

Law Related To The Establishment Council Of Ethics For Public Service And Making Modifications On Some Laws

Law No. 5176

Acceptance Date : 25.5.2004

Issued Official Journal :

Date : 8/6/2004 No :25486

Purpose and Scope

ARTICLE 1.- The aim of this Law is to determine the establishment, duty and working procedures and fundamentals of the Council of Ethics for Public Service as to adopt and observe the implementation of ethical attitude principles such as transparency, impartiality, honesty, accountability, that should be abided by the public officials.

This Law covers all the personnel employed at departments included at the master budget, annexed budget administrations, public economical enterprises, floating capital establishments, local administrations and unions thereof; all the public establishments and institutions founded under the names of committee, upper committee, institution, institute, enterprise, organization, fund and similar possessing public judicial entity; chairmen and members of the management and auditory committee and council and supreme councils.

The provisions of this Law does not apply to the President of the Republic, members of the Grand National Assembly of Turkey, members of the Board of Ministers, Turkish Armed Forces, adjudication members and the universities.

Establishment

ARTICLE 2.- Council of Ethics for Public Service (Council) has been established under the structure of the Prime Ministry to perform the duties written in this Law.

The Board of Ministers shall elect and assign eleven members, one being the Chairman, comprised of;

- a) One member among the ones that have acted as a Minister,
- b) One member among the ones that have acted as Provincial Municipal Mayor,
- c) Three members among the ones that have retired from the positions of membership to the Court of Appeals, State Council and the Supreme Court of Public Accounts,
- d) Three members among the ones that have acted as or have retired from the positions of the Undersecretariat, Ambassadorship, Governorship, independent and regulatory committee presidency,
- e) Two members among the university members that have acted as the Rector or Dean at universities of the retired thereof,
- f) One member among the ones that have acted as top level manager at the occupational institutions in the form of a public agency,

to take and implement every kind of decisions in relation to the subjects in the scope of this Law.

Regarding the ones to be assigned as the Chairman or member of the Council, the provision of the first paragraph of the 40 th article and the fourth paragraph of the additional 68 th article of the Law no. 5434 of the Turkish Republic Retired Fund are not exercised and the these persons are commissioned at the Council without cutting off their retired salaries.

The commission period of the members is four years. The members of which the period has expired can be re-elected by the Board of ministers. The commissions of the Council members cannot be ended without the expiration of their commission period. However, the members can be removed from duty before the expiration of the commission period thereof based on the procedure they have been commissioned in case they can not perform their duties due to a

serious illness or disability or if they no longer possess the conditions of being assigned. Should the members be convicted due to abuse of duty or a disgraceful crime, they are removed from duty with the approval of the Prime Minister. The Council memberships that have been emptied due to removal from duty or due to any reason without the expiration of the period, re-assignments shall be made by the Board of Ministers within one month. The member assigned in this manner, completes the commission period of the member of whom he/she was assigned to the position.

The Council is gathered with minimum six members with the invitation of the Chairman and decides based on the same sign vote of the absolute majority of the total number of members. The meeting decisions are informed to the relevant authorities. The Council is gathered four times a month. It is fundamental that the Council Chairman and members to attend the meetings. The members that have not attended three meetings consecutively or to ten meetings in total within a year are deemed to have resigned.

The secretarial services of the Council shall be performed by the General Directorate of Personnel and Principles of the Prime Ministry.

The Council Chairman and members are paid a per diem at the amount to be found with the multiplication of (3000) indicator figure with the public servant wage coefficient for each day actively served, provided that the provisions of the 6245 numbered Travel Allowance Law are reserved. No deduction shall be made from this wage other than the stamp tax.

The necessary appropriation is allocated at the Prime Ministry budget each year for the Per Diem and other needs of the Council.

Duties of the Council

ARTICLE 3.- The Council is commissioned and authorized to determine, with the regulations it shall prepare, the ethical attitude principles to be abided by the public officials while performing their duties, perform the necessary investigation and research with the personal claim that the ethical attitude principles are violated or the same based on the applications to be received, to inform the relevant authorities regarding the result of such investigation and researches, perform or make performed studies to establish the ethical culture within the public and to support the studies to be performed in this regard.

Application to the Council or the Authorized Disciplinary Committees

ARTICLE 4.- Application can be made to the Council regarding public officials that are at least general manager or at the similar level, with the claim that implementations are present at the public institutions and establishment in the scope of the Law that are violating the ethical attitude principles. The fact that which titles are to be deemed as equivalent of the general manager shall be determined by the Council by taking into account the organizational structure of the institutions and establishments and the character of the service they are executing.

The application to be made with the claim that implementations are made by other public officials violating the ethical attitude principles, are evaluated at the authorized disciplinary committees of the related institutions as to whether there is a violation of the ethical attitude principles defined at the regulations issued by the Council. The decisions to be taken as a result of the evaluation are informed to the relevant entities and the applicant.

The applications can be made by the Turkish Republic citizens having the competence to utilize civil rights and foreign real persons residing in Türkiye, according to the fundamentals defined at 3071 numbered Law Concerning the Utilization of the Right to Give Petition. However, applications that possess the aim of aspersing the public officials, that are not based on a just justification and at which sufficient information and document has not been submitted regarding the subject of application are not taken into evaluation.

Applications can not be made to the Council or the authorized disciplinary committees which are currently being examined by the adjudication bodies or that have been bound by a verdict by the adjudication bodies. The proceedings of the applications, regarding which it has been found the adjudication process is continuing, shall be halted.

Examination and Investigation

ARTICLE 5.- The Council executes the examination and investigations concerning the applications in the framework as to whether the ethical attitude principles are violated or not. The Council is obliged to finalize the examination and investigations it shall perform within at most three months for the applications received via complaint or denunciation.

The Council shall inform the result of the examination and investigation to the relevant entities and the Prime Ministry in a written form.

Should the Council determines that the public official, realizing the operation or action being subject of the application, has performed operation or action violating the ethical attitude principles and should this decision be ascertained, this situation is announced by the Prime Ministry to the public as a Council decision via the Official Journal. However, should the Council decisions are annulled via adjudication; the adjudication executes its verdict and makes it published at the Official Journal.

The examination and investigations performed as per this Law, does not constitute a hindrance for criminal prosecution or disciplinary prosecution based on the personnel laws they are subject to.

Request of Information and Document

ARTICLE 6.- The Ministries and other public institutions and agencies are obliged to provide the information and documents requested by the Council regarding the subject of application.

The Council has the right to call the relevant representatives from the institutions and private enterprises in the scope of this Law and receive information from them.

Regulation

ARTICLE 7.- The issues related to the implementation of this Law shall be determined by the regulations to be prepared by the Council. The regulations to be prepared by the Council are put into force with the approval of the Prime Minister.

ARTICLE 8.- The following clause has been added to the 9 th article of the 19.4.1990 dated and 3628 numbered Law Concerning the Declaration of Assets, Struggle with Bribery and Impropriety:

However, the Council of Ethics for Public Service is authorized to examine, when necessary, the asset declarations. For the control of the honesty of the information present at the asset declarations, the relevant persons and entities (including banks and private finance institutions) are obliged to provide the Council with the requested information within at most thirty days.

ARTICLE 9.- The following clause has been added to the 29 th article of the 14.7.1965 dated and 657 numbered Public Civil Servants Law:

The Council of Ethics for Public Service is authorized to determine the scope of the ban of receiving gifts or to request the list of the gifts received by the high post public officials of the level of at least general manager or similar post from these officials at the end of each calendar year.

Effective Date

ARTICLE 10.- This law shall become effective as of the date of its publishing.

Execution

ARTICLE 11.- The provisions of this Law shall be executed by the Board of Ministers.