

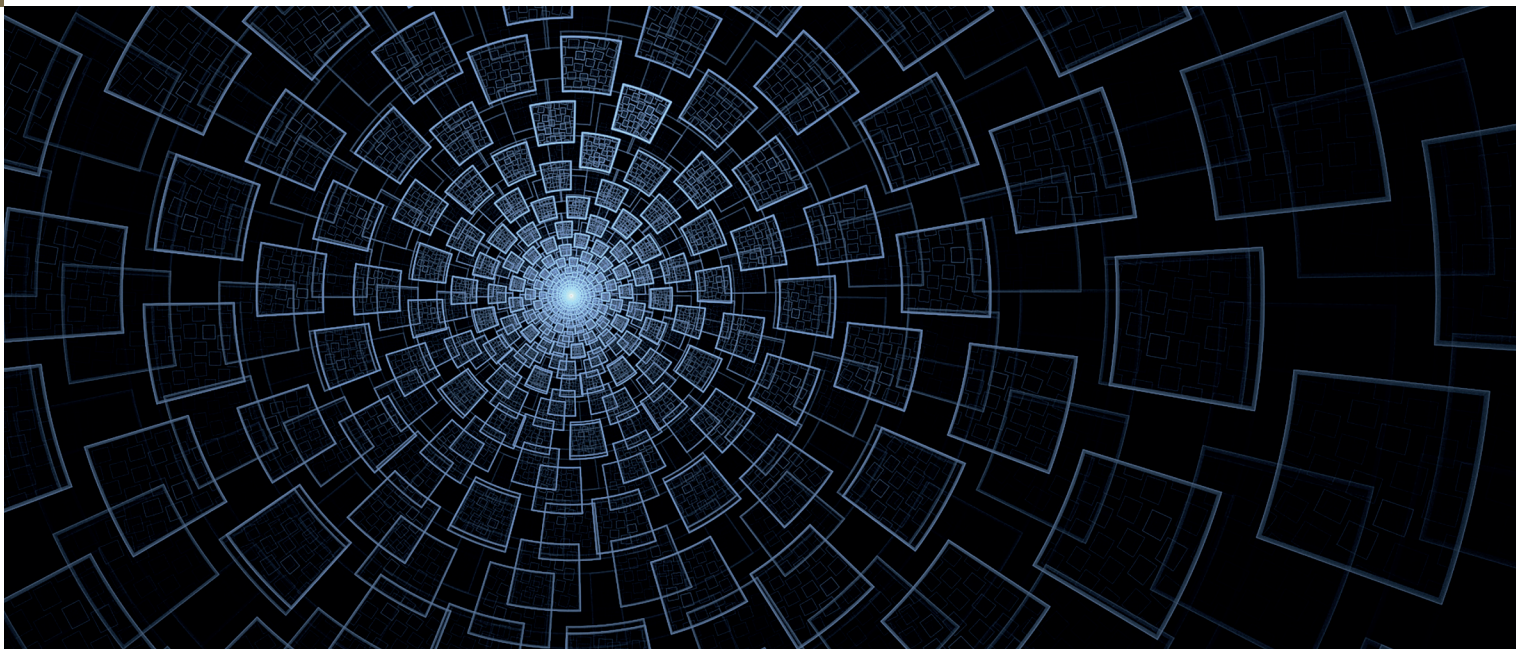


# TURKISH JUSTICE SYSTEM



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## INTRODUCTION

Judiciary in Turkey, along with the legislative and executive power, is one of the three powers, and in accordance with Article 9 of the Constitution, judicial power vests in independent courts on behalf of the Turkish Nation.

Turkish justice system consists of many courts and institutions based on the principles of independence and impartiality, which are not interconnected, and their duties and powers are regulated by laws.

Accordingly, the Turkish judicial system is divided into civil and criminal divisions (courts of first instance, regional courts of justice, Court of Cassation), administrative division (first instance courts, regional administrative courts and the Council of State), constitutional division (Constitutional Court) and conflicts jurisdiction (Court of Conflicts). In addition, the Council of Judges and Prosecutors, the electoral jurisdiction (Supreme Electoral Council) and the accounts jurisdiction (Court of Accounts) are also included in the judicial system.

Each of these institutions is independent in their own field and does not interfere with one another.

The Ministry of Justice is responsible for the determination and development of key policies for the justice system and providing of justice services in an accessible, effective and efficient manner.

This booklet which aims to promote Turkey's justice system in general lines was prepared by the Justice Academy of Turkey and the Directorate General for Foreign Affairs and the European Union of the Ministry of Justice.

## HISTORY

**1839**

With the declaration of the Tanzimat Edict, the initiation of innovation movements in the field of administration and education

Adoption of the first penal code of the Tanzimat Period

**1840**

**1858**

Adaptation of the French Penal Code

Establishment of the “Ahkâm-ı Adliyye” (Court of Cassation) and “Şura-i Devlet” (Council of State) with the abolition of Meclis-i Vâlâ-yı Ahkâm-ı Adliyye”

**1868**

**1869-1876**

Section by section adoption of Mecelle-i Ahkam-ı Adliyye

The inclusion of advocacy in the judicial system

**1875**

**1879**

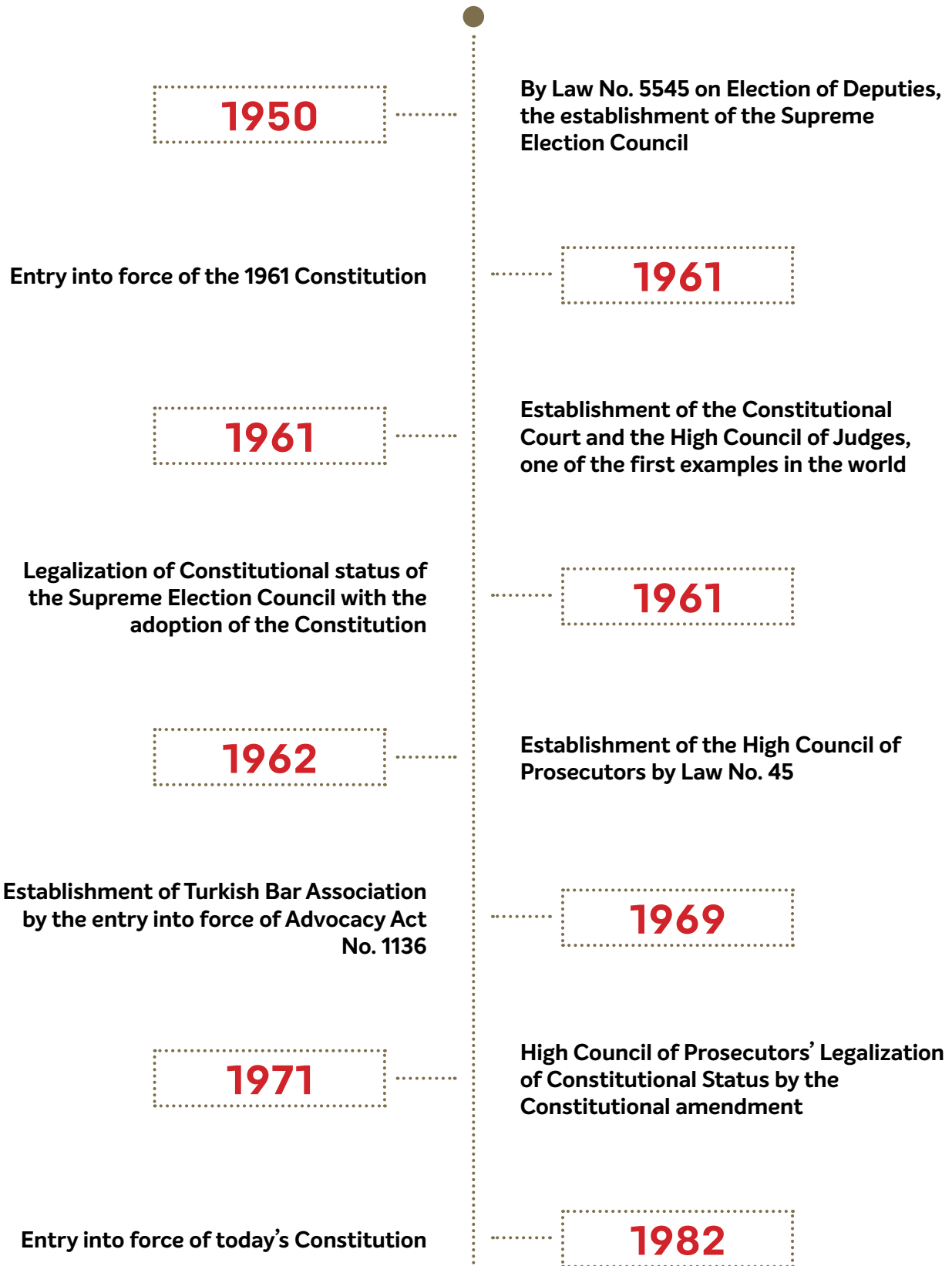
Establishment of the Ministry of Justice and establishment of judicial organization, civil and criminal procedure laws, judicial inspectorate, prosecution and notary public institutions within the scope of establishment and judicial reform.

Laying the foundations of today’s Ministry of Justice, the Law No.3 regarding the election of Turkish Grand National Assembly Election of Ministers and forming the Appeal Panel, which is the first form of the Court of Cassation in the history of the Republic

**1920**



**1922****Abolition of the Council of State****Renaming the Appeal Panel as Court of Conflicts and restructuring****1923****Assignment of Judicial Work to Independent Courts by Constitution and Abolition of Mehakimi Şer, Abolition of religious courts by Ahkamı Muadil Law regarding Mehakim Organization****1924****Re-establishment of the Council of State as an independent court****1925-1927****Adoption of the Law on Judges and adoption of the system for the appointment and promotion of judges by the boards of high judges****1926****Incorporation of the General Directorate for Prisons and Detention Houses under the Ministry of Interior into the Ministry of Justice****1929****1945****Changing the name of the Department of Judiciary to the Ministry of Justice****Establishment of the Court of Conflicts by Law No. 4787****1945**





**1982**

Relieving the Council of State from proceeding the administrative cases as first instance as high court and establishment of today's system based on first instance administrative and tax courts

Merging of the High Council of Judges and High Council of Prosecutors under one roof to form the High Council of Judges and Prosecutors

**1982****1984**

Adoption of the law on the reorganization of the organizational structure and duties of the Ministry of Justice

Establishment of the Justice Academy of Turkey

**2003****2010**

With the constitutional amendments, the adoption of the transition to the presidential government system, reorganization of the Constitutional Court and the Council of Judges and Prosecutors and their duties and powers and the abolition of military courts

With the constitutional amendments, the reorganization of the Constitutional Court and the High Council of Judges and Prosecutors and their duties and powers

**2017****2018**

Restructuring of Justice Academy of Turkey

With the Presidential Decree No. 1 on the Organization of the Presidency, the final revision of organizational structure and duties and powers of the Ministry of Justice

**2019**

## MINISTRY OF JUSTICE

### DUTIES AND AUTHORITIES

The duties and powers of the Ministry of Justice are as follows:

- To open and organize the courts foreseen to be established by the relevant laws, planning, establishing, supervising, monitoring and improving the administrative duties of all levels and types of justice institutions such as penal institutions, enforcement and bankruptcy offices,
- To propose to the Council of Judges and Prosecutors on the abolition of a court or on the change of its jurisdiction,
- To carry out procedures related to the exercise of the authority given to the Minister of Justice in relation to the bringing a public case before a court,
- To provide the services related to keeping the criminal records,
- To carry out the procedures related to the foreign countries regarding the justice services,
- To make necessary researches and legislative preparations and to give opinions on issues related to justice services,
- To ensure enforcement and bankruptcy procedures to be maintained through enforcement and bankruptcy offices,
- To follow the application in its purview and develop solutions by investigating the causes of the arising problems,
- To organize scientific academic meetings at national or international level, encouraging and supporting such studies,
- To cooperate with public or private institutions or organizations related to the field of its duties,
- To carry out the duties assigned to the Ministry by the Law on Lawyers and Law on Notaries,







- To represent the state before The European Court of Human Rights in cases brought against Turkey (except those concerning foreign policy),
- To initiate the proceeding of appeal for the benefit of the law given to the Ministry in accordance with the Code of Criminal Procedure No. 5271 dated 2004,
- To conduct work on protecting and improving victims' rights,
- To conduct research on the laws related to judicial matters and to make amendment proposals,
- To examine the compliance of law proposals with the Turkish legal system and the technique of enacting a law and to express opinions on these issues,
- To provide international judicial cooperation as a central authority on civil and criminal matters; carry out the procedures such as notification, retention, extradition, transfer of convicts, transfer of prosecutions,
- To do necessary work in relation to the alignment of Turkey to the EU acquis on chapters 23 (Judiciary and Fundamental Rights) and 24 (Justice, Freedom and Security) within the context of accession negotiations.





## ORGANIZATION OF THE MINISTRY OF JUSTICE

The Ministry of Justice consists of the central, provincial and international departments and affiliated and related institutions.

The central organization is formed of main service units, advisory and supervision units and auxiliary units. The Ministry is organized hierarchically in the form of the Minister, Deputy Ministers, General Directorates and Heads of Departments.

In addition, the Ministry has the authority to constitute the provincial organization. Also, there are directorates for information management which are approved by the ministry and within the framework of the provincial Chief Public Prosecutor's Offices.

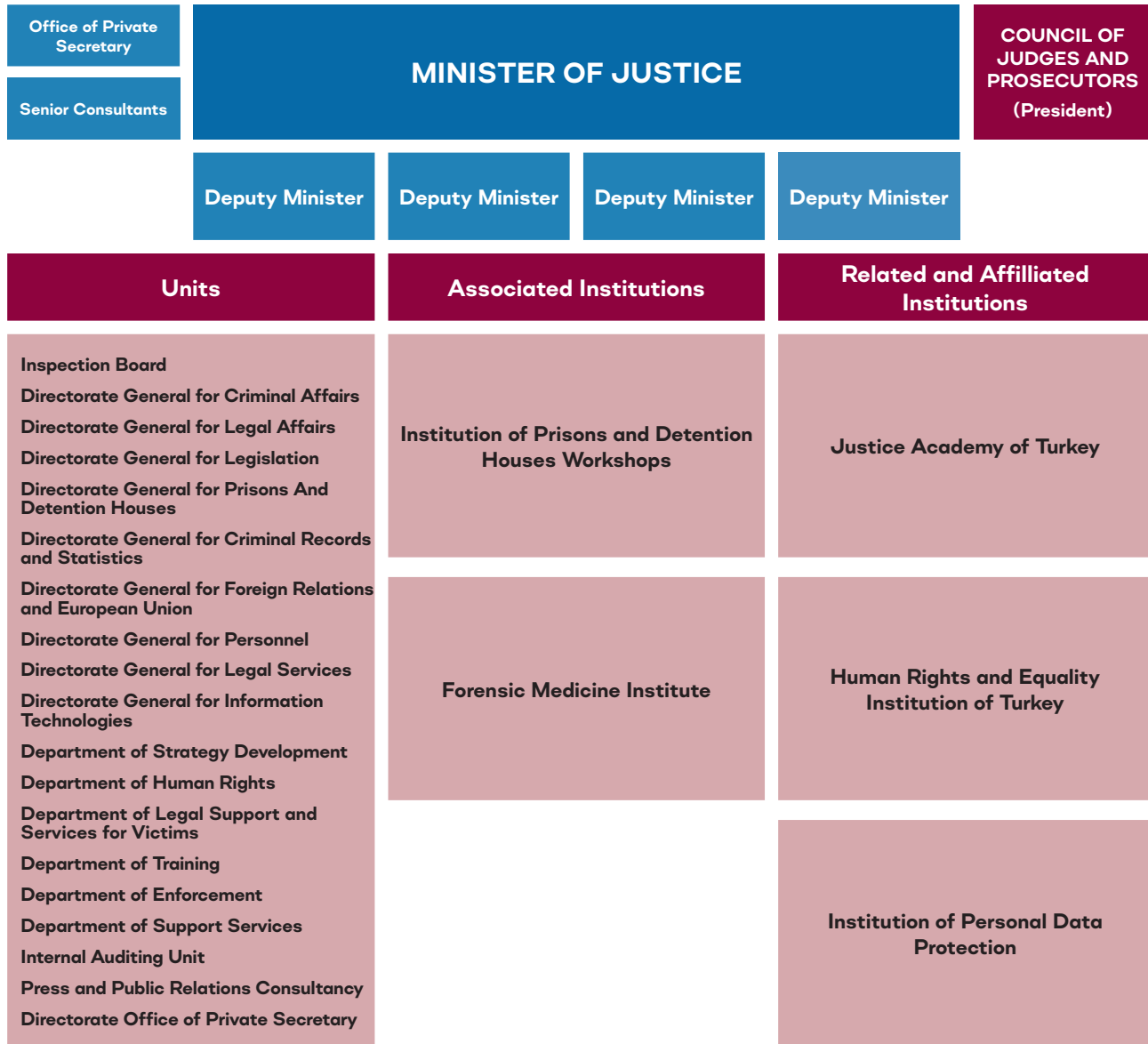
The Ministry's foreign organization consists of justice consultants. These positions are held by judges and public prosecutors. Currently, the justice consultants are employed at the European Union, the Organization for Security and Cooperation in Europe, the Council of Europe, Turkey's Permanent Representation to the United Nations and Turkish embassies in Berlin, Brussels, the Hague, London, Moscow, Paris and Washington.

Associated institutions are; the Forensic Medicine Institute, Institution of Prisons and Detention Houses Workshops.

Related and affiliated institutions are; the Justice Academy of Turkey, Human Rights and Equality Institution of Turkey and Personal Data Protection Authority.







## INSTITUTION OF PRISONS AND DETENTION HOUSES WORKSHOPS

The Workshops Institution is a public institution, affiliated with the Ministry of Justice, with a legal personality and a private budget, which was established in 1997 as per the Law No. 4301 with the aim of opening workshops to enable convicts and detainees to work for the purpose of learning profession and art, thus for marketing the economic products produced in this way with the intent of the protection and development of the professions and arts of convicts and detainees.

The Workshops Institution reintegrates convicts and detainees in penitentiary institutions to the community and idle labor force to the production, besides, with the income and savings provided from the workshop activities they contribute to the national economy.

The Workshops Institution has business operations to produce more than 180 products which are industrial products, handicraft products, agricultural and livestock products, construction and repair works, service sector and applied social facility management.



## INSTITUTION OF FORENSIC MEDICINE

The Institution of Forensic Medicine is a judicial (official) expert institution of the courts of Turkish Republic, affiliated to the Ministry of Justice which was established by law.

The headquarter of the Institute of Forensic Medicine is in Istanbul. Service in the headquarter is carried out by specialized departments and specialized councils. Group presidencies and branch directorates working under the headquarter also serve in the provinces.







## HUMAN RIGHTS AND EQUALITY INSTITUTION OF TURKEY

The Human Rights and Equality Institution of Turkey (HREI) was established in 2016 by Law No. 6701 on the Human Rights and Equality Institution of Turkey. The Institution, with public legal entity and administrative and financial autonomy and with a private budget, was established in conformity with the international law to which Turkey is a party in the field of human rights and is affiliated with the Ministry of Justice.

The founding purpose of HREI of Turkey takes place in the law, by taking the human dignity as a basis, with the duties mentioned below;

- Protecting and promoting human rights,
- Fighting torture and ill-treatment effectively and acting as the National Preventive Mechanism,
- Guaranteeing individuals' right to equal treatment, prevention of discrimination in the exercise of legally recognized rights and freedoms.

## PERSONAL DATA PROTECTION AUTHORITY

With the amendment made to the Constitution in 2010, the protection of personal data was regulated as a constitutional right and the protection of personal data was taken under constitutional guarantee by the provision in Article 20 of the Constitution: "Everyone has the right to the protection of personal data concerning him or her."

In 2016, the Personal Data Protection Authority was established by enacting the legal framework of personal data protection with the entry into force of the Law No. 6698 on the Protection of Personal Data.

The Personal Data Protection Authority, in the framework of the of confidentiality of private life, fundamental rights and freedoms stipulated by the Constitution, ensures the protection of personal data and takes steps to raise awareness on these matters. At the same time, it creates an environment to increase the international competition capacities of private and public actors in the data-based economy.

The Personal Data Protection Authority, which is a public legal entity and has administrative autonomy, has been established to carry out duties conferred on it under the Law No. 6698 Article 19 and is affiliated with the Ministry of Justice of Turkish Republic.

## JUSTICE ACADEMY OF TURKEY

The Justice Academy of Turkey, established in 2003, was restructured on 2 May 2019 by Presidential Decree No 34. on Justice Academy of Turkey and it possesses legal personality, scientific, administrative and financial autonomy and a private budget, and it is related to the Ministry of Justice.

The Justice Academy of Turkey functions based on the notion of “**Effective Training for Reassuring Justice**” and prepares, publishes and implements training curriculum of pre-service training of candidate judges and prosecutors, and in-service training for judges, prosecutors and also organizes training programs for notaries and lawyers and other public servants upon their request.

In addition to these basic duties such as training of judges and public prosecutors, determining the strategies and targets concerning education and training of judges and prosecutors, it also has duties such as organizing specialization and certificate programs, courses, seminars, symposiums, conferences and similar events in subjects regarding law and justice, and establishing a data bank and library, releasing publications.

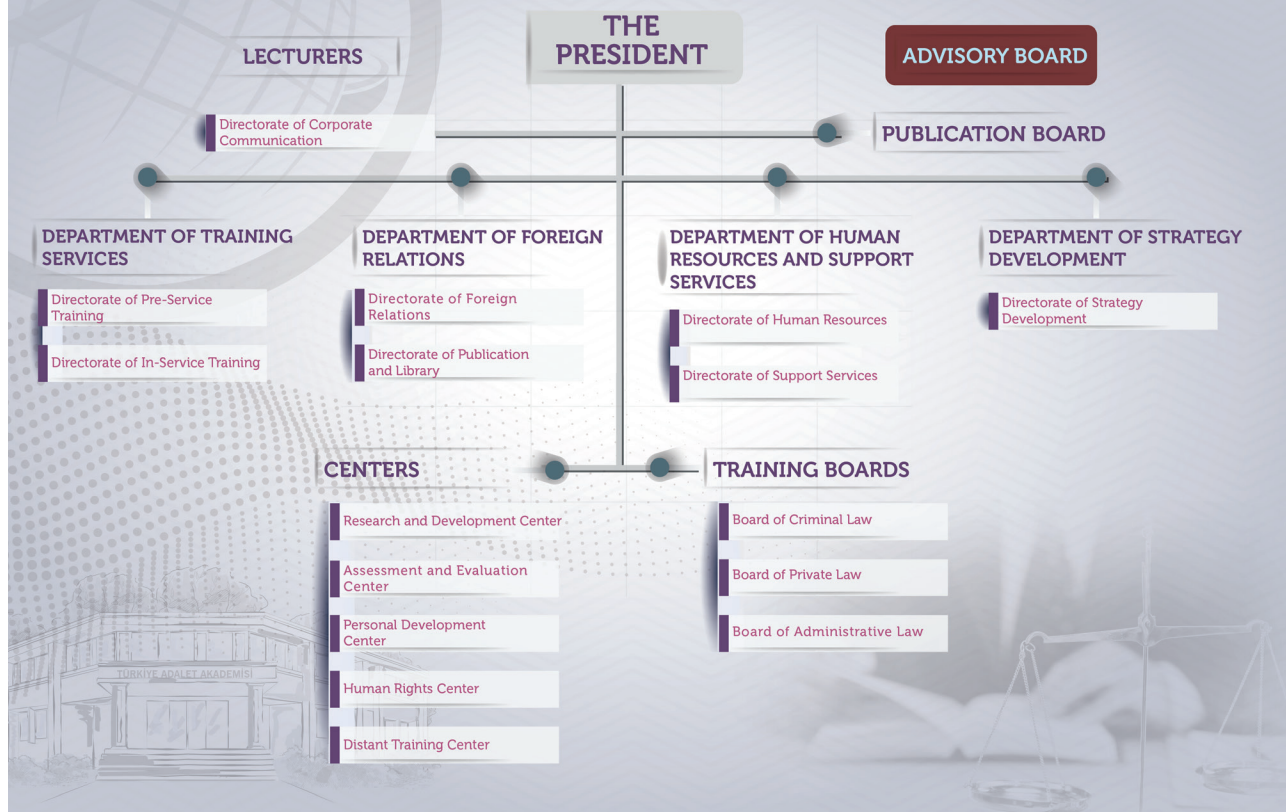
The Justice Academy of Turkey follows the latest national and international developments in the fields of law and justice, conducts academic research and studies, determines strategic targets for increasing the standards and quality of training activities, and for this purpose, it develops projects in cooperation with institutions and organizations.







## ADMINISTRATIVE ORGANIZATION OF THE JA





## COUNCIL OF JUDGES AND PROSECUTORS

The Council of Judges and Prosecutors is a constitutional council which was established to carry out tasks such as judges and public prosecutors' admission to the profession and their assignment, promotion, taking disciplinary actions, permissions and being elected as members to the higher courts based on the rule of law, the independency and impartiality of the courts and on guarantee principles of judges and prosecutors. The Council is independent on performing these tasks and using its powers. Any organization or person is disallowed to give orders to the Council. The Council of Judges and Prosecutors consists of two chambers and a general assembly. The Assembly consists of thirteen members; the President of the Assembly is the Minister of Justice. The Deputy Minister of Justice is the Assembly's natural member.

ORGANIZATION OF JUDGES AND PROSECUTORS	PRESIDENT OF THE COUNCIL (Minister of Justice)	
	FIRST CHAMBER (6 MEMBERS)	Deputy Justice Minister
		One Member from the Court Of Cassation
		Two Members from the Civil Judges and Prosecutors
		One Member from the Administrative Judges and Prosecutors
		One Member from the University Law Lecturers and Lawyers
	SECOND CHAMBER (6 MEMBERS)	One Member from the Court of Cassation
		One Member from the Council of State
		One Member from the Administrative Judges and Prosecutors
		Two Members from the University Law Lecturers and Lawyers





## CIVIL AND CRIMINAL JUSTICE

### CIVIL AND CRIMINAL COURTS

COURT OF CASSATION	REGIONAL COURTS OF JUSTICE	CRIMINAL COURTS	GENERAL COURTS	CRIMINAL JUDGESHIP of PEACE
				CRIMINAL COURTS of FIRST INSTANCE
				ASSIZE COURTS
			SPECIALIZED COURTS	JUVENILE HIGH CRIMINAL COURT
				JUVENILE COURT
				CRIMINAL COURT of ENFORCEMENT
				CRIMINAL COURT of INTELLECTUAL and INDUSTRIAL PROPERTY RIGHTS
				JUDGESHIP of CRIMINAL EXECUTION
		CIVIL COURTS	GENERAL COURTS	CIVIL COURT of PEACE
				CIVIL COURT of FIRST INSTANCE
			SPECIALIZED COURTS	COMMERCIAL COURT of FIRST INSTANCE
				CIVIL COURT of ENFORCEMENT
				CADASTRAL COURT
				LABOUR COURT
				CONSUMER COURT
				CIVIL COURT of INTELLECTUAL and INDUSTRIAL PROPERTY RIGHTS
				FAMILY COURT



## COURT OF CASSATION

The Court of Cassation, which is included in the 1982 Constitution as the High Court, is the highest court that examines judgments that are rendered by regional courts of justice, which are not left to any other judicial organ, as the appeal authority, and is in charge of dealing with the compensation cases against and arising from the duty of the President of the Court of Cassation and its members, Chief Public Prosecutor and Vice Chief Public Prosecutor of Court of Cassation and persons mentioned in relevant law and the criminal cases related to their personal offenses and other cases shown in the laws as the courts of first and last instance.

The Court of Cassation is composed of civil and criminal chambers and each chamber has a presiding justice and enough number of justices . The cases are heard by a panel of 5 justices, the presiding justice and four justices of the chamber members. The panels rule over the disputes by majority of the votes.

The members of the Court of Cassation shall be elected from among civil and criminal court judges and public prosecutors who have worked successfully for at least three years after assigning as senior judges and prosecutors and who have not lost the qualifications required to be assigned as senior judges and prosecutors. The members of the Court of Cassation are elected for a twelve years of tenure. Once tenure of a member of the Court of Cassation comes to an end, this member can not be re-elected.

## GENERAL PROSECUTION OFFICE OF THE COURT OF CASSATION

Operating in association with the Court of Cassation, the General Prosecution Office undertakes duties such as preparing a legal opinion called “notification” regarding the request of appeal against judgments of the courts of first instance and regional courts of justice; appealing-ex officio or upon a request-of judgments of Criminal Chambers of the Court of Cassation in order to eliminate incompatibility with law or conflicts among the rulings of chambers; initiating extraordinary appeal procedure -upon a request by the Ministry of Justice or ex officio- in order to eliminate the incompatibility with law of the final judgments that are delivered by courts of first instance and become final without appellate review; conducting investigations regarding offences committed by senior officials; auditing the compliance of the statutes and programs of the political parties and their activities with the Constitution and provisions of the relevant laws; carrying out enquiry and investigation about political parties and political party members; and opening proceedings to close political parties when necessary.







## REGIONAL COURTS OF JUSTICE

The Regional Court of Justice is in charge of reviewing appeal claims that are submitted concerning judgments that are given by the First Instance Courts.

The Regional Courts of Justice has become operational as of 20 July 2016, were established primarily in 7 locations and the number of courts has been increased to 15 over time.

Each regional court of justice has at least three civil and at least two criminal chambers. The cases are heard by a panel of 3 judges, the presiding judge and two judges of the chamber members. The panels rule over the disputes by majority of the votes. The chief judge, the presiding judges and the judges of the chambers are senior judges appointed by the Council of Judges and Prosecutors from among civil and criminal court judges and prosecutors who have not lost the qualifications required for being senior judges and prosecutors.

Operating in association with each regional court of justice, the General Prosecution Office is responsible for delivering opinions about appeal claims. A sufficient number of prosecutors work within the General Prosecution Office.

## CRIMINAL COURTS WITH GENERAL JURISDICTION

### GENERAL CRIMINAL COURTS AND JUDGESHIP

#### Criminal Judgeship of Peace

Criminal Judgeship of Peace, without prejudice to the conditions assigned by the Laws, in the ongoing investigations, is in charge of rendering decisions on surveillance, body examination of the suspect and taking samples from their body, search, seizure, arrest, and is responsible for reviewing appeals against those decisions. In these judgeships, cases are heard by a single judge.

#### Criminal Courts of First Instance

Criminal Courts of First Instance, without prejudice to the conditions assigned by the Laws, are in charge of dealing with cases that fall outside of the duties of criminal judgeship of peace, as-size criminal courts and other specialized criminal courts. These courts deal with crimes which require less than ten years of imprisonment. In these courts, cases are heard by a single judge.

## Assize Courts

Without prejudice to the circumstances assigned by the Laws, assize courts deal with serious crimes such as plundering, extortion, fraud in the official document, qualified fraud, fraudulent bankruptcy, as well as crimes against the security of the state, constitutional order and its functioning, national defense, state secrets espionage crimes and other crimes stipulated in Law on Anti-Terror nr. 3713 and in the Turkish Criminal Code. In addition, these courts also deal with crimes which require a sentence of aggravated life imprisonment, life imprisonment and more than ten years of imprisonment. In these courts, cases are heard by a panel of 3 judges, the presiding judge and two judges of the court. The panels rule over the cases by majority of the votes.

## SPECIALIZED CRIMINAL COURTS

### Juvenile High Criminal Courts

Juvenile High Criminal Courts are in charge of dealing with criminal cases which fall under the jurisdiction of the assize court regarding the crimes committed by children under the Law No. 5395 on the Protection of the Child and also taking the protective measures existing in other laws. In these courts, cases are heard by a panel of 3 judges, the presiding judge and two judges of the court. The panels rule over the cases by majority of the votes.

### Juvenile Courts

Juvenile courts are in charge of dealing with cases to be opened against children that are pushed to crime in terms of offences that fall under the jurisdiction of criminal court of first instance and of taking protective measures stipulated in the Protection of the Child Law No. 5395 and other laws. In these courts the cases are heard by a single judge.

### Criminal Courts of Enforcement

Criminal Courts of Enforcement are in charge of dealing with cases shown in “Criminal provisions” section of the Enforcement and Bankruptcy Law, in particular including crimes regarding the debtor decreasing the amount of property of the creditor in order to incur losses, false statements, debtor’s violation of the payment terms, non-compliance with the decisions regarding child support and alimony. In these courts, cases are heard by a single judge.







### **Criminal Courts of Intellectual and Industrial Property Rights**

Criminal Courts of Intellectual and Industrial Property Rights are in charge of dealing with cases regarding crimes regulated in the Law No. 5846 on Intellectual and Artistic Works such as infringement of the moral and material rights deriving from intellectual property and artistic works or the infringement of related rights, attempts to circumvent technological protection measures, crimes against the obligation of the proper labelling of IP products, or crimes regulated on the Law No. 6769 on Industrial Property such as trademark infringement. In these courts, cases are heard by a single judge.

### **Judgeship of Criminal Execution**

Judgeships of Criminal Enforcement, established by the Law no. 4675 of Judgeship of Criminal Enforcement, are responsible for examining and concluding cases on the actions taken regarding convicts and detainees in prisons and detention houses and complaints regarding those actions and are tasked to fulfill other responsibilities under the law. In these judgeships, cases are heard by a single judge.

## **CIVIL COURTS WITH GENERAL JURISDICTION**

### **Civil Courts of Peace**

Civil Courts of Peace are general courts which are in charge of dealing with cases, regardless of the value or amount of the subject matter, regarding tenancy contracts and dissolution of joint ownership of movable and immovable property, non-contentious cases and mediation issues. In these courts, cases are heard by a single judge.

### **Civil Courts of First Instance**

Civil Courts of First Instance are general courts responsible for dealing with cases arising from private law disputes, in particular, personal and property rights. The duty of the civil court of first instance is primary, the duty of the civil courts of peace and specialized courts is an exception. Unless otherwise is stipulated by a special provision of a law, all private law cases should be heard by Civil Courts of First Instance. In these courts, cases are heard by a single judge.



## SPECIALIZED COURTS

### Commercial Courts of First Instance

Commercial Courts of First Instance are specialized courts which are in charge of dealing with commercial cases and non-contentious judicial matters of commercial character, regardless of the value or amount of subject matter. In Commercial Courts of First Instance some of the cases are heard by a panel of 3 judges, the presiding judge and two judges of the court. The panels rule over the cases by majority of the votes. However, cases the monetary value of which is below the certain threshold set out by law are ruled by a single judge.

### Civil Courts of Enforcement

Civil Courts of Enforcement, as per the Law on Enforcement and Bankruptcy No. 2004, are specialized courts that keep the enforcement office under supervision so as to control the accuracy of the transactions of enforcement offices, that check whether they are in accordance with law or not, and that try cases on other enforcement issues set out by law. In these courts, cases are heard by a single judge.

### Cadastral Courts

Cadastral Courts are specialized courts established by the Law on Cadastre No. 3402. The subject matter of the cases that fall under the jurisdiction of these courts are: real estate property and limited real rights, other rights to be registered or annotated to the land registry or to be shown in the declarations, boundary and measure conflicts, similar cases concerning the cadastre and land registry given to the court by special laws. In these courts, cases are heard by a single judge.

### Labour Courts

Labour courts are specialized courts established by the Labour Courts Law No. 7036. As per the Law No. 7036, labour courts are responsible for dealing with any cases arising from the employment contracts, social security and collective labour agreements. In these courts, cases are heard by a single judge.





### **Consumer Courts**

Consumer courts are specialized courts in charge of dealing with cases arising from consumer contracts and practices concerning consumers according to Consumer Protection Law No. 6502. In these courts, cases are heard by a single judge. For disputes arising from consumer contracts it is mandatory to apply to arbitration panels on consumer rights over disputes that is under monetary threshold set each year. There are arbitration panels on consumer rights in all provinces and districts.

### **Civil Courts of Intellectual and Industrial Property Rights**

Civil courts of intellectual and industrial property rights established in 2001 in Turkey are in charge of dealing with the civil cases arising from the rights and issues laid down by Law No. 5846 on Intellectual and Artistic Works and Law No. 6769 on Industrial Property. In these courts, cases are heard by a single judge.

### **Family Courts**

The regulations concerning family courts are stipulated in the Law on the Establishment, Duties and Powers of Family Courts no. 4787. According to the fourth article of the Relevant Law, family courts are in charge of disputes arising from engagement, annulment of the marriage, legal capacity to marry, ceremony of marriage, null and void marriages, divorce, dissolution of property and debts between spouses, recognition and paternity provision, adoption, custody, child property, alimony, house order, family goods and other cases referred to in special laws. In these courts, cases are heard by a single judge.

### **GENERAL PROSECUTION OFFICES**

In each province and district where courts operate, a general prosecution office is present which is named after that province or district. A sufficient number of public prosecutors serve in the General Prosecution Offices. Law enforcement officers carry out the investigation procedures under supervision and instructions of the General Prosecution Office.

The duties of the General Prosecution Offices are as follows; to conduct an investigation to decide whether a public lawsuit is needed to be filed or not, to monitor proceedings conducted by criminal courts on behalf of the public in accordance with law, to participate in proceedings of the courts and to apply for legal remedies when necessary, to ensure the execution of final court decisions, to perform other duties assigned by law. Public prosecutors have tenure of judges in terms of all personal rights.



## ADMINISTRATIVE JUSTICE

### ADMINISTRATIVE COURTS



### COUNCIL OF STATE

The Council of State is the high court for reviewing decisions and judgments given by administrative and tax courts not referred by law to other administrative courts. It is also the first and last instance court for dealing with specific cases prescribed by law and an advisory and investigatory authority to specific topics. Currently, in the Council of State, there are 12 chambers, including 1 administrative chamber and 11 litigation chambers. Cases are heard by a panel of 5 justices, the presiding justice and four justices of the chamber members. Members of the Council of State are elected for twelve years. A person cannot be elected as a member of the Council of State twice.

### THE GENERAL PROSECUTION OFFICE OF THE COUNCIL OF STATE

Operating in association with the Council of State, the General Prosecutor of the Council of State is elected from among the members of the Council of State.

The General Prosecution Office is responsible for delivering opinions about cases which are tried by the Council of State as the court of first instance.

A sufficient number of the Council of State prosecutors work within the General Prosecution Office.







## REGIONAL ADMINISTRATIVE COURT

The regional administrative courts are in charge of reviewing and deciding on appeals against decisions made by administrative courts and tax courts and resolving the jurisdictional conflicts between the administrative and tax courts. In regional administrative courts, cases are heard by a panel of 3 judges, the presiding judge and two member judges.

Presently, there are eight Regional Administrative Courts operating across Turkey.

## COURTS OF FIRST INSTANCE

### ADMINISTRATIVE COURTS

Administrative courts are the general courts dealing with cases initiated for the annulment of administrative decisions and on the claims for damages caused by an administrative decisions or actions, other than those to be settled in the Council of State in the first instance and the cases that fall under the duties of the tax courts. Administrative courts generally hear cases by a panel of 3 judges, the presiding judge and two member judges. However, cases the monetary value of which is below the certain threshold set out by law are ruled by a single judge.

### TAX COURTS

In general, the tax courts are responsible for resolving cases concerning the application of the Law No. 6183 on the Collection of Public Receivables on cases related to taxes, duties and charges and similar financial obligations and their increases and penalties and tariffs. Tax courts generally hear cases by a panel of 3 judges, the presiding judge and two member judges. However, cases the monetary value of which is below the certain threshold set out by law are ruled by a single judge.

## CONSTITUTIONAL COURT

The Constitutional Court is regulated by the Articles between 146-153 of the 1982 Constitution. Nonetheless, by the adoption of the Law No. 6771 on the Amendments to the Constitution, the organization, duties and powers of the Constitutional Court have been recently reorganized.

The Constitutional Court consists of fifteen members.

The Grand National Assembly of Turkey elects, by secret ballot, two members from among three candidates to be nominated by and from among the president and members of the General Assembly of the Court of Accounts, for each vacant position, and one member from among three candidates nominated by the heads of the bar associations from among self-employed lawyers. In this election to be held in the Grand National Assembly of Turkey, for each vacant position, two thirds majority of the total number of members is required for the first ballot, and absolute majority of total number of members is required for the second ballot. If an absolute majority cannot be obtained in the second ballot, a third ballot is to be held between the two candidates who have received the greatest number of votes in the second ballot; the member who receives the greatest number of votes in the third ballot is elected.

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

The Constitutional Court examines the constitutionality, in respect of both form and substance, of laws, presidential decrees and the Rules of Procedure of the Grand National Assembly of Turkey, and decide on individual applications. Constitutional amendments shall be examined and verified only with regard to their form. However, presidential decrees issued during a state of emergency







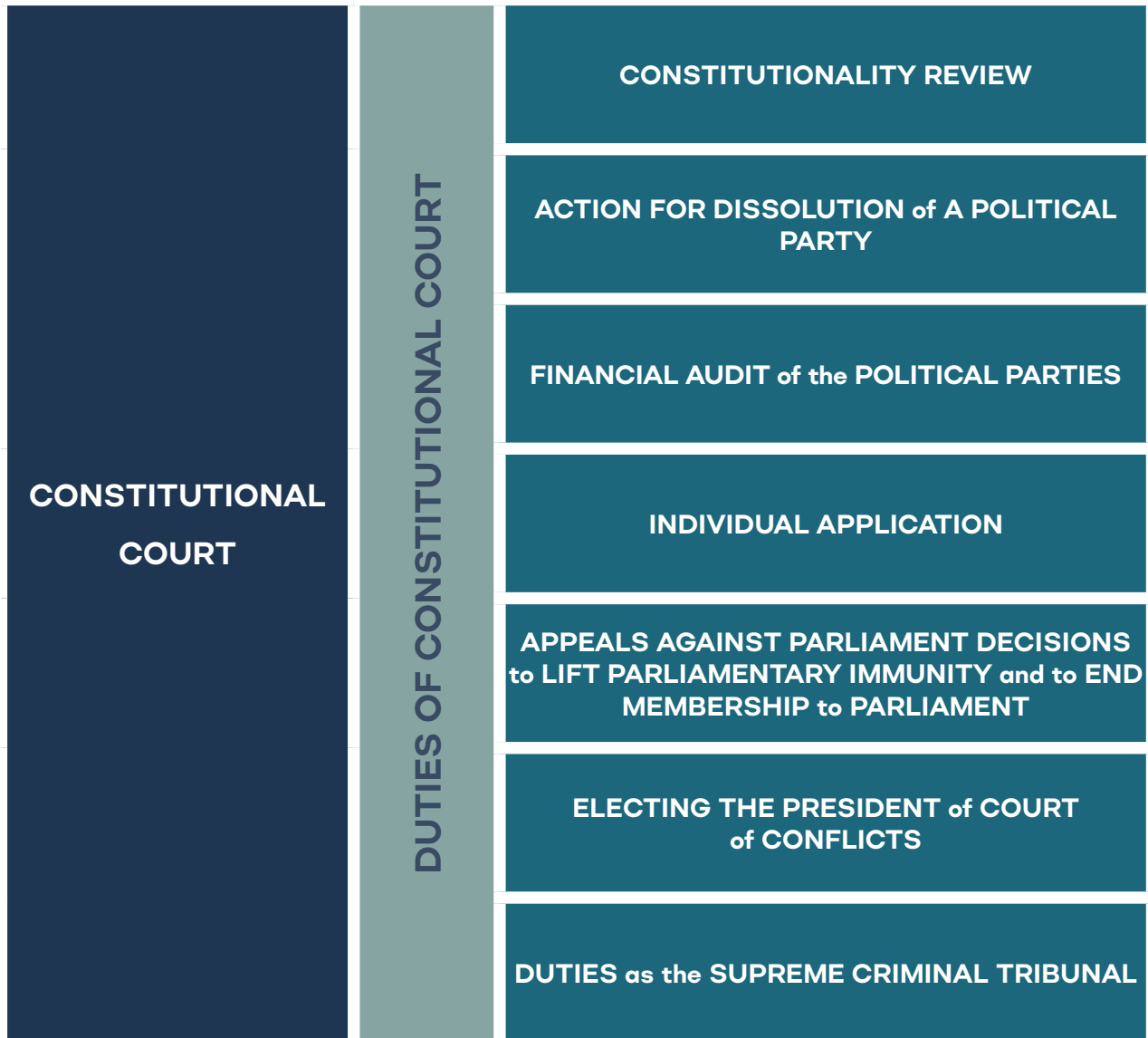
or in time of war and international treaties, which came into force cannot be brought before the Constitutional Court alleging their unconstitutionality as to form or substance.

There are two ways of bringing a case before the Constitutional Court with respect to the unconstitutionality claims. The first one is called annulment case. The President of the Republic, the groups of two political parties which have the highest number of members in the Grand National Assembly of Turkey and a minimum of one-fifth of the total number of members of the Grand National Assembly of Turkey have the right to apply for annulment action directly to the Constitutional Court, based on the assertion of the unconstitutionality, in form and in substance, of laws, of presidential decrees, of Rules of Procedure of the Grand National Assembly of Turkey or of certain articles or provisions thereof. The second one is called claim of unconstitutionality before other courts. If a court hearing a case finds that the law or the presidential decree to be applied is unconstitutional, or if convinced of the seriousness of a claim of unconstitutionality submitted by one of the parties, it shall postpone the proceedings until the Constitutional Court decides on the matter. The Constitutional Court shall decide on the matter and declare its judgment within five months of receiving the contention.

In addition to the types of cases mentioned above due to the amendments made to the constitution everyone may apply to the Constitutional Court on the grounds that one of the fundamental rights and freedoms within the scope of the European Convention on Human Rights which are guaranteed by the Constitution has been violated by public authorities.

Moreover, the Constitutional Court in its capacity as the Supreme Court shall try the President of the Republic, the Speaker of the Grand National Assembly of Turkey, Vice-Presidents of the Republic, Ministers, presidents and members of the Constitutional Court, Court of Cassation, Council of State, Council of Judges and Prosecutors, Court of Accounts, and Chief Public Prosecutors and Deputy Public Prosecutors, the Chief of General Staff, the commanders of the Land, Naval and Air Forces, for the crimes committed regarding their duties.

The Constitutional Court also deals with the dissolution of political parties, auditing of acquisitions, revenue and expenditure of political parties, the appeals against the decisions of lifting parliamentary immunity of a deputy and the loss of membership of a deputy and electing the President of the Court of Conflicts.







## COURT OF CONFLICTS

The Court of Conflicts is a high court, which is empowered to deliver final judgments in conflicts between civil/criminal and administrative/tax courts concerning their jurisdiction and judgments.

The Court of Conflicts is composed of one president, six member justices and six reserve justices. The office of president of this Court is chaired by a member elected by the Constitutional Court from among its own members. The duties of the court are specified on Article 1 of the Law on the Establishment and Functioning of the Court of Conflicts.

In cases, where it is obligatory to apply for arbitration in accordance with private law, if the duty of the arbitration has been fulfilled by the judge the authority of it shall be deemed as on of the above-mentioned civil or administrative judicial authorities according to the subject matter of the case.

At the Court of Conflicts the cases are overseen without hearings and are decided by the majority of the votes, unless otherwise stipulated by the law.



## SUPREME ELECTORAL COUNCIL

The Supreme Electoral Council, which is organized under the title of “General Management and Supervision of Elections” of the 1982 Constitution is the highest electoral authority in Turkey. The Supreme Electoral Council is tasked with supervising all the actions and have them executed to ensure the fair and orderly conduct of elections from the beginning to the end, carrying out investigations and taking final decisions, during and after the elections, on all irregularities, complaints and objections concerning the electoral matters, and receiving the electoral records of the members of the Grand National Assembly of Turkey and presidential election.

The Supreme Electoral Council is composed of seven justices and four reserve justices. Six of the members are elected by the General Assembly of Court of Cassation and five of the members are elected by the General Assembly of Council of State from amongst their own members by the vote of the absolute majority of the total number of members through secret ballot for six years. The members of the Court can be re-elected. The board delivers its decisions by absolute majority.







## COURT OF ACCOUNTS

The Court of Accounts is a constitutional institution, which is in charge of supervising and inspecting all the income and expenses and the property of public administrations, social security institutions and local administrations within the scope of the central government budget on behalf of the Grand National Assembly of Turkey and also tasked with finalizing the accounts and transactions of the responsible persons and performing the examination, supervision and adjudication given by the laws.

The Court of Accounts is an institution that has functional and institutional independence while conducting investigations, auditing and reaching binding final judgments. The Court of Accounts is a Supreme Auditing Institution, which has jurisdiction authority, fulfills its duties and responsibilities through its councils.







REPUBLIC OF TURKEY  
MINISTRY OF JUSTICE



JUSTICE ACADEMY OF TURKEY