

TRADE UNIONS ACT

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PART 1

Purpose and Definitions

Purpose:

Article 1. The purpose of this Act is to establish the principles governing the constitution, organisation, activities and audit of the trade unions and confederations formed by workers and employers in order to protect and promote their economic and social rights and interests in labour relations.

Definitions:

Article 2. Worker: Any person working under a contract of employment shall be considered to be a worker.

Any person who undertakes to do mainly manual work under a contract for transport, excluding the vehicle owner, or gives his work to a publisher under a publishing contract, on a professional basis, and any person who does professional or manual work in an undertaking by way of participation under an ordinary contract of partnership, on condition that such a contract is open to any other person fulfilling the same conditions, shall also be considered to be a worker within the meaning of this Act.

The coverage of any person working under a contract of employment by the Act respecting the Retirement Fund of the Turkish Republic shall not be an obstacle for that person to be considered to be a worker.

Employer: Any person or corporation or non-corporate public establishment employing workers shall be considered to be an employer. The partners in an ordinary company other than the partners who participate by doing professional or manual work shall also be considered to be employers for the purposes of this Act.

Employer's representative: Any person authorised to manage an entire establishment in the name of the person or corporation or non-corporate public bodies considered to be an employer shall be considered to be an employer's representative.

The employer's representatives shall be considered to be employers for the purposes of this Act.

Workplace: A place where work is performed shall be considered to be a workplace.

The related places attached to the undertaking due to the nature and the operation of the work and annexes such as recreational rooms, nurseries, dining rooms, dormitories, bathrooms, examination and care rooms, gymnasiums, occupational training rooms, yards and vehicles shall also be considered to be workplaces.

Trade union: Organisations with corporate status constituted by workers or employers in order to protect and promote their common economic and social rights and interests in labour relations shall be called trade unions.

Confederations: Top-level organisations with corporate status constituted by the association of at least five trade unions operating in different branches of activity shall be considered to be confederations.

DIVISION 1. PRINCIPLES GOVERNING CONSTITUTION

Workers' and employers' trade unions:

Article 3. Workers' trade unions shall be constituted on an industrial basis by workers employed in establishments in the same branch of activity with the purpose of their activity widespread throughout Turkey.

Employers' trade unions shall be constituted on an industrial basis by employers in the same branch of activity with the purpose of their activity widespread throughout Turkey. For employers' trade unions in the public sector, the condition that these be constituted by public employers in the same branch of activity and carry out activities in the same branch shall not be required.

More than one trade union may be constituted in the same branch of activity. Workers' trade unions shall not be constituted on an occupational or workplace basis.

Trade unions may establish local branches on condition that this is specified in their rules and pursuant to the decision of their general congress.

Determining branch of activity:

Article 4. The branch of activity covering an establishment shall be determined by the Ministry of Labour and Social Security. This decision of the Ministry of Labour and Social Security shall be published in the Official Gazette. The parties concerned may lodge an appeal against this decision with the local court having jurisdiction in labour matters within 15 days of the publication. The court shall give a ruling on the appeal within two months. Where this ruling is appealed, a final ruling shall be given by the Court of Appeal within two months.

Conditions for founding members:

Article 5. The founding members wishing to constitute a trade union must be Turkish citizens; be in full possession of their civic rights; be actively employed within the branch of activity in which the trade union is to be constituted; not be debarred from public service; be able to read and write Turkish; not have been found guilty of a felony such as embezzlement, fraud, obtaining by false pretences, larceny or theft, forgery or fraudulent bankruptcy, bribery or corruption; not have been sentenced to a term of imprisonment of one year or more for a contravention or for an unlawful act, except an act of negligence; not have been convicted of acts specified in Chapter I of Volume II of the Turkish Penal Code or of publicly inciting and encouraging these acts; not have been convicted of acts specified in section 312, paragraph 2, of the Turkish Penal Code for publicly inciting and encouraging hostile acts based on racial, religious, language, class or regional discrimination; not have been convicted of committing the acts specified in section 536,

paragraphs 1 through 3, and section 537, paragraphs 1 through 5, of the Turkish Penal Code for political or ideological purposes;

In cases where any founding member of an employers' trade union is a corporate body, the real person representing this body shall fulfil all the above conditions with the exception of active employment within the branch of activity.

Conditions for constitution:

Article 6. Trade unions and confederations may be constituted without prior authorisation.

The founders of any trade union set up pursuant to this Act shall submit the following documents to the Governor of the province where the registered office of the trade union is to be located and shall obtain a receipt: the statute of the trade union; copies of the birth certificates of each founding member; copies of the residence certificates of each founding member; curriculum vitae of each founding member, indicating their occupation and trade; certificates for each of the founding members proving that they have been actively employed within the branch of activity of the trade union; copies, if any, of the criminal records of any founder; a declaration certified by a notary public, of the assets of the persons responsible for the management and administration of the organisation until the first general congress is held and those of their spouse and children under their care.

The founders of any confederation shall submit the following documents to the Governor of the province where the registered office of the confederation is to be located and shall obtain a receipt: the statute of the confederation; copies of the decisions taken by the general congress of the respective trade unions to constitute a confederation; a list of the persons responsible for the management and administration of the confederation until the first general congress is held. If any of these persons are not elected officers of the founding trade unions, they are obliged to submit all the other documents required for founding members of a trade union.

The trade union or the confederation shall acquire legal corporate status as soon as the statutes and documents mentioned in the preceding paragraphs have been deposited with the Governor.

The Governor shall immediately forward copies of these statutes and documents to the Ministries of Labour and Social Security, the Interior and Finance, and to the relevant regional directorate of the Ministry of Labour and Social Security.

The procedure for depositing and the model forms of the documents shall be determined by a regulation issued jointly by the Ministries of Labour and Social Security, Finance and the Interior. The statutes of the trade unions and confederations shall not be contrary to the democratic and fundamental principles of the Republic as set out in the Constitution of the Turkish Republic.

If the statutes and the documents mentioned in this section and the information contained therein are determined to be contrary to the law or to the conditions of constitution set forth in this Act, the Governor or any of the ministries concerned shall apply to the local court of law having competence to deal with labour matters, requesting the suspension or the liquidation of the trade union or confederation.

The Office of the Public Prosecutor shall also be informed of any criminal offences found in the statute for appropriate action.

Trade union or confederation statutes:

Article 7. The following shall be indicated in the statutes of trade unions or confederations:

1. the name, headquarters and address of the trade union or confederation;
2. the aims of the trade union or confederation and the means and the activities used to achieve these aims;
3. the branch of activity of the trade union;
4. the full names, profession, trade or occupation and place of residence of the founders of the trade union; the names in full, addresses and the branches of activity of the trade unions constituting the confederation;
5. the conditions and procedures for the acquisition of, and the withdrawal of and expulsion from, membership of the trade union or confederation;
6. the composition and the frequency of meeting of the general congress of the trade union or confederation;
7. the powers and functions of the general congress; the voting and decision taking procedure and quorum;
8. the qualifications of the officers of the trade union or the confederation;
9. the electoral procedures for the governing organs of the trade union or the confederation; the number of titular and substitute members, their functions and powers;
10. the establishment of union branches, their functions and powers; provisions for general branch meetings and their decisions; representation of union branches at the general congress of the trade union;
11. the provisions for fixing the membership dues;
12. the internal audit procedures for the trade union or confederation;
13. the provisions for incurring expenditures, delegation and scope of authority for expenditures;
14. the provisions for the amendment of the rules and the regulations;
15. liquidation of the assets in case the trade union or the confederation is dissolved;
16. the full names and places of residence of the members of the provisional management committee authorised to represent and administer the organisation until the governing organs of the trade union or confederation are duly formed.

Procedure after the acquisition of legal corporate status:

Article 8. Within 15 days after the trade union or confederation has acquired legal corporate status, its founders shall publish, in a national daily newspaper in Ankara, İstanbul and İzmir, the statutes, together with the name in full, profession, trade or occupation and place of residence of the persons responsible for its management until the first general congress is held. The founders may insert in the press notice only the name of the organisation and its registered office. In this case, within the same time limit, a copy of the documents referred to in this section shall be posted up on the notice board of the governor of the province and on the notice board of the regional directorate of the Ministry of Labour and Social Security for a month, and printed copies thereof shall be made available for all whom it may concern, at cost price. Such facilities shall not be subject to any charges, taxes or stamp duties.

The regional directorate of the Ministry of Labour and Social Security shall keep a register of trade unions and confederations; the model for the register shall be prescribed by the Ministry of Labour and Social Security. A copy of the

register shall be forwarded to the Ministry of Labour and Social Security.

DIVISION 2. ORGANS

General provisions:

Article 9. The mandatory organs of confederations and trade unions and their branches are: the general congress; the management committee; the board of auditors; and the disciplinary board.

Confederations and trade unions may set up other organs to meet their needs. However, the powers, functions and responsibilities of the mandatory organs shall not be delegated or transferred to these organs.

An equal number of titular and substitute members shall be elected to the mandatory organs, except for the general congress.

The full name, profession, trade or occupation and place of residence of the members of the mandatory organs elected by the general congress, any amendments to the statute and the opening of local branches shall be communicated within 15 days to the governors of the provinces where the trade union and its branch are located and to the regional directorate of the Ministry of Labour and Social Security and published in accordance with section 8. However, the results of the local branch elections shall be published locally.

The members of the management committee and the board of auditors shall be considered executive officers for the purposes of this Act.

The functions of the members elected to the organs other than the general congress shall automatically terminate if they are sentenced under any of the offences specified in section 5.

The representation rights of the members of the employers' associations at the general congress and other mandatory organs shall be determined in their statutes.

Composition of the general congress:

Article 10. The general congress of the branch of a workers' trade union shall be composed of its members.

The general congress of the branch of a workers' trade union shall be composed of delegates, if the total number of union members within the jurisdiction of the branch exceeds 500. The delegates of the general congress shall be elected by the members in accordance with the principles of free, equal, secret voting and public counting of the votes and with the provisions of the trade union's statute. The statute shall fix the number of delegates to the branch general congress at not less than 100 and not more than 250.

The general congress of a workers' trade union shall be composed of its members. It shall be composed of delegates, if the total number of union members exceeds 1,000. The delegates shall be elected by the general congress of the branches. In cases where the trade union has no branches, the delegates shall be elected under the provisions of the second paragraph of this section. The statute of the trade union shall fix the number of delegates to the general congress at not less than 200 and not more than 500.

The general congress of the employers' trade union shall be composed of its members; if a member is a corporate body, of its representative, and, if the total number of members and representatives exceeds 1,000, of their delegates. The delegates shall be elected by the members and representatives under the provisions of the second paragraph of this section. The statute of the trade union shall fix the number of delegates to the general congress at not more than 500.

The general congress of the workers' and employers' confederations shall be composed of a maximum of 500 delegates elected by the affiliated trade unions. The statute of the confederation shall determine the representation rights of the affiliated trade unions at the general congress.

The members of the management committee and the board of auditors of the confederations, trade unions and their branches shall be ex officio delegates to the general congress of their respective organisations.

The credentials of the delegates shall be valid until the date of election of delegates to the next ordinary general congress.

The statutes of trade unions shall not have any restrictive provisions concerning the election of delegates.

Functions of the general congress:

Article 11. The main powers and functions of the general congress shall be, -

1. election of the organs;
2. amendment of the statute;
3. examination of the reports submitted by the management committee and the board of auditors;
4. to absolve the management committee and the board of auditors;
5. to consider and decide upon the draft budget submitted by the management committee;
6. to authorise the management committee to acquire or dispose of any immovable property;
7. to join or withdraw from any confederation;
8. to open, merge or close down branches;
9. to join or merge with another trade union or confederation of the same kind;
10. to decide on the affiliation of the trade union or confederation to an international workers' or employers' organisation or withdrawal from any such organisation;
11. to dissolve the organisation;
12. to decide on any other matter specified in the statute or in legislation or on matters which are not entrusted to the other organs.
13. to regulate with due respect for the law the principles that shall govern the election of the delegates.

The general congress of branches shall have jurisdiction only on items 1, 3, 4 and 12. The general congress of branches shall not have power on financial absolution.

Meetings of the general congress:

Article 12. The first general congress of a trade union or confederation shall meet within six months of the date on which it acquires legal corporate status.

The ordinary general congress shall meet once every four years. The statutes may provide for more frequent meetings.

The activity, financial and audit reports covering the previous period, together with the draft budget proposals covering the next period, shall be forwarded to the delegates 15 days prior to the meeting date of the general congress.

The extraordinary general congress shall meet when deemed necessary by the management committee or the board of auditors or at the written request of one fifth of the members or delegates.

The management committee shall convene the meetings of the general congress.

Quorum of the general congress:

Article 13. The absolute majority of the total number of the members or the delegates shall be required to constitute a quorum at the general congress meetings. A larger quorum may be provided for in the statute of the organisation. If there is no quorum in the first meeting, it shall be postponed for not more than 15 days. The quorum for this meeting shall not be less than one-third of the total number of the members or delegates.

Non-delegates and non-members shall not be included in the quorum of the general congress and shall not have the right to vote.

The participation of members or delegates in the general congress meetings and their right to vote shall not be restricted.

The absolute majority vote of the members or delegates present at a general congress shall be required to take a decision. However, the required quorum shall not be less than one-fourth of the total number of members or delegates.

The minutes of the meetings shall be recorded and signed by the officers of the general congress, as provided in legislation.

Electoral procedures:

Article 14. The government commissioner appointed by the governor as an observer at the general congress shall be present at the place of the meeting on the date and time of the opening session. The session of the general congress may start if the commissioner is not present; in this case the office of the governor shall immediately be informed.

The election of delegates or members to the mandatory organs in the general congress meetings shall be under the supervision of the judiciary, on the basis of free, equal and secret ballot and open returns as provided below.

The list containing the names of the members or delegates and the particulars of the general congress meeting, such as the date, time, place, agenda and the details of the second meeting in case the necessary quorum is not reached, shall be forwarded in duplicate to the judge, who is the chairman of the local electoral board, and to the local governor at least 15 days prior to the date of the general congress. Where there is more than one board in the locality, the provincial electoral committee shall determine the responsible local electoral board. The sessions of the meeting shall be arranged,

with due consideration of the other items on the agenda, so that the general congress shall conclude its ordinary business on a Saturday evening and the elections shall take place on the next day, Sunday, between 9 a.m. and 5 p.m. The meetings and elections of the general congress of branches may be concluded on one of the days referred above.

The judge shall approve and certify the list of members or delegates and the other particulars concerning the general congress meeting detailed in the preceding paragraph. If necessary, the judge shall request the relevant records and documents to examine and determine any incomplete item and order the completion thereof, if necessary, before certifying the list and the particulars of the meeting. The certified list and the particulars of the general congress shall be posted up on the notice board of the trade union or its branch or the confederation for a period of three days at least seven days before the date of the meeting.

Any objection to the list within this period shall be examined by the judge and a final ruling shall be rendered within two days. The judge shall certify the final list and the particulars of the general congress meeting and shall forward it to the trade union, branch or confederation concerned.

The judge shall appoint an electoral polls committee, consisting of a chairman and two members. The chairman shall be selected among public civil servants having a minimum of ten years' public service. The two members shall be selected from the list among the non-candidate members or the delegates. A substitute chairman and two substitute members shall also be selected in the same manner.

The polls committee shall be in charge of the elections and the classification of the votes as provided in the Act and the statute of the trade union or confederation. This function of the committee shall continue without any interruption until the elections and the returns are completed.

The officers of the general congress shall arrange for the ballot papers containing the names of the candidates, either in one paper or in separate papers for each of the organs, and provide enough copies to the local electoral board, which shall stamp the ballot papers with its official seal.

Any person who is not included in the certified list shall not have the right to vote. The votes shall be cast only after the proper identification of the person is established against his or her birth certificate and the membership or delegate card bearing his or her photo, and the space provided in the list next to his or her name is duly signed. The chairman of the polls committee shall provide the member or the delegate with the ballot paper containing the official seal of the local electoral board and the names of the candidates. The vote shall be cast by putting a mark next to the names of the required number of candidates equal to the number of seats on the organ. Any ballot having more candidates marked than the required number of seats or written on some other paper shall be void.

The result of the ballot shall be recorded in a report and signed by the chairman and the members of the polls committee. One copy of the report shall be posted up at the place of the election. The other copy shall be transmitted to the local electoral board together with the ballots and other documents, to be retained for three months.

The procedures followed during the elections and any appeal against the election results lodged within two days after the report is signed shall be examined by the judge on the same day and a final ruling shall be rendered. Immediately after the lapse of the appeal period or the final ruling on any appeal, the judge shall announce the final results of the elections and transmit the results to the trade union, branch or confederation. However, the right to appeal of those concerned in accordance with the section 52 of this Act is reserved.

The trade union, branch or confederation shall pay the fees of the chairman of the local electoral board, and the chairman and members of the polls committee, as provided in the Act respecting the fundamental principles of elections and records.

The same penal provisions for offences against public civil servants shall apply to any offence against the chairman and the members of a polls committee during their term of duty.

In addition to the requirements set forth in section 5, the condition of at least ten years of active employment shall apply to candidates wishing to assume office in the mandatory organs other than the general congress of a workers' trade union or confederation and the provisions of section 5 apply to candidates wishing to assume office in trade union branches. The records of the social security organisations of the days for which insurance premiums paid shall be the instrument used in determining the length of active employment. Up to five years of employment outside the country may be included in calculating the ten years of active employment.

Members aged under 16 years shall not have the right to vote or be a delegate in the general congress.

Composition of the management committee:

Article 15. The management committee of trade unions and their branches shall be composed of at least three and not more than nine members; the management committee of confederations shall be composed of at least five and not more than 29 members.

Functions of the management committee:

Article 16. The main powers and functions of the management committee shall be -

1. to represent the confederation, trade union or branch; to delegate authority to one or more members on matters it deems necessary or to instruct the officials on such matters;
2. the management and administration of the confederation, trade union or branch, under the powers vested in the committee by legislation and the statute; administration and direction of the income and expenditure accounts; to prepare the draft budget for the coming term and submit it to the general congress;
3. to carry out the duties entrusted to it by the general congress.

Meetings of the management committee:

Article 17. The statute of the confederation, trade union or branch shall fix the time and the quorum of the meetings. The quorum shall not be fixed at less than the absolute majority of the total number of members.

The quorum required for decision-taking shall be the absolute majority of the members present in the meeting. In the event of a tie at a meeting, the chairman shall have the casting vote.

Where the number of management committee members of the trade union or the confederation, for whatever reason, is less than half of the total after filling the vacancies with the substitute members, the remaining members of the management committee or the board of auditors shall call the general congress to meet within one month. In case such a call is not made, at the request of one of the members the local court of law having jurisdiction in labour matters shall appoint and instruct three of the members to convene the general congress within one month.

In the event of vacancies on the management committee of the branches, the management committee of the trade union shall make the necessary arrangements for the election of a new management committee in that branch.

The decisions of the management committee shall be recorded in its special register and shall be signed by the members present at the meeting.

The disciplinary board:

Article 18. The disciplinary board shall be composed of at least three and not more than five members.

The disciplinary board shall examine charges preferred against the members of the trade union or confederation for violation of the statute and aims or principles of the organisation. The board shall apply the sanctions provided in its statute, other than expulsion from membership, and shall inform all the interested parties and the general congress.

The provisions of section 17 shall apply with respect to the meetings of the disciplinary board.

Article 19. [The board of auditors.]

PART 2. MEMBERSHIP

DIVISION 1. TRADE UNION MEMBERSHIP

Conditions of membership:

Article 20. Any person who is a worker within the meaning of this Act and is over 16 years of age may join a workers' trade union. Persons under 16 years of age may join trade unions with the written consent of their parent or guardian.

Any employer within the meaning of this Act may join an employers' trade union.

Prohibition of membership:

Article 21. It shall be unlawful for any of the following persons to constitute or to join any workers' or employers' trade union:

1. military personnel (excluding the workers within the meaning of this Act employed in undertakings attached to the Ministry of National Defence, the General Command of the Gendarmerie and the Coast Guard Command);
2. (Repealed);
3. (Repealed);
4. (Repealed);
5. (Repealed).

Acquisition of membership:

Article 22. Acquisition of membership in a trade union shall be optional. No one shall be forced to join or not to join a trade union. No worker or employer shall be a member of more than one trade union in the same branch of activity at the same time. In the case of membership in more than one trade union, any latter membership shall be void. The allied workers in an undertaking may only join the trade union constituted in the branch of activity covering that undertaking.

Membership in a workers' trade union shall be acquired by forwarding five copies of the membership registration form, duly completed and signed by the worker and certified by a notary public, to the trade union, subject to the approval of the competent organ as specified in the rules of the organisation. The application for membership shall be considered approved, if it is not refused by the trade union within 30 days. Any worker whose application is refused without valid reason shall have the right to lodge an appeal with the local court of law having jurisdiction to deal with labour matters within 30 days of receipt of the notification of refusal. The ruling of the court shall be final.

After the acquisition of membership and within 15 days, the trade union shall transmit one copy of the worker's membership registration form to the Ministry of Labour and Social Security, one copy to the relevant regional directorate of the Ministry. One copy of the registration form shall be given to the worker.

Membership in an employers' trade union shall be acquired by forwarding three copies of the membership registration form, duly completed and signed by the employer, to the trade union, subject to the approval of the competent organ as specified in the rules of the organisation. The employer's application for membership shall be considered approved if it is not refused by the trade union within 30 days. Any employer whose application is refused without valid reason shall have the right to lodge an appeal as provided in the third paragraph. The trade union shall transmit one copy of the employer's membership registration form to the Ministry of Labour and Social Security and one copy to the relevant regional directorate of the Ministry within 15 days.

Membership dues:

Article 23. The amount of dues to be paid by the members to trade unions and confederations not suspended from activity shall be fixed by their statutes.

The amount of the monthly dues to be paid to a workers' trade union by a worker shall not exceed the worker's daily basic wage.

The amount of the monthly dues to be paid to an employers' trade union by an employer shall not exceed the total basic wages paid by the employer in one day.

The statutes of trade unions shall not have any provisions requiring a member to pay any fees or dues other than membership dues.

Continuation or suspension of membership:

Article 24. Workers who become members of management committees, boards of auditors or disciplinary boards of trade unions or confederations and leave their workplaces shall retain their membership in the workers' trade union of which they were members when they assumed such functions.

Persons who are entitled to join trade unions and who are members, in the capacity of employers, or employers' or workers' representatives, of the board of management or any similar organ of any establishment or organisation by virtue of the law shall also retain their union membership.

The rights and obligations under this Act of persons called to the colours who are not regular or career members of the armed forces shall remain suspended during their military service.

The fact that a worker who is a member of a workers' union becomes temporarily unemployed or accepts other employment, on condition that such employment is within the branch of activity of the union, shall not affect his membership in the union.

Termination of membership:

Article 25. No worker or employer shall be forced to maintain or resign his membership in a trade union.

Any member may resign from a trade union by giving previous notice. Notice of resignation shall be given in person in the presence of a notary public, who shall verify the identity and authenticate the signature of the member wishing to resign. The notary public shall, within three working days, transmit the copies of the notice to the employer concerned, to the trade union, to the relevant regional directorate of the Ministry of Labour and Social Security and to the Ministry of Labour and Social Security. The resignation shall be effective one month after the date of application to the notary public. In the case of acquisition of membership of another trade union during the period of one month, the new membership shall be considered valid as of the day of the expiry of the said period.

The decision of expulsion of any member from a trade union or confederation shall be taken by the general congress. The decision of expulsion shall be communicated in writing to the expelled member and to the concerned parties referred to in the second paragraph. Within 30 days following the notification of the decision, the member concerned or the regional directorate of the Ministry of Labour and Social Security to which the workplace is attached may appeal against the said decision to the local court of law having competence to deal with labour matters. The court shall take a final decision within two months. Membership shall be retained until the decision of expulsion is final.

Any person who loses his status as employer or employer's representative shall automatically lose membership and any function in an employers trade union or confederation effective on the date of losing such status. Membership of any corporate body in an employers' trade union shall continue where the representative of the body at the union loses his status. Any function of such representatives in the organs of the trade union or confederation shall terminate.

Any worker who leaves employment to receive old-age, retirement or disability benefits or lump-sum payments from his social security organisations or pension funds established by law, or transfers to employment in another branch of activity shall lose his membership. This provision shall not apply to those who continue to work. However, membership of trade union officials who receive old-age, retirement or disability benefits or lump-sum payments during their terms of office in management and audit boards of the trade union branches or trade unions or confederations shall continue as long as their terms of office last and are renewed.

DIVISION II. AFFILIATION TO CONFEDERATIONS

AND INTERNATIONAL BODIES

Affiliation to and withdrawal from confederations:

Article 26. Affiliation to a confederation shall be conditional upon the decision of the general congress of the trade union. Such a decision shall be taken by the absolute majority of the total number of members or delegates of the general congress of the trade union. The statute of the trade union may provide for a higher quorum.

Trade unions shall not be affiliated to more than one confederation. In the case of affiliation to more than one confederation, all shall be void.

The provisions of the first paragraph shall also apply in constituting confederations or to withdrawals from any confederation.

Any decision of affiliation to or withdrawal from a confederation shall be announced as provided in section 8 and shall be communicated to the official authorities.

Merger and amalgamation of trade unions and confederations:

Article 27. In the event of merger of trade unions or confederations, all the rights, obligations, competency and interests of the merging organisations shall be transferred to the trade union or confederation with which they merge.

In the event of amalgamation of trade unions or confederations, all the rights, obligations, competency and interests of the organisations shall be transferred to the product of the amalgamation with a new corporate status.

Members of trade unions and confederations which merge or amalgamate under this section shall become members of the trade union or confederation with which they have merged, or the new trade union or confederation produced by the amalgamation, without any additional formalities.

The provisions of section 26 shall apply with respect to the procedures and formalities connected with merger and amalgamation.

Affiliation to international workers' and employers' organisations:

Article 28. Trade unions and confederations may affiliate freely to workers' and employers' international organisations on condition that such organisations do not carry on any activity which is contrary to the form of the Turkish State; to its fundamental principles of a national, democratic, secular and social State governed by the rule of law, respecting human rights; to the indivisible integrity of the State, its territory and the nation; to the sovereignty being vested only in the Turkish nation which shall not under any condition be delegated to any person, group or class; and to freedom of belief and religion. Trade unions and confederations are likewise free to withdraw from international organisations.

The rules of the international organisation shall be forwarded by the relevant organisation to the Ministry of Labour and Social Security within 15 days following the date of its acquisition of membership. In the case of withdrawal, the same Ministry shall be informed within 15 days following the date of withdrawal.

Where an international organisation to which trade unions or confederations are affiliated acquires a character or carries on activities contrary to the principles set out in the first paragraph, the Ministry of Labour and Social Security shall file a complaint for the withdrawal of membership with the labour court where the trade union's or confederation's headquarters are located.

The workers' and employers' organisations in the Turkish Republic of Northern Cyprus shall be entitled to become members of the confederations constituted in Turkey.

DIVISION 3. PROTECTION

Protection of workers' trade union and confederation officials:

Article 29. In cases where a worker who has left his employment of his own free will after being elected as member or chairman of the management committee of a workers' trade union or confederation wishes to be reinstated in his employment on ceasing to hold office, because he does not go up for re-election or fails to be elected or resigns from office, the employer shall be bound to reinstate him in his employment within one month as from the date on which he requests such reinstatement under the existing working conditions, in his previous post or in a post adapted to his previous one, giving him priority over all other candidates. In this case the worker shall retain all his seniority rights and wage levels. The worker concerned shall be entitled to exercise the above right at any time during the three months following the date on which he ceases to hold office in the trade union or confederation.

A person convicted of any offence committed in the course of his duties as member or chairman of a management committee shall lose his entitlement to exercise the above right.

Such person may maintain his insurance rights in his former place of employment by continuing to pay his contributions or premiums to the relevant social security organisations together with the employer's contributions.

Members and chairmen of the management committees of local branches of trade unions may also exercise the rights referred to above.

Protection of shop stewards:

Article 30. No employer shall terminate the employment contract of shop stewards or trade union representatives working in his establishments unless he indicates clearly and precisely a just cause for termination. The shop steward or his trade union shall have the right to lodge an appeal with the competent labour court within one month of the date the notice of termination is communicated to him. The court shall apply fast-hearing procedures and conclude the case within two months. The decision of the court shall be final. If the court decides that the trade union representative or shop steward is to be reinstated in his employment, the termination shall be annulled and the employer shall pay his full wages and all other benefits to which he is entitled with effect from the date on which his employment was terminated, even if he performed no work during his period of office as shop steward. This provision shall likewise apply in the case of a fresh appointment as shop steward. The worker shall report to work within six working days following the decision of reinstatement. If he fails to report within six working days, he shall not be entitled to the compensation fixed by the court.

Although the decision of the court is final, the worker shall retain all the rights conferred on him by law and the collective labour agreement.

Guarantee of membership status:

Article 31. The recruitment of workers shall not be made subject to any condition as to their membership of a trade union, or obliging them to join or refrain from joining a given trade union or to remain a member of or resign from a given trade union.

No conditions contrary to the above shall be contained in any contract of employment or collective labour agreement.

It shall be unlawful for an employer to make any discrimination between workers who are members of a trade union and those who are not, or those who are members of another trade union, with respect to recruitment, arrangement and distribution of work, promotion, wages, bonuses, premiums, social and fringe benefits, discipline rules or provisions respecting other questions, including termination of employment.

The provisions of the collective labour agreement with respect to wages, bonuses, premiums and social and fringe benefits shall be excepted.

No worker shall be dismissed on account of his participation in the activities of trade unions or confederations outside his hours of work, or during hours of work with the employer's permission, and no worker shall be subject to discrimination for any reason.

If an employer fails to observe the provisions of the third and fifth paragraphs, he shall be liable to pay compensation which shall be not less than the worker's annual wage. The worker shall retain all the rights conferred on him by the labour legislation and other enactments. However, where compensation has been granted by virtue of this paragraph, the compensation provided in the labour legislation for lack of good faith shall not be applicable.

PART 3. ACTIVITIES

DIVISION 1. ACTIVITIES OF TRADE UNIONS AND CONFEDERATIONS

Union activities respecting labour relations:

Article 32. The activities of trade unions shall be,

1. to conclude collective labour agreements;
2. in the case of collective labour disputes, to bring the matter before the authorities concerned, conciliation and arbitration boards, labour courts and other judicial authorities;
3. to have the capacity to act as plaintiff or defendant in matters arising out of legislation, custom and usage, collective labour agreements, or at the written request of the person concerned, in legal actions concerning rights under transportation, copyright, partnership and employment contracts and respecting insurance rights, acting as representative of their own members and the latter's heirs;
4. to decide to carry out strike or lock-out action and to put such decision into effect.

Social activities of trade unions and confederations:

Article 33. Trade unions and confederations may carry on the following activities in addition to any other powers they may enjoy under ordinary legislation as bodies with legal corporate status:

1. in matters concerning the juridical relationship on which their employment is based, to provide legal aid for their members or the latter's heirs with respect to social insurance, pensions and the exercise of similar rights;

2. to send delegates to meetings held by virtue of the law and provisions of international agreements;
3. to organise classes and lectures in order to improve the occupational skill and knowledge of workers and employers and to assist in the promotion of the national economy and investments and the increase of real productivity, to found health and sports institutions, libraries, printing shops, etc., and to provide workers with the means of devoting their leisure to agreeable and useful occupations;
4. to assist in setting up mutual aid funds, without providing any grants, for educational purposes and for rendering assistance in the event of marriage, birth, sickness, old age, death and unemployment and to provide credit to such funds not exceeding 5 per cent. of their cash on hand;
5. to assist in the establishment of co-operative societies for their members and, without providing any grants, to provide credit to such co-operatives not exceeding 10 per cent of their cash on hand;
6. to carry on activities to increase the occupational skills, knowledge and experience of their members, and to set up technical and vocational education facilities;
7. to invest in industrial and economic ventures in amounts not exceeding 40 per cent of their cash on hand.

Trade unions and confederations shall ensure equality between their members respecting their activities and services.

Appointment of and conditions applying to shop stewards:

Article 34. A trade union, whose competence to conclude the collective labour agreement is certified, shall appoint shop stewards from among its members at the establishment in the following manner, and shall provide the names of such union representatives to the employer within 15 days: one shop steward, if the number of workers in the establishment does not exceed 50; not more than two, if the number of workers is between 51 and 100; not more than three, if the number of workers is between 101 and 500; not more than four, if the number of workers is between 501 and 1,000; not more than six, if the number of workers is between 1,001 and 2,000; and, not more than eight, if the number of workers exceeds 2,000. One of the above representatives or shop stewards may be designated as chief representative or shop steward.

The conditions set out in section 5 respecting founding members shall also apply to shop stewards.

Functions of shop stewards:

Article 35. The functions and the duties of shop and chief stewards, on condition that they are limited only to the establishment, shall be: to take notice of workers' requests and the handling of grievances; to promote and maintain co-operation, harmony at work and peaceful relations between workers and employers; to protect the rights and interests of the workers; to assist and supervise the application of working conditions provided for in labour legislation and collective labour agreements. The functions of shop stewards shall continue as long as the competence of the trade union is valid. Shop stewards shall carry out their functions and duties on condition that their own work and the work discipline at the establishment is not hindered.

Exercise of rights conferred by trade unions and confederations:

Article 36. The rights and benefits conferred on their members by workers' or employers' trade unions and confederations may be extended to other persons who are not members of the organisation, if the organisation consents thereto in writing. No exception shall be permitted to the provisions of the Act respecting collective labour agreements,

strikes and lock-outs.

DIVISION 2. PROHIBITED ACTIVITIES

Basic prohibitions:

Article 37. Trade unions and confederations shall not carry on any activity prohibited under article 14 of the Constitution of the Republic of Turkey, neither shall their administration and operation be contrary to the democratic and fundamental principles of the Republic as set out in the Constitution.

Trade unions and confederations shall not engage in any activity which is not in line with their objectives. They shall not use the names, signs or symbols of political parties.

The functions of the executive officers of trade unions and confederations who become candidates in local or general elections shall be suspended as long as they remain candidates. Their functions shall terminate if they are elected.

Prohibitions in relations between workers and employers:

Article 38. Workers and their trade unions and confederations shall not be members of employers' organisations founded under this Act or any other enactment; employers and their organisations shall not be members of workers' trade unions and confederations. The above-mentioned organisations shall not intervene, either directly or by means of representatives or members or through any other intermediate person, in the constitution, administration or activity of one another.

It is unlawful to place any workers' trade union or confederation under the control of an employer or employers' organisation established by virtue of this Act or any other enactment, or to encourage or cause others to constitute a workers' trade union or confederation under their influence.

Having the status of worker or employer within the meaning of this Act shall not prevent any person from being at the same time a member of an organisation set up under the Act respecting handicrafts and small-scale industries.

Other prohibitions:

Article 39. Trade unions and confederations shall not carry on any commercial activity.

Trade unions and confederations shall not distribute any of their revenues among their members. This provision shall not apply to any strike and lock-out benefits paid to their members as provided in their statutes.

PART 4. REVENUES AND EXPENDITURES OF TRADE UNIONS AND CONFEDERATIONS

DIVISION 1. REVENUES

Revenues of trade unions and confederations:

Article 40. The revenues of trade unions and confederations shall be composed of -

1. members' paid-up contributions and solidarity contributions as provided in the Act respecting collective labour agreements, strike and lock-outs;
2. income from activities authorised by this Act and other activities such as entertainment and concerts;
3. donations;
4. the yield from their assets.

It shall be unlawful for any of the following bodies to give financial aid or donations of any kind to trade unions or confederations: the public bodies responsible for the administration of the general budget and annexed budgets, local administrations and fixed or working capital establishments attached thereto, business concerns whose capital is entirely provided by the State, banks whose capital is partly furnished by the State, banks and other bodies having the nature of public institutions, institutions founded by public bodies, the institutions and banks referred to in this paragraph at least one-half of whose paid-up capital is paid by such public bodies, and establishments founded jointly with the said bodies in the same proportion, and political parties. It shall be unlawful for trade unions and confederations to accept such aid and donations.

Trade unions and confederations shall not, without the authorisation of the Council of Ministers, accept aid of foreign origin other than from the international bodies of which they are members and the international organisations of which the Turkish Republic is a member.

Workers' trade unions and confederations shall not accept any aid or donations from employers and employers' organisations constituted by virtue of this Act and other enactments, from organisations of small businessmen and artisans, associations, public occupational or professional organisations and foundations.

Employers' trade unions and confederations shall likewise not accept any aid or donations from workers, their trade unions and confederations, organisations of small businessmen and artisans, associations, public occupational or professional organisations and foundations.

Acquisition of property:

Article 41. Trade unions and confederations shall be authorised to acquire movable and immovable property necessary for carrying out their aims and exercising their functions.

Article 42. [Declaration of personal assets of the chairman and executive officers of confederations, trade unions and their branches.]

Deposit of revenues in banks:

Article 43. Trade unions and confederations shall deposit all their cash revenues in banks.

The statute of trade unions and confederations shall fix the amount of petty cash the organisations may retain to meet the necessary expenses.

DIVISION 2. EXPENDITURES

Article 44. [Expenditures of trade unions and confederations.]

Article 45. [Officials' salaries.]

Transfer of assets in the event of liquidation:

Article 46. The assets of a trade union going into liquidation shall be transferred to the confederation of which it is a member, unless, in accordance with the statute or the dissolution decision of the general congress, they are transferred to another organisation of the same nature constituted under this Act.

In the following cases, liquidated cash assets shall be deposited in one of the national banks determined by the Turkish Employment Agency and the ownership of unmovable assets shall be transferred to the same Agency. These assets shall not be used for any activity other than the services for vocational guidance, vocational training and rehabilitation of workers:

- a. If the transfer is not accepted by the confederation;
- b. If the trade union dissolved or going into liquidation is not a member of any confederation;
- c. If the organisation dissolved or going into liquidation is a confederation and there is no provision of the statute or decision of general congress as mentioned in the first paragraph;
- d. If the liquidation of the trade union or confederation is ordered by a court decision.

The use of movable and unmovable assets and the income derived thereof shall be as decided by a board composed of also the representatives of the most representative confederations of workers' and employers' trade unions.

It shall be unlawful to transfer such assets to any person or body having corporate status, organisation or establishment other than the organisations referred to in this section, or to share them out among the members of the organisation which has gone into liquidation.

PART 5. AUDIT AND PENAL PROVISIONS

DIVISION 1. AUDIT

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DIVISION 2. PENAL PROVISIONS

Annulment of elections:

Article 52. In cases where the judge declares the elections null and void due to violation of the provisions of section 14, or for procedural deficiencies having an adverse effect on the outcome of the elections or unlawful practices, he shall postpone the elections for not less than two and not more than seven days, and shall inform the trade union concerned,

its branch or confederation of the date of fresh elections. On the scheduled date, only elections shall be held under section 14 and other provisions of the law.

Removal from office of the management committee:

Article 53. At the request of any member of the organisation or the Ministry of Labour and Social Security, the court of law having competence in labour matters shall remove from office the management committee of a confederation, trade union or its branch which has contravened the provisions of section 12. In all such cases the competent court shall appoint one or three trustees in the manner prescribed in the Civil Code, requesting them to summon the general congress of the organisation as soon as possible in the manner prescribed by law and the statute of the organisation, and to look after the general running of the organisation until a new management committee has been elected.

Statutes and documents contrary to law:

Article 54. If the constitution of a trade union or a confederation is contrary to the law or is incomplete during the founding process, at the request of the Ministry of Labour and Social Security, the Ministry of the Interior or the governor, the local competent court of law after hearing the founding members if deemed necessary, may within three working days, order the said organisation to discontinue its activity as provided in the seventh paragraph of section 6. The court shall grant the organisation a time-limit not exceeding 60 days to amend its rules or to complete the procedure in order to bring them into conformity with the law.

The court shall lift the decision to bar the activities after the organisation has amended its rules and completed the documents, bringing them into conformity with the law.

The court shall order the trade union or confederation to go into liquidation if the organisation's rules and documents have not been brought into conformity with the law within the time-limit imposed. This decision of the court shall be final.

Amending rules contrary to law:

Article 55. The provisions of sections 6 and 54 shall also apply in amending the rules, any incomplete procedure or any other matter contrary to the law.

Suspension of activities for other reasons:

Article 56. In cases where aid has been accepted in violation of the third paragraph of section 40, at the request of one of the members or the governor or the Minister of Labour and Social Security, the local court of law having competence to deal with labour matters shall prohibit the trade union or the confederation from carrying on its activity for a period of three to six months. The aid received shall be transferred to the State Treasury.

In cases where the governor or the Ministry of Labour and Social Security determines that a person sentenced under any of the provisions of section 5 has assumed a function in the organs of a trade union, union branch or confederation, the said authorities shall serve notice to the trade union or confederation concerned to dismiss such person. Should the trade union or confederation fail to dismiss such person within five working days from the date of the notice, the trade union or confederation shall, pursuant to the procedure provided in the first paragraph, be ordered to suspend its activity for a period of six months to one year and its officials shall be removed from office. The resumption of activities shall be conditional on assignment of functions in conformity with the law or on holding new elections.

Appointment of trustees in the event of suspension:

Article 57. The administration of the assets of a trade union or confederation which has been barred from activity, the safeguard of its interests and the organisation of the general congress for the resumption of its activities on the expiration of the penalty period shall be ensured by one or three trustees to be appointed in accordance with the provisions of the Civil Code.

Liquidation:

Article 58. Every trade union or confederation which has aims or objectives or carries on activities against the indivisible integrity of the State, its territory and the nation; endangers the existence of the Turkish State and the Republic; attempts to remove the fundamental rights and liberties and to establish the rule of a person or group or the domination of one social class over other social classes; or carries on discrimination based on language, race, religion or sect, shall be ordered to go into liquidation by the local court of law having competence to deal with labour matters at the request of the public prosecutor.

At any time during the proceedings in cases referred to above the competent court may, upon request or at its own initiative, order the trade union or the confederation to discontinue its activities and remove the officials from office.

Penal provisions:

Article 59.

1. Any person who fails to fulfil the requirements with respect to notifications or announcements as prescribed in section 8, the fourth paragraph of section 9, the fourth paragraph of section 22, the fourth paragraph of section 26 shall be liable to a major fine of not less than one fifth of monthly gross minimum wage fixed for the industrial workers aged over 16 years. Any employer who fails to respect the provision of section 62 relating notices shall be liable, for each worker not notified, to a major fine of one fifth of monthly gross minimum wage fixed for the industrial workers aged over 16 years.
2. Any person who registers as members those persons who are not covered by the first and second paragraphs of section 2, or persons without the prior consent referred to in section 20, and any employer found guilty of violating the provisions of the first and fourth paragraphs of section 29 shall be liable to a major fine of not less than monthly gross minimum wage fixed for the industrial workers aged over 16 years.
3. Any employer found guilty of violating the provisions of the first paragraph of section 31, and the responsible officers of any trade union or confederation violating the provisions of the first and fourth paragraphs of section 44 and the first paragraph of section 51 shall be liable to a major fine of not less than half of the monthly gross minimum wage fixed for the industrial workers aged over 16 years.
4. Persons responsible under the statute of a trade union or confederation which violates the provisions of sections 39, 49 and 50 shall be liable to a major fine of not less than the monthly gross minimum wage fixed for the industrial workers aged over 16 years.
5. Workers and employers or employers' representatives or the chairman and the members of the competent organ of a workers' or employers' organisation found guilty of violating the provisions of the first and second paragraphs of section 38 shall be liable to a term of imprisonment of not less than one month and not more than six months.
6. Responsible officers of a trade union or a confederation found guilty of violating the provisions of the second paragraph of section 37 shall be liable to a term of imprisonment of not less than six months and not more than one year.

7. Responsible officials of establishments and organisations who fail to obey the prohibition laid down in the second paragraph of section 40 shall be liable to a term of imprisonment of not less than one year and not more than three years, without prejudice to any higher penalty which may be inflicted by law. They shall also be obliged to pay the financial aid or donation themselves. The responsible officers of trade unions or confederations accepting such financial aid or donation shall be liable to a term of imprisonment of not less than six months and not more than one year.

Responsible officers of trade unions and confederations who are found guilty of violating the provisions of the third paragraph of section 40 shall be liable to a term of imprisonment of not less than six months and not more than two years and a major fine of not less than double the financial assistance or the donation.

Workers or employers or the responsible officers of trade unions and confederations, associations, organisations and foundations who are found guilty of violating the provisions of the fourth and fifth paragraphs of section 40 shall be liable to a major fine of five times the amount of financial assistance or donation received. In cases where such assistance or donation is provided by a workers' trade union or confederation to an employer, employers' trade union or confederation as a financial support; or by an employers' trade union or confederation to a workers' trade union or confederation as a financial support, a term of imprisonment of not less than three months and not more than one year shall also be imposed in addition to the fine.

8. Persons who fail to observe and abide by the measures adopted by the judge or the polls committee to carry out the elections referred to in this Act in an orderly and sound manner shall be liable to a term of imprisonment of not less than three and not more than six months, without prejudice to any higher penalty which may be inflicted by law. Persons who are found guilty of fraud in the voting and classification of votes in the elections provided for in section 14 shall be liable to a term of imprisonment of not less than one and not more than three years.

PART 6. MISCELLANEOUS, TRANSITIONAL AND CONCLUDING PROVISIONS

DIVISION 1. MISCELLANEOUS PROVISIONS

Branches of activity:

Article 60. The branches of activity in which workers' and employers' trade unions may be constituted are:

1. agriculture, forestry, hunting and fishing;
2. mining;
3. petroleum, chemicals and rubber;
4. food;
5. sugar;
6. textile;
7. leather;
8. wood;

9. paper;
10. printing and publishing;
11. banking and insurance;
12. cement, clay and glass;
13. metal;
14. shipbuilding;
15. construction;
16. energy;
17. commerce, office, education and fine arts;
18. highway transport;
19. railway transport;
20. sea transport;
21. air transport;
22. warehousing and storage;
23. communication;
24. health;
25. accommodation and entertainment;
26. national defence;
27. journalism;
28. general services.

The allied and related work of a major activity in an undertaking shall be covered by the major branch of activity.

The classification of all the work and operations under a branch of activity shall be defined in a regulation, taking account of international standards and the views of workers' and employers' confederations.

The Ministry of Labour and Social Security shall publish statistics in January and July of each year, showing the number of workers employed in each branch of activity, the number of organised and unorganised workers and the breakdown of organised workers according to their trade unions.

Deduction of contributions:

Article 61. At the written request of the workers' trade union which is a party to the collective labour agreement in force in the undertaking or, of the workers' trade union which has obtained the certificate of competence to bargain, if the

collective labour agreement is terminated or not concluded, and upon receipt of the list of union member workers whose contributions are to be deducted, the employer shall be bound to deduct the members' contribution fixed by the statute of the union and the solidarity contribution to be paid to the trade union under the Act respecting collective labour agreements, strikes and lock-outs from their wages, and to submit to the trade union a list of the workers whose contributions have been so deducted, indicating the type of the contribution and to transfer the amount of deductions to the trade union. A collective labour agreement shall not provide for the deduction of any other contribution payable to the trade union.

An employer who fails to deduct the contributions fixed by the statute of a trade union pursuant to the above provisions, or fails to transfer the deductions within one month to the concerned union shall, under general provisions, be responsible towards the trade union for the amount of the contributions which he has failed to deduct or transfer. Furthermore, the employer shall be obliged to pay the highest rate of interest charged by the banks for working capital loans for the period he is in arrears with the payment of the deductions to the trade union.

Obligation to inform of recruitment, termination of contract and dismissal of workers:

Article 62. The employer shall notify the Ministry of Labour and Social Security and its relevant regional directorate until 15th day of the following month of any recruitment of workers or termination of the contract of employment of workers for any reason.

Application of other enactments:

Article 63. All trade unions and confederations of workers and employers shall be subject to the provisions of the Civil Code and the Act respecting associations' which are not contrary to this Act on matters not provided for in this Act.

All conflicts and disputes concerning the application of this Act shall be resolved in courts of law having jurisdiction in labour matters.

Article 64. [Exemptions.]

Article 65. [Regulations.]

Article 66. Repeals: Act No. 274 of 15 July 1963 respecting trade unions and its amendments are repealed at the date this Act goes into force.

Supplementary section 1: Trade unions may also establish regional branches on condition that this is specified in their statutes. The general congress of regional branches shall be composed of delegates elected by the general congress of the branches attached to that regional branch; the general congress of trade unions shall be composed of delegates elected by the general congress of the regional branches and delegates elected by the general congress of any branches which are not attached to the regional branches. The provisions of this Act concerning branches shall also apply to regional branches.

DIVISION 2. TRANSITIONAL PROVISIONS

Transitional Sections 1-7: [Repealed]

DIVISION 3. CONCLUDING PROVISIONS

Article 67. Date of commencement: This Act shall come into operation on the date of its publication.

Article 68. Execution: The Council of Ministers shall be responsible for the execution of this Act.