

On the Compensation of Losses Arising from Terrorism and the Fight Against Terrorism Law

Law No. 5233

Objective

ARTICLE 1. - The purpose of this Law shall be to provide for the protection of persons and organisations against terrorist acts or the principles and procedures regarding the compensation of the persons who have suffered material damages due to the activities procedures.

Scope

ARTICLE 2. - This Law is in conformity with Articles 1, 3 and 4 of the Anti-Terrorism Law No. 3713.

due to acts falling within the scope of the articles or activities carried out within the scope of the fight against terrorism

the settlement of the material damages of the natural persons and private legal entities who have suffered damages

the principles and procedures regarding the damages.

The following damages are excluded from the scope of this Law

a) Losses compensated by the State through allocation of land or housing or in any other way.

b) Damages compensated in accordance with a court judgement or pursuant to the Law no. 4353

The Duties of the Directorate General of Muhakemat, Procedures for the Prosecution of State Cases and the Central and

Articles 30 and 31 of the Law on Certain Amendments to the Provincial Cadres damages compensated accordingly.

c) damages awarded by the European Court of Human Rights in accordance with the Convention for the Protection of Human Rights and Fundamental Freedoms

Article 41 of the Convention on the grounds of a violation of the Convention or its annexed protocols

payment of compensation awarded or agreed upon by way of amicable settlement in accordance with the provisions of the Convention

damages covered as a result of terrorism.

d) Losses incurred due to economic and social reasons other than terrorism and security concerns

damages incurred by those who voluntarily leave their places of residence for this reason.

e) Damages incurred by persons as a result of their own intentions.

f) Offences within the scope of Articles 1, 3 and 4 of Law No. 3713 and terrorism

the damages incurred by those convicted of aiding and abetting in the incidents due to these acts.

Those for whom criminal proceedings have been initiated for the offences specified in subparagraph (f) of the second paragraph

no action shall be taken in accordance with this Law until the prosecution is concluded.

Definitions

ARTICLE 3. - In this Law

a) Commission Damage assessment commission,

b) Ministry: Ministry of Interior,

c) Minister: The Minister of Interior,
Explains.

Damage assessment commissions

ARTICLE 4. - Damage assessment commissions in provinces; applications to be made within the scope of this Law

shall be established within ten days.

The Commission consists of a chairman and six members. Deputy governor appointed by the governor

finance, public works and settlement, agriculture and rural affairs, health, industry and trade

One person to be determined by the governor from among the public officials working in that province who are experts in their fields

and a lawyer to be appointed by the bar association board of directors from among those registered to the bar association

member. The chairman and members of the Commission shall be reappointed every year in the first week of January. Old

The members may be reappointed. Depending on the workload, more than one commission may be established in the same province.

The Commission shall convene by absolute majority and decisions shall be taken by absolute majority of the total number of members.

The working principles and procedures of the Commission shall be determined by a regulation.

Duties of the Commission

ARTICLE 5. - The duties of the Commission are as follows

a) Upon the application of the injured person or his heirs, it shall be authorised to assess the damages that fall within the scope of this Law

to determine whether or not there is a public institution or professional organisation.

b) Public institutions and organisations or professional organisations in the nature of public institutions

the contribution of the implemented projects to the compensation of the damage; the debris and

other benefits; by insurance companies or according to the relevant legislation, public institutions and organisations and social

indemnities paid by security institutions, treatment and funeral expenses and Social Assistance and

By deducting the aid made from the Solidarity Incentive Fund from the amount of loss determined and containing the amount of cash or in-kind payment made according to Articles 9 or 10

to prepare draft settlement agreements.

c) If the draft settlement agreement is not accepted or is accepted in accordance with the second paragraph of Article 12

in cases where it is deemed not to have been notified, a dispute report is prepared and a copy of it is notified to the person concerned

and send it to the Ministry.

d) In case it is determined that the applicant does not have a loss falling within the scope of this Law,

to issue a decision report on this matter, to notify a copy to the relevant person and to send a copy to the Ministry.

Duration, form, examination and finalisation of the application

ARTICLE 6. - The injured person or his/her heirs or authorised representatives within sixty days of learning of the incident, in any case within one year from the occurrence of the incident

If they apply to the relevant governorship or district governorship within this period, the necessary procedures shall be initiated. After these periods

Applications to be made later shall not be accepted.

The Commission shall carry out its work on each application to be made by the damaged persons from the date of application

must be completed within six months. In cases of necessity, this period may be extended by the governor for three months.

may be extended.

The Commission may request all kinds of information and information from the relevant public institutions and organisations on the subject of the application.

may also request the assistance of employees of public institutions and organisations as expert witnesses.

may assign experts it deems necessary. The Commission may employ or consult experts it deems necessary.

The chairman and members of the Commission may appoint their own, their spouses' and their family members up to the third degree (up to the third including) blood relatives and in-laws cannot attend the commission meetings related to the damages of their blood relatives and in-laws.

Secretarial services of the Commission shall be carried out by the special provincial administrations.

Those appointed by the Commission as expert witnesses shall be paid an amount equal to (500) indicators for each day.

The amount to be found as a result of multiplication by the coefficient of civil servant salary is paid. These payments, stamp

shall not be subject to any taxes and deductions except the tax.

The expenses of the Commission shall be covered from the budget of the Ministry.

The application made within the time limit for filing a lawsuit shall be submitted to the general court until the final action result is notified to the person concerned.

the time limit for filing a lawsuit according to the provisions.

Damages to be covered

ARTICLE 7. - According to the provisions of this Law, the damages that can be compensated through settlement are as follows

a) All kinds of damages to animals, trees, crops and other movable and immovable property.

b) Damages incurred in cases of injury, disability and death, and treatment and funeral expenses.

c) Damages to the assets of persons due to the activities carried out within the scope of the fight against terrorism

material damages arising from their inability to access.

Determination of damages

ARTICLE 8. - The damages mentioned in Article 7 shall be recognised upon the declaration of the injured party, judicial, administrative and military

the way the incident occurred and the measures taken by the injured party, taking into account the information and documents in the authorities in accordance with equity, taking into account the fault or negligence of the injured party, if any, and directly by the commission in accordance with the economic conditions of the day or by the expert is determined through mediation.

In the determination of the damage related to the immovable, Article 11 of the Expropriation Law No. 2942

The appraisal principles specified are applied by analogy.

Payments to be made in case of injury, disability and death

ARTICLE 9. - In cases of injury, disability and death, the civil servant of the indicator figure (7000)

multiplied by the monthly coefficient;

a) For the injured, according to the degree of injury, not exceeding six times the amount,

b) Those whose loss of earning capacity is determined as the third degree by the authorised health institutions

from four times to twenty-four times,

c) Those whose loss of earning capacity is determined as second degree by authorised health institutions

from twenty-five times to forty-eight times,

d) Those whose loss of earning capacity is determined as first degree by authorised health institutions

from forty-nine times to seventy-two times,

e) Fifty times to the heirs of the deceased,

Cash payment is made.

The amount to be taken as a basis for determining the cash payment shall be determined by the governor or the Minister

shall be determined based on the indicators and coefficient figures valid on the date of approval.

In the transfer of the cash payment determined according to subparagraph (e) of the first paragraph to the heirs, no. 4721

The provisions of the Turkish Civil Code relating to inheritance shall apply.

The Council of Ministers shall have the right to increase the indicative figure for cash payments up to thirty per cent.

or to reduce it up to the legal limit.

For the damages within the scope of this Law, natural or private legal entities

There shall be no recourse to the State for the payments made by persons.

Principles and procedures regarding the form and amount of cash payments and the determination of the degree of injury and disability

shall be determined by regulation.

Method of compensation of damages

ARTICLE 10. - The damages mentioned in subparagraphs (a) and (c) of Article 7 may be compensated in cash or in kind

shall be compensated. However, in the compensation of these damages, performance in kind shall be prioritised to the extent possible. Performance in kind,

can be made within the framework of individual or general projects.

The principles and procedures regarding the in-kind mode of performance shall be determined by regulation.

Amounts to be deducted

ARTICLE 11. - The amounts determined according to sub-paragraph (b) of Article 5 shall be calculated as at the date of offset

from the total gross performance price to be calculated according to Articles 8 and 9 over their values

deducted.

The principles and procedures regarding the calculation of the values to be deducted shall be determined by regulation.

Settlement agreement regarding the compensation of the loss

ARTICLE 12. - The Commission, after the determination made directly or through an expert, shall, after 8

damage determined in accordance with Article 9, injury, disability and death calculated in accordance with Article 9

the amount of the cash payment in cases of cash payment, the manner of performance according to Article 10 and the set-off according to Article 11

The Commission shall determine the net amount to cover the damage incurred through settlement, taking into account the amounts to be determined.

A copy of the draft settlement agreement prepared by the Commission in accordance with these principles shall be sent to the right holder together with the invitation letter.

shall be notified to the owner.

In the invitation letter, the right holder shall be invited to come within twenty days to sign the draft settlement agreement.

or an authorised representative, otherwise he/she has not accepted the draft settlement agreement

shall be indicated.

If the beneficiary or his authorised representative accepts the draft settlement agreement, this

the draft settlement shall be signed by him or his authorised representative and the chairman of the commission.

If the draft settlement agreement is not accepted or deemed not accepted according to the second paragraph

In such cases, a dispute report shall be prepared and a copy shall be sent to the relevant person and the Ministry.

In disputes that cannot be resolved through settlement, the right of those concerned to apply for judicial remedy is reserved.

Compensation of damages

ARTICLE 13. - The damages determined in the settlement agreement shall be paid by the governor after the settlement agreement is signed.

Upon the approval of the Minister, it shall be covered from the appropriation allocated for this purpose in the budget of the Ministry according to the manner of performance.

The Ministry may, with the approval of the Minister, authorise in-kind performances or cash payments exceeding twenty billion Turkish Liras.

to be made to the taxpayers. This amount shall be calculated annually in accordance with Article 298 repeated of the Tax Procedure Law No. 213.

The amount of the payment shall be increased by the revaluation rate determined and announced in accordance with the provisions of the article.

The State reserves the right of recourse against those responsible for the payment in accordance with the general provisions.

Audit and responsibility

ARTICLE 14. - Commissions shall be supervised by the Ministry.

In accordance with this Law, the persons assigned in damage assessment procedures shall be liable to

or offences committed in the course of their duties, offences committed against public servants; offences committed against

for offences committed by civil servants during the course of their duties, in relation to offences committed by public servants

provisions apply.

Exceptions and exemptions

ARTICLE 15. - Applications and notifications to be made in connection with the implementation of this Law,

documents to be issued, transactions to be carried out by official authorities and notaries public and the transactions specified in this Law

donations and aids to be used in line with the purposes, all kinds of taxes, duties and exempt from fees.

Donations and aids to be used for the purposes specified in this Law shall be exempt from

The amounts that can be deducted from the income and corporate tax base are determined according to the relevant legislation.

Notification

ARTICLE 16. - Notifications to be made pursuant to this Law are governed by the Notification Law No. 7201

provisions shall apply. However, it is essential that the notification is made through an officer.

Regulation

ARTICLE 17. - The working principles and procedures of the Commission, the procedures to be followed in applications to the Commission

procedures, determination of damages to life, bodily integrity and property, settlement of the damages incurred

determination of the pure amounts to cover the loss of earning capacity, the form and amount of the cash payment and the loss of earning capacity

The principles and procedures for the determination of the rates and other matters shall be determined within two days after the publication date of this Law.

by a regulation to be prepared by the Ministry and put into effect by the Council of Ministers within a month

shall be organised.

PROVISIONAL ARTICLE 1. - Within one year from the date of entry into force of this Law, the relevant governorates

and district governorships, between 19.7.1987 and the date of entry into force of this Law

Articles 1, 3 and 4 of the Anti-Terrorism Law No. 3713 committed between

acts that fall within the scope of the above-mentioned acts or acts carried out within the scope of the fight against terrorism between the aforementioned dates

on the material damages of natural persons and private law legal entities who have suffered damages due to their activities

The provisions of this Law shall also apply.

Applications made pursuant to this article shall be finalised within two years from the date of application.

PROVISIONAL ARTICLE 2. - From 19.7.1987 until the date of entry into force of this Law, public officials who have been harmed by terrorism or during the fight against terrorism while on duty, or

have received compensation from their heirs in accordance with the relevant legislation, but the calculation of the compensation

those whose criteria are different from this Law, within one year from the date of publication of this Law, the relevant governorship

or district governorships, in the calculation to be made, the compensation they have received and according to this Law

if there is a difference between the compensation they should receive, the deficient amount shall be paid with legal interest

is paid. If the amount of compensation paid is excessive, no refund shall be requested.

Applications made pursuant to this article shall be submitted within one year at the latest as of the date of application.

finalised.

Enforcement

ARTICLE 18. - This Law shall enter into force on the date of its publication.

Execution

ARTICLE 19. - The provisions of this Law shall be executed by the Council of Ministers.

26/7/2004

Page Top

Acting as Deputy Prime Minister

T.C.

PRIME MINISTRY

B.02.0.PPG.0.12-305-10495

TO THE SUPREME FLOOR OF THE PRESIDENCY

I will go to Iran on 27 July 2004 to hold talks,

Minister of State and Deputy Prime Minister Abdüllatif Şener will act as Prime Minister.

I respectfully submit for your approval.

Recep Tayyip ERDOĞAN

Prime Minister

T.C.

PRESIDENCY OF THE REPUBLIC

B.01.0.KKB.01-06/A-21-2004-869

PRIME MINISTRY

DLGD : Your letter dated 26 July 2004 and numbered B.02.0.PPG.0.12-305-10495.

Prime Minister Recep Recep Recep, who will go to Iran on 27 July 2004 to hold talks

Until the return of Tayyip ERDOĞAN; Minister of State and Deputy Prime Minister

It is appropriate for Abdüllatif ŞENER to deputise.

I kindly request your information.

Ahmet Necdet SEZER

PRESIDENT OF THE REPUBLIC

Page Top

Proxying to Ministries

T.C.

PRIME MINISTRY

B.02.0.PPG.0.12-305-10482

TO THE SUPREME FLOOR OF THE PRESIDENCY

Minister of Interior, who will visit Belarus on 27 July 2004 to hold talks

M. Vecdi Gönül, Minister of National Defence, as Minister of Interior until the return of Abdülkadir Aksu

I respectfully submit for your high approval.

Recep Tayyip ERDOĞAN

Prime Minister

T.C.

PRESIDENCY OF THE REPUBLIC

B.01.0.KKB.01-06-226-2004-868

PRIME MINISTRY

ĐLGĐ : Your letter dated 26 July 2004 and numbered B.02.0.PPG.0.12-305-10482.

Minister of Interior, who will go to Belarus on 27 July 2004 to hold talks

Until the return of Abdülkadir AKSU, Minister of Interior shall be replaced by Minister of National Defence M. Vecdi

It is appropriate for GÖNÜL to deputise.

I kindly request your information.

Ahmet Necdet SEZER

PRESIDENT OF THE REPUBLIC

T.C.

PRIME MINISTRY

B.02.0.PPG.0.12-305-10496

TO THE SUPREME FLOOR OF THE PRESIDENCY

Minister of Transport, who will go to Iran on 27 July 2004 to attend meetings

Kemal Unakitan, Minister of Finance, will be acting as Minister of Transport until the return of Binali Yıldırım.

I respectfully submit it to your high approval.

Recep Tayyip ERDOĞAN

Prime Minister

T.C.

PRESIDENCY OF THE REPUBLIC

B.01.0.KKB.01-06-227-2004-870

PRIME MINISTRY

ĐLGĐ : Your letter dated 26 July 2004 and numbered B.02.0.PPG.0.12-305-10496.

The Minister of Transport, who will go to Iran on 27 July 2004 to hold negotiations

Minister of Transport until the return of Binali YILDIRIM, Minister of Finance Kemal UNAKITAN

to deputise for him.

I kindly request your information.

Ahmet Necdet SEZER
PRESIDENT OF THE REPUBLIC

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T.C.

PRIME MINISTRY

B.02.0.PPG.0.12-305-10497

TO THE SUPREME FLOOR OF THE PRESIDENCY

The Minister of Energy and Natural Resources, who will go to Iran on 27 July 2004 to hold talks

Until the return of M. Hilmi Güler, Minister of Energy and Natural Resources, Environment and

I respectfully submit to your high approval that Osman Pepe, Minister of Forestry, will act as the acting Minister.

Recep Tayyip ERDOĞAN

Prime Minister

T.C.

PRESIDENCY OF THE REPUBLIC

B.01.0.KKB.01-06-228-2004-871

PRIME MINISTRY

ĐLGD : Your letter dated 26 July 2004 and numbered B.02.0.PPG.0.12-305-10497.

The Minister of Energy and Natural Resources, who will go to Iran on 27 July 2004 to hold negotiations, will be appointed as the Minister of Energy and Natural Resources of the Republic of Turkey.

Until the return of M. Hilmi GÜLER, Minister of Energy and Natural Resources, Environment Minister of Forestry and Forestry Osman PEPE.

I kindly request your information.

Ahmet Necdet SEZER

PRESIDENT OF THE REPUBLIC

Page Top

Appointment Decisions

From the Ministry of Finance

Decision No. : 2004/6122

1 - Deputy General Manager and Member of the Board of Directors of the General Directorate of National Lottery Administration

As Đsmail YILDIRIM has completed his term of office as a member of the Board of Directors, he has been appointed as a member of the Board of Directors.

reappointment, in accordance with Article 5 of the Decree Law No. 320 is deemed appropriate.

2- This Decree shall be executed by the Minister of Finance.

26 July 2004

Ahmet Necdet SEZER

PRESIDENT OF THE REPUBLIC

Recep Tayyip ERDOĞAN K. UNAKITAN

Prime Minister Minister of Finance

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From the Ministry of Finance

Decision No: 2004/6140

1 - To the vacant position of Deputy Undersecretary with grade 1 cadre and + 6400 additional indicators

Appointment of Mehmet Sami KENEZ as the President of the Research, Planning and Coordination Board

It is deemed appropriate in accordance with Article 76 of the Law and Article 2 of the Law No. 2451.

2- This Decree shall be executed by the Minister of Finance.

26 July 2004

Ahmet Necdet SEZER

PRESIDENT OF THE REPUBLIC

Recep Tayyip ERDOĞAN K. UNAKITAN

Prime Minister Minister of Finance

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From the Ministry of National Education:

Decision No: 2004/6042

1 - Ardahan Directorate of National Education, which is vacant, with 1st rank, +3000 additional indicators

Assist. Assoc. Prof. Dr. Mehmet Münir DEDEOĞLU, a faculty member of Atatürk University Faculty of Arts and Sciences, to carry out his duty.

Mehmet Münir DEDEOĞLU to be assigned, Article 38 of Law No. 2547 and 2451

It is deemed appropriate in accordance with Article 2 of the Law No. 2.

2- This Decree shall be executed by the Minister of National Education.

26 July 2004

Ahmet Necdet SEZER

PRESIDENT OF THE REPUBLIC

Recep Tayyip ERDOĞAN Assoc. Dr H.ÇELİK

Prime Minister Minister of National Education

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From the Ministry of National Education:

Decision No. : 2004/6125

1 - To the vacant position of Ministry Counsellor with grade 1, cadre and +3600 additional indicators Ahmet

KARAMERCAN's appointment, Articles 59 and 74 of the Law No. 657 and Article 2 of the Law No. 2451

This Decree is deemed appropriate in accordance with Article 2 of the Law.

2- This Decree shall be executed by the Minister of National Education.

26 July 2004

Ahmet Necdet SEZER

PRESIDENT OF THE REPUBLIC

Recep Tayyip ERDOĞAN Assoc. Dr H.ÇELİK

Prime Minister Minister of National Education

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From the Ministry of Public Works and Settlement:

Decision No. : 2004/6126

1 - Harun ÖNDER, Deputy Undersecretary, was dismissed from his duty to be assigned to another duty.

It has been deemed appropriate in accordance with Article 2 of the Law No. 2451.

2- This Decree shall be executed by the Minister of Public Works and Settlement.

26 July 2004

Ahmet Necdet SEZER

PRESIDENT OF THE REPUBLIC

Recep Tayyip ERDOĞAN Z.ERGEZEN

Prime Minister Minister of Public Works and Settlement

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From the Ministry of Public Works and Settlement:

Decision No. : 2004/6127

1 - To the Ministry Counsellor position, which is vacant, with a grade 1 cadre and + 3600 additional indicators

The appointment of Abdullah ÜNSAL shall be based on the amended Articles 59 and 76 of the Law No. 657 and the Law No. 2451.

It is deemed appropriate in accordance with Article 2 of the Law.

2- This Decree shall be executed by the Minister of Public Works and Settlement.

26 July 2004

Ahmet Necdet SEZER

PRESIDENT OF THE REPUBLIC

Recep Tayyip ERDOĞAN Z.ERGEZEN

Prime Minister Minister of Public Works and Settlement

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From the Ministry of Public Works and Settlement:

Decision No: 2004/6139

1 - The vacant position in the General Directorate of Highways, with a grade 1 position and +3000 additional indicator

Metin GÖRMEN, Deputy Regional Director of the same Regional Directorate, to the 11th Regional Directorate of Van

appointment, Article 76 of the Civil Servants Law No. 657 and Article 2 of the Law No. 2451 Article of the Law on Public Works and Settlement.

2- This Decision shall be executed by the Minister of Public Works and Settlement.

26 July 2004

Ahmet Necdet SEZER

PRESIDENT OF THE REPUBLIC

Recep Tayyip ERDOĞAN Z.ERGEZEN

Prime Minister Minister of Public Works and Settlement

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From the Ministry of Transport

Decision No: 2004/6129

1 - Ali Ali was appointed as the Ministerial Counsellor with a vacant position of 1st rank, with a cadre of grade 1 and an additional indicator of + 3600.

The appointment of ZOR is based on the amendments to Articles 59 and 76 of the Law No. 657 and Article 2 of the Law No. 2451.

article of the Turkish Commercial Code.

2- This Decision shall be executed by the Minister of Transport.

26 July 2004

Ahmet Necdet SEZER
PRESIDENT OF THE REPUBLIC
Recep Tayyip ERDOĞAN B.YILDIRIM
Prime Minister Minister of Transport

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From the Ministry of Labour and Social Security:

Decision No: 2004/6130

1 - Bag-Kur General Director, who is vacant, with a grade 1 cadre and +3600 additional indicators

Appointment of Abdullah YAĞLI to the position of Assistant Vice President, in accordance with the amended article 74 of the Law No. 657 and 4956

It is deemed appropriate in accordance with Article 6 of the Law No. 1479 amended by the Law No. 1479.

2- This Decree shall be executed by the Minister of Labour and Social Security.

26 July 2004

Ahmet Necdet SEZER
PRESIDENT OF THE REPUBLIC
Recep Tayyip ERDOĞAN M.BAŞESGĐOĞLU
Prime Minister Minister of Labour and Social Security

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From the Ministry of Industry and Trade:

Decision No. : 2004/6132

1 - The vacant position of Muğla Provincial Directorate of Industry and Trade, with the rank of 1st and additional indicator of +3000

Appointment of Ali ERKAN to the Directorate; Article 74 of the Law No. 657 and the Law No. 2451

2. It has been deemed appropriate in accordance with Article 2.

2- This Decree shall be executed by the Minister of Industry and Trade.

26 July 2004

Ahmet Necdet SEZER
PRESIDENT OF THE REPUBLIC
Recep Tayyip ERDOĞAN A. COŞKUN
Prime Minister Minister of Industry and Trade

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From the Ministry of Energy and Natural Resources:

Decision No. : 2004/6133

1 - To the vacant position of Deputy General Manager of Boru Hatları ile Petrol Taşıma A.Ş. Şakir

The appointment of ARIKAN is deemed appropriate in accordance with Article 2 of the Law No. 2477.

2- This Decree shall be executed by the Minister of Energy and Natural Resources.

26 July 2004

Ahmet Necdet SEZER
PRESIDENT OF THE REPUBLIC
Recep Tayyip ERDOĞAN Dr M. H. H. GÜLER
Prime Minister Minister of Energy and Natural Resources

From the Ministry of Energy and Natural Resources:

Decision No: 2004/6134

1 - Hüseyin Hüseyin Hüseyin was appointed to the vacant position of Deputy General Manager of Boru Hatları ile Petrol Taşıma A.Ş.

The appointment of Saltuk DÜZYOL is deemed appropriate in accordance with Article 2 of the Law No. 2477.

2- This Decree shall be executed by the Minister of Energy and Natural Resources.

26 July 2004

Ahmet Necdet SEZER

PRESIDENT OF THE REPUBLIC

Recep Tayyip ERDOĞAN Dr M. H. H. GÜLER

Prime Minister Minister of Energy and Natural Resources

From the Ministry of Culture and Tourism:

Decision No. : 2004/6135

1 - The Ministry with the vacant position of 1st rank and + 3600 additional indicators

Appointment of Abdullah DÖRTLEMEZ to the post of Consultant, and the appointment of

Abdullah DÖRTLEMEZ to the posts of Consultant to the Ministry of Labour and Social Affairs articles and Article 2 of the Law No. 2451.

2- This Decree shall be executed by the Minister of Culture and Tourism.

26 July 2004

Ahmet Necdet SEZER

PRESIDENT OF THE REPUBLIC

Recep Tayyip ERDOĞAN E.MUMCU

Prime Minister Minister of Culture and Tourism

From the Ministry of Culture and Tourism:

Decision No. : 2004/6136

1 - The vacant position of Ankara Provincial Directorate of Culture and Tourism with 1st rank and additional indicator of + 3600

The appointment of Doğan ACAR as the Director of the Directorate of the Ministry of Labour and Social Affairs, in accordance with the amended Article 76 of the Law No. 657 and the Law No. 2451

It is deemed appropriate in accordance with Article 2 of the Law.

2- This Decree shall be executed by the Minister of Culture and Tourism.

26 July 2004

Ahmet Necdet SEZER

PRESIDENT OF THE REPUBLIC

Recep Tayyip ERDOĞAN E.MUMCU

Prime Minister Minister of Culture and Tourism

From the Ministry of Environment and Forestry:

Decision No. : 2004/6137

1 - The vacant position of Bingöl Provincial Environment and Forestry Directorate

Appointment of Danyal SEFERBEY to the Directorate, Articles 71 and 76 of the Law No. 657 and 2451

It has been deemed appropriate in accordance with Article 2 of the Law No. 2.

2- This Decree shall be executed by the Minister of Environment and Forestry.

26 July 2004

Ahmet Necdet SEZER

PRESIDENT OF THE REPUBLIC

Recep Tayyip ERDOĞAN O. PEPE

Prime Minister Minister of Environment and Forestry

Page Top

Regulations

From the Ministry of State

Participation in the Services of Social Services and Child Protection Agency

Regulation on Provision and Honouring of Contributors

Regulation on the Amendment of Certain Articles

ARTICLE 1 - Social Services published in the Official Gazette dated 6/10/1989 and numbered 20304

Ensuring Participation in the Services of the Child Protection and Child Protection Agency and Recognising Contributors

Article 6 of the Regulation on Honouring the Honourable has been amended as follows.

"Article 6 - Those who will contribute to social service activities

a) General Directorate of Social Services and Child Protection Agency,

b) Provincial Directorates of Social Services in provinces,

c) In the provinces, to the District Social Services Directorates

They can provide the necessary information and assistance by applying."

ARTICLE 2 - Article 12 of the same Regulation has been amended as follows.

"Article 12 - Certificate of Appreciation; 20x30 cm in size and the Emblem of the Institution in the top centre

is found. The texts are printed in yellow relief gilt on a white background. The Civil Chief and the Provincial or District

It is signed and stamped by the Director of Social Services.

The Certificate of Appreciation is given in a cardboard cover covered with velvet."

ARTICLE 3 - Article 19 of the same Regulation has been amended as follows

"Article 19 - Determination of those to be honoured shall be made by the General Manager or the General

Under the chairmanship of Deputy Director, 1st Legal Counsellor, General Social Services, Research-Planning and

By a commission consisting of the Heads of Coordination, Administrative and Financial Affairs and Personnel Departments

is made. This commission is responsible for the persons and organisations to be honoured with honour awards other than the certificate of appreciation.

and submits it to the approval of the General Director.

The secretariat services of the Commission are carried out by the General Social Services Department. Those Honoured

A log book shall be kept for this purpose."

ARTICLE 4 - Article 20 of the same Regulation has been amended as follows

"Article 20 - For those who are honoured, the General Directorate shall keep a 20x30 cm sized book with a top centre section

A certificate with the Emblem of the Institution shall be issued. The name and surname of those honoured,

The type of honour and the reason for the award shall be written and signed and sealed by the General Manager.

The certificates are given in a velvet covered cardboard case."

Enforcement

ARTICLE 5 - This Regulation enters into force on the date of publication.

Execution

ARTICLE 6 - The provisions of this Regulation shall be applicable to the General Directorate of Social Services and Child Protection Agency

The Director shall execute it.

From the Ministry of Justice

Judicial Judge and Prosecutor Candidates and Administrative Judge Candidates

On the Procedures and Principles of the Written Examination at the End of the Trainings

Regulation

PART ONE

Purpose, Scope, Basis and Definitions

Objective

Article 1 - The purpose of this Regulation is to provide for the candidates for judges and prosecutors of the judicial judiciary and judges of the administrative judiciary the procedures and principles regarding the written examination to be held at the end of the pre-vocational training of the candidates to determine.

Scope

Article 2 - This Regulation covers the subjects taught to candidates during pre-vocational training

the scope, place, form, evaluation and formation of the examination board and related matters.

Basis

Article 3 - This Regulation is based on the 28th Article of the Turkish Justice Academy Law No. 4954

prepared in accordance with paragraph 9 of Article 9.

Definitions

Article 4 - In this Regulation

a) Candidate: Those appointed as candidate judges and prosecutors in the judicial judiciary and candidate judges in the administrative judiciary appointees,

b) Academy: Turkish Justice Academy,

c) Ministry: Ministry of Justice,

d) Presidency: Presidency of the Turkish Justice Academy,

e) President: The President of the Turkish Justice Academy,

f) Board of Directors The Board of Directors of the Turkish Justice Academy,

g) Education Pre-vocational training,

h) Training Centre: Turkish Justice Academy Training Centre,

i) Examination: Written examination at the end of pre-vocational training,

j) Lecturers: Those who are within the scope of Articles 22 and 23 of Law No. 4954,

Those assigned to give lectures at the Academy means.

PART TWO

Formation, Duties and Remuneration of the Examination Board

Formation of the Examination Board

Article 5 - In order to manage and finalise the examination to be conducted, the chairman, four full and two substitute

An Examination Board consisting of members shall be formed.

The chairman and members of the Examination Board shall be selected from among the lecturers teaching at the Academy by the Board of Directors.

Board of Examiners.

The Examination Board convenes with the participation of all members and decides by simple majority.

In case one of the full members cannot attend the Examination Board due to an excuse, he/she shall be replaced by the first the next substitute member shall attend.

Duties of the Examination Board

Article 6 - The duties of the Examination Board are specified below:

- a) To determine the duration and scoring principles of the examination,
- b) Determining the questions from the question bank,
- c) To ensure that the examination is conducted in an organised manner,
- d) To evaluate the answers, to organise the exam minutes and to deliver the exam documents to the President to do it,
- e) To examine and decide on the objections to be made to the exam results.

Fee

Article 7 - The members of the Examination Board are entitled to the following compensation for their labour and efforts

The examination fee determined as explained above is paid.

In return for the work to be carried out for the purpose of determining the examination questions, the Academy shall be paid

five teaching hours in the amount paid to the staff, on the examination days, the teaching hours within the examination period

up to the amount of the fee, every five candidates based on the number of candidates who took the exam during the evaluation of the exams

The fee calculated by calculating one lesson hour fee for one lesson hour and not less than five lesson hour fees,

paid separately to the members of the board as an examination fee.

In case of objection to the examination results, the Chairman and members of the Examination Board shall be paid according to the above paragraph calculated fee is paid.

PART THREE

Examination Principles

Place, Form and Day of the Examination

Article 8 - Examinations are organised by the Presidency at least fifteen days after the end of the training

on the day and place determined by the Board of Directors, separately for judicial and administrative judicial candidates

The exam is conducted in classical or test method to be determined by the Centre.

The date, place and time of the examination shall be announced on the notice board of the Training Centre three days before the end of the training.

It is announced by hanging.

Examination Subjects

Article 9 - The examination is given to candidates during the preparatory and final training periods of pre-vocational training.

covers the subjects taught.

Identification of Questions

Article 10 - Lecturers teaching in the preparatory and final training periods

five days before the exam day, in classical or test method related to their fields

the four exam questions they will prepare together with the answer keys in a sealed and signed envelope to the Chairman

They deliver it.

Examination subjects, number of questions and questions are determined by the Examination Board.

The weight score of each question over (100) is determined.

Conducting the Examination

Article 11 - Candidates are taken to the exam hall half an hour before the exam time.

The duration of the exam, the rules to be followed and the principles of score calculation by the Chairman of the Examination Board

are announced to the candidates.

The exam questions are opened and distributed in front of the candidates.

Evaluation of the Examination

Article 12 - The exam is evaluated over 100 full points. In the evaluation (70) and

Those who get higher scores are considered successful in the exam.

The exam papers are evaluated together by the Chairman and members of the Examination Board.

As a result of this evaluation, fractions of (0,5) and higher are added to the next whole number.

Announcement of Examination Results

Article 13 - After the results of the examination are recorded and signed by the Examination Board

then announced by the Presidency on the same day.

In the minutes, the number of candidates taking the exam, the start and end times of the exam, the

scores, the names of those who are considered successful and unsuccessful and the names of those who are considered successful and unsuccessful

whether or not the exam has occurred is included.

Candidates who are deemed unsuccessful in the exam are notified separately.

Appeal to Examination Results

Article 14 - Those who are deemed unsuccessful as a result of the exam will be notified on the date of notification, those who are deemed successful will be notified on the date of notification.

object in writing to the Presidency within five days from the date of announcement of the exam results

They may file an appeal.

The objections shall be decided by the Examination Board within five days and notified to the relevant person.

Failure to Participate in the Examination

Article 15 - Candidates,

a) 30/12/1980 dated 8/2175 numbered and 30/12/1980 dated Physicians and Health

According to the provisions of the Regulation on Boards;

1) Examination of those who have a sick leave on the day of the exam; ten days after the end of their sick leave

on the day determined by the Chairman within days,

2) Examination of those who use more than fifteen days of sick leave; this period is dated 30/12/1980 and 8/2175

No. Regulation on the Physicians and Health Boards to Issue Sickness Reports of Civil Servants

within ten days after the completion of the exam according to the provisions of the Law, on the day determined by the President.

b) The examinations of those who cannot attend the examinations due to their excused leave shall be held at the end of the excused leave.

It is held on the day determined by the Chairman within ten days after the expiry of the term.

Invalidation of the Examination

Article 16 - Candidates;

a) Those who leave the examination hall without the permission of the Chairman of the Examination Board,

b) Those who cheat or attempt to cheat in the exam,

c) Those who cheat or attempt to cheat in the exam,

d) Those who put markers on the examination papers,

e) Those who let someone else take the exam in their place,

f) Those who behave in violation of the exam order

A report is prepared about them and their exams are deemed invalid.

Failure in the Examination

Article 17 - Candidates;

a) Those who score less than 70 points in the exam,

b) Those whose exams are deemed invalid,

c) Those who do not attend the exam without an excuse are considered unsuccessful.

Second Examination Right

Article 18 - Second examination for those who are deemed unsuccessful according to Article 17 of this Regulation

the right to take the second examination.

The second examination shall be held within two months from the date of the first examination in accordance with the procedures and principles of the first examination.

on the day determined by the Presidency.

Storage of Examination Documents

Article 19 - The examination documents shall be kept in the Academy archive for two years. However; administrative judgement

The retention of the documents about the applicants shall continue until the case is finalised.

At the end of the retention period, the examination documents shall be sent to the Ministry to be placed in the candidate's private file.

sent to the Ministry.

Notification of Examination Results to the Ministry

Article 20 - The list of names of those who are accepted as successful and unsuccessful as a result of the examination is prepared by the Presidency in five lists.

sent to the Ministry within days.

SECTION FOUR

Miscellaneous Provisions

Provisional Article 1 - Before 31/10/2003, candidates for judicial judges and prosecutors or administrative

the final exams of those who have not completed their training among those appointed as candidate judges for judicial judgeships

It is held at the Training Centre within the framework of the procedures and principles specified in the Regulation.

Those who score 60 or more points in the written exam from these candidates are considered successful.

Enforcement

Article 21 - This Regulation enters into force on the date of its publication.

Execution

Article 22 - The President shall execute the provisions of this Regulation.

Top of Page

Circular

Prime Ministry Undersecretariat of State Planning Organisation

Circular-2004/1

The policies and multifaceted measures set out in the Government Programme, many activities carried out within the scope of the Emergency Action Plan prepared in line with the programme

to provide solutions to many problems that have never been addressed before in the short, medium and long term

aimed reforms are being implemented in a phased manner. Our main objective is to ensure that the development process

to create a sustainable growth environment within an approach that also takes into account its dimension and

is to increase the speed and quality of the services we will provide to our citizens. Our government, especially the public

management, ensuring fiscal discipline in the public sector, ensuring fiscal discipline in the public sector, improving public

all initiatives to increase efficiency and productivity in the utilisation of resources

The reform efforts are being carried on simultaneously.

In 2005, the resources to be allocated to public organisations will be used effectively and efficiently.

Within the framework of the principle of utilisation, the 2005 Investment Programme has been prepared in accordance with the policies of the VIII.

In an appropriate manner, intensification will continue in the areas of economic and social infrastructure.

urgent and prioritised services needed by the society as soon as possible, taking into account the limited resources

In this framework, public investment allocations for 2005 will be made for education, health, technology infrastructure and justice.

In this framework, public investment allocations for 2005 will focus on education, health, technology infrastructure and justice.

regional investments in services and investments to ensure balance between transport sub-sectors

development strategies will also be prioritised. On a project basis, sectoral and regional

In addition to the priorities, among the ongoing projects, the following projects will be completed in 2005

a significant physical realisation has been achieved in its implementation, and external financing has been provided.

to be carried out in connection with or simultaneously with other approved and initiated projects; and

Priority projects to be completed and projects for the prevention of disasters and compensation of disaster damages

projects and information and communication technology projects in line with the e-Transformation Turkey Project

will be given.

The preparation and implementation process of the public investment programme will be transformed into a more effective and quality structure.

and the average completion time of the projects in accordance with their sectoral characteristics.

to increase the quality and speed of the services to be provided to our citizens by reducing them to reasonable levels

the rationalisation and improvement works initiated during the preparation and implementation of the 2005 Investment Programme

will continue in the implementation process. Priority public investments will be prioritised in the studies to be carried out.

while endeavouring to increase the level of resources to be allocated, the public project stock is expected to be smaller and

will be targeted to consist of prioritised projects with adequate financing. In addition, public projects

preparation, analysis, selection, implementation, monitoring and evaluation

structural measures to ensure that the efficient structure of the project stock does not deteriorate in the future

will be established.

In this framework, the decision of the High Planning Council dated 19/07/2004 and 2004/37 No. 2005 Macro Framework Decision on the 2005 Programme and Fiscal Year Budget, 2005 Investment Programme

will constitute the basis for the preparations.

In the preparation of 2005 investment proposals, the main objective of the organisations is to determine the priority and will be to complete the investments that are still feasible. Public organisations shall submit their investment proposals

While preparing within the institutional offer ceilings specified in the FCPK Decision, except in urgent and compulsory cases

shall not propose new projects that will take more than one year to realise. Very essential New project proposals to be made in such cases shall be justified by sound feasibility studies, annual project

proposals will be selective to the maximum extent, taking into account the existing savings circulars.

All investor public organisations shall be required to take into account the above-mentioned issues in the FCPK Decision.

investment proposal ceilings, priorities and principles and the annexed "2005 Investment Programme Preparation

2005 investment proposals to be prepared in accordance with the matters specified in the "Principles

I kindly request them to send it to the Undersecretariat of State Planning Organisation immediately.

Recep Tayyip ERDOĞAN

Prime Minister

2005 Yat.Prog.Haz.Principles

2005 Tables

2005 Appendices

Page Top

JUDICIAL SECTION

Constitutional Court Decision

Presidency of the Constitutional Court

Number of Principles : 2002/128

Decision No: 2004/23

Decision Date : 17.2.2004

APPLICANTS FOR APPEAL :

Istanbul 5th Administrative Court Esas: 2002/128

Izmir 1st Administrative Court Main: 2002/158

Izmir 1st Administrative Court Main: 2002/159

SUBJECT OF THE OBJECTION : Provisional Article 1 of the Vocational Education Law No. 3308 dated 5.6.1986.

Sub-paragraph (1) of paragraph (b) of the first paragraph of Article 1 of the Vocational Education Law No. 3308, dated 5.6.1986, on the grounds that it is contrary to Articles 10 and 49 of the Constitution.

Articles 10 and 49 of the Constitution.

I- CASE

Subparagraph (I) of paragraph (b) of the first paragraph of the provisional Article 1 of the Law No. 3308

to the procedures regarding the rejection of the applications for the issuance of direct master's certificate without examination in accordance with

Courts that find the arguments that the rule is unconstitutional to be serious in the lawsuits filed against the rule, apply for its cancellation have filed an appeal.

II- GROUNDS OF OBJECTIONS

The reasoning section of the objection applications is summarised as follows:

Sub-paragraph (I) of paragraph (b) of the first paragraph of the provisional Article 1 of the Law No. 3308

in the subparagraph, who owns a workplace and actually works as a master in this workplace and who will be announced by the Ministry

Although it is foreseen that those who apply within 3 months from the date of the application will be given a master's certificate directly,

The lack of such an opportunity for those who do not own a workplace, who work as a master in a workplace,

Article 10 of the Constitution, which provides for equality before the law, obliges the State to improve the standard of living of its employees.

to protect employees and support work in order to improve working life, to raise

Article 49 of the Turkish Constitution.

III- TEXTS OF THE LAW

A- Legal Rule Subject to Objection

Provisional Article 1 of the Vocational Education Law No. 3308 dated 5.6.1986, which contains the rule subject to objection

Article 1 is as follows:

"On the date of entry into force of this Law;

a) working in the professions determined by the Ministry, and who will be dismissed from the date to be announced by the Ministry

Those who apply within three months from the date of application;

1. Those who have completed 18 years of age directly,

2. Those who have reached the age of 16 are subject to training, the scope and duration of which will be determined by the Ministry

after being held,

(Amended: 4702 - 29.6.2001) those who are successful in the "examinations" are taken to journeyman examinations.

journeyman certificate is given.

3. Those who have received the journeyman's certificate and have reached the age of 22 must pass the master's examinations

condition that a certificate of mastership is issued.

b) 1. The person who owns a workplace and actually works as a master in this workplace and is announced by the Ministry

those who apply within three months from the date to be determined;

2. High school equivalent vocational and technical education institutions until the end of the 1985-1986 academic year

graduates;

Directly issued a certificate of mastership."

B- Constitutional Rules

It has been argued that the rule subject to objection is contrary to Articles 10 and 49 of the Constitution.

IV- FIRST EXAMINATION

11.9.2002 and 21.11.2002 in the first review meetings held on 11.9.2002 and 21.11.2002
Since there is no such case, it was unanimously decided to examine the merits of the case.

V- UNIFICATION DECISION

Mustafa BUMDN, Sacit ADALI, Ali HÜNER, Fulya KANTARCIOĞLU, Ertuğrul ERSOY,
Tülay TUĞCU, Ahmet AKYALÇIN, Mehmet ERTEN, Mustafa YILDIRIM, Cafer ŞAT and Fazıl

At the merits review meeting held with the participation of Mr SAĞLAM

The first paragraph of the provisional article 1 of the "Vocational Education Law" no. 3308
dated 5.6.1986

With the request for the cancellation of the subparagraph (1) of subparagraph (b) "... who
owns a workplace and this ..."

the applications for appeal concerning case files 2002/158 and 2002/159, the legal
connection between them

to be merged with file no. 2002/128, which has the same subject matter

to be closed, the main examination to be conducted through file no. 2002/128, 17.2.2004
unanimously on this day.

VI- EXAMINATION OF THE MERITS

The application decisions and annexes, the reports on the merits of the matter, the rule of
law subject to objection, and the judgement relied upon

After reading and analysing the constitutional rules, their justifications and other legislative
documents, it is necessary

Considered and deliberated:

A- Meaning and Scope of the Rule Subject to Objection

(I) of subparagraph (b) of the first paragraph of the Provisional Article 1 of the Vocational
Education Law No. 3308

According to the sub-paragraph numbered; on the date of entry into force of this law, "the
owner of a workplace and in this workplace

those who actually work as a master and apply within three months from the date to be
announced by the Ministry"

a master's certificate will be issued directly.

As a general rule, the law stipulates that obtaining a master's certificate is subject to the
examination to be held at the end of the master's training.

to be acquired. Part Four of the Law No. 3308 covers the subject of mastership training

According to Article 27, for those who have completed their journeyman training, National
Education

The Ministry of Vocational Education and Training organises master training courses. The
scope and duration of these courses are organised by the Ministry of Vocational Education

It is determined by the Ministry by taking the opinion of the Board. Article 28 of the same
Law

The principles and procedures of the mastership exam organised according to Article 28 of
the same Law are determined by regulation. Mastership

in order to participate in the exam:

1) Having worked as a journeyman for a period of time to be determined by the Ministry
according to the characteristics of their profession

and to successfully complete the master training courses,

2) To have worked as a journeyman for at least five years in their profession,
conditions have been introduced.

"Within three months from the date to be announced by the Ministry" mentioned in Provisional Article 1

The requirement to apply does not end with the entry into force of the Law in 1986. Because according to the provisional article 2.

According to the provisional article 2, provinces and professions that were not included in the scope of the Law shall be included in the scope of the Law by the Ministry.

In the event that the journeyman and master's certificates in these provinces and professions as of the date of receipt, the temporary

1 of the Provisional Article 1. In this case, the temporary nature of Provisional Article 1

It will be realised as a result of the inclusion of all provinces and all professions in the scope of the Education Law.

According to the provision of the Law subject to objection, those who own a workplace and work as a master in this workplace

There is no training requirement for them to obtain a master's certificate.

Article 1 of the Law No. 3525 dated 2.3.1989 was added to the Law No. 3308 on Vocational Education

Additional Article 8 has been added. According to this provision, on the date of entry into force of the Law, provisional Article 1

apply for a certificate on the dates announced by the Ministry although they have the conditions in the article

The Ministry is authorised to grant additional application periods of up to six months for those who are unable to apply.

On the other hand, Article 23 of the Law no. 4702 dated 29.6.2001 added to the Law no. 3308

with the provisional article 9, "those who have opened a workplace without a master's certificate" to obtain a master's certificate

privileges have been introduced. In the justification of the rule, it is stated that those who open a workplace without a master's certificate and

the number of unauthorised persons is high, and due to the lack of supervision

they work, make a significant contribution to the economy, and instead of closing down, they can be closed for a one-off

It is stated that a temporary solution has been provided.

In addition, the Apprentice, Journeyman and Master Apprenticeship Law No. 2089, which was in force before the enactment of the Law

With the provisional article 4 of the Law, it is also provided that the apprenticeship training committee

and the certificate to be found appropriate and the person who has mastered his/her profession and art on the date of entry into force of this Law

a master's licence for those who have worked as a manager and also as a business owner for at least 2 years

without examination.

B- The Question of Unconstitutionality

Examination in terms of Article 10 of the Constitution

If the conditions set out in the Law for those who have a workplace are fulfilled in the objection applications

the same conditions, but the owner of the workplace is not entitled to a certificate of mastership.

not granting such an opportunity to those who do not have such an opportunity is contrary to Articles 10 and 49 of the Constitution is being maintained.

The justification of the rule and the discussions in the Grand National Assembly of Turkey did not include a detailed explanation. Only those who have a workplace in a profession before the publication of this Law and graduates of vocational high schools according to which principles master's certificates will be issued and who will be admitted to journeyman and master's examinations stated in the Constitution.

The principle of equality, which is among the fundamental principles of law, is enshrined in Article 10 of the Constitution is given. Accordingly, everyone is entitled to freedom of speech, language, race, colour, sex, political opinion, philosophical belief, religion, sect and

The right to life shall be equal before the law without discrimination on similar grounds. No person, family, group or

No privileges shall be granted to any class. State organs and administrative authorities shall ensure equality before the law in all their actions.

They are obliged to act in accordance with the principle of equality before the law.

"The principle of equality before the law" applies to those who have the same legal status.

With this principle

legal, not de facto, equality is envisaged. The purpose of the principle of equality is to ensure that persons in the same situation

to ensure that they are subjected to the same treatment before the law, to prevent discrimination and privileges

to prevent With this principle, the law may apply different rules to certain individuals and communities in the same situation.

Violation of equality before the law is prohibited. Equality before the law means that everyone is subject to the same rules in all respects.

does not mean that they will be bound. The peculiarities of their situation are different for some individuals and communities.

may require rules and practices. Same legal situations are the same, different legal situations are different

The principle of equality stipulated in the Constitution will not be harmed.

Among those who want to obtain a master's certificate, those who actually work as a master in their own workplaces and those who work as a master in the workplaces of others There is no difference in terms of qualifications between those who actively perform the same work in the workplaces. Each

It is clear that those in both groups are in the same position due to their actual work as craftsmen. This

It is incompatible with the principle of equality for persons to be subjected to different rules despite being in the same position.

The rule subject to objection is contrary to Article 10 of the Constitution. It must be cancelled.

The rule subject to objection also needs to be examined in terms of Article 49 of the Constitution

is not recognised.

VII- CONCLUSION

A- First provisional article 1 of the "Vocational Education Law" no. 3308 dated 5.6.1986 subparagraph (1) of paragraph (b) is unconstitutional and should be annulled, Tülay

With the dissenting vote of TUĞCU and by a majority of votes,

B- The date of entry into force of the annulled provision is not necessary to be determined separately, Fazıl

With the dissenting vote of Mr SAĞLAM and by a majority of votes,

It was decided on 17.2.2004.

President

Mustafa BUMDN

Member

Sacit ADALI

Member

Ali HÜNER

Member

Fulya

KANTARCIOĞLU

Member

Ertuğrul ERSOY

Member

Tülay TUĞCU

Member

Ahmet AKYALÇIN

Member

Mehmet ERTEN

Member

Mustafa YILDIRIM

Member

Cafer ŞAT

Member

Fazıl SAĞLAM

Number of Principles : 2002/128

Decision No: 2004/23

AGAINST

To obtain a master's certificate to benefit from the provisions of the Vocational Education Law No. 3308

In the lawsuit filed due to the fact that an examination condition has been imposed on the person who wants to take the examination, Provisional Article 1 of the Law

in subparagraph (1) of subparagraph (b) of the first paragraph of the first paragraph, "The owner of a workplace and the master in this workplace

and who apply within three months from the date to be announced by the Ministry "directly that the regulation stipulating that a master's certificate will be issued is contrary to Articles 10 and 49 of the Constitution

Courts have applied for its cancellation.

A person who opens a workplace and works there as a master craftsman and is able to maintain that workplace with this mastership knowledge

It must be accepted that he/she has the level of mastership knowledge to assume the responsibility of the workplace.

Based on this view, the Provisional Article to be cancelled also requires workplace owners to take the mastership exam.

not deemed necessary. Moreover, with the Provisional Article 9, the cancellation of which has not been requested and which is still in force

some opportunities for those who open a workplace and do not have a master's certificate in order to protect their workplaces

provided.

For the protection of economic stability and investments, such transitional provisions

It is a constitutional obligation to regulate.

In addition, the person who opens a workplace and assumes the responsibility of that workplace by working there as a master

a person who does not take any responsibility for the operation of the workplace and who works for wages in the same position

are not.

The regulation is not contrary to Articles 10 and 49 of the Constitution.

Moreover, the applicant Courts did not object to the fact that the master craftsmen who own workplaces did not take the examination

objected to the admission of persons with the qualification of master who were working in the workplace. Given

the cancellation decision does not apply to persons who have filed a lawsuit and who work for a wage in a workplace, as the courts have suggested

It does not grant the right to become a master without examination, and it also removes the right granted to the owners of the workplace.

However, the main duty of the Constitutional Court is to ensure equality between the rights granted.

For the reasons stated above, I disagree with the majority opinion that the request for cancellation should be rejected.

DISSENTING OPINION

5.6.1986 dated 5.6.1986, the first paragraph b of the provisional article 1 of the Vocational Education Law No. 3308

the objected subparagraph 1 of the paragraph in bold font within the semantic integrity of the article in question

emphasised: "On the date of entry into force of this Law; ... b) 1.

who are actually working as a master and who apply within three months from the date to be announced by the Ministry

....A direct certificate of mastership is issued."

This provision is an exceptional way to gain the title of master. It introduced a new system in vocational education

the law, which until then allowed those who had been working as master craftsmen to obtain a master's certificate directly

However, in this arrangement, it was deemed appropriate to introduce a definition of "master" which is not directly related to the definition of "master".

By making "having a workplace" a prerequisite for obtaining a master's certificate, the workplace has placed the master craftsman in a privileged position. A norm review against this inequality its purpose is to ensure equality, not in the absence of rights, but in such a way as to give the deprived the same rights to ensure that the workplace is in compliance with the provisions of the law. If only the phrases "who owns a workplace and this" were cancelled in this provision, the remaining part there would be no need to give any deadline. Because in such a case, both the owner of the workplace and the person who actually works as a master in the workplace, as well as the person who works as a master in the workplace without being the owner of the workplace person will have the right to obtain a master's certificate directly, and any vacancy after the decision on cancellation also would not have arisen. However, the legislator was concerned not to introduce a new provision in its place Since the entire provision subject to the objection has been cancelled, equality is not a right provided by the rule subject to the objection. by eliminating the right in terms of both the master who owns the workplace and the master who works in the workplace provided. Such a result would be incompatible with the purpose and meaning of the concrete norm review is obvious. Because, if the legislator remains inactive after the cancellation decision, equality Since there will be no norm that can be evaluated, due to the cancelled rule, the master's certificate There will also be no possibility to correct the persistent inequality for those who have not received it. Whereas the rule is a had it been left in force for a period of time, those who have suffered inequality of rights would have been subject to this norm and the Constitutional Court. will be able to claim their rights based on the judgement of the Constitutional Court and the legislature will be able to amend the rule in the direction of the Constitutional Court judgement. would have been under the obligation to rectify. In this case, the resulting legal gap would deprive the person of the right This is in itself a violation of the public interest. For the reasons explained, the cancellation the majority judgement, which did not postpone the date of entry into force for a reasonable period of time disagree