request or invitation must include a statement that nonacceptance is punishable by a fine.

Objections may be raised against the imposition of the fine with the management board of the bar association within fifteen days as of the date of notification. The decision of the management board of the bar association will be final.

The fines imposed in accordance with the provisions in the above paragraphs will be collected in accordance with the provisions of the present Law concerning disciplinary penalties and marked as revenue for the bar association.

#### **Bar association dues**

Article 65- (Amended: 18/2/2009 - 5838/Article 28)

The amount of bar association dues shall be determined by the general assembly and this sum shall be paid in two equal instalments in January and July each year. Any dues which remain unpaid upon their due date shall be subject to annual default interest at the rate charged by the Central Bank of the Republic of Turkey on rediscount transactions.

This is without prejudice to the provisions of articles 72 and 73 of the Attorneyship Law.

### **PART SEVEN**

#### **Bar Association Directory And Attorney List**

##### **Obligation for entry in the directory**

Article 66 – Every attorney must be entered in the directory of the bar association in whose jurisdictional area he/she will practice attorneyship on a permanent basis.

An attorney who is entered in the directory of a bar association is authorised to practice attorneyship in any part of Turkey provided that such practice is not on a permanent basis.

##### **Permanent practice of attorneyship in another jurisdictional area**

Article 67 – If an attorney practices attorneyship on a permanent basis outside the jurisdictional area of the bar association in whose directory he/she is entered or is engaged in an activity punishable by disciplinary penalty, a memorandum to be drawn up by the management board of the bar association in that location will be sent for action to the bar association in whose directory he/she is entered.

##### **Transfer to another bar association**

Article 68 – Request for transfer from one bar association to another will be made in writing to the management board of the bar association in whose directory entry is requested.

The documents to be enclosed with the request for transfer and the procedures to be applied to transfer will be prescribed in regulations.

##### **Review and approval of request for transfer**

Article 69 – The management board of the bar association to which transfer is requested will conduct all kinds of review and actions it deems necessary concerning the requesting attorney, particularly asking the bar association in whose directory the attorney is currently entered whether he/she is under disciplinary prosecution and owes money to the bar association. No action may be taken before the conclusion of the disciplinary prosecution and the payment of the attorney's debt to the bar association.

In the event of the acceptance of the request for transfer, the decision will be communicated promptly by the management board of the receiving bar association to the Union of Turkish Bar Associations and the bar association the attorney is leaving.

##### **Refusal of request for transfer**

Article 70 – In the event of the rejection of the request for transfer by the bar association to which transfer is sought, the attorney requesting transfer may raise an objection with the Union of Turkish Bar Associations within fifteen days as of the date the decision is communicated to him/her.

The request will be considered as having been rejected if the management board of the bar association does not make a decision within one month as of the date of receipt of the request for transfer. In such a case, the attorney concerned may raise an objection with the Union of Turkish Bar Associations within fifteen days as of the expiration of the one-month period.

The decisions to be made by the Union of Turkish Bar Associations on objections will be final. The attorney concerned may appeal to the administrative judicial authorities regarding these decisions.

The objection will be considered as having been rejected if the Union of Turkish Bar Associations does not make a decision within three months as of the date of receipt of the letter of objection.

If the Union of Turkish Bar Associations decides to uphold the objection, it will promptly communicate this decision to the receiving bar association and the one the attorney is leaving.

#### **Deletion from directory and the register of the attorney partnership**

Article 71– (Amended on the basis of Article 4667/42 dated 2 May 2001) The decision on deletion from directory and the register of the attorney partnership will be made by the management board of the bar association with which the attorney or the attorney partnership is enrolled.

Although a written response is requested of the attorney prior to such a decision, it is essential that the attorney has been heard by the board or has not complied with an invitation to a hearing within the designated period. Similarly, for a decision to be made in the case of attorney partnerships, it is essential that a partner to be appointed by the partnership has been heard by the board or the partnership has not complied with an invitation to a hearing.

The decision on deletion from directory and the register of the attorney partnership shall be expressed with the grounds for that decision. The attorney or the attorney partnership may raise an objection to this decision with the Union of Turkish Bar Associations within fifteen days as of the date of notice. The decisions made by the Union of Turkish Bar Associations on the objections will become final if no decision is made by the Ministry of Justice within two months as of the date of their receipt by the Ministry of Justice or if the decisions are approved. However, the Ministry of Justice will return the decisions it does not deem appropriate to the Union of Turkish Bar Associations for reconsideration together with the reasons for return. The decisions thus returned will be considered as approved if passed unchanged by a two thirds majority vote of the Management Board of the Union of Turkish Bar Associations; otherwise they will be considered as not approved. The result will be communicated to the Ministry of Justice by the Union of Turkish Bar Associations. The provisions of the sixth and seventh paragraphs of Article 8 will be applied here, as well, by analogy.

The attorney or the attorney partnership concerned will have the right to continue their practice of attorneyship until the decision on deletion from directory or the register of the attorney partnership becomes final. However, the disciplinary board of the bar association may temporarily prohibit the attorney or the attorney partnership from practice in the event it is deemed prejudicial to have them continue their practice until the decision on deletion from directory or the register of the attorney partnership becomes final.

#### **Circumstances necessitating deletion from directory**

Article 72 – The attorney's name will be deleted from the directory under the following circumstances:

- a) Loss at a later date of the qualifications required on the basis of this Law for admission into attorneyship.
- b) Discovery at a later date of reasons present at the time the licence was issued which would constitute grounds for denial of the licence.
- c) (Amended on the basis of Article 4667/43 dated 2 May 2001) An office not being opened in the jurisdictional area of the bar association concerned within three months; or the closing down of the office or its relocation outside the jurisdictional area of the bar association concerned; or the failure, despite reminders, of the attorney to enrol with another bar association in whose jurisdictional area he/she practices attorneyship on a permanent basis.



d) (Amended on the basis of Article 4667/43 dated 2 May 2001) Default in the payment of annual dues to the bar association and the Union of Turkish Bar Associations or in the repayment of apprenticeship credit despite service of notice.

e) Voluntary departure from the profession.

f) Default in the payment of group insurance premiums at the times indicated in the group policy.

g) (Addition under Law no. 3256/Article 9 dated 22 January 1986) Being entered in the directory despite the impediment stated in Article 10.

(Additional paragraphs on the basis of Article 3256/9 dated 22 January 1986)

However, an attorney discovered later than five years after the date of issuance of his/her licence to have been engaged in one of the activities listed in Article 11, with the exception of activities incompatible with the respectability of the profession, may be re-entered in the directory if he/she pays the bar association three times the amount of the payments or revenues he/she has received during the apprenticeship period.

The bar association may desist from inviting the attorney for a hearing if the office address submitted to the bar association is vacated and a new address not submitted.

#### **Right of re-entry in the directory**

Article 73 – An attorney proving the discontinuation of the circumstances necessitating deletion from the directory will gain the right to be re-entered in the directory. However, the management board of the bar association may, if it deems necessary and by explaining the reasons, require the attorney requesting re-entry in the directory, to prove the presence of all or part of the qualifications sought for the initial entry.

With the exception of the provision on the issuance of licences, Articles 7, 8, and 9 of the present Law will be applied by analogy to requests for re-entry in the directory.

An attorney whose re-entry in the directory has been approved by the bar association with which he/she was formerly enrolled will not be required to pay admission dues one more time.

#### **Permanent deletion from the directory**

Article 74 – The licences of those dismissed from the profession by a criminal or disciplinary sentence and those finally convicted of crimes stated in Article 5, Subparagraph a will be withdrawn and cancelled by the management board of the bar association and their names permanently deleted from the directory.

Execution of such actions is contingent upon the decision or conviction becoming final.

(Amended on the basis of Article 4667/44 dated 2 May 2001) The attorney may raise an objection to the decision made by the management board of the bar association with the Union of Turkish Bar Associations within fifteen days as of the date of notice. The decisions made by the Union of Turkish Bar Associations on the objections will become final if no decision is made by the Ministry of Justice within two months as of the date of their receipt by the Ministry of Justice or if the decisions are approved. However, the Ministry of Justice will return the decisions it does not deem appropriate to the Union of Turkish Bar Associations for reconsideration together with the reasons for return. The decisions thus returned will be considered as approved if passed unchanged by a two thirds majority vote of the Management Board of the Union of Turkish Bar Associations; otherwise they will be considered as not approved. The result will be communicated to the Ministry of Justice by the Union of Turkish Bar Associations. The provisions of the sixth and seventh paragraphs of Article 8 will be applied here, as well, by analogy.

#### **Attorney list**

Article 75 – (Amended on the basis of Article 3256/10 dated 22 January 1986) Every three years, the management board of the bar association will prepare a list of all attorneys within its jurisdictional area and entered in its directory as recently as the date of 31 December of the third year. The list will include the names and last names of all attorneys in alphabetical order, and the addresses of their offices and residences. The offices of attorneys sharing the same office and attorney partnerships will also be indicated separately in the list. Changes to the list will appear in an amendment list to be prepared as of the end of every year.

The format of the list will be determined by the Union of Turkish Bar Associations.

Those who are entered in the directory after the list has been completed will be issued a temporary certificate for use until the preparation of the next list.

An adequate number of copies of the list will be forwarded to the Constitutional Court, the Appeal Courts, the Ministry of Justice, the Union of Turkish Bar Associations, other bar associations, the courts and public prosecutors within the jurisdictional area of the bar association, the highest ranking government official, other judicial bodies, notaries public, enforcement and bankruptcy offices.

## **PART EIGHT**

### **Bar Associations**

#### **SECTION ONE**

#### **General Provisions**

##### **Establishment and nature of bar associations**

Article 76 – Bar associations are professional organisations in the nature of public agencies with legal personality operating on the basis of democratic principles by conducting the whole range of activities for the purpose of promoting the profession of attorneyship; ensuring honesty and confidence in the mutual relations between the members of the profession and their relations with clients; defending and safeguarding the order, ethics, and respectability of the profession, the supremacy of the law, and human rights; and to satisfy the common needs of attorneys.

(Amended on the basis of Article 4276/3 dated 18 June 1997) Bar associations may not engage in activities other than those befitting their purpose of establishment.

(Amended on the basis of Article 4667/46 dated 2 May 2001) In state protocol, bar associations stand next to the chief public prosecutor for the province.

##### **Establishment of bar associations, removal and deposition of their organs**

Article 77 – (Amended on the basis of Article 4667/47 dated 2 May 2001) A bar association is established in every capital of province where a minimum of thirty attorneys are present. The provision in the second paragraph will be applied to already established bar associations in which the number of attorneys falls below thirty.

(Amended on the basis of Article 4667/47 dated 2 May 2001) The Union of Turkish Bar Associations will decide whether the localities without a bar association should be attached to the nearest bar association or combined into a new bar association, as well as where the latter's offices will be located. The Union of Turkish Bar Associations will produce a list of the attorneys with offices in the jurisdictional area of the new bar association to be established who are entered in the directory and will task the senior attorney among them with establishing the new bar association. A founding board of four chaired by the assigned attorney will accomplish the establishment of the bar association within six months at the latest and report same to the Union of Turkish Bar Associations. In the event of the resignation of the management board of the bar association together with the alternate board members, the same founding board will reconvene in order to lead the bar association toward election in three months at the latest.

(Amended on the basis of Article 4667/47 dated 2 May 2001) Bar associations assume legal personality upon reporting their establishment to the Union of Turkish Bar Associations.

(Amended on the basis of Article 4667/47 dated 2 May 2001) The Union of Turkish Bar Associations will report the establishment to the Ministry of Justice.

(Amended on the basis of Article 4276/4 dated 18 June 1997) The removal from duty of, and the election of replacements for the bar associations and the responsible organs of the Union of Turkish Bar Associations engaged in activities outside their purposes will be adjudicated by the local civil court of first instance according to simple trial procedure upon the request of the Ministry of Justice or the local public prosecutor; and the trial will be concluded within three months at the latest.

The organs removed from duty will be replaced by election within one month at the latest. The newly elected organs will serve out the terms of the former.

The assigned organs of bar associations must implement to the letter the decisions made in accordance with the present Law by the Ministry of Justice as an approving authority in connection with the actions of the organs of bar associations. The provisions of the foregoing paragraphs will be applied to the organs of bar associations failing to implement the decisions of the Ministry of Justice despite a ruling by the administrative judicial authority of a stay of execution or on the merits of the case, or in the absence of a statutory cause; or passing a new decision in the nature of a decision of persistence in the former decision; or failing to carry out the statutory actions despite the warning of the Ministry of Justice.

Criminal liability stipulated by law will be reserved for the members of the organs removed from duty. The acts of these organs causing their removal from duty on the basis of the preceding paragraph will be void.

(Amended on the basis of Article 4276/4 dated 18 June 1997) However, bar associations and the Union of Turkish Bar Associations may be prohibited from operation by the governor of the local province if a delay would be detrimental in circumstances involving national security or the public order, or when exigent for the prevention of an offence or its protraction or for the apprehension of an offender. The decision to prohibit operation will be submitted to the approval of a judge with jurisdiction within twenty-four hours. The judge will announce his/her decision within forty-eight hours; otherwise, this administrative decision will be automatically abrogated.

The provisions governing termination of duty and removal from duty will not be applied to the general assembly of the bar association.

#### **The unpaid nature of duties and duties which may not be combined in the same person**

Article 78 – The presidency of the bar association, memberships in the, presidential council, the management board, audit and disciplinary boards; and duties assigned to attorneys in connection with the safeguarding, representation, and defence of the interests of the bar association will be performed without payment.

Travel and accommodation allowances and other essential expenditures will be reimbursed out of the funds of the bar association.

The presidency of a bar association, memberships in the management board and the disciplinary board, and auditorship may not be combined in the same person. (Amended on the basis of Article 4667/48 dated 2 May 2001) However, membership in the disciplinary board and auditorship may be combined in the same person in bar associations with fewer than forty attorneys entered in their directory.

## **SECTION TWO**

### **Organs of Bar Associations**

#### **Organs**

Article 79 – The organs of bar associations are the following:

1. General assembly of the bar association.
2. Management board of the bar association.
3. President of the bar association.
4. Presidential council of the bar association.
5. Disciplinary board of the bar association.
6. Board auditors of the bar association.

#### ***1 – General assembly of the bar association***

#### **Composition**

Article 80 – The general assembly of the bar association is the highest organ in the bar association and is composed of all the attorneys entered in the directory.

#### **Duties**

Article 81 – The duties of the general assembly are as follows:

1. Electing members to the management board, the disciplinary board, and the board auditors; the president of the bar association, and the delegates for the Union of Turkish Bar Associations.
2. (Amended on the basis of Article 4667/42 dated 2 May 2001) Determining the admission dues to be paid upon entry in the directory and entry in the attorney partnership register by multiplying the index figures of two thousand minimum and eight thousand maximum for attorneys, and twenty thousand minimum and eighty thousand maximum for attorney partnerships, and the membership dues to be paid annually by multiplying the index figures of one thousand minimum and four thousand maximum for attorneys, and ten thousand minimum and forty thousand maximum for attorney partnerships with the salary coefficient set for public servants every year in the budget act; and fixing the dates of their payment.
3. Reviewing the accounts submitted by the management board regarding the revenues and expenditures of the bar association and the management of its property, and deciding whether to acquit the management board.
4. Approving the budget of the bar association.
5. Reviewing and approving the house regulations to be drafted by the management board.
6. Determining the nature and amount of aid to be granted to attorneys in need and their survivors other than what the management board of the bar association is authorised to grant on the basis of the current laws.
7. Debating and deciding on motions pertaining to the profession.
8. Defining the specifications of attorney offices.
9. Exercising other powers conferred by laws.

#### **Regular meetings**

Article 82 – (Amended on the basis of Article 3256/12 dated 22 January 1986) The general assembly will convene in the first week of October every two years upon the invitation of the president of the bar association to discuss the items on its agenda.

#### **Extraordinary meetings**

Article 83 – The Union of Turkish Bar Associations, the president of the bar association, the management board of the bar association, or the board auditors may call an extraordinary meeting of the general assembly when they deem it necessary. The president of the bar association must call an extraordinary meeting of the general assembly within fifteen days at the latest upon the written request of one fifth of the attorneys entered in the directory indicating the points to be discussed.

#### **Call for a meeting**

Article 84 – (Amended on the basis of Article 4667/50 dated 2 May 2001) The place, time, and agenda of the regular meeting of the general assembly; and the place and time of the second meeting if the required majority is not reached in the first, will be posted where suitable in the bar association and the judicial offices in its professional circles until the date of the general assembly meeting starting at least thirty days before the meeting. Such announcement will effectively serve as an official notice.

#### **Chairing panel of the general assembly**

Article 85 – A chairing panel composed of a chairperson, a deputy chairperson, and two members will be elected as the first thing in both the regular and the extraordinary meetings of the general assembly. The election will be held by separately voting for each position. The voting will be done openly unless otherwise decided by the general assembly and those who get the largest number of votes will be elected.

The president of the bar association, the members of the management board of the bar association and the board auditors may not be elected to the chairing panel.

#### **Obligation to attend the meeting**

Article 86 – (Amended on the basis of Article 3003/3 dated 8 May 1984)

(Amended on the basis of Article 4667/51 dated 2 May 2001) An attorney entered in the directory of the bar association must attend both the regular and the extraordinary meetings of the general assembly and to vote. Those who do not attend these meetings or do not vote without a valid reason will be fined by the chairperson of the county election board at the rate of one third the amount of the annual dues paid by attorneys enrolled in that bar association. These fines will be collected by the office of the president of the bar association and marked as revenue in the budget of the bar association.

The third and fourth paragraphs of Article 64 will also be applied to the fines imposed on the basis of the present Article.

#### **Quorum for debate and decisions**

Article 87 – The general assembly will convene with the attendance of one more than half of the lawyers entered in the directory.

(Amended on the basis of Article 4667/52 dated 2 May 2001) If the majority mentioned in the first paragraph is not reached, the meeting will be adjourned to one week later unless pressing reasons exist to the contrary. However, such adjournment may not exceed fifteen days. No meeting and debate may be held on the date to which the meeting has been adjourned unless at least one third of the members are present for bar associations with up to and including sixty members, one fifth are present for bar associations with up to and including four hundred members, and one tenth are present for bar associations with more than four hundred members.

Decisions will be passed by considering as adopted the motion that receives the largest number of votes of all, provided that quorum is present in accordance with the foregoing provisions. In the case of a tie, the side taken by the chairperson of the general assembly will carry the vote.

The same majority will apply to the votes received by candidates in elections.

A member may not vote on matters in which he/she has a private stake. This rule will not apply to elections.

(Amended on the basis of Article 3003/4 dated 8 May 1984) Minutes will be kept of the decisions of the general assembly. The minutes will be signed by the chairing panel of the general assembly and forwarded to the Union of Turkish Bar Associations.

#### **Prohibition of discussion on items not on the agenda**

Article 88 – Points not indicated on the agenda as items for discussion may not be decided upon in the meeting of the general assembly. This provision will not apply to a decision to hold a new meeting.

### ***II – Management board of the bar association***

#### **Composition**

Article 89 – The management board of every bar association will be composed of the president of the bar association and a minimum of four members.

There will be six regular members in bar associations with fifty to one hundred attorneys, eight in bar associations with one hundred and one to two hundred and fifty attorneys, and ten in bar associations with more than two hundred and fifty-one attorneys. There will be the same number of alternate members as regular members in every bar association.

The president of the bar association will serve as the chairperson of the management board.

#### **Eligibility, impediments, and mode of conduct of election**

Article 90 – (Amended on the basis of Article 1238/1 dated 26 February 1970) The members of the management board will be elected from among the attorneys entered in the directory with a minimum of five years in the profession. The condition of five years in the profession will not be sought in bar associations with fewer than one hundred members.

Those on whom the initiation of a final investigation has been decided in connection with an offence constituting an impediment to attorneyship, or those punished with censure, fine, or dismissal from employment during the last five years by a final decision of the disciplinary board may not be elected to the management board. 2. (Additional sentence on the basis of

Article 4667/53 dated 2 May 2001) Those removed from duty in accordance with the provision of Article 77 may not run for the organs of the bar association in the next meeting of the general assembly.

(Third paragraph rescinded on the basis of Article 3003/9 dated 8 May 1984)

Members of the management board are elected by closed vote. The ballots must include at least one name more than half the number of regular members to be elected. Ballots with fewer names than this will not be valid. If more names are written in a ballot than the number of regular members to be elected, the redundant names will be disregarded starting from the last.

The candidates will be sorted according to the votes they have received. First the regular members, and next the alternate members will be identified according to this order starting with the member who has received the highest number of votes. In case of a tie, the candidate with professional seniority will lead. If professional seniorities are also equal, the oldest member will lead. Alternate members will be called upon for duty in the management board according to their place in the list determined by the number of votes they have received.

The duties of board members losing their eligibility will be terminated automatically.

#### **Term of duty**

Article 91 – (Amended on the basis of Article 3079/1 dated 14 November 1984) The term of duty of the management board is two years. Board members whose term of duty has expired may be re-elected.

#### **Withdrawal before completion of term of duty**

Article 92 – (Amended first paragraph 3256/13 dated 22 January 1986) A regular member who withdraws before completing his/her term of duty will be replaced by the alternate member who has received the highest number of votes.

A board member committed for trial for an offence constituting an impediment to eligibility on the basis of Article 90 may not participate in the board until the conclusion of the lawsuit and his/her seat will be filled by an alternate member.

#### **Meetings**

Article 93 – The management board will be called to a meeting by the president of the bar association directly or upon the written request of a member indicating the topic to be discussed.

The management board will convene with absolute majority and pass decisions with the absolute majority of members. In the case of a tie, the side taken by the chairperson will carry the vote. The president of the bar association or board members may not participate in discussions on matters they are involved in.

Minutes kept of the decisions of the management board will be signed by the chairperson and the members.

#### **Call to Meeting**

Article 94 – (Amended on the basis of Article 4667/54 dated 2 May 2001) The members of the management board will convene upon the call of the president of the bar association. A member who has been absent from three consecutive meetings will have his/her membership forfeited by a decision of the management board.

Objection may be raised against such decision with the Union of Turkish Bar Associations within fifteen days as of the date of notification. (Additional sentence on the basis of Article 4667/54 dated 2 May 2001) The objection will not suspend the execution of the decision.

#### **Duties of the management board**

Article 95 – The management board is charged with performing the duties assigned to it by law. It investigates into the affairs of the bar association and safeguards its interests.

The major duties of the management board are the following:

1. Ensuring the safeguarding of the respectability of attorneyship and professional order, and the practice of the profession with dedication and pride in accordance with the goals of justice.

2. Deciding upon matters pertaining to the admission and entry in the directory or transfer of apprentices and attorneys.
  3. (Amended on the basis of Article 4667/55 dated 2 May 2001) Managing the bar association directory, and maintaining the attorney list and attorney partnership list.
  4. (Amended on the basis of Article 4667/55 dated 2 May 2001) Providing guidance and information to the members of the bar association regarding their professional duties and inspecting the performance of the latter, defending the profession of attorneyship and colleagues against encroachments upon the rights particular to the profession and its members, and to take all manner of legal and administrative action in these matters.
  5. (Amended on the basis of Article 4667/55 dated 2 May 2001) Mediating in and resolving upon request the disputes arising between attorneys entered in the directory, between attorneys and attorney partnerships, between the partners to attorney partnerships, and between all of the foregoing and clients; calling the parties to a settlement in disputes over fees.
  6. Managing the property of the bar association and determining the nature of the aid to be granted to attorneys in need.
  7. (Amended on the basis of Article 4667/55 dated 2 May 2001) Preparing reports on the management of the property of the bar association and rendering account to the general assembly; preparing the budget and submitting it to the general assembly for approval.
  8. Purchasing, selling, and mortgaging movable and immovable assets; and instituting and abrogating all manner of property rights on such assets on behalf of the bar association; and giving the president of the bar association specific authority in these matters.
  9. Managing and supervising the affairs of apprenticeship.
  10. Deciding upon the resignations of the members of the management board.
  11. Establishing and managing a legal aid office.
  12. Preparing the agenda for the general assembly.
  13. Executing the decisions of the general assembly.
  14. Managing and conducting the personnel affairs of the salaried clerks employed by the bar association.
  15. (Amended on the basis of Article 4667/55 dated 2 May 2001) Performing all the tasks associated with the house management of the bar association; developing the house rules.
  16. Implementing the decisions of the Ministry of Justice, the Union of Turkish Bar Associations, and the disciplinary board.
  17. Offer opinions upon matters as requested by ministries, courts, or government agencies.
  18. Exercising other powers conferred by laws.
  19. (Addition under Law No. 4667/Article 55 dated 2 May 2001) Establishing representation offices at judicial centres in the jurisdictional area of the bar association.
  20. (Addition under Law No. 4667/Article 55 dated 2 May 2001) Selecting the attorneys to participate in the arbitration board mentioned in Article 167.
  21. (Addition under Law No. 4667/Article 55 dated 2 May 2001) Defending, safeguarding, and promoting the viability of the concepts of the supremacy of the law and human rights.
  22. (Addition under Law No. 4667/Article 55 dated 2 May 2001) Checking the conformity of the basic contract of attorney partnerships with the standard basic contract and deciding upon registration in the attorney partnership register.
- The management board may delegate the duties mentioned in Subparagraphs 4 and 5 of the second paragraph to some of its members.

### ***III – President of the bar association***

#### **Election and withdrawal before the completion of term of duty**

Article 96 – The president of the bar association is elected for a term of two years. Re-election is permitted. (Additional sentence on the basis of Article 4667/56 dated 2 May 2001; Repealed sentence: 29/6/2006-5533/Article 1)

(Amended on the basis of Article 4667/56 dated 2 May 2001) The president of the bar association is elected by closed vote from among attorneys entered in the directory with a minimum of ten years in the profession of attorneyship. The ten-year condition will not be sought in bar associations with fewer than one hundred members.

(Amended on the basis of Article 4667/56 dated 2 May 2001) The provisions of the second and sixth paragraphs of Article 90 will apply by analogy to the election of the president of the bar association, as well.

The person elected to replace a president who withdraws before the completion of his/her term of duty will serve out the term of the departing president.

#### **Duties**

Article 97 – The duties of the president of the bar association are the following:

1. Representing the bar association and chairing the management board.
2. Implementing the decisions of the general assembly, the management board, and the disciplinary board; and conducting daily business.
3. Making commitments and acquisitions on behalf of the bar association to extent permitted and authorised on the basis of Article 95, making undertakings, receiving donations to the bar association, and implementing the budget.
4. Appointing the attorneys to represent and defend the bar association in courts and government agencies.
5. Ensuring the formatting of attorney registers after the sample provided by the Union of Turkish Bar Associations and safekeeping them.
6. Defending the requirements of the law and professional rules against all manner of organs in matters involving the honour and independence of the profession, and taking such actions as s/he is required to take directly or indirectly.
7. Submitting a written report to the Union of Turkish Bar Associations every year on the activities of the bar association and the management board.
8. Performing the duties and exercising the powers of the other members of the presidential council in bar associations without a presidential council.
9. Exercising other powers conferred by laws.

#### ***IV – Presidential council of the bar association***

##### **Composition and election**

Article 98 – The presidential council is composed of,

1. The president of the bar association,
2. The vice-president of the bar association,
3. The secretary general of the bar association,
4. The treasurer of the bar association.

The formation of a presidential council is obligatory for bar associations with more than fifty members.

The members of the presidential council other than the president will be elected by the members of the management board of the bar association by closed vote from among themselves at the first meeting of the management board to be held after the election of the management board.

If a member of the presidential council departs before completing his/her term, a replacement will be elected within one month at the latest to serve the remainder of his/her term.

##### **Duties of the presidential council of the bar association**

Article 99 – The presidential council performs the duties conferred upon it by laws or by the decisions of the management board of the bar association.

The council makes the decisions necessary for the management of the bar association's property and briefs the management board verbally or in writing upon the board's request.

##### **Duties of the vice-president of the bar association**

Article 100 – The vice-president of the bar association performs the duties and exercises the powers of the president in the latter's absence or, if the post of president has become vacant for any reason, until the induction of a new president.

In the absence of the vice-president of the bar association, the professionally senior member of the management board shall perform the duties and exercise the powers of the president.



### **Duties of the secretary general of the bar association**

Article 101 – The secretary general of the bar association keeps the minutes of the meetings of the management board, manages the internal paperwork of the bar association, issues directives to the internal clerical office of the bar association, and supervises the work of the latter.

### **Duties of the treasurer of the bar association**

Article 102 – The treasurer of the bar association is authorised to manage the property of the bar association in accordance with the decisions of the presidential council, receive and dispense money, collect dues, collect fines to be marked as revenue for the bar association, and the take all kinds of supervisory action in connection with the implementation of the budget.

(Amended on the basis of Article 3256/14 dated 22 January 1986) The treasurer of the bar association will countersign the papers drawn up in receiving and dispensing money with the president or, in the latter's absence, with the vice-president or the secretary general of the bar association.

## ***V – Disciplinary board of the bar association***

### **Composition**

Article 103 – The disciplinary board will be composed of three members in bar associations with up to two hundred and fifty attorneys, and five members in bar associations with more than two hundred and fifty attorneys. Three alternate members will also be elected to the disciplinary board in every bar association.

### **Eligibility and impediments to election**

Article 104 – (Amended on the basis of Article 1238/1 dated 26 February 1970)

The provisions of Article 90 will apply by analogy to the members of the disciplinary board, as well.

The result of the election will be reported to the Union of Turkish Bar Associations by means of a memorandum to be drawn up by the management board of the bar association.

### **Term of duty**

Article 105 – (Amended on the basis of Article 3256/15 dated 22 January 1986) Members of the disciplinary board will be elected for two years. A member may be re-elected after completing his/her term.

(Amended on the basis of Article 4667/57 dated 2 May 2001) The disciplinary board will elect a chairperson and a secretary from among its members in its first meeting after the election. The provisions of Articles 90, 92, and 94 will apply by analogy to the members of the disciplinary board, as well.

### **Meetings**

Article 106 – The disciplinary board will convene with at least three of its members present.

Decisions will be passed with the absolute majority of the full number of members. In case of a tie, the side taken by the chairperson will carry the vote.

The professionally senior member will chair the board in the absence of the chairperson.

### **Duty**

Article 107 – The duty of the disciplinary board is to make disciplinary decisions and impose disciplinary penalties by conducting disciplinary prosecution on attorneys upon the decision of the management board of the bar association to initiate a disciplinary prosecution, and to exercise the other powers conferred upon it by laws.

## ***VI – Board auditors of the bar association***

### **Composition and duties**

Article 108 – (Amended on the basis of Article 1238/1 dated 24 December 1970)

(First paragraph amended on the basis of Article 3256/16 dated 22 January 1986) The general assembly of the bar association will elect a maximum of three regular and three alternate auditors from among its members to audit the financial affairs of the bar association for a term of two years.

Election will be held by closed vote. The provisions of Articles 90 and 92 will apply by analogy to the auditors, as well.

## **PART NINE**

### **Union of Turkish Bar Associations**

#### **SECTION ONE**

##### **General Provisions**

#### **[Establishment] and nature of the Union**

Article 109 – (Amended on the basis of Article 4667/58 dated 2 May 2001)

The Union of Turkish Bar Associations is an organisation formed with the participation of all of the bar associations in Turkey.

The Union is a professional organisation in the nature of a public agency with legal personality.

The Union's headquarters is in Ankara.

#### **Duties of the Union**

Article 110 – The duties of the Union of Turkish Bar Associations are the following:

1. Ensuring the precipitation of a majority opinion by finding out the respective opinion of each bar association in matters concerning bar associations by means of mutual discussions.
2. Promoting the profession of attorneyship by coordinating the efforts of bar associations in order to reach a common goal.
3. Safeguarding the interests at large of the members of bar associations and the ethics, order, and traditions of the profession.
4. Strengthening professional ties by introducing Turkish bar associations and their members to each other.
5. Making efforts to have a bar association established in every province capital and to instil in citizens a conviction as to the necessity and benefits of having their lawsuits filed and cases defended thorough the agency of attorneys.
6. Disseminating recommendations and publications to have the laws developed and enforced in keeping with the requirements of the country, and developing preliminary drafts if necessary.
7. Voicing its views with authorities in matters concerning bar associations.
8. Submitting reports covering its views and ideas on legal and professional topics queried by the Ministry of Justice, agencies with judicial or legislative power, and bar associations.
9. Taking all kinds of measures to encourage and ensure the professional development of attorneys.
10. Cooperating with the Ministry of Justice and and judicial authorities in order to have court opinions systematically compiled and published.
11. Making efforts toward the realization of the rights conferred, and the thorough and honourable discharge of the duties imposed upon attorneys by laws.
12. Setting up libraries, publishing periodicals, organizing conferences, and offering incentives to the creation of original and translated works to heighten the scientific and professional levels of the members of bar associations.
13. Hold occasional meetings to discuss the solutions and measures for rendering the profession more attractive and reaching the stated goals in this area.
14. Displaying an interest in, and making contact with boards and organisations related to jurisprudence in the country.
15. Keeping in contact with foreign bar associations, attorney unions, and legal institutions and participating in international conferences.
16. Defining and recommending the mandatory rules of the profession.
17. (Addition under Law No. 4667/Article 59 dated 2 May 2001) Defending and safeguarding the supremacy of the law and human rights, and promoting the functionality of these concepts.
18. Exercising other powers conferred by laws.

Prohibitions, acquisition of property, place in protocol, removal and deposition of their organs  
Article 111 – (Amended on the basis of Article 3003/5 dated 8 May 1984)  
(First paragraph amended on the basis of Article 4276/5 dated 18 June 1997) The Union of Turkish Bar Associations may not engage in activities other than its purposes for establishment.

The Union may acquire movable and immovable assets for use in accord with its purpose.  
(Amended on the basis of Article 4667/60 dated 2 May 2001) In state protocol, the President of the Union of Turkish Bar Associations stands next to the Chief Public Prosecutor of the Court of Cassation.

(Amended on the basis of Article 4276/5 dated 18 June 1997) The provisions of the fifth, sixth, seventh, eighth, and ninth paragraphs of Article 77 will apply to the organs of the Union, as well. (Additional sentence on the basis of Article 4667/60 dated 2 May 2001) However, in the event the entity removed from duty is the management board of the Union, the duties of this entity will be undertaken by a minimum of three attorneys to be selected as a temporary management board from among the delegates to the last general assembly by the court which passed the ruling until the induction of the replacements to be elected.

#### The paid nature of the positions

Article 112 – The positions of president, vice-president, secretary general, and treasurer of the Union of Turkish Bar Associations are paid salaries. The members of the management board not assigned to the presidential council, the members of the disciplinary board, and the board auditors will be paid honoraria in meetings. The amounts and the modes of payment of the salaries and the honoraria will be determined by the general assembly of the Union.

Of the aforementioned members, those who are the delegates of provinces other than Ankara will be reimbursed for their travel and accommodation and other essential expenses out of the Union's budget. The amount of such reimbursement will be fixed by the general assembly.

## **SECTION TWO**

### **Organs of The Union**

#### **Organs**

Article 113 – The organs of the Union of Turkish Bar Associations are the following:

1. General assembly of the Union of Turkish Bar Associations.
2. Management board of the Union of Turkish Bar Associations.
3. President of the Union of Turkish Bar Associations.
4. Presidential council of the Union of Turkish Bar Associations
5. Disciplinary board of the Union of Turkish Bar Associations.
6. Board auditors of the Union of Turkish Bar Associations.

#### ***1 – General assembly of the Union of Turkish Bar Associations***

#### **Composition**

Article 114 – The general assembly is the highest entity of the Union of Turkish Bar Associations.

(Amended on the basis of Article 4667/60 dated 2 May 2001) The general assembly is composed of two delegates from each bar association elected by closed vote from among members with a minimum of ten years in the profession of attorneyship. Incumbent presidents of bar associations and attorneys who have served and are currently serving as the president of the Union of Turkish Bar Associations are natural members of the general assembly of the Union of Turkish Bar Associations with the right to participate in ballots, to elect, and to be elected.

Bar associations with more than one hundred members will elect an additional delegate for each incremental three hundred members after the first hundred.

Bar associations will elect the same number of alternate delegates. Delegates will be elected for a term of two years at the regular meeting of the general assembly of each bar association.

Members with the impediments stated in the second paragraph of Article 90 may not become delegates.

Each bar association will pay the travel and accommodation allowances of its delegates out of its own budget.

(Amended on the basis of Article 4667/61 dated 2 May 2001) The time and place of the meeting of the general assembly of the Union of Turkish Bar Associations, and the need to send delegates will be communicated to bar associations in writing no later than thirty days before the meeting. If a regular delegate has an excuse, he/she will be replaced by an alternate who will attend and vote in the meeting of the general assembly of the Union of Turkish Bar Associations in lieu of the latter.

### **Meetings**

Article 115 – (Amended on the basis of Article 3256/17 dated 22 January 1986) The general assembly of the Union of Turkish Bar Associations will hold its regular meeting every two years at the time and place determined by the former general assembly.

(Additional sentence: 13/1/2004 - 5043/Article 4) However, general assembly meetings at which elections are to be conducted shall be held in Ankara.

The Management Board of the Union of Turkish Bar Associations may call the general assembly to an extraordinary meeting when it deems necessary or upon the written request of the management boards of at least ten bar associations.

The Minister of Justice may request the management board of the Union to call the general assembly to an extraordinary meeting to receive their views and ideas on the general interests of justice and the profession, and on the legal and professional bills to be drafted.

The provisions of the first paragraph of Article 85 will apply by analogy to the election of the chairing panel of the general assembly of the Union. Those who assume duties in the organs of the Union may not be elected to the chairing panel.

### **Quorum for deliberations and decisions**

Article 116 – The general assembly of the Union may not convene and pass decisions unless at least one fourth of its members are present.

In the absence of quorum as stated in the first paragraph above, the meeting will be adjourned to a future date not to be later than one month. This meeting and the subsequent meetings will also be adjourned to dates one month later unless and until at least one fifth of the members are present.

The provisions of the third, fourth, and fifth paragraphs of Article 87 and the provision of Article 88 will apply by analogy to the meetings and discussions of the general assembly of the Union.

### **Duties**

Article 117 – The duties of the general assembly of the Union are as follows:

1. Electing members to the management board and the disciplinary board, and the board auditors; and the President of the Union.
2. Debating and making decisions on the reports prepared on matters within the scope of the Union's purpose of establishment and the topics in its agenda.
3. Issuing instructions to the management board.
4. Reviewing the accounts of the Union and deciding whether to acquit the management board.
5. Electing the delegates to attend conferences in Turkey and abroad. (The general assembly may delegate this authority to the management board of the Union.)
6. Determining the time and place of the next meeting of the general assembly.
7. (Amended on the basis of Article 3256/18 dated 22 January 1986) Making recommendations on matters concerning jurisprudence and the profession, and defining the mandatory rules of the profession.
8. (Amended on the basis of Article 3256/18 dated 22 January 1986) Determining the amount of the dues that bar associations will collect from attorneys on behalf of the Union, with said amount not to exceed half the amount of the annual dues paid by each attorney to his/her respective bar association.

9. Determining the amounts and the modes of payment of the salaries to be paid to the president, vice-presidents, secretary general, and the treasurer of the Union and the honoraria to be paid to the members of the management board, disciplinary board, and the board auditors.

10. (Amended on the basis of Article 4667/62 dated 2 May 2001) Performing the duties and exercising the powers conferred upon the Union on the basis of Articles 49 and 75 of the present Law.

11. Exercising other powers conferred by laws.

## ***II – Management board of the Union of Turkish Bar Associations***

### **Composition**

Article 118 – The Management Board of the Union of Turkish Bar Associations is composed of the president of the Union and ten members elected by the general assembly of the Union by closed vote from among its members.

The management board of the Union is chaired by the president of the Union.

### **Term of duty**

Article 119 – (Amended on the basis of Article 3079/2 dated 14 November 1984) The term of duty of the management board of the Union is four years. Board members whose term of duty has expired may be re-elected.

The provisions of the second, third, fourth, fifth, and sixth paragraphs of Article 90 and the provision of Article 92 will apply by analogy to the members of the management board of the Union.

### **Meetings**

Article 120 – The management board of the Union will hold its regular meetings once a month. In emergencies, the board may always be called to an extraordinary meeting upon the request of the president or a board member.

The date of the next meeting will be set at the end of every meeting. The date of meeting will be communicated to the members by a letter of invitation. Excuses will be submitted in writing at least seven days in advance.

A member who fails to attend three consecutive meetings without a valid, documented excuse will be considered as having resigned.

The management board of the Union will convene with absolute majority of the full number of members and pass decisions with the absolute majority of those present. However, in meetings held with ten or fewer members present, at least five members must unite in the same vote for a decision to be passed. In the case of a tie, the side taken by the chairperson will carry the vote.

### **Duties**

Article 121 – The duties of the Management Board of the Union of Turkish Bar Associations are the following:

1. Calling the general assembly of the Union to meeting and preparing the agenda.
2. (Amended on the basis of Article 3256/19 dated 22 January 1986) Manage the Union and its property.
3. (Amended on the basis of Article 3256/19 dated 22 January 1986) Preparing and submitting to the general assembly the biennial budget.
4. Executing the decisions made by the general assembly of the Union.
5. (Amended on the basis of Article 3256/19 dated 22 January 1986) Purchasing, selling, and mortgaging movable and immovable assets; instituting and abrogating all manner of property rights on such assets on behalf of the Union; and giving the president of the Union specific authority in these matters and other actions pertaining to commitments and acquisitions.
6. Managing and conducting the personnel affairs of the salaried clerks employed by the Union.
7. Keeping books recording the summary decisions of the management board of the Union.

8. (Amended on the basis of Article 4667/63 dated 2 May 2001) Keeping the records of individual attorneys, attorneys sharing the same office, and attorney partnerships in compliance with the basic rules and procedures prescribed in regulations; drawing up the standard basic contract of attorney partnerships, designing and having printed attorneyship licences, identification papers, and certificates of authorization for attorney partnerships.
9. (Amended on the basis of Article 3256/19 dated 22 January 1986) Submitting reports to the general assembly of the Union on the overall status, actions and projects of the Union; requesting acquittal of its activities and accounts.
10. Examining and deciding upon the objections raised against the decisions of bar associations provided that such authority is not conferred upon another agency or entity by laws.
11. (Amended on the basis of Article 4667/60 dated 2 May 2001) Performing the duties and exercising the powers conferred upon the Union on the basis of Articles 31, 44, 54, 77 and 83 of the present Law.
12. Calling the general assemblies of bar associations to extraordinary meetings.
13. Applying to the authorities concerned for the safeguarding of the rights and interests of attorneys and bar associations.
14. Conducting studies that would help promote the profession of attorneyship, safeguard the rights of attorneys, and improve their social standing; and submitting the results and its recommendations to the general assembly of the Union.
15. Offering ideas and opinions in response to queries made by official sources about the profession of attorneyship.
16. Setting up libraries and producing professional publications for the professional development of attorneys; and assisting attorneys in publishing the works they will produce.
17. Resolving disputes to arise between bar associations.
18. (Amended on the basis of Article 4667/63 dated 2 May 2001) Making all efforts necessary to ensure the institution and continuity of professional solidarity, defending the profession of attorneyship and colleagues against encroachments upon the rights particular to the profession and its members, and to take all manner of legal and administrative action in these matters.
19. Exercising other powers conferred by laws.
20. (Amended on the basis of Article 4667/63 dated 2 May 2001; Repealed: 28/11/2006-5558/Article 1).

### ***III – President of the Union of Turkish Bar Associations***

#### **Election and withdrawal before the completion of the term of duty**

Article 122 – The president of the Union is elected by the general assembly of the Union from among its members for a term of four years. Re-election is permitted.

The provisions of the second, third, and sixth paragraphs of Article 90 and the provision of the fourth paragraph of Article 96 will apply by analogy to the president of the Union.

#### **Duties**

Article 123 – The duties of the president of the Union are the following:

1. Representing the Union of Turkish Bar Associations and chairing the management board of the Union.
2. Implementing the decisions of the general assembly, the management board, and the disciplinary board of the Union.
3. Making commitments and acquisitions on behalf of the Union to the extent permitted and authorised on the basis of Article 121, making undertakings, receiving donations to the Union, and implementing the budget.
4. Appointing the attorneys to represent and defend the Union in courts and government agencies.
5. Establishing and conducting relations with foreign unions of bar associations, bar associations, and legal institutions.

6. Defending the requirements of the law and professional rules against all manner of organs in matters involving the honour and independence of the profession, and taking such actions as are required of him/her directly or indirectly.
7. (Amended on the basis of Article 3256/20 dated 22 January 1986) Submitting a written report to the general assembly on the activities of the Union.
8. Exercising other powers conferred by laws.

#### ***IV – Presidential council of the Union of Turkish Bar Associations***

##### **Composition and election**

Article 124 – The presidential council of the Union of Turkish Bar Associations is composed of,

1. The president of the Union of Turkish Bar Associations,
2. The two vice-presidents of the Union of Turkish Bar Associations,
3. The secretary general of the Union of Turkish Bar Associations,
4. The treasurer of the Union of Turkish Bar Associations.

The members of the presidential council other than the president will be elected by the members of the management board of the Union by closed vote from among themselves at the first meeting of the management board to be held after the election of the management board.

If a member of the presidential council departs before completing his/her term, a replacement will be elected within one month at the latest to serve the remainder of his/her term.

##### **Duties of the presidential council of the Union of Turkish Bar Associations**

Article 125 – The presidential council performs the duties conferred upon it by laws or by the decisions of the management board of the Union.

The council makes the decisions necessary for the management of the Union's property and briefs the management board verbally or in writing upon the board's request.

(Addition under Law No. 4667/Article 64 dated 2 May 2001) The presidential council of the Union will call the presidents of bar associations to a meeting to receive their opinions when required.

##### **Duties of the vice-presidents of the Union of Turkish Bar Associations**

Article 126 – The vice-presidents of the Union perform the duties to be assigned and exercise the powers to be delegated by the president of the Union.

In the absence of the president of the Union or until the induction of a new president if the post of president of the Union has become vacant for any reason, the vice-presidents shall, in order of seniority, discharge the duties and exercise the powers of the president of the Union.

In the absence of the vice-presidents of the Union, the professionally senior member of the management board of the Union shall discharge the duties and exercise the powers of the president.

##### **Duties of the secretary general of the Union of Turkish Bar Associations**

Article 127 – The secretary general of the Union keeps the minutes of the meetings of the management board, manages the internal paperwork of the Union, issues directives to the internal clerical office of the Union, and supervises the work of the latter.

##### **Duties of the treasurer of the Union of Turkish Bar Associations**

Article 128 – The treasurer of the Union is authorised to manage the property of the Union in accordance with the decisions of the presidential council of the Union, receive and dispense money, and take all kinds of supervisory action in connection with the implementation of the budget.

(Amended on the basis of Article 3256/21 dated 22 January 1986) The treasurer of the Union will countersign the papers drawn up in receiving and dispensing money with the president or, in the latter's absence, with either one of the vice-presidents or the secretary general of the Union.

***V – Disciplinary board of the Union of Turkish Bar Associations*****Composition**

Article 129 – The disciplinary board of the Union is composed of seven members elected by the general assembly of the Union of Turkish Bar Associations from among its members by closed vote. Seven alternate members will also be selected.

The disciplinary board will elect a chairperson from among its members in its first meeting after the election.

**Term of duty**

Article 130 – Members of the disciplinary board of the Union will be elected for four years. A member may be re-elected after completing his/her term.

The provisions of the second, third, fourth, fifth, and sixth paragraphs of Article 90 and the provision of Article 92 will apply by analogy to the members of the disciplinary board of the Union.

**Meetings**

Article 131 –The disciplinary board of the Union will hold its regular meetings once a month. In emergencies, the board may always be called to an extraordinary meeting upon the request of the president of the Union, or the chairperson of the disciplinary board of the Union, or a member of the disciplinary board.

The provisions of the second and third paragraphs of Article 120 will apply by analogy to the disciplinary board of the Union, as well.

The disciplinary board of the Union will convene with absolute majority of the full number of members and pass decisions with at least four members uniting on a vote. In the case of a tie, the side taken by the chairperson will carry the vote.

**Duties**

Article 132 – The disciplinary board of the Union will perform the duties assigned and exercise the powers conferred by the present Law.

***VI – Board of auditors of the Union of Turkish Bar Associations*****Composition and duties**

Article 133 – (First paragraph amended on the basis of Article 3256/22 dated 22 January 1986) The general assembly of the Union will elect three regular and three alternate auditors from among its members to audit the financial affairs of the Union for a term of four years.

Election will be held by closed vote. The provisions of the second, third, fourth, fifth, and sixth paragraphs of Article 90 and the provision of Article 92 will apply by analogy to the board auditors of the Union, as well.

**PART TEN****Disciplinary Actions And Penalties****Circumstances when disciplinary penalties will be imposed**

Article 134 – (Amended on the basis of Article 4667/65 dated 2 May 2001) The disciplinary penalties prescribed in the present Law will be imposed on those whose acts and conduct contradict the honour, order, traditions, and professional rules of attorneyship; and those who neglect their duties in professional practice or fail to exercise the personal integrity required by their duties.

**Disciplinary penalties**

Article 135 – Disciplinary penalties are the following

1. (Amended on the basis of Article 3256/23 dated 23 January 1986) Warning: Informing an attorney of the necessity of exercising greater care in practicing his/her profession.



2. Censure: Informing an attorney that he/she is considered to be at fault in his/her practice and conduct.
3. (Amended on the basis of Article 3256/23 dated 22 January 1986) Fine from ten thousand to one hundred and fifty thousand Turkish Liras.
4. (Amended on the basis of Article 4667/66 dated 2 May 2001) Dismissal: Prohibition of an attorney or an attorney partnership from professional practice for not less than three months and not more than three years.
5. Disbarment: Withdrawal of an attorney's licence, deletion of his/her name from the directory of his/her bar association, and revocation of his/her title of attorney. (Additional sentence on the basis of Article 4667/66 dated 2 May 2001) For attorney partnerships, the deletion will be from the attorney partnership register of their respective bar association.

#### **Mode of imposition of penalties**

Article 136 – Those who fail to observe the provisions given in PART SIX of the present Law regarding the rights and duties of attorneys will be punished with censure as a minimum at the first offence, fine or dismissal upon recurrence depending on the severity of the offence, and disbarment in the event of final conviction of an offence stated in Article 5, Subparagraph a. An attorney displaying misconduct punishable by a disciplinary penalty two or more times during a period of five years will be punished with a heavier penalty than the preceding one at each offence.

An attorney who has been dismissed once will be disbarred if he/she fails to observe the rules in PART SIX of the present Law during a period of five years.

#### **Right of defence**

Article 137 – In prosecutions conducted on attorneys, the charge must be clearly explained to the attorney in writing, his/her defence requested, and a minimum of ten days granted for the defence.

#### **Actions and misconduct before enrolment with the bar association and after leaving the profession**

Article 138 – (Amended on the basis of Article 4667/67 dated 2 May 2001) The actions and misconduct predating admission into and entry in the bar association directory will not require disciplinary prosecution unless they are punishable with disbarment. This provision will not be applied to the period of apprenticeship.

An attorney's departure from the profession will not preclude disciplinary prosecution on his/her actions and misconduct during his/her practice.

#### **Investigative authority and the replacement of absent members**

Article 139 – The authority to decide the initiation of and conduct a disciplinary prosecution rests with the bar association in whose directory the attorney was enrolled on the date the complaint or notice compelling the prosecution was received, the public prosecutor requested an prosecution, or information was received by the bar association on the actions or misconduct compelling the prosecution.

Presidents of bar associations and members of the management boards and disciplinary boards of bar associations may not participate in the debates and decisions on prosecutions concerning themselves.

The missing number of members will be replaced by alternate members in the event that the quorum is not achieved in the meetings of the management boards and disciplinary boards of bar associations due to the presence of circumstances as prescribed in the second paragraph, or the non-attendance of the chairpersons and any members due to rejection or abstention. In the event the alternate members also do not participate in the debate or decisions for any reason, or their numbers are not adequate, the absences will be filled by drawing names from among attorneys enrolled in the bar association directory eligible for the management board and the disciplinary board.

#### **The effect of criminal prosecution on disciplinary penalties**

Article 140 – A criminal prosecution already in progress on an attorney will not preclude the enforcement of disciplinary actions and decisions.

(Amended on the basis of Article 3256/24 dated 22 January 1986) However, if a suit has been filed against an attorney in a criminal court because of acts compelling disciplinary action and decision, the disciplinary prosecution on the attorney will be suspended until the conclusion of the criminal action. In such a case, the disciplinary board, upon the request of the management board, must make a decision in accordance with Articles 153 and 154 as to whether the dismissal of the attorney would be in order.

Disciplinary prosecution on acts subject to criminal proceedings concluded with acquittal depends on whether those actions are of a nature requiring a disciplinary prosecution in their own right and independently of the provisions of criminal codes – with the exception of acquittal because the act was not committed or because it was not committed by the accused. Management boards of bar associations must initiate disciplinary prosecution on acts subject to criminal proceedings concluded with conviction.

#### **Initiation of disciplinary prosecution**

Article 141 – A disciplinary prosecution is initiated with a decision to be made by the management board of the bar association.

The management board must make a decision on the disciplinary prosecution urgently and in all cases no later than one year from the date of notice, complaint, or request.

The management board may assign one of its members with the task of conducting a preliminary investigation to serve as a basis for a decision as to whether a disciplinary prosecution should be initiated upon a notice or a complaint, a request made by the public prosecutor, or of its own motion. The member thus assigned with the preliminary investigation will collect the evidence and receive statements from persons he/she deems necessary, having them take an oath if he/she sees fit; and will submit the file compiled to the management board with his/her report after hearing also the attorney on whom the investigation is being conducted or after the expiration of the period granted for a hearing. (Additional sentence on the basis of Article 4667/68 dated 2 May 2001) The management board may request information and documents from all kinds of judicial and administrative authorities, and may request files or copies thereof for examination.

The decisions made by the management board not to initiate prosecution on the act or conduct mentioned in the notice, complaint, or request will be communicated to the parties concerned and the public prosecutor.

#### **Objection to decisions not to initiate disciplinary prosecution**

Article 142 – Objections may be raised by the complainant or the public prosecutor with the Management Board of the Union of Turkish Bar Associations against the decisions by management boards of bar associations not to initiate disciplinary prosecution, within fifteen days from the date of notification of the decision.

If the subject matter of the complaint, notice, or request is found to be worthy of reconsideration as a result of the examination to be conducted on the file by the Management Board of the Union of Turkish Bar Associations, the former decision will be revoked and the file will be forwarded to the bar association which passed the former decision for the initiation of disciplinary prosecution. Such decisions of the Management Board of the Union of Turkish Bar Associations will be final.

Decisions not to initiate disciplinary prosecution made by the management boards of bar associations will become final if no objections are raised within the statutory period.

(Amended on the basis of Article 4667/69 dated 2 May 2001) The decisions not to initiate disciplinary prosecution made by the Union of Turkish Bar Associations in response to objections raised in accordance with the first paragraph will become final if no decision is made by the Ministry of Justice within two months as of the date of their receipt by the Ministry of Justice or if the decisions are approved by the Ministry. However, the Ministry of Justice will return the decisions it does not deem appropriate to the Union of Turkish Bar Associations for reconsideration together with the reasons for return. The decisions thus returned will be considered as approved if passed unchanged by a two thirds majority vote of the Management Board of the Union of Turkish Bar Associations; otherwise they will be considered as not

approved. The result will be communicated to the Ministry of Justice by the Union of Turkish Bar Associations.

The provisions of the sixth and seventh paragraphs of Article 8 will be applied here, as well, by analogy.

#### **Re-examination for an identical offence**

Article 143 – Re-examination due to acts covered by decisions not to initiate disciplinary prosecution is contingent upon the emergence of new evidence and the lapse of no more than three years after the date the decision became final.

#### **Hearing before the disciplinary board**

Article 144 – (Amended on the basis of Article 3256/25 dated 22 January 1986) (First paragraph amended on the basis of Article 4667/70 dated 2 May 2001) In cases where disciplinary prosecution is decided, the disciplinary board will conduct its examination on paper upon receipt of the file is forwarded by the management board. The file forwarded to the disciplinary board will contain also the attorney's register. The examination will be conducted in hearing mode if requested by the attorney or deemed necessary by the disciplinary board. The hearing will be closed.

The disciplinary board must finalize the examination urgently and in all cases not later than one year from its date of receipt of the decision. Circumstances where the outcome of criminal action must be awaited are reserved.

#### **Hearing in absence**

Article 145 – Hearing will be held in the absence of an attorney who fails to respond to the invitation to hearing. However, the letter of invitation must include a reminder that hearing will be held *in absentia* if the attorney does not make himself/herself present.

#### **Submission and examination of evidence**

Article 146 – The disciplinary board will determine the manner of submission and examination of the evidence independently of request or renunciation or previously made decisions.

#### **Hearing of witnesses and expert witnesses**

Article 147 – It is at the discretion of the disciplinary board to invite a witness or an expert witness to the hearing, have such witnesses heard by one of the board members or by a rogatory process, or let suffice the perusal of a written statement.

However, in cases where evidence of an event consists solely of the personal knowledge of a witness, such witness will be heard in all cases.

#### **Minutes of the hearing**

Article 148 – The minutes of the hearing will be kept by a board member or a secretary to be assigned by the chairperson of the disciplinary board.

Minutes of hearings taken outside the hearing must be read out during the hearing.

#### **Fulfilling requests received by letters rogatory**

Article 149 – Instructions given by letters rogatory will be carried out by the disciplinary board or one of its members in the central location of the bar association, and by an attorney to be assigned by the disciplinary board of the respective bar association in other locations.

#### **Summoning witnesses and expert witnesses**

Article 150 – (Amended: 23/1/2008-5728/Article 335)

Witnesses and experts shall be summoned in accordance with the provisions of the Law on Notification.

Persons who are duly summoned but fail to attend without valid grounds or who decline to give testimony as a witness or to provide expert testimony or to take an oath shall be dealt with in accordance with the provisions of the Criminal Procedure Code concerning testimony. A judge at the criminal peace court at the provincial capital in the province in which the bar association is located shall have jurisdiction to render the necessary judgments under the

provisions of this paragraph. The judge at the criminal peace court shall issue such judgments on the basis of a copy of the disciplinary board record.

#### **Rejection and withdrawal of disciplinary board members**

Article 151 – Members of the disciplinary board may be rejected or may withdraw for the reasons cited in the Law of Criminal Procedure.

A request for rejection will be considered with the participation of other members than the one whose rejection is requested.

In the event the disciplinary board cannot convene because of rejections and withdrawals, action will be taken as prescribed in Article 139.

#### **Serving notice of decisions**

Article 152 – An authenticated facsimile of the decisions of the disciplinary board will be forwarded to the public prosecutor in the capital of province where the bar association is located as well as the parties concerned.

#### **Prohibition from practice**

Article 153 – An attorney on whom a prosecution is in progress due to an act which may be punishable by disbarment may be suspended from practice as a precaution by a decision of the disciplinary board.

It is obligatory that the attorney has been heard or invited for a hearing and not made himself/herself present on the date indicated before the decision is made. (Additional sentence on the basis of Article 4667/67 dated 2 May 2001) However, separately inviting and hearing an attorney is not obligatory if notice could not be served to the attorney at the address he/she had given to the bar association.

The disciplinary board will have discretion to determine, at liberty and independently of request, the limits to which the evidence that will serve as a basis for this decision will be submitted and reviewed.

The decision will be communicated to the attorney under prosecution together with its reason, on which date it will enter into force. However, objection may be raised against the decision with the Disciplinary Board of the Union of Turkish Bar Associations. Objections will not suspend the execution of the decision. Objections will be decided upon urgently and in all cases within a period of no more than one month. The contested decision will be revoked if the objection is deemed to be in order.

A decision of prohibition from practice will be communicated immediately to judicial entities and other authorities by the president of the bar association.

#### **Mandatory prohibition from practice**

Article 154 – (Amended on the basis of Article 3003/7 dated 8 May 1984) Prohibition from practice is mandatory for attorneys who have been punished with disbarment or (...) (...) have been temporarily commissioned in accordance with Article 42 and have withheld, without an acceptable reason, the payment of the fees they received from the client for work done in accordance with the last paragraph of the same Article to the party concerned.

Attorneys on whom a decision of prohibition from practice has not been made by the disciplinary board within two months as of the emergence of the reasons for prohibition stated in the above paragraph will be prohibited from practice by a decision to be made directly by the Disciplinary Board of the Union of Turkish Bar Associations.

#### **Provisions for prohibition from practice**

Article 155 – Those prohibited from practice may not exercise by any means the powers associated with attorneyship as of the date of prohibition. This provision will not apply to the attorney's spouse and children who are not of legal age.

Attorneys who act in contravention of the prohibition stated in the first paragraph will be punished with one of the penalties stated in Subparagraphs 4 and 5 of Article 135.

Courts and government agencies are under the obligations to reject attorneys prohibited from practice.

### **Revocation of the decision of prohibition from practice**

Article 156 – (Amended on the basis of Article 4667/73 dated 2 May 2001) The decision of prohibition from practice will be abrogated automatically when the prosecution has been suspended or a punishment imposed that does not constitute an impediment to the practice of attorneyship.

The decision of prohibition from practice will be revoked by the disciplinary board when it is established that the circumstances on which this decision was based do not exist or have ceased to exist afterwards.

### **Objection to decisions of the disciplinary board**

Article 157 – Objections may be raised by the public prosecutor or the parties concerned with the Disciplinary Board of the Union of Turkish Bar Associations against the decisions of the disciplinary board within fifteen days from the date of notification of the decision.

The disciplinary board of the Union will review disciplinary cases from the file. However, a hearing may be decided *sua sponte* or upon the request of the attorney concerned in the course of the review of decisions of punishment with dismissal or disbarment or with prohibition from practice.

Articles 145 and 146 will apply to the disciplinary board of the Union, as well.

Hearing in the disciplinary board of the Union will commence with the presentation of the case by the rapporteur member. This member must have signed and placed his report in the file before the hearing.

The rapporteur's introduction will be followed by the presentations of the attorney concerned and his/her agents, if any. The party having made the complaint will be heard first. The party under disciplinary prosecution will be heard last.

The disciplinary board of the Union may uphold the decision under review, or decide to revoke the decision and send the file to the bar association concerned for a more comprehensive prosecution, or, in circumstances where a re-examination is not required, decide on the merits of the case by revoking a decision it does not deem appropriate.

(Amended on the basis of Article 4667/674 dated 2 May 2001) The decisions made by the Disciplinary Board of the Union of Turkish Bar Associations in response to objections will become final if no decision is made by the Ministry of Justice within two months as of the date of their receipt by the Ministry of Justice or if the decisions are approved by the Ministry. However, the Ministry of Justice will return the decisions it does not deem appropriate to the Union of Turkish Bar Associations for reconsideration together with the reasons for return. The decisions thus returned will be considered as approved if passed unchanged by a two thirds majority vote of the Disciplinary Board of the Union of Turkish Bar Associations; otherwise they will be considered as not approved. The result will be communicated to the Ministry of Justice by the Union of Turkish Bar Associations. However, decisions of warning, censure, and fine are final and not subject to the approval of the Ministry.

(Amended on the basis of Article 4667/74 dated 2 May 2001) The provisions of the sixth and seventh paragraphs of Article 8 will be applied here, as well, by analogy.

### **Discretionary appraisal of evidence, the purpose of dispensing punishment, and deduction of time served from punishment**

Article 158 – The Disciplinary Board of the Union of Turkish Bar Associations and the disciplinary boards of bar associations will appraise the evidence demonstrated at their discretion based on the impression they receive from the investigation and the trial.

(Amended on the basis of Article 4667/75 dated 2 May 2001) In dispensing disciplinary punishment, these boards will keep in consideration the principles of safeguarding the honour, order, and traditions of the profession of attorneyship and the practice of the profession in accordance with its purpose and demands and with justice.

(Amended on the basis of Article 3256/26 dated 22 January 1986) In the event that an attorney prohibited from practice is given a punishment of dismissal from employment for a definite period, the time lapsed under prohibition from practice will be deducted from his/her punishment.

**Statute of limitations regarding prosecutions and penalties**

Article 159 – No prosecution will be conducted if three years have lapsed as of the commission of the acts punishable with disciplinary penalty. Such time will not count if the affair has been handled by the management board.

No disciplinary penalty may be given if four-and-a-half years have lapsed as of the commission of the acts punishable with disciplinary penalty.

If the acts punishable with disciplinary penalty also constitute a crime and such crime is subject to a longer statute of limitations, such statute of limitations will be applied in lieu of the periods stated in the first and second paragraphs.

**Enforcement of disciplinary decisions and clearing registers of penalties**

Article 160 – (Amended on the basis of Article 3256/27 dated 22 January 1986) Decisions of disciplinary penalty may not be enforced unless they have become final.

Attorneys who have received a disciplinary penalty other than disbarment and dismissal from work may apply to the disciplinary board five years after the enforcement of the penalties of warning, censure, and fine requesting the clearance of their registers of these penalties.

Provided that the attorney concerned has not received another disciplinary penalty during the period stated in the above paragraph, the clearance of his/her register of the former disciplinary penalties is decided; and the discipline section in the register file of the attorney is removed and a new one drawn up.

**Expenses incurred for witnesses and expert witnesses**

Article 161 – Every witness and expert witness summoned in connection with disciplinary action is entitled to an appropriate compensation for the time lost and the efforts spent. Those who have to travel to respond to the invitation will be reimbursed for their travel and accommodation expenditures, as well. The complainant and the attorney under prosecution will pay the expenditures of the witnesses and expert witnesses whom they want heard in advance.

Expenses which cannot be imposed on the lawyer or a third party or can no longer be collected from the debtor will be borne by the bar association.

The complainant may be required to pay an advance amount from ten to two hundred Turkish Liras depending on the nature of the complaint and the scope of the disciplinary investigation and prosecution to be conducted. If the advance amount proves insufficient, completion of the outstanding amount may always be requested. Action may be withheld until the payment of the advance amount and any outstanding amounts requested.

**Collection of fines or expenses**

Article 162 – Decisions regarding fines or the reimbursement of expenditures will be enforced in accordance with the provisions of the Enforcement and Bankruptcy Law regarding the execution of court decisions. Fines will be marked as revenue for the bar association.

Execution proceedings will be conducted in accordance with general provisions through the appointment of an attorney to be appointed by the bar association.

**PART ELEVEN****Attorneyship Contract****Scope of the attorneyship contract**

Article 163 – (Amended on the basis of Article 4667/76 dated 2 May 2001) The attorneyship contract is drawn up at liberty. The attorneyship contract must cover a specific legal service and an amount or a value. Unwritten contracts will be proven in accordance with general provisions. Conditional contracts are valid provided that the conditions are not in contradiction of the law.

Contracts in excess of the attorneyship fee ceiling are valid at the ceiling value. Invalidity may not be claimed for a contract that has been carried out. The invalidity of an article will not invalidate the entire attorneyship contract.

### **Attorneyship fee**

Article 164 – (Amended on the basis of Article 4667/77 dated 2 May 2001) The attorneyship fee represents the amount or value that the legal service is worth.

The attorneyship fee may be agreed as a certain percentage of the entity or money to be litigated or adjudicated, not to exceed twenty-five percent.

Contracts to be made in accordance with the second paragraph may not bear any terms to the effect that part of the non-monetary property and rights under litigation will be owned in kind by the attorney.

No legal representation fee may be agreed below the minimum attorneyship fee tariff. Cases of accepting a commission free of charge will be reported to the management board of the bar association. (Amended third and fourth sentence: 13/1/2004 - 5043/Article 5) In circumstances where no attorneyship fee was agreed, or where there was no written contract between the parties concerning the fee, or where the fee is unclear or disputable, or where the provision relating to the fee is deemed invalid, in proceedings and work the value of which can be measured in monetary terms, an amount for legal representation fees payable to the attorney for his/her efforts work on that part of the claim which was upheld, which shall be a sum between 10% and 20% of the value of the object of litigation on the date that the verdict was confirmed, shall be determined by the authority competent to examine objections with regard to fees, with the proviso that it shall not be lower than the fee tariffs. In proceedings and work the value of which cannot be measured in monetary terms, the minimum legal representation fee tariff shall be applicable.

The attorneyship fee to be imposed on the opposite party at the end of the suit depending on the decision and the tariff belongs to the attorney. This fee may not be set off or deducted on the basis of a debt owed by the client; nor may it be subject to attachment.

### **Joint and several liability for payment of attorneyship fee**

Article 165 – (Amended on the basis of Article 4667/78 dated 2 May 2001) In the case of the presence of more than one client, each client will be jointly and severally liable for the payment of the attorneyship fees of both parties in lawsuits and cases that have been concluded with an agreement between the parties by means of peaceful settlement or any other means whatsoever and therefore not settled in court.

### **Lien of the attorney and priority of the attorneyship fee**

Article 166 – An attorney may withhold the property, money, and all kinds of other securities given by or acquired on behalf of his/her client to an extent proportionate with the amount due to the attorney until the attorneyship fee and costs have been paid.

An attorney will have preference over other creditors on property retained or acquired by his/her client as a result of the attorney's work, and on the money to be collected or the property to be taken from the opposite party to the suit on the basis of the decision of the court, with regard to the attorneyship fee agreed by contract and adjudicated by the judge. The preference will take order of priority based on the date the power of attorney has been drawn up or, in the case of a general power of attorney, the date when the first official application has been made on behalf of the client in connection with the lawsuit or case for which the attorneyship fee is to be paid. (Additional sentences: Article 4667/79 dated 2 May 2001) In the event of the client's bankruptcy, the attorneyship fee will also carry preference. However, the provision of the first paragraph of Article 206 of the Enforcement and Bankruptcy Law number 2004 dated 9 June 1932 is reserved.

When forcible execution of a court decision is initiated, the enforcement office will immediately serve a notice, to be drawn up at the same time as the execution order, to the attorney of the party requesting enforcement action whose name is indicated in the court decision, collecting the expense from the party requesting enforcement action. The subsequent stages of the execution may not commence until such notice is served. The provision of Article 59 of the Enforcement and Bankruptcy Law number 2004 dated 9 June 1932 will be applied with regard to the expenses to be incurred in connection with the notice to be served to the attorney.

In the event of the attorney's death, the attorneyship fee claims inherited by his/her heirs will carry priority as do the claims of the attorney. However, the obligation to serve notice on the basis of the third paragraph will not be applied to these persons.

**Settlement of disputes through arbitration**

Article 167 – (Amended on the basis of Article 4667/80 dated 2 May 2001; Cancelled: By verdict of the Constitutional Court, judgment number E 2003/98, K 2004/31 of 3/3/2004.)

**Preparation of the attorneyship fee tariff**

Article 168 – (Amended on the basis of Article 4667/81 dated 2 May 2001) In the month of September every year, the management boards of bar associations each prepare a tariff indicating the minimum limits of the attorneyship fees to be charged for actions in the juridical authority and other actions, and forward it to the Union of Turkish Bar Associations.

The tariff to be prepared by the Management Board of the Union of Turkish Bar Associations by taking into consideration the recommendations of the bar associations will be completed by the end of the month of October of the same year and submitted to the Ministry of Justice. (Additional sentence: 16/6/2009-5904/Article 35) With this proviso, that in the tariff which is drawn up, the legal representation fee for litigation with respect to taxes, dues, charges and similar financial obligations to the general budget, to Special Provincial Administrations, and to municipalities and villages, together with increases imposed thereupon and penalties imposed thereunder, and for all manner of litigation arising from the application of the Law on Procedures for Collection of Public Receivables, Law No. 6183 shall be determined as a fixed amount. The tariff shall be deemed to be confirmed if approved by the Ministry of Justice or if no decision is issued by the Ministry within a period of one month as from the date of its receipt of the tariff. However, the Ministry of Justice shall return to the Union of Turkish Bar Associations for reconsideration any tariff which it does not consider appropriate, together with its grounds for this decision. A tariff thus returned shall be deemed approved if passed by a two thirds majority of the Management Board of the Union of Turkish Bar Associations. Otherwise it shall be deemed not to have been approved, and the Union of Turkish Bar Associations shall notify the Ministry of Justice of the outcome. The provisions of the sixth paragraph of Article 8 will be applied here by analogy.

The tariff in effect on the date legal assistance was completed or a decision was passed at the end of the suit will be taken as the basis in the adjudication of the attorneyship fee.

**Amount of attorneyship fee to be imposed on the opposite party by the judicial authorities**

Article 169 – (Amended on the basis of Article 2329/2 dated 31 October 1980) The amount of the attorneyship fee to be imposed on the opposite party by the judicial authorities may not be less than or more than three times the amount indicated in the attorneyship fee tariff. (Second paragraph repealed on the basis of Article 4667/82 dated 2 May 2001)

Article 170 – (Repealed on the basis of Article 3256/29 dated 22 January 1986)

**Obligation to complete the job and delegation of others**

Article 171 – (Amended on the basis of Article 4667/83 dated 2 May 2001) Attorneys will follow the jobs they are commissioned with through to their completion in accordance with statutory provisions and regardless of the absence of a written contract.

If the power of attorney given to an attorney authorises the delegation of others, the attorney may perform the job together with another attorney or delegate the job to another attorney unless otherwise stated expressly in the contract. If the power of attorney includes a general authorization to represent the client and delegate others in all suits to be filed and jobs to be followed up after the date it was drawn up, the attorney may perform the job together with another attorney or delegate another attorney to perform the job without having recourse to obtaining a separate power of attorney from the client in all suits and jobs after such date.

The attorney's responsibility to the client will continue in circumstances stated in the second paragraph. The attorney will be responsible both in person and jointly and severally with the other attorneys for the malpractice of and the damages caused by the other attorneys with whom he/she works together or to whom he/she has fully delegated the job. However, this



provision will not be applied to attorneys who fully delegate their jobs to others because of an obligation to work elsewhere in one of the jobs stated in Article 12.

If an attorney has entered in partnership with other attorneys for the performance of a job, he/she may not claim a separate fee from the client for this arrangement; nor may the other attorneys claim any fee for same. If the job has been fully delegated to another attorney, the delegating and the delegated attorneys may claim from the client proportionate portions of the fee corresponding to their respective amounts of work, provided that the total does not exceed the contracted fee. However, if the delegating attorneys has received his/her fee in advance from the client, he/she must pay to the delegated attorney the amount which is in excess of the portion corresponding to the delegating attorney's work.

#### **Commissioning of another attorney by the client**

Article 172 – The client may include other attorneys in the prosecution and defence stages of the job with the written consent of the attorney with whom he/she has made the initial contract. The client will request the consent of the first attorney with a letter to be delivered or officially sent to the latter, giving him/her at least one week to respond. The absence of a response within the designated period will mean that consent has been granted by the attorney.

The attorneyship contract will be terminated automatically if the first attorney does not grant his/her consent. The client must pay the full attorneyship fee to an attorney who declines from giving consent.

In the event that other attorneys also participate in the performance of the job, the client may not curtail the fee of the first attorney. In such a case, the provision of the third paragraph of Article 171 will be applied regarding the responsibility of attorneys to clients.

#### **The specific character of the attorneyship fee**

Article 173 – Unless otherwise stated in the contract, the attorneyship fee agreed is exclusively for the specific job the attorney has undertaken; and cross-action, other suits and executory proceedings regardless of connection and relation, and all kinds of legal assistance will be subject to separate fees.

All taxes, duties, charges, and expenses required for the performance of the job commissioned to the attorney, or for obtaining the result of the job after performance will be under the responsibility of the client who will pay them to the attorney or where payable upon the first request by the attorney. A sufficient amount must have been paid by the client to the attorney in advance in order that such expenses may be paid by the attorney. The travel expenses to be incurred by the attorney in connection with the job and any indemnities to which the attorney is liable for vacating a previous job position will be paid separately by the client in accordance with the relevant contract. The attorney may not be forced to travel unless such expenses are reimbursed in advance. Contracts to the contrary are permitted.

#### **Discontinuation of work by the attorney, dismissal of the attorney, and default in the payment of the attorneyship fee**

Article 174 – An attorney who discontinues the work he/she has undertaken without a rightful cause may not claim any fee and will be under the obligation to return any amounts he/she has received in advance.

The attorneyship fee will be paid in full if the attorney is dismissed. However, payment of the fee will not be required if the attorney has been dismissed due to his/her fault or negligence.

The attorney will not be obliged to commence work if the fee required to be paid to the attorney in advance is not paid. All kinds of liabilities to arise in this connection will rest with the client. The same provision will be applied with regard to liability if the attorney is disabled from performing the job and obtaining its result due to the non-fulfilment of the other payment obligations written in the contract.

#### **Address of the client**

Article 175 – Any and all notices served by the attorney to the address written in the power of attorney given by the client will be considered as having been delivered to the client in person. Changes of address will be communicated to the attorney by the client by registered mail within three days at the latest.

Liabilities to arise from the impossibility of serving notice at the client's address or from failure to communicate the changes of address will rest with the client.

## **PART TWELVE**

### **Legal aid**

#### **Scope of legal aid**

Article 176 – (Amended on the basis of Article 4667/84 dated 2 May 2001)

Legal aid is the rendering of the attorneyship services described in the present Law for the benefit of those who do not have the wherewithal to pay attorneyship fees and other adjudicatory expenses.

#### **Legal aid office**

Article 177 – (Amended on the basis of Article 4667/85 dated 2 May 2001)

Legal aid service is rendered by a legal aid office established at the headquarters of bar associations by the management board of the bar association with manning drawn from among its attorneys. The management board of the bar association may also designate an attorney as the representative of the legal aid office in jurisdictional areas outside the location of the bar association where more than five attorneys are available. The legal aid office and the representatives operate under the supervision of the management board of the bar association.

#### **Request for legal aid**

Article 178 – (Amended on the basis of Article 4667/86 dated 2 May 2001)

A request for legal aid will be made to the legal aid office or its representatives. The requestor must prove the rightfulness of the request by presenting evidence.

If the request for legal aid is rejected, the requestor may apply to the president of the bar association verbally or in writing. The decision of the president of the bar association will be final.

#### **Administration of legal aid**

Article 179 – (Amended on the basis of Article 4667/87 dated 2 May 2001)

If the request for legal aid is accepted, the legal aid office will assign one or more attorneys to carry out the actions required. An attorney thus assigned will be assume the obligation to render attorneyship services upon receiving the letter of assignment.

This obligation will cease to exist if the requestor fails to furnish the required documents and information despite a request or refrains from giving a power of attorney.

If the assigned attorney wishes to abstain from performing the job, he/she will be under the obligation to pay to the bar association the fee indicated for that job in the tariff within fifteen days as of the date he/she received notice of the assignment.

The legal aid office will monitor the progress of the work being done by the attorney assigned. The provisions pertaining to legal aid in the Code of Civil Procedure, number 1086, dated 18 June 1927, the Code of Criminal Procedure, number 1412, dated 4 April 1929, and other laws are reserved.

#### **Revenues and expenses of the legal aid office**

Article 180 – (Amended on the basis of Article 4667/88 dated 2 May 2001)

The revenues of the legal aid office are the following:

- a) Three percent of the charges levied according to tariffs numbered 1, 2, and 3 under the Law of Charges, number 492, based on the total amounts determined on the basis of the final balances of accounts two years prior; and three percent of fines excluding fines of an administrative nature.
- b) The shares of the bar association and the financial aid granted to the bar association by public and private agencies and organisations and from the budgets of provincial governments and municipalities.
- c) All donations made for the purpose of legal aid.

- d) The money to be deposited by attorneys in abstention.
- e) Ten percent of the fee received by the attorney assigned with legal aid and five percent of the value adjudged in favour of the beneficiary of legal aid, other than the attorneyship fee.

The expenditures of the legal aid office are the following:

- a) Fees to be paid where necessary to attorneys assigned with legal aid.
- b) Salaries to be paid to personnel to be employed in the office.
- c) Upkeep of the office and other expenses.

The revenues and expenditures of legal aid offices will be indicated in separate parts in the budget of the office. It is obligatory that the revenue surplus be carried over to the following year as is.

The allocation to be estimated in accordance with Subparagraph a of the first paragraph will be deposited in the account of the Union of Turkish Bar Associations by the Ministry of Finance by the end of March every year. These funds will be used exclusively for legal aid and the money not spent during the intended year will be carried over to the following year as is. The provisions governing the distribution and use of these funds among the bar associations will be in accordance with the regulations published by the Union of Turkish Bar Associations.

(Additional paragraph: 28/3/2007-5615/Article 26) One percent of the charges received on the basis of tariffs (1), (2) and (3) subsequent to the Charges Law, Stature 492, and one percent of fines, not including administrative fines, as determined on the basis of total amounts recorded in the final accounts of the Ministry of Finance for the period two years previously, shall, by the end of March each year, be transferred to an account in the name of the Union of Turkish Bar Associations, and current expenditures for the mandatory appointment of legal counsel and legal representation shall be met from this account. This account shall be used exclusively for current expenditures for mandatory appointment of legal counsel and legal representation, and funds not spent during the course of the year shall be transferred in full to the next year. The distribution of these funds among bar associations and their expenditure, and also matters relating to personnel employed for this service, shall be determined by a regulation which shall be jointly issued by the Ministry of Justice and the Union of Turkish Bar Associations in consultation with the Ministry of Finance.

### **Annual activity report and regulations**

Article 181 – (Amended on the basis of Article 4667/89 dated 2 May 2001)

The legal aid office will submit a report on its work to the management board of the bar association at the end of every year. A copy of the report will be forwarded to the Union of Turkish Bar Associations by the bar association.

Matters such as the establishment of the legal aid office, the designation of the attorneys to be assigned and the determination of their fees, the operation of the office, and its supervision will be addressed in the regulations to be published by the Union of Turkish Bar Associations.

## **PART THIRTEEN**

### **Miscellaneous Provisions**

#### **Regulations**

Article 182 – (Amended on the basis of Article 4667/90 dated 2 May 2001) The regulations covering the points left to be addressed in regulations and the other points that must be included in regulations in order to ensure the implementation of the present Law will be prepared by the Management Board of the Union of Turkish Bar Associations and submitted to the Ministry of Justice. The regulations will become final if no decision is made by the Ministry of Justice within one month as of the date of their receipt by the Ministry of Justice or if the regulations are approved by the Ministry. However, the Ministry of Justice will return a regulation it does not deem appropriate to the Union of Turkish Bar Associations for reconsideration together with the reasons for return. A regulation thus returned will be considered as approved if passed unchanged by a two thirds majority vote of the Management Board of the Union of Turkish Bar Associations; otherwise it will be considered as not approved. The result will be communicated to the Ministry of Justice by the Union of Turkish

Bar Associations. The provisions of the sixth and seventh paragraphs of Article 8 will be applied here, as well, by analogy.

(Additional paragraph: 10/9/2014-6552/Article 94) However, no system of examinations or similar arrangements may be put in place upon admission to attorney apprenticeship, during the apprenticeship period, or at the point of admission into the attorneyship profession may be put in place by regulation or any other regulatory measure.

#### **Notice to be served to public prosecutors**

Article 183 – It is obligatory that the notices to be served to public attorneys in accordance with the present Law be accompanied by the relevant file.

#### **Services to be counted toward seniority in attorneyship**

Article 184 – Those who have made a transition to attorneyship from the services listed in the first paragraph of Article 4 will have their former length of service in these fields counted toward their seniority in attorneyship.

#### **Provision for attorneys without a law degree**

Article 185 – The provisions of the present Law other than PARTs TWO, FOUR, FIVE, SEVEN, EIGHT and NINE; and Article 65 will be applied by analogy to attorneys without a law degree, as well.

(Second paragraph repealed on the basis of Article 4667/91 dated 2 May 2001)

#### **Absolute requirement to join collective insurance**

Article 186 – (Repealed: 31/5/2006-5510/Article 106)

#### **Conditional requirement to join group insurance**

Article 187 – (Repealed: 31/5/2006-5510/Article 106)

#### **Ineligibility for group insurance**

Article 188 – (Repealed: 31/5/2006-5510/Article 106)

Article 189 – (Repealed on the basis of Article 1238/6 dated 26 February 1970)

#### **Consequences of non-payment of insurance premium**

Article 190 – The name of an attorney who has not paid his/her collective insurance premiums at the time indicated in the collective policy will be deleted from the bar association directory by the decision of the management board of the bar association until he/she clears his/her accumulated debt of insurance premium under the conditions set forth in the collective policy; and the situation will be reported to whom it may concern.

The consequences of non-payment of insurance premiums will be specific to the person of the attorney who is in default; and no clause may be included in the contract extending such consequences to the other insured who have joined the same collective insurance policy or to the bar association. (Additional sentence on the basis of Article 4667/92 dated 2 May 2001) The provision of Article 140 of the Social Security Law, number 506, dated 17 July 1964, may not be applied to bar associations.

#### **Preparation of standard policy and joining group insurance**

Article 191 – (Repealed: 31/5/2006-5510/Article 106)

#### **Rescinded provisions**

Article 192 – The Attorneyship Law, number 3499, has been rescinded together with the supplements and amendments thereto, without prejudice to the provisions of Provisional Article 7.

### **Amended provisions of laws**

Article 193 – (This Article concerns the amendment of Articles 1, 4, and 5 of Law number 6207 dated 21 December 1953. The amendments have been inserted where appropriate in the mentioned Law.)

### **Amended provision of Law number 1086**

Article 194 – (This Article concerns the amendment of Article 61 of Law number 1086 dated 18 June 1927. The amendments have been inserted where appropriate in the mentioned Law.)

### **Counting of prior attorneyship services toward seniority upon employment in a job subject to retirement**

Article 195 – (Amended on the basis of Article 1238/1 dated 26 February 1970)

When an attorney who has joined collective insurance in accordance with the present Law and is still insured is appointed or elected to a position or service subject to retirement, his/her transition will be effected by adding three fourths of his/her length of service in attorneyship contributing to his retirement to his/her seniority; and his/her monthly salary for duty or service and his/her salary taken as the base for calculating his insurance premium will be raised.

Articles 196 through 198 – (Repealed on the basis of Article 1238/6 dated 26 February 1970)

Article 199 – (This Article concerns the addition of one supplementary article each to the Municipal Code, number 1580, dated 3 April 1930; and the Law of General Administration of Provinces dated 13 March 1929. The newly introduced provisions have been inserted where appropriate in the mentioned Laws.)

### **Attorneys employed with public agencies and organisations and state economic enterprises**

Supplementary Article 1 – (Addition under Law No. 3003/Article 8 dated 8 May 1984)

Entry in the bar association directory is optional for those employed regularly and permanently as attorneys with public agencies and organisations and state economic enterprises. However, the provisions of the present Law regarding admission into the profession of attorneyship and the issuance of licences will be applied as usual to attorneys in this status. In discharging their duties, such attorneys will have the same rights and obligations as those enrolled in the directories of bar associations. Attorneys who will not enrol in the bar association will inform the bar association there of this fact.

Attorneys who declare that they do not wish to be entered in the directory of the bar association will go through a decision process to be admitted into the profession of attorneyship and to have a licence drawn up in their name only. The remaining actions prescribed by the Law will be carried out as usual.

Practicing the profession of attorneyship will only be possible by entry in the directory of the bar association in the event of departure from the duties mentioned in the first paragraph.

The disciplinary actions and penalties prescribed by the present Law in relation to attorneys will also be applied to the attorneys in the particular status described in this Article by the bar association in whose jurisdictional area such attorneys are permanently employed.

### **Representation abroad**

Supplementary Article 2 – (Amended on the basis of Law No. 4667/Article 94 dated 2 May 2001)

Attorneys may participate in international meetings and conferences for the purpose of representing the Union of Turkish Bar Associations or their respective bar associations by informing the Ministry of Justice.

### **Holding of elections**

Supplementary Article 3 – (Addition under Law No. 3003/Article 8 dated 8 May 1984)

The actions regarding the election by closed vote of the organs of bar associations and the Union of Turkish Bar Associations in accordance with the present Law will be conducted under jurisdictional control on the basis of the following principles.

(Amended on the basis of Law No. 4667/ Article 95 dated 2 May 2001) At least fifteen days before the general assembly meeting at which an election will be held, a list indicating the names of those of the attorneys enrolled in the bar association who have the right to participate in the general assembly in the case of bar association elections, and the names of the regular and alternate delegates elected by bar associations to participate in the general assembly as well as the names of the natural delegates in the case of the elections of the Union of Turkish Bar Associations will be submitted in three copies to the judge serving as the chairperson of the local county election board together with a letter indicating the agenda, place, date, and time of the meeting and the points pertaining to the second meeting to be held if quorum is absent in the first. The judge will be assigned by the High Election Board if there is more than one county election board in a locality. The timing of the meeting will be so arranged as to have the elections conducted under the supervision of the chairperson of the county election board after the termination of the discussions by taking into account the date of the meeting and the other items on the agenda. In bar associations with more than four hundred members, the discussions will be terminated on Saturday so that the elections can be started at nine AM on Sunday and voting ended at five PM.

The judge will approve the list indicating the names of the attorneys to participate in the elections and the other points stated in the above paragraph after examining any additional documents and records he deems necessary and having any discrepancies corrected. The approved list and other points pertaining to the meeting will be publicized for three days by being posted on the bulletin boards of the judiciary office and the bar association.

Objections raised against the list during the publicity period will be reviewed by the judge and decided definitively within two days at the latest.

Having thus become final, the lists and other points pertaining to the meeting will be certified and forwarded to the bar association concerned or the Union of Turkish Bar Associations.

The judge will appoint a ballot box board composed of a chairperson and two members from among public officials or attorneys who are not candidates. The judge will also appoint three alternate members on the same basis. The elder member will chair the board in the absence of the chairperson.

The ballot box board is charged with conducting the election as prescribed by the law, overseeing it, and counting the votes. This duty will continue uninterrupted throughout the election until the counting of the votes is completed.

In bar associations with more than four hundred members, there will be a ballot box for every four hundred people and a separate board will be formed for every ballot box. Increments of up to one hundred members will not be taken into consideration in determining the number of ballot boxes. The materials and supplies to be used in the elections will be obtained from the county election board. The locations of the ballot boxes will be determined by the judge.

Upon the completion of the election period, the election results will be recorded in a memorandum and signed by the chairperson and members of the ballot box board. If there is more than one ballot box, the memoranda will be consolidated by the judge. The provisional results of the election will be publicized by posting a facsimile of the memoranda at the place where the election was held. The ballots cast and the other documents will be delivered to the chairperson of the county election board together with a facsimile of the memorandum for safekeeping for three months.

Objections against actions conducted in the course of the election and against the election results made within two days as of the drawing up of the memorandum will be reviewed and decided by the judge with finality on the same day. The judge will announce the final results in accordance with the foregoing provisions immediately after the expiration of the objection period and the adjudication of the objections; and will report them to the bar association concerned and the Union of Turkish Bar Associations.

(Amended on the basis of Article 3464/2 dated 28 May 1988) The voting will be closed and the counting of the votes will be open. Attorneys whose names are not in the list may not vote. Votes will be cast after the verification of the credentials of the voter on the basis of an identification document issued by a bar association or an official entity and after he/she puts

his/her signature against his/her name in the list. The voting will take place by the insertion of a ballot – prepared for all organs combined or separately for each – in an envelope bearing the stamp of the county election board to be given by the chairperson of the ballot box board at the time of the voting. Ballots placed in other envelopes will be void. If a regular delegate has an excuse, an alternate delegate may participate in and vote at the general assembly meeting of the Union of Turkish Bar Associations.

(Amended on the basis of Article 4667/95 dated 2 May 2001) In the event the judge discovers an irregularity or an illegal action significant enough to impact the election results, he/she will decide the cancellation of that part of the election limited to the entity in connection with which the discovery was made. In such a case, the judge will set a future Sunday, not to be earlier than one month and later than two months, for the renewal of the election and will inform the bar association concerned or the Union of Turkish Bar Associations accordingly. Only the election will take place on the date thus designated; and the electoral actions will be conducted in accordance with this Article and the other provisions set forth by the law.

The judge chairing the county election board and the chairperson and members of the ballot box board will receive fees for their services as prescribed by the Law on the Basic Provisions for Elections and Voter Records. These fees and the other expenses for the elections will be reimbursed out of the budget of the Union of Turkish Bar Associations and the bar associations concerned.

(Amended fourteenth paragraph: 23/1/2008-5728/Article 336) Offences committed against the chairperson and members of the ballot box board in the course of their duties shall be punished as if they have been committed against public servants.

Those who fail to observe the measures taken by the judge and the ballot box board in order to ensure the sound and orderly conduct of the elections will be punished with disciplinary penalties commensurate with the severity of their acts as prescribed by the present Law.

### **Inspection and Auditing**

Supplementary Article 4 – (Addition under Law No. 3003/Article 8 dated 8 May 1984)

The Ministry of Justice has the authority to inspect the operational affairs and audit the financial affairs of bar associations and the Union of Turkish Bar Associations, in accordance with the provisions to be determined by regulations, to ascertain their conformity to legal provisions. Such inspection and auditing will be conducted by inspectors and auditors of the Ministry of Justice.

### **Temporary provisions**

Provisional Article 1 – (Amended on the basis of Article 1238/1 dated 26 February 1970)

The initial standard policy to serve as a basis for the policies to be concluded between bar associations and the Social Security Association after 7 July 1969 in accordance with Article 86 of the Social Security Law, number 506, will be determined by means of discussions to be held among the Ministry of Labour, the Union of Turkish Bar Associations, and the Social Security Association within three months as of the date of the first meeting to be held by the Union of Turkish Bar Associations in accordance with Provisional Article 10 of the present Law. The standard policy thus prepared will be disseminated to all bar associations within one week by the Union of Turkish Bar Associations. Bar associations having in their enrolment attorneys with an absolute requirement to join collective insurance will apply to the Social Security Association within two months as of the date of their receipt of the standard policy in order to conclude a collective policy patterned after the standard policy. The policies will be put into effect not later than three months as of the date of application by the bar association.

A) Of the attorneys who were older than thirty years of age on the date they became subject to collective insurance, those who were not entitled to a pension under old age insurance due to their non-fulfilment of the conditions prescribed in Article 60 of the Social Security Law, number 506, but do meet the following conditions will receive an old age pension in accordance with the provisions in Article 61 of the Social Security Law as do those who have completed fifteen years of insurance:

- a) Proving their enrolment as an attorney in the directory of the bar association for a minimum of two thousand days during the ten years preceding the date of commencement of their insurance.
- b) Having paid an average of at least two hundred days' worth of insurance premium every year during their insurance.
- c) Having been insured for a minimum of five years.

The period of attorneyship mentioned in Subparagraph a will be determined by means of documents to be received from the respective bar associations and submitted to the Social Security Association not later than two years as of the date of commencement of insurance.

The right of the insured attorneys to claim damages from the chairperson and members of the management board of the bar association concerned in the event the bar associations refrain from drawing up the aforementioned documents certifying the length of service in attorneyship. In the event the falsehood of the documents indicating length of service in attorneyship is established by a court decision, both the persons who prepared such documents and the insured concerned will be under the obligation to reimburse the Social Security Association with the damages it will sustain thereof together with a surcharge of fifty percent and legal interest.

Criminal proceedings will also be initiated against the latter.

B) Of the attorneys who were older than thirty years of age on the date they became subject to collective insurance, those who are older than fifty and determined to be prematurely aged but were not entitled to a pension under old age insurance due to their non-fulfilment of the conditions prescribed in Article 60 of the Social Security Law, number 506, will receive an old age pension in accordance with the provisions in Article 61 of the Social Security Law as do those who have completed fifteen years of insurance provided that they meet the conditions stated in Paragraph A.

Provisional Article 2 – Of the attorneys whose total length of service countable towards retirement from the Retirement Fund of the Republic of Turkey is not less than fifteen years at the date of entry effect of the present Law,

A) (Amended on the basis of Article 1238/3 dated 26 February 1970) Those who have departed prior to 7 July 1969 for any reason whatsoever from the official duty or service at which they paid retirement deductions may, in accordance with the following provisions, buy back and credit the full length of their past active service in attorneyship without a Social Security Association insurance, either, until 7 July 1969, or that portion of this period sufficient to add up to twenty-five years together with their former services countable towards retirement, provided that they are not receiving a retirement or disability pension.

Those buying back and crediting the full length of their past active service in attorneyship may maintain their relationship with the Retirement Fund of the Republic of Turkey in accordance with the provisions in Subparagraph B below. Those who do not wish to maintain their relationship with the Retirement Fund of the Republic of Turkey and those who have brought their length of service countable towards retirement up to twenty-five years by buying back and crediting past service will receive a retirement pension in accordance with the provisions below.

B) Those who have departed for any reason whatsoever from the official duty or service at which they paid retirement deductions on or after the date of entry into effect of the present Law may maintain their relationship with the Retirement Fund of the Republic of Turkey for a total period not to exceed thirty years.

In order to buy back and credit past service as stated in Subparagraph A, the attorney must apply to the Retirement Fund of the Republic of Turkey in writing through the bar association he/she is enrolled in within three months as of the date the respective bar association joined collective insurance. The amount to be bought back and credited will be equivalent to the total amount of the deductions (including the employer's contribution) that ought to have been paid in accordance with the provisions of the Law of the Retirement Fund of the Republic of Turkey for the length of the period of active service in attorneyship until the date of entry into effect of the present Law, starting with the attorney's seniority at his/her most recent salary grade or allowance grade in the official duty or service where he/she formerly paid retirement deductions to the Retirement Fund of the Republic of Turkey, and assuming that the attorney



has stepped through promotions of grade every two or three years depending on the minimum interval between promotions applicable to that particular official duty or service. However, the deductions and the contribution of the employing organisation will be calculated on the basis of the provisions of the Law of the Retirement Fund of the Republic of Turkey in effect in the past years to which they belong.

The sum of the period bought back and the periods of former official duty or service subject to the Retirement Fund of the Republic of Turkey may not exceed thirty years. Buying back any portion of the period of active service in attorneyship in excess of this figure is not permitted.

The amount to be bought back will be repaid either as a lump sum not later than one month from the date of the notice to be served by the Retirement Fund of the Republic of Turkey or in ten equal instalments over ten years, depending on the attorney's declared choice. Attorneys who have recovered their deductions at their departure from their former official duty or service subject to the Retirement Fund of the Republic of Turkey will be under the obligation to return the entire amount, together with legal interest, to the Fund within the period of repayment of the lump sum or the first instalment of the amount bought back. Those who do not return their deduction within the designated period may not benefit from the provisions of this Article.

Those who buy back and credit past service become entitled to a retirement pension in accordance with Law number 5434 based on the length of service to be calculated by adding the past service they bought back to their length of former official duty or service countable towards retirement, as of the date they have fully paid the amount they owe for crediting past service. A total period of twenty-five years is sufficient for entitlement to a retirement pension. In the case of repayment in instalments, disability pension or widow and orphan pension will be paid to the person or the entitled heirs of the attorneys who become disabled or die before repaying their debts in full, as of the beginning of the month following the disability or death, in accordance with the provisions of Law number 5434. However, each annual instalment that has remained unpaid will be divided into twelve equal parts each of which will be deducted from the monthly disability pension or widow and orphan pension applicable to that year, the remaining amount of the pension being paid to the beneficiaries.

In the case of repayment in instalments, the buying back status of those who default in the payment of an instalment and fail to redeem their status within one month despite service of notice by the Retirement Fund of the Republic of Turkey will be terminated and action will be taken in accordance with the Law of the Retirement Fund of the Republic of Turkey by adding the period corresponding to their repaid instalments to the length of their former official duty or service.

Those who are in receipt of a retirement or disability pension, and those whose entitled heirs are in receipt of a widow and orphan pension will also be paid a bonus in accordance with the provisions of the Law of the Retirement Fund of the Republic of Turkey based on their total length of active official duty or service preceding the period bought back.

In order to benefit from Subparagraph B, the attorney must have applied to the Retirement Fund of the Republic of Turkey in writing within one month following his/her departure from the official duty or service at which he/she was paying deductions to the Fund and must not be receiving a retirement pension or not have his deductions returned. For those benefiting from Subparagraph B through the reference of the second paragraph of Subparagraph A, this period will commence on the date they received notice of the acceptance of their request for buying back and crediting past service by the Fund.

The obligation to pay deductions to the Retirement Fund of the Republic of Turkey commences as of the beginning of the month following the date on which notice is served to the applicant of the acceptance of his/her application to benefit from Subparagraph B by the Fund. The deductions (including the employer's contribution) will be paid in the first week of each month directly to the Retirement Fund of the Republic of Turkey or through a bank to be designated by the Fund.

The deduction and the employer's contribution will be calculated on the basis of successive salary grades starting with the attorney's seniority at his/her most recent salary grade or allowance grade in the official duty or service where he/she formerly paid retirement deductions to the Retirement Fund of the Republic of Turkey, and assuming that the attorney

has stepped through promotions of grade every two or three years depending on the minimum interval between promotions applicable to that particular official duty or service.

Relationship maintained with the Retirement Fund of the Republic of Turkey on the basis of Subparagraph B will be terminated as of the beginning of the month following the date when the length of service countable towards retirement of the attorney concerned equals thirty years, when they request in writing the termination of their relationship with the Fund, when they die or become disabled under the Law of the Retirement Fund of the Republic of Turkey, or when they default in repayment within the one-month period granted by the Fund on the basis of the regulations governing buying back past service; and they, or their entitled heirs, will start receiving a retirement, disability, or widow and orphan pension in accordance with Law number 5434.

Those whose total length of service countable towards retirement is fifteen years or more including the period they bought back in accordance with Provisional Articles 3, 4, and 5 may benefit from the provision in Subparagraph B of this Article.

(Additional paragraphs on the basis of Article 1238/3 dated 26 February 1970):

The adjustment of the pension levels of those benefiting from the provisions of this Article will be effected by adding the entire period they have bought back in accordance with Subparagraph A or the entire period have maintained their relationship with the Retirement Fund of the Republic of Turkey to their seniority at their most recent salary grade or allowance grade in the official duty or service, assuming that they have stepped, or are stepping, through promotions of grade every two or three years depending on the minimum interval between promotions applicable to that particular official duty or service.

Those who have let expire the one-month period set in the ninth paragraph of this Article for applying to the Retirement Fund of the Republic of Turkey may benefit from the provisions of this Article provided that they apply by 1 January 1971.

Provisional Article 3 – (Amended on the basis of Article 1238/1 dated 26 February 1970)

A portion, not to exceed fifteen years together with the periods previously bought back in accordance with other laws, of the length of active service in attorneyship spent without being subject to the Law of the Retirement Fund of the Republic of Turkey and without Social Security coverage, prior to the official duty or service at which retirement deductions were paid, by those who were a participant in the Retirement Fund of the Republic of Turkey as of 7 July 1969, or between this date and the date of 1 January 1971, will be added to their length of service countable towards retirement provided that they buy back and credit past service in accordance with the provisions in the article added to Law number 5434 on the basis of Article 5 of Law number 545 dated 23 February 1965. However, the amount to be paid by these people will be determined in proportion to the premiums and payments valid during the period which has been bought back.

The person concerned must apply to the Retirement Fund of the Republic of Turkey in writing by 1 April 1971 in order to benefit from the provision of this Article.

Provisional Article 4 – (Amended on the basis of Article 1238/1 dated 26 February 1970)

A portion, not to exceed fifteen years together with the periods previously bought back in accordance with other laws, of the length of active service in attorneyship of those who were a participant in the Retirement Fund of the Republic of Turkey as of 7 July 1969, or between this date and the date of 1 January 1971, spent without subjection to the Law of the Retirement Fund of the Republic of Turkey and without Social Security coverage, followed by a term of official duty or service at which retirement deductions were paid, and preceded by an earlier term of official duty or service subject to retirement, thus falling between two periods of relationship with the Retirement Fund of the Republic of Turkey, will be added to their length of service countable towards retirement on the basis of Provisional Article 3 provided that they are debited in accordance with the provisions in the same article.

The provision of the last paragraph of Provisional Article 3 will be applied in this case, as well.

Provisional Article 5 – If the attorneys falling under the coverage of Provisional Articles 2, 3, and 4 have also rendered services covered by the Social Security Association before the period of active service in attorneyship they have bought back, the services covered by the

Social Security Association will be combined with the services covered by the Retirement Fund of the Republic of Turkey (including the length of past service bought back) in accordance with the provisions concerning receipt of pension in Law number 228 dated 5 January 1961. The terms of Provisional Article 3 will be applied by analogy to those wishing to benefit from the provision of this Article regarding the manner and continuance of their application to the Retirement Fund of the Republic of Turkey.

Provisional Article 6 – Attorneys registered with the Attorneys Benefit Fund on the date of entry into effect of the present Law may request to have their registration cancelled by applying to the bar association they are enrolled in.

The manner of reimbursement of the claims due in the Attorneys Benefit Fund to those whose registrations are cancelled in accordance with the above paragraph, depending on their periods of membership and the assets in the fund, will be determined by a regulation to be prepared by the management board of the bar association concerned and approved by its general assembly within three months as of the date of entry into effect of the present Law.

Provisional Article 7 – (Repealed on the basis of Article 2178/8 dated 30 January 1979)

Provisional Article 8 – Those who have graduated from a school or faculty of political sciences and have passed examinations in the outstanding courses at a faculty of law before the entry into effect of the present Law will be treated as graduates of a faculty of law for the purposes of implementation of the present Law.

Provisional Article 9 – Those who have served as a chief registrar graduate in law at the Court of Cassation for a minimum of four years before the entry into effect of the present Law will be exempt from the condition in Article 3, Subparagraph c.

Provisional Article 10 – The president of the Bar Association of Ankara will request bar associations to elect and send delegates to the first general assembly that will convene in Ankara within two months as of the date of entry effect of the present Law to elect the president of the Union of Turkish Bar Associations and the regular and alternate members of the management board, the disciplinary board, and the audit board of the Union. This request will be disseminated at least one month before the date of the meeting of the general assembly and will include information on the place, date, and time of the meeting, as well. On the scheduled day, the president of the Bar Association of Ankara will open the meeting and step down for the eldest delegate.

Provisional Article 11 – Those who had their novitiate, stated in Articles 2 and 7 of Law number 708 and Article 6 of Law number 2573, completed as of the date of entry into effect of the Attorneyship Law, number 3499, may be entered in the directory of a bar association if they satisfy the conditions indicated in Subparagraphs a, b, and c of Article 3 and in Article 5. Graduates of the Medresetulkuzat [the Ottoman university for judges]and the Nüvap Mektebi [the Ottoman school for substitute judges] will be treated as law graduates in the implementation of the present Law.

Provisional Article 12 – No licence of attorneyship without a law degree will be issued after the entry into effect of Law number 3499 and the present Law; and no licence of attorneyship will be issued on the basis of Article 5 of Law number 708.

However, those who have completed four years of service in the branches of judge or prosecutor in terms of the combined lengths of their services before and after the entry into effect of Law number 3499 although they have not graduated from a law school or a faculty of law will be issued an attorneyship certificate by being held exempt from the provisions in Subparagraphs b and c of Article 3. This provision will not be applied to those who have been dismissed from their duties for reasons concerning their personal records.

Provisional Article 13 – Those holding a licence of attorneyship without a law degree on the date of entry into effect of Law number 3499 may practice representation in places where five

attorneys are not available. The vested rights are preserved of those who were practicing attorneyship without a law degree in accordance with Provisional Article IV of Law number 3499 in places where five attorneys were not available before the date of entry into effect of Law number 3499.

(Amended on the basis of Article 4667/96 dated 2 May 2001) In order to be able to practice their profession, attorneys without a law degree must be entered in a list maintained by the bar association to which their locality is attached. Bar associations must make a decision within one month as to the acceptance or rejection of an application made for an entry in the list. If no decision or a decision of rejection is made within this period, the applicant may raise an objection with the Management Board of the Union of Turkish Bar Associations at the end of the one-month period if no decision has been made, or within fifteen days as of the date of notification if a decision of rejection has been made. These decisions made by the Union of Turkish Bar Associations regarding the objections will become final if no decision is made by the Ministry of Justice within two months as of the date of their receipt by the Ministry of Justice or if the decisions are approved. However, the Ministry of Justice will return the decisions it does not deem appropriate to the Union of Turkish Bar Associations for reconsideration together with the reasons for return. The decisions thus returned will be considered as approved if passed unchanged by a two thirds majority vote of the Management Board of the Union of Turkish Bar Associations; otherwise they will be considered as not approved. The result will be communicated to the Ministry of Justice by the Union of Turkish Bar Associations. The provisions of the sixth and seventh paragraphs of Article 8 will be applied here, as well, by analogy.

An entry in the list will entail the same consequences as enrolment with the bar association as far as exercising the rights and privileges granted to, and being subject to the obligations imposed upon attorneys without a law degree by the present Law.

The manner of preparation of the lists by bar associations; the actions regarding application for an entry in the list; the manner of dissemination of the list to courts, public prosecutors, enforcement and bankruptcy offices and other official authorities; and the manner of deletion from the list will be indicated in regulations referred to in Article 182 of the present Law.

Provisional Article 14 – Bar associations established in accordance with Law number 3499 and the supplements and amendments thereto will continue their operations in accordance with the provisions in the present Law.

Provisional Article 15 – The minimum fee tariff to be prepared in accordance with Article 168 will be accomplished within six months as of the date of entry into effect of the present Law. The former tariff will be applied until the new one enters into effect.

Provisional Article 16 – The files in the custody of the Attorneyship Ethics Council will be taken over and kept by the President of the Bar Association of Ankara to be turned over to the Disciplinary Board of the Union of Turkish Bar Associations when the latter assumes its duties.

Provisional Article 17 – Persons who have worked for a minimum of ten years as a chief clerk, clerk of record, assistant clerk of record; or an enforcement officer or a deputy enforcement officer with judicial authorities, public prosecutors' offices, and enforcement offices may render services in lawsuits and cases restricted to civil courts and enforcement and bankruptcy offices in places where a minimum presence of three attorneys or attorneys without a law degree is not available if they possess the qualifications other than those regarding education, apprenticeship, and examination stated in Article 3 of the present Law and are not impeded by the conditions stated in Article 5, provided that they are entered in the list maintained by the bar association to which their locality is attached.

Such persons will be under the obligation to open an office in the place where they are authorised to render restricted attorneyship services not later than three months as of the date of their entry in the list. The names of those who fail to fulfil this obligation will be deleted from the list.

Those who were practicing attorneyship in accordance with the last paragraph of Article 61 of the Code of Civil Procedure, number 1086, before the date of entry into effect of the present

Law will continue their practice restricted to the civil courts and enforcement and bankruptcy offices in their locality regardless of the condition regarding former service in the field of justice provided that they possess the remaining qualifications stated in the first paragraph, by having their names entered in the list maintained by the bar association to which their locality is attached. However, those whose names have been deleted from the list for any reason may not be re-entered in the list unless they possess all the qualifications stated in the first paragraph. Persons in this status will be under the obligation to apply for the entry of their names in the list not later than three months as of the date of entry into effect of this Article and to open an office not later than three months as of the date of their entry in the list. Otherwise they will not be entered in the list, and their names will be deleted if already entered in the list.

(Amended on the basis of Article 1238/4 dated 26 February 1970) The right to practice attorneyship without a law degree in accordance with the foregoing paragraphs will automatically cease to exist when the number of attorneys or attorneys without a law degree in that place reaches three. An entry previously made in the list will be maintained by annotating the destination of the person concerned if he/she relocates his/her practice by opening an office in another locality within the jurisdictional area of the same bar association where three attorneys or attorneys without a law degree are not available within three months as of the date of cessation. If the person concerned applies to another bar association within the three-month period, he/she may continue practicing attorneyship by having his/her personal file brought over and name entered in the list of the new bar association, the person's entry being deleted from the list of his/her former bar association. The person's name will be deleted from the list if he/she does not relocate his/her practice by opening an office in another locality within the jurisdictional area of the same bar association within the three-month period or does not apply for transfer to another bar association within the same period.

The provision of the second paragraph of Provisional Article 13 regarding applications for an entry in the list will be applied by analogy to persons in this status, as well.

The points mentioned in the last paragraph of Provisional Article 13 regarding the list, and the contents of the certificate of authorization to be issued to those who will practice attorneyship in accordance with this Article will be indicated in the regulations referred to in Article 182 of the present Law.

The provisions of the present Law other than those in PARTS TWO, FOUR, FIVE, SEVEN, EIGHT, NINE, ELEVEN and TEN; and Articles 49, 57, 58, 59, 60, 61, 62, and 65 will be applied by analogy to the persons covered by this Article, as well.

The persons covered by this Article will not pay the dues of admission and annual dues charged by bar associations.

(Amended on the basis of Article 1238/4 dated 26 February 1970) The third paragraph of this Article will be repealed on 7 July 1977.

Provisional Article 18 – (Amended on the basis of Article 1238/5 dated 26 February 1970)

The adjustment of the pension levels of the persons concerned will be effected by evaluating two thirds of the length of past service bought back and credited in accordance with Provisional Articles 3 and 4 and added to the length of service countable towards retirement at increments of two or three years depending on the minimum interval between promotions applicable to their current official duty or service; and their monthly salaries for official duty or service, as well as their monthly salaries on which their retirement deductions will be based, will thus be raised.

Provisional Article 19 – (Addition under Law no. 2442/Article 2 dated 1 April 1981)

Lawsuits being litigated in martial law military courts by those indicated in Article 1 and the paragraph appended to Article 14 of the Attorneyship Law on the date of entry into effect of the present Law will be transferred within three months in accordance with the provisions of the Attorneyship Law.

Provisional Article 20 – (Addition under Law no. 4765/Article 1 dated 25 June 2002)

The provisions of Article 11 will not be applied to those who were working as teachers in schools of primary or secondary education and concurrently practicing the profession of

attorneyship as well as those who were in the same status and were serving an attorney apprenticeship prior to 10 May 2001.

(Repealed second paragraph: 28/11/2006-Article 5557/Article 1)

Provisional Article 21 - (Addition: 13/1/2004 - 5043/Article 7; Cancelled: By Constitutional Court judgment number E 2005/128, K 2008/54 of 7/2/2008)

Provisional Article 22 - (Addition: 18/2/2009 - 5838/Article 29)

If the whole of the bar association dues are unpaid as of the date that this article enters into force, but are paid within six months of this article entering into force, the accrued interest debt shall be erased. The procedures for removal from the bar directory and register on grounds of non-payment of bar association dues shall be frozen for a period of six months.

Supplementary Provisional Article 1 – (Addition under Law No. 2329/Article 3 dated 31 October 1980)

After the entry into effect of the present law, the rate of one per mille will be applied, regardless of the tariffs in effect, in the calculation of the proportional attorneyship fee to be adjudged for that portion of the value or amount under litigation which is in excess of one billion Turkish Liras regarding the suits to be filed and legal assistance to be initiated by the time the first tariffs to be prepared in accordance with the provisions of revised Article 168 become effective.

Date of entry into effect of the present Law

Article 200 – The present Law will enter into effect three months after the date of its publication.

Enforcement authority of the present Law

Article 201 – The present Law will be implemented by the Council of Ministers of Turkey.

## **PROVISIONAL ARTICLES NOT POSTED IN THE MAIN LAW NO. 1136 OF 19 MARCH 1969**

### **1) Provisional articles of Law No. 3256 dated 22 January 1986**

Provisional Article 1 – Subparagraphs A and B prescribe the rights to be granted to those in respect of whom the indicated actions were taken in accordance with Article 11 of the Attorneyship Law, number 1136, before the date of entry into effect of the present Law on the grounds of employment as a teacher in schools of primary education which was incompatible with attorneyship and attorney apprenticeship.

A) Those whose names were deleted from the bar association directory in accordance with Article 72, Subparagraph b of the above-mentioned Law due to their served apprenticeship being considered void, and those whose requests for enrolment in the bar association were rejected for the same reason despite their having been issued an apprenticeship completion certificate; those who could not enrol in a bar association because the decision of acceptance of their request by the management board of the bar association was not approved by the Ministry of Justice, or those who chose not to enrol may be enrolled in a bar association and practice attorneyship if they submit an application provided that they are not otherwise impeded.

B) Those whose names were deleted from the apprentice list may be re-entered in it if they submit an application within three months as of the date of entry into effect of the present Law, provided that they are not otherwise impeded, and may continue their apprenticeship with the revalidation of the formerly served portion of their apprenticeship. Actions of deletion will be waived for those whose status requires such deletion provided that they are not otherwise impeded.

Those whose names were deleted from the bar association directory in accordance with Article 72, Subparagraph b of the Attorneyship Law, number 1136, due to their served apprenticeship being considered void, and those whose requests for enrolment in the bar association were rejected for the same reason despite their having been issued an apprenticeship completion

certificate; those who could not enrol in a bar association because the decision of acceptance of their request by the management board of the bar association was not approved by the Ministry of Justice, or those who chose not to enrol on the grounds of being engaged in activities incompatible with attorneyship and attorney apprenticeship in accordance with Article 11 of the same Law before the date of entry into effect of the present Law may be enrolled in a bar association if they submit an application provided that they have disengaged themselves from activities incompatible with attorneyship and are not otherwise impeded. Those who have been enrolled in a bar association after serving an attorney apprenticeship in this manner will not be deleted from the attorney list, either, provided that they are not engaged in any activity incompatible with attorneyship and are not otherwise impeded. Those whose names were deleted from the apprentice list will be re-entered in it if they submit an application within three months as of the date of publication of the present Law, provided that they have disengaged themselves from activities incompatible with attorneyship and are not otherwise impeded, and will continue their apprenticeship with the revalidation of the formerly served portion of their apprenticeship. Actions of deletion will be waived for those whose status requires such deletion provided that they are not otherwise impeded.

Regarding those who served or were serving their attorney apprenticeship while engaged in an activity incompatible with attorneyship before the date of entry into effect of the present Law,

- a) No criminal prosecution will be conducted.
- b) Prosecutions previously initiated will be discontinued.

The penalties to which these persons have been sentenced shall be remitted. Together with their consequences.

The provisions of the Attorneyship Law pertaining to denial of admission into attorneyship, forfeiture of licence by recovery, and permanent deletion from the list will not be applied on the grounds of the aforementioned convictions to attorneys and apprentices whose punishments have thus been pardoned with all their consequences.

Provisional Article 2 – The first meeting of the general assembly after the date of entry into effect of the present Law will be held in the first week of the month of October in the second year following the date of its publication.

Provisional Article 3 – Those who were members on the disciplinary boards of bar associations or board auditors with bar associations or the Union of Turkish Bar Associations on the date of entry into effect of the present Law will continue to serve in the same positions until the first meeting of the general assembly in which the management board will be elected.

Provisional Article 4 – Those who have graduated from a school or faculty of political sciences and have passed examinations in the outstanding courses at a faculty of law before the entry into effect of the present Law will be treated as graduates of a faculty of law for the purposes of implementation of the present Law.

2) Provisional articles of Law No. 4667 dated 2 May 2001

Provisional Article 1 – (Repealed first paragraph: 28/11/2006-5558/Article 1)

Those whose names were deleted from the bar association directory in accordance with Article 72, Subparagraph b of the Attorneyship Law, number 1136, due to their served apprenticeship being considered void, and those whose requests for enrolment in the bar association were rejected for the same reason despite their having been issued an apprenticeship completion certificate; those who could not enrol in a bar association because the decision of acceptance of their request by the management board of the bar association was not approved by the Ministry of Justice, or those who chose not to enrol on the grounds of being engaged in activities incompatible with attorneyship and attorney apprenticeship in accordance with Article 11 of the same Law before the date of entry into effect of this Article may be enrolled in a bar association if they submit an application provided that they have disengaged themselves from activities incompatible with attorneyship and are not otherwise impeded.

Those who have been enrolled in a bar association after serving an attorney apprenticeship in this manner will not be deleted from the attorney list, either, provided that they are not engaged in any activity incompatible with attorneyship and are not otherwise impeded. Those whose names were deleted from the apprentice list will be re-entered in it if they submit an application within three months as of the date of publication of the present Law, provided that they have disengaged themselves from activities incompatible with attorneyship and are not otherwise impeded, and will continue their apprenticeship with the revalidation of the formerly served portion of their apprenticeship. Actions of deletion will be waived for those whose status requires such deletion provided that they are not otherwise impeded.

Regarding those who served or were serving their attorney apprenticeship while engaged in an activity incompatible with attorneyship before the date of entry into effect of the present Law,

a) No criminal prosecution will be conducted.

b) Prosecutions previously initiated will be discontinued.

The penalties to which these persons have been sentenced shall be remitted together with their consequences.

The provisions of the Attorneyship Law pertaining to denial of admission into attorneyship, forfeiture of licence by recovery, and permanent deletion from the list will not be applied on the grounds of the aforementioned convictions to attorneys and apprentices whose punishments have thus been pardoned with all their consequences.

Provisional Article 2 – The provision in the first paragraph, revised by the present Law, of Article 77 will not be applied to bar associations established on the date of entry into effect of the present Law.

Provisional Article 3 – The regulations to be prepared in accordance with the present Law will be issued within six months as of its date of entry into effect.



DATES OF ENTRY INTO EFFECT OF LAWS SUPPLEMENTING AND AMENDING LAW NO. 1136

Name of Law/Legislative Decree by which amendments were enacted	Articles of Law no. 1136 amended or cancelled	Date of Entry into Force
1186	-	1 March 1969
1238	-	7 March 1970
2018	-	2 July 1976
2174	-	10 November 1978
2178	-	7 February 1979
2329	-	4 November 1980
2442	-	3 April 1981
2652	-	20 April 1982
3003	-	15 May 1984
3079	-	21 November 1984
3256	-	30 January 1986
3464	-	2 June 1988
4276	-	20 June 1997
4667	Article 9 Article 22 Other provisions	One year after 10/5/2001 which was the date of publication. Six months after 10/5/2001 which was the date of publication. 10/5/2001
4675	-	10/5/2002
5043	Articles 27 and 27/A Article 115 9, 164, 167 and Provisional Article 21	On 1/1/2004 after the first general assembly with election of the Union of Turkish Bar Associations 20/1/2004

Name of Law/Legislative Decree by which amendments were enacted	Articles of Law No. 1136 amended or cancelled	Date of Entry into Force
5218	65, Supplementary Article 3	21/7/2004
5533	Article 1	5/7/2006
5558	3, 6, 28, 29, 30, 31, Provisional Article 17, 20 and Unimplementable Provision	14/12/2006
5615	180	4/4/2007, applicable as from 1/1/2007
5728	5, 14, 17, 35, 56, 58, 61, 62, 63, 150, Supplementary Article 3	8/2/2008
5510 amended by Law no. 5754	From 186 to 188 and 191	1/10/2008
5838	65, Provisional Article 22	28/2/2009
5904	168	3/7/2009
6111	27	25/2/2011
6460	43	30/4/2013
6325	12	22/6/2013
Verdict of the Constitutional Court, judgment number E 2012/116, K 2013/32 of 28/2/2013	5	13/8/2013
6552	182	11/9/2014

Name of Law/Legislative Decree by which amendments were enacted	Articles of Law No. 1136 amended or cancelled	Date of Entry into Force
Legislative Decree/700	14. 115	On the date that the President of the Republic gave his oath and commenced duties as a result of the parliamentary and presidential elections both held on 24/6/2018 (9/7/2018)
7188	16	24/10/2019