THE COUNCIL OF STATE
OF THE REPUBLIC OF TÜRKİYE

2024

ANNUAL REPORT


DANIŞTAY

2024

ANNUAL REPORT

Owner on behalf of the Council of State of the Republic of Türkiye

Zeki YİĞİT
President of the Council of State

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PRESENTATION

Zeki YİĞİT

President of the Council of State of the Republic of Türkiye

For a society to live in peace, to maintain its social and cultural development, and for individuals to have trust in justice and judicial authorities, it is essential for them to perceive that they are living in a just society.

In the context of administrative justice, achieving this requires the swift and equitable resolution of individuals' legal struggles aimed at reaching justice. Accordingly, this will be accomplished by facilitating access to the Council of State, ensuring transparency in the execution of services. As an indispensable component of the Turkish administrative system and the highest administrative court, the Council of State continues to serve justice and provide guidance to the administration by delivering effective rulings on fundamental rights and freedoms and producing stable, qualified precedents.

Since its establishment, the Council of State has performed its duties in accordance with universal legal principles, independently and impartially. It has made significant contributions to the development of administrative law and the dispensation of justice, playing a leading role in the protection of human rights, the enhancement of fair, prompt, efficient, and quality judicial procedures, and thus contributing to the strengthening of justice. As of 2024, the Council of State has completed its 156th year of service.

In 2024, the Council of State presents this "Annual Report" to the public, with the aim of demonstrating its contributions to the Turkish legal system and its judicial activities, while ensuring accountability and transparency.

The first section of the report provides an introduction to the Council of State, including the institution's history, physical facilities, responsibilities, and current organizational structure.

In line with our commitment to institutional transparency and accessibility, the report discloses important matters and events that have occupied the agenda of the Council of State in 2024, thus informing the public accordingly.

Within this scope, the report addresses key issues such as the elections for the Presidency of the Council of State and the Department Heads, as well as inaugurations, symposia, workshops, seminars, social activities, pre-professional, in-service, and professional development training sessions, as well as visits and activities conducted under the framework of international relations, all of which have held significant importance in the Council's agenda for 2024.

In addition to these developments and activities, the report places considerable emphasis on the precedents established through the judicial functions of the Council of State. Indeed, ensuring the consistent functioning of the judicial system by preserving legal unity and the coherence of precedents is one of the most fundamental duties of the highest court in the judicial system. This is particularly important in administrative law, which is a branch of law shaped by precedents. For the principle of legal certainty to be effectively realized, it is essential to first produce qualified and stable precedents, second, to disseminate these precedents, and finally, to ensure the unity of precedents. In this context, the unification of precedents is the most crucial institution aimed at securing legal stability and certainty. This procedure outlines how a legal norm will be applied in the future. In 2024, to fulfill this vital responsibility, the unification of precedents in two matters was decided, and these decisions are included in the report.

Furthermore, the presence of contradictory rulings on the same issue within the same judicial system would undermine public confidence in the judiciary and pose a threat to legal certainty. Therefore, the report also includes decisions made by the Council of State regarding the resolution of inconsistencies between the regional administrative courts on appeals under Article 3/C of Law No. 2576, which regulates the establishment and duties of Regional Administrative Courts, Administrative Courts, and Tax Courts, alongside relevant data.

To enhance communication and cooperation between the Presidency of the Council of State and the Regional Administrative Courts, to increase the visibility of the Council of State's precedents, to reduce potential discrepancies in precedents, and to ensure efficiency and effectiveness in the specialization of courts, regular evaluations are conducted between the departments, boards, and regional administrative courts. The report mentions the precedent-sharing meeting held in Ankara this year.

In what has been termed the "Golden Age of Data," the volume and diversity of data have increased tremendously, and the accurate collection, storage, and processing of data have become key elements for success in modern governance. In today's world, reliable data plays a pivotal role in developing new policies and enhancing the effectiveness of institutions. From the perspective of the Council of State, it is imperative to adapt to this new era. The first necessary step in this regard is ensuring accurate and consistent data entry. In judicial proceedings, particularly, acquiring accurate data on various aspects such as case subjects, decision outcomes, and the nature of files is of utmost importance. To this end, it is imperative to apply proper and consistent coding practices in these areas.

To this effect, the new coding system, designed as part of a comprehensive study to harmonize the case codes of the Council of State with those of first-instance and regional administrative courts and to establish the Council's file classification and decision codes, was implemented as of October 18, 2024. A comprehensive informational session was held regarding this issue, and the "Council of State Case, Classification, and Decision Codes Application Guide" was prepared for the benefit of users. The report also includes the details of these efforts.

Additionally, as has been the case every year, statistical data regarding the judicial activities carried out this year is presented in the report, alongside graphs, to illustrate the performance of the Council of State in 2024.

In 2024, special care was taken to share the decisions with the public. Decisions rendered by the judicial departments and boards of the Council of State were regularly published on the official website of the Council of State. Furthermore, in 2024, two decision bulletins were prepared on specific topics to assist scholars, legal practitioners, and all other stakeholders following the precedents. This effort systematically compiled decisions made by the Presidents' Board regarding disputes over assignment under the Decision on the Division of Labor between the Council of State's Judicial Departments, which were subsequently made available. The report includes statistical data related to these activities and the published decisions.

Lastly, the report shares the principle-based decisions issued by the departments and boards of the Council of State in 2024, which are deemed to hold significant precedential value and are expected to guide academic work in the field of administrative law.

I hope that the "2024 Annual Report" prepared by the Council of State will be useful to all concerned and interested parties.

THE HISTORY AND STRUCTURE

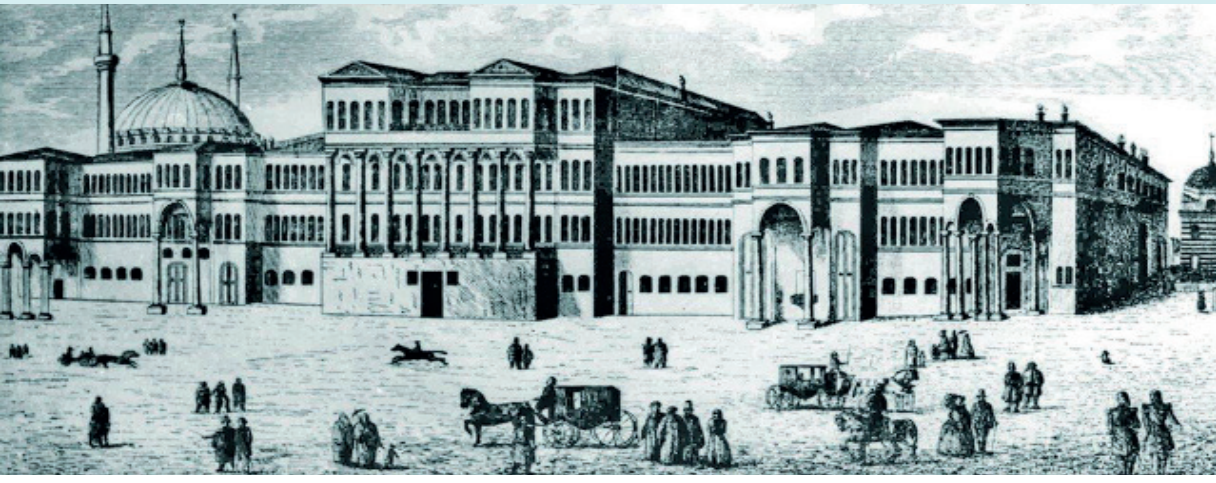
OF THE COUNCIL OF STATE

CHAPTER

01

I. HISTORY

The foundations of the Council of State are based on the Assembly of Vala-yi Ahkami Courthouse, which was founded by Sultan Mahmud II in 1838. At that time, the Council of State functioned almost as an advisory council, a preliminary parliament.



Building of Şurâ-yı Devlet (1868-1922) (İSTANBUL)

Sultan Abdulaziz, during his official visit to France in 1867, pioneered the idea of establishing a Conseil d'État - like assembly in the Ottoman Empire by studying the French state system, personally dealt with the formation of the State Council and chaired its establishment meetings.

The Council of State took its place in the legal system on May 10, 1868, when Sultan Abdulaziz's famous speech, which also touched on the principle of separation of powers, was read by Grand Vizier Mehmet Emin Ali Pasha at Bab-i Ali, with the name of the State Council.

The establishment of the State Council was a driving force in the Ottoman Empire that accelerated the development of modern state thought and the renewal movements that began in the first half of the 19th century.

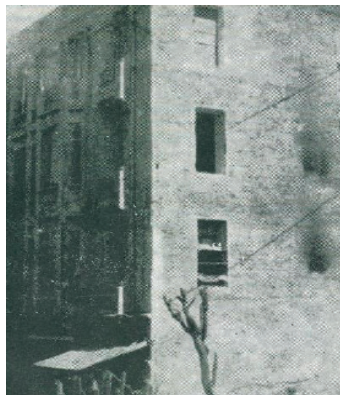
The fact that the institution building is located right in the middle of Bab-ı Ali, the government centre of the Ottoman Empire, between the ministries of Interior and Foreign Affairs, and the appointment of Mithat Pasha as its Founding President emphasizes the importance attributed to the State Council.

The duties of the institution are determined with a fourteen-item ordinance. The duties included "examining draft laws, statutes, judging civil officers, informing the sultan and the ministers about everything if they request".

The State Council was divided into five departments: the Civil Service, the Public Works, Justice, the Education and the Finance, each of which has a president and ten members.

After serving for fifty-four years during the Ottoman Empire, the State Council continued to function within the Government of the Turkish Grand National Assembly when all the central institutions in Istanbul were placed under the administration of the TGNA on November 4, 1922.

While emphasizing the importance and role of the Council of State in the history, Mustafa Kemal Atatürk used the following statements: "Since the Council of State is an important institution related to the administrative and economic life of the country, I would like to wish that the draft law prepared by the Internal Affairs Commission of the supreme Assembly, would be formed as soon as possible to address the growing need for the Council of State from the administrative branches of government and that it would be enacted in a way commensurate with the need."



Building of the Council of State (1927-1928) (Çıkrıkçılar Yokuşu/ANKARA)

Building of the Council of State (1928-1967) (Yenişehir/ANKARA)

The Council of State, whose organisation was reorganised by Law No. 669 issued on July 6, 1927, was institutionalized with its new structure. The organisation and organisation chart has been classified by the names of Reorganisation, Civil Service, Finance - Public Works and Cases and has been established as three administrative and one trial chambers.

Building of the Council of State (1967-1976) (Kurtuluş / ANKARA)

Building of the Council of State (1976-2012) (Sıhhiye / ANKARA)

The Institution, which was reorganised during the Republican period and moved to Ankara, continued its function within the Assembly between 1922 and 1927, after that it continued its service in the buildings located in Ulus, Kurtuluş and Kızılay, and its current building since 2012 when it was moved to.

Building of the Council of State (2012-)
(Çankaya/ANKARA)

The Council of State, included in the constitutions of 1924, 1961 and 1982, by the establishment of the regional administrative, administrative and tax courts, which are the first-instance administrative judicial authorities, in addition to its advisory role, it also gained the title of the high court as an appellate authority in 1982.

As result of the appeal law introduced by Law No. 6545 of June 18, 2014 that was actually effective on July 20, 2016, the existing two-degree trial system in the procedure of administrative justice has been transformed into a three-degree system in terms of disputes in the Law.

In addition, with the amendment made to the Constitution by Law No. 6771, the military administrative jurisdiction was abolished and it was decided the files at the stage of reviewing the existing law in the Military Supreme Administrative Court to transfer to the Council of State. Then, with the abolition of the military administrative judicial path, administrative judicial activity is now carried out at one-hand.

Having a 156-year history in our law, the Council of State has been instrumental in the formation of administrative judgements, the establishment of administrative law principles and the adoption of the rule of law, and has taken an indispensable place in the legal system.

II. DUTIES

According to the Constitution, the Council of State is the final examination body of decisions and provisions issued by administrative courts and which the law does not leave to another administrative jurisdiction. It also considers certain cases indicated by law as the first and last instance court. The Council of State is responsible for considering cases, informing about concession conditionals and contracts related to public services within two months, resolving administrative disputes and doing other work indicated by law.

The duties of the Council of State are specified in detail in the Law on the Council of State No. 2575 (Article 23). Accordingly, the Council of State;

1) examines and decides on appeals against decisions made by administrative courts and tax courts, as well as decisions on cases heard at the Council of State as a court of first instance. The duty of the Council of State as an appellate authority is limited to conducting an review of violations of the law that have arisen in the form of non-application or incorrect application of a rule of law.
2) decides administrative cases written in this Law as the first and last instance court.
3) gives opinion about concession conditionals and contracts related to public services.
4) performs the tasks assigned by this Law and other laws.

In this context, while the Council of State today resolves some cases as a court of first instance in the context of its judicial duties, and performs the duties of the appellate authority, it also fulfils the administrative duties assigned to it.

One of the judicial duties of the Council of State is to decide some cases as a court of first instance. As a court of first instance, the cases to be heard in the Council of State are listed in Article 24 of the said Law. According to this article, the Council of State decides the cases which includes the decrees of the President, Regulatory acts other than Presidential decrees issued by the President, regulatory acts issued by ministries and public institutions or professional organisations that are public institutions and that will be applied throughout the country, according to the actions and processes taken on the decisions made by the Administrative Law Chamber of the Council of State or the Administrative Affairs Board, Cancellation and full remedy actions that will be filed against the decisions of the High Board of Discipline of the Council of State and the actions of the Presidium of the Council of State related to the field of duty of this Board, administrative cases arising from concession conditionals and contracts related to cases falling under the jurisdiction of multiple administrative and tax courts and public services for which an arbitration route is not envisaged.

In addition, the Council of State examines and decides on the requests of municipalities and provincial special administrations that their elected bodies lose their titles as organs.

As an appellate authority, the Council of State examines and decides decisions made by regional administrative courts, administrative courts and tax courts, as well as decisions on cases heard at the Council of State as a court of first instance, by appeal.

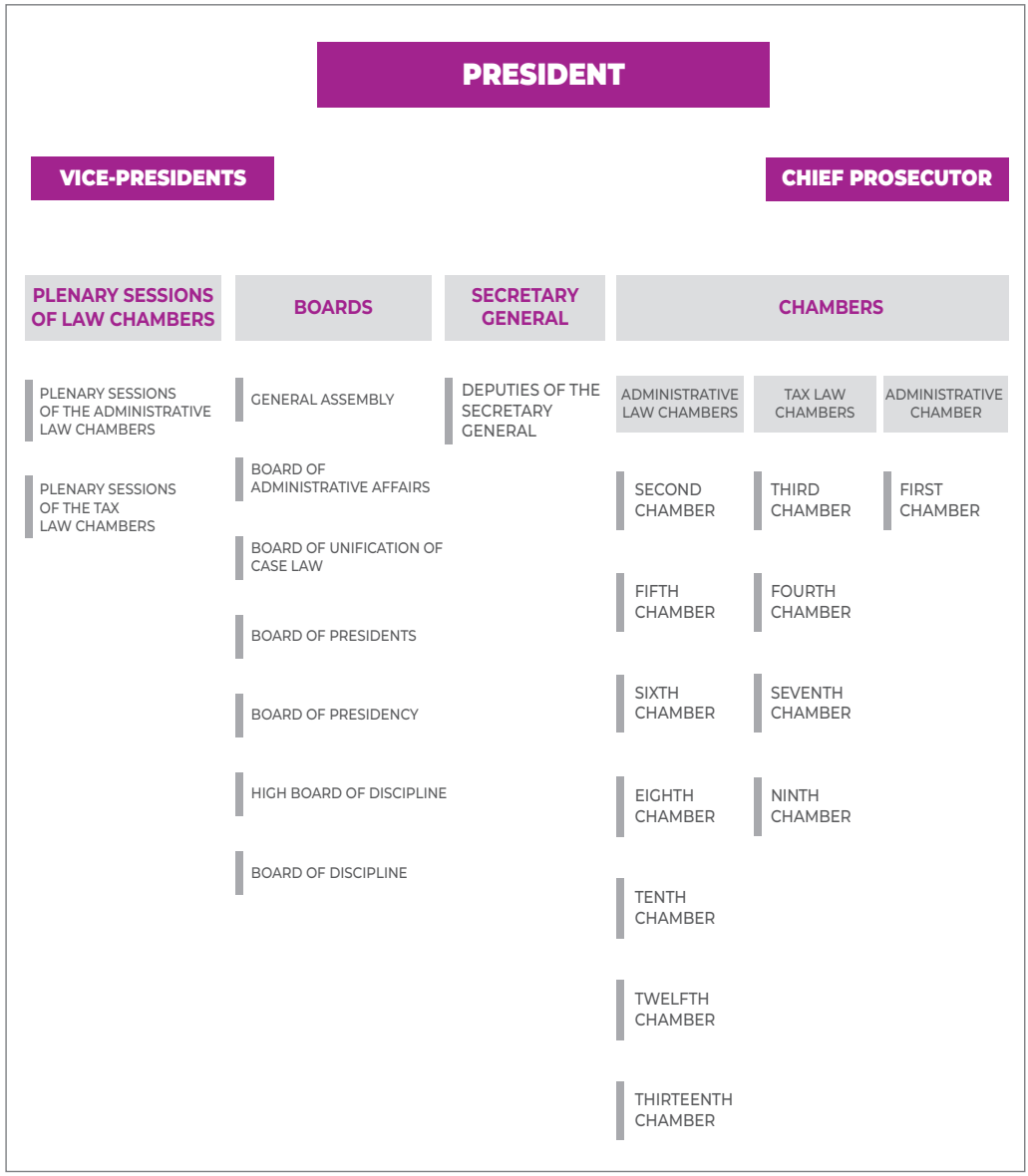
Although the Council of State stands out today as a high court conducting judicial review; it owes its name and its value in history to its advisory and review function, which is more secondary today. The First Chamber performs the administrative tasks assigned to perform this function.

The First Chamber examines the works given by Article 42 of the Council of State Law and other laws and makes a decision or expresses its opinion accordingly.

III. STRUCTURE OF THE COUNCIL OF STATE

A. ORGANISATIONAL CHART

There are **111** professional members including the President of the Council of State, the Chief Prosecutor, Vice-Presidents, Presidents of Chambers and Members serving in the Presidency of the Council of State. In addition, the Council of State employs **397** examining judges to review case files, make the necessary statements to Chambers or Boards, prepare minutes and write decision drafts, and **46** prosecutors to give their thoughts on the merits in first-instance cases, and **1008** personnel to conduct administrative services.



B. CHIEF PROSECUTOR

The Article 60 of the Law on the Council of State regulates the duties of the Chief Prosecutor and the Article 61 regulates the duties of prosecutors. Accordingly:

The Chief Prosecutor, in his/her capacity as a court of first instance, assigns the case files considered at the Council of State to prosecutors according to the separation of office s/he deems appropriate to inform his/her thoughts on the merits. S/He ensures that the thoughts are informed on time and that prosecutors and other officers working in the Chief Prosecutor's Office continue their duties and work diligently, takes the necessary measures to record and store incoming files and send those who have finished their work to the appropriate places without delay. S/He can apply for an appeal for benefit of the law at the request of the relevant ministries or ex-officio. Expresses an opinion on a dispute between administrative and judicial authorities about a duty or provision that has occurred.

The prosecutors examine the files referred to them on behalf of the Chief Prosecutor and give their opinions on the merits in reasoned and written form within a month. If these periods are expired, they will report the situation to the Chief Prosecutor with their causes. It performs other tasks that the President of the Council of State and the Chief Prosecutor will give, adapts to the measures that the Chief Prosecutor will take to maintain working order and increase work efficiency. The prosecutors can demand all kinds of information from the relevant offices through the Presidency of the Council of State, as well as bring related process files. If it is deemed necessary by the chambers considering the cases, the prosecutors of the Council of State also state their opinions orally with prior notice. It is essential that prosecutors are present at the hearings of the first-degree cases heard at the Council of State.

There are forty-six prosecutors in the Chief Prosecutor's Office of the Council of State, one of whom is an administrative officer.

SPEECHES
OF THE PRESIDENT

CHAPTER
02

I. OPENING SPEECH OF THE COUNCIL OF STATE YEAR-END EVALUATION MEETING

Esteemed colleagues,

Honorable guests,

I welcome you to the 2023 Year-End Evaluation Meeting organized by our Presidency and extend my respectful greetings to all of you.

The Council of State, one of the cornerstones of our Republic, which we are proud to celebrate its 100th anniversary, has been fulfilling the duty of delivering justice to the Turkish nation for 155 years by serving as the final review body for decisions and judgments made by administrative courts, and as the first and last court of certain cases stipulated by law, ensuring the right of citizens to a fair trial.

As members of the Council of State, we strive to provide a rapid, efficient, and high-quality judicial service while adhering to the principles of judicial independence, impartiality, and ethics. Despite the heavy workload in 2023, I would like to express my sincere gratitude to our professional staff, prosecutors, rapporteur judges, and administrative personnel who have worked diligently to meet the expectations of our citizens for justice in a swift and efficient manner.

I believe that this selfless work will continue with even greater dedication and a strong sense of responsibility.

As we all know, the recognition of fundamental rights and freedoms through the Constitution and laws, as well as their protection and implementation, can only be achieved through an effective judicial system. A well-functioning judicial system pri-

marily depends on the proper organization of judicial bodies, good management, and the enhancement of problem-solving capacity. This also reveals the proportional relationship between increasing the quality, efficiency, and capacity of justice administration and the protection of fundamental rights and freedoms.

Therefore, the Council of State constantly endeavors to improve the quality, efficiency, and capacity of administrative and judicial services by conducting research, reviews, and developing new solutions. In this context, concepts such as improving court management, enhancing problem-solving capacity, increasing efficiency in court administration, court excellence, and process and performance management in justice services are continuously on our agenda.

The purpose and goal of the work that forms the subject of today's meeting, within the scope of these efforts, is to conduct a "check-up" of the Council of State, to identify its strengths and weaknesses, uncover any shortcomings or best practices, and create a platform for consultation to prepare for solution proposals through self-criticism.

Due to the global COVID-19 pandemic, which began in the early months of 2020 and lasted until April 2022, and the associated precautionary measures, we were unable to hold wide-participation programs such as workshops, seminars, and scientific meetings for over two years. Consequently, we were unable to organize the symposiums planned for May 10th, which marks the anniversary of the Council of State, and related events in 2020 and 2021. However, towards the end of 2021, in compliance with the pandemic rules, we managed to hold a symposium on "Alternative Dispute Resolution Methods" and restarted the practice of sharing case law and organizing evaluation meetings in a new format. Our meeting today, which we originally planned for the beginning of 2023, around March, had to be postponed due to the catastrophic earthquake on February 6, 2023, which affected 11 provinces and nearly 13 million people, causing the loss of thousands of lives and plunging us into profound sorrow and grief. I would like to once again pray for the souls of our citizens who lost their lives in the earthquake, extend my condolences to their families, and pray God to protect us from all types of disasters and calamities.

Dear Colleagues,

As I mentioned earlier, the primary duty of the Council of State is to respond swiftly and effectively to the justice expectations of our citizens. The final product of judicial bodies is the justice service that results from a fair trial. The way to achieve this service in an ideal manner is to base the court/judgement/judicial activities on a set of values, and by evaluating the court as a whole institution rather than focusing on a particular aspect, to identify areas of excellence and adopt a holistic approach.

In the International Court Excellence Framework (IFCE), established in 2007 by the International Court Excellence Consortium as a guiding document, seven areas of court excellence are identified under the headings of Court Leadership, Strategic Court Management, Court Workforce, Court Infrastructure/Operations and Processes, Court User Engagement, Cost-Effective and Accessible Court Services, and Public Confidence and Trust.

The same framework highlights that, in carrying out their activities, courts must act in accordance with fundamental values such as equality before the law, fairness, impartiality, independence in decision-making, com-

petence, integrity, transparency, accessibility, timeliness, and finality, which is the result of a broad consensus.

In the Strategic Plans, which were first implemented between 2014 and 2018, continued with the second phase for 2019-2023, and the third phase for 2024-2028 is being prepared, these fundamental values have been more broadly addressed. Goals and objectives have been included to achieve excellence in court activities built on these core values. In the 2024-2028 Strategic Plan, "Good Governance" and "Openness to Innovation" have been added as fundamental values.

Within the context of the aforementioned reference texts, good governance, the effective provision of support services, improvement of working environments, ensuring labor peace and motivation, training activities, and socio-cultural activities have a significant impact on the quality of judicial services and, consequently, the timely delivery of justice. I would like to highlight some activities that I consider important in this regard.

While the main building of the Council of State and its annexes are sufficiently equipped to meet the administrative and judicial needs of a high court, efforts are continually being made to renew and improve the building and its annexes to make them more functional and utilize them in the most efficient way possible within the existing physical conditions.

An application was made to the Ministry of Environment and Urbanization to participate in the Public Buildings Energy Efficiency (KABEV) project, which aims to achieve energy efficiency. As a result, efforts are being made to utilize renewable energy sources in our building and annexes to promote energy savings.

On October 3, 2023, with the presence of our President of the Republic of Türkiye, we inaugurated our Training Facility, which will host not only in-service and professional training activities but also scientific, cultural, and social events. With the addition of a restaurant/cafe in 2024, our Training Facility will become even more functional and will provide a space for social activities as well.

To ensure that the members of the Council of State, prosecutors, rapporteur judges, and administrative personnel benefit from healthcare services they are entitled to under the relevant regulations in the most favorable conditions, new opportunities are being created through necessary protocols. Our health center continues to be strengthened with new medical equipment and doctors.

As a result of consultations held with officials from the Grand National Assembly of Türkiye, it was made possible—effective as of the beginning of 2021—for the spouses and parents of both active and retired members of the judiciary to benefit from healthcare assistance. This development resolved a long-standing issue. Furthermore, as of November 1, 2022, the transition to the e-prescription system was completed, thereby facilitating the process for our members to obtain medications from pharmacies.

Today, we are witnessing the increasing use of technology in the field of justice. In order not to fall behind, we must make the most of the opportunities that technology provides—while safeguarding data security—and develop our technological infrastructure in line with our institutional needs.

In this context, the computers of our judges, prosecutors, and administrative staff, as well as our central system room and network infrastructure—considered the brain of our IT system—have been fully renewed.

Thanks to our evolving and updated technological infrastructure, significant progress has been made in our digital transformation efforts. As a result, the services offered by the Council of State have become more accessible.

The Citizen and Lawyer Portal interfaces of the Council of State within the National Judiciary Informatics System (UYAP), which enable the online filing of first-instance cases and electronic submission of documents to case files, have been launched.

The "Council of State Decision Search" and "Council of State File Inquiry" pages accessible via our official website have been completely revamped.

In line with a resolution we adopted in 2021, the publication of all substantive decisions rendered by the Council of State commenced as of the beginning of that year.

The integration process with the e-Government (e-Devlet) portal has been completed, allowing citizens to access and monitor their files and case statuses through the e-Government system as well.

A comprehensive project has also been completed to harmonize the case and decision codes of the Council of State with those used by the first-instance and regional administrative courts. With this unified coding system—developed specifically for use across administrative judiciary—a consistent and accurate data entry process will be ensured within UYAP, enabling the generation of reliable statistical data. Moreover, this will prevent delays during the distribution of files to the competent chambers of the Council of State or the relevant administrative judicial authority.

In 2021, following correspondence with the Ministry of Culture and Tourism, all Council of State Journals published between 1937 and 1970, as well as those published from 1970 to the present, which were not previously available in electronic format, were fully digitized in two phases. These digitized journals were revised and published on the institution's internal intranet and the official website of the Council of State, making them accessible primarily to the judiciary community, academicians, and other users. Within this scope, a dedicated new webpage was specially prepared for the Council of State Journal.

Dear Esteemed Colleagues,

As is well known, the expected productivity of public personnel depends on their participation in in-service and professional training in the required fields.

In close cooperation with the Justice Academy of Türkiye, Council of State Reporting Judges have been enabled to participate as trainers in all pre-service and in-service trainings for the administrative judiciary organization, including in-service trainings conducted in the provinces for professional members, prosecutors, and judges.

In-service training sessions organized in cooperation with the Ministry of Justice have covered extensive training for our administrative staff in areas such as public relations, communication, stress management, professional ethics, protocol rules, teamwork, media literacy, spreadsheet (Excel) and word processing (Word) skills.

Dear Colleagues,

Following the enactment of the appellate remedy in the Turkish Administrative Judiciary System and the transition to a three-tier judicial system, it is evident that, pursuant to the legislative amendments, the Council of State should acquire the status of a court of case law.

In line with this objective, to enhance our scientific studies and publications, the theme of the symposium held on May 10-11, 2023, on the occasion of the 155th anniversary of the Council of State's establishment and the "Council of State and Administrative Judiciary Day," was determined as "Council of State as a Precedent Court on its 155th Anniversary" and was successfully executed.

The "Precedent, Reporting and Statistics Unit," established to conduct regular and systematic reviews of Council of State precedents, prepare reports, and compile statistics, has become operational and commenced its duties.

This Unit has begun publishing the "Annual Report," which includes significant precedents, and thematic decision bulletins containing important rulings prepared by the same Unit continue to be shared with the public via our website.

Previously conducted precedent sharing and evaluation meetings have been reformatted, whereby all Presidents or Chamber Presidents of Regional Administrative Courts related to the specified theme are invited to these meetings to fully realize the aim of precedent sharing. Meetings held to date in Istanbul, Ankara, Erzurum, Samsun, Gaziantep, and Bursa are intended to continue in the future.

As of 2023, the Council of State Journal, which is now a peer-reviewed publication, is published biannually in January and July. Applications have been made for the publication of the Journal in the TÜBİTAK-ULAKBİM National Database (UVT) - TR Index (Online Journal System), and the monitoring process is ongoing. The evaluation by TÜBİTAK is expected to be completed by the end of 2024.

In 2023, unlike previous years, the activities of the Council of State Administrative Judiciary Commission and the Council of State Human Rights Commission were conducted in the Conference Hall with the participation of Commission Members, Department/Board Representatives, Council of State professionals, prosecutors, reporting judges, and candidates for administrative judiciary judges in order to increase the effectiveness of the commission's work and reach a wider audience; moreover, depending on the agenda topic, expert academicians, Constitutional Court rapporteurs, and Presidents of Regional Administrative Court Chambers were also invited as guest speakers. In the upcoming period, having these activities with broader and more comprehensive participation will be even more encouraging and motivating for these scientifically oriented efforts.

As the Council of State, due to the importance we attach to establishing and developing international relations and cooperation, we are establishing close relations and creating cooperation opportunities not only with Western countries, with which we currently maintain close relations, but also with the Turkic World.

Although the Council of State was only a stakeholder in the project entitled "Enhancing the Effectiveness of Administrative Judiciary and Strengthening the Institutional Capacity of the Council of State," which was initiated in 2019 as a joint project of the Ministry of Justice, the European Union, and the Council of Europe, from 2020 onwards it has actively participated in this project, provided support, and benefited from the project's opportunities.

Following working group meetings held with the participation and contributions of the Council of State, training modules such

as "Reasoning and Decision Writing Skills," "ECHR and Constitutional Court Decisions Related to Administrative Judiciary Precedents," "Fair Trial – Reasonable Time," and "Case and Time Management" were developed; trainers were provided for these modules, and Council of State reporting judges and administrative personnel attended the trainings.

As part of the project, in order to gain knowledge about the French Administrative Judiciary System, our professionals participated in study visits to the French Ombudsman Institution, the French Council of State, and the Paris Regional Administrative Court to conduct examinations.

Within the same scope, study visits were also made to the European Court of Human Rights, Germany, and Portugal, and the "International Administrative Judiciary Symposium" organized within the scope of the project was hosted by the Council of State.

Our Council of State is a member of the Board of the International Association of Supreme Administrative Jurisdictions, actively participates in all its activities, and benefits from the opportunities offered by the Association; accordingly, the Association's 2023 Board meeting and the seminar program on "Judicial Review of the Actions of Independent Administrative Authorities," which was subsequently organized, took place at the Council of State.

Our professionals have participated in all annual judge exchange programs organized by the Association, and judges from member countries have been hosted at the Council of State.

Alongside all these international activities, as stated above, efforts continue to establish close relations and cooperation opportunities with the Turkic World.

On the occasion of the 154th Anniversary of the Council of State and the "Council of State and Administrative Judiciary Day," on May 10, 2022, an international symposium entitled "Administrative Judiciary in Turkic States," consisting of three sessions, was held in the Council of State Conference Hall with the participation of presidents of high judicial bodies, judges, and academicians from the member states of the Organization of Turkic States, including Azerbaijan, Kazakhstan, Kyrgyzstan, Uzbekistan, as well as the Turkish Republic of Northern Cyprus (TRNC), alongside many other invitees.

Between October 18 and 21, 2023, participation was ensured at the International Conference held in the city of Shusha, Azerbaijan, attended by presidents of the high courts of member and observer states of the Organization of Turkic States (Azerbaijan, Kazakhstan, Kyrgyzstan, Türkiye, TRNC, and Uzbekistan), and the "Shusha Declaration on the Establishment of the Conference of High Courts of the Member and Observer States of the Organization of Turkic States" was signed.

Within the framework of cooperation with the Supreme Court of Azerbaijan, it is planned that eight administrative judges serving in Azerbaijan's administrative judiciary bodies will be hosted by our Council of State in the upcoming months for knowledge and experience sharing.

Dear Esteemed Colleagues,

Following the commencement of operations of the Regional Courts of Appeal on July 20, 2016, there has been a rapid decline in the number of cases referred to the Council of State; within this scope, while 197,886 files were submitted in 2016, 72,339 in 2017, 82,971 in 2018, and 85,898 in 2019 files were submit-

ted and the numbers gradually started to rise; although there was a decrease to 75,154 files in 2020 due to the pandemic, in 2021, 88,063, in 2022, 90,070, and in 2023, 91,526 files have been referred. With the anticipation of a significant decrease in workload due to the activation of the Regional Courts of Appeal, the number of chambers, which was seventeen (17) at that time, was envisaged to be reduced to ten (10) within three years by Temporary Article 27 added to the Council of State Law No. 2577 with Article 12 of Law No. 6723 dated July 1, 2016, and subsequently, the three-year period was changed to six years by Article 35 of Decree Law No. 696 dated November 20, 2017.

The numbers I have given above by years demonstrate the increasing trend in the number of cases referred to the Council of State at certain rates even after the enforcement of the Regional Courts of Appeal; based on this fact, the six-year period regulated in Temporary Article 27 of Law No. 2577, which envisages a transition period for the reduction of the number of chambers of the Council of State to ten (10), was extended to ten years by Article 16 of Law No. 7413 dated June 23, 2022, thereby postponing the implementation until 2026.

However, as the trend of increasing workload continues, we believe that the regulation envisaging the reduction of the number of chambers to ten (10) should be completely abolished and that the Council of State should continue to operate with twelve (12) chambers; accordingly, the regulation envisaging the reduction of the number of members to ninety (90), based on the assumption of a Council of State operating with ten (10) chambers, must also be amended, and the number of members of the Council of State should be fixed at no less than one hundred and four (104).

Similarly, the validity of Temporary Article 24 of Law No. 2577, which foresees the Council of State Administrative Litigation Chambers Board operating with its current fixed structure, was extended until December 31, 2026, by Article 15 of Law No. 7413 dated June 23, 2022.

As the Council of State, being a high court, one of the prerequisites for fulfilling its obligation to ensure uniformity of jurisprudence and the equal application of law throughout the country is to maintain stability in the Council of State's jurisprudence, which depends on the experience of the Council of State members.

Pursuant to the third paragraph of Article 9 of the Council of State Law, which was reorganized by Law No. 6723, the term of office of the Council of State members has been limited to twelve years; according to this legislative amendment, the simultaneous expiration of the terms of a significant portion of the Council of State members would result in destabilization of jurisprudence. Therefore, the repeal of the third paragraph of Article 9 of the Council of State Law is necessary in terms of ensuring stability in jurisprudence and benefiting from the experience of our legal professionals. I believe that the authorities of our State will accept this necessity in the forthcoming period.

Esteemed colleagues,

We value not only the satisfaction of our citizens who benefit from the administrative and judicial services provided by the Council of State but also the satisfaction of our legal professionals, prosecutors, rapporteur judges, and administrative personnel. Primarily, improved working conditions for our legal professionals, prosecutors, rapporteur judges, and administrative staff will enhance their motivation and work efficiency.

At this point, I would like to refer to statistical data regarding the judicial activities of the Council of State in recent years.

In 2020, the number of cases received by the Council of State was 75.154, whereas the number of cases decided was 80.138, resulting in a case resolution rate of 107%. Due to the adverse effects of the pandemic, the average case processing time was 606 days.

In 2021, the number of cases received was 88.063, while the number of cases decided was 93.343, resulting in a case resolution rate of 106%. The average case processing time was 602 days.

In 2022, the number of cases received was 90.070, while the number of cases decided was 95.306, maintaining the case resolution rate at 106% as in the previous year. Due to the priority and importance given to the resolution of long-pending cases, the average duration for case review has been reduced to 579 days.

In 2023, the number of cases received was 91.526, whereas the number of cases decided was 102.564, achieving a case resolution rate of 112%. the average case processing time further decreased to 485 days.

During the same period, the average number of days for drafting, signing, and notifying decisions were 86 days in 2020, 79 days in 2021, 69 days in 2022, and 68 days in 2023.

Our goal and endeavor should be to reduce these numbers even further; with the view that this will serve this purpose and objective;

In order to ensure the equitable distribution of the current workload among the chambers, and taking into consideration the volume of cases received by the administrative and tax litigation chambers, the need has arisen to make amendments to the division of labor pursuant to Articles 26 and 27 of the Council of State Law. With these amendments, it has been aimed to contribute to the effective and efficient use of facilities, capabilities, and resources, as well as to expedite the conclusion of cases. Necessary adjustments have been made in line with the needs and consultations. Consequently, it has become obligatory to assign some of our professional members, who currently serve in certain chambers, to other chambers, with utmost attention paid to their experience and expertise to the greatest extent possible. I am confident that all members of the Council of State will continue to demonstrate, with great dedication and effort, the responsibility they have assumed thus far in managing the accumulated workload built over the years and in concluding judicial proceedings within a reasonable time frame.

At this point, I would like to emphasize that in our Strategic Plan for the 2024-2028 period, our target for the final year of the planning period, 2028, is to reduce the average number of days for the finalization of files to 420 days, and the average number of days for the drafting, signing, and notification of decisions to 35 days.

Dear Colleagues,

As the Council of State, we are obligated to do much more than the efforts made so far to enhance both the quality and capacity of our judicial activities and the administrative services supporting the judiciary. In this regard, we constantly require the contributions of our esteemed Members of the Profession. Benefiting from the experience and opinions of the Members of the Profession who bear the responsibility for the Council of State's judicial services will provide highly valuable data for measuring and improving

the quality and efficiency of judicial activities and administrative services, and will shed light on future efforts.

Motivated by this perspective, it has been decided, for the first time, to conduct a study aimed at increasing the effectiveness, efficiency, and stability of the judicial activities conducted at the Council of State. To form the basis of this study, a survey was prepared and presented for the views of our Members of the Profession at the Council of State.

The survey, prepared by the Commission we established, consists of a total of 101 questions under the main headings of: jurisdiction within a reasonable time and efficiency in judicial processes; mechanisms simplifying and streamlining judicial procedures; necessary legislative amendments and administrative measures to reduce the anticipated workload to a reasonable level; ensuring consistency of precedents and mechanisms to resolve conflicts; education at the Council of State; supporting units and activities related to jurisdiction; and the quantity and quality of human resources. These questions were consulted and answered collectively by all Members of the Profession within each chamber of the Council of State.

The survey responses reviewed by the same Commission have been synthesized and will be presented today in a report to serve as the basis for discussions.

Following the presentation of the report on the survey responses, the results emerging from the answers will be evaluated and consulted through the discussions and contributions to be made.

Our meeting will be held in three separate sessions, each chaired by our Chief Public Prosecutor and Vice Presidents of the Council of State.

In the first session, the responses to questions under the heading of jurisdiction within a reasonable time and efficiency in judicial processes will be evaluated; in the second session, the responses to questions under the headings of mechanisms simplifying and streamlining judicial procedures, and necessary legislative amendments and administrative measures to reduce the anticipated workload to a reasonable level will be discussed; and in the third and final session, the responses to questions under the headings of ensuring consistency of precedents and mechanisms to resolve conflicts, education at the Council of State, supporting units and activities related to jurisdiction, and the quantity and quality of human resources will be reviewed and consulted. We expect active participation and candid sharing of views from our Members of the Profession in the discussions following the presentation of the reports.

I sincerely extend my gratitude to the members of the profession and rapporteur judges who have diligently served on the commission established for determining the topics of the survey conducted to enable this meeting and for synthesizing the responses provided; to my colleagues who will serve as moderators and rapporteurs during the sessions; and to everyone who undertook responsibilities at every stage of the organization of this meeting.

I wish our meeting to be successful and productive. I would also like to thank in advance all esteemed colleagues, whether participating or unable to attend due to valid reasons, who I am confident will make significant contributions through their ideas and opinions. I wish you all good work.

II. OPENING SPEECH AT THE CEREMONY COMMEMORATING THE 156TH ANNIVERSARY OF THE COUNCIL OF STATE AND ADMINISTRATIVE JURISDICTION DAY

Your Excellency (The President of the Republic of Türkiye)

Esteemed Colleagues,

Distinguished Guests,

Honorable Members of the Press,

It is a great honor and privilege to welcome you to the ceremony commemorating the 156th Anniversary of the Council of State — originally established on May 10, 1868 under the name Şûrâ-yı Devlet as one of the most significant milestones in the Ottoman Empire's reform era — and to celebrate Administrative Jurisdiction Day. I extend my heartfelt greetings and deep respect to all of you. Welcome.

I would like to express my sincere gratitude to our esteemed honorary members of the Council of State, as well as to judges, prosecutors, and administrative staff who have retired in the past year, and wish them health and happiness in the new chapter of their lives. I thank them for their dedicated service to the Turkish judiciary.

I respectfully commemorate our colleagues who passed away in previous years, our martyred judges and prosecutors, those martyrs who sacrificed their lives to defend our homeland, and our fellow citizens lost to wildfires, floods, earthquakes, and other natural disasters.

As we step with pride into the second century of the Republic of Türkiye, I pay

tribute with gratitude and mercy to the Gazi Mustafa Kemal Atatürk and his heroic comrades-in-arms, as well as to our revered martyrs who gave their lives during the War of Independence and the founding of our Republic.

A Universal Pursuit of Justice Amidst Global Conflicts

Your Excellency,

Justice — a universal value — is as essential to the preservation of peace and tranquility within societies as it is to the establishment and maintenance of global peace and stability. As such, it is a sacred and fundamental value that must be safeguarded by every individual, every nation, and every state. In this respect, justice must be regarded as a universal and sacred fundamental value that every individual, every nation, and every state is obliged to uphold. If states and nations, societies and individuals act with justice and respect for each other's rights, global peace may be established and tranquility may be maintained. Our nation, with this awareness and as it has done throughout its history, continues to lead the determination and endeavor to realize justice on a universal level in the face of the injustices and oppression that clearly manifest themselves in the international community and its relations.

It is an undeniable fact that, in international relations, the principles of justice and equality are often disregarded, where the powerful are deemed right, and that the mechanisms through which the oppressed may seek justice fail to function. It is evident that the primary cause of increasing international disputes and conflicts lies in this very situation. The elimination of such conflicts and disputes is only possible through the establishment of a new international order based on the principles of justice and equality.

The conflicts and wars occurring in our region are forcing individuals — whose most fundamental human right, the right to life, has been violated and whose personal safety is under serious threat — to seek safe havens. These individuals, with whom we share a common geography, a shared historical heritage, and cultural and spiritual values, regard Türkiye as the most reliable country of refuge when their lives are in danger and they are subjected to oppression.

We observe, with both dismay and concern, the discriminatory attitudes of certain Western countries in the face of human rights violations arising from such ongoing conflicts and wars in our region and other parts of the world; the hypocritical behavior exhibited in response to the manifest crimes against humanity and war crimes committed by certain states in the ongoing wars in our region; and the blatant manner in which they lay bare their perception of the law as nothing more than an instrument to serve their own interests.

Terrorism as a Human Rights Issue and the Legalization Efforts of Terrorist Organizations

Türkiye is a country that combats terrorist organizations such as FETÖ, PKK, and DHKP-C. At the same time, due to its geostrategic position, our country stands at the very center of global power struggles and is directly targeted by them. Considering that none of the threats to our national security stem solely from local dynamics

— that terrorist organizations are used as instruments, and that their needs such as financing and arms supply are met on an international scale — it becomes inevitable and imperative to prevent international support to terrorist organizations.

We have witnessed periods during which terrorist organizations targeted not only our security forces but also members of the judiciary. In this context, I once again strongly condemn the heinous terrorist attack attempt against Çağlayan Courthouse in Istanbul on February 6.

Judges and prosecutors who are fully aware of universal legal values and human rights, and who recognize that the continuity of the State is inseparably linked to the establishment of justice, are also conscious that terrorism constitutes a fundamental human rights issue. The protection of human rights is only possible if the right to life and the security of persons and property are first safeguarded.

In this respect, during judicial proceedings conducted in relation to activities qualifying as terrorist offenses — and subsequently, at times, during individual application phases — these fundamental realities must not be disregarded.

Thanks to the effective political, military, intelligence, and social efforts undertaken by our State, terrorist organizations have, in recent years, been significantly hindered in their ability to carry out acts of terror.

As a consequence of this success, it has been observed that terrorist organizations, having lost their operational capacity, have shifted tactics and are now attempting to operate under a veneer of legality within political parties, non-governmental organizations, local administrations, and media and broadcasting institutions.

Notably, terrorist organizations such as PKK/KCK and FETÖ closely monitor temporary conditions and opportunities and readily adapt by assuming any form or entering into any alliance that serves their interests.

In this regard, it must not be forgotten that efforts by terrorist organizations to gain legal status are merely instrumental strategies to achieve their ultimate objectives. In all judicial proceedings involving such organizations, the focus must extend not only to what is visible on the surface but also to the underlying reality concealed beneath it.

Coordination and Cooperation Among Judicial Bodies

Your Excellency,

As we all know, the recognition of fundamental rights and freedoms through the Constitution and laws, as well as their protection and implementation, is only possible through the establishment of an effective and harmoniously functioning judiciary — a constitutional organ of the judicial power.

The Constitution mandates that constitutional organs, and naturally the institutions constituting these organs, perform their duties in cooperation with one another, maintaining orderly and coordinated operations.

The harmonious functioning of institutions, with each institution operating within the limits set forth by the Constitution and laws, is of vital importance for the coherent operation of the State.

According to the Constitution, there is no precedence-subordination or hierarchical relationship among the legislative, executive, and judicial bodies. Such hierarchical relations do not exist even among the high courts. The high courts are obliged to fulfill their duties assigned by the Constitution and laws within the scope of their jurisdiction, and there exists a functional division of labor among them.

Nevertheless, disparities or privileges among members of the high courts, which are found in certain laws and also observed in practice, create an impression of hierarchy among the high courts. These differences must be eliminated and uniformity ensured by equalizing the rights of all members of the high courts.

The Boundary Between Individual Application and Ordinary Legal Remedies

The right to individual application was incorporated into our legal system through the constitutional amendment in 2010, which enabled everyone to file complaints to the Constitutional Court on the grounds of alleged violations of rights and freedoms jointly protected by the European Convention on Human Rights and our Constitution. Paragraph 4 of Article 148 of the Constitution, which regulates the duties and powers of the Constitutional Court, explicitly stipulates that matters subject to examination in ordinary legal remedies shall not be reviewed within the scope of individual applications.

As the individual application is a secondary remedy, the primary principle is that public authorities must respect fundamental rights and freedoms and that any alleged violation should be remedied through ordinary judicial procedures. Indeed, administrative judiciary fulfills the function of protecting fundamental rights and freedoms by conducting legal review over administrative acts and actions.

The Constitutional Court should refrain from reviewing the facts of the case subject to the ordinary legal remedy, the evaluation of evidence, the interpretation of legal rules, and whether the outcome reached by the courts on the substance of the dispute was fair, within the scope of individual application examination.

Therefore, I consider it essential for the preservation of our legal order that the Constitutional Court meticulously maintains the legal distinction and boundaries between individual application and ordinary legal remedies and avoids interpretations that would reduce individual application to a fourth-instance judicial review.

On the other hand, it is evident that individual application is one of the most significant legal mechanisms aimed at protecting fundamental rights and freedoms.

In the rationale of Law No. 5982, "Law on Amendments to Certain Articles of the Constitution of the Republic of Türkiye," which introduced individual application into our legal system, it was emphasized that thousands of applications are made annually to the European Court of Human Rights and that the individual application right was established to resolve these issues within domestic legal remedies.

Accordingly, the purpose of applications made to the European Court of Human Rights and individual applications within our domestic legal system is essentially the same. However, decisions of the European Court of Human Rights have

been listed among the reasons for "retrial" under Law No. 2577 on the Procedure of Administrative Litigation, thereby leaving it to the discretion of the court to decide whether retrial is necessary. In contrast, decisions of the Constitutional Court based on individual applications are subject to a separate legal mechanism whereby the case file is sent back to the relevant court for retrial to eliminate the violation and its consequences, the court is obliged to conduct retrial, and shall render its decision in a manner that removes the violation as explained by the Constitutional Court in its ruling.

There is no compelling reason for this difference, which is one of the causes of ongoing debates both in public discourse and the legal community regarding individual application decisions. Restricting Constitutional Court decisions, like European Court of Human Rights decisions, to being among the grounds for retrial would contribute to resolving these ongoing discussions.

The Need for a New Constitution

Ongoing debates occupying our agenda—such as interpretative differences among decisions of the high courts, the need for mechanisms to resolve these differences, uncertainties regarding their jurisdictional boundaries, the binding nature of high court decisions, and sometimes prolonged election processes due to the requirement that the election of high court presidents and chamber heads be decided by an absolute majority of the full membership—can only be definitively resolved by a new Constitution.

There is no legal obstacle preventing the Grand National Assembly of Türkiye, which represents the highest level of democratic representation, from drafting a civil constitution that will be embraced by our nation.

Judicial Independence

It is indisputable that one of the fundamental principles of the new Constitution will be enhanced judicial independence and impartiality.

The judiciary is vested with independence as a requirement of its duty to administer justice. Therefore, judicial independence is an instrument for the realization of justice. Limiting judicial independence solely to its independence from the executive and legislative branches would be an incomplete assessment.

Indeed, judicial independence and impartiality have multiple dimensions. Judges must also be protected against influences that may adversely affect their decision-making according to law and conscience, emanating from individuals, institutions, and organizations—such as written, visual, and social media platforms, official or unofficial civil society organizations, public opinion, parties to the case, or any person having an interest in the case.

Regrettably, some media outlets and internet platforms cast shadows over judicial independence and impartiality by publishing predominantly opinion-based news lacking factual and data-driven foundations.

As is well known to all of us, freedom of thought and opinion, and especially freedom of expression, hold significant importance among fundamental rights and freedoms.

The media is the principal forum where freedom of thought and opinion is exercised in its broadest sense. Opinions and thoughts concerning a particular event, topic, or situation are generally expressed through the media.

However, like every freedom, freedom of the press is not unlimited. Misleading publications violate the public's right to receive accurate information. For this and other reasons, the Constitution and the Press Law contain provisions limiting freedom of the press.

Some biased and critical news and commentaries, which lack factual basis and legal justification, may reach levels that undermine judicial independence as regulated under Article 138 of the Constitution. On the other hand, we find acceptable the objective and legally grounded criticisms contributing to the development of law regarding judicial decisions. Nonetheless, severe criticisms that go beyond mere critique, containing personalized accusations against judges rendering decisions and sometimes amounting to insults and defamation, serve no one's interest other than weakening the belief in the rule of law and public confidence in the judiciary.

The Function of the Administrative Judiciary

Your Excellency,

The administrative judiciary has served an essential function in all contemporary societies for the protection and development of the rule of law and democracy, undertaking the role of supervising the conformity of administrative actions with the law.

Through the review conducted by the administrative judiciary, unlawful administrative acts are annulled, thereby safeguarding fundamental rights and freedoms, while simultaneously fulfilling the duty to provide guidance to the administration.

An administrative judge cannot annul an administrative act solely on the grounds that it is neither appropriate nor useful, in a manner that would nullify the discretion granted to the administration, unless the act is unlawful.

In the periods we have left behind, the criticism that administrative courts exercised review of merits extensively has largely fallen off the agenda. The administrative judiciary performs its duties within the constitutional limits granted to it and continues its role of administering justice to ensure the effective implementation of the rule of law.

The Need for an Administrative Procedure Law and Alternative Dispute Resolution Mechanisms

Like the judiciary as a whole, the primary issue of the administrative judiciary is the increasingly heavy workload and the resulting accumulation of files. Although legislative amendments have been made to overcome this problem, the expected level of benefit has not been achieved. A significant factor in this regard is the tendency for all disputes arising between the administration and individuals to be brought before the administrative courts. Accordingly, the reduction of the administrative judiciary's workload can, at its core, be achieved by preventing the emergence of disputes between the administration and individuals.

For this purpose, the administration must exercise diligence in acting and making decisions in accordance with the law and judicial decisions that concretize the law, examine applications submitted to it with the aim of resolving them, not evade responsibility when providing solutions, and possess the necessary authorities in these matters. As frequently emphasized in comparative law studies conducted in the context of administrative law, all these matters will be reflected more in practice through the enactment of a General Administrative Procedure Law covering the entire administration. The enactment of a "General Administrative Procedure Law" covering the entire administration, instead of scattered and unsystematic procedural rules found in various laws regulating the establishment and functioning of numerous public institutions in our legal system, will not only guide the administration and regulate administration-citizen relations, increasing the satisfaction of those benefiting from public services, but will also reduce the workload of the administrative judiciary.

"Administrative Procedure" can be defined as the set of rules determining the rights and obligations of the administration and the individuals subject to administrative acts during the process of issuing such acts.

By regulating administrative procedure rules under the General Administrative Procedure Law, the effective and efficient delivery of public services will be ensured, unlawful acts and errors in the administrative act issuance process will be reduced, and transparency and participation in administrative functioning will be increased.

In our country, it is observed that the first study on administrative procedure was conducted in the 1990s, that the draft "General Administrative Procedure Law" was first prepared in 1999, and most recently, due to legislative changes, a new "General Administrative Procedure Law Draft" was submitted to the Prime Ministry in 2006.

Under the heading of "Legal Predictability and Transparency," one of the fundamental objectives of the "Human Rights Action Plan" announced to the public on 2 March 2021, it is stated: "The targets set under this objective primarily concern administrative procedures and bureaucratic processes. In this context, individuals must be provided with prompt and satisfactory responses to applications against administrative acts, bureaucracy must be reduced, and the costs arising from unlawful acts due to administrative reasons must not be borne by individuals," thus emphasizing the need for an administrative procedure law.

The Plan also envisages "administrative conciliation procedures" to resolve disputes between natural and legal persons and the state as quickly and at the lowest cost as possible, and that "the decisions rendered should be binding regarding disputes on the same matter," which serves the same objective.

All these considerations demonstrate that the General Administrative Procedure Law, for which a draft has already been prepared, should be reconsidered and reassessed in light of its function of regulating relations between the administration and citizens and its potential to alleviate the increasing workload of the administrative judiciary.

Activities of the Council of State

Your Excellency,

The ultimate duty and output of judicial authorities is the delivery of "justice" as the result of a fair judicial process.

While fulfilling its duty of administering justice, the Council of State exerts intensive efforts to conclude proceedings within a reasonable time, at the lowest possible cost, and to reduce the accumulated backlog of cases built up over the years.

With the regional administrative courts commencing operation in the capacity of "courts of appeal" on 20 July 2016, the workload of the Council of State decreased significantly during the first four years. While the number of cases referred to the Council of State amounted to 205,152 in 2016, the year in which the appellate remedy entered into force, this figure declined to 79,688 in 2017. In the subsequent period, the number of cases referred to the Council of State gradually began to increase again. From 2021 onwards, this upward trend gained momentum, and in 2023 the total number of newly filed cases reached 90,500, while the number of cases decided rose to 101,509.

Accordingly, in 2023, more cases were concluded than those newly filed, with the ratio of concluded cases to newly filed cases reaching 112%, and the backlog of cases carried over from previous years continuing to decrease.

Our aim and endeavour is to reduce the existing backlog of cases even further. However, as noted above, the observed upward trend in the number of cases referred to the Council of State, together with the expectation that this increase will accelerate due to newly emerging disputes arising in the earthquake-affected regions, demonstrates the necessity of adopting certain structural solutions and measures.

The transitional period regulated under Provisional Article 27 of Law No. 2577, which envisages a transition process for reducing the number of chambers of the Council of State from the current 12 to 10, will expire as of July 2026. However, as indicated above, since the increasing trend in workload persists, we consider it necessary to completely abolish the regulation providing for a reduction to 10 chambers and to allow the Council of State to continue operating with 12 chambers. Accordingly, the regulation envisaging a reduction in the number of members to 90 based on a Council of State operating with 10 chambers must also be amended, and the number of members of the Council of State should be fixed at no fewer than 104.

In addition to performing the duty of acting as a court of first instance in cases prescribed by law, the Council of State is a court of precedent which ensures the uniform application of administrative law throughout the country in cases it examines on appeal. The prerequisite for the Council of State to fulfil its role as a court of precedent is the establishment of consistency in judicial case-law. Ensuring such consistency is directly proportional to the professional experience of the members of the Council of State.

By Law No. 6723 dated 1 July 2016, the term of office of members of the Council of State was limited to twelve years. As a result of this legislative amendment, the fact that the terms of office of a significant number of members will simultaneously expire in July 2028 will give rise to adverse conse-

quences in terms of ensuring consistency in case-law. In this respect, repealing paragraph three of Article 9 of the Council of State Law, which limits membership to a twelve-year term, is essential for ensuring stability in case-law and for benefiting from the experience of our members.

Symposium

The existence and increasing activities of international organizations of which the Council of State is a member, initiatives involving the Council of State aimed at the establishment of new international judicial bodies, and the growing pursuit of international cooperation among judicial institutions may be cited as examples of globalization in the fields of law and the judiciary.

As the high court of the Turkish administrative judiciary, the Council of State attaches importance to examining, together with the academic community, the phenomenon of globalization, which affects administrative law in various respects, and its reflections on administrative law, particularly those aspects that give rise to debate in judicial and academic circles; for this reason, it has designated this subject as one of the main themes of today's symposium.

The driving force behind the phenomenon of globalization has been technological developments in the fields of communication and information.

With the transition to the era described as the information age and the information society, the manner in which public services are delivered has also undergone transformation in recent years, and many public services have begun to be provided in digital environments. Through the digitalization of public services, it has become possible for citizens to benefit from services more rapidly and more easily. This transformation is also being experienced in the field of the judiciary, and with each passing day, new judicial activities and services are being offered in digital form.

As a new stage of digital transformation in the judiciary, the gradual use of artificial intelligence applications in the judicial field is also expected.

I wish this symposium, the second session of which we have devoted to this subject, to be successful and productive, and I would like to extend my sincere thanks in advance to our distinguished academics and experts, who I am confident will make valuable contributions through the ideas and papers they will share.

Conclusion

Your Excellency,

Distinguished Guests,

As members of the Council of State, one of the foundational pillars of our Republic, which has now completed its 100th year, we shall continue, in the second century of our Republic, to work with determination to uphold and exalt the justice that our nation expects from us.

While performing our duties under a heavy workload, we strive to provide a swift, effective, and high-quality judicial service, acting in full adherence to judicial independence and impartiality, as well as to ethical principles.

With these thoughts and sentiments, I once again extend my sincere thanks to all of you for honoring us with your presence at our ceremony, and I wish you good health and well-being.

III. OPENING SPEECH OF THE 2024 JUDICIAL YEAR

Dear Colleagues,

Distinguished Members of Our Institution,

Welcome to the reception organized on the occasion of the commencement of the new judicial year, on the first day of our duties to which we return physically rested and mentally refreshed following a forty-day judicial recess. On this occasion, I extend my respectful greetings to you all.

I express my gratitude to you for the judicial services rendered in the past judicial year, which we completed with great dedication and effort under a substantial workload, in adherence to the principles of judicial impartiality and independence, and in full observance of ethical standards.

I am confident that in the new judicial year, devoted efforts will continue to increase toward providing a swift, effective, and high-quality judicial service, and that the Council of State, through its well-founded jurisprudence, will continue to make valuable contributions to both the evolution of our legal state and the broader body of legal literature.

Since its establishment, the Council of State has fulfilled its duties in accordance with the principles of universal law, contributing significantly to the development of administrative law and the establishment and distribution of justice. It has diligently pursued its mission to lead the advancement of a fair and high-quality judiciary within the framework of respect for human rights, thereby strengthening justice.

In this context, together with the Members of the Council of State, our Prosecutors, Rapporteur Judges, and all administrative personnel, we continue to act with the awareness that we are entrusted with the responsibility to deliver a continually advancing standard of justice to our nation, in alignment with the fundamental principles and values of law.

In accordance with the understanding that "justice delayed is justice denied", our primary duty is to conclude cases swiftly, to issue decisions without delay, and to notify the parties in a timely manner, thereby ensuring effective adjudication. Fulfilling this duty is closely related to the volume of work we handle.

In this regard, according to the most recent statistics, there are currently 122.719 pending cases before the Council of State. The continued annual increase in the number of appeals received also demonstrates that the workload remains above the desired level.

When examining the statistics for the first eight months of the past three years in the Chambers and Joint Chambers of the Council of State:

In 2022, the total number of newly filed cases was 63.036; resolved cases numbered 52.634; and 139.549 cases were carried over to the next term.

In 2023, the total number of newly filed cases was 63.929; resolved cases numbered 54.162; and 133.674 cases were carried over.

In 2024, the total number of newly filed cases is 63.171; resolved cases number 53.370; and 122.719 cases have been carried over to the new term.

The number of cases carried over into the new judicial year represents the lowest total in the last three years. I am fully confident that by the end of the year, this number will decline to even more reasonable levels.

Let us not forget that, as those who uphold the scales of justice, our responsibility is not only to act in equity, to measure accurately, and to render just decisions, but also to issue rulings in a timely, prompt, and uninterrupted manner.

According to statistics prepared as of 29 August 2024, there are a total of 8.490 cases across the Council of State which remain unresolved despite more than three years having passed since their initial filing.

With the amendment introduced by Article 4 of Law No. 7331, which entered into force upon publication in the Official Gazette dated 14 July 2021, the following provision was added to the first paragraph of Article 24 of the Administrative Jurisdiction Procedures Law No. 2577: "Decisions shall be written and signed within thirty days from the date they are rendered."

In accordance with this provision, decisions must be finalized, signed, and prepared for notification within thirty days of being rendered.

However, as of 29 August 2024, there remain cases throughout the Council of State that exceed this timeframe. There are no unsigned or unapproved decisions pending in the 7th and 9th Chambers, nor in the Tax Litigation Chambers Board.

The excessive time taken to write and sign decisions beyond the legally prescribed period often results in parties and their legal representatives submitting information requests to the Presidency. Our citizens have frequently voiced this matter in their petitions. Demonstrating sensitivity and adhering strictly to this legal requirement is closely related to the realization of fair trials within a reasonable period.

Despite the intensity of our current workload, your invaluable efforts and commitment to leading the development of administrative judiciary and administrative law in our country, to safeguarding human rights, and to promoting a fair and high-quality judicial process in line with universal legal values—and thereby strengthening justice—are undeniable. However, our goal and focus must be to resolve, without further delay, those long-pending cases and to make concrete progress in the timeliness of decision writing and signing.

The expectations of our beloved nation from the Council of State—which we endeavor to advance further each day through the qualified jurisprudence established by its knowledgeable and experienced members—are also directed toward this objective.

With these sentiments and thoughts, I extend my best wishes for continued success in a peaceful working environment in the new judicial year to our esteemed Members of the Council of State, Prosecutors, Rapporteur Judges, and administrative personnel, and I wish you all days ahead filled with health and well-being.

IV. OPENING LECTURE OF THE 2024–2025 ACADEMIC YEAR AT ANADOLU UNIVERSITY ON THE THEME OF "THE RULE OF LAW AND JUSTICE"

Esteemed Governor of Eskişehir,

Honourable Rector of Anadolu University,

Distinguished Civil, Judicial, Military, and Administrative Officials of Eskişehir,

Respected Academicians,

Dear Students,

Valued Guests,

At the outset of my remarks, I would like to express the great pleasure I feel in being among you today for the opening of the 2024–2025 academic year of Anadolu University, one of Türkiye's most established educational institutions and a pioneer in open and distance learning systems.

First and foremost, I greet with respect and affection our academicians, who are the main actors in the education and training offered at Anadolu University, our students—whose determination for research and learning I can observe in their very

gaze—and all esteemed attendees. I hope that the new academic year will bring prosperity to Anadolu University, to our academic community, to our students and their families, and to our country; and I wish for it to contribute to the production of new knowledge and to the development of you, our youth.

Education, which is considered sacred in our world of values, is the process of acquiring knowledge. It enables individuals to find their place within society, to acquire the knowledge, skills, and comprehension necessary to assume social roles, and to internalize the value judgments of the society they live in. As can be understood, education is a much broader process than instruction, which is the activity of providing the necessary information toward a particular goal.

In essence, education is a comprehensive process of maturation, one that includes but is not limited to the acquisition of knowledge. It also encompasses the inculcation of social, cultural, and moral values, the development of professional skills, and the adoption of social norms and behavior.

In this respect, university education is of particular significance and must be addressed as a matter that extends beyond mere instruction. Our universities are foremost among our most important educational institutions where universal knowledge is both produced and taught. In accordance with the philosophy of our civilization—as expressed in the Qur'an, Surah Az-Zumar, verse 9: "Are those who know equal to those who do not know?"—our educational institutions, such as schools, madrasahs, and universities, have historically served to convey such knowledge and wisdom.

One of the most vital objectives of education is to equip individuals with the knowledge, skills, attitudes, and values necessary to overcome the challenges they will face throughout their lives. For this reason, education must align with the realities of life; it must not be detached from the conditions of real life. These considerations are equally applicable to university education. University instruction must center on the realities of life and must not remain indifferent to the structure and cultural values of the society in which it exists. Only under such conditions can the aim of cultivating beneficial individuals for society be truly realized.

As is well known, education is one of the most critical factors in determining a country's level of economic, social, and political development. Beyond its personal benefits to individuals, education plays a direct and decisive role in national development due to its societal impact.

The education provided at universities—at the associate, undergraduate, and graduate levels—is a primary force in shaping and guiding the scientific and societal advancement of a nation. University education not only opens career paths for individuals, but also plays a critical role in cultivating a qualified workforce that will build the future of the country and society. Universities are also at the center of innovation

and technology-oriented initiatives that will enhance Türkiye's competitiveness on a global scale.

Through the dedicated efforts and guidance of their academic staff, universities prepare young people for the future by equipping them with knowledge, research capabilities, and a sense of responsibility. Thanks to university education, individuals will contribute not only with their academic achievements but also with the social responsibility they develop within the framework of universal values, thereby supporting the progress of our nation.

University education also imparts critical thinking, problem-solving, and analytical reasoning—namely, the ability to think strategically. The academic environment of a university, grounded in scientific research and innovative, independent thought, transforms students into capable individuals who can devise solutions to global challenges. The knowledge and experiences gained in this process not only serve as a guide on their professional paths, but also form the foundation for projects that benefit society.

As one of Türkiye's most well-established and innovative educational institutions, Anadolu University has achieved many firsts and has proven itself as one of the most competent representatives of university-level education in our country. Founded in 1958, this esteemed institution has particularly stood out for the opportunities it offers in open and distance education. By establishing the first Open Education Faculty in Türkiye, it has played a pioneering role in making higher education accessible to the masses and has provided educational opportunities to millions of students.

I extend my congratulations to Anadolu University for its achievements to date, including its leadership in digitalized education processes, and I firmly believe it will continue to provide the high-quality university education that our country needs.

An integral part of university education is legal education, which serves as a resource for the legal community to which I belong. Anadolu University hosts one of Türkiye's well-established faculties of law. A considerable number of graduates from this faculty currently serve as judges, prosecutors, attorneys, and legal advisors within the Turkish judicial system.

According to data from the Council of Higher Education, there are currently 88 Faculties of Law in Türkiye. In the year 2023 alone, 15.744 students graduated from these institutions. Although such data is published regularly, critical matters—such as how many law graduates are needed each year to meet the demands of our country and judicial system, how many law faculties are necessary to provide such education, and what is the minimum required academic staff for a quality legal education—require ongoing research, analysis, and scientific inquiry.

Available data and ongoing debates regarding legal education indicate that the academic structure of law faculties, the academic levels of legal education, curricula, duration, and methods should each be considered, evaluated, and discussed separately.

For the ultimate goal of the entire legal system and its practitioners—namely, the realization of justice—can only be achieved through the efforts of well-trained and adequately equipped jurists. In other words, there is a direct correlation between the quality of legal education and the establishment of justice.

Although today graduating from law faculties proves academic competence in legal knowledge, it has become obligatory to also benefit from other disciplines such as philosophy, logic, communication, information technology, sociology, and psychology in order to become a good legal professional.

The classical method of legal education, consisting merely of attending lectures and reading books, must necessarily transform into a method that provides reasoning competence consistent with the rules of logic, the ability to express oneself in writing and verbally, and skills in accessing resources. This method should promote strategic thinking and production that include research rather than memorization, problem solving, and an analytical and critical perspective; in short, it must turn the student into an active participant rather than a passive one during the education and training process.

In today's world, where social and economic life is complex, particularly due to technological advancements and the widespread use of social media networks and virtual commerce, disputes diversify day by day. This fact necessitates adapting and developing legal education in law faculties in accordance with current requirements. This reality also shows that the education of legal professionals should not be limited to education within law faculties. Accordingly, continuing professional education throughout the professional lives of legal professionals is essential.

The fundamental principle in legal education is to provide legal education free from prejudices and preconceived judgments. Legal professionals must not be trained with prejudices and preconceived judgments; they must be open-minded, and it must be instilled in them that law cannot be used as an instrument for different ideologies and worldviews. Because justice, sought through law and its application, is a universal value that every individual and every community must possess and need without discrimination, just as bread and water.

As Hacı Bektaş-ı Veli said, "Justice in every matter is to know the Right." The emphasis on "knowing" in this concise phrase is evident. To know the Right primarily means to know the concept of "right," the "holders of rights," the "types of rights," "rights" themselves, and the "law," which is composed of the entirety of rights. As stated in this phrase, justice must be observed in every matter, and acting justly is not solely the responsibility of legal professionals.

To develop the sense of justice in society and to increase this awareness, our need for an education system where knowledge is blended with wisdom and insight, and for educational institutions that will properly provide this education, can only be met through educational models in our universities that consider this dimension of education. There are always moments and situations in every field of society in which every individual must act justly. For example, an employer must pay the worker's right without delay; a teacher or professor must provide the necessary knowledge to their students with the same diligence and without discrimination; a doctor must approach their patients compassionately and arrange examinations and treatments accordingly; a student must respect the turn of a friend in the food queue; a neighbor must not disturb other neighbors with loud noises or disruptive behavior. These are requirements of acting justly, in other words, manifestations of the consciousness of being just. These examples can be multiplied. In case of violation of these obligations, sometimes legal rules, sometimes morality, sometimes customs and traditions—that is, legal or social sanctions—come into play to eliminate this violation, namely the resulting injustice.

In cases of conflict, disagreement, injustice, or committed crimes in society, where legal sanctions must be implemented, the ultimate goal that legal professionals strive to reach after a fair judicial process is "justice." In other words, when individuals, society, and the state fail to fulfill their duty to act justly, legal professionals take on the responsibility to establish and distribute justice at the final stage. From this perspective, we can say that the Courthouse Gate is not the only gate of justice but its last gate.

Because justice is a sublime value that must be observed, adhered to, and internalized by all individuals, society, and all organs of the State at every level—not only by legal professionals and judicial authorities.

As a nation, if we want to sustain a strong society that is attached to universal legal values, especially justice, and is influential in the international arena, we must abandon perceiving justice solely as a value sought in courts and expected only from judges, and instead adopt it as a fundamental value guiding our lives. Justice is the command of Allah (CC) encompassing all humanity and, as a continuation of a longstanding understanding, the emphasis on justice is given importance in our Constitution. It is stated that the Republic of Türkiye is a state of law founded on the understanding of social peace, national solidarity, and justice, and that removing political, economic, and social obstacles incompatible with the principles of rule of law and justice is among the fundamental aims and duties of the State. In this regard, justice—which guarantees societal peace and tranquility—is a universal and sacred fundamental value that must be observed by everyone at every level. If the State and all its officials, citizens, parents with children, and individuals within society observe justice and respect each other's rights in their relations, the courts will not bear excessive duties.

Justice, as a universal value, is as important for ensuring peace in the relations between people in a society as it is, perhaps even more importantly, for establishing and sustaining global peace and harmony. From this perspective, if each individual, each nation, and each state observe justice and respect each other's rights as a universal and sacred fundamental value, peace and tranquility can be achieved globally.

Our nation, conscious of this awareness, has led the determination and effort to realize justice on a universal scale throughout history, especially in the face of obvious injustice and oppression in the international community and relations. We belong to a civilization rooted in its past and advancing towards the future with hope.

In the past, we founded great civilizations and governed with justice. The peoples of other states or authorities ruled by oppression have sometimes voluntarily submitted to the administration of the empires we established due to our just governance understanding. However, it is clear that pride in the past alone will not bring progress, and we must take very solid steps toward the future. Universities, which are at the core of our nation's and state's vision for the future, are among the foremost institutions to lead this effort.

We are living through the most difficult moments in human history, the times with the most conflicts, struggles, and oppression. This era is the digital and information age. Science and knowledge, developed in the hands of people lacking wisdom and insight, constitute a power and are used as weapons today. Those who use knowledge as power and weaponry, by establishing hegemonic structures in technology, commerce, international organizations, and other areas, attempt to silence the voices of oppressed and innocent nations around the world.

We observe that technology and knowledge, which are for the benefit of humanity, have nowadays turned into weapons. A recent tragic example is the incident in Lebanon, where hundreds of people were killed and thousands injured when electronic messages sent simultaneously from a single center triggered explosions in public places such as bazaars, markets, parks, etc. This event constitutes one of the most destructive examples of how the fundamental human right to life of thousands of innocent civilians was violated and how knowledge was brutally turned into a weapon.

While knowledge should be used for the benefit of humanity and the universe, it is evident that there is a pressing need for strong international legal mechanisms to prevent its use as a kind of weapon.

As concrete examples, in Palestine, Gaza, Lebanon, and East Turkestan, we witness that principles of justice and equality in international relations are disregarded, the stronger is accepted as right, and mechanisms through which the oppressed could seek justice do not function. It is clear that this situation is the fundamental cause

of increasing international disputes and conflicts. The elimination of these conflicts and disagreements will only be possible by establishing a new international system based on the understanding of justice and equality.

The tangible manifestation of the disregard for principles of justice and equality in international relations is the conflicts and wars experienced in our region, which force people whose most fundamental human right—the right to life—is violated and whose personal security is endangered to seek a safe haven. These people, who share this geography, a common historical heritage, cultural and spiritual values with us, regard Türkiye as the most reliable country to turn to when their lives are threatened and when they are subjected to oppression.

We observe with both concern and regret the discriminatory attitudes of some Western countries in the face of human rights violations arising from such ongoing conflicts and wars in our region and other parts of the world, as well as the hypocritical behaviors of certain states regarding clear crimes against humanity and war crimes committed in ongoing wars in our region. These behaviors recklessly demonstrate that law is merely a tool used for their own interests.

The most important universal value that law and the judiciary—authorized and responsible for its enforcement—seek to protect is human rights and justice. Human rights are the rights that belong to a person solely because they are human. Legal systems must establish an order based not on granting rights to humans but on the rights that people possess inherently by virtue of being human.

The foundation of the rule of law is to guarantee the rights inherent in being human. To the extent that universal values are embraced and rights and freedoms are guaranteed, the legitimacy of the rule of law will be strengthened. The rule of law is a state that does not merely protect the rights and laws of the majority but protects the law of every segment of society, that is, adopts a pluralistic approach and offers an equal and fair legal order to all. This definition also reveals the democratic character of the rule of law. The protection of everyone's rights as equal, honorable, and dignified individuals before the law without discrimination is an indicator of a democratic state.

The duty of the rule of law is to protect and develop rights and freedoms that exist as fundamental human rights and to strengthen the democratic character of the state within the framework of human rights.

At this point, I wish to emphasize the role and importance of the administrative judiciary branch to which I belong, in the establishment and consolidation of the rule of law. The administrative judiciary, tasked with effectively protecting human rights within judicial procedures, has played a significant role in all contemporary societies for the protection and development of the rule of law and democracy, undertaking a supervisory role in ensuring the legality of administrative operations. Through ad-

ministrative judicial review, unlawful acts are eliminated, fundamental rights and freedoms are guaranteed, and guidance is provided to the administration.

The administrative judiciary performs its duties within the constitutional limits granted to it and continues to fulfill the distribution of justice to ensure the effective application of the rule of law principle.

In today's world, as the scope of administrative activities expands and public services diversify, the importance of the administrative judiciary has increased. The administrative judiciary, which offers an effective supervisory mechanism against violations arising from administrative acts, ensures the protection of individuals' fundamental rights and freedoms and contributes to establishing the principles of transparency and accountability in administrative decision-making processes. Considering today's rapidly changing social and technological dynamics, it is clear that the administrative judiciary plays an indispensable role in balancing public interest and individual rights.

Dear Youth;

You are the future and hope of our Nation and Türkiye. You will build the tomorrows of this country. In addition to the knowledge and experience you acquire throughout your university life, it is of great importance that you develop yourselves as responsible individuals committed to our national and spiritual values. Remember, education is not only an individual gain and individual right; it is our greatest debt to our country and nation.

By acquiring knowledge, you will enhance your academic competence. In real life, in the business world, you will face more challenging conditions while practicing your profession. Academic competence alone will not be sufficient to cope with these challenges. Besides, with your moral and humane qualities, your communication skills, and the support of your families, I am confident that you will earn a respected place in society, work, and professional life, and serve the devoted and self-sacrificing Turkish Nation you come from and humanity.

Accordingly, it is the expectation of this Nation that you cultivate yourselves both professionally and culturally, understand the era and society you live in well, and are aware of the values of the nation you belong to.

As I mentioned earlier in my speech, as the inheritors of a nation and ancestors who governed the world with justice in the past, it is among your and future generations' greatest responsibilities to struggle for the re-establishment of these values of Right and Justice we inherited, especially in this period when these values are absent in the face of oppression ongoing in many parts of the world, and to work for a just world.

Today, civilization and humanity are undergoing a severe test. In an age where knowledge is turned into a weapon, excessive armament brings about power imbalances that fuel wars and conflicts. The disproportionate use of force exhibited in these wars goes far beyond the dimension of human rights violations and manifests as genocide, a crime against humanity.

In the international arena, the path to protecting the rights of oppressed peoples and empowering the rightful lies in the establishment of a new international order and strong institutions based on a firm legal foundation to sustain it.

For these reasons, it is of great importance that you, the youth, not only in our country but throughout the world, develop yourselves as fully equipped and knowledgeable individuals for the reconstruction of humanitarian values and civilization.

In one of his speeches, Ghazi Mustafa Kemal ATATÜRK assigned this responsibility to our youth with the following words; "Youth, you are the ones who reinforce and sustain our courage. You will be the most valuable symbols of humanity and civilization, love of the homeland, and freedom of thought through the education and wisdom you receive. The rising new generation, the future is yours. We established the Republic; you are the ones who will elevate and sustain it."

Ord. Prof. Ali Fuat BAŞGİL also addressed the youth to avoid being dependent on dishonorable people with these words: "Work, my young friend, work. Being dependent on a dishonorable person is worse than death. One who spends their youth in pleasure will spend their old age in tears."

In line with the goal set by Atatürk to be the symbol of humanity and civilization and to prevent the injustices and oppressions of the dishonorable, we must work hard.

The purpose of university education and learning is to raise individuals who possess universal values, who question, think freely, rationally and scientifically, who produce, and who develop and protect responsible and ethical values. Under the guidance and education of your professors, you will grow as individuals possessing these qualities and serve this nation and humanity. During this education and development process, the greater responsibility for accessing knowledge, improving yourselves in every field, and succeeding in life rests on you rather than your professors.

Be curious to understand, learn new things, and make the learning process continuous. Without losing our curiosity, reading, researching, discovering, and applying what we have learned during the learning process make us smarter, more creative, and better thinkers.

As I have just stated, one of the aims of university education is also to raise questioning individuals. A style of thinking and intellectual reasoning that questions without falling into skepticism will enable you to make correct decisions in the decision-making process.

One of the characteristics that lead a person to success is carrying a sense of responsibility and having self-discipline.

Discipline, in the dictionary sense, refers to the whole set of measures taken for all individuals living in a society to conform to the general thoughts and behaviors of the community, as well as the conscientious and careful adherence to written or unwritten laws and regulations related to order. Self-discipline, on the other hand, can be understood as the application of this disciplined approach by a person in their own life in order to achieve their goals. Such a lifestyle is extremely important for a person's progress and success in life. Thus, by taking control of your own life, you can determine your goals and work to achieve them.

If you want to succeed, defining your purposes in life and setting goals to reach these purposes should be your first step. Like strategic plans enacted in five-year periods in public and private sector institutions, making short-, medium-, and long-term plans to organize your life and focusing on the goals you set to achieve your

purposes will bring you success. To reach your goals, you must constantly analyze your strengths and weaknesses and consider opportunities that will give you advantages and threats that may arise beyond your control.

Dear Students;

What are the criteria for success? Is it earning a good income and becoming wealthy? Is it obtaining a high position? Is it owning property? Is it starting a family? We can list many such questions. Any one or all of these may be sufficient for many of us to be considered successful. However, possessing these alone and succeeding in business life may not be enough for us to lead a happy and peaceful life.

To live a happy, peaceful social and family life and to find inner peace, we need to be good people.

In the direction of the goal of being a good person, your foremost duty now is to be a good student. You have come here after intense efforts and great sacrifices from your families to gain admission to the departments you study from all over Turkey. Your duty now is to open the way to serve the Nation as soon as possible by completing your departments diligently and on time and entering life as lawyers, doctors, engineers, social scientists, or experts in the specialized fields of your departments.

Whatever you achieve in life, the best and most virtuous person is the one who is beneficial to others and humanity, as the Prophet Muhammad said, “The best among people is the one who benefits others.” Being a good person is the key to making the world around us livable, leaving a positive impact in society, and finding inner peace. At the foundation of being a good person lie empathy and understanding, respect, tolerance and patience, honesty and justice, generosity and helpfulness. When these virtues, which ensure we become good people, are applied in daily life, a healthier life

Dear Students;

I express my pleasure in being together with you today, as you pass into a new phase of your education and training life, and I wholeheartedly believe that the hope, determination, and faith I see in you will illuminate the future of our nation.

I congratulate your esteemed professors and administrators who have exerted great efforts for your development and equipping with the necessary knowledge for the future world and believe they will continue to show the same dedication throughout your education.

I once again express my great satisfaction in being with you at the opening of the 2024-2025 academic year and in delivering the opening lecture. Along with my wishes for success in your future life, I wish you a healthy, happy, and peaceful life.

DEVELOPMENTS AND ACTIVITIES IN 2024

CHAPTER

03

I. ELECTIONS

A. ELECTON OF THE PRESIDENT OF THE COUNCIL OF STATE

Mr. Zeki YİĞİT, who was elected as the President of the Council of State on 07 May 2020, was re-elected to the said position on 24 April 2024.

B. ELECTIONS OF THE PRESIDENCY OF THE CHAMBERS

Mr. İbrahim TOPUZ was elected as the President of the Tenth Chamber of the Council of State on 23 May 2024.

Mr. Hanifi DOĞAN was re-elected as the President of the Third Chamber of the Council of State on 10 September 2024.

Mr. İlyas ARLI was re-elected as the President of the First Chamber of the Council of State on 12 November 2024.

Mr. Ercan AHİ was re-elected as the President of the Second Chamber of the Council of State on 12 November 2024.

Mr. İsmail Hakkı SAYIN was elected as the President of the Eighth Chamber of the Council of State on 12 November 2024.

C. ELECTIONS OF THE MEMBERS TO THE COUNCIL OF STATE

On 02/10/2024, Mr. Cengiz AYDEMİR, President of the Chamber of Ankara Regional Administrative Court, Mr. Ahmet Cüneyt YILMAZ, President of Istanbul Regional Administrative Court, and Mr. Burakhan MELİKOĞLU, Deputy Secretary General of the Council of State, were elected as Members of the Council of State by the General Assembly of the Council of Judges and Prosecutors; and on 04/10/2024, Mr. Yusuf KARALOĞLU, Director General of Security Affairs at the Presidential Administrative Affairs Department, was elected as a member of the Council of State by the President of the Republic of Türkiye.

II. 156th YEAR, COUNCIL OF STATE AND ADMINISTRATIVE JURISDICTION DAY

A. SYMPOSIUM ON "THE DEVELOPMENT OF ADMINISTRATIVE LAW AND ADMINISTRATIVE JURISDICTION IN THE 21st CENTURY"

Within the scope of the 156th Anniversary of the Council of State and the events of "the Council of State and Administrative Jurisdiction Day", a symposium titled "The Development of Administrative Law and Administrative Jurisdiction in the 21st Century" was held on 10 May 2024 at the Conference Hall of the Council of State Presidency.

The symposium was held on 10 May 2024 in two sessions under the chairmanship of Mr. Dr. Hasan GÜL, President of the Thirteenth Chamber of the Council of State, and papers on the administrative judicial system were presented by representatives of the administrative judiciary and academicians.

In the first session of the symposium, the presentation titled “Global Administrative Law in the Light of Possible Opportunities and Threats” by Mr. Prof. Yücel OĞURLU, Rector of Balıkesir University, and the presentation titled “The Need for Reform in the Turkish Administrative Jurisdiction Procedures in the 21st Century” by Dr. Kamile TÜRKOĞLU ÜSTÜN, Faculty Member of the Department of Administrative Law, Department of Public Law, Faculty of Law, Ankara Hacı Bayram Veli University, were included.

In the second session of the symposium, presentations titled “Artificial Intelligence in Terms of Administrative Law” by Prof. Ahmet YAYLA, Faculty Member of the Department of Administrative Law, Department of Public Law, Faculty of Law, Bahçeşehir University, and “The Use of Artificial Intelligence in the Judiciary” by Mr. Servet GÜL, Director General of Information Technology at the Ministry of Justice, were included.

III. INTERNATIONAL RELATIONS

A. WORKING VISITS

1. Judicial Seminar and Opening Ceremony of the European Court of Human Rights

On 27 January 2024, Mr. Nevzat ÖZGÜR, Chief Prosecutor of the Council of State, attended the Judicial Seminar and Opening Ceremony held in Strasbourg, France, on the invitation of the European Court of Human Rights.

2. Opening Ceremony of the Judicial Year of the Supreme Court of the Turkish Republic of Northern Cyprus

Mr. Zeki YİĞİT, President of the Council of State and Mr. Levent Barış TÜFENKCİ, Secretary General, attended the Turkish Republic of Northern Cyprus on 15-17 September 2024 to attend the Opening Ceremony of the 2024-2025 Judicial Year of the Supreme Court of the Republic of Northern Cyprus.

3. Association of the Councils of State and Supreme Administrative Jurisdictions of the European Union (ACA-Europe) Seminar on "Ethics and the recruitment of members of the supreme administrative courts and Councils of State"

Mr. Ali Ürker, Member of the Plenary Session of the Administrative Law Chamber, attended a seminar on "Ethics and the recruitment of members of the supreme administrative courts and Councils of State" organized by the Association of the Councils of State and Supreme Administrative Jurisdictions of the European Union (ACA-Europe) and the French Council of State Presidency in Paris (Versailles), France, on November 28-29.

B. PAID VISITS OF FOREIGN DELEGATIONS TO OUR PRESIDENCY

1. Paid Visit of Azerbaijan Judicial Delegation

At the international conference held on 19 October 2023 in the city of Shusha, Azerbaijan, with the participation of the Supreme Court Presidents of the Member and Observer States of the Organization of Turkic States, as agreed between the Supreme Court of the Republic of Azerbaijan and the Presidency of the Council of State of the Republic of Türkiye in order to share knowledge and experience, Ms. Hökümə BABAYEVA, Head of the Administrative Chamber of the Sumgait Court of Appeal, Judges of the Baku Administrative Court Aygün ƏHƏDOVA, Səlma SALAHOVA, Həmid AĞALAROV and Bəhlul CƏLALOV, Judge Fərid İSMAYILZADƏ, Acting Head of the Sheki Administrative Court, Judge Ceyhun MƏMMƏDOV of the

Sumgait Administrative Court, Judge of the Shirvan Administrative Court Şahəli MUSAYEV, Judge of the Ganja Administrative Court Emin AXUNDOV, and civil servants at the Supreme Court of the Republic of Azerbaijan Ləman QAFARZADƏ, Gülnar MƏMMƏDOVA, and Fidan QULİYEVA paid a working visit to our Presidency between 18 and 28 February 2024.

2. Paid Visit of the Delegation of the Higher School of Magistracy of the Democratic People's Republic of Algeria

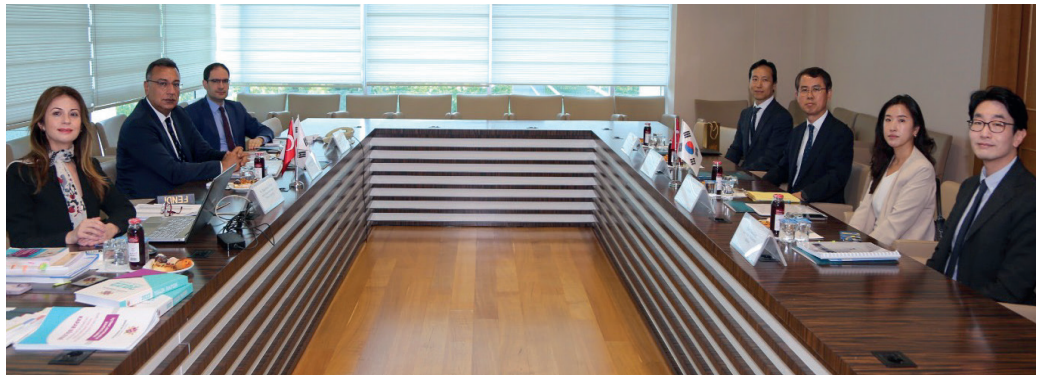
On 28 February 2024, Mr. Boualem FERHAOUI, Director of Basic Education at the High School of Magistracy of the Democratic People's Republic of Algeria, Ms. Amina TAZIR, Deputy Prosecutor at the Court of Constantine, Ms. Leila KARA MOSTEFA, Judge at the El Remche Court affiliated with the Court of Tlemcen, and Mr. Mohamed Chérif HAMDOUD, Deputy Prosecutor at the Mohammadia Court affiliated with the Court of Biskra, paid an official visit to our Presidency.

3. The delegation consisting of the Presidents and representatives of the Bar Associations of the Republic of Türkiye, the Republic of Azerbaijan, the Republic of Kazakhstan, the Republic of Kyrgyzstan, the Republic of Uzbekistan, the Republic of Turkmenistan and the Turkish Republic of Northern Cyprus

On 24 May 2024, the delegation of the Republic of Turkey, consisting of Mr. Attorney R. Erinç SAĞKAN, President of the Bar Association, Mr. Attorney Veli KÜÇÜK, Secretary General of the Bar Association, Mr. Attorneys Melih Yardımcı and Abdülbaki ÇELEBİ, Members of the Bar Association Executive Board, and Mr. Attorney Gökhan BOZKURT, Treasurer of the Bar Association; the delegation of the Republic of Azerbaijan, consisting of Mr. Attorney Anar BAGIROV, President of the Bar Association, Mr. Attorney Aydin AKHUDOV, Vice President of the Bar Association, Mr. Attorney Bayram ORUJOV, Secretary General of the Bar Association, Ms. Narmin ABBOSOVA, Head of the International Relations Unit of the Bar Association, Mr. Attorney Kenan MEMMEDOV, Member of the Bar Association, Mr. Attorney Vusal HASANOV, President of the Nakhchivan Autonomous Republic Bar Association; the delegation of the Republic of Kazakhstan, consisting of Mr. Attorney Aidyn BIKEBAYEV, President of the Bar Association, Mr. Attorney Meirbek DAUBALAEV, Member of the Bar Association Executive Board, Mr. Attorney Tair NAZKHANOV, President of the Commission for the Protection of Lawyers' Professional Rights of the Bar Association, and Mr. Attorney Almas DEMESINOV, Member of the Bar Association Executive Board; the delegation of the Kyrgyz Republic, consisting of Ms. Attorney Begilerova Meyil ADILBEKOVNA, President of the Bar Association, and Ms. Attorney Abishkaeva Nazira OROZOBEKOVNA, President of the Bishkek City Regional Bar; the delegation of the Republic of Uzbekistan, consisting of Mr. Attorney Sadikov Shukhrat SHAVKATOVICH, President of the Bar Association, and Mr. Yusupov Shakhzod YO'LDOSH O'G'LI, Chief Advisor for International Cooperation of the Bar Association; the delegation of Turkmenistan, consisting of Ms. Attorney Bestyr EYVANOVA, President of the Ashgabat Bar, Ms. Attorney Guncha GARAJAYEVA, Vice President of the Ashgabat Bar, and Mr. Attorney Ataberdi ANNAGULYYEV, Director of Legal Affairs of Berkararlik District; and the delegation of the Turkish Republic of Northern Cyprus, consisting of Mr. Attorney Hasan ESENDAĞLI, President of the Bar Association, and Mr. Attorney Yusuf TEKİNAY, Member of the Bar Association Council, paid an official visit to our Presidency.

4. Paid Visit of the Korean Supreme Court Delegation and the Counselor of the Korean Embassy in Türkiye

On 7 June 2024, Mr. LEE Heunggu, Member of the Supreme Court of Korea, Mr. PARK Gunchang, Judge of the Supreme Court of Korea, and Mr. AHN Kukhyun, Counselor of the Embassy of Korea in Turkey, paid an official visit to our Presidency.



5. Paid Visit of the Delegation from the Constitutional Court of Albania and the Embassy of Albania in Türkiye

The delegation consisting of Mr. Murat AZAKLI, Secretary General of the Constitutional Court; Mr. Mücahit Aydın, Deputy Secretary General of the Constitutional Court; Mr. Korhan Pekcan, Chief of External Relations of the Constitutional Court; Mr. Holta ZAÇAJ, President of the Constitutional Court of Albania; Members of the Constitutional Court of Albania Mr. Marsida XHAFERLLARİ, Ms. Fiona PAPAJORGJİ, Ms. Sonila BEJTJA, Mr. Sandër BECİ, Mr. Ilir TOSKA, Mr. Genti IBRAHİMİ, Ms. Mariana SEMİNİ; Special Chief of Staff of the Constitutional Court of Albania Ms. Vilma PREMTİ; Public Relations and External Relations Manager of the Constitutional Court of Albania Ms. Alma ÇOMO; Ambassador of Albania to Ankara Ms. Blerta KADZADEJ; and Consul of the Embassy of Albania in Ankara Ms. Nertila DOKA paid an official visit to our Presidency, on 9 September 2024.

6. Paid Visit of the Delegation from the Constitutional Court of North Macedonia and the Embassy of North Macedonia in Türkiye

Mr. Murat AZAKLI, Secretary General of the Constitutional Court, and Deputy Secretary General Dr. Mücahit Aydın, Mr. Darko KOSTADINOVSKI, President of the Constitutional Court of North Macedonia, Members of the Constitutional Court Mr. Fatmir SKENDER, Ms. Tatjana VASIKJ-BOZADZIEVA, Dr. Ana PAVLOVSKA-DANEVA, and Advisor Dr. Ekrem HALIMOVSKI, along with Mr. Jovan MANASIEVSKI, Ambassador of North Macedonia to Ankara, and Mr. Ümit KASUM, Deputy Chief of Mission of the North Macedonia Embassy in Ankara, paid an official visit to our Presidency, on 13 November 2024.

7. Paid Visit Within the Scope of the International Association of Supreme Administrative Jurisdictions (IASAJ) Exchange Program

Within the scope of the 2024 Exchange Program organized among the judges of the courts that are members of the International Association of Supreme Administrative Jurisdictions (IASAJ), Judge Tong LEI of the Supreme People's Court of China undertaken an internship at our Presidency between 18-29 November 2024.

THE COUNCIL OF STATE
AS A COURT OF CASE LAW

CHAPTER

04

I. DECISIONS OF UNIFICATION OF CASE LAW

In Turkish administrative law, unification of case law is one of the key mechanisms for maintaining legal stability and equality.

This legal remedy, which is not found in European legal systems, is one of the few procedural mechanisms unique to Turkish law. This procedure, which was not included in the first version of the 1925 Council of State Law, was introduced with the amendment made in 1931. This duty and jurisdiction of the Council of State has been retained in all subsequent founding statutes adopted in fallowing years.

The Board of the Unification of Case Law, composed of the President of the Council of State, the Chief Public Prosecutor, vice presidents, chamber presidents, and members, shall decide on unification or amendment of case law upon the referral of the President of the Council of State, in cases where a conflict or inconsistency is observed between the decisions of the case departments or plenary sessions of administrative and tax case departments or between the decisions given separately or if it is deemed necessary to change the combined case laws.

The most significant characteristic of the decisions rendered by this Board is that they are binding in all cases involving similar circumstances. This characteristic distinguishes it from other judicial rulings. According to the Law on the Council of State, the chambers and boards of the Council of State, administrative courts, and administrative authorities are obliged to comply with these decisions.

Since 1931, the Board has contributed to the development of law and the implementation of the principle of legal certainty by resolving case law contradictions brought before it. In recent years, it has effectively fulfilled its function by addressing ongoing jurisprudential inconsistencies concerning certain significant matters in the field of administrative judiciary. Within this scope, in 2024, the Board of the Unification of Case Law has decided to unify the case law in two matters.

YEAR	NUMBER OF PENDING CASES CARRIED OVER THE LAST YEAR	NUMBER OF CASES FILED DURING THE YEAR	NUMBER OF CASES CONCLUDED DURING THE PERIOD			NUMBER OF CARRİED OVER CASES
			Decisions on the Unification of Case-law	Decisions Concluding that Unification of Case-law is not Required	TOTAL	
2018	4	**1**	3	**1**	4	**1**
2019	1	**0**	1	**0**	1	**0**
2020	0	**0**	0	**0**	0	**0**
2021	0	**6**	0	**0**	0	**6**
2022	6	**0**	2	**1**	3	**3**
2023	3	**0**	1	**0**	1	**2**
2024	2	**0**	2	**0**	2	**0**

The Unification Board of Case Law convened on 28/06/2024 and it has been decided to unify the case law on whether the file should be sent to the court that made the decision in order to make an "Additional Decision" on the waiver, or whether the decision subject to review should be decided to be "Reversed" in order to make a new decision by the court due to the waiver.

In its decision dated 28 June 2024 and numbered Case No:2021/3, Decision No:2024/1, the Board of the Unification of Case Law ruled to unify the case law in favor of the view that, in cases where the plaintiff waives the lawsuit after the case file has been referred for appellate review, the file should be remitted to the court that rendered the judgment for an additional decision regarding the waiver. The aforementioned decision was published in the Official Gazette dated 24/10/2024 and numbered 32702.

A book containing the report and its annexes prepared on the aforementioned matter, along with the unification of case law decision, has been prepared and distributed to the Chambers and Plenary Sessions.

The Board of the Unification of Case Law convened on 24 October 2024 and it has been decided to unify the case law regarding the date from which interest should be awarded on the increased amount in full remedy actions where a claim for an increased amount has been made.

In the decision of the Board of the Unification of Case Law dated 24/10/2024 and numbered Case No:2021/5, Decision No:2024/2, it was decided to unify the case law in the direction that, in full remedy actions, in case of an increase in the claimed amount, interest may be applied to the increased amount as of the same date on which interest would be awarded for the amount initially requested in the petition. The aforementioned decision was published in the Official Gazette dated 16/04/2025 and numbered 32872.

A book containing the report and its annexes prepared on the aforementioned matter, along with the unification of case law decision, has been prepared and distributed to the Chambers and Plenary Sessions.

STATISTICS FOR 2024

OF THE COUNCIL OF STATE

CHAPTER

05

I. STATISTICS OF THE CHIEF PROSECUTOR'S OFFICE

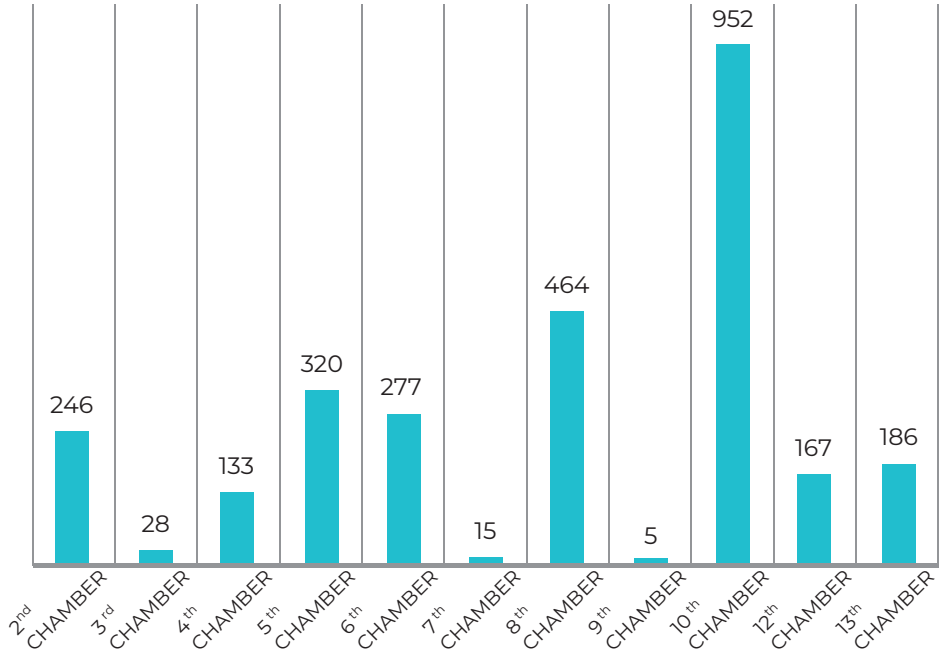
GIVEN OPINION FILE NUMBERS IN 2024

Number of opinion on the merit	2793
Number of opinions about the unification of case law	2
Appeal in the interest of law	912
*Disputes	172

* *Works carried out in accordance with the Law No. 2247 "on the Establishment and Functioning of the Court of Jurisdictional disputes."*

NUMBER OF OPINIONS ON THE MERITS

RENDERED BY CHAMBERS IN 2024



II. STATISTICS OF CHAMBERS AND THE PLENARY SESSION OF LAW CHAMBERS

Chambers And Plenary Sessions	NUMBER OF RECEIVED FILES				NUMBER OF RESULTED FILES			
	Number of Pending Cases Carried Over The Year 2024	Number of Taken Over Cases As A Result of The Distrubition of Work	Number of Filed Cases in 2024	Total Number of Files	Number of Pending Cases As A Result of The Distrubition of Work	Number of Concluded Cases in 2024	Total Number of Files	***Number of Carried Over Cases***
1st Chamber	2	0	2005	2007	0	2005	2005	***2***
2nd Chamber	8249	0	5259	13508	0	6497	6497	***7011***
3rd Chamber	7506	0	6484	13990	0	8125	8125	***5865***
4th Chamber	6906	4	4307	11217	0	8235	8235	***2982***
5th Chamber	27023	0	23149	50172	0	23022	23022	***27150***
6th Chamber	12311	0	8275	20586	4	8147	8151	***12435***
7th Chamber	5589	0	3672	9261	0	5470	5470	***3791***
8th Chamber	11257	0	7029	18286	0	8015	8015	***10271***
9th Chamber	6574	0	7497	14071	0	8180	8180	***5891***
10th Chamber	10672	0	6886	17558	0	7717	7717	***9841***
12th Chamber	8564	0	6582	15146	0	6022	6022	***9124***
13th Chamber	5068	0	3596	8664	0	6039	6039	***2625***
PSALC	2056	0	3218	5274	0	3679	3679	***1595***
PSTLC	1070	0	1152	2222	0	1346	1346	***876***
Total	**112847**	**4**	**89111**	**201962**	**4**	**102499**	**102503**	***99459***

It has been prepared based on the date for the year **2024** *as of* ***31/12/2024*** *obtained from the UYAP system on* ***07/01/2025***

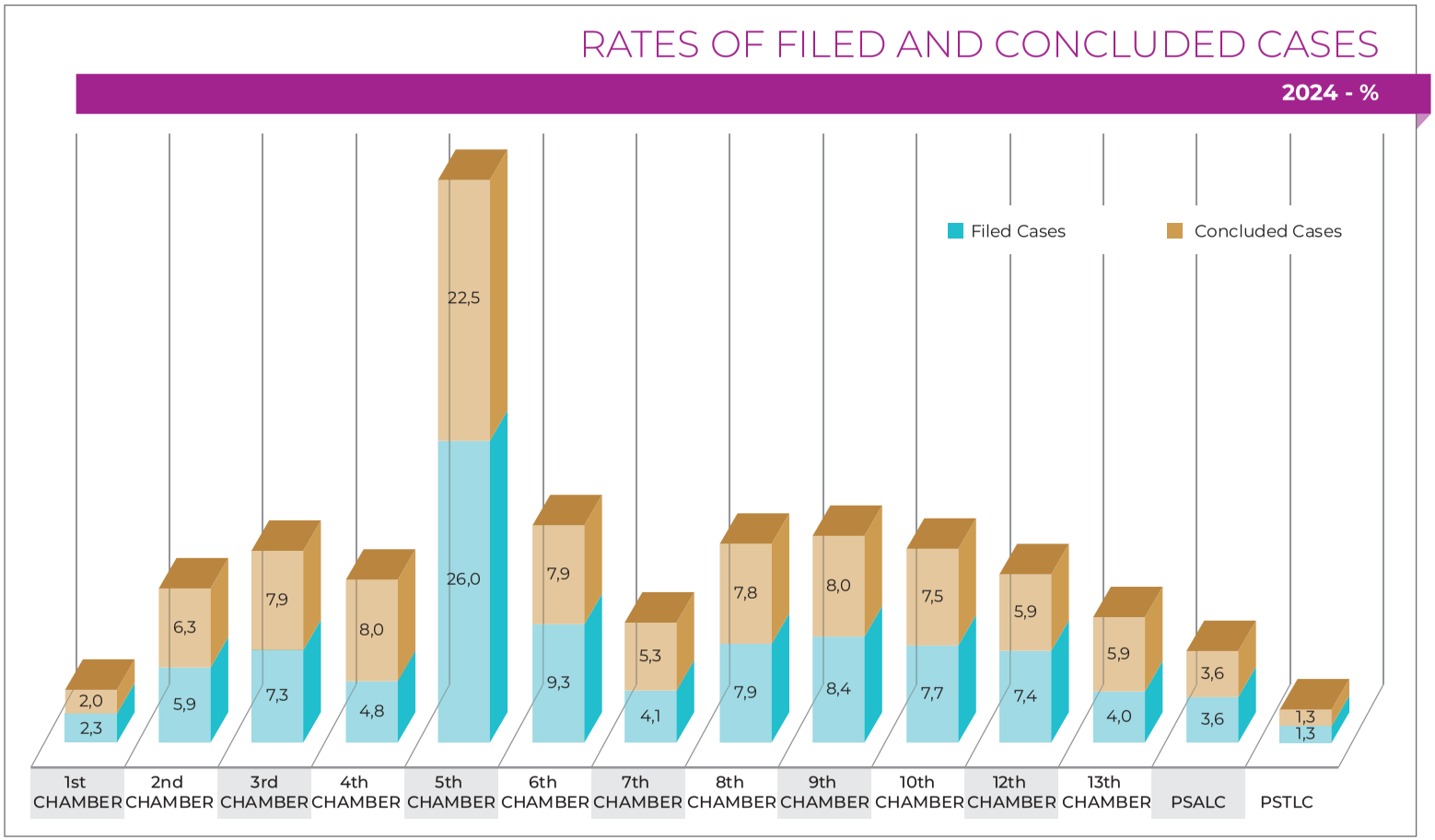
STATISTICS OF

CHAMBERS AND PLENARY SESSION OF LAW CHAMBERS

NUMBER OF FILED AND CONCLUDED CASES IN 2024

	Number of Filed Cases In 2024	Number of Concluded Cases In 2024
1st Chamber	2005	2005
2nd Chamber	5259	6497
3rd Chamber	6484	8125
4th Chamber	4307	8235
5th Chamber	23149	23022
6th Chamber	8275	8147
7th Chamber	3672	5470
8th Chamber	7029	8015
9th Chamber	7497	8180
10th Chamber	6886	7717
12th Chamber	6582	6022
13th Chamber	3596	6039
PSALC	3218	3679
PSTLC	1152	1346
Total	**89111**	**102499**

In 2024, the total number of cases files during the year in Chambers and Plenary Session of Law Chambers of The Council of State was **89111**, *while the total number of concluded cases during the year was* **102499** *year. In this content, the ratio of the number of cases filed to the number of cases concluded within the year was determined to be* **87%** *and the clearence rate was determined to be* **115%**



The numbers of cases filed and concluded in 2024, segmented by Chambers and Plenary Sessions of Law Chambers of the Council of State, have been calculated as ratios to the total number of cases filed and concluded by the Council of State

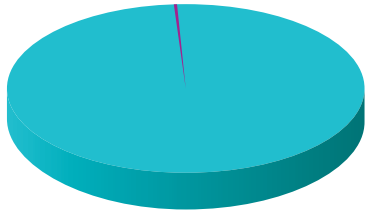
A. STATISTICS OF ADMINISTRATIVE CHAMBER (1st CHAMBER)

NUMBER OF CASES IN 2024

	Trial of Civil Servant	Other Matters	Total
Carried Over From the Previous Term	1	1	2
Filed During the Term	1970	35	2005
Total	1971	36	2007
Resulted During the Term	1969	36	2005
Transferred to the Following Term	2	0	2

TRIAL OF CIVIL SERVANT

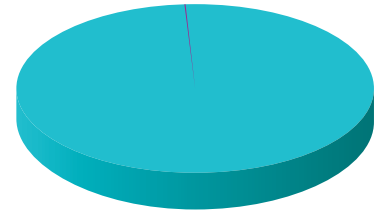
Transferred to the Following Term
%0,1



Resulted
%99,9

OTHER MATTERS

Transferred to the Following Term
%0



Resulted
%100

The rates of cases decided by First Chamber in 2024 are provided.

B. STATISTICS OF PLENARY SESSION OF LAW CHAMBERS

NUMBER OF CASES IN 2024

	PSALC	PSTLC	Total
Carried Over From the Previous Term	2056	1070	3126
Filed During the Term	3218	1152	4370
Total	5274	2222	7496
Resulted During the Term	3679	1346	5025
Transferred to the Following Term	1595	876	2471

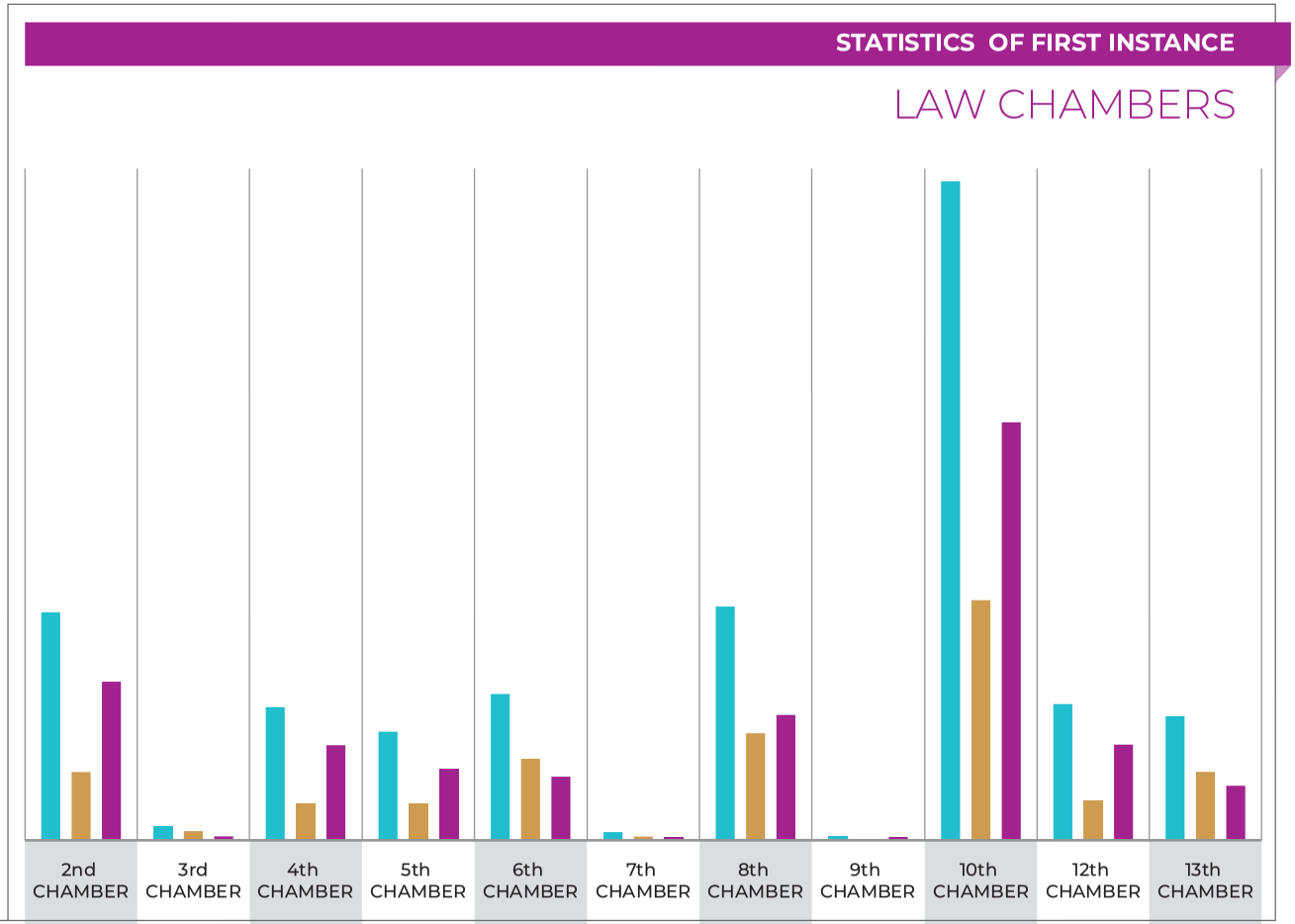
NUMBER OF CONCLUDED CASES BY CATEGORY IN 2024

	PSALC	PSTLC
Appeal	3021	40
Rectification of Decision	87	229
Insistence	503	1066
Correction of Contradiction	68	11
Total	**3679**	**1346**

C. STATISTICS OF LAW CHAMBERS

STATISTICS OF FIRST INSTANCE

LAW CHAMBERS



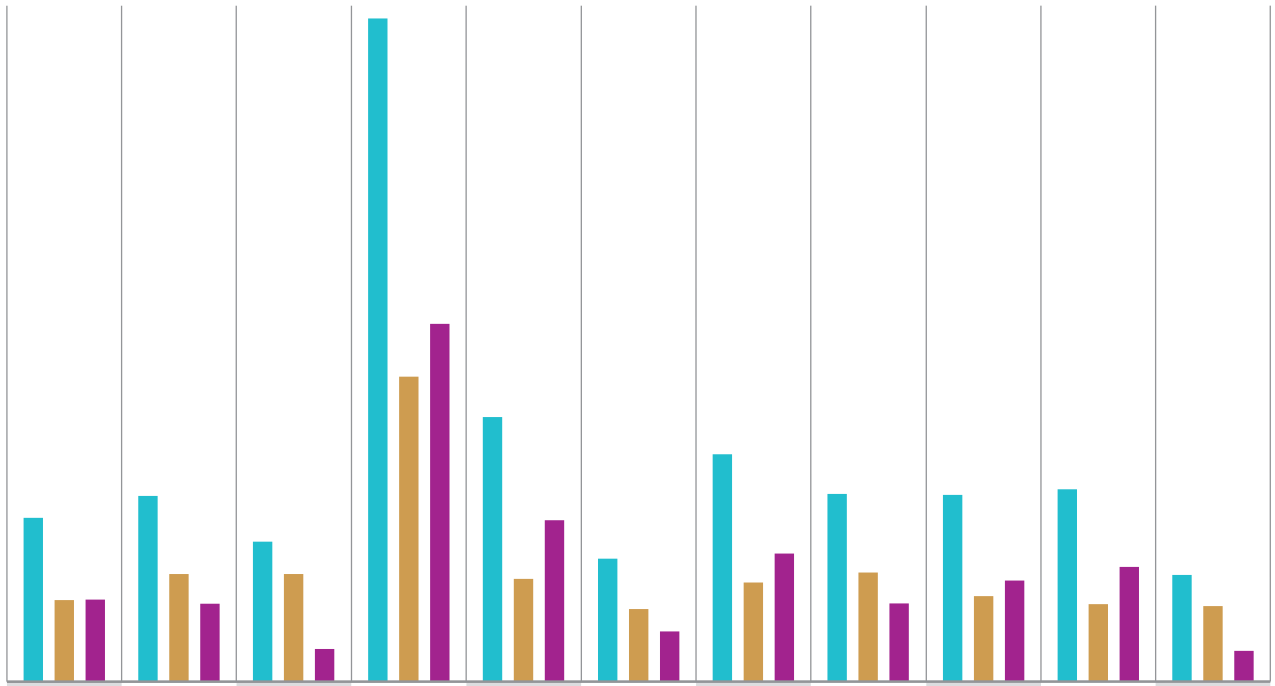
* *It Includes, the number of cases carried over from the previous year, taken over cases as a result of distrubition of work and filed cases during the year.*

** *It includes the number of pending cases as a result distrubition of work and concluded cases during the year.*

	2nd CHAMBER	3rd CHAMBER	4th CHAMBER	5th CHAMBER	6th CHAMBER	7th CHAMBER	8th CHAMBER	9th CHAMBER	10th CHAMBER	12th CHAMBER	13th CHAMBER
*Number of Received Cases	**1239**	**81**	**726**	**593**	**797**	**50**	**1271**	**30**	**3573**	**743**	**677**
**Number of Resulted Cases	**375**	**54**	**206**	**202**	**447**	**26**	**585**	**7**	**1305**	**220**	**376**
Number of Pending Cases	**864**	**27**	**520**	**391**	**350**	**24**	**686**	**23**	**2268**	**523**	**301**

STATISTICS OF APPEAL/RECTIFICATION OF DECISION

LAW CHAMBERS



* *It Includes, the number of cases carried over from the previous year, taken over cases as a result of distrubition of work and filed cases during the year.*

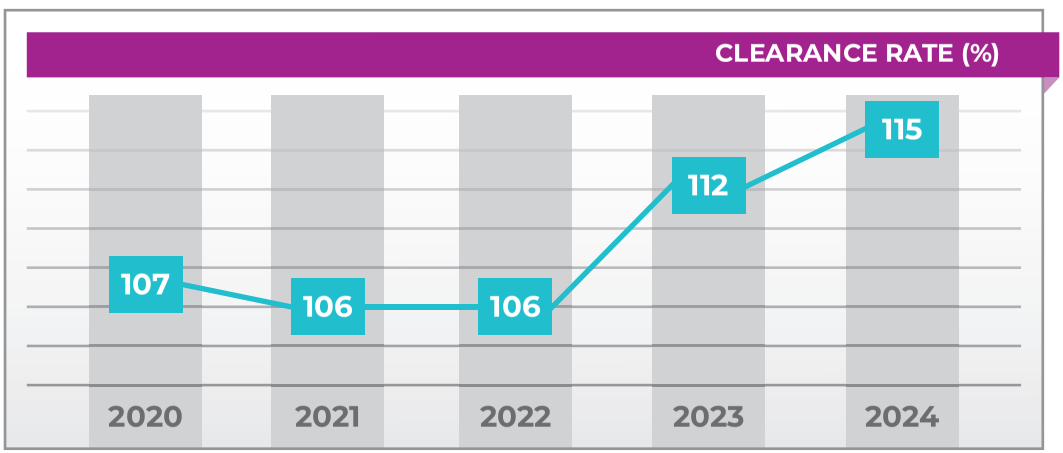
** *It includes the number of pending cases as a result distrubition of work and concluded cases during the year.*

	2nd CHAMBER	3rd CHAMBER	4th CHAMBER	5th CHAMBER	6th CHAMBER	7th CHAMBER	8th CHAMBER	9th CHAMBER	10th CHAMBER	12th CHAMBER	13th CHAMBER
*Number of Received Cases	**12269**	**13909**	**10491**	**49579**	**19789**	**9211**	**17015**	**14041**	**13985**	**14403**	**7987**
**Number of Resulted Cases	**6122**	**8071**	**8029**	**22820**	**7704**	**5444**	**7430**	**8173**	**6412**	**5802**	**5663**
Number of Pending Cases	**6147**	**5838**	**2462**	**26759**	**12085**	**3767**	**9585**	**5868**	**7573**	**8601**	**2324**

STATISTICS OF CHAMBERS AND PLENARY SESSION OF LAW CHAMBERS BY YEARS

YEARS	NUMBER OF RECEIVED CASES				NUMBER OF RESULTED CASES			NUMBER OF PENDING CASES	CLEARANCE RATE (%)
	Number of Cases Carried Over From the Previous Year	Number of Taken Over Cases as a Result of Distrubition of Work	Number of Cases Filed During the Year	**Total Number of Cases**	Number of Pending Cases as a Result of Distrubition of Work	Number of Cases Concluded During the Year	**Total Number of Cases**		
2020	139385	0	74461	**213846**	0	79514	**79514**	**134332**	**107**
2021	134337	16307	87091	**237735**	16312	92428	**108740**	**128995**	**106**
2022	128981	0	88790	**217771**	0	93944	**93944**	**123827**	**106**
2023	123835	20644	90500	**234979**	20643	101509	**122152**	**112827**	**112**
2024	112847	4	89111	**201962**	4	102499	**102503**	**99459**	**115**

** The inconsistancies in case transfer are due to file reallocations and retrospestive due to updates.*



NUMBER AND RATE OF CASES FILED BY CHAMBERS BY YEARS

Law Chambers	Number of Filed Cases In 2022	Rate of Number of Filed Cases In 2022 (%)	Number of Filed Cases In 2023	Rate of Number of Filed Cases In 2023 (%)	Number of Filed Cases In 2024	Rate of Number of Filed Cases In 2024 (%)
2nd Chamber	4655	**5,8**	4858	**5,8**	5259	**6,4**
3rd Chamber	4300	**5,3**	5476	**6,6**	6484	**7,8**
4th Chamber	7611	**9,4**	6272	**7,5**	4307	**5,2**
5th Chamber	16698	**20,7**	24135	**29,0**	23149	**28,0**
6th Chamber	9433	**11,7**	9369	**11,2**	8275	**10,0**
7th Chamber	4854	**6,0**	3907	**4,7**	3672	**4,4**
8th Chamber	7916	**9,8**	7044	**8,5**	7029	**8,5**
9th Chamber	4906	**6,1**	4621	**5,5**	7497	**9,1**
10th Chamber	8945	**11,1**	6597	**7,9**	6886	**8,3**
12th Chamber	6415	**7,9**	7157	**8,6**	6582	**8,0**
13th Chamber	5041	**6,2**	3882	**4,7**	3596	**4,3**
General Total	**80774**	**100,0**	**83318**	**100,0**	**82736**	**100,0**

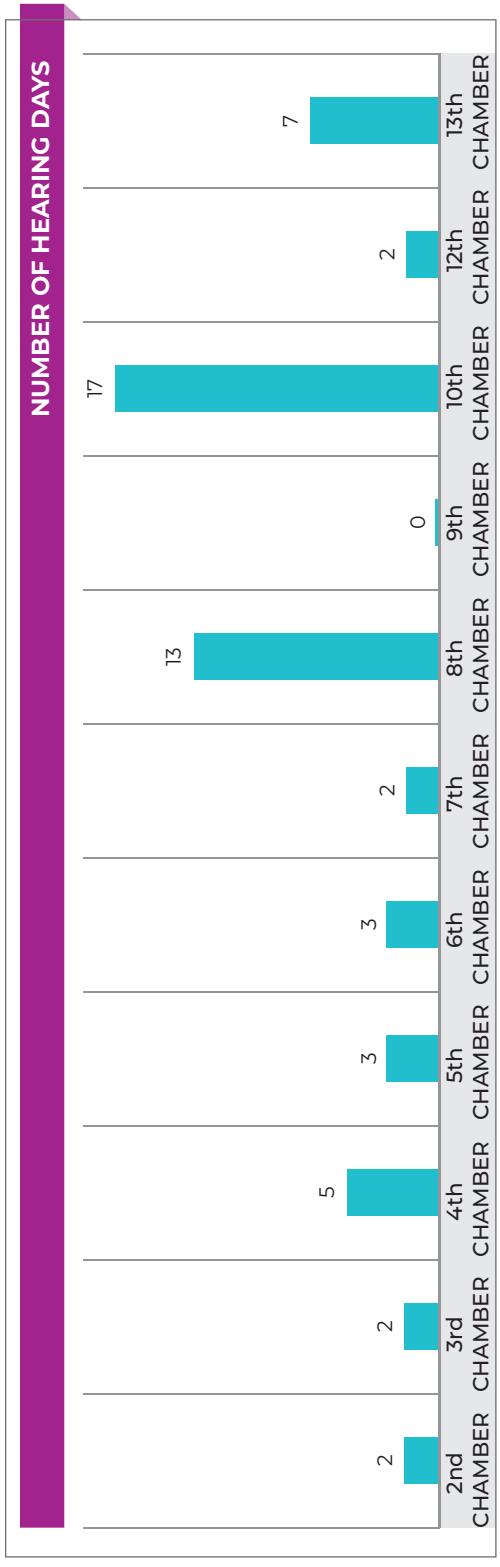
According to the table, the number of cases filed in the chambers rase from **80774** in **2022** to **82736** in **2024** representing an increase of **2,4%**

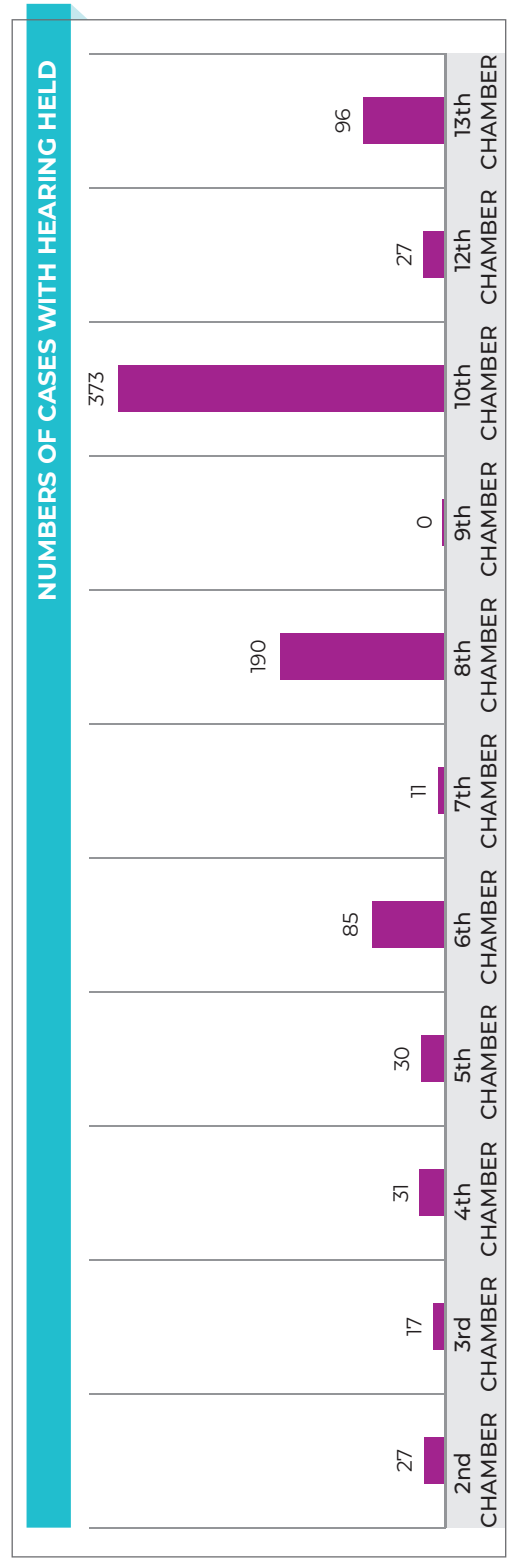
NUMBER AND RATE OF CASES CONCLUDED BY CHAMBERS BY YEARS

Law Chambers	Number of Concluded Cases In 2022	Rate of Number of Concluded Cases In 2022 (%)	Number of Concluded Cases In 2023	Rate of Number of Concluded Cases In 2023 (%)	Number of Concluded Cases In 2024	Rate of Number of Concluded Cases In 2024 (%)
2nd Chamber	7056	**8,2**	6359	**6,7**	6497	**6,8**
3rd Chamber	5840	**6,8**	6768	**7,2**	8125	**8,5**
4th Chamber	9616	**11,2**	7536	**8,0**	8235	**8,6**
5th Chamber	10536	**12,3**	20760	**22,0**	23022	**24,1**
6th Chamber	12377	**14,4**	10169	**10,8**	8147	**8,5**
7th Chamber	5702	**6,6**	5103	**5,4**	5470	**5,7**
8th Chamber	8506	**9,9**	8211	**8,7**	8015	**8,4**
9th Chamber	6832	**8,0**	6293	**6,7**	8180	**8,6**
10th Chamber	6771	**7,9**	9370	**9,9**	7717	**8,1**
12th Chamber	7125	**8,3**	7312	**7,7**	6022	**6,3**
13th Chamber	5422	**6,3**	6517	**6,9**	6039	**6,3**
General Total	**85783**	**100,0**	**94398**	**100,0**	**95469**	**100,0**

According to the table, the number of cases concluded in the chambers rase from **85783** in **2022** to **95469** in **2024** representing an increase of **11,3%**

D. NUMBER OF NEGOTIATIONS AND HEARINGS





NUMBERS OF NEGOTIATION IN 2024

1st Chamber	83
2nd Chamber	153
3rd Chamber	142
4th Chamber	161
5th Chamber	171
6th Chamber	172
7th Chamber	127
8th Chamber	154
9th Chamber	111
10th Chamber	140
12th Chamber	146
13th Chamber	171
PSALC	118
PSTLC	14
Total	**1863**

According to the Article 13/2 of the Council of State Law, in cases where multiple committees operate within the same Chamber, the total number of negotiation of the chamber is determined by taking into account the number of negotiations conducted by each committee.

LANDMARK DECISIONS

OF THE COUNCIL OF STATE IN 2024

CHAPTER

06

I. DECISIONS OF UNIFICATION OF CASE LAW

1. Regarding the Decision that, in the Event of Withdrawal of the Lawsuit After the Case File Has Been Sent for Appeal Review, the Case File Should Be Remanded to the Trial Court for an Additional Decision on Withdrawal.

BOARD OF UNIFICATION OF CASE LAW

File No:2021/3, **Recision No:**2024/1

In the event that the lawsuit is withdrawn after the case file has been sent for appeal review, whether the case file should be sent back to the trial court for an additional decision regarding the withdrawal, or the appellate court's decision should be annulled for the purpose of deciding on the withdrawal, has been a matter of disagreement between the chambers and boards of the Council of State. Regarding the request to resolve this conflict by way of unification of case law, it has been decided to unify the case law in favor of remanding the case file to the court that rendered the judgment for an additional ruling on the withdrawal.

SUMMARY OF THE DECISION

A. EVALUATION OF THE REFERENCE FROM LAW NO. 2577 TO LAW NO. 6100

In the various amended articles of Law No. 669 on the Council of State, which came into effect on 07/12/1925, it was stated that certain procedural matters would be governed by the provisions of the "Code of Civil Procedure." Article 44 of Law No. 3546 on the State Council, effective from 30/12/1938, enumerated references made to the Code of Civil Procedure. Likewise, Article 88 of Law No. 521 on the Council of State, effective as of 31/12/1964, also regulated the referenced matters through enumeration.

The same practice continued with Law No. 2577, which came into force on 20/01/1982. In Article 31, paragraph 1, entitled "Cases Where the Code of Civil Procedure and the Tax Procedure Law Are Applicable," it was stipulated that in matters where Law No. 2577 contains no provisions regarding withdrawal and acceptance, the provisions of the Code of Civil Procedure shall apply.

Although Law No. 521 prescribed the application of the general provisions of the Code of Civil Procedure, Article 31 of Law No. 2577 contains a definitive expression stating that "in matters not regulated by this law, the provisions of the Code of Civil Procedure shall apply," thus making the application of the referenced provisions mandatory.

From the successive reference articles in administrative litigation procedural laws, it is seen that the method of enumerating and referring to the Code of Civil Procedure has been adopted; thereby, all provisions directly or indirectly related to the referenced matter can be applied in administrative litigation. It is understood that the provisions of Law No. 6100 regarding withdrawal and acceptance, as referenced in Article 31 of Law No.2577, must be applied.

B. PRACTICE PRIOR TO THE AMENDMENT OF ARTICLE 310 OF LAW NO. 6100

Before the amendment made by Law No. 7251 dated 22/07/2020, there was no specific legal provision regarding how a decision should be rendered in the event of withdrawal of the lawsuit during the legal remedy review stage.

During this period, the established case law of the Council of State was that the decision was annulled due to withdrawal, and the file was sent back to the court that rendered the judgment for a new decision to be made.

The established case law of the Court of Cassation was similarly that the decision was annulled due to withdrawal and the file was sent back to the court of first instance for a new decision; however, with Article 57 of the Code of Civil Procedure Regulation, effective as of 03/04/2012, the following provision was introduced: "(1) Before the finalization of the judgment, in cases of withdrawal, acceptance, or settlement, the judge shall render an additional decision based on the file. Even if parties have appealed, the file shall not be sent for appeal or review solely for these reasons." Nevertheless, the Court of Cassation continued its prior case law regarding the "annulment of the decision" even after this provision entered into force.

Although the Code of Civil Procedure Regulation was repealed as of 06/08/2015, the same provision was included in Article 215 entitled "Procedures Related to Decided Files" of the Regulation on the Implementation of Regional Courts of Justice, First Instance Courts of Judicial Jurisdiction, and Public Prosecutor's Offices, which entered into force on the same date. However, the Court of Cassation maintained its former case law by rendering decisions such as: "... It is not possible to render an additional decision due to withdrawal... the court's decision had to be annulled in order for a decision to be rendered regarding the withdrawal..."

C. PRACTICE AFTER THE AMENDMENT OF ARTICLE 310 OF LAW NO. 6100

With the amendment made by Law No. 7251 dated 22/07/2020 to Article 310 of Law No.6100, the concept of an "additional decision" was introduced into procedural law, and a practical procedure that is also suitable in terms of procedural economy was developed.

After the amendment to Article 310 of Law No. 6100:

In the judicial jurisdiction, if withdrawal or acceptance occurs after the judgment has been rendered by the court of first instance or the regional appellate court, the file is not

sent to the legal remedy review but an additional decision is issued; if withdrawal or acceptance occurs after the file has been sent for appeal, the Court of Cassation orders that the file be remanded to the court that rendered the judgment for an additional decision.

In administrative jurisdiction, if withdrawal or acceptance occurs after the judgment by the administrative court or the regional administrative court, the file is not sent for legal remedy review and an additional decision is issued; however, there is no uniform practice at the Council of State. The case law states: "Pursuant to Article 31 of Law No. 2577 on Administrative Procedure, which refers to Law No. 6100, the latter's Article 310 stipulates that withdrawal may be made at any time until the finalization of the judgment. With Article 29 of Law No. 7251, published in the Official Gazette No. 31199 dated 28/07/2020 and effective immediately thereafter, two new paragraphs were added after the first paragraph of Article 310; in the third paragraph, it is regulated that if withdrawal is made after the file has been sent for appellate review, the Council of State will send the file back to the court that rendered the judgment for an additional decision without conducting appellate review."Accordingly, in the event that withdrawal is made after the file has been sent for appellate review, the file should be remanded to the court that rendered the judgment for an additional decision without appellate review. However, taking into account the nature of administrative cases, the institution of additional decisions does not have applicability within the scope of ongoing disputes; the institution of additional decisions is not regulated in administrative procedural law; consequently, many issues arise due to the contradiction between the institution of additional decisions and Law No. 2577, such as which procedure shall be followed for the additional decision on withdrawal, whether it is subject to legal remedies, and if so, the duration thereof. Furthermore, since neither Article 31 of Law No. 2577 nor the provisions on withdrawal make reference to the institution of finalization of the judgment, administrative courts cannot apply the institution of finalization of the judgment provided in Article 305/A of Law No. 6100 nor Article 306 which regulates the implementation procedure thereof. Accordingly, considering that the institution of additional decisions does not exist in administrative procedural law and that this institution was arranged to resolve certain problems present in judicial jurisdiction, the third paragraph of Article 310 of Law No. 6100 is deemed inapplicable in administrative procedural law." Based on these grounds, annulment decisions are also rendered.

D. WITHDRAWAL AND ACCEPTANCE IN ADMINISTRATIVE PROCEDURAL LAW

There is no provision regarding withdrawal and acceptance in Law No. 2577; however, withdrawal and acceptance are included among the matters referred to procedural law in Article 31.

Withdrawal, acceptance, and settlement are regulated in Articles 307 to 315 of Law No. 6100. Withdrawal is defined in Article 307 of Law No. 6100 as the plaintiff's partial or complete renunciation of the claim; Article 310 stipulates that withdrawal may be made at any time until the judgment becomes final; and Article 311 provides that withdrawal produces legal effects equivalent to a final judgment.

Withdrawal is generally possible in all types of lawsuits. While there is no restriction on withdrawal where personal benefit is concerned, it has been accepted in case law that withdrawal from certain public order-related cases is not valid, both in administrative and judicial jurisdictions.

Since withdrawal is a unilateral declaration of intent by the plaintiff, the defendant's consent is not required for its validity. Withdrawal terminates the dispute between the parties. The determination that the dispute has ended due to withdrawal falls within the jurisdiction of the court. A withdrawal request is examined procedurally by the court with regard to whether the withdrawing party is authorized, whether the withdrawal contains any conditions, and whether the case has a nature related to public order.

E. ADDITIONAL DECISION REGARDING WITHDRAWAL AND ACCEPTANCE

By the enactment of Law No. 7251, which entered into force on 28/07/2020, second and third paragraphs were added to Article 310 of Law No. 6100, thereby instituting the procedure of an "additional decision" to be applied in matters concerning withdrawal and acceptance.

In the reasoning section of the legislative proposal related to this Law, it is stated that: "The second paragraph regulates the situation where withdrawal or acceptance is made after the first instance court or the regional appellate court has rendered judgment, in other words, after the aforementioned courts have relinquished jurisdiction over the file; in such case, even if the parties have sought remedy against the judgment, it is established as a rule that the first instance court or the regional appellate court which rendered the judgment shall issue an additional decision in accordance with the withdrawal or acceptance, and the file shall not be forwarded to the appellate authority for review. The third paragraph provides that if withdrawal or acceptance is made after the file has been sent for appellate review, the Court of Cassation, without performing appellate review, shall remit the file to the court which rendered the judgment for the purpose of issuing an additional decision regarding the withdrawal or acceptance. This regulation aims to prevent the divergent practices arising from the current provision when withdrawal or acceptance occurs after the judgment has been rendered. Furthermore, it is aimed to eliminate procedural inefficiencies caused by the Court of Cassation's case law, which holds that, if withdrawal or acceptance—being final procedural acts of the parties—are performed within the period allowed for appeal, the court which rendered the judgment cannot decide on the case due to having relinquished the file, thereby necessitating the referral of the file to the Court of Cassation for appellate review. Additionally, it intends to resolve the inconsistency resulting from the case law whereby if withdrawal or acceptance occurs while the file is with the Court of Cassation, the decision is reversed and the file is sent back to the court which rendered the judgment for the issuance of the necessary decision."

F. APPLICABILITY OF THE "ADDITIONAL DECISION" IN CASE OF WITHDRAWAL AND ACCEPTANCE IN ADMINISTRATIVE PROCEDURE LAW

Article 31, paragraph one, of Law No. 2577 stipulates that "In matters not provided for in this Law," the provisions of the Code of Civil Procedure shall apply to "withdrawal and acceptance," and pursuant to Law No. 7251 dated 22/07/2020, paragraphs two and three were added to Article 310 of Law No. 6100 as follows: "If withdrawal or acceptance is made after the judgment is rendered, even if the parties have appealed, the file shall not be sent to the appellate review, and an additional decision shall be rendered by the first instance court or the regional court of justice in line with the withdrawal or acceptance;" and "If withdrawal or acceptance is made after the file has been sent to appellate review, the Court of Cassation shall send the file to the court that rendered the judgment for an additional decision regarding withdrawal or acceptance, without conducting appellate review."

With the amendment introduced to Article 310 of Law No. 6100, the scope of the reference made to the procedural provisions regarding withdrawal and acceptance in Article 31 of the Administrative Jurisdiction Procedures Law No. 2577 now includes the procedure of rendering a "supplementary decision."

Pursuant to the second and third paragraphs added to Article 310 of Law No. 6100, if waiver or acceptance is made after the judgment has been rendered, it has become a legal obligation that the file shall not be sent for appellate review and an additional decision shall be issued in accordance with the waiver or acceptance; and if waiver or acceptance is made after the file has been sent for appellate review, the appellate authority is obliged to send the file back to the court which rendered the judgment for the issuance of an "additional decision" without conducting appellate review.

The procedure to be followed by the court in case of waiver of the lawsuit in accordance with these mandatory provisions of the Law is to make an evaluation as to whether the lawsuit is subject to waiver and the qualification of the parties, and to issue an "additional decision."

In cases where waiver occurs at the appellate stage, the reasoning of the decisions of reversal rendered for the purpose of adjudicating the waiver contains statements that the institution of "additional decision" is not applicable in administrative judiciary due to the nature of administrative cases; that there are many issues arising from the contradiction between the institution of "additional decision" and Law No. 2577, such as the procedure by which the additional decision on waiver will be taken, whether it is subject to remedies, and if so, its time limits.

However; It is legally impossible to apply only part of the provisions of Law No. 6100 regarding waiver and not apply other parts on the grounds that some provisions do not fit within the framework of administrative judiciary.

Accordingly, issuing a reversal decision by accepting that the additional decision is not effective and applicable in administrative judiciary would mean disregarding the legal regulation and not applying the imperative provision of the Law, as well as leading to the continuation of procedures contrary to procedural economy and prolonging the litigation.

With the amendment, if waiver is made after the file has been sent for appellate review, the procedure of sending the file back to the court rendering the judgment for the issuance of an additional decision without conducting appellate review has been regulated, and considering that reversal decisions cannot be issued without conducting appellate review, issuing a reversal decision by the appellate authority despite this provision would constitute a violation of the mandatory rule of the Law.

Furthermore, considering that prior to the amendment, by virtue of the reference to waiver in Article 31 of Law No. 2577, the provisions of Law No. 6100 on waiver were applied, it would constitute a legal contradiction and inconsistency to claim that the new regulation brought by the amendment cannot be applied unless there is a legal impediment.

It is clear that the court issuing the additional decision upon the waiver declaration will apply the general procedural rules, and may evaluate whether the waiver is in accordance with procedural law rules and whether the case is subject to waiver, and the new regulation does not prevent these matters.

An appeal against the additional decision is possible independently of the initial judgment. There is no obstacle to applying the general provisions on remedies in this regard.

If waiver is made after the final judgment, the enforceability of the initial judgment on the additional decision to be issued will cease due to the legal meaning and nature of waiver, and the legal status prior to the filing of the lawsuit will be restored, thus no uncertainty will arise concerning the implementation of the judgment and no existence of two conflicting decisions will occur.

Moreover, during the approximately four-year period since the regulation of the “additional decision” institution, pursuant to the third paragraph of Article 310 of Law No. 6100, many chambers of the Council of State and the Tax Chambers of the Council of State have sent files to the courts rendering the judgment for the issuance of an additional decision without appellate review in cases of waiver or acceptance; and upon this sending, Regional Administrative Courts and Administrative Courts have issued the “additional decision.”

If waiver or acceptance is made after the judgment has been rendered, Regional Administrative Courts and Administrative Courts issue the “additional decision” without sending the file for appellate review pursuant to the second paragraph of Article 310 of Law No. 6100.

Accordingly, it is concluded that the considerations forming the basis of the view that a quashing decision should be rendered have been duly accommodated in practice and that no difficulties have arisen in this respect.

For these reasons, in cases where waiver is made after the file has been sent for appellate review; the contradiction between the decisions of some chambers and the Tax Chambers of the Council of State sending the file to the court rendering the judgement for the issuance of an additional decision on waiver, and other chambers and Administrative Chambers of the Council of State reversing the appellate decision for the court to decide on waiver, should be resolved by unifying the jurisprudence in favor of "sending the file to the court rendering the judgment for the issuance of an additional decision in case of waiver after the file has been sent for appellate review."

DECISION RESULT: It has been decided to unify jurisprudence in the direction that in case of waiver after the file has been sent for appellate review, the file shall be sent to the court rendering the judgment for the issuance of an additional decision on waiver.

2. **In cases where the claim amount is increased in actions for full remedy, interest must be awarded on the increased amount as from the same date on which interest is awarded for the amount originally claimed in the petition.**

BOARD OF UNIFICATION OF CASE LAW

File No:2021/5, **Recision No:**2024/2

With respect to the issue of the date from which interest shall be awarded on the increased portion in cases where the claim amount is increased in actions for full remedy; regarding the request to resolve the contradiction between the decisions of the Administrative Chambers of the Council of State and those of other chambers through the unification of case law, it has been decided to unify the jurisprudence in the direction that, in actions for full remedy, if the claim amount is increased, interest shall be awarded on the increased amount from the same date on which interest is awarded for the amount originally claimed in the petition.

SUMMARY OF THE DECISION

A. DECISIONS CONTAINING CONFLICTING INTERPRETATIONS

The issue before the Board of Unification of Case Law concerns the date from which interest shall be awarded on the amount specified in the "petition for increase of claim" submitted during the course of proceedings in actions for full remedy. As the decisions subject to unification do not include assessments on the date from which interest should be awarded for the "amount specified in the original petition," no evaluation has been made in that regard.

The first opinion expressed in the decisions subject to unification argues that the amount representing the plaintiffs' true intent to seek compensation is the actual damage reflected in the petition for increase of claim; that this actual damage did not arise on the date the expert report was prepared or the date the petition for increase was filed, but rather on the date of the incident or the date of application to the administration. It is asserted that, since the plaintiffs were unable to fully determine or know the extent of the damage at the time of filing the lawsuit, it should be accepted that the damage was not claimable at that time. Therefore, interest should accrue on the entire increased amount starting from the date of filing the original case or the date of

application to the administration, as these are the dates on which the administration fell into default.

The second opinion argues that interest should be awarded on the increased portion of the compensation starting from the date on which the petition for increase was recorded in the court's registry.

The third opinion suggests that, in the event the case is accepted, the administration should be deemed in default as of the date the petition for increase was served to it, and therefore interest should be awarded from that date onward.

Among these views, the first one bases the interest start date for the increased amount on the same date applicable to the amount originally stated in the petition; whereas the other two opinions rely on the date the petition for increase was submitted to or served on the relevant parties.

B. ACTIONS FOR FULL REMEDY

Article 2 of the Administrative Jurisdiction Procedures Law No. 2577 classifies types of administrative actions as follows: annulment actions filed by persons whose interests are harmed due to the illegality of an administrative act in terms of competence, form, reason, subject, or purpose; full remedy actions filed by those whose personal rights are violated by administrative acts or actions; and, excluding disputes arising from concession agreements and contracts for which arbitration is stipulated, actions concerning disputes arising from all types of administrative contracts concluded for the purpose of carrying out public services.

The article defines full remedy actions as lawsuits for compensation filed against the administration by persons whose rights have been directly infringed as a result of administrative acts or actions.

Full remedy actions aim to address all forms of violations affecting the subjective legal status of the claimant. While annulment actions evaluate the legality of an administrative act based on competence, form, reason, subject, and purpose, and result in annulment if unlawfulness is established, full remedy actions involve determining the applicable grounds for liability under administrative law, examining the existence and nature of damage, and, if liability is established, calculating the compensation due. This process may involve appointing an expert to determine the amount of damage, and ultimately, the court rules for compensation based on the established amount.

C. INCREASE OF AMOUNT IN FULL REMEDY ACTIONS

Article 125 of the Constitution provides that the judicial remedy is open against all kinds of administrative acts and actions, and that the administration is liable to compensate for damages arising from its acts and actions.

Within this framework, full remedy actions aimed at redressing actual damage may involve situations where the damage elements cannot be fully identified or calculated,

or where the plaintiffs initially prefer to avoid excessive litigation costs, resulting in the claimed amount being indicated as a lower sum.

Prior to the legal amendment permitting an increase in the amount after filing a full remedy action, the claimed amount could not be amended in later stages of the proceedings due to the prohibition on expansion and alteration of claims and defenses, and there was no additional legal mechanism allowing compensation for the damage determined during the litigation process, thus plaintiffs could not obtain compensation for their actual damage.

Following applications to the European Court of Human Rights (ECtHR) by some plaintiffs who suffered loss of rights due to this situation, decisions were rendered finding violations of the European Convention on Human Rights (ECHR) on the grounds that applicants were not provided with an effective remedy due to the impossibility of reassessing the claim. In its Okçu v. Turkey judgment, the ECtHR held that unlike in civil law, Turkish administrative law does not grant the applicant the right to request reassessment of the amount initially claimed during ongoing litigation, which constitutes a violation of Article 13 of the ECHR for lack of an effective remedy (Application No. 39515/03, 21/07/2009).

During the period when increasing the amount was legally impossible, the Constitutional Court also assessed the lack of possibility to increase the amount in administrative judiciary cases as a violation of the right to access to court following individual applications on this issue. Indeed, in the Constitutional Court's decision in the "İbrahim Can Individual Application," it was held that as a result of the judicial decision not considering the applicant's request for amendment, the applicant was deprived of part of the compensation receivable, and the burden imposed on the applicant was disproportionate to the legitimate aims pursued, thereby violating the right to access to court (Application No. 2012/1052, 23/07/2014). The said decision states that "...38. The amount of compensation is a fact that can only be determined by the court's discretion following expert examination and similar investigations. Due to this nature of the compensation institution, it is impossible to fully know or foresee the amount of compensation before filing a lawsuit. This uncertainty encountered at the filing stage cannot be overcome by amendment of the claim (reform) before 30/04/2013 in accordance with Law No. 1602 (Decision No. 2012/791, 7/11/2013, § 56). Accordingly, it is inevitable for the plaintiff to have the need to amend the claim during the continuation of the lawsuit in order to avoid loss of rights..." emphasizing the necessity to allow plaintiffs to increase the amount claimed.

Following the violation decisions relating to this situation causing loss of rights, with Law No. 6459 published in the Official Gazette No. 28633 dated 30/04/2013 and entered into force, paragraph four was added to Article 16 of Law No. 2577, stating:

"However, in full remedy actions, the amount specified in the petition may be increased once, without observing time limits or other procedural rules, by paying the fee until the final judgment is rendered, and the petition regarding the increase shall be served

on the opposing party for reply within thirty days." Thus, increasing the amount in full remedy actions became possible.

The rationale of this amendment states that: "The ECtHR issues violation judgments against our country regarding compensation claims arising from state liability, finding that there is no adequate remedy to eliminate damages caused by slow judicial proceedings. With the regulation, in full remedy actions filed in administrative judiciary, the right to increase the claimed compensation amount during the course of the lawsuit, if it is understood that the amount should be higher, was not granted previously, which was considered a violation of the right to a fair trial, therefore the right to increase the claimed compensation amount by way of amendment until the final decision is rendered is granted."

This regulation aims to remedy losses due to courts not accepting requests for increasing the claimed amount despite the actual damage being determined during the litigation, by allowing an increase in the compensation amount until the final decision and ensuring that the claim can be raised up to this amount in case of detection of actual damage during the proceedings, thereby preventing any loss of rights.

Thus, the institution of increasing the amount serves the realization of the right to effective remedy and fair trial, and in full remedy actions, without observing time or other procedural rules, the plaintiff may increase the amount stated in the petition once until the final decision is rendered.

D. INTEREST IN FULL JUDGMENT ACTIONS

In full judgment actions arising from administrative acts and actions, when ordering compensation for damages, the damage must be fully compensated. It is accepted that when damages caused by the administration to individuals are claimed through litigation, compensation shall be awarded, and interest shall be applied to this compensation from a certain date. Interest is the consideration that the creditor is entitled to claim for the period during which they were deprived of the use of a certain amount of money. Interest receivables are separate from, but ancillary to, the principal debt. Ancillary interest claims are rights dependent on the principal claim. (OĞUZMAN Kemal, ÖZ Turgut, Law of Obligations – General Provisions, Vol. I, Istanbul 2012, pp. 308-309)

Interest is a secondary obligation distinct from but dependent on the principal claim, and its existence is conditional on the existence of the principal claim. When the principal claim ceases, the interest claim also terminates. (Turkish Code of Obligations No. 6098, Art. 131/1)

Moreover, interest serves the function of preserving the economic value of money and compensating for the loss of purchasing power.

In full judgment actions, statutory interest regulated by Law No. 3095 on Legal Interest and Default Interest is applied.

E. EFFECT OF AMENDMENT OF AMOUNT AND INTEREST TO BE APPLIED TO THE INCREASED AMOUNT

Pursuant to the provision in the fourth paragraph of Article 16 of Law No. 2577, which allows for the amendment of the amount during the ongoing trial, the effect of the amount increase on the petition is limited solely to replacing the initially requested amount with the increased amount; it does not affect the legal status at the date the lawsuit was filed or other claims within the lawsuit. Therefore, since the increased amount does not constitute a new claim and the elements in the initial petition remain valid, the subject matter of the claim in the petition must be assessed as a whole, including the increased amount.

It should be noted that the plaintiff's intention when filing the lawsuit has been from the outset to obtain compensation for the actual damage, including the uncertain part. Since the plaintiff cannot determine the amount to be claimed at the beginning of the lawsuit due to various reasons, they postpone claiming the amount related to the uncertain portion until the actual damage is determined during the litigation.

Consequently, since the plaintiff's principal claim from the date of filing the lawsuit is compensation for the entirety of the actual damage, including the uncertain part, if interest is to be awarded from a certain date for the amount claimed in the petition, the same date must also apply for interest on the increased amount determined and requested during the trial.

Accepting that the starting date of interest applied to the amount claimed in the petition shall also apply to the increased amount under the amendment petition serves the constitutional right to access justice, supports the right to a fair trial—one of the fundamental principles governing litigation—and aligns with the purpose of the amendment made by Law No. 6459.

Accordingly, in full judgment actions seeking compensation for damages arising from administrative acts or actions, in the event of an increase in the claimed amount, the inconsistency among decisions regarding the date from which interest is to be calculated on the increased amount should be resolved by unifying the jurisprudence so that interest shall be applied from the same date as that applied to the amount claimed in the original petition.

DECISION RESULT: In full judgment actions filed for compensation of damages arising from administrative acts or actions, including interest, when an increase in the claimed amount is made, interest shall be applied to the increased amount from the same date as that on which interest is applied to the amount claimed in the lawsuit petition. Jurisprudence has been unified accordingly.

II. DECISIONS RENDERED AS A COURT OF FIRST INSTANCE OR AN APPELLATE AUTHORITY

TAX REFUND

1. On the necessity of taking into account, during judicial proceedings, a negative report and/or adverse finding issued by the administration after the tax refund transaction has been executed.

PSTLC

APPEAL AGAINST THE DECISION TO INSIST

In the present dispute, the plaintiff filed a lawsuit requesting the annulment of the administrative act rejecting the application for a cash refund of the value-added tax (VAT) incurred due to export deliveries, which could not be deducted, based on the certified public accountant's VAT refund attestation report.

The Court of First Instance dismissed the case on the grounds that the invoices issued on behalf of the plaintiff did not reflect actual deliveries of goods, that the value-added tax (VAT) calculated in these invoices was not transferred to the Treasury, and that the plaintiff did not actually bear the burden of the tax.

The Regional Administrative Court ruled to accept the appeal, annul the decision of the Court of First Instance, and cancel the administrative act subject to the case, on the grounds that the existence of suspicions regarding the sub-taxpayers and their referral for tax inspection do not fall within the scope of adverse findings as stipulated in the Communiqué on General Implementation of Value Added Tax, and therefore the plaintiff's refund request must be fulfilled according to the general provisions.

The Chamber reversed the appealed decision on the grounds that the administrative act was not unlawful, as the findings regarding the taxpayer who issued the invoices subject to the refund were of a probative nature, indicating that the invoices did not reflect actual deliveries of goods and that the plaintiff company had been referred for tax inspection due to these transactions.

The Regional Administrative Court insisted the initial decision.

The Board ruled to overturn the decision to insist on the grounds that the principle—according to which the legality of an administrative act is to be assessed —should be subject to an exception due to the nature of tax refund procedures, aiming to balance public interest and individual benefit, and that within this scope, the legality of the act rejecting the refund request must be evaluated by considering the adverse findings contained in the report prepared during the judicial process.

File No:2022/1172, **Decision No:**2024/99

SUMMARY OF THE DECISION

SUBJECT MATTER OF THE CASE: The plaintiff filed a lawsuit requesting the annulment of the administrative act rejecting the application for a cash refund of the value-added tax (VAT) incurred due to export deliveries, which could not be deducted, based on the certified public accountant's VAT refund attestation report, on the grounds that suspicions had arisen concerning the sub-taxpayers and that the refund request would only be processed following the outcome of a tax inspection report.

SUMMARY OF FIRST INSTANCE COURT'S DECISION: The deficiencies identified in the certified public accountant's VAT refund attestation report concerning the export deliveries carried out by the plaintiff company were formally notified to the certified public accountant, and the plaintiff was referred for a tax inspection by the defendant administration through an official notice. By the administrative act subject to the lawsuit, the plaintiff was informed that its refund request had been referred for tax inspection based on a communication from the Revenue Administration, due to the emergence of suspicions regarding its relations with sub-taxpayers; that the inspection had not yet been concluded; and that the refund would be processed in accordance with the outcome of the tax inspection report.

Following the conclusion of the tax inspection initiated regarding the plaintiff's refund transactions, the tax inspection report found that the findings concerning the plaintiff company were sufficient to raise suspicion that the plaintiff intended to unlawfully obtain a VAT refund; that the invoices issued on behalf of the plaintiff did not reflect actual deliveries of goods; that the VAT calculated in these invoices had not been transferred to the Treasury; and that the tax had not actually been borne by the plaintiff. Therefore, it was concluded that there was no unlawfulness in the administrative act subject to the case, and the lawsuit was dismissed on these grounds.

SUMMARY OF THE REGIONAL ADMINISTRATIVE COURT'S DECISION: The Communiqué on the General Implementation of Value Added Tax stipulates that, as a rule, refund claims arising from various types of deliveries shall be processed in accordance with the general provisions; however, it also specifies that the refund claims of taxpayers who are directly or indirectly involved in the issuance or use of false or misleading documents shall be subject to special provisions.

In the present case, the plaintiff's application for a VAT refund arising from the export exemption, based on the attestation report prepared by a certified public accountant, was rejected on the grounds that there were suspicions regarding the sub-taxpayers and that they had been referred for tax inspection. However, since the existence of suspicions concerning the sub-taxpayers and their referral for inspection do not fall within the scope of the adverse findings stipulated in the aforementioned Communiqué, it was concluded that the plaintiff's refund request should be processed in accordance with the general provisions.

Accordingly, the appeal was accepted on the grounds that the administrative act subject to the case, which stipulated that the plaintiff's refund request would be fulfilled according to the tax inspection report within the scope of special provisions, was unlawful; the decision of the Court was overturned, and the administrative act subject to the case was annulled.

SUMMARY OF THE CHAMBER'S DECISION: It has been understood that the company issuing all invoices related to the goods purchases subject to input in the refund file for the relevant period was subjected to an examination by the Risk Analysis Center; that the company from which the said company purchased all goods sold to the plaintiff was also subjected to an examination due to issuing false invoices and falls under the special provisions; and that the plaintiff was referred for inspection due to the high risk of issuing false documents.

In the value-added tax system, the mere submission of a refund claim by taxpayers is not sufficient for the refund to be granted; the fulfillment of refund requests depends on the authenticity of the issued and used documents. In other words, in addition to the formal requirements established by law for the right to receive a refund either in cash or by offset, there must be no adverse findings regarding the VAT transactions subject to the refund.

The findings regarding the taxpayer who issued the invoices subject to the refund demonstrate that the invoices did not reflect actual deliveries, and since the plaintiff company was referred for tax inspection due to these purchases, there was no unlawfulness in the rejection of the refund request; moreover, the findings in the subsequent tax inspection report substantiated the grounds of the administrative act, leading to the overturning of the appealed decision.

SUMMARY OF THE DECISION TO INSIST: The initial decision was insisted based on the legal grounds and reasoning contained therein.

LEGAL ANALYSIS: Although it is one of the general principles of administrative procedural law that the legality of administrative acts shall be assessed based on the legal situation at the time they are enacted, it is acknowledged that there are certain exceptions to this principle, such as the cessation of the legal basis, the application of a more favorable law, and the nature of the administrative act. (ULU Güher, "The Causal Element of Administrative Acts and Judicial Review", Doctoral Thesis, Uludağ University, Institute of Social Sciences, Department of Public Law, Bursa, 2021, pp. 299–304). Moreover, the absolute application of the principle may lead to outcomes that undermine the balance to be established between public interest and individual benefit.

Article 10, paragraph 1 of the Administrative Procedure Law No. 2577 stipulates that concerned parties may apply to administrative authorities for the issuance of an act or action that may be subject to an administrative lawsuit; paragraph 2 provides that if the response given by the administration within the prescribed period is not final, the concerned party may treat this response as a rejection of their request and file a lawsuit.

In cases where an administrative act adversely affects the rights or interests of an individual, it is necessary that the individual be informed of the factual and legal grounds upon which such act is based. Such notification shall be made either by providing the reasoning during the course of the administrative procedure, or, upon request, by informing the concerned individual in writing within a reasonable period of time. However, the legal grounds on which the administration relies must, at the latest, be communicated to the individual whose rights or interests are affected, together with the administration's written defense, during the course of the judicial proceedings. Nevertheless this cannot be interpreted as granting the administration a discretionary power to arbitrarily refrain from disclosing the legal grounds on which it relies in its actions and to defer such disclosure to the course of judicial proceedings, what is essential is that the administration must inform the concerned individual of the grounds relied upon when rejecting his or her application, together with the administrative act itself.

Given the nature of certain applications, the administrative acts to be adopted thereupon may require a longer period of examination and evaluation. The process concerning the refund of value added tax constitutes a time-spanning procedure, in which different procedural rules and principles are applied depending on the type of refund sought (cash refund or set-off) and the amount to be refunded; where varying conditions are required to be fulfilled according to whether the refund is carried out within the framework of general or special procedures; where the accuracy of the documents submitted by the taxpayer requesting the refund and the authenticity of the legal situations on which they are based are examined; where the correctness of the calculations is verified; and where the completion of, or the remedying of any deficiencies in, the tax audit report and the certified public accountant's certification report that may serve as the basis for the refund is awaited. This nature of the process arises from the aim of preventing undue tax refunds and thereby averting any detriment to the public interest. However, in such circumstances, the administration is required to act in a manner that duly respects the taxpayer's right to property, to examine, within a reasonable time and by appropriate means, whether the conditions for the refund have been fulfilled, and, where it determines that the refund request does not contravene the conditions laid down by law and secondary legislation, to give effect to the refund request without delay.

Due to the examinations and assessments carried out during the refund process, it may not always be possible for the administration to finalize the applicants' refund requests within the period stipulated under Article 10 of Law No. 2577. Therefore, taking into account the refund process as a whole, it may be possible for the administration to provide a non-conclusive response stating that the review is still underway and that any potential refund will be made in accordance with the result thereof. In the event that such a non-conclusive response is provided, the taxpayer requesting the refund must also be informed of the reason for the delay.

In this case, he concerned party may treat the non-final response provided by the administration during this examination and evaluation period as a rejection of their application by utilizing the opportunity foreseen in Article 10 of Law No. 2577 and bring the matter before the administrative court. In such a case, if the administration concludes during the judicial phase that the application should be rejected as a result of the ongoing examination and evaluation process, it is required to notify both the administrative judicial authority and the concerned party of the grounds on which this conclusion is based in the lawsuit filed against the non-final transaction related to the refund request.

When the concerned parties utilize the opportunity foreseen in Article 10 of Law No. 2577 to treat the non-final response provided by the administration as a rejection of their claim and initiate litigation, it is an absolute principle that the review of the legality of the administrative act shall be conducted according to the legal situation existing at the time the non-final response was issued. However, this approach, when applied strictly, may hinder the proper conduct of legality review and may lead to outcomes detrimental to the balance that must be maintained between the public interest and individual benefit.

During the judicial process, the Tax Litigation Chamber reasoned in its insistence decision that doubts regarding subordinate taxpayers existed and that their referral to examination did not constitute negative findings as envisaged in the General Communiqué on Value Added Tax; therefore, the refund request should be fulfilled according to general principles.

In the present case, at the time the contested administrative act was issued—which did not include a definitive response from the administration concerning the plaintiff's refund request but envisaged that the plaintiff was referred to examination due to doubts in subordinate taxpayer relationships and that the refund would be fulfilled based on the outcome of the examination—no examination report containing findings related to the plaintiff and subordinate taxpayers had yet been prepared. Nonetheless, it is observed that a subsequent examination report includes adverse findings requiring rejection of the plaintiff's said request.

If the principle of conducting legality review solely based on the legal situation at the date of issuance of the contested act is applied absolutely, and since no grounds for rejection of the refund request existed at that date, it would be concluded that the act lacks legality and that the refund must be made. In such case, the administration would be compelled to first make the refund to comply with the judicial decision and subsequently initiate tax assessment procedures to recover this unjustified refund.

This uncertainty about whether the refunded amount can be reclaimed from the concerned party may lead to results contrary to public interest. Furthermore, it cannot be claimed that imposing penalties and late payment interest on the tax amount in connection with the tax assessment procedure for reclaiming the unjustly refunded amount would be in the plaintiff's favor. Therefore, considering the adverse findings,

which were not present at the time of issuance of the contested act but later materialized in a report and could constitute grounds for rejection of the plaintiff's refund request, during the judicial process represents a balancing measure between public interest and individual benefit.

For this reason, an exception should be recognised to the rule whereby the lawfulness of an administrative act is assessed on the basis of the legal situation existing at the time the act was established, such exception arising from the nature of tax refund procedures and pursuing the aim of striking a balance between the public interest and individual interests; furthermore, within this framework, it is necessary, in the course of judicial review, to assess the adverse findings contained in the aforementioned report and to evaluate the lawfulness of the administrative act rejecting the refund request accordingly.

In this respect, since it was concluded that no illegality exists in the act rejecting the refund request based on the findings in the aforementioned report, the insistence decision must be overturned for the same legal reasons and grounds on which the Chamber's decision is based.

DECISION RESULT: The insistence decision subject to appeal is hereby overturned.

RIGHT TO RESPECT FOR PRIVATE LIFE

2. On the disciplinary sanctioning of a public official for acts concerning their private life unrelated to their official capacity and whose impact on the public service cannot be clearly demonstrated, and the resulting violation of the constitutionally guaranteed right to respect for private and family life.

SECOND CHAMBER

APPEAL

In the dispute, the plaintiff, serving as a police officer, filed a lawsuit seeking the annulment of the decision of the Provincial Police Disciplinary Board imposing a "six-month short-term suspension penalty" pursuant to Article 6/B-5 of the Police Organization Disciplinary Regulation.

The Court of First Instance rejected the case on the grounds that the inappropriate photographs taken at the residence of the person with whom the plaintiff had a relationship through a social media platform were subject to investigation by judicial authorities following complaints from both parties, and that the plaintiff, by failing to exercise sufficient care in this relationship, cast a shadow on the dignity of the police profession; therefore, there was no unlawfulness in the contested disciplinary sanction.

The Chamber held that the act imputed to the plaintiff requires establishing a clear connection between the public official's conduct and their official duties, determining how and in what manner the plaintiff's conduct undermined the dignity and trust associated with their official capacity, and clearly demonstrating the impact of this conduct on public service. It was found that the private photographs taken by the plaintiff were shared only between the plaintiff and the person with whom they were involved, via social media account and mobile phone, and were not disseminated by the plaintiff to third parties. The incident took place in the private life sphere, independent of the plaintiff's status as a public official. Accordingly, treating acts concerning the private life of the plaintiff, which are unrelated to their public official status and whose disciplinary relevance is not clearly demonstrated, as disciplinary offenses and imposing disciplinary sanctions on the plaintiff constitutes a violation of the "right to respect for private and family life." For these reasons, the Chamber annulled the appealed decision on the grounds of unlawfulness of the contested act.

File No:2021/6544, **Decision No:**2024/1925

SUMMARY OF THE DECISION

SUBJECT MATTER OF THE CASE: The plaintiff, serving as a police officer, was sanctioned with a "six-month short-term suspension penalty" pursuant to Article 6/B-5 of the Police Organization Disciplinary Regulation for allegedly committing the act of "engaging in conduct and behavior outside of service that undermines the dignity and trust required by the official capacity," and the annulment of this sanction was sought.

SUMMARY OF THE FIRST INSTANCE DECISION: It was found that the inappropriate photographs taken at the residence of İ.G., a person with whom the plaintiff established a relationship via the social media platform Facebook during the plaintiff's annual leave, were discussed on social media and became the subject of investigation by judicial authorities following complaints from both parties. The plaintiff's failure to exercise sufficient care in this relationship and causing an investigation by judicial authorities by having such photographs taken were deemed to have cast a shadow on the dignity of the police profession. Accordingly, no unlawfulness was found in the contested disciplinary sanction, and the case was dismissed.

LEGAL EVALUATION: Disciplinary sanctions are imposed to maintain the order of a public or private organization, to ensure its efficient, prompt, and useful operation, and to protect its honor and dignity. Particularly regarding individuals performing public duties, the purpose of disciplinary penalties is to bind the public official to their duty, to ensure the proper conduct of public service, and thus to maintain the peace within institutions.

Private life is the sphere in which individuals can develop their individuality and engage in the most intimate relationships with others. This sphere of privacy encompasses a special area where the State cannot intervene or can only intervene to a minimal extent for legitimate purposes.

Article 20 of the Constitution, titled "Confidentiality of Private Life," is regulated under the section "Rights and Duties of the Individual." These rights, referred to in doctrine as "negative status rights," delineate the boundaries of a private sphere that the State cannot trespass or violate. Besides the inviolability of this right, the State bears a positive obligation to protect it. That is, the State is obligated both not to harm this right and to protect it against threats—even those originating from itself.

In a petition filed by a public official regarding the violation of confidentiality of private life, the Constitutional Court, in Individual Application No. 2014/16701, stated that: "... in the disciplinary measures taken and in the court decisions reviewing the legality of these measures, the effects of individuals' attitudes and actions concerning their private lives on their professional lives must be explained, the impacts and risks of these on the functioning of the relevant public institutions providing services must be demonstrated, and these evaluations must be supported by sufficient and convincing reasoning. Furthermore, the proportionality of the measures must be examined by taking into account the individuals' past professional records and achievements. In

addition, to ensure effective enjoyment of the rights protected under Article 20 of the Constitution, decision-making processes that give rise to intervention must include procedural safeguards respecting the rights and freedoms protected by this article and must be fair." These determinations emphasize that public administrations must act proportionately to prevent crossing the sensitive boundary between the "private sphere" of a public official and the "public duty" they perform, and that the effect of the conduct on public service must be examined in such cases.

Considering the above-mentioned legal provisions and the referenced court decision, it is concluded that the act imputed to the plaintiff requires establishing the relation of the act to the public official's work, determining how and in what manner the plaintiff committed the act in a way that undermines the dignity and trust required by the official capacity, and clearly demonstrating the impact of this situation on public service.

In the dispute, examination of the disciplinary investigation file initiated against the plaintiff reveals that the private photographs taken by the plaintiff were shared only between the plaintiff and İ.G., with whom the plaintiff was in a relationship, via Facebook social media account and mobile phone, and that the plaintiff did not share these photographs with third parties. It is understood that in a criminal case opened against İ.G. for the offense of blackmail, İ.G. was convicted of blackmail by threatening to disclose information damaging to the plaintiff's honor and dignity using the private photographs taken by the plaintiff, and that these photographs came to attention in this manner. It is evident that the incident took place in the private life sphere independent of the plaintiff's status as a public official.

In this case, evaluating the plaintiff's acts concerning their private life, which do not arise from their status as a public official and whose disciplinary relevance is not clearly established, as a disciplinary offense and imposing disciplinary sanction on the plaintiff results in a violation of the "right to respect for private and family life" protected under Article 20 of the Constitution. Therefore, no legality is found in the contested disciplinary act.

DECISION: The appealed decision rejecting the case is annuled.

NOTIFICATION OBLIGATION

3. Since there is no such provision in the Attorneyship Law regarding the obligation introduced by Article 39 of the Union of Turkish Bar Associations' Rules of Professional Conduct, which requires the second attorney to notify the first attorney in writing before accepting the case, the said professional rule and the disciplinary sanctions imposed on attorneys pursuant to this rule are unlawful.

File No:2023/5706, **Decision No:**2024/2485

EIGHTH CHAMBER

FIRST INSTANCE

In the dispute, the plaintiff lawyer filed a lawsuit seeking the annulment of the decision of the Bar Disciplinary Board which sanctioned him with a reprimand, the decision of the Union of Turkish Bar Associations Disciplinary Board approving the former decision, and Article 39 of the Professional Rules of the Union of Turkish Bar Associations, which forms the basis of these decisions.

The Chamber ruled that although Article 39 of the Professional Rules of the Union of Turkish Bar Associations establishes a written notification obligation for the second lawyer to inform the first attorney in writing before accepting the case, since this obligation is not stipulated in the Attorneyship Law, sanctioning the second lawyer for non-compliance violates the principle of legality of penalties. Accordingly, the contested professional rule is not in compliance with higher legal norms and the law, and the disciplinary actions based on this rule lack legality. Therefore, the contested decisions were annulled.

SUMMARY OF THE DECISION

SUBJECT MATTER OF THE CASE: The plaintiff lawyer requested annulment of the Bar Disciplinary Board decision sanctioning him with a reprimand, the approval of this decision by the Union of Turkish Bar Associations Disciplinary Board, and Article 39 of the Professional Rules of the Union of Turkish Bar Associations, which serves as the legal basis for these decisions.

LEGAL ASSESSMENT: Following a complaint by a third-party lawyer, who asserted that the plaintiff submitted a power of attorney to cases he was not notified of, attaching hearing minutes and power of attorney fee receipts, a disciplinary investigation was initiated by the Bar Presidency. The Bar Disciplinary Board decided that under Article 39 of the TBB Professional Rules, the second lawyer must notify the first attorney in writing before accepting the case. It was further held that the duty of notification lies with the second lawyer, not the client, and that the client's declaration of termination of the first lawyer's mandate does not remove this obligation. Taking into account the plaintiff's disciplinary record, the Board imposed a reprimand sanction. Upon objection, the Union of Turkish Bar Associations Disciplinary Board rejected the objection and upheld the decision, leading to the filing of the present case.

Review of the Professional Rule at Issue:

Article 39 of the Union of Turkish Bar Associations Professional Rules states: "If the client wishes to grant a mandate to a second lawyer after having agreed with the first lawyer, the second lawyer must notify the first attorney in writing before accepting the case."

However, Article 172 of the Attorneyship Law No. 1136 provides that the obligation to notify the first lawyer in the event the client intends to involve another lawyer lies with the client. If the first lawyer does not consent, the trust relationship is deemed broken, resulting in the automatic termination of the mandate contract, and the client remains obligated to pay the initially agreed attorney's fees for the work performed. Thus, the first lawyer is entitled to the fee as if unfairly dismissed by the client.

Reviewing the decisions of the Union of Turkish Bar Associations Disciplinary Board, it appears that the professional rule aims to protect the first lawyer's right to receive fees for the efforts and work performed representing the client in the relevant cases or legal assistance. For instance, the Board's decision dated 05.04.2014, No. E:2014/56 K:2014/234, considered the conduct of the second lawyer as disrespectful to the colleague's efforts and as unjust enrichment of the first lawyer, especially in a file that was fully executed without any effort.

However, according to the provision in the Attorneyship Law, once the client requests consent from the first lawyer, the first lawyer is already made aware of the situation, and if consent is not granted, the first lawyer acquires the right to the attorney's fee.

In this case, although it is understood that the contested professional rule imposes a written notification obligation on the second lawyer in situations where the client fails to obtain consent from the first lawyer, sanctioning the second lawyer for non-compliance with an obligation not stipulated by law contradicts the principle of legality of penalties. Therefore, the contested professional rule is found to be incompatible with higher legal norms and unlawful.

Furthermore, since the contested professional rule is regulated under the heading "Relations with Clients" in the Union of Turkish Bar Associations (TBB) Professional Rules and not under the heading "Solidarity and Relations Among Colleagues," it is clear that it is not intended to establish a principle governing relations between lawyers themselves.

Review of the Bar Disciplinary Board decision imposing a "reprimand penalty" on the plaintiff lawyer and the Union of Turkish Bar Associations Disciplinary Board's decision upholding it:

Although the plaintiff lawyer was sanctioned with a reprimand for submitting a power of attorney and attending hearings without providing written notification to the lawyer following the case files, and this decision was upheld by the Union of Turkish Bar Associations Disciplinary Board, since Article 39 of the TBB Professional Rules—the basis for the reprimand—was annulled for being contrary to higher legal norms, the disciplinary action imposed on the plaintiff is also deemed unlawful.

DECISION RESULT: It has been decided to annul the contested disciplinary actions.