



An Evaluation of Exceptional Civil Service*

Adil Bucaktepe,¹ Nilüfer Coşkun Mert²

Dicle University, Diyarbakır, Turkey



[10.15408/jch.v13i2.41581](https://doi.org/10.15408/jch.v13i2.41581)

Abstract

The Constitution of the Republic of Türkiye states that every Turkish citizen has the right to enter public service and that, in recruitment to the service, there will be no discrimination other than those features required by the position. The Constitution also states that civil servants and other public officials will perform the primary and permanent duties of public service, and that their qualifications, appointments, duties, powers, rights, and obligations will be regulated by law. In this framework, the legal status of civil servants is regulated by the Civil Servants Law no.657. According to this law, those wishing to be appointed to the civil service must meet general and specific conditions, in addition to passing the civil service entrance examination. However, the Civil Servants Law introduced some different regulations for exceptional civil service. The exceptional civil servant positions are listed as restrictions in Article 59. Accordingly, regardless of the provisions for predicted appointments, examination results, staff progression, and promotion grades, appointments can be made to exceptional positions, of which there are a great many, such as parliamentary and ministerial civil servants, some specialists and specialist assistants, ministerial advisers, private secretary directorates, embassy and consulate personnel, and members of the Supreme Council for Religious Affairs. This provision may be used for purposes other than those for which it was intended. Therefore, subjecting the appointment of civil servants to objective criteria will both eliminate this possibility and ensure the provision of public services of the required quality and sufficiency.

Key Words: Constitution; Civil Servants Law; Civil service; Exceptional civil service

* Received: January 11, 2025, revised: March 13, 2025, accepted: June 22, 2025, Published: June 30, 2025.

¹ Associate Professor at Dicle University, Faculty of Law, Department of Administrative Law, Diyarbakır, Turkey.

ORCID ID: <https://orcid.org/0000-0002-4154-7032> Email: adilbucaktepe@hotmail.com

² Assistant Professor at Dicle University, Faculty of Law, Department of Administrative Law, Diyarbakır, Turkey.

ORCID ID: <https://orcid.org/0000-0002-9717-0131> Email: nlfrcskn2179@gmail.com

**Corresponding author: adilbucaktepe@hotmail.com

A. INTRODUCTION

The general legal status of civil servants is determined by the Civil Servants Law ([Ulusoy, 2023](#)). Under this law, the characteristics of civil servants defined in the Constitution are regulated with respect to appointments, duties, competencies, rights, responsibilities, salaries, allowances, and advances, as well as personnel matters, promotions, development, and service conditions. In Article 1 of this law, civil servants are identified who are within the scope of the Civil Servants Law and are subject to their own specific laws. For example, civil servants working in institutions with a general budget, in institutions with a supplementary budget, provincial special administrations, municipalities, unions formed of provincial extraordinary administrations and municipalities, and in institutions with an associated revolving fund, are subject to the Civil Servants Law. In contrast, judges, prosecutors, university lecturers, military officers, petty officers, specialist gendarmes, specialist sergeants, contracted non-commissioned officers, and privates. Members of the Police Force are subject to the provisions of special laws. However, it must be noted that the Civil Servants Law can also apply to this second group. In other words, the Civil Servants Law is secondary in respect of personnel subject to their own special laws ([Akyilmaz et al., 2023](#)). When there is no provision in the special personnel laws, the Civil Servants Law can be applied as a general status ([Gözler & Kaplan, 2022](#)). For example, Article 54 of the Judges and Prosecutors Law no. 2802 states that the daily working hours and weekly working periods of judges and prosecutors are subject to the provisions of the Civil Servants Law. There are other similar provisions in the same law. In Article 20 of the Higher Education Personnel Law no.2914, it is stated that when there is no provision in this law, the provisions in the Higher Education Law no. 2547 and the Civil Servants Law no.657 will be applied. For example, references are made to the Civil Servants Law in Articles 65, 137, 144, and 150 of the Turkish Armed Forces Personnel Law no.926, and in Articles 6, 4, 36, 39, 51, 53, and 58 of the Higher Education Law. It should be noted that the references made to the Civil Servants Law in special personnel laws are not limited to those listed here.

As in other countries, the civil service is recognized as a profession in Türkiye ([Özyörük, 1982](#); [Yıldırım, 2014](#)). This acceptance provides civil servants with security against political administration ([Gözler & Kaplan, 2022](#)). There are three basic principles of the civil service profession. In Article 3 of the Civil Servants Law, these principles are listed as classification, career, and merit. There are also some constitutional principles in entry to the civil service, which are “freedom”, “equality”, and “not seeking qualities other than those required

for the position". There are also legal conditions for appointment to the civil service, which will be addressed in this study.

B. METHODS

The administration conducts public service activities. When managing these activities, the administration requires fixed and portable public property, public personnel, and public income. These tools for carrying out public services fall within the scope of administrative law. According to the classic differentiation, the basis of which extends back to Roman Law, the science of law is separated into two: public law (*ius publicum*) and private law (*ius privatum*) ([Karadeniz-Çelebican, 1989](#); [Teziç, 2018](#); [Tunç, 2018](#); [Gözler, 2018](#); [Anayurt, 2021](#)). These branches of law are then separated into various sub-branches. In public law, there are sub-branches of constitutional law, international law, criminal law, criminal proceedings law, administrative law, and tax law. In private law, there are sub-branches of employment law, commercial law, civil law, debt law, enforcement and bankruptcy law, civil procedural law, and state-specific law.

Administrative law is a sub-branch of public law. The establishment and proceedings of an administration are regulated by administrative law. The primary sources of administrative law include legislation, court decisions, and scientific works. General principles of law and common law can also be applied to these sources.

The entirety of the legal rules in force is known as legislation, and it is arranged from the lowest to the highest: regulations, presidential decrees, laws, and the Constitution. There are also regulatory procedures such as circulars, general orders, communiqués, directives, principle decisions, instructions, announcements, plans, and tariffs, which are known as anonymous regulatory procedures because they are not named in the Constitution. Decree laws and regulations issued during the parliamentary government system, prior to the transition to the presidential government system, that have not been repealed remain valid.

The second source of administrative law is court decisions. In the last paragraph of Article 138 of the Constitution, it is stated that the legislative and executive bodies, as well as the administration, are obliged to comply with court decisions and cannot change them in any way or delay their implementation. Therefore, court decisions, in other words, precedents, are among the sources that can be applied in studies entering the field of

administrative law. In the field of administrative law, the high court is the Council of State, so its decisions are most often applied there. However, decisions in the other high courts in Türkiye, namely the Constitutional Court, the Court of Disputes, and the Supreme Court of Appeal, are undoubtedly important in administrative law. For example, the Constitutional Court oversees judicial review of presidential decrees, which are administrative procedures. The Court of Disputes resolves disagreements between administrative and legal courts. Although the Supreme Court of Appeal is the highest court of justice, its decisions are used in some areas of administrative law.

Another source of administrative law is scientific works and teaching. Teaching is the opinions and thoughts expressed in scientific works on legal issues by authors working in their own fields of legal science. Scientists examine legislation, court decisions, and administrative procedures, and make recommendations on subjects they see as deficient. In this way, scientists help develop the law.

By examining the relevant provisions of the Constitution, the Civil Servants Law, which provides for the general status of civil servants, other laws, regulatory actions conducted by the administration, and scientific works, an attempt was made to reveal what "is" and "should be" related to the subject of this paper.

C. RESULTS AND DISCUSSION

1. The Principles of the Civil Service Profession

The civil service is recognized as a profession in Türkiye. There are some outcomes of accepting civil service as a profession. It is first necessary to state that when civil service is accepted as a profession, the civil service is not dependent on the political administration. A change in political administration does not result in a change in civil servants. In other words, civil servants do not come with the political party that comes into power by winning an election, nor do they leave with the political party losing the election. Civil servants continue to work within the framework of the previously defined objective rules ([Günday, 2002](#)). In most cases, accepting civil service as a profession means that civil servants cannot become members of a political party. Civil servants are obliged to undertake their duties in a neutral manner ([Gözübüyük & Tan, 2007](#)). The basic principles of the profession of civil service are stated in

Article 3 of the Civil Servants Law. These principles are classification, career, and merit.

a. The Principle of Classification:

In subclause A of Article 3 of the Civil Servants Law, classification is defined as the separation of public service duties and the civil servants undertaking these duties into classes (groups) according to the professions and qualifications required by these duties. In other words, service units that are related to each other are grouped into one unit ([Akyilmaz et al., 2023](#)). The classification process takes into account the civil servant's training and qualifications, as well as the profession's qualifications. For example, services such as police, medicine, engineering, and teaching, which share common training and professional qualifications, are each established as separate classes. As the civil servants who perform these services are members of the same class, they are subject to common service conditions within their institutions ([Onar, 1966](#)). According to the Civil Servants Law, a civil servant cannot be employed in a class other than their own class, and cannot undertake duties at a grade below the grade they are in within their own class.

There are some benefits of the principle of classification. For the state to fulfill its duties, a robust classification system is mandatory. In systems that follow the principle of classification, it is easier to find personnel for public services and place them on their staff. There are also positive contributions of the classification principle regarding civil servant salaries ([Giritli et al., 2006](#)). In addition, this principle can prevent those who provide public services with the same features from being subjected to different service conditions. ([Onar, 1966](#))

Classification is applied on a civil servant or duty basis. Classification based on the civil servant is called rank classification, whereas classification based on the duty is called staff classification ([Kalabauk, 2019](#)). The Civil Servants Law is weighted towards rank classification, and staff classification is included in part ([Atay, 2012](#)). Civil servants are gathered within 12 classifications in the Civil Servants Law. These are the classifications of general administration services, technical services, healthcare services and auxiliary healthcare services, education and teaching services, lawyer services, religious services, security services, gendarmerie services, coastguard services, assistant services, civil administration services, and national intelligence services.

b. The Principle of Career:

Career is defined in subclause B of Article 3 of the Civil Servants Law. According to this provision, the principle of career advancement allows civil servants to advance to the highest grade in classifications appropriate to the knowledge and training required for the services they provide. Thus, a career can be defined as the continuous advancement and acquisition of experience by an individual within the period of employment in the profession ([Sancakdar et al., 2018](#)), or as the progression of an individual by gaining experience and skills throughout years of work ([Eroğlu, 1972](#)). In accordance with the principle of career, an individual appointed to the civil service has the right to be promoted to the highest grades of the profession, provided that the necessary conditions are met ([Kalabalik, 2019](#)).

In the career system, the legal status of a civil servant is not defined in contracts but by laws and regulatory procedures. Regulating the rights and responsibilities of civil servants in this way provides security. Seniority, qualifications, and merit are given importance in this system ([Giritli et al, 2006](#)). Individuals to be appointed to the civil service must be well-equipped with the knowledge and expertise required for the position. Well-trained, qualified civil servants will improve the quality of public services.

The opposite of the career system is the duty system, in which a civil servant is employed to undertake a specific duty. When that duty is completed, the civil service of that individual is terminated. Advancement within the profession is not relevant to the duty system. ([Gözler & Kaplan, 2022](#))

c. The Principle of Merit:

Recruitment to the civil service is based on two systems: the favouritism system and the merit system. The favouritism system (patronage, nepotism) is translated in the Turkish language as political favouritism, looting, or spoils. The New York senator, William L. Marcy, summarised the spoils system in 1831 as, "Those who are defeated in the political war must leave their positions: the spoils of war go to the victor!" ([Güran, 1980](#))

In the favouritism system, civil servants change when the political administration changes. The political party that wins the election appoints civil servants from its own supporters. The political party that comes into power brings its own team, and those who have lost leave with theirs. Civil servants have no job security in the favouritism system. The favouritism system has been

described as generally abandoned, as it prevents civil servants from remaining neutral and behaving objectively in the performance of their duties ([Ulusoy, 2023](#)). However, this system remains valid in some circumstances. Especially in the appointment of high-level civil servants, the favouritism system is still evident. For example, the provision in the ninth paragraph of Article 104 of the Constitution can be seen as an example that the favouritism system is partially applied. According to this provision, the authority to regulate procedures and principles governing the appointment of senior public administrators and the termination of their duties is vested in the president. This provision of the Constitution was issued in the Presidential Decree No. 3 on Appointment Procedures for Upper Level Public Administrators and Public Institutions and Organizations. This presidential decree defined the appointment procedures and principles for public institutions and organizations, including those for upper-level public administrators. In Table I of this decree, upper-level public officials, including the head of the National Intelligence Agency, the president of the central bank, deputy ministers, governors, ambassadors, and university rectors, are appointed by the President. The term of office of these upper-level public officials appointed by the President cannot exceed the term of the presidency. Upon the President's term ending, their duties will terminate.

However, it should be stated in parentheses that whether the provision of Presidential Decree No. 3 on Appointment Procedures for Upper Level Public Administrators and Public Institutions and Organizations conforms to the law is open to debate. As stated above, the ninth paragraph of Article 104 of the Constitution provides that the president will appoint upper-level public administrators and terminate their duties, and that the procedures and principles governing their appointment will be regulated by Presidential decree. However, paragraph 17 of Article 104 of the Constitution states that a Presidential decree cannot be issued on matters foreseen to be regulated exclusively by law in the Constitution, or on matters clearly regulated by law. When the provisions of the Presidential decree and the law differ, the law will apply. When the Grand National Assembly of Turkey passes a law on the same subject, the Presidential decree will become invalid.

The conditions of service, qualifications, appointments and training, promotions, assignments, rights and responsibilities, and other personnel matters are defined and regulated in Article 2 of the Civil Servants Law. In Article 18 of the same law, it is stated that the service of a civil servant cannot be terminated other than in writing. In accordance with the legislation, it can be said that, although Article 104 of the Constitution states that the procedures and principles for the appointment of upper-level public administrators will be

regulated by presidential decree, a presidential decree cannot be issued for subjects clearly regulated by law. As stated above, the appointment of civil servants is regulated by the Civil Servants Law. Therefore, as the appointment of civil servants is regulated by law, the law, not the presidential decree, will apply to this subject. Moreover, in Presidential Decree No. 3, it is stated that the term of office of the senior public officials listed in Table I cannot exceed the term of office of the President who was in office on the date of their appointment, and that their term of office will also end when the President's term ends. However, Article 18 of the Civil Servants Law states that the term of civil servants can be terminated under the circumstances written in the law. According to the above-mentioned decree, both public officials and private-sector individuals can be appointed to the civil service positions listed in Table 1.

Individuals from the private sector appointed to positions listed in Table I will naturally acquire civil service status. Public officials appointed to positions listed in Table I will be appointed to another public duty upon the termination of their term of office, concurrent with the presidential term. The civil service of those coming from the private sector is terminated at the same time as their term of office ends, in parallel with the termination of the presidential term. As the civil service of an individual who has gained civil servant status, even if they have come from the private sector, will be terminated, this provision of the presidential decree, which is a regulatory procedure, seems to contradict the law. Therefore, it would be appropriate to remove the provision in the presidential decree governing the procedures and principles for the appointment of upper-level public administrators, and to have these matters regulated by parliament.

As stated above, public officials appointed by presidential decree who come and go with the president can be seen as an example of the implementation of the favouritism system. The opposite of the favouritism system is the merit system ([Cağlayan, 2018](#)). The word "merit" is defined in the dictionary as "value"; the value of a person, the value given to a person, propriety, ability, usefulness ([Yilmaz, 1992](#)). The principle of merit is defined in subclause C of Article 3 of the Civil Servants Law. Accordingly, entry into the state public service, advancement and promotion within the classes, and the termination of duty are based on the merit system, and the implementation of this system with equal opportunities provides security for civil servants.

In the merit system, there is no role for closeness to or distance from political parties, or for other subjective factors, in the appointment of civil

servants. An individual has the right to be appointed to the civil service based on personal characteristics such as individual value, propriety, ability, usefulness, skills, success, and knowledge. Objective criteria for entry to the civil service are defined in the merit system. These criteria do not change from person to person. Those meeting the objective criteria defined in the legislation have the right to be appointed to the civil service. The principle of merit requires the objective rules to be followed not only in the appointment of civil servants but also in situations such as promotion, transfer to another location, and termination of service.

There are some benefits to the validity of the merit principle in entry to the civil service. As there is no function of association with political parties in the appointment of civil servants in this system, the civil servant can undertake duties more neutrally. However, when entry to the civil service is based on objective criteria, there is a greater likelihood that more successful, more qualified individuals will become civil servants. When successful and qualified individuals serve as civil servants, the quality and effectiveness of the public services they deliver will undoubtedly increase. However, for the merit system to be valid in its entirety, the civil service entrance examination and in-service promotion examinations must be conducted in a manner that does not raise any doubts. In this sense, it would be appropriate to minimise practices such as interviews and oral examinations, where subjective evaluations may have a greater impact.

2. Constitutional Principles in Entry to the Civil Service

The right to enter public service is regulated in the fourth section of the Constitution entitled Political Rights and Duties. According to Article 70 in this section, every Turkish citizen has the right to enter public service, and there can be no differentiation in appointment other than the qualifications required for the position. Three principles are included in this article: freedom, equality, and not seeking qualifications other than those required for the position. As they are important, these three principles of entry to the civil service are included in law at the constitutional level.

a. The Principle of Freedom

The first of the principles of entry to the civil service at the constitutional level is the principle of freedom. This means that entry into the civil service or appointment as a civil servant is dependent on the individual's free will. It is not possible to force a person to become a civil servant if they do

not wish to. Article 18 of the Constitution states that nobody can be employed by force. Thus, the appointment of an individual to the civil service when there has been no request is contrary to this provision in the Constitution. Just as entry to the civil service is a right, there is also the right not to enter the civil service.

However, it must be stated that some laws include rules related to “state service obligation”, or in other words, the obligation for “compulsory service”. For example, according to the legislation related to Supplementary Article 3 of the Healthcare Services Basic Law no. 3359, it is stated that for doctors completing education in Türkiye or abroad to be able to acquire the title of specialist doctor by completing specialist branch training, they are obliged to undertake state service in Ministry of Health institutions or Ministry of Defence or other institutions approved by the Ministry of Health for 300 - 600 days recorded separately for each training. The obligation to perform compulsory service is included in the Higher Education Law no. 2547.

When it is accepted that an individual has entered a profession that requires compulsory state service of their own free will, it can be said that the principle of freedom has not been violated. However, it would be more appropriate to define alternative obligations in such circumstances.

b. The Principle of Equality

The second constitutional principle in entry to the civil service is the principle of equality. According to Article 10 of the Constitution, everybody is equal before the law without discrimination of language, race, colour, gender, political views, philosophical beliefs, religion, doctrine, or other similar reasons. Again, according to the same article, all the procedures of state bodies and administrative authorities must be applied in accordance with the principle of equality before the law ([Özbudun, 2018](#); [Eren, 2021](#)). This provision states that the administration must not discriminate based on language, race, colour, gender, political views, philosophical beliefs, religion, doctrine, or other similar grounds when recruiting civil servants. In other words, recruitment must be carried out in accordance with the principle of equality. The principle of equality is one of the general principles of current public personnel management ([Giritli et al., 2006](#)). Article 48 of the Civil Servants Law states that every individual who meets the conditions and passes the civil service entrance examination may become a civil servant. Discrimination by the administration in the recruitment of civil servants is unlawful.

However, there may be a need to establish regulations for some individuals or groups who require protection under certain conditions for social purposes. This protection and duty of care are fundamental duties of modern states. The necessary regulations on this subject are included in the Constitution. Accordingly, the measures to be taken for children, the elderly, the disabled, the widows and dependents of those killed in war or in the line of duty, and war veterans and disabled are not contrary to the principle of equality. This regulation is in place to protect those who need it. For example, some of the regulations in the Civil Servants Law for the disabled include: disabled personnel must be employed at a rate of 3% in public institutions and organizations. Requests for a change of location will be met for civil servants with a disabled family member for whom they are obliged to care. The start and end times of daily work and lunch break periods for the disabled may be determined differently by the senior manager at the centre and by the local civil authorities in the provinces, taking into account the disability status, service requirements, and climate and transportation conditions. Unless requested by the individual, night duties and night shifts are prohibited for people with disabilities.

It must be stated that these conditions of positive discrimination do not violate the principle of equality. On the contrary, they are correct practices in favour of individuals who require protection.

c. The Principle of not seeking qualifications other than those required for the position.

The third constitutional principle in entry to the civil service is the principle of not seeking qualifications other than those required for the position. This principle requires that, for individuals seeking appointment to the civil service, no condition be sought other than the general and specific conditions required for entry. It is a complementary principle that strengthens the principle of equality. The general and specific conditions required for appointment to the civil service will be dealt with under subsequent headings. The civil servants also benefit from these in the delivery of public services.

Therefore, duties that are very different from each other can be undertaken by civil servants, such as police, ambassadors and consulate staff, the military, teachers, librarians, academics, doctors, nurses, engineers, fire service, clerical staff, etc. There are specific qualifications and characteristics for each of these positions. For example, an embassy official should know a foreign

language, whereas this is not necessary for fire service personnel; however, they may need to meet specific health criteria. Certain height and weight conditions may be sought for those who wish to enter the police force or military, but the height and weight of a librarian will not affect their duties. Therefore, if the duty to be performed requires the presence of some different criteria and specific qualifications, this does not violate the Constitution, because one of the means of fulfilling public services is the civil servants. To provide public services of the highest quality and efficiency, civil servants must have the qualifications required for their positions. Otherwise, it may not be possible to provide public benefits, which is the purpose of public services. Therefore, other than seeking the general and specific conditions for entry to the civil service, seeking specific qualifications and conditions required by the position to be undertaken by the civil servant does not violate the principle of equality or the Constitution.

3. Conditions in Law for Entry to the Civil Service

The constitutional principles governing entry to the civil service have been addressed above. In this section, the legal conditions will be addressed. Individuals appointed to the civil service must meet certain legal requirements. These conditions, as stated in Article 48 of the Civil Servants Law, are classified into general and specific conditions. The general conditions are those that must be met by everybody who is to enter the civil service. The specific conditions are those required in addition to the general conditions as qualifications for certain civil servants.

a. General Conditions

The general conditions to be met by those to be appointed to the civil service are stated in Article 48 of the Civil Servants Law. These conditions are citizenship, age, education level, not being deprived of public rights, military service status, no criminal convictions for certain crimes or imprisonment for a specific period, and no mental illness. It would be appropriate to add the conditions of passing a background check and the civil service entrance examination.

Citizenship condition: to become a civil servant, you must be a Turkish citizen. The reason for this condition is the thought that Turkish citizens will be more loyal and responsible. Who can be considered a Turkish citizen is stated in

the Constitution. Article 66 of the Constitution states that everyone linked to the Turkish State with citizenship is a Turkish citizen, as is any child of a Turkish mother or Turkish father. Those with dual citizenship can be appointed to the civil service. Foreigners of Turkish descent who are resident in Türkiye without citizenship can be employed in public service when required, except in the Turkish Armed Forces and Security Services. In addition, foreign faculty members can be employed under contract in higher education institutions in Türkiye.

Age Condition: As certain levels of physical and mental maturity are necessary to be a civil servant, the legislation sets an age limit of 18 years. However, those who have completed vocational or fine arts school can be appointed to the civil service, provided they are 15 years of age and a “judicial maturity decision” has been taken. Although there is a minimum age in law for appointment to the civil service, there is no general maximum age. If there is no specific legal regulation, an individual can be appointed to the civil service until age 65, the age of compulsory retirement. However, a maximum age condition for entry to the civil service has been introduced in some laws. For example, under the Judges and Prosecutors Law no. 2802, the candidate must be under 35 years old to be appointed as an assistant judge or prosecutor. The same law states that those who wish to transfer from the profession of lawyer to become an assistant judge or prosecutor must be under 45 years of age. Similarly, the Internal Affairs Civil Servants Law sets a maximum age limit of 35 years for taking the entrance examination to become a district governor candidate.

Education condition: Generally, individuals who have completed middle school can be civil servants, but if there is insufficient demand for middle school graduates, those who have completed primary school can also be appointed. However, this does not mean that those who have finished primary school or middle school can be appointed to all types of civil service positions. To be appointed to certain positions in a class or to be able to be promoted to specific grades in these positions, there can be conditions in the legislation of having a further education degree, or having graduated from certain faculties, schools, or branches, or having completed in-service or profession-related training programs, or knowing a foreign language. For example, under the Civil Servants Law, to work in the legal services classification, you must hold a licence to practise as a lawyer and be registered with the Bar Council.

The Condition of not being deprived of public rights: An individual who wishes to be appointed to the civil service must not be deprived of the use of political rights. Those who are found to be deprived of public rights cannot be a

civil servant. Deprivation of public rights is the result of a court decision. Rather than the concept of “deprivation of public rights”, the concept of “deprived of the use of certain rights” is used in the Turkish Penal Law no. 5237. As a result of the judicial law of imprisonment because of a crime committed deliberately, an individual is deprived of being able to undertake a fixed-term, permanent, or temporary public duty.

The Condition of no criminal convictions: To be appointed to the civil service, one must not have been convicted of certain crimes or for specific periods. Appointment as a civil servant is not possible for an individual who has been imprisoned for one year or more because of a crime committed with intent. Entry to the civil service is not possible for those who have been convicted of crimes against state security, even if pardoned, with the exact condition of intent, crimes against Constitutional order and the procedures of this order, embezzlement, extortion, bribery, theft, fraud, forgery, abuse of trust, fraudulent bankruptcy, bid rigging, tampering with the execution of an act, or the laundering or smuggling of criminal assets. The condition of having no criminal convictions is also valid after starting civil service. Thus, the civil service position is terminated for a civil servant who is sentenced to imprisonment for one year or more for a crime committed intentionally, or who is convicted of one of the above-mentioned crimes (no minimum period). However, a crime committed through negligence is not an obstacle to civil service.

Condition of military service status: As there is no obligation for females to perform military service in Türkiye, this condition applies only to male civil service candidates. The period during which to undertake military service is determined by the date of birth on each male's identity card, starting on 1st January of the year when they turn 20 and ending on 1st January of the year when they turn 40, thus giving a maximum period of 20 years. Completion of military service is not a condition for entry into the civil service. As the age of entry to the civil service is 18 years, and in some exceptional cases 15 years, not having reached the age of military service (20 years old) is naturally not an obstacle to becoming a civil servant. In other words, a male under 20 years old can be a civil servant. Those who can prove they have no interest in military service can also become civil servants. This can be in two forms: either proof that they have completed military service or proof that they are not suitable for military service, documented with a report from a healthcare institution. In addition, those who have postponed active military service or have transferred to reserves can also become civil servants. The administration does not issue regulations governing the military service of civil servants through regulatory procedures; such regulations may be made by law.

Condition of having no mental health disease: For an individual to be able to enter the civil service, it is required that they have no mental health disease that could prevent the continuous performance of their duties. Other than the condition of “not having any mental health disease” stated in the Civil Servants Law, no other health condition is sought. In other words, disabilities other than mental health diseases do not prevent civil service. On the contrary, public institutions and organizations are obliged to employ disabled personnel at a rate of 3% of the total personnel. Although mandatory employment of disabled personnel is correct in principle, it is deficient in practice. It would be more correct for those in need of protection to have the rate increased to the rate for the disabled population in Türkiye.

The Conditions for Background and Security Checks: For those wishing to enter the civil service, background and security checks must be conducted. From background record checks, it can be determined whether the candidate has a criminal record, is being sought by the armed forces, has any restrictions, any definitive court decisions, any ongoing or finalised investigations or prosecutions, or has been removed from public office. For the additional security checks, case data in the armed forces and intelligence units related to the qualifications required for the position are investigated from the existing records and with methods suitable for the auditing of points that will be reflected in the position, in respect of associations with foreigners and foreign state institutions, or any contact, affiliation, or collaboration with terrorist groups or organised crime groups.

Condition of passing the civil service entrance examination: Another condition of entry to the civil service is the passing of the civil service entrance examination. This examination is open to those who wish to enter public service and be appointed as a civil servant. Those who pass the examination can become a civil servant.

b. Specific Conditions

In addition to the general qualifications and characteristics for entry to the civil service, specific conditions may also be required. Two specific conditions are defined in the Civil Servants Law. The first is that the civil servant will hold a diploma from one of the academic institutions listed in the articles governing the service class in which they will work. For example, under Article 36 of the Civil Servants Law, to work as a doctor, dentist, pharmacist, or veterinary practitioner in the healthcare services class, it is necessary to have

received professional education and training. The same article states that, to be a civil servant in the religious services class, religious education must have been received at the various levels specified by law.

The second specific condition for entry to the civil service is that the requirements set out in the institution's specific laws or other legislation must be met. Public institutions may request specific conditions in addition to the general conditions to enable personnel to deliver public services more effectively. For example, there may be a maximum age limit. Under the Judges and Prosecutors Law no. 2802, the candidate must be under 35 years old to be appointed as an assistant judge or prosecutor. The same law states that those who wish to transfer from the profession of lawyer to become an assistant judge or prosecutor must be under 45 years of age. Similarly, the Internal Affairs Civil Servants Law sets a maximum age limit of 35 years for taking the entrance examination to become a district governor candidate. According to the Turkish Armed Forces Personnel Law, the conditions for becoming an officer are to be under 27 years of age and to have graduated from a university or higher education college with at least 4 years of study. Height and weight requirements are also specific for professions such as police, the military, and security guards. For entry to the Police Academies, the Police Department Health Conditions Regulations state that male students must be at least 167cm in height and female students, 162cm.

4. Civil Service Exceptions

The establishment of civil service exceptions is regulated in Articles 59-61 of the Civil Servants Law, but the concept is not defined in this law. There are also no regulations on the "conditions of being an exceptional civil servant," so no criteria are stated. Nevertheless, exceptional positions within the civil service are defined in this law. These include presidential staff, parliamentary staff, ministerial assistants, ministerial advisers, private secretaries, provincial governors, ambassadors, consuls, permanent representatives, Constitutional Court press advisers, National Security Council general secretariat advisers, and the minister, deputy minister, legal adviser, department head, specialists and assistants, consultant lawyer, and branch managers of the Ministry for Social Housing Administration. From these examples, it is clear that many civil servants are considered exceptions under the law.

Exceptional positions in the civil service are positions for which civil servants are appointed with an allocated grade salary, not dependent on the

provisions of the Civil Service Law regarding appointment, examinations, advancement, and promotion. Those appointed to exceptional civil service positions do not necessarily have to be working in the public sector. It is not mandatory to be a current civil servant, and those working in the private sector can be appointed to exceptional positions in the civil service.

An individual who is to be appointed to an exceptional civil service position is required to meet the general conditions listed in Article 48 of the Civil Servants Law. If other conditions are specified in the laws governing the institution to which they will be appointed, they must also be met. For example, in Article 18 of the Ministry of Foreign Affairs Examination Regulations, under the heading of “exceptional appointments”, it is stated that with an advanced knowledge of a foreign language, and graduation from the law faculty of a Turkish university or a degree equivalent from a foreign university approved by the Higher Education Board, an appointment can be made as legal adviser by the exceptional appointments route without taking the legal adviser entrance examination.

The provisions regarding candidates for the civil service do not apply to those appointed to exceptional civil service positions, and they can be appointed to high grades regardless of service length. Those appointed to an exceptional civil service position are subject to the provisions of the Civil Servants Law related to grade advancement and promotion, starting from the date on which they acquired the right to the first salary grade of the staff to which they have been appointed.

Those appointed to exceptional civil service positions can be transferred to civil service duties subject to the Civil Servants Law. If the person was appointed to an exceptional civil service position when not previously a civil servant and is transferred to a position subject to the Civil Service Law, the provisions about civil service candidacy are not applied.

As stated above, appointments to exceptional civil servant positions may be made to individuals who meet the general conditions outlined in Article 48 of the Civil Servants Law, without prejudice to the specific conditions outlined in presidential decrees or in the laws of the institution. Taking the civil service entrance examination is not a condition for appointment to an exceptional civil service position. In other words, those in exceptional civil service positions can enter the civil service without having taken the entrance examination.

As previously stated, those wishing to enter public service and be appointed to a civil service role must take and pass the civil service

examinations. The civil service examinations are held in accordance with the provisions of the General Regulation on Examinations for Those First Appointed to Public Offices. These regulations aim to define the procedures and principles for examinations to be taken for pre-selection of those to be appointed to public service and duties for the first time, and for those to be appointed to professions entered through the specific competitive examinations of public institutions and organisations. The public personnel of public institutions and organisations within the scope of these regulations are divided into Group A and Group B.

Group A personnel include high-level civil servants, and Group B, low-level civil servants. To be appointed to the Group A staff, two examinations must be taken. The first of these is the Public Personnel Selection Examination, a pre-selection test for Group A personnel. Those who obtain sufficient points in this examination have the right to take the entrance examination of public institutions and organisations as the second examination. Candidates who pass the entrance examination can start civil service duties in the public institutions and organisations that conducted the examination. To be appointed as a Group B civil servant, the Public Personnel Selection Examination is the sole examination, and appointments are made based on the points obtained. In other words, appointments to Group B civil service positions are made with a central system as a general rule, and there is no second examination by the institutions and organisations in which the civil servant will work. However, there have recently been exceptions to the central appointment process, in other words, to the general rule. It would be appropriate to remove these exceptions and reinstate the central system for the appointment of Group B civil servants.

It can be seen that various examinations must be taken and passed to be a civil servant in Türkiye. However, it is not necessary to take any examination for appointment to an exceptional civil service position. As stated above, the provincial governor is an exceptional position in the civil service. At present, it is only necessary to meet the general conditions for entry to the civil service, as defined in Article 48 of the Civil Servants Law, to be able to serve as a provincial governor. However, for the post of district governor, which is the subordinate position of the governorship, it is necessary to pass the examinations specified in the law. This can be considered a contradiction. Similarly, those who meet the general conditions set out in Article 48 may be appointed as ambassadors. This is because, according to Article 3 of the Presidential Decree No. 3 on Appointment Procedures for Upper-Level Public Administrators and Public Institutions and Organizations, for appointments to be made in accordance with Article 59 of the Civil Servants Law, it is sufficient

to meet the general conditions listed in Article 48 of this law. Whether or not these regulations are appropriate is open to debate. It would be appropriate to conduct studies to improve the quality of the administration's employees, thereby increasing the quality and efficiency of the public services it delivers.

Individuals appointed to exceptional civil service positions can transfer to normal civil service positions, which can lead to public criticism. To avoid this type of criticism, it would be appropriate to close the transfer route from exceptional civil service positions to non-exceptional positions, i.e., normal civil service positions.

D. CONCLUSION

According to the Constitution, every Turkish citizen has the right to enter public service. Except for some obligatory state services, the civil service is a profession that individuals can enter into of their own free will. To be able to enter the civil service, it is necessary to meet the general and specific conditions in the Civil Servants Law and pass the civil service entrance examination. However, to be appointed to an exceptional civil service position, it is sufficient to meet the above-mentioned general conditions, and there is no condition of taking the civil service entrance examination.

Exceptional civil service positions are listed in Article 59 of the Civil Servants Law. There are a significant number of positions which are very different from each other, including presidential staff, parliamentary staff, private secretaries, specialists, and assistants in some public institutions, provincial governors, ambassadors, consuls, Olympic champions, or those in more than one senior category of Olympic sports branches. Sports advisers appointed from those who have won a world championship are some of the exceptional civil service positions listed in the article. It would be appropriate to make some changes to the exceptional civil service positions. It could be suggested that the most appropriate resolution would be to abolish the exceptional civil service positions altogether, or, if not completely abolished, to reduce their number. For example, positions such as presidential staff, parliamentary staff, private secretaries, specialists, and assistants could be removed from the scope of exceptional civil service positions. The civil servants listed here as examples could be recruited through the civil service examinations, thereby complying with the constitutional principle of equality.

Both civil servants and non-civil servants can be appointed to exceptional civil service positions. There is the possibility of abuse of power in some

circumstances when non-civil servants are appointed to exceptional civil servant positions. In other words, an institution may use an exceptional civil service position as a springboard or stepping stone towards a regular civil service position. In this way, other than public officials, those appointed to exceptional civil service positions will have easily entered the civil service without taking any examination. According to all the objective rules of entry to the whole civil service, there must be a written examination to conform to the principles of equality and merit. Practices such as oral examinations and interviews, for which objective evaluation is more difficult, should not be conducted in the recruitment of civil servants.

Under current legislation, a person who meets the general conditions for entry to the civil service may be appointed to a high-level position, such as provincial governor or ambassador, if they are close to the political administration. When appointing extremely important civil servants, such as the examples given here—ambassadors or provincial governors—there should be greater selectivity, with greater weight given to qualifications and experience. For example, provincial governors could be appointed from among civil administrators, and ambassadors from those who have served in the diplomatic service for a specified period. Such a practice would also increase the motivation of public officials who have worked hard for years to be appointed to higher positions. This is because, under the career principle, one of the basic principles of the Civil Servants Law, every civil servant can expect to be promoted to a higher grade based on work performance over the years. This is a very natural situation. There is also no doubt that highly qualified and experienced civil servants will improve the quality of public services provided.

REFERENCES:

- Akyılmaz, B., Sezginer, M. & Kaya, C. (2023). *Turkish Law of Administration (Expanded and Updated 17th Edition)*. Ankara: Seçkin Publishing
- Anayurt, Ö. (2021). *Constitutional Law General Section (Updated 4th Edition)*. Ankara: Seçkin Publishing
- Atay, E. E. (2012). *Administrative Law (3rd Edition)*. Ankara: Turhan Bookstore Publishes
- Çağlayan, R. (2018). *Administrative Law Courses (Updated According to The New System 6th Edition)*. Ankara: Adalet Publications

- Eren, A. (2021). Constitutional Law Courses (Updated 3rd Edition). Ankara: Seçkin Publishing
- Eroğlu, H. (1972). Administrative Law Courses, Ankara: Sevinç Press
- Giritli, İ., Bilgen, P. & Akgüner, T. (2006). Administrative Law (Revised 2nd Edition). İstanbul: Der Publications
- Gözler, K. & Kaplan, G. (2022). Administrative Law Courses (Updated 24th Edition). Bursa: Ekin Press Publishing Distribution
- Gözler, K. (2018). Introduction to Law (Expanded 15th Edition). Bursa: Ekin Press Publishing Distribution
- Gözübüyük, A. Şeref & Tan, T. (2007). Administrative Law Volume 1 General Principles (Updated 5th Edition). Ankara: Turhan Bookstore
- Günday, M. (2002). Administrative Law (Renovated 5th Edition). Ankara: İmaj Publishing
- Güran, S. (1980). Favoritism and Merit Systems In Civil Servant Law, İstanbul: From İstanbul University Publications No: 2781, Fakülteler Press
- Kalabalık, H. (2019). Administrative Law Courses Volume I (Revised and Updated 5th Edition). Ankara: Seçkin Publishing
- Karadeniz-Çelebican, Ö. (1989). Roman Law (Facsimile From the 4th Edition). Ankara: Ankara University Faculty of Law Publications No: 490
- Onar, S. S. (1966). General Principles of Administrative Law Volume II (3rd Edition). İstanbul: İsmail Akgün Press
- Özbudun, E. (2018). Turkish Constitutional Law (Revised 18th Edition). Ankara: Yetkin Publications
- Özyörük, M. (1982). Administrative Law Lecture Notes 2nd Grade Program Duplication. Ankara: 72 Duplicator Typewriter Photocopy
- Sancakdar, O., Us, E., Kasapoğlu Turhan, M., Önüt, Lale Burcu & Seyhan, S. (2018). Administrative Law (Expanded and Updated 7th Edition). Ankara: Seçkin Publishing
- TEZİÇ, E. (2017). Constitutional Law (21st Edition). İstanbul: Beta Publishing
- Tunç, H. (2018). Constitutional Law General Principles, Ankara: Gazi Bookstore
- Ulusoy, A. D. (2023). Turkish Law of Administration (Revised 6th Edition). Ankara: Yetkin Publications

Adil Bucaktepe, Nilüfer Coşkun Mert

Yıldırım, R. (2014). Turkish Administrative Regime Lessons Volume 1. Konya: Mimoza Publications

Yılmaz, E. (1992). Law Dictionary (Expanded 4th Edition). Ankara: Yetkin Law Publications