

LAW ON THE ESTABLISHMENT AND FUNCTIONING OF COURT OF JURISDICTIONAL DISPUTES

Law Number : 2247

Date of Adoption: 12/06/1979

Date of the published Official Gazette : 22/06/1979

Number of the published Official Gazette Including the Law (RG No.) : 16674

CHAPTER ONE: BASIC PRINCIPLES

JURISDICTION OF THE COURT:

Article 1 - Court of Jurisdictional Disputes is an independent court empowered to conclusively settle the jurisdictional and adjudicational disputes between judicial, administrative and military judicial authorities assigned by the Constitution of the Republic of Turkey and conducting adjudication following its establishment on this legal basis.

In accordance with the Special Law, in cases when recouring to arbitration is compulsory, this authority is assumed as one of the judicial or administrative judicial authorities indicated in the above paragraph in compliance with the subject of case, on condition that the duty of arbitration is performed by the juDepartment Generale.

ESTABLISHMENT OF THE COURT:

Article 2 - Court of Jurisdictional Disputes is consisted of a President along with twelve full and twelve substitute members.

The Court is divided into general departments of civil and criminal law. Civil disputes are settled in DEPARTMENT GENERAL of Civil Cases whereas criminal disputes are settled in DEPARTMENT GENERAL of Criminal Cases subsequent to their adjudication.

Each DEPARTMENT GENERAL is composed of a President and six full members. Civil and Criminal Departments sitting in plenary constitute the General Board of the Court.

General Board of Court of Jurisdictional Disputes carries out the duties specified by this Law and further more determines the general department empowered in the negative jurisdictional disputes arising between the General Departments.

President of the Court is elected from among full and substitute members of the Constitutional Court. General Departments and the General Board convene in affiliation to the Presidency of Court of Jurisdictional Disputes.

ADMINISTRATION AND REPRESENTATION

Article 3 - (Amended Art.: 23/07/2008 – Art. 2 of the Law No. 5791) Administration and representation of Court of Jurisdictional Disputes is within the President's competence. In the event of the Presidency's vacancy, an excuse or permit on behalf of the President, the duties

and powers of the President of Court are fulfilled and exercised by the Vice President elected and assigned from among full and substitute members of the Constitutional Court itself.

TERMS OF OFFICE, CALCULATION OF TERMS AND TIME OF ELECTIONS:

Article 4 - Amended Art.: 23/07/2008 – Art. 3 of the Law No. 5791)

President, Vice President and members of Court of Jurisdictional Disputes are elected for a term of four years. Date of commencement of office is taken as basis for the calculation of this term of four years.

Elections are held in order to provide placements in lieu of vacancies due to expiration of office terms within two months before the date on which this time period terminates; whereas within two months' time prior to the date of retirement of the person concerned in case of retirement due to expiration of age limit; regarding the vacancies coming into existence before lapse of office terms, an election is held as of the date when the vacancy arose.

Elections are re-held in the event of termination of office terms.

PLACE AND DATE OF COURT SESSIONS AND SESSION TERM:

Article 5 - The President urges Civil and Criminal Departments and General Board of Court of Jurisdictional Disputes to convene in the venue allocated for the court in the capital city. Agenda of the session is distributed to members and Chief Prosecutors dealing with jurisdictional disputes or spokespersons for the President at least three days before the session.

The President takes the measures required for execution of urgent incoming cases such as persons under arrest, on whom there is a measure imposed and cases concerning the requests for stay of execution before the end of judiciary recess period.

(Amended paragraph: 08/08/2011 – Art. 3 of the Decree With The Power of Law No. 650)
Civil and Criminal Departments of Court of Jurisdictional Disputes recede into nonterm from twentieth of July to thirty-first of August every year and take office on the first day of each September.

SUBMITTAL OF OPINION STATEMENTS BY CHIEF PROSECUTORS AND THEIR PARTICIPATION IN THE SESSION:

Article 6 - (Amended Art.: 21/01/1982 – Art. 3 of the Law No. 2592)

Chief Prosecutors concerned and the assistants they are to assign submit their written statements of opinion either at their discretion or in cases deemed necessary by the Court or make oral statements during the sessions, they do not cast votes.

CONDITIONS WITHOUT PERMIT AS REGARDS EXECUTION AND HANDLING OF CASES:

Article 7 - President and Members of the Court of Jurisdictional Disputes shall not judge the following cases and affairs;

1. Cases or matters of their own or of concern to them;
2. Cases and matters concerning their spouses even though there is no longer an affinity by marriage, the persons in their descending line with respect to blood and marriage affinity, in cases of kinship by blood up to the fourth degree (including the degree) and as for affinity by marriage, close relatives or descendants of third degree (including the degree);
3. Cases and matters in which they act in the capacity of attorney, guardian or trustee for plaintiffs and petitioners;
4. Cases and matters they dealt with their capacity as judge, prosecutor, arbitrator or on which they have submittal of statements as witness or expert;
5. Cases regarding which they have prior consultative consideration and opinion.;

ABSTENTION:

Article 8 - In the event that President and members of Court of Jurisdictional Disputes make a request to abstain from dealing with a case or work on the grounds provided in Article 7, the Court conclusively decides on the issue without seeking the participation of the President and members requesting their abstention.

In case of an abstention request by the President and members in a number sufficient to prevent the Board of Court from convening, the abstention requests of the President and members shall be accepted, on condition that their numbers will not influence the quorum.

REJECTION OF THE COURT PRESIDENT AND MEMBERS

Article 9 - President and members of Court of Jurisdictional Disputes may be rejected on account of existence of conditions justifying the conviction that they will no longer display any impartiality.

Requests for the rejection of President and members of Court of Jurisdictional Disputes are reviewed by the departments in default of appearance of the rejected member of Court. The departments render the final judgement as regards the rejection.

Rejection is personal. Collective requests for rejection preventing the session are not taken into consideration.

CHAPTER TWO: PETITIONING AN APPLICATION TO COURT OF JURISDICTIONAL DISPUTES AND PRINCIPLES FOR EXAMINATION

AROUSAL OF POSITIVE JURISDICTIONAL DISPUTES:

Article 10 - Raising a positive jurisdictional dispute is a request submitted to the Court of Jurisdictional Disputes by the related Chief Prosecutor or Chief Law Officer for the review of jurisdiction at issue upon rejection of objection of a jurisdictional duty contended in a case filed before a judicial, administrative and military authority of judiciary.

For a competent Chief Prosecutor or Chief Law Officer to submit a request to the Court of Jurisdictional Disputes, the jurisdictional objection must be raised in the first session at the latest in civil courts, whereas before presenting the evidentiary materials in criminal courts, as for administrative venues of judiciary, prior to the completion of petition and defence phase; besides, it is obligatory that the venues of judiciary also judge for their own jurisdiction.

In case of a decision of lack of jurisdiction rendered by the judicial authority reasoning its grounds as proper, a review to be conducted by the Court of Jurisdictional Disputes on the jurisdiction depends on the reversal of this judgement subsequent to an appeal and the existence of a decision rendered by the judicial authority for the jurisdiction upon compliance with the reversal.

The authority empowered to request for a dispute is the Chief Public Prosecutor, provided that the objection rejected concerning lack of jurisdiction is raised in favour of the judiciary, spokesperson for President of the State Council has competence, in case no jurisdiction is contended in favour of administrative judiciary and if contended for the criminal judiciary of military, Chief Public Prosecutor of the Military Supreme Court of Appeals; as for an objection raised in favour of administrative judiciary of military, spokesperson for the President of that specific Court are empowered to submit a request for jurisdictional disputes.

In criminal cases where the rejection judged for the objection to jurisdiction is open to legal action, no such request shall be submitted before finalization of the judgement of rejection.

CONDITIONS ON WHICH NO DISPUTE SHALL BE RAISED:

Article 11 - No jurisdictional dispute is in question in the following cases:

- a) Cases dealt by the Constitutional Court in its capacity as the Grand Council.
- b) Closure cases of political parties filed at the Constitutional Court.

PROCEDURES TO BE CONDUCTED BY THE JUDICIAL AUTHORITY

Article 12 - (Amended paragraph: Art. 4 of the Law numbered 5791 dated 23/07/2008) On condition that the competent authority does not render a decision of lack of jurisdiction by abolishing the decision on rejection to objection rendered upon receipt of an appeal petition; it transmits the petition submitted for the purposes of transfer to related authority, the response given and its decision on the rejection of objection to lack of jurisdiction to the authority empowered to submit for raising a jurisdictional dispute, together with certified copies of content in the case document.

One application shall solely be lodged for raising dispute in a case.

PROCEDURES TO BE FULFILLED BY THE COMPETENT AUTHORITY EMPOWERED TO SUBMIT FOR RAISING A JURISDICTIONAL DISPUTE:

Article 13 - (Amended subparagraph: Art. 5 of the Law numbered 5791 dated 23/07/2008)
The competent authority receiving the petition and its attachments contending a jurisdictional dispute rejects the request if it deems necessary after the completion in the petition or

documents attached , on condition that it concludes existence of no grounds for raising a dispute or identifies a lapse of time prescribed in paragraph 1 of Article 12 concerning the application lodged. This judgement is promptly notified to the persons or authority concerned and the related judicial authority. No application is to be lodged to any authority of judiciary against this judgement.

As for cases where contending a jurisdictional dispute is deemed necessary, the competent authority transmits its statement of opinion including reasons justifying its views, prepared no later than ten days as of the date when deficiencies are eliminated, to The Court of Jurisdictional Disputes along with the petition and documents appended thereto, if the authority at issue has resorted to completion of deficiencies as of submittal of the petition and its attachments and transmitted the letters issued on this purpose to mail delivery within ten days and further more informs the related judicial authority of its application to the Court of Jurisdictional Disputes without delay. (Added clause: Art. 5 of the Law numbered 5791 dated 23/07/2008). In this case, the related judicial authority postpones execution of the case as provided in Article 18.

NEGATIVE JURISDICTIONAL DISPUTE:

Article 14 - For contending the existence of a negative jurisdictional dispute, at least two parties amongst judicial, administrative and military authorities of judiciary, as regards a case whose subject and reason are the same, their consideration concerning a lack of jurisdiction and finalization or conclusiveness of the decisions rendered are required.

Request for eliminating a jurisdictional dispute shall only be made by the parties involved in the case, as for criminal litigations, contests shall also be put forward by the related authorities.

YARGI MERCİİNCE YAPILACAK İŞLEMLER:

Article 15 - (Amended article: Art. 4 of Law No. 2592 – 21/01/1982; Amended article : Art. 6 of Law No. 5791 dated 23/07/2008)

Case documents on negative jurisdictional disputes are transmitted to the Court of Jurisdictional Disputes by the judicial authority rendering the final judgement on lack of jurisdiction after the finalization of this judgement, directly in criminal cases, as regards the other cases, upon the request of one of the parties by obtaining the case file belonging to the authority of judiciary rendering the initial judgement on lack of jurisdiction and indication of the judicial authority having jurisdiction is requested.

UYUŞMAZLIK MAHKEMESİNCE YAPILACAK İŞLEMLER:

Article 16 - (Amended article: Art. 5 of Law No. 2592 – 21/01/1982)

Court of Jurisdictional Disputes renders its own decision indicating the competent authority of judiciary, both at the stage of preliminary examination of the files related to negative jurisdictional disputes and in cases where it deems necessary by receiving the statements of opinion of related Chief Prosecutors as well.

ACTIVITIES TO BE CONDUCTED BY COURT OF JURISDICTIONAL DISPUTES:

Article 17 - A positive jurisdictional dispute comes into existence when both judicial authorities separate in terms of their affiliation to judicial, administrative and military judiciary, before which cases whose parties, subjects and causes are the same, are filed render decisions for acceptance/recognition of their own jurisdiction; as regards criminal cases in which objection to decisions for jurisdiction is raised, finalization of these decisions is required.

(Amended paragraph: Art. 7 of Law No. 5791 - 23/07/2008) The authority of judiciary, to which one of the parties as well as the related authorities in criminal cases lodge an application through a petition to be prepared in copies outnumbering the parties by two for the request of elimination of a positive jurisdictional dispute;

a) promptly informs the other judicial authority of a copy of the petition and its attachments, if there are any, by a letter and asks for the transmittal of the case file.

b) notifies the adverse party and related authorities of the other petitions and the appended documents, if any, so as to be given a response in respect thereof within seven days.

c) transmits the petition, responses received and their attachments, if any, as well as case files to the Court of Jurisdictional Disputes and requests indication of the judicial authority having jurisdiction.

(Repealed third paragraph: Art. 9/2592 of Law dated 21/01/1982)

(Added paragraph: Art. 7 of Law No. 5791) In this case, both authorities of judiciary postpone the execution of case as prescribed by Art. 18.

AWAITAL OF DECISIONS BY COURT OF JURISDICTIONAL DISPUTES AND STAY OF EXECUTION AS REGARDS TIME PERIODS:

Article 18 - The judicial authority to which an official letter informing the application lodged to the Court of Jurisdictional Disputes suspends/adjourns the trial until a judgement is rendered concerning the jurisdiction. In this case, the periods considered as lapse of time and the other legal time periods or periods granted by the judge suspend until the process of re-examination of case begins.

The authority of judiciary continues to hold the case till the transmittal of this Court's judgement within six months at the latest. However, the authority of judiciary is compelled to abide by the decision in question before rendering a final judgement on the merits if the judgement of Court of Jurisdictional Disputes is received.

Suspension/adjourning of a case shall not be requested from the authority of judiciary by simply notifying a dispute.

(Added paragraph: Art. 8 of Law No. 5791) Should termination of periods prescribed by Art. 12, 13 and 17 coincide with recess period, these time periods shall be considered to have extended seven days as of the date following the termination of the non-term.

APPLICATIONS TO COURT OF JURISDICTIONAL DISPUTES BY AUTHORITIES OF JUDICIARY:

Article 19 – On condition that an authority of judiciary reviewing or beginning to review a case, which is final or finalized upon the decision of lack of jurisdiction rendered by one of judicial, administrative and military authorities of judiciary reaches the conviction that the authority rendering the decision of lack of jurisdiction is empowered, it lodges an application to the Court of Jurisdictional Disputes with a reasoning decision for indication of a competent judicial authority and postpones its review until a judgement is rendered by the Court of Jurisdictional Disputes.

(Amended subparagraph: Art. 6/2592 of Law dated 21/01/1982; Amended subparagraph Art. 9 of Law No. 5791) The authority of judiciary obtains the former case file on the judgement of lack of jurisdiction rendered previously and case documents along with the reasoned decision concluded on the application are transmitted to the Court of Jurisdictional Disputes.

APPLICATIONS BY AUTHORITIES OF JUDICIARY CONDUCTING APPEAL REVIEW:

Article 20 – (second paragraph of Art. 9/2592 of Law dated 21/01/1982, not enforced) A High Court priorly reviewing appeal in a case for which no previous authority of judiciary was indicated by the Court of Jurisdictional Disputes, reaches the conviction that the case is not within the scope of jurisdiction of the Court holding the case, it may judge on applying the Court of Jurisdictional Disputes by postponing its review instead of reversing the judgement being examined, for the purpose of indication of an authority of judiciary.

RULES OF PROCEDURE TO BE APPLIED IN THE REVIEW OF APPLICATIONS:

Article 21 – Procedural rules in relation to the negative jurisdictional disputes are applied by Court of Jurisdictional Disputes in the examination of activities transmitted by Courts in accordance with the Articles above.

CONTINUATION, TERMINATION OF MEASURES IN CIVIL CASES AND THE COMPETENT JUDICIAL AUTHORITY EMPOWERED TO JUDGE FOR A MEASURE IN CASE OF A DISPUTE IN CIVIL CASES:

Article 22- Decisions of precautionary measure, precautionary attachment and notably stay of execution retain their validity until the judgement of Court of Jurisdictional Disputes and even after notification of the plaintiff party of judgements of the Court of Jurisdictional Disputes on the jurisdictional incompetence of the judicial authority rendering these judgements, the Court judgements are valid for sixty days until they are abolished by the authority of judiciary whose jurisdiction is indicated.

The judicial authority rendering the final judgement on jurisdiction upon the request of a party against whom a decision of measure was judged may conclude cancellation or alteration of these measures to a judgement.

If a measure decision dependent upon time lapses before the specified period provided in the first paragraph referred above, the authority of jurisdiction rendering the final judgement with respect to jurisdiction, may extend the measure period upon a request by the judging authority.

As for a case in which no measure was decided, the authority of judiciary priorly rendering the final judgement on jurisdiction is also empowered to duly render a judgement on measure.

The decisions referred to in Articles 2, 3 and 4 of this Article shall be rendered by the judicial authority rejecting the objection to decision on lack of jurisdiction in case of raising a dispute whereas concerning application of the competent judicial authority to Court of Jurisdictional Disputes, decisions shall be rendered by that authority of judiciary.

MEASURES IN CRIMINAL CASES:

Article 23 - The authority of judiciary rendering the final judgement on jurisdiction is also competent to alter or cancel or render initial judgements on protection or other things constituting the subject matter for measures such as placement under security, seizure, confiscation and documents, objects prohibited from being taken abroad, persons banned from going abroad.

The above-mentioned judicial authority also concludes the applications lodged concerning arrests to a judgement as well as enforcing Article 112 of Code of criminal Procedures and Article 75 of the Law on the Establishment and Trial Procedures of Military Courts for persons under arrest.

The judicial authority rejecting the jurisdiction in disputes and applying Court of Jurisdictional Disputes in case of a petition of application submitted to Court of Jurisdictional Disputes by the authority of judiciary enforces/executes the provisions in the Articles above.

CHAPTER THREE: DISPUTES ON JUDGEMENTS

Article 24 – (Amended paragraph: 21/01/1982 –Art. 7 of the Law no 2592)

In cases of impossibility to provide justice due to the inconsistency between court decisions rendered by at least two of the judicial authorities concerning jurisdiction or those which are finalized on the same subject and grounds, regardless of the jurisdiction, existence of adjudicational inconsistency is recognised under Article 1.

In criminal cases; on condition that the accused, act and substance of the case are the same, existence of judgement dispute is recognised. The person involved may ask for the elimination of judgement disputes by petitioning to the Court of Jurisdictional Disputes. In such an event, rules of procedure as regards the elimination of adjudication are applied, which are Art. 15 and 16 of Rules of Procedure of the Court of Jurisdictional Disputes concerning negative jurisdictional issues.

RULES OF PROCEDURE TO BE APPLIED IN JURISDICTIONAL DISPUTES:

ARTICLE 25 – As for legal disputes concerning jurisdiction, the Court judges the essence of dispute as well, by applying the provisions of Trial Procedure of the Council of State not running contrary to this law.

Concerning the disputes of judgement in criminal law, the Court applies the rules in Code of Criminal Procedures not running contrary to this Law and without judging the case on the merits, resolves the dispute only by indicating which court of law is assigned to conclude the case to a judgement subsequent to its transmittal. The rights obtained are reserved.

Court of Jurisdictional Disputes judges adjudicational disputes by reviewing them on the file. In cases where it deems necessary or upon request, it is empowered to hear the parties.

CHAPTER FOUR: SESSIONS HELD BY THE COURT OF JURISDICTIONAL DISPUTES AND ITS JUDGEMENTS

CONDITIONS FOR THE DGS AND HIGH COUNCIL TO CONVENE AND RENDER A JUDGEMENT AND REVIEWING THE FILE

Article 26 – A session in Civil and Criminal Departments and the Plenary Court cannot be held before reaching the absolute number of members. The member in default of appearance shall be replaced by the substitute member or another substitute member if the court member in question is not present. The Court carries out annual lists with regard to workload at the beginning of each term of plenary court.

In DGs and High Council the examinations are conducted on the file and the decision is for the most part rendered, except for reviews prescribed by this Law.

SEQUENCE OF THE EXAMINATION:

Article 27 – Court of Jurisdictional Disputes examines the requests on indication or existence of jurisdictional disputes both in terms of form and time periods; rejects the submittals which are not due or not within the specified time limit.

NOTIFICATION OF JUDGEMENTS:

Article 28 – Court of Jurisdictional Disputes promptly informs the consequences of all the decisions it is to render to the Chief Public Prosecutor and spokesperson for the President of the Court who are both involved, the authority of judiciary petitioning to it for dispute settlement, the judicial authority which has been requested to await the judgement or to the persons or authorities petitioning for the settlement of dispute.

The authorities of judiciary along with all competent authorities, organizations and persons are assigned to attain compliance with Court judgements for their timely execution.

A copy of the justified decision is also transmitted to each of the judicial venues and persons Stated in paragraph one.

FINAL NATURE OF JUDGEMENTS AND PUBLICATION OF THE ADJUDICATION:

Article 29 – Judgements of DGs and High Council are final. Principle decisions and judgements of DGs approved by the Court President are published in the Official Gazette.

ELIMINATION OF INCONSISTENCIES BETWEEN JUDGEMENTS:

Article 30 – Any inconsistencies between judgements of DGs of Court of Jurisdictional Disputes are eliminated by the principle decisions to be rendered by the High Council.

Court decisions having a principal nature are announced with reasoning.

Principle decisions are rendered with a majority of two-thirds in the first session; whereas in case of failure to attain this majority, bare majority suffices in the second session.

Principle decision is obligatorily rendered, even if the majority attained runs contrary to the rooted case law of general departments.

Alteration or abolition of a principle decision is possible through a new decision of principle.

General departments judge whether there are grounds for rendering a principle decision. The President of Court may have review of the subject conducted by the rapporteurs or one of Court members.

In case the DGs judge the necessity of a decision of principle, the President of Court transmits a document including the judgements raising inconsistency or one of the judgements indicating the rooted caselaw along with the opinion of the recent majority as well as reason for the inconsistency to the chief public prosecutor and spokespersons for the Court president, not to mention the requesting person, so as to receive their statements of opinion within a time period to be indicated at discretion.

Regarding the deliberations on a principle decision, the agenda is appended by the responses of Chief Public Prosecutor and spokespersons for the President of Court to the Agenda distributed to members as well as the document transmitted and copies of judgements.

The time period between the dates of distribution of the agenda and deliberations must be at least 15 days except for cases calling for urgency.

Principle decisions of jurisdiction bind both the Court and all authorities of judiciary, whereas the principle decisions to be rendered on the merits of a case as regards adjudicational disputes solely bind Court of Jurisdictional disputes

CHAPTER FIVE: MISCELLANEOUS PROVISIONS

RAPPORTEURS:

Article 31 – Ad hoc rapporteurs are assigned in a number sufficient under the Court President’s discretion for assistance in activities of Court of Jurisdictional Disputes.

Ad hoc rapporteurs

Ad hoc rapporteurs are assigned on this basis by the competent authorities to which they are affiliated as members from among judges and prosecutors in accordance with the judicature or among those persons having at least four year term of office held within the scope of services recognised as judicature and prosecution under the Law on Judges and those whose diligent work is understood to be useful for the Court, as well as assistants in the Council of State having the same qualifications, law officers, military judges and prosecutors, upon request of the President of Court of Jurisdictional Disputes and with the consent of the related person.

Professional provisions are applied for their personnel affairs and their office terms as a rapporteur are counted as professional term of office. However, as for their promotion, the written statement of the President of Court is taken as basis.

Capacity Sheets For Military Officers concerning the ad hoc rapporteurs to be appointed from among military judges and prosecutors are prepared by Vice Undersecretary of Ministry of National Defence, the Undersecretary and the Minister of National Defence respectively.

Discretion of President of Court of Jurisdictional Disputes is taken into account in the preparation of this Capacity Sheet, which is to be stated in accordance with the principles of Sheets of Capacity For Military Officers.

President of Court of Jurisdictional Disputes determines the duties of ad hoc rapporteurs. The Court’s president, if regards necessary at sole discretion, may assign a Court member with the duty of reviewing the file for the preparation of report. The reasoned statement of opinion concerning the consequence found rightful by the writer of the report is also included in the Report.

EDITORIAL AFFAIRS AND OTHER OFFICERS

Article 32 – Upon the Court President’s request and consideration, an officer to be appointed by the Ministry of Justice acts in the capacity of Secretariat of Presidency of the Court and performs duties in the Court Building.

Court of Jurisdictional Disputes is also composed of a Secretariat General consisting of a bureau of two clerks amongst Supreme Court of Cassation/Appeals, Council of State, Military Court of Appeals, High Military Administrative Court and Justice Ministry appointed by the Ministry of Justice upon the Court President’s request and consideration and they perform secretarial and editorial duties in the Building of the Constitutional Court.

Among these, the appointment procedures of unmilitary clerks to be received from Military Supreme Court of Appeals and High Military Administrative Court are conducted at the Court President’s discretion, notifying that a failure in the execution of activities at Court of Jurisdictional Disputes by other officers is determined.

A clerk to be assigned by President of Court of Jurisdictional Disputes acts in the capacity of Editor-In-Chief of Court of Jurisdictional Disputes.

Usher, distributive and cleaning services of the Court and travel services provided by vehicles belonging to this Court are performed by officers to be appointed by the Ministry of Justice.

Professional provisions concerning their occupations are applied in the personnel affairs of the officers prescribed by this Article and their office terms in this Court are recognized as their professional terms of office; however, the written statement of information transmitted by the Court of Jurisdictional Disputes sets the groundwork for their promotion.

The President has competence in assignments of the officers with certain activities and re-assigning those unable to perform service in their former institutions.

NOTIFICATION PROCEDURES:

Article 33 – Notification procedures to be conducted under this Law are applied in compliance with the provisions of the Notification Law No. 7201.

FEE EXEMPTION:

Article 34 – Petitions, summary of proceedings, scripts or documents to be judged by the court of Jurisdictional Disputes, activities of the Court procedures, judgements or documents or Copies of judgements of the Court or those to be requested by the Court are exempt from taxation or fees.

POWERS OF THE COURT AND CHIEF PROSECUTORS AS WELL AS SPOKESPERSONS FOR THE PRESIDENT OF COURT REGARDING RECEIVAL OF INFORMATION AND DOCUMENTS

Article 35 – Court of Jurisdictional Disputes may directly correspond with all organs, authorities or organisations and request information or documents of all kinds or certified copies of these documents from them in its reviews. Refraining from furnishing information or documents is allowed solely under the conditions prescribed by the Law on the Council of State numbered 521. Chief Prosecutors or spokespersons for the president affiliated to the Court of Jurisdictional Disputes also exercise the powers stated above.

HAVING NO RECOURSE TO COURT OF JURISDICTIONAL DISPUTES ON THE GROUNDS OF JUDGEMENTS OF THE CONSTITUTIONAL COURT AND BINDING INFLUENCE OF JUDGEMENTS OF THE CONSTITUTIONAL COURT ON AUTHORITIES OF JUDICIARY:

Article 36 – No recourse to Court of Jurisdictional Disputes can be in question for judgements rendered by the Constitutional Court as the Grand Council concerning jurisdiction.

All authorities of judiciary are obligatorily in compliance with the judgements of the Constitutional Court as the Grand Council rendered concerning the jurisdiction despite any existence of a final or finalized judgement concluded in contrast to the judgement of the Constitutional Court.

Adjudication disputes are solely considered in the light of the Constitutional Court's judgement and it is executed.

RECOGNITION OF PARTICIPANTS AS PARTIES

Article 37 – Even the persons appearing in a criminal lawsuit with due process may exercise the powers granted to the parties independently of the co-acting party or prosecutor in accordance with this Law.

FEES

Article 38 - (Amended Art. 12 of Decree With The Power of Law No. 351 dated 23/12/1988; Amended: Art. 10 of Law No. 5791 dated 23/07/2008)

The person acting in lieu of the President of Court in case of the President's excuse shall be granted a monthly payment during term of office and Chief Prosecutors along with full/permanent and substitute members participating in the session shall be paid on a monthly basis for the session convened at the amount calculated by multiplication of the indicator number 7500 by the monthly coefficient unit applied on the salaries of public officers, separately from their salaries and allowances.

Prosecutors attending the session instead of chief prosecutors shall be granted a monthly payment for the session convened; whereas rapporteurs of Court of Jurisdictional Disputes are entitled to a payment every month at the amount calculated by multiplying the indicator number 3500 by the monthly coefficient unit applied on the salaries of public officers, separately from their salaries and allowances.

These payments shall not be subject to any other taxation except stamp duty.

TOOLS, MATERIALS AND OTHER NEEDS

Article 39 – Tools, materials and other needs of Court of Jurisdictional Disputes as well as salaries paid to the Court's President, member acting as the President of Court of Jurisdictional Disputes, in the event that the Court President has an excuse, Chief Prosecutor, Chief Law Officer and his/her assistants, full and substitute members of Court of Jurisdictional Disputes and rapporteurs are financed from the supplementary allowances to be included in the budget of the Ministry of Justice.

REPEALED PROVISIONS:

Article 40 – Provisions numbered 1602 of High Military Administrative Court on the Court of Jurisdictional Disputes and the Law dated 9 July 1945 and numbered 4783 on the Establishment of Court of jurisdictional Disputes have been repealed.

ADDED ARTICLES Art.

1 – (Added: 21/01/1982 – Art. 8 of Law No. 2592)

The expression “Chief Law Officer” included in various articles of this Law refers to Chief Prosecutor of the Council of State and Chief Prosecutor of High Military Administrative Court whereas the expression State Council assistants indicates investigative judges at the Council of State and “law officers” means prosecutors of the State Council in the light of the context.

PROVISIONAL ARTICLES

Provisional Article 1 – Provisions prescribed by Article 36 are applied for the jurisdictional disputes arising before enforcement of this Law between the Constitutional Court as the Grand Council and competent judicial authorities.

Provisional Article 2 - A) Before the enforcement of this Law, cases regarding positive jurisdictional disputes received by the spokespersons for President of the State Council or to Court of Jurisdictional Disputes or transferred to spokespersonship of State Council’s President by ministers or governors as well as requests concerning which the period of fifteen days indicated in Article 9 of the same law has not terminated or those transmitted to spokespersonship of State Council’s President remain within the scope of former provisions of law and put into procedure within the framework of that Law, as prescribed by the Law numbered 4788.

These issues are judged in the Civil Department of the Court.

B) In accordance with the Law No. 4788, in cases filed at civil courts against persons not empowering the positive jurisdiction, notwithstanding a prior objection of jurisdiction a positive jurisdictional dispute may be issued until the date when the issue is concluded to a judgement.

C) If periods prescribed in law for criminal cases or cases before civil judicial authorities lapsed and the phases provided in paragraph 2 of Art. 10 on the date of enforcement of this Law, a positive jurisdictional dispute may be contended till when the judgement is rendered.

If the phases provided in paragraph 2 of Article 10 is in question for the criminal cases in progress or cases in venues of administrative judiciary on the enforcement date of this Law, a positive jurisdictional dispute may be contended until the day of judgement of the case.

Provisional Art. 3 – The time spanning from the office term of the first council to be elected after the date of enforcement until September the 6th is not considered in the calculation of 4 year office term and this Council is recognized to have taken office at the beginning of the session.

Provisional Art. 4 – Accounts, files (reports) priorly registered in the Court of Jurisdictional Disputes on the date of enforcement of this Law are kept in the archives of the Court of Jurisdictional Disputes

Provisional Art. 5 - Election of President and members of Court of Jurisdictional Disputes under Articles 2 and 3 along with the procedures to compose rapporteurs and Secretariat under Articles 31 and 32 are initiated without delay. Duties of former Presidents and members as well as rapporteurs and public officers continue until the day when the Law takes effect as a whole.

Provisional Art. 6- (Art. Added: 23/07/2008-Art. 11 of Law No.)

Duties of current members continue until the end of four year period as of their dates of election.

EFFECT

Article 41 – Publication of the provisional Art. 5 of this Law takes effect two months later as of the publication date of its other articles.

ENFORCEMENT

Article 42 – This Law is enforced by the Council of Ministers.