

PROCEDURE OF ADMINISTRATIVE JUSTICE ACT

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PART ONE

General Principles

Scope and Characteristic

Section 1.

1. Resolution of the disputes falling within the jurisdiction of the Council of State, regional administrative courts, administrative courts and tax courts shall be subject to the procedure prescribed in the present Act.

2. The written trial procedures shall be applied in the Council of State, regional administrative courts, administrative courts and tax courts and the cases shall be reviewed on the bases of written evidence.

Types of Administrative Suits and the Limits of the Judicial Control of Administration

Section 2.

1) (Amended: 10/6/1994-4001/s.1) The following are administrative suit types:

a) (Amended:8/6/2000-4577/s.5) Annulment actions concerning administrative acts that are brought by a person whose interests were violated by the act, with the claim that the act is illegal due to a mistake made in one of the elements of competence, form, reason, subject and aim,

b) Full remedy actions brought by those whose personal rights have been directly affected by the administrative acts or actions,

c) (Amended: 18/12/1999-4492/s. 6) Actions relating to disputes arising from administrative contracts signed to carry out public services except disputes arising from conditions and contracts under which concessions are granted and for which arbitration is suggested,

2. The power of administrative justice is limited to the verification of the conformity of the actions and acts of the administration with law. The administrative courts cannot review the appropriateness of an act and action. No judicial ruling shall be passed which restricts the exercise of the executive function in accordance with the forms and principles prescribed by law, which has the quality of an administrative action and act, or which removes discretionary powers.

3. The direct acts of the President of the Republic are outside the scope of judicial review.

Commencement of Administrative Suits

Section 3.

1. (Amended: 10/6/1994-4001/s.2) Administrative suits shall be filed with a petition written to the presidency of the Council of State, administrative and tax courts.

2. In the petitions,
 - a) Names and surnames or titles and addresses of the parties, their counsels and their representatives, if they have any,
 - b) Subject, reasons of the case and the evidence it is based on,
 - c) Notification date of the administrative act which is the subject of the action,
 - d) Disputed amount in the actions concerning taxes, fees, duties and other similar financial obligations or increases and penalties concerning these obligations and in full remedy actions,
 - e) In tax actions, type and year of the relevant tax or tax penalty, date and number of the demand note, account number of the taxpayer, if available, shall be included.

Places that the Petitions will be Filed with Section 4.

Petitions, defence pleas and any document relevant to the case might be submitted to the presidency of the Council of State or the Court to which the case belongs or to the presidency of other tax and administrative courts to be sent to the former ones. They might also be submitted to the civil court of first instance in places where there is no administrative or tax court and to the Turkish consulates in foreign countries.

Cases in which the Actions can be brought with the Same Petition Section 5. (Amended: 10/6/1994-4001/s. 3)

1. A separate action shall be filed against each administrative act. However, an action might be brought against more than one act, if there is a legal or material connection or causal-consequential relation between the acts.
2. In order that more than one person can bring an action with a joint petition, the plaintiffs must have a joint right or benefit and the events that gave rise to the action or the legal reasons must be same.

Procedure on the Petition Section 6.

1. After the cost of postage and fees of the petitions submitted to the presidency of the Council of State, administrative courts and tax courts or other bodies stated in section 4 were received, their registration shall be made and the registration date and number shall be written on the petition. The case is considered to be commenced on the date of registration.
2. A sealed, signed receipt that shows the date and number of the registration shall be given to the plaintiffs.
3. Petitions submitted to the other bodies stated in section 4 shall be sent to the presidency of the Council of State or the Court to which the case belongs with a registered mail, within three days. If fee stamps are not available at these bodies, the amount of the money received and the date and number of the receipt shall be written on the petition.
4. **(Amended: 10/6/1994-4001/s. 4)** In the case that the petition was filed without paying the cost of postage or fee, or filed with incomplete cost of postage and fee, the president of the Division or a judge rapporteur assigned by him, the president of the court or a judge shall notify the person concerned that the cost of postage or fee must be paid or completed within thirty days. If the action required by the notification is not taken, the same notice shall be made for a second time. If the cost of postage or fee is not paid or completed within the time limit, it shall be decided that the action has not been brought, and the plaintiff shall be informed about the situation.

5. **(Amended: 10/6/1994-4001/s. 4)** If the value of the postage fee decreases to the extent that it impedes the notification procedure after the action was brought, the president of the Division or a judge rapporteur assigned by him, the president of the court or a judge shall notify the person concerned that the postage fee must be completed within thirty days. If the action required by the notification is not taken, the same notice shall be made for a second time. If the postage fee is not completed within the time limit, the file shall be struck out of the list. If the plaintiff does not request the reopening of the action by completing the fee within three months from the notification of this decision, it shall be decided that the action has not been brought, and the plaintiff shall be informed about the situation.

6. **(Amended: 10/6/1994-4001/s. 4)** Notifications stated in paragraphs four and five shall be made from the general budget and of the Court's own motion.

Time limit for the initiation of actions

Section 7.

1. The time limit to bring an action is sixty days for the actions brought to the Council of State and administrative courts, thirty days for the actions brought to the tax courts, unless otherwise stated in the specific Acts.

2. These time limits run from the day after

a) In administrative disputes, the date on which the notification is made,

b) In the disputes concerning taxes, fees, duties and other similar financial obligations or increases and penalties concerning these obligations: In taxes whose accrue ment is bound to the collection, the date of collection; in cases where a notification is made, the date of the notification or the date of the action that replaces the notification; in taxes which are collected by deduction, the date of the payment to the right-holder; in taxes which registration is required, the date of the registration; and in cases which the administration must bring an action, the date that the relevant decision of authority or commission arrives to the administration.

3. Unless otherwise stated in the specific Act, in cases which the notification is made by proclamation to the persons whose address is not known pursuant to specific acts, the time limit runs from fifteen days after the date following the last day of proclamation.

4. The time limit for bringing an action against statutory instruments whose promulgation is required shall run from the day following the promulgation date. However, upon the application of this act, the relevant persons may bring an action against the statutory instrument or against the specific act applied to the person or against both of them. The fact that the statutory instrument has not been annulled does not affect the annulment of the act based on this regulatory act.

Principles concerning Time Limits

Section 8.

1. Time limits run from the day following the date of notification, promulgation or proclamation.

2. Holidays shall be included in these periods. However, if the last day of the time limit coincides with a holiday, the time limit shall extend into the end of the working day following the holiday.

3. If the last day of the periods written in the present Act coincides with the judicial recession, these periods shall be deemed to be extended for seven days starting from the date following the last day of the recession.

Applications to the Bodies that have no Jurisdiction

Section 9.

1. **(Amended: 5/4/1990-3622/ s. 2)** In case of dismissal, due to lack of jurisdiction, of the actions brought to ordinary or military courts despite falling within the jurisdiction of the Council of State, administrative courts and tax courts, an action may be brought to the competent court within thirty days from the day after the date that the final decision is rendered on the subject. The date of application to the incompetent judicial organ shall be deemed to be the date of application to the Council of State, administrative courts and tax courts.

2. Even if the thirty-days period written in the first paragraph has passed in cases which were brought to the ordinary or military courts and dismissed due to lack of jurisdiction, as long as the time limit envisaged to bring an administrative suit has not expired, a suit may be brought.

Silence of the Authorities

Section 10.

1. The persons concerned may request the administrative authorities to implement an act or take an action that may be the subject of a lawsuit.

2. **(Amended: 10/6/1994-4001/s. 5)** If the request is not replied within sixty days, it shall be deemed to be dismissed. The persons concerned may brought an action to the Council of State, administrative and tax courts, depending on the subject of the case, within the time limits running from the end of sixty-day period. If the response given by the authorities within sixty-day period is not final, the person concerned may either regard this response as dismissal or bring an action regarding this response as dismissal or wait for the final response. In this case, the time limit for the action shall not run. However, the waiting period cannot exceed six months from the date of application. In the case of not filing an action or dismissal of action due to the time limit, if a response is given by the authorities after the end of sixty-day period, an action might be brought within sixty days from the notification of the response.

3. **(Repealed: 10/6/1994-4001/s. 5)**

Application to Superior Authorities

Section 11.

1. Before bringing an action the person concerned may request the abolishment, withdrawal, alteration of the administrative act or the implementation of a new act from the superior authority, if there is no superior authority, from the authority that implements the act. This application shall stop the time limit that has started to run.

2. If no response is given within sixty days, the request shall be deemed to be dismissed.

3. When the application is dismissed or deemed to be dismissed, the time limit shall rerun and the period passed until the application date shall also be taken into account.

4. **(Repealed: 10/6/1994-4001/s. 6)**

Annulment and Full Remedy Actions

Section 12.

The persons concerned may bring directly a full remedy action or a full remedy action together with an annulment action to the Council of State, administrative and tax courts, against an administrative act that violates their rights. They may also commence the annulment action first, and, upon a decision rendered in the annulment action, bring the full remedy action within the action time limits running from the notification of the decision rendered in the annulment action or from the notification of the higher court decision, if an application against this decision has been brought to a higher court. The full remedy action against the damage caused by the implementation of an administrative act may be brought

within the action time limits running from the implementation of the act. The relevant persons' right to apply to the authorities, as prescribed in section 11, shall also be reserved.

Commencement of a Full Remedy Action

Section 13.

1. The persons whose rights have been violated by an administrative action must apply to the relevant administration for the rectification of the situation within a year from the notification or the date they learn the action by another way and in any case within five years from the action, before bringing a lawsuit. A suit may be brought within the action time limits running from the day following the notification of this decision, if the application is wholly or partly refused, and from the end of sixty-day period if no response is given within sixty days.

2. The condition to apply administrative authorities prescribed in the first paragraph shall not be sought with regard to full remedy actions brought to the administrative justice courts after being brought to the ordinary or military courts and dismissed due to lack of jurisdiction.

Preliminary Examination of the Petitions

Section 14.

1. In the Council of State, petitions shall be registered by the Directory of Documents and shall be referred to the competent Divisions by the General Secretariat.

2. **(Amended: 5/4/1990-3622/s. 5)** In the administrative and tax courts, petitions shall be registered by the referral of the president of the court or a judge.

3. **(Amended: 5/4/1990-3622/s. 5)** In the Council of State, a judge rapporteur assigned by the president of the Division, in administrative and tax courts, the president or a member assigned by him shall examine the following aspects of the petition respectively:

- a) Jurisdiction as to subject-matter and venue,
- b) Encroachment on administrative authority
- c) Legal capacity
- d) Whether there is a final administrative act that must be executed, which can be a subject of administrative suit,
- e) Statute of limitation
- f) Indication of adverse party
- g) Compliance with sections 3 and 5.

4. **(Amended: 5/4/1990-3622/s. 5)** If the petitions are found against the law in one of these aspects, the situation shall be notified to the competent Division or Court by a report. No report shall be prepared for the petitions that are to be resolved by a single judge. In this case, provisions of section 15 shall be applied by the judge concerned. The examination carried out pursuant to the third paragraph and proceedings that take place pursuant to this and the fifth paragraph shall be finalised within fifteen days from the receipt of the petition.

5. If those who carried out the preliminary examination do not find illegality on these points or the Division or Court does not uphold the preliminary examination report, notification shall be made.

6. If the illegality of one of the aspects is determined after the preliminary investigation, provisions of section 15 shall apply in every stage of the action.

Decision rendered upon the Preliminary Examination

Section 15

1. **(Amended: 5/4/1990-3622/ s. 6)** If an illegality is found in one of the matters written in the third paragraph of the section above by the Council of State or administrative and tax courts, the following decisions shall be taken:

a) dismissal of the actions falling within the jurisdiction of ordinary and military courts; in the actions falling within the jurisdiction of administrative justice, if the action was brought to a court which lacks jurisdiction as to subject-matter or venue over the case, dismissal of the case and the dispatch of the case file to the competent court, pursuant to sub-paragraph (3) (a),
b) dismissal of the action in cases stated in sub-paragraphs (3) (c) (d) (e),
c) referral of the case to the correct defendant determined by the court, pursuant to sub-paragraph 3 (f), if no defendant or a wrong defendant was indicated,
d) in cases stated in sub-paragraph 3 (g), dismissal of the petition for its preparation in line with the requirements of sections 3 and 5 or for rectification of deficiencies within thirty days; in cases stated in subparagraph (c), if the action was brought by a representative of competent person, who is not a counsel, dismissal of the petition for the commencement of the action personally or by a counsel within thirty days.
e) referral of the petition to the authorised administrative authorities pursuant to sub-paragraph 3(b).

2. In case of referral of the petitions to the body that has jurisdiction over the case, the date of application to the Council of State or the relevant Court shall be deemed to be the application date to the body that has jurisdiction over the case.

3. If the petitions are dismissed because of the non-compliance with section 3, no additional fees shall be imposed.

4. **(Amended: 10/6/1994-4001/s. 7)** A request for the revision of judgment or an appeal against the decision given by the Council of State or the courts, and a request for an objection against the decision of a single judge might be made upon the preliminary examination, except the dismissal decisions due to non-jurisdiction given in actions falling within the jurisdiction of administrative justice, pursuant to sub-paragraph 1 (a) of the present section, the decision of notification to the correct defendant, pursuant to sub-paragraph 1 (c) and the decision of petition dismissal, pursuant to sub-paragraph 1 (d).

5. **(Added: 5/4/1990-3622/s. 6)** If the same errors are repeated in the renewed petition prepared upon the dismissal of the petition according to sub-paragraph (d), the case shall be dismissed.

Notification and Response

Section 16.

1. A copy of the petition that commences the action and its annexes shall be notified to the defendant, whereas the defence plea shall be notified to the plaintiff.

2. The second petition of the plaintiff shall be notified to the defendant, whereas the second defence plea of the defendant shall be notified to the plaintiff. The plaintiff cannot respond this plea. However, if it is established, at a later stage, that the second defence plea includes matters that must be answered by the plaintiff, a period shall be given to the plaintiff for response.

3. Parties might response to the notified petitions within thirty days from the notification. Provided that there are justified reasons, this period might be extended for once and not more than thirty days by the decision of the competent court, upon the request of one of the parties. Requests for extensions made after the end of time limit shall not be accepted.

4. Parties cannot claim any right depending on the defence plea and the second petition submitted after the time limit.

5. **(Amended: 10/6/1994-4001/s. 8)** The original or the certified copy of the files concerning the action shall be submitted to the presidency of Council of State or the court concerned along with the defence plea of the administration.

Hearing

Section 17.

1. **(Amended: 5/4/1990-3622/s. 7)** Hearing shall be held, upon the request of one of the parties, in annulment actions, in full remedy actions the amount of which exceeds one billion Turkish liras, and in tax cases concerning taxes, fees, duties and other similar financial obligations or increases and penalties concerning these obligations the total amount of which exceeds one billion Turkish liras.

2. In appeals and objections, holding of hearings depends on the request of the parties and the decision of the Council of State or the relevant regional administrative court.

3. The request for hearing might be made in the action petition, defence plea or responses.

4. **(Amended: 5/4/1990-3622/s. 7)** Irrespective of the conditions stated in the first and second paragraphs, the Council of State, the court or the judge might decide to hold a hearing of its/his own motion.

5. Hearing notices shall be sent to the parties at least thirty days before the hearing.

Principles concerning Hearings

Section 18.

1. Hearings shall be open to the public. In cases where reasons of public morality or public security require, all or part of the hearings shall be held in closed session, by the decision of the competent Division or Court.

2. Hearings shall be directed by the president.

3. In hearings, each of the parties shall be given two chances to present their oral arguments. If just one of the parties appears at the hearing, his statements shall be heard; if none of the parties appear, the hearing shall not be held and the matter shall be reviewed on the bases of written evidence.

4. The presence of advocate general in the hearings held at the Council of State is compulsory. After hearing the parties, the advocate general shall present his written opinion. After this presentation, the last words of the parties shall be asked and the hearing shall be ended.

5. In cases about which a hearing is held, if the request of the advocate general as to the inspection, expert examination, obtaining of evidence or to the dispatch of act file is not accepted by the Division or Plenary Session in charge, they shall present their opinion about the merits separately in writing.

Decisions in cases about which a hearing is held

Section 19.

(Amended first sentence: 10/6/1994-4001/s. 9) The decision shall be rendered within fifteen days from the hearing. In cases where an interlocutory decision is given, upon the execution of this decision, priority shall be given to the examination of these files.

Examination of Files

Section 20.

1. The Council of State, administrative and tax courts shall carry out all examinations about the actions before them, of their own motion. The Courts might ask the parties and other persons and authorities to send documents they deem necessary and to present all kind of information within a determined period. The fulfilment of the decisions on these matters in due time by the relevant persons is compulsory. Provided that there are justified reasons, this period might be extended for once.

2. If one of the parties fails to fulfill the requirements of an interlocutory decision, the effect of this failure on the decision shall be assessed by the court beforehand and this matter shall be noted in the interlocutory decision.

3. However, if the information and documents asked for concern the State's security or high interests or concern a foreign government along with the State's security and high interests, the Prime Minister or the Minister concerned may refuse to give the information and documents provided that it notifies the reasons. **(Added sentence: 10/6/1994-4001/s. 10)** The decision cannot be given with reference to the defence based on the information and documents that have not been submitted.

4. (Repealed: 10/6/1994-4001/ s. 10)

5. **(Amended: 5/4/1990-3622/s. 8)** Case files in the Council of State, regional administrative, administrative and tax courts shall be examined in sequence of receipt and shall be decided in the order in which they become ready for decision, taking account of cases of priority and urgency prescribed in this and other acts as well as of priority matters promulgated in the Official Gazette after being determined by the Committee of Presidents for the Council of State and by the Supreme Council of Judges and Public Prosecutors for other courts. Files other than the above-mentioned ones shall be concluded in the order in which they become ready for decision and within six months from the date that they become ready for decision.

Documents that are Submitted at a Later Stage

Section 21.

Documents that were not submitted along with the petition and defence plea shall be accepted and notified to the adverse party, if the Court is convinced that their timely submission was impossible. If these documents are submitted at a hearing and the adverse party proclaims that he can present his response to the document right away or he does not seem it necessary to comment on the document, the notification shall not be made.

Decision on the Case

Section 22.

1. When the matters are clarified, issues shall be put on vote in sequence and be decided upon.

2. Those who vote with the minority on the jurisdictional issues or on matters enumerated in section 15 shall also cast their vote on the merits. Dissenting opinion shall be annexed to the end of judgment.

Memorandum

Section 23.

A memorandum shall be prepared for every case file, containing the names and surnames of the president, members and the parties; in the Council of State, names of the advocate general who presented his opinion and judge rapporteur; the file number, subject of the action and the judgment, names of those who vote with majority and with minority. These memorandums shall be signed by those who are attended the same session and be kept in the relevant files.

Matters that must be included in the Judgments

Section 24.

The following points shall be included in judgments:

a) Names, surnames, titles and addresses of the parties, their counsels and their representatives, if there are any,

b) A summary of events as submitted by the plaintiff and the legal basis of the claim, final submission of the plaintiff and a summary of defence,

- c) **(Amended: 10/6/1994-4001/s. 11)** In the actions reviewed by the Council of State, names and surnames of the judge rapporteur and advocate general and their opinions,
- d) In the actions where the conduct of hearing was requested, whether a hearing has been held; if it has been held, names and surnames of the parties and counsels or representatives who attended the hearing,
- e) The legal basis of the judgment, statement of justification and conclusion; and the amount of compensation awarded in compensation actions,
- f) Costs of trial and to which party it is imposed,
- g) The date of the judgment and whether it has been rendered unanimously or by a majority vote,
- h) Names, surnames and signatures of the President and members of the Court or the judge and the dissenting opinions, if there are any,
- i) Name of the Division or Court that renders the judgment and registration and judgment numbers of the file.

Storage of Judgments and Notification

Section 25.

An original copy of the judgment signed by the president and members of the court or by the judge shall be put in the judgment file and another one in the case file. Another copy, certified by the Court's seal and the signature of the president or judge, or in the Council of State, by the seal and the signature of the president of the Plenary Session or Division or another person assigned by him, shall be sent to the parties.

Changes in Personality and the Status of the Parties

Section 26.

1. If a modification occurs in the personality or status of the parties due to death or any other reason, until the person who has the right to pursue the action applies; in case of decease of the plaintiff, until the administration renews its pursuit against the heirs of the deceased, the relevant Court shall decide to suspend the action. If a petition to recommence the action is not submitted within four months, the stay of execution decision shall automatically become invalid.

2. Petitions that concern only the deceased person shall be struck out of the list.

3. **(Amended: 5/4/1990-3622/s. 9)** In case that the notification cannot be made to the address shown by the plaintiff, the action shall be suspended and if there is a stay of execution decision, the decision shall automatically become invalid until the new address is apprised. If a request to renew the action, with a new address, is not made within a year, the action shall be deemed not to be brought.

4. **(Amended: 5/4/1990-3622/s. 9)** Decisions concerning the suspension of the action and the dismissal due to the failure to renew shall be notified to the adverse party.

Stay of Execution

Section 27 (Amended: 10/6/1994-4001/s. 12)

1. Bringing an action to the Council of State or administrative courts shall not prevent the execution of the administrative act which is the subject of the action.

2. If the implementation of an administrative act should result in damages which are difficult or impossible to compensate for, and if this act is clearly unlawful, the Council of State or administrative court may decide to stay the execution of the act, stating the reasons thereof.

3. In the tax courts, bringing actions arising from tax disputes shall stop the collection of the disputed part of the imposed taxes, fees, duties and other similar financial obligations or

increases and penalties concerning these obligations. However, the collection process shall be carried out about the actions that are suspended according to third paragraph of section 26. Recommencing an action suspended in this way, acts implemented upon the submission of declarations made with reservations and actions brought against collection acts shall not stop the execution of collection process. A stay of execution order might be requested in these actions.

4. The time limits written in section 16 might be shortened in actions which a stay of execution order is requested, it might also be decided to make the notification through an employee.

5. The stay of execution order shall be given after a financial guarantee is deposited. However, deposit of financial guarantee might not be sought, according to the requirements of the situation. The dispute arises between parties about the financial guarantee shall be resolved by the Division, Court or judge that renders the stay of execution order. Financial guarantee shall not be asked from the administration and those to whom free legal aid is granted.

6. As to the decisions concerning the stay of execution order; an objection can be made against the decisions of a judicial division of the Council of State to the Plenary Session of the Administrative Law Divisions or to the Plenary Session of the Tax Law Divisions, depending on the subject of the action, against the decisions of the regional administrative court to the nearest regional administrative court, against the decisions of administrative or tax courts and against decisions rendered by a single judge to the regional administrative court. During the judicial recess period, an objection can be made against the decisions of the tax and administrative courts to the nearest on duty court or to the on duty court in which the judge who gave the decision does not participate. Objections can be made within seven days from the notification of the decision and for once. Bodies to which the objections have been brought must decide on the objection within seven days. Decisions rendered upon objections shall be final.

7. Priority shall be given to the actions about which the stay of execution order is given.

Consequences of Decisions

Section 28.

1. (**Amended: 10/6/1994-4001/s. 13**) The administration must implement the acts and take the actions required by the judgments and stay of execution orders given by the Council of State, regional administrative courts, administrative and tax courts without delay. This period, under no circumstances, can exceed thirty days from the notification of the decision to the administration. However, in the actions concerning the implementation of distraint and sequestration, the act shall be implemented by the administration after the judgment becomes final.

2. (**Amended: 10/6/1994-4001/s. 13**) Decisions rendered in full remedy actions that concern certain amount of money shall be executed pursuant to the general provisions.

3. A compensation action might be brought to the Council of State or to the court concerned for the pecuniary and non-pecuniary damages caused by the failure of the administration to implement acts and to take actions required by the decisions of the Council of State, regional administrative courts, administrative and tax courts.

4. If the public servants deliberately fail to fulfil the requirements of the decisions of the Courts within thirty days, in addition to the action that might be brought against the administration, a compensation action against the public servant who failed to fulfil the requirements of the decision might be brought.

5. After the notification of court decisions concerning tax disputes to the administration, amount of the taxes, fees, duties and other similar financial obligations or increases and penalties concerning these obligations assessed according to the decision shall be notified to the taxpayer by the administration.

6. In compensation and tax actions, default interest shall be paid by the administration for delays in the implementation of decisions occurred after the notification of the decision to the administration.

Explanation

Section 29.

1. If the decisions rendered by the Council of State, regional administrative court, administrative and tax courts are not clear enough, or if the paragraphs of the conclusion contradict each other, each of the parties may request the explanation of the decision or the rectification of this contradiction.

2. The number of copies of the petitions for explanation shall be one more than the number of the adverse parties.

3. The division or the court that rendered the decision shall examine the matter, if it deems it necessary, send a copy of the petition to the adverse party to answer within the determined period. Answer shall be given in two copies. One of these shall be sent to the party which requests the explanation or the rectification.

4. The decision of the competent division or court on this matter shall be notified to the parties.

5. Explanation or rectification might be requested until the implementation of the decision.

Correction of Errors

Section 30.

1. The correction of errors relating to the names and surnames, status and claims of the parties or of calculation errors made in the conclusion part might also be requested.

2. Provisions of section 29, except the last paragraph, shall also apply to these requests.

3. If a decision for correction is given, this shall be added to the end of the decision.

Cases where the Civil Procedure Act and Tax Procedure Act Apply

Section 31.

1. As to the matters which there is no rule in the present Act; provisions of the Civil Procedure Act shall apply to matters concerning the challenge and withdrawal of the judge, capacity, participation of the third party in proceedings, notice of litigation to third party, counsels of the parties, waiver and admission, financial guarantee, cross-action, expert, inspection, obtaining of evidence, costs of trial and free legal aid as well as the measures that should be taken against the behaviour of parties that violate the discipline and rules of conduct.

(Added sentence: 5/4/1990-3622/s. 11; Amended: 10/6/1994-4001/s. 14) However, the Council of State, court or judge of its own motion shall issue the notice of litigation to the third party and appoint the expert.

2. On condition that the provisions of the present Act and references made to the Civil Procedure Act in the paragraph above are reserved, the relevant provisions of the Tax Procedure Act shall apply in the resolution of tax disputes.

PART TWO

Actions that Shall be Taken with regard to Matters concerning Jurisdiction, Connection and Lack of Jurisdiction in Administrative Lawsuits

General Jurisdiction in Administrative Suits

Section 32.

1. Provided that the general provisions regarding to subject-matter jurisdiction are reserved, if the administrative court that has jurisdiction over the case is not prescribed in the present Act or in other specific Acts, the administrative court that is located in the region of the administrative authority, which made the administrative acts or administrative contracts, shall have jurisdiction over the case.

2. In the implementation of the present Act, determination of jurisdiction as to venue shall be regarded as a requirement of public order. **(Repealed second sentence: 10/6/1994-4001/s. 15)**

Jurisdiction in cases concerning Public Servants

Section 33.

1. **(Amended: 5/4/1990-3622/s. 12)** In actions concerning the appointment of public servants and their transfer to a new post, administrative courts that are located in the region where the public servant previously served or presently serve shall have jurisdiction over the case.

2. In actions concerning the dismissal, retirement or disciplinary suspension of public servants, administrative court that is located in the region where the public servant last served shall have jurisdiction over the case.

3. **(Amended: 5/4/190-3622/s. 12)** In actions concerning disciplinary sanctions that do not end with the dismissal of the public servant and concerning the promotion, progress, employment record, acquirement of ranks and other rights relating to status and financial rights of public servants as well as actions concerning organs of local administrative bodies and removal of members of these bodies from their posts as a temporary precaution, administrative court that is located in the region where the person concerned serves shall have jurisdiction over the case.

Jurisdiction in actions concerning immovables and public administrations

Section 34. (Amended: 10/6/1994-4001/s. 16)

1. In the application of the law relating to immovables, such as development, expropriation, demolition, occupation, appropriation, written authorisation and settlement or any right bound to these acts or in actions concerning public domain administrative court that is located in the region of the immovable concerned shall have jurisdiction over the case.

2. In actions concerning the application of the law on villages, municipalities and provinces as well as in border disputes, the court that is located in the region of the unit of the civilian administration, village, municipality or quarter is located shall have jurisdiction over the case.

Jurisdiction in actions concerning movable assets

Section 35. (Amended: 5/4/1990-3622/ s. 13)

In cases concerning movable assets, the court that is located in the region of the moveable asset shall have jurisdiction over the case.

Jurisdiction in Full Remedy Actions

Section 36.

In full remedy actions other than the ones arising from administrative contracts, the administrative court

- a) which has the power to resolve the dispute that caused the damage,
- b) if the damage arose from a service such as development or transportation, or from an action of administration, which is located in the region where the service is rendered or the action is taken,
- c) in other cases, which is located in the region of the plaintiff's residence, shall have jurisdiction over the case.

Jurisdiction in Tax Disputes

Section 37.

Under the present Act, in tax disputes, the tax court which is located in the region of

- a) the office which calculates and finalises the assessment of taxes, fees, duties and other similar financial obligations or which imputes increases and penalties,
- b) **(Added: 10/6/1994-4001/s. 17)** with regard to taxes that must be collected pursuant to the Customs Act and acts of dismissal of tax correction objections made pursuant to the Tax Procedure Act; the office which calculates and finalises the assessment of taxes, fees, duties and other similar financial obligations,
- c) with regard to the application of the Act on the Procedure of Public Claims' Collection, the office which issued the payment order,
- d) with regard to other disputes, the office which made the administrative act that is the subject of the action, shall have jurisdiction over the case.

Jurisdiction in the Connected Cases

Section 38.

1. **(Added: 10/6/1994-4001/s. 18)** Connected cases are those arising from the same facts or legal reasons or those which a decision given in one of them affects the other.
2. In actions brought to administrative courts, tax courts or the Council of State or brought to more than one administrative and tax courts, the existence of the connection shall be determined by the court either upon the request of one of the parties or of its own motion.
3. If one of the connected cases is at the Council of State, the case file shall be sent to the Council of State.
4. If the connected cases are at courts falling within the jurisdiction of different regional administrative courts, case files shall be sent to the Council of State.
5. If the connected cases are at courts falling within the jurisdiction of same regional administrative courts, files shall be sent to the regional administrative court located in that region.

Examination of the Connection by the Council of State

Section 39.

1. Division of the Council of State that is empowered to examine the action shall examine and decide upon the connected cases with priority and urgency.
2. In case that the Council of State holds that there is a connection:
 - a) **(Amended: 5/4/1990-3622/s. 14)** If one of the actions was brought to the Council of State and its adjudication falls within the jurisdiction of the Council of State, all cases shall be reviewed at the Council of State and the situation shall be notified to the courts concerned and the parties.
 - b) If the connected cases concern disputes falling within the jurisdiction of tax and administrative courts located in the judicial region of the different regional administrative

courts, the relevant Division of the Council of State shall determine the court that has jurisdiction over the case in its decision. The Division shall send the case files to this court and notify the situation to other court(s). The court that is empowered to examine the case shall notify the situation to the persons concerned.

c) **(Amended: 10/6/1994-4001/ s. 19)** If the Council of State decides that there is no connection, case files shall be sent to the courts concerned.

Examination of the Connection by the Regional Administrative Court

Section 40.

1. The regional administrative court shall examine and decide upon the connected cases with priority and urgency. If the decision of the regional administrative court is that there is a connection, the court that has jurisdiction over the case shall be stated in the decision and case files shall be sent to this court. The situation shall also be notified to the other court. The court that is empowered to examine the case shall notify the situation to the persons concerned.

2. If the regional administrative court decides that there is no connection, case files shall be sent to the courts concerned.

Dismissal of Connection by Courts

Section 41.

If the claims concerning connections are dismissed, interlocutory decisions on this matter shall be notified to the parties. Parties may apply to the regional administrative court located in that region for the courts that are in the same judicial region, or to the Council of State for the actions prescribed in paragraphs 2 and 3 of Section 38, within fifteen days of the notification date. Upon the application, the problem shall be solved by the regional administrative court or the competent Division of the Council of State, according to the procedure shown in the above sections.

Other Principles about the Connected Cases

Section 42.

1. All procedural acts shall stop, until the administrative and tax court decides on the existence of connection or until the regional administrative court or the Council of State decides on the matter upon receiving the objection.

2. After the process concerning the connection has been finalised, the court that has jurisdiction over the cases or the Council of State shall resume the examination.

3. Decisions of the regional administrative court and the Council of State on the existence of connection are final.

Action upon Lack of Jurisdiction

Section 43.

1. If the administrative and tax courts dismiss a case, due to lack of jurisdiction, which falls within the scope of administrative justice, they shall send the case file to the Council of State or to the administrative or tax court that has jurisdiction over the case.

a) In cases sent due to lack of jurisdiction, if the Council does not consider that the matter falls within its jurisdiction, it shall decide to send the case file to the court that has jurisdiction over the case.

b) When the court, to which the case file was sent after the lack of jurisdiction decision, does not consider that the matter falls within its jurisdiction, if the mentioned court and the court that has rendered the first lack of jurisdiction decision are bound to the same regional administrative court, dispute shall be resolved by the regional administrative court. In all other cases dispute shall be resolved by the Council of State.

2. The courts concerned shall be informed about the decisions of the Council of State and regional administrative courts concerning jurisdiction disputes. Decisions shall also be notified to the parties.

3. Decisions of the Council of State and the regional administrative court concerning jurisdiction disputes are final.

4. In cases where a new action is brought to the court that has jurisdiction over the case pursuant to the provisions of the present Act, no additional fees shall be imposed.

5. **(Repealed: 5/4/1990-3622/s. 27)**

Determination of the Competent Authority

Section 44.

1. When there exists a material or legal difficulty for the competent court to review the case or there exist doubts about the borders of judicial regions of two courts or when two courts decide that they have jurisdiction over the case, upon the request of the parties or the courts, case files shall be sent,

a) if the dispute arises at a court or between the courts located in the same judicial region, to the regional administrative court located in that region;

b) in all other cases, to the Council of State.
for the determination of the competent court.

2. The Council of State and the regional administrative court shall determine the competent court.

3. Decisions of the Council of State and the regional administrative court on this matter shall be final.

PART THREE

Application to Higher Courts against Decisions

Objection

Section 45.

1. **(Amended: 8/6/2000-4577/s. 7)** Even if there is a provision contrary to the present section in other acts, an objection might be brought to the regional administrative court located in the judicial region of the courts concerned against the decisions rendered by a single judge and the final decisions of the administrative and tax courts given concerning disputes arising from

a) Acts relating to the failure of students of primary and secondary education in exams and the assessment of their grades,

b) Acts of the governorship, county governorship, local administrative bodies and provincial administration of ministries and other public establishments and institutions concerning temporary appointment or disciplinary suspension of public servants, their allowances, leaves and residence provided them by the authorities,

c) Application of the Act on the Prevention of Infringement to the Possession of Immovables, no. 3091,

d) Application of the Act on Granting Monthly Allowance to Destitute, Powerless and Lonely Turkish Citizens Exceeding the Age of 65, no 2022 and applications relating to monthly allowances granted by public establishments and institutions for the purpose of social aid and other social aids provided under the Support of Social Co-operation and Solidarity Act, no. 3294,

e) Closure penalties imposed on work-places according to the Tax Procedure Act, no. 213.

2. **(Amended: 8.6.2000-4577/s. 7)** Time-limit for the objections made against the decisions of administrative and tax courts pursuant to the paragraph above shall be thirty days from the day following the notification date.

3. Objection shall be subjected to the procedure and form of appeal.

4. If the regional administrative court, as a result of the examination made on the basis of file, concludes that the information obtained about the facts is sufficient or if the objection concerns merely points of law or if the errors in fact can be rectified, a decision on the merits shall be rendered. Otherwise, it shall render a new decision on the merits after carrying out the necessary examination and investigation. **(Added sentence: 5/4/1990-3622/s. 15)** However, if the objections made against the decisions given as a result of preliminary examination are accepted or if the case was reviewed by a judge who has no jurisdiction over the case, the regional administrative court shall dismiss the decision and send the case file back to the court. Decisions of the regional administrative courts on these matters are final.

5. Decisions of the regional administrative court are final, appeal cannot be brought against its decisions.

6. **(Amended: 8/6/2000-4577/s. 7)** The judge who rendered the decision or participated in the decision that is the subject of the objection cannot take part in the sessions of the regional administrative court which review the same case brought before it with an objection.

Appeal

Section 46. (Amended: 5/4/1990-3622/s. 16)

1. Even if there is a provision contrary to the present section in other acts, an appeal might be brought to the Council of State against the judgments of the judicial divisions of the Council of State and administrative and tax courts.

2. **(Amended: 10/6/1994-4001/s. 20)** Provided that a special time-limit is not prescribed in specific acts, an appeal might be brought to the Council of State against the judgments of the judicial divisions of the Council of State and administrative and tax courts within thirty days from the notification date.

Decision against which Appeal cannot be Brought

Section 47

(Amended: 8/6/2000-4577/s. 8) Appeal cannot be brought against the decisions of the administrative and tax courts about which the remedy of objection is available.

Petition of Appeal

Section 48 (Amended: 5/4/1990-3622/ s. 17)

1. Appeals shall be made with a petition written to the Presidency of the Council of State.

2. Petitions of appeal must be prepared in accordance with the principles laid down in section 3. If the petition is not prepared in this way, the person concerned shall be notified by the Council of State or the court which rendered the judgment that he must complete the deficient parts within fifteen days. If the deficiencies are not rectified in this time limit the Council of State or the court shall decide that an appeal has not been brought.

3. Petitions of appeal, subject to the relevance, shall be given to the court that rendered the judgment, to the Council of State or to the authorities stated in Section 4. The petition shall be notified to the adverse party by the court that rendered the judgment or by the Council of State. The adverse party may file its answer within thirty days from the notification date. Even if it/he did not bring its appeal within the limit, the answering party may appeal against

the judgment in his petition of answer. In this case these petitions shall be regarded as petition of appeal.

4. **(Amended: 10/6/1994-4001/s. 21)** The Division of the Council of State or the court that rendered the judgment, after the petition of answer is filed or after the time-limit for the answer expired, shall send the file to the Council of State or to the Plenary Session in order of the list.

5. Petitions of appeal that include request for the stay of execution, before being notified to the adverse party, shall be sent to the Presidency of the Council of State by the court that rendered the decision and in actions where the Council of State serves as a first instance court, shall be sent to the Plenary Session of the Administrative Law Divisions or the Tax Law Divisions by the competent Division, depending on the subject of the action, to be decided on the demand of stay execution. After a decision is rendered on the request of stay of execution by the competent Division or Plenary Session at the Council of State, the notification shall be made and the file shall be prepared for the decision by this Division or Plenary Session.

6. If the whole of the required fees and expenses were not paid while filing the petition of appeal, the president of the court or the Division of the Council of State that had rendered the decision shall inform the appellant, with a written notification, that he must complete the remaining part of the fees within fifteen-day period and that otherwise his appeal would be deemed withdrawn. If the fees and expenses are not completed within the time-limit, the court or the Division of the Council of State that reviews the case as a first instance court shall decide that the appeal has not been brought. If the appeal is brought beyond the time limit laid down by the law, the court that rendered the decision or the Division of the Council of State that reviews the case as a first instance court shall also dismiss the appeal. An appeal against this type of decisions of the Court or the Division of the Council of State and against the decisions as to the dismissal of the appeal given pursuant to the second paragraph of the present section might be brought within seven days from the notification date.

7. **(Added: 10/6/1994-4001/s. 21)** In case that it is determined by the relevant Division or Plenary Session of the Council of State, to which the case file was sent, that the required fees and expenses were not paid while filing the petition of appeal, or that the petition has not been prepared in accordance with the principles laid down in section 3 or that the appeal was brought after the legal time expired, decisions mentioned in the second and sixth paragraphs shall be given by the Division and Plenary Session.

Reversal of Decision

Section 49.

1. As a result of appellate review, the Council of State shall set aside the decision examined because of the following reasons:

- a) the court lacked jurisdiction,
- b) the decision is against the law,
- c) procedural provisions were not complied with.

2. **(Amended: 5/4/1990-3622/s. 18)** If it is possible to rectify the errors concerning the facts, the decision shall be upheld with the corrections made on the errors.

3. **(Amended: 5/4/1990-3622/s. 18)** In case of reversal, the case file shall be sent to the court that rendered the decision. The court shall give priority to the examination of this case, complete the investigation, if required, and renew its decision.

4. The Court may not obey the reversal decision and insist on its previous judgment. If the person concerned brings an appeal against the decision of persistence, the case shall be reviewed at the Plenary Session of the Administrative Law Divisions or the Tax Law Divisions, according to the subject of the case. If the decision of the relevant Division of the

Council of State is approved, the judgment of the Court shall be overruled, otherwise the judgment shall be upheld. Decisions of the Plenary Session of the Administrative Law Divisions or the Tax Law Divisions of the Council of State are binding.

5. If the judgments are partly upheld and partly overruled, the part that becomes final shall be declared in the decision of the Council of State.

6. **(Added: 5/4/1990-3622/ s. 18)** Paragraphs of the present section, except the fourth paragraph, shall apply to the examination of appeals made against the decisions given by the Council of State as a first instance court by analogy.

Actions upon the Appellate Decision

Section 50. (Amended: 5/4/1990-3622/s. 19)

The decision given as a result of appeal review shall be sent to the Court or Division of the Council of State that rendered the judgment along with the case file. This decision shall be sent to the parties within seven days of the arrival to the court or Division of the Council of State.

Reversal for the Public Benefit

Section 51

1. **(Amended: 5/4/1990-3622/s. 20)** Among decisions of the regional administrative courts, decisions of administrative and tax courts and of the Council of State, rendered as a first instance court, that has become final without appellate revision, those whose nature is in contradiction with the law in force might be appealed against by the Chief Advocate General, upon the request of the ministries concerned or of his own motion, for the public benefit.

2. **(Amended: 5/4/1990-3622/s. 20)** If the appeal request is approved, the decision shall be reversed for the public benefit. This reversal decision shall not remove the legal consequences of the judgments of the court or of the Council of State which became final earlier.

3. A copy of the reversal decision shall be sent to the ministry concerned and the decision shall be promulgated in the Official Gazette.

Stay of Execution in Appeals and Objections

Section 52.

1. **(Amended: 5/4/1990-3622/ s. 21)** The fact that an objection or appeal is brought shall not stay the execution of the decisions of the judge, Court or the Council of State. However, the Division or the Session of the Council of State authorised to review the appeal and the regional administrative court authorised to listen to review the objection may decide to stay the execution of this decision in return for on the condition that a financial guarantee deposited. **(Added sentence: 10/6/1994-4001/s. 22)** In appeals made against the decision of dismissal of the action, in order to give a stay of execution order, conditions laid down in section 27 must be met.

2. Financial guarantee might not be asked in annulment actions.

3. Financial guarantee shall not be asked from the administration and those to whom free legal aid is granted.

4. Reversal of the decision shall automatically stay its execution.

Renewal of the Trial

Section 53.

1. (**Amended first sentence: 5/4/1990-3622/s. 22**)) Renewal of the decisions rendered by the Council of State, regional administrative, administrative and tax courts may be requested due to one of the reasons stated below.

a) Obtaining of a document after the rendition of the judgment, which could not have been obtained due to force majeure or actions of the person in favour of whom the decision was rendered,

b) The fact that it has been decided that the document upon which the judgment was based is fraudulent, or its fraudulence has been confessed before a court or an official authority, or although the decision about the fraudulence of the document was rendered before the judgment, the person who demands the renewal of the trial was not aware of it on the date of the decision,

c) Removal of a court decree, upon which the judgment was based, by a finalised reversal decision,

d) The fact that it has been proved by a Court decision that the expert deliberately gave a false testimony,

e) The fact that the party in favour of which the decision was rendered used fraud to affect the judgment,

f) The fact that the case was tried before the persons who are not counsels or legal representatives of the parties and decided upon after this trial,

g) The fact that the decision was rendered by a panel including the president, member or judge who must have withdrawn,

h) (**Amended: 10/6/1994-4001/s. 23**) The fact that although there is no legal basis to retry a case upon which a judgment had been previously rendered involving the same parties, subject and cause, the same court or another court rendered a new judgment conflicting with the previous judgment.

1) (**Amended: 15/7/2003-4928/ s. 6**) The fact that the European Court of Human Rights has determined by a final judgment that the decision of the domestic court leads to the violation of the Convention for the Protection of Human Rights and Fundamental Freedoms or its Protocols.

2. Requests for new trial shall be adjudicated by the court that rendered the judgment.

3. (**Amended first sentence: 15/7/2003-4928/s. 6**) The time limit for new trial shall be ten years for the reason stated in subparagraph 1/h, shall be one year from the day which the final decision of the European Court of Human Rights is rendered for the reason stated in subparagraph 1/i and sixty days for all other reasons. These limits shall run from the day following the date that the reason is materialised for the person who made the request.

Revision of Judgment

Section 54.

1. (**Amended first sentence: 5/4/1990-3622/s. 23**) In cases:

a) where the allegations and objections affecting the basis of the judgment has not been addressed,

b) where there are conflicting parts in the conclusion,

c) where the decision is not in line with the procedural rules and the law,

d) (**Amended: 5/4/1990-3622/s. 23**) where fraud and forgery made on the documents affecting the basis of the judgment has been brought to the light,

the parties might demand, for once, the revision of the decisions of the Judicial Divisions and Plenary Sessions of Tax and Administrative Divisions of the Council of State rendered upon appeal as well as the decisions of the regional administrative courts rendered upon objection, within fifteen days from the notification date.

2. **(Amended: 5/4/1990-3622/s. 23)** Judicial Divisions and Plenary Sessions of Tax and Administrative Divisions of the Council of State and the regional administrative courts shall be bound with the reasons stated in the request for revision of judgment.

3. **(Amended: 10/6/1994-4001/s. 24)** Requests for revision of judgment shall be examined by the division, session or regional administrative court that rendered the judgment on merits. Those who served as judge rapporteur in the examination of the file, cannot act in the same position in the examination of requests made for the revision of judgment.

Special Provisions Concerning Renewal of the Trial and Revision of Judgment Section 55.

1. If the subject matter of the request falls within the jurisdiction of another division or court, the decision shall be given by this division or court.

2. After the defence of the adverse party is received, requests shall be examined and if the reasons written in the law exist, the case shall be re-examined and decided upon.

3. **(Amended: 10/6/1994-4001/s. 25)** If the requests for renewal of the trial and revision of judgment are not based on the reasons prescribed by law, the request shall be dismissed.

The competent division or court shall decide whether to conduct hearings in the requests for new trial and revision of judgment.

4. Provided that the provisions of the 53., 54. and the present section are reserved, other provisions of the present Act shall apply to the requests for new trial and revision of judgment.

PART FOUR Miscellaneous Provisions

Withdrawal and Challenge in the Council of State Section 56.

1. In the case that the president or a member withdraws from the judicial division examining the case or that a challenge is made against them, board of that division, not including the withdrawn or challenged person, shall be completed to examine this matter. If the requests concerning withdrawal and challenge is approved, this board shall also decide on merits.

2. If more than two members withdraw or being challenged, request on this matter shall be examined in the Plenary Session of the Administrative Law Divisions for the president and members of administrative law divisions and in the Plenary Session of the Tax Law Divisions for the president and members of tax law divisions. The president and members who withdraw from the case or who are challenged cannot participate in these sessions. If the request on withdrawal or challenge is approved by these sessions, the session shall also decide on merits.

3. In the case that the president and some members of the Plenary Session of the Administrative Law Divisions and the Plenary Session of the Tax Law Divisions withdraw or they are challenged their positions shall be filled from other judicial divisions.

3. The number of requests for withdrawal or challenge cannot exceed the number that prevents the meetings of the Plenary Sessions of the Administrative Law and Tax Law Divisions.

4. Judge rapporteurs and advocates general of the Council of State might withdraw stating their reasons. They might also be challenged by the parties. Requests concerning their withdrawal and challenge shall be examined and decided upon by the division competent to review the case.

Withdrawal and Challenge in Courts

Section 57.

1. In actions examined by a single judge, challenges made against the judge shall be resolved by the administrative or tax court, excluding the challenged judge.

2. The challenge made against the president and members of the regional administrative court examining the case upon objection and administrative and tax courts examining the case as a first instance court shall be reviewed by the regional administrative court or administrative and tax court, excluding the challenged president or member.

3. If more than one member is challenged in the administrative and tax courts, request on this matter shall be examined by the regional administrative court. If more than one member is challenged in the regional administrative court, request on this matter shall be examined by the Council of State.

4. If the requests on challenge is approved by the Council of State or by these courts, it shall also be decided on merits.

5. In case of withdrawal from the action, provisions above shall apply to the assignment of a new judge, filling the position of the withdrawing judge and to the determination of the competent court.

Obtaining Evidence in Administrative Suits

Section 58.

1. After the action is brought, parties can demand the obtainment of evidence about the action only from the Council of State, administrative and tax court examining the action.

2. If the Council of State, administrative or tax court examining the case finds the request admissible, it may either assign one of members for this matter or decide that the local administrative or ordinary court should obtain the evidence.

3. Requests about obtaining evidence shall be decided urgently.

Travel Expenses, Compensation and Daily Wages

Section 59.

1. Travel expenses and daily wages, amounting one-thirtieth of the net salary for each day shall be given to those who are assigned for inspection, expert examination or obtaining of evidence among members of the Council of State and judges and advocates general of administrative justice serving at the Council of State. If those wages do not cover the necessary expenses, the difference shall also be paid, provided that the expenses are documented. However, payments that will be made in this way cannot exceed the half of the daily wages.

2. **(Amended: 10/6/1994-4001/s. 26)** The Act on the Payment of Travel Expenses and Compensation to the Judicial Staff and to Persons Following State Actions, no. 3717 and the Act on the Revocation of a section of the Fees Act, no. 492 shall apply to the travel expenses and compensation of the judges and other staff of the regional administrative, administrative and tax courts.

Notification and Fees

Section 60 (Amended: 5/4/1990-3622/s. 24)

All of the notifications of the Council of State, regional administrative, administrative and tax courts shall be made pursuant to the provisions of the Notification Act. Fees for the notification made under this procedure shall be paid in advance.

Judicial Recess

Section 61.

1. (Amended: 5/4/1990-3622/s. 25) (Amended first sentence: 10/6/1994-4001/s. 27)

The regional administrative, administrative and tax courts shall break for a recess from the twentieth of July to the twenty-first of August every year. However, administrative and tax courts that are located out of the centre of the province of the regional administrative court under whose judicial region they serve shall not break for the recess. These courts shall continue to work without being subjected to the restriction laid down under section 62.

2. During the recess period; an on duty court composed of three judges appointed among the presidents and members of administrative and tax courts shall be constituted in the centre of every regional administrative court by the Supreme Council of Judges and Public Prosecutors, upon the request of the president of the regional administrative court. The highest-ranking president on duty, if there is no president in the board, the highest-ranking member on duty shall become the president of the on duty court.

3. (Amended: 10/6/1994-4001/s. 27) The right to annual leave of those who stay on duty in the recess period is reserved.

Functions of On Duty Court

Section 62.

The on duty court shall deal with the following matters in the recess period:

- a) matters concerning stay of execution and obtaining evidence,
- b) matters that must be resolved in a certain period according to law.

Repealed Provisions

Section 63.

Provisions between sections 379 and 412 of the Tax Procedure Act, concerning tax disputes, shall be repealed on the date the courts constituted under the present Act assume their functions.

Additional Section 1. (Amended: 8/6/2000-4577/s. 9)

The monetary limits stated in Section 17 of the present Act, shall increase proportional to the revaluation value determined and announced by the Ministry of Finance each year pursuant to Repeated Section 298 of the Tax Procedure Act, No. 213. The increase shall apply to the monetary limits of the previous year and shall be effective from the beginning of every calendar year. The part of the limits determined following this procedure that does not exceed ten million Turkish Liras shall not be taken into account in the revaluation.

Additional Section 2. (Added: 5/4/1990-3622/s. 26)

As to files concerning the loss of status of elected organs of the municipalities and provinces sent to the Council of State by the authorised bodies; if they concern the requests for the loss of presidency of the municipal presidents after receiving the defence of the president within fifteen days, if they concern the dissolution of municipal councils and provincial general councils after receiving the defence of deputy president of the Council within fifteen days or in case that they do not present their defence in this time-limit after the time-limit for filing a defence has expired, the files shall be deemed ready for decision. Time-limits for decisions laid down by the law shall run from this date. The file shall be decided on the bases of written evidence.

An objection might be brought to the Plenary Session of the Administrative Law Divisions against those decisions within fifteen days from the notification date. Decision on the objection shall be rendered within a month. Decisions given upon objection shall be final.

Additional Section 3.

(Added: 5/4/1990-3622/s. 26: Annulled by the judgment of the Constitutional Court dated 1/10/1991, no. E. 1990/40, K. 1991/33)

Provisional Section 1.

In the application of this Act, provisions of the Constitutional Order Act, No. 2324, dated 27/10/1980 are reserved.

Provisional Section 2.

Until the new Constitution comes into force and legal arrangements about the Supreme Council of Public Accounts are concluded, actions brought against the judicial decisions of the Supreme Council of Public Accounts shall be beyond the jurisdiction of administrative justice authorities.

Provisional Section 3. (Added: 23/7/1995-4124/s. 1)

Until the amendment concerning the judicial recess of ordinary courts comes into force, the recess period, which is reduced to thirty-two days under Act no. 4001, dated 10/6/1994, shall be between the twentieth of July and the end of working hours of the fifth of September of the year.

Provisional Section 4. (Added: 8/6/2000-4577/s. 11)

Among the final decisions rendered about the disputes stated in the amended paragraph one of section 45 of the present Act, those rendered before the amendment came into force and those rendered by the court whose first decision on the case was reversed by the Council of State might be appealed against to the Council of State.

Coming into force

Section 64.

The present Act shall become effective upon the date of publication.

Execution

Section 65.

The provisions of the present Act shall be executed by the Council of Ministers.

Provisions that cannot be Inserted into the Main Text of the Act No. 2577, dated 6/1/1982

1- Provisional Section of the Act no 3622, dated 5/4/1990

Provisional Section

a) One-year period stated in the provision of this Act that amends the third paragraph of Section 26 of the Procedure of Administrative Justice Act, no. 2577, shall run from the date the present Act enters into force.

b) Actions brought before the date that the provisions of this Act amending Section 33 and 35 of the Procedure of Administrative Justice Act, no. 2577, entered into force shall be finalised in the same courts.

c) The provision of this Act that amends the appeal time-limit provided under the second paragraph of section 46 of the Procedure of Administrative Justice Act, no. 2577, shall apply to the appeals made against the final decisions rendered after the present Act enters into force.

d) An appeal might be brought against the final decisions of the Council of State rendered as a first instance court, after the present Act enters into force. However, requests for revision of judgment made against the decisions given as the first instance court before the present Act enters into force shall be examined in the Division concerned.

Provisional Sections of the Act no 4001, dated 10/6/1994

Provisional Section 1.

The provisions of this Act that amend the first and fourth paragraphs of Section 28 of the Procedure of Administrative Justice Act, no. 2577, shall apply to the decisions rendered after the present Act comes into force.

Provisional Section 2.

(Annulled by the judgment of the Constitutional Court dated 21/9/1995, no. E. 1995/46, K. 1995/49)