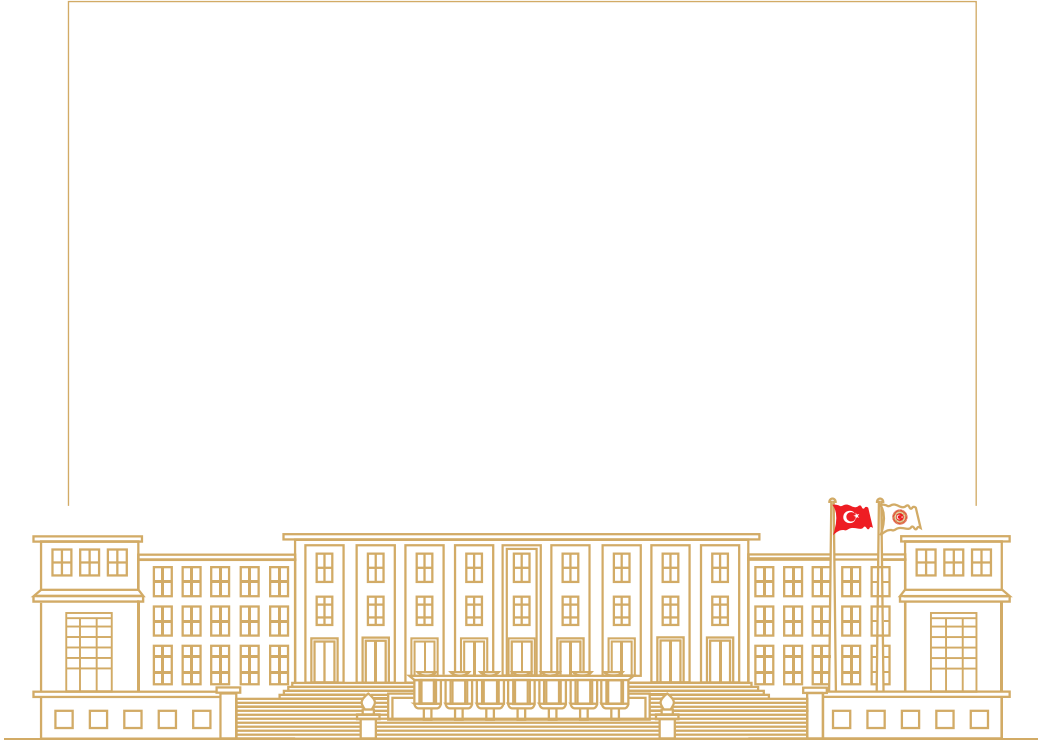


TEXT OF AGREEMENT FOR A STRENGTHENED PARLIAMENTARY SYSTEM

Date 28 February 2022







Sovereignty unconditionally belongs to the nation

K. Atatürk



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PREFACE

As six political parties representing the society in the widest spectrum, we came together for a historic task to respond to what Turkey has hoped to see for many years.

Our country is going through one of the most profound political and economic crises in the history of the Republic. Social, political, and economic problems have increasingly shown their effect day by day. The most important reason for this crisis is undoubtedly the arbitrary and unruly administration implemented under the so-called "Presidential Government System".

The joint responsibility of all of us is to overcome this crisis by consensus and unity and solve our deep-rooted problems on the basis of pluralism by expanding the realm of democratic politics.

With this belief we have finalized an intensive study on the "Text of Agreement for a Strengthened Parliamentary System", based on consultation and reconciliation, which are the basic principles of democracy, in order to make the democratic rule of law prevail.

As the parties that prepared the "Text of Agreement for a Strengthened Parliamentary System", we are determined to build a strong, liberal, democratic, fair system in which the separation of powers is established with an effective and participatory legislature, a stable, transparent and accountable executive, an independent and impartial judiciary.

We do not aim to go back to the past with the Strengthened Parliamentary System, but to move to a new system in which the deep-rooted state and republican experience of the Republic of Turkey is crowned with democracy.

We know that Turkey has no problem that cannot be resolved through consultation and reconciliation. What is important is to build a democratic Turkey in which fundamental rights and freedoms are guaranteed within the framework of the Council of Europe and European Union norms, where everyone sees oneself as an equal and free citizen, where one can freely express one's thoughts and live as one believes, and to build the concept of "us", together with all of our differences.

On the other hand, our goal is; to ensure transparency, equality, impartiality, and merit in the public administration, to fight against corruption effectively, and ensure with the Political Ethics Law that political authorities have no other purpose than serving the nation.

With the Strengthened Parliamentary System, we took an important step in line with the demands of our nation to build the "Turkey of Tomorrow". We are committed to implementing this system with the belief that it will bring justice, peace, prosperity and tranquility to our country.





I. INTRODUCTION

▶ A. CONDITIONS UNDER WHICH TURKEY TRANSITIONED TO A PRESIDENTIAL SYSTEM

Turkey transitioned to a presidential system through the 16 April 2017 referendum. Despite being one of the most important constitutional amendments in Turkish history, the referendum took place under a state of emergency which had been declared following the 15 July 2016 coup attempt. The extraordinary conditions under which the referendum was held made it impossible for the national will to be manifested thoroughly.

Soon after the failed coup, the government fostered polarization in society with its authoritarian and discriminatory attitude. The securitization of the political discourse instrumentalized the state of emergency for strengthening the undemocratic atmosphere. The principles of pluralism and reconciliation, which are essential for democracy, were ignored. The draft amendment was not negotiated with broad sections of society such as the political parties, civil society organizations, academics, or bar associations.

The constitutional amendment, drafted by a committee formed by the leaders of the AKP and the MHP, was brought before the parliament in a manner far from inclusiveness. Then, in just 41 days, it was approved by a parliamentary majority without sufficient deliberation and was hastily submitted to a referendum.



All the means of the state were mobilized for the “yes” campaign whereas the rights of the opposition parties and civil society organizations to hold meetings and rallies were restricted, and a media embargo was imposed on dissenting views. In the referendum, according to the controversial results, the constitutional amendment was adopted with a 51.41% of “yes” votes, hence almost half the voters rejected the amendment.

► **B. WHY THE PRESIDENTIAL SYSTEM IS WRONG?**

The presidential system has led to individuality and arbitrariness in the administration, institutionalized the authoritarian regime by granting the president unchecked and unbalanced powers that subordinate the legislative, executive and judiciary branches.

A constitutional regime is the one based on the separation of powers where the executive power is limited by an effective system of checks and balances. It is a regime where the judiciary is independent, the fundamental rights and freedoms are guaranteed, and the institutional principles prevail over the daily whims of the people in charge. We oppose the presidential system in its current form in Turkey, which undermines the rule of law and personalizes sovereignty.

1. Executive

No real checks and balances mechanism is envisaged in the current presidential system. The executive power is vested in a single person, the legislature is rendered ineffective through the president’s competence to issue decrees, and the judiciary has completely lost its independence due to the president’s appointment powers. A personalized power structure has thus emerged.



The president is vested with the authority to carry out all kinds of actions with a single signature. This has led the president to speak, decide and sign off on every issue. This system has rendered the ministers and public bureaucracy powerless, prevented them from taking responsibility, and avoided the formation of a sound public administration.

Despite the oath of impartiality he took in accordance with the constitution, the president continues to be the leader of his party. Therefore, the positions of party chairmanship, and the heads of state and government have united in a single person. Not surprisingly, the fundamental problems of Turkey have deepened since then.

The president's "power to return draft laws" has effectively turned into a "veto power" within this system. Draft laws returned to the parliament by the president can only be approved by the absolute majority of the total number of MPs. This provides the president the authority to limit and even hinder the law-making competence of the parliament.

All the powers to appoint and dismiss senior public officials are exercised by the president. This has led to the personalization of the executive power, deactivation of the institutions, and the elimination of meritocracy and hierarchy in the bureaucracy.

2. Legislative

Under the current system, not only the legislative functions of the parliament are shared with the president, but also the oversight powers of the legislature have become dysfunctional.

With the decree power granted to the president, the legislative authority that had belonged exclusively to the parliament has become vested in the president, disrupting the separation of powers to the benefit of the executive.



The legislative checks on the executive have been effectively obliterated. The authority to censure and pose verbal questions to ministers has been abolished. Besides, the parliamentary investigations, which had constituted one of the most effective checks for the legislature, have been rendered inoperable due to an increase in the quorum.

The inalienable budgetary right exercised by the legislature on behalf of the nation has been abolished. This right has been transferred to the president, with the budget of the previous year taking effect should the budget drafted by the president be rejected. Thus, the negotiations in the parliament and the rejection of the budget have no practical consequence for the executive.

3. Judiciary

Under the current system, the partisan president has also managed to destroy the independence and impartiality of the judiciary. The Council of Judges and Prosecutors is now under the tutelage of the executive due to the direct and indirect appointment powers granted to the president.

The legal tenure of judges, which enables them to make rulings independently from internal and external factors, and based on objective criteria and their conscience, is not effectively guaranteed. In a judicial system where the judge does not have the guarantee of staying where he works (i.e. not being appointed to a new position in another part of the country suddenly and arbitrarily), there can be no talk of judicial independence.

The fact that the Constitutional Court is under pressure and being threatened by the government, and that almost all its members are to be appointed directly or indirectly by the president undermines the independence and impartiality of the high court.



Appointments to the Constitutional Court are carried out with political motives. The aim is to have a constitutional court that is subjected to the executive. The verdicts of the Constitutional Court are not implemented because of the pressure of the executive and the Council of Judges and Prosecutors do not impose sanctions against the lower court judges who do not respect the verdicts being mentioned. These judges are even rewarded by the Council. Such developments obliterate the principle of constitutional state.

► C. WE PROPOSE A NEW SYSTEM

While we aim to end the presidential government system with our strengthened parliamentary system proposal, we do not seek to return to the past but move to a brand-new system based on the rule of law and separation of powers.

Turkey has a long history of representative assemblies. We have a strong culture of parliamentary democracy, even though there were times when the popular will was impeded.

It should be said that it has never been possible to transition to a truly pluralistic democracy in our country. The Republic of Turkey, which was established two years after the adoption of the relatively inclusive 1921 Constitution, later went through a series of restrictive constitutional amendments.

Although the 1961 Constitution introduced many new and important freedoms, it was created after a military coup that disrupted the multi-party political order. As a result, some bureaucratic institutions, primarily the armed forces, were given powers incompatible with democratic precedents, leading to a bureaucratic tutelage. For example, the effectiveness of the executive was weakened through the National



Security Council (MGK), many political parties were shut down by the constitutional court because of a restrictive perspective through which political activities were supervised, the legislature and the executive were weakened by the tutelage actors, hence the political order became prone to instability.

In our reform proposal, we reject the instrumentalization of bureaucratic institutions as a means of tutelage over politics, which was the case in the 1961 Constitution. Condemning the aim to institute a tutelage over the national will under the name of oversight, we adopt the viewpoint of having a strong and effective executive power that is subject to legal checks.

The 1982 Constitution is also the product of a coup. Preserving the bureaucratic institutions and the tutelage of the previous constitution, it also enshrined provisions restricting fundamental rights and freedoms. In this constitution, although the presidency was not accountable, it was endowed with broad powers.

In our reform proposal, we reject the tutelary approach and hybrid government model that suppresses and neutralizes political actors, institutions, and activities, brings about a deadlock in the administration, renders parliamentary majorities inoperable, thus turns the electoral mechanism into a hoax.

In the so-called “presidential government system”, introduced via the 16 April 2017 referendum, the parliament has turned into a purely ostensible institution, with all decisions left to the discretion of a single person, and the feeble check mechanism on the executive—albeit all its shortcomings—has been wiped away.

We reject the narrow-mindedness of the past. We aim to crown the well-rooted Turkish governmental and republican experience with democracy by establishing a strengthened parliamentary system in which we will benefit from the experiences of the past while not allowing the



democratic deficit and tutelary practices of the past. In our proposed system, the national will shall be thoroughly manifested, the judiciary will be independent, the executive will run the country with the observance of the rules, fundamental rights and freedoms will be guaranteed, and a public administration that will cultivate institutionalism will prevail.

This is a new beginning. It is a rebuilding.

► **D. WHY A STRENGTHENED PARLIAMENTARY SYSTEM IS NEEDED?**

Turkey is experiencing one of the most profound political and economic crises in the history of the republic. Social, political, and economic problems are exacerbated day by day, taking a heavy toll on the people. The multifaceted crisis in every area; from education to health, from economy to justice, from freedom to security, not only affects the daily lives of citizens, but also destroys their hopes for the future.

The most important reason for this crisis is the arbitrary and unruly organization, and corrupt power structure bearing the name “presidential government system”.

We, the six political parties that have drafted the memorandum of understanding for a strengthened parliamentary system, have come together to crown our republic with democracy, restore justice, be able to live freely with all our differences, ensure social peace, guarantee that all citizens have a decent life, build a pluralistic and democratic Turkey, and entrust these values to generations to come.

In light of the experience of democracy in the world and in our country, we aim to establish a liberal democratic state with rule of law via the strengthened parliamentary system proposal that we have jointly drafted.



The strengthened parliamentary system is a liberal system that prevents the individual from being in a “weak” position in the face of the state, allows the individuals to define and realize themselves, and ensures that they are not regarded by the state as servants but equal citizens to be served.

The strengthened parliamentary system is a pluralistic system in which all state institutions will be at equidistance to all citizens without any discrimination.

The strengthened parliamentary system is a system in which the legislature effectively oversees the executive, and the will of the nation is represented at the highest level, government stability is ensured, the executive is held accountable before the legislature, the judiciary is fully impartial and independent, and the separation of powers is strongly established.

The strengthened parliamentary system is a liberal system in which fundamental rights and freedoms are guaranteed; thoughts are freely expressed; and freedom of religion and conscience, freedom of the press, women’s rights, children’s rights, and environmental rights are fully protected.

The strengthened parliamentary system is a fair and impartial system in which equality, impartiality, and meritocracy will be ensured in public administration; corruption will be fought off; the independence of regulatory and supervisory institutions will be ensured; and the higher education institutions will be democratized.

The strengthened parliamentary system is a transparent and accountable system in which the political authorities will have no other purpose than to serve the nation, which will be guaranteed by the political ethics law to be adopted.

We commit to implementing our common ideal, the strengthened parliamentary system, with the firm belief that it will bring peace to our nation and future generations.



II. FUNDAMENTALS OF THE STRENGTHENED PARLIAMENTARY SYSTEM

With the strengthened parliamentary system, we aim for a political regime that complies with the requirements of a participatory, liberal, and pluralist democracy, based on the principle of separation of powers and an effective checks and balance mechanism.

Our system will be based on both the fair representation and executive stability. Bearing in mind the bitter experiences of the past, we are determined not to weaken the government while strengthening the parliament, and not to weaken the parliament while sustaining the power of the government.

In the system we propose the individual, fundamental rights and freedoms, and civil society will be strengthened; the legislative will be rendered effective; the executive and the public administration will be made accountable; and guarantees on the independence and impartiality of the judiciary will be put into practice.



▶ **A. STRENGTHENING THE FUNDAMENTAL BRANCHES OF THE STATE**

1. AN EFFECTIVE AND PARTICIPATORY LEGISLATIVE

The representation ability of the Grand National Assembly of Turkey (GNAT), which is at the heart of the strengthened parliamentary system, shall be enhanced, and the parliamentary functions of enacting legislation and overseeing the executive shall be restored. Thus, it shall be ensured that the legislature will be more democratic, more effective, and more efficient.

Participation shall be emphasized in the Rules of Procedure of the GNAT. The budgetary right of the parliament shall be restored. To strengthen the GNAT in all respects, the principles of intra-party democracy and fairness of representation shall be established. Transparency and integrity in politics shall be guaranteed through amendments in the political parties and election laws.

1.1. Democratizing the Paths to the Grand National Assembly of Turkey

Parliamentary elections shall be held every five years.

The electoral threshold shall be brought down to 3% to enhance the representation power of the GNAT, ensure fairness in representation and pluralistic democracy, reflect the will of the nation effectively in the parliament, and ensure stability in the executive.

The electoral system shall be based on proportional representation. In identifying the electoral constituencies, an overseas constituency shall be formed for the direct representation of over six million of our citizens residing abroad.



Organization of the activities, internal functioning, and decision-making processes of political parties in accordance with the requirements of a pluralistic democracy is of great importance for the fulfilment the democratic standards we envisage.

In this respect, the legislation on political parties and elections shall be amended to strengthen intra-party democracy in line with the constitutional rule that reads “The activities, internal regulations and operation of political parties shall be in line with democratic principles”.

In addition, legal regulations and sanctions regarding political parties shall be reformed in the light of Council of Europe standards such as the European Convention on Human Rights, the case law of the European Court of Human Rights, and the reports of the Venice Commission in a way that will ensure pluralistic democracy.

The financing of politics is an essential issue to consider for free and fair elections as well as for ethical reasons. The financing of politics shall therefore be regulated in detail in line with the principles of transparency, auditability, and accountability of election expenditures. In accordance with the principle of transparency, it shall be required that donations over a certain amount to political parties and candidates and all expenditures made during election periods will be disclosed to the public.

To ensure fair competitive conditions among political parties and to strengthen democratic politics, parties that have received at least 1% of the votes in the most recent parliamentary general election shall receive treasury aid.

A quarter of the treasury aid allocated to political parties in the budget law every year shall be shared equally among the parties entitled to it. The remainder of the treasury aid shall be divided among the eligible parties in proportion to the votes they have received in the most recent election.



1.2. Making Legislative Activities More Effective

To ensure pluralism in parliamentary functions, new rules of procedure shall be drafted for the Grand National Assembly of Turkey. In the new rules of procedure, it shall be ensured that the legislative work is carried out in a participatory, effective, and transparent manner. In this respect, provisions regarding the functioning of parliamentary committees, the effectiveness of the inspection mechanisms, and the voice of the opposition shall be aligned with the requirements of democracy. In addition, the amendment of the rules of procedure shall be subject to the condition of qualified majority.

Legislative immunities shall be reformulated to ensure that the legislative function can be exercised freely and independently. In this respect, the scope of legislative immunity shall be expanded and the exceptions to legislative immunity shall be clearly specified, thereby ending uncertainty and arbitrariness over this issue.

1.3. Democratizing the Law- Making Processes

Incompatible with the very essence of democracy, the practice of omnibus laws, which weakens parliamentary activities of MPs and renders participation, discussion, and deliberation ineffective in the Assembly, shall be ended.

The Council of Ministers shall only be authorized to issue decree-laws on condition that such authority is based on an enabling act and the subject matter, limits, and term of the decree-laws are clearly stipulated by the GNAT in the enabling act. However, it shall never be possible to regulate fundamental rights and freedoms with decree-laws.

To ensure that this power is exercised within the limits set forth in the Constitution, decree-laws shall be subject to the political review of the Assembly and the legality review of the Constitutional Court.



The veto power of the president, which weakens the legislative function of the parliament, shall not continue. This authority, an important means of limiting the legislative function of the parliament, shall be abolished, and the president's authority in law-making processes shall be limited to the power of returning draft laws to the parliament.

The formation and functioning of legislative committees directly affects the quality of legislative activities. In this respect, effective representation of the opposition in parliamentary committees shall be ensured, support services for MPs' legislative activities shall be enhanced, and committees shall be strengthened in terms of technical capacity. In addition, measures shall be taken to make the work procedures of the committees more functional.

It shall be ensured that the committee stage has a broader place in the negotiation of laws and the maturation of legal texts. To operate a higher quality law-making process, it shall be ensured that relevant non-governmental and professional organizations and experts are to be consulted during the discussion of proposals and drafts in the committees.

It shall be ensured in the rules of procedure that the discussions in the committees and the plenary are to be broadcasted live.

1.4. Strengthening the Oversight Authority of the Grand National Assembly of Turkey

The ability of the legislature to check the executive is a necessity to ensure the separation of powers as well as a condition for the sound functioning of the parliamentary system. This authority is intertwined with the goal of realizing democracy. Therefore, for a transparent and accountable administration, the tools that will enable the parliament to receive information from the executive on behalf of the nation and to hold the government accountable regarding the problems shall be enhanced and the existing tools shall be made more effective.



The verbal question mechanism shall be amended so as to impose the obligation to reply within a reasonable time frame, and this check mechanism shall be made effective.

Written questions mechanism shall be made effective too. If written questions are not answered in due time, sanctions shall be imposed on the relevant minister.

The authority to censure the government, the prime minister and the ministers shall be established. Motions of no confidence about the government and the prime minister shall be conditional on a constructive vote of no confidence.

General discussions and parliamentary investigation mechanisms shall be made effective. It shall be possible to have general discussions on topics identified by the opposition on 20 days of the legislative year. Thus, the Assembly shall be transformed into a deliberative body where opposition parties can make their voices heard and national issues are freely discussed and debated. A monitoring method shall be determined for the reports of the approved parliamentary investigation committees.

The parliamentary investigation mechanism shall be made effective both structurally and functionally. For this, parliamentary investigation shall be rendered effective by reducing the required quorums, and the parliament's supervisory authority shall be strengthened.

As a requirement of the principles of transparency and accountability, effective oversight of public institutions and organizations by the Assembly shall be ensured. For this oversight to be functional, public officials invited to parliamentary oversight meetings shall be required to honour the invitation.

It shall be ensured that the parliamentary review, investigation, and oversight committees are able to fulfil their duties effectively and efficiently by way of regulations regarding their structure and working procedures.



All political party parliamentary groups shall be represented fairly in the within the committees.

To ensure that the committee activities are carried out in accordance with the requirements, it shall be mandatory for everyone invited within the scope of parliamentary oversight to honour the invitation, the necessary budget shall be allocated to enhance the quality of the work of the committees, and the participation of experts and academics shall be ensured.

Furthermore, the definitions of “state secret” and “trade secret” shall be redefined so as not to hinder the parliament’s powers of obtaining information and oversight.

1.5. Inalienability of the Budgetary Right

To effectively oversee how the taxes are spent, the budgetary right of the parliament shall be set as an inalienable authority and the effective oversight of the GNAT shall be maintained. It shall be ensured that the budgets of the ministries and public institutions are discussed in the relevant committees before being debated in the Plan and Budget Committee.

In addition, a Final Accounts Committee shall be established in the GNAT and final account bills shall be discussed in this committee. The chairperson of the Final Accounts Committee shall be a member of the main opposition party.

All the Court of Accounts reports shall be submitted to the Final Accounts Committee.



2. A STABLE AND ACCOUNTABLE EXECUTIVE

In the strengthened parliamentary system, the executive shall consist of the president, who represents the state of the Republic of Turkey and the unity of the nation, is impartial, and does not have political accountability, and the Council of Ministers, which is the major and politically responsible wing of the executive, emerges from the legislature, and is accountable to the parliament. The positions of the prime minister, ministers, and the Council of Ministers altogether shall be strengthened and effective. Measures to ensure government stability shall be enhanced.

2.1. President

To detach the terms of office of the president and the parliament, the term of office of the president shall be set as seven years.

The office of the president shall be limited to one term to fully ensure the impartiality of the president before the different segments of society as well as all the parties in the parliament.

The office of the presidency shall be organized as an impartial authority representing the unity of the nation and state, having an authority with representative duties and powers as the head of the state. The person elected as the president shall cut all ties with their party, if any, and a former president, whose term of office has expired, shall not be able to take part in active politics afterwards.

Executive powers will be exercised by the Council of Ministers, which consists of the prime minister and the ministers, who have political accountability to the GNAT.

Actions, of an exceptional nature, that the president can take on their own shall be governed in the Constitution.

In parallel with the president's lack of executive power, their political nonliability regarding their duties shall be essential. However, the prin-



principles regarding the civil and criminal liability of the president shall be governed in the Constitution and the jurisdiction and procedure shall be clearly specified.

2.2. Council of Ministers

The prime minister shall be selected from among the members of the GNAT in accordance with the traditions and principles of the parliamentary system. In the selection of the prime minister, the president shall assign the political party with the most MPs in the parliament to form the government. If the government cannot be formed within the time stipulated in the Constitution, this task shall be assigned to the leaders of other political parties in order of their number of MPs.

The ministers shall be appointed by the prime minister from among the members of the GNAT or, if needs be, those who are qualified to be elected as MPs. The Council of Ministers shall meet under the chairmanship of the Prime Minister.

In accordance with the principle of parallelism in authority and accountability, the prime minister and the Council of Ministers shall jointly be accountable to the parliament. Accordingly, the prime minister and the ministers shall be individually and collectively held accountable to the GNAT.

To facilitate the formation of the government, a simple majority of the parliamentary vote shall be necessary for the establishment of the government, and the absolute majority of the total number of members of the GNAT shall be necessary for its removal from power.

Constructive vote of no confidence shall be combined with a no-confidence vote for the sake of stability, and the overthrow of the government shall be conditional on the election of a government by an absolute majority of the total number of members of the parliament. Thus, on



the one hand, the overthrow of the government is made more difficult, and on the other hand, possible government crises are prevented. The existing government cannot be overthrown without securing the establishment of a new one under the strengthened parliamentary system.

2.3. State of Emergency

The president or the Council of Ministers shall not have the authority to declare a state of emergency on their own. The authority to declare a state of emergency shall be vested in the Council of Ministers, which shall convene under the chairpersonship of the president. This authority will be subject to the approval of the GNAT.

As a requirement of the exceptional nature of the state of emergency, the periods envisaged for the state of emergency shall be shortened.

To prevent the state of emergency from turning into an arbitrary form of administration, emergency decree-laws shall not be allowed in Turkish legal system. Hence, necessary arrangements shall be made in the Law on State of Emergency to ensure that the state of emergency is maintained within the rule of law.





3. AN INDEPENDENT AND IMPARTIAL JUDICIARY

The independence and impartiality of the judiciary is the minimum condition for the realization of justice, the guarantee of the rule of law, and the guarantee of rights and freedoms. The Council of Judges and Prosecutors shall be restructured to ensure the independence and impartiality of the judiciary and to ensure that the judiciary organs can work quickly, effectively and efficiently, and make just decisions in the strengthened parliamentary system. In addition, the structures, independence and democratic legitimacy of high judicial councils and high judicial bodies shall be strengthened, and measures will be taken to prevent the interference of the executive body.

3.1. Judicial System and the Profession of Judges and Prosecutors

To establish the independence of the judiciary, a structural transformation shall be carried out in addition to the constitutional and legal amendments.

The tenure of office of judges shall be strengthened, and an appointment location guarantee shall be provided for judges.

The activities of judges and those of prosecutors shall be separated from each other for full independence.

The constitutional provision stating that judges are affiliated with the Ministry of Justice in terms of their administrative duties shall be abolished.

A transition between the positions of judges and prosecutors shall be possible only with the consent of the person concerned.

A judicial law enforcement organization shall be established under the Office of the Chief Public Prosecutor.



The admission into the profession and promotion of judges and prosecutors shall be based on objective criteria.

Special trial procedures and special courts shall be terminated.

The duties, powers and functioning of the criminal courts of peace shall be reformed in accordance with the requirements of the rule of law.

Necessary measures shall be taken to meticulously implement the principle of 'detention as an exception'.

To enhance the quality of legal education, the number of law faculties shall be reduced, and comprehensive improvements shall be made regarding the academic staff and curricula.

The principle of equality of arms shall be applied between the prosecution and the defence at every stage of the trial and in the layout of the courtrooms.

The implementation of the judgments of the European Court of Human Rights and the Constitutional Court is one of the most important requirements of the rule of law and the supremacy of the constitution. Failure to implement these judgments or delaying their implementation poses serious problems in terms of legal security. Therefore, arrangements shall be made to ensure that judgments of the lower courts are adopted in line with the Constitutional Court and the European Court of Human Rights case law and that the judgments made by these courts are immediately implemented.

To ensure that the judges act carefully in making their judgments, one of the fundamental criteria for the promotion of the judges shall be the compliance of their decisions with the Constitutional Court and the European Court of Human Rights case law.

It shall be ensured that the damage compensations that Turkey must pay due to the judges and prosecutors abusing their powers and leading to the Constitutional Court or the European Court of Human Rights to



rule that there has been a violation of rights pass through to the judges and prosecutors who have caused this.

3.2. Council of Judges and Prosecutors

The professions of judges and prosecutors, which have different functions and positions within the judicial system, shall be separated. The Council of Judges and Prosecutors shall be abolished, with a Council of Judges and a Council of Prosecutors set up as separate bodies in its lieu. Thus, distinct regulations and assurances shall be created for each occupational group in accordance with the requirements of their tasks.

Election of members to high judicial councils is important to ensure the independence and impartiality of the judiciary. Therefore, half of the members of high judicial councils shall be elected by the GNAT by a two-thirds majority to ensure pluralism, accountability, and democratic legitimacy. If the qualified majority requirement cannot be met, the members shall be selected by drawing lots. The other half of the members shall be directly elected by the Court of Cassation, the Council of State, the Union of Turkish Bar Associations, and first-class judges and prosecutors in the civil and administrative judiciary from among their own members.

To strengthen the principle of independence, the minister of justice and their undersecretary shall not be members of the Council of Judges.

As a requirement of the rule of law, the disciplinary decisions of high judicial councils shall also be open to judicial review.



3.3. Bar Associations and the Union of Turkish Bar Associations

Legal practice, as one of the basic elements of the judicial process, is of vital importance for access to justice, protection of fundamental rights and freedoms, and the maintenance of the legal order. Due to its importance, it shall be ensured that legal practice is carried out independently and freely. Hence, a fundamental element of the judiciary, the defence (legal practice) shall be provided with constitutional guarantees.

The presence of multiple bar associations in a single province shall be terminated.

The principle of fairness in representation shall be observed in bar association and Union of Turkish Bar Associations elections.

3.4. Constitutional Court

The Constitutional Court is the guarantor of the constitutional order and fundamental rights and freedoms. Due to its importance, the duties and powers of the Constitutional Court shall be expanded, and the Court shall be restructured for strong and effective oversight. For fundamental rights and freedoms to be protected more strongly, the scope of individual application shall be expanded in terms of subjects and rights covered.

Legal entities shall be granted the right to individual application as well. The Constitutional Court shall also be authorized in matters of dispute between governmental bodies. Thus, legislative, executive, judicial organs, political parties, or any other institution whose activities are regulated in the Constitution shall be able to apply to the Constitutional Court with the claim that another constitutional body or institution has exceeded its constitutional powers.

In the face of the increasing workload of the Court, the working proce-



dures shall be improved, and the number of departments and members shall be increased.

One of the factors affecting the independence of the Constitutional Court is the method by which its members are elected. Hence, it shall be ensured that the members of the Constitutional Court, apart from three, are elected by the parliament from among three times as many candidates as members identified by the Council of State, Court of Cassation, Court of Accounts, the Union of Turkish Bar Associations, and the Inter-University Council by a two-thirds qualified majority vote.

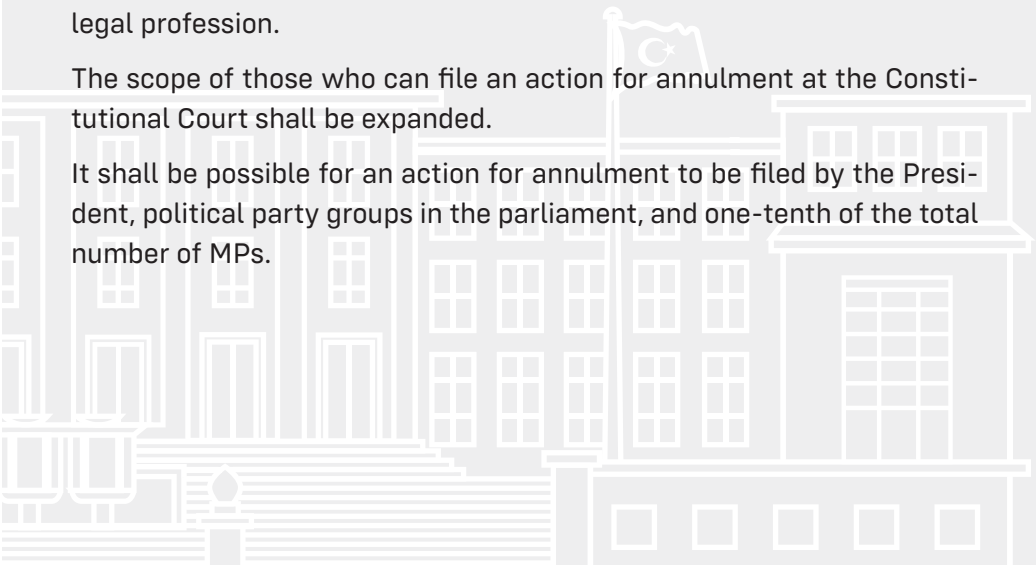
Three members shall be selected by the President from among senior public officials, academics, self-employed lawyers who have practiced their profession for at least 15 years, first-class judges and prosecutors, and rapporteurs of the Constitutional Court who have worked in that position for at least 5 years.

Candidates to be identified by the Court of Cassation, the Council of State and the Court of Accounts must have served as a member of a high court for at least 5 years.

At least three-quarters of the members of the Court shall be from the legal profession.

The scope of those who can file an action for annulment at the Constitutional Court shall be expanded.

It shall be possible for an action for annulment to be filed by the President, political party groups in the parliament, and one-tenth of the total number of MPs.





3.5. Council of State and Court of Cassation

Members of the Court of Cassation shall be elected by the Council of Judges and the Council of Prosecutors.

The Chief Public Prosecutor and Deputy Chief Public Prosecutor of the Court of Cassation shall be elected by the General Assembly of the Court of Cassation.

Three-quarters of the members of the Council of State shall be elected by the Council of Judges and the Council of Prosecutors, and one-quarter by the GNAT by a two-thirds majority.

Members of high judicial bodies shall be able to remain in office until their age limit expires.

3.6. Supreme Electoral Council

Debates about the legal nature of the Supreme Electoral Council stem from various problems that have been experienced so far. For this reason, the Supreme Electoral Council shall be specified as a high court within the judiciary section in the Constitution, and the nature of the Council shall be clarified.

The Supreme Electoral Council shall be divided into two departments, administrative and judicial.

The Council shall act as a high judicial body for judicial matters as regards its mandate, i.e., in passing judgments over objections to decisions taken by the Council in its administrative capacity.

3.7. Court of Accounts

Acting on behalf of the GNAT to ensure accountability as a requirement of the rule of law, the Court of Accounts shall be specified as a high



court in the Constitution. The principles regarding the establishment and functioning of the Court of Accounts shall be constitutionally guaranteed. In an accountable and transparent management approach, the scope of the Court of Accounts audit shall be expanded to include all public institutions and organizations.

All its members shall be elected by the parliament by a two-thirds majority.

► **B. STRENGTHENING THE DEMOCRATIC RULE OF LAW**

The requirements of law and democracy can only be fulfilled in a system where the individual and civil society are strengthened, fundamental rights and freedoms are fully guaranteed, freedom of expression and the press is ensured, the principle of equality before the law is implemented, environmental values and rights are protected, and social justice is realized.

Thanks to the strengthened parliamentary system,

- Turkey will be a country where a pluralistic, participatory, and liberal democracy reigns.
- Through this system, Turkey will become a country where the rule of law prevails, everyone has a decent life, and the highest social welfare standards are achieved.
- Turkey will be a country where women, children, youth, and all citizens look to the future with hope and live in social peace.
- Public administration shall achieve a legal, merit-based, accountable, and sustainable structure.



1. FUNDAMENTAL RIGHTS AND FREEDOMS

With the strengthened parliamentary system, the requirements of the rule of law and a pluralist democratic society shall be met. A free and democratic Turkey shall be built where fundamental rights and freedoms that are enshrined in international conventions and universal values, primarily the freedom of expression and of the press are guaranteed, individuals and civil society are strengthened, environmental rights and sustainability are achieved, and gender equality is materialized.

Fundamental rights and freedoms will be guaranteed for all people regardless of language, religion, sect, race, gender, political or social affiliation, and our domestic law shall be made compatible with international standards. All practices that create a feeling of marginalization shall be eliminated.

1.1. Freedoms of Thought, Expression, Assembly, Demonstration, and Association

Constitutional and legal guarantees regarding fundamental rights and freedoms shall be provided based on a pluralist and liberal understanding of democracy, and practices that hinder the exercise of rights and freedoms shall be ended.

Legislation that impedes or disproportionately restricts the freedoms of thought, expression, assembly, demonstration, and association shall be reformed, and all kinds of pressure on these freedoms shall be ended in accordance with the requirements of a democratic society.

In accordance with the established case law of the Constitutional Court and the European Court of Human Rights, freedom of expression cannot be restricted except in cases of incitement of violence, hate speech or attacks on personal rights.



Internet legislation shall be reformulated in a way that does not restrict freedom of expression and does not violate personal rights in accordance with international standards.

The legislation on the right to assembly and demonstration shall be reformed in light of the Constitutional Court and the European Court of Human Rights case law, and the arbitrary use of the requirement for the notification of the administration before the demonstration shall be prevented.

1.2. Freedom of Religion and Conscience

The democratic secular state with the rule of law, which guarantees freedom of religion and conscience, is the basis of a pluralistic society. A system shall be built where everyone's belief, opinion, and lifestyle respected, people live freely regardless of their religion, belief and lifestyle, and everyone participates in social, public, and political life equally with their own identity and as themselves.

1.3. Women's Rights

Women are faced with enormous challenges in terms of participation in education, work life, and decision-making mechanisms. Strengthening the social, political, and economic status of women is essential for the construction of a pluralistic democratic political system and a strong social structure.

For this purpose, ensuring and protecting the equality of men and women in all areas of society and life and in all decision-making mechanisms shall be made a priority of state policy with the necessary legal and structural setup.



Violence against women shall be effectively combated, and the provisions of international conventions and national legislation shall be implemented effectively for the prevention of violence. Necessary amendments shall be made in the Turkish Penal Code regarding crimes against women. Deterrent penalties shall be identified for the perpetrators, the immediate implementation of the penalties shall be ensured by preventing the conversion of the penalties into alternative sanctions, and the reasons for remission shall be reformed.

Human rights and gender equality courses shall be included in the education curriculum starting from the first grade of primary school.

Girls' right to education shall be guaranteed and all obstacles to access to this right shall be removed.

Necessary arrangements shall be made for secure work for women, equal pay for equal work, and work and life balance for a fair professional life in line with international standards.

1.4. Freedom of the Press

Freedom of the press shall be guaranteed, and a safe, pluralistic, and enabling environment shall be provided in which the press can function freely. For this, the legislation that passed for justifying criminal investigations against journalists shall be reformed in line with the case law of the Constitutional Court and the European Court of Human Rights.

TRT and Anadolu Agency shall be restructured in accordance with the principles of independence and impartiality, and it shall be ensured that these institutions perform their duties properly. Arbitrary press accreditation decisions shall be prevented, and professional organizations shall be in charge of the issuance of press cards and admission to the profession.

Media ownership and financing shall be made transparent, and legal and structural measures shall be taken to prevent monopolization and



cartelization in the media. To prevent monopoly and cartel formation in the press and to supervise media outlets, the Competition Authority shall be given competence for ex officio inspection.

For the Radio and Television Higher Council to fulfil its duties independently and impartially, legal and structural changes shall be made, and the administrative and financial independence of the Council shall be guaranteed. The members of the Council shall be elected by the Grand National Assembly of Turkey by a qualified majority from among experts in the field and representatives of professional organizations to ensure pluralism in the membership.

The Press Advertisement Agency shall be restructured, and the election of its members shall be reformed in accordance with the freedom of the press, and legal and structural changes shall be realized so that the Agency can fulfil its duties independently and impartially.

1.5. Civil Society

Civil society is an essential element of the democratic life.

Discrimination and oppression against civil society organizations shall be ended, and a safe, pluralistic, and favourable environment shall be created in which these organizations can operate freely. Regulations that arbitrarily impede the activities of civil society organizations shall be abolished, and regulations shall be made in accordance with the requirements of a democratic society.

Civil society organizations shall participate in the decision-making processes and the work of the public organizations shall be based on an "open door policy". An equal, fair, and transparent method shall apply for these organizations to benefit from supports such as public benefit status and tax exemption.



1.6. Social Rights

Taking measures that ensure that each of our citizens can lead a decent life is a mandatory requirement of the welfare state. Thus, a fair distribution of wealth shall be ensured, and social rights and state aids shall be strengthened as a right-based obligation worthy of human dignity. Barriers to the full participation in all areas of social life of our citizens with disabilities, including work life, shall be removed.

1.7. Environmental Rights and Sustainability

The right to be born into a world with a healthy ecosystem is the right of future generations. However, the global ecological crisis has become a more visible problem than ever with its rapid and devastating effects. The ecological crisis causes myriad problems such as deforestation, increased greenhouse gas emissions, depletion of finite resources, pollution of water resources, desertification, flooding, and climate change, leading to a great destruction of all living life and nature as well as affecting current and future generations.

Indeed, the climate crisis, extreme weather events, the destruction of ecosystems, food security, and the destruction of clean water resources stand out as the main issues threatening humanity in the 21st century.

For this purpose, constitutional and legal provisions regarding environmental rights shall be aligned with international law, and the obligations of the state on natural life resources and environmental protection shall be explicitly stipulated in the Constitution.

To protect public health and welfare, the state shall be obliged to protect drinking water resources, agricultural land, forests and animals, to fight against other regional climate crises, especially air and sea pollution and desertification, and to ensure orderly urbanization.

Effective arrangements shall be realized to achieve the goal of limiting the increase in global average surface temperature to 2 degrees and



keeping it below 1.5 degrees, if possible, as stipulated in the Paris Climate Agreement, to which we are a party. For this purpose, the share of renewable energy and climate-friendly technologies in the energy system shall be increased. Transformations shall be realized in various sectors such as industry, transportation, construction, agriculture, and waste management to achieve climate targets. Effective measures shall be taken to achieve these targets.

Starting from pre-school education, a strong environmental awareness shall be raised aiming to create practical habits in individuals, and social awareness on environmental problems shall be enhanced.

In the judicial system, environmental courts where judges specialized in environmental matters serve shall be established.

2. PUBLIC ADMINISTRATION

In the light of the changes to be made in the formation and structure of the executive body, a fair and impartial public administration shall be established. The administration shall be transparent and accountable, the authorities and responsibilities of local administrations shall increase, and legal and structural arrangements shall be put in place to fight corruption.

2.1. Principles of Public Administration

Public administration shall be organized in a citizen-oriented manner following the principles of equality, impartiality, merit, legality, effectiveness, and transparency.

Good governance shall be established by fulfilling the requirements of the principles of openness, transparency, auditability, and accountability at all levels of government.



Following a review of their functions and activities, all public institutions shall be restructured according to relevant needs. The operations of all parallel or duplicate public institutions shall be ended.

The number of women administrators in public administration shall increase.

2.2. Meritocracy and Interviews in Public Service

Meritocracy and equality shall prevail at all levels of recruitment to public office, and transparency shall be ensured.

The practice of holding interviews shall be terminated and written exam results shall be taken as a basis for success. Personnel shall be recruited starting with the person with the highest score in the written exam. The cases where verbal interviews would be mandatory due to the nature of the work to be performed shall be provided for in the law. In the verbal exams, the questions to be posed to the candidates shall be determined by drawing lots, and the verbal exams and interviews shall be recorded. In accordance with the understanding that every action of the administration is subject to judiciary review, these records shall be taken into account by the judiciary in case the relevant person takes legal action against the examiners.

2.3. Effective Fight Against Corruption

In order to fight corruption effectively, social awareness and sensitivity shall be raised, and the anti-corruption legislation shall be fully aligned with the recommendations of the Group of States Against Corruption (GRECO). Administrative, judicial, and parliamentary reviews shall be rendered more effective.

National supervisory standards shall be set to improve the effectiveness of inspections against corruption.



The Public Procurement Law shall be renewed, and the tender legislation shall be consolidated in a single law. It shall be ensured that the tender and procurement processes are open to the public. The exceptions and exemptions that practically obliterate competition in public procurement and tenders, make competitive tenders an exception and arbitrariness a rule, and keep the door of corruption open shall be abolished. In public tenders, the principle of equality shall be followed at every stage of the tender as well as afterwards.

The Financial Crimes Investigation Board (MASAK) shall be restructured to make it more effective in the fight against financial crimes.

2.4. Local Administrations

Powers and mandates of local administrations shall be enhanced by considering local needs, population growth, environmental problems, diversity in the demands and expectations of the citizens, and efficiency and effectiveness in public services.

As a requirement of good governance in local administration, the principles of democratic participation, transparency, and accountability shall be dominant. The limits of the central government's administrative control over local administrations shall be clearly defined, and a new central-local balance shall be set by ending the tutelary practices in the form of review of expediency.

Income streams of local administrations shall be reorganized, with borrowing no longer being the main source of income. The share the local administrations receive from the general budget shall be increased and they shall be given the opportunity to raise their own resources.

It shall be ensured that the elected only leaves by another election: The practice of appointing trustees to local administrations, which completely undermines the right to vote and be elected, shall be ended.



It shall not be possible for the term of office of elected administrators to be terminated unless in the absence of a judicial ruling. Temporary dismissal of local administrators, about whom investigations have been initiated due to abuse of power, shall also only be possible with a judicial ruling. Should a mayor lose their eligibility for election or be temporarily dismissed, the replacement mayor shall be elected by the municipal council.

The principle of openness to the public of all meetings of the councils of local administrations shall be institutionalized.

It shall be ensured that the decision-making processes bearing importance for the future of the city will see the participation of mukhtars (elected village and neighbourhood chiefs), professional associations, civil society, and scientists.

2.5. Academic Freedom and Universities

The inhibition of scientific output and free thought in higher education shall be ended, and a free and pluralistic system shall be established. The quality of research and education shall be enhanced, and the necessary guarantees shall be provided for the establishment of academic freedom. In addition to the scientific autonomy of universities, their administrative and financial autonomy shall be constitutionally guaranteed too.

The Council of Higher Education shall be abolished and replaced by an inter-university board whose mandate is limited to the task of coordination and whose members are elected in democratic legitimacy.

Rector and dean appointments shall be reformed. Faculty members shall elect the rector of their own university from among the candidate faculty members. Deans shall be appointed by the rector following an election by faculty members. Candidate deans' fields of specialization shall be in line with the domain of the relevant faculty.



2.6. Regulatory and Supervisory Bodies

To ensure good governance in the formation and operations of regulatory and supervisory bodies, the principles of meritocracy, transparency, impartiality, pluralism, accountability, and accessibility shall be followed. These bodies shall be given administrative and financial autonomy. Legal and structural measures shall be taken to establish the independence of the bodies and to protect them against executive interference.

Criteria that will objectively be compatible with the qualifications sought in the members to be appointed to the bodies shall be identified. The members and the heads of the institutions performing the functions of identifying and implementing monetary and fiscal policies shall be selected by the Council of Ministers based on expertise. The foregoing shall only be appointed for a maximum of two terms. It shall be ensured that these officials will not be dismissed except for reasons such as resignation, illness, etc. It shall be ensured that the parliament plays a more salient and effective role in the appointment to bodies other than the aforementioned and in the oversight of these institutions.

Detailed legal regulations shall be made about the prohibitions to which the personnel of regulatory and supervisory authorities are subject and about the conditions under which they can be employed in public-related sectors following their departure from office.

No practice or regulation that would harm the independence of regulatory and supervisory institutions, especially the Central Bank of the Republic of Turkey, shall be allowed.

Legal and structural measures shall be taken to ensure the full independence of the Central Bank of the Republic of Turkey, and the instrumental and operational independence of the bank shall be protected against political interference. The Central Bank shall be the sole decision maker in the implementation of monetary policy.



The Ombudsperson Institution shall be equipped with the powers of auditing and ex officio investigation of all public institutions and organizations, and the independence of the institution shall be established. The ombudsperson shall be elected by the parliament by a qualified majority.

The Human Rights and Equality Institution shall be restructured as an autonomous and specialized human rights protection and promotion institution in accordance with the “Paris Principles”.

Measures shall be taken to ensure that the Personal Data Protection Board performs its functions effectively and efficiently within the scope of developments in the international arena and the General Data Protection Regulation (GDPR) of the European Union.

3. POLITICAL ETHICS LAW

Transparency in politics could not be ensured, bribery and corruption could not be prevented due to the inadequacy of the legislation to prevent the corruption of MPs, ministers, public officials, and political office holders and the non-implementation of existing provisions. Therefore, in the strengthened parliamentary system, a Political Ethics Law shall be drafted to regulate the political ethical principles with which the MPs, ministers, political party administrators, and mayors must comply while performing their duties.

This law shall be drafted in line with the European Union acquis and principles as well as the Group of States against Corruption (GRECO) recommendations and cover such issues as the code of conduct of the aforementioned officials, activities in which they might be engaged that are incompatible with their duties, asset declarations, obligation for declaration in case of conflict of interest, ban on receiving gifts, and an effective supervision and sanctions system.

It shall be ensured that the persons covered by this law will be adhering to the principles of justice, equality, integrity, non-discrimination, ob-



jectivity, openness, transparency, accountability, protection of general interest in the performance of their duties. Furthermore, it shall be ensured that they will not abuse their position, title, or authority for personal benefit, and will abstain from cases of conflict of interest and influencing legislative activities.

Persons covered by the law shall be prevented from abusing their mandate, titles, or authority to intercede, unethically, on behalf of their acquaintances or third parties, from favouring their relatives, spouse, friends, or other acquaintances, or from discriminating against anybody for any reason.

Persons covered by the law shall not be able to discriminate anybody in their dealings on grounds of language, religion, sect, philosophical belief, political thought, race, gender, regionalism, or similar reasons, and shall not be able to engage in actions and discourse that are contrary to fundamental rights and freedoms, and behaviours and practices that prevent equality before the law.

The period of renewal of the asset declarations of persons covered by the law shall be shortened, and it shall be specified that they submit an asset declaration for every 2 years. By expanding the scope of the declaration obligation, individuals shall be obliged to notify the relevant authority of situations that create or may create a conflict of interest regarding their duties, the opportunities offered to them, the areas of use of these opportunities, and any engagement related to their tasks.

It shall be ensured that the members of the Grand National Assembly of Turkey and the ministers observe public interest in their conduct and avoid the conflict of personal interest and public interest.

Remunerative dealings incompatible with the duties of the members of the Grand National Assembly of Turkey shall be regulated openly, and the obligation to declare shall be imposed on the income they derive from such dealings. Members of the Grand National Assembly of Turkey



shall be prevented from being assigned to official or private affairs subject to the proposal, assignment, appointment, or approval of the executive body.

MPs may engage in self-employment and individual business activities, provided that they declare their income from such activities during their term of office. However, they shall not be allowed to use their parliamentary titles in performing such activities.

Ministers shall not be able to engage in self-employment and individual business activities during their term of office.

In cases where MPs and ministers receive fees or donations in return for speeches or participation in events, they shall be required to declare such fees or donations if they are above a certain threshold.

MPs and ministers shall be obliged to declare gifts with a value of above 1/10 of the minimum wage. They shall be prevented from using their mandate as a means of providing benefits for themselves or their acquaintances. Exceptions to the prohibition of accepting gifts shall be clearly specified in legislation.

An effective inspection system shall be established to verify the accuracy of the declarations of persons covered by the law.

An institutional setup shall be established for the effective implementation of political ethical principles. Political ethics committees shall be established within the political parties that have groups in the GNAT.

A Political Ethics Committee shall be set up within the parliament. The Committee shall be responsible for conducting informative sessions on political ethics for parliamentarians and ministers and examining objections to applications examined by the political ethics committees.

The committee, in which all the political parties that have a group in the parliament shall be represented according to their share of vote, shall be able to conduct examinations and investigations ex officio or upon ap-



plication. Anyone can apply to the Committee with concrete information and findings about events and persons.

The Committee shall elect a chairperson, two vice-chairpersons, a spokesperson, and a rapporteur from among its members, based on the percentages of the political party groups. The election can take place with the quorum of an absolute majority of the members and shall be conducted in secret ballot. The members receiving the absolute majority of the votes of the attendees shall be elected.

If it is determined by the Committee that the MPs or ministers have acted in violation of ethical principles, it may be decided that they will be warned, reprimanded, imposed an administrative fine, or not be able to take part in the delegations that represent the Grand National Assembly of Turkey for a period of time. The relevant provisions of the Law no. 3628 on Declaration of Assets and Fight against Bribery and Corruption shall be applicable for members of the Grand National Assembly of Turkey who violate the obligation to declare their assets. The General Assembly may decide dismissal of the membership upon the report of the commission that determines the situation about those members who insist on undertaking any service or duty that is incompatible with the membership.







