SECOND MEETING OF THE COMMISSION ON LEGAL AFFAIRS

"RULES OF PROCEDURES OF TURKPA NATIONAL PARLIAMENTS AND THE POSITION OF THE MEMBERS OF THE PARLIAMENT"

"COOPERATION ON LEGISLATIVE ISSUES BETWEEN TURKPA MEMBER COUNTRIES"

REPORT

1. TURKPA Commission on Legal Affairs

a. The Previous Meeting

The first meeting of TURKPA Commission on Legal Affairs was held on 20th December 2011 in Ankara. The topic of the meeting was specified as " THE FUNCTIONS AND DUTIES OF THE PARLIAMENTS OF TURKPA WITHIN THE CONSTITUTIONAL SYSTEM AND THE ROLE OF PARLIAMENTARIANS ". One of the decisions adopted at the end of the meeting was the interpretation of the constitutions of TURKPA countries into the languages of its members. Interpretation of the constitutions have been completed and the texts have been published in the format of a book thereof.

2. The Status of the Procedural Rules in regard to the Legislation and the Assembly

Although the Turkish Constitution has not understated a hierarchy between the powers, by primarily regulating the legislative organ it indirectly indicates that the priority is granted to the Assembly. Likewise, the President of the Assembly occupying the first place is an indication of this fact. Another indication of this is the standing proxy of the President not by the representatives of the jurisdiction or execution but by the President of the Assembly in lieu of his absence.

Another concept that determines the status of the assembly in regard to the separation of powers is the independency of the parliament. In respect to the independency of the assembly the procedural rules holds an important place after the constitutional regulations. Within the Turkish Republic no person or organ is entitled to use a State authority which is actually not stated in the constitution. Authority, without any condition and reservation, belongs to the nation, and is exercised by authorized organs with respect to the procedures indicated by the said Constitution. The power of jurisdiction is exercised by the Grand National Assembly of Turkey on behalf of the Turkish Nation, and this authority may not be delegated. In regard to Article 95 of the Constitution. the Grand National Assembly of Turkey executes its activities in lieu of the provisions of its procedural rules prepared by the Assembly itself.

The parliament independence concept, which indicates the Assembly's authority to identify its own working method, budget and organization with no exterior interference, is divided into three in the form of methodological, administrative and financial independence: According to the methodological independence principle the Assembly identifies its own working method through its procedural rules and encounters no exterior interference from any such organ in that respect. The audit conducted by the Constitutional Court is not an interference but a Constitutional compliance audit. Administrative independence indicates the authority of the legislative organ to establish the administrative organizations necessary for providing assistance for the aforesaid activities to be executed and to adopt rules for the

implementation of such activities. Finaly, financial independence refers to the authority of the legislative organ to plan and spend its own budget.

The procedural rules which consist of all the rules that regulate the structure and functions of the Grand National Assembly of Turkey, regulate the structure and functioning of the Assembly Presidency, Bureau of Assembly, Advisory Board, Commissions and General Assembly, and include provisions in regard to the law-making process, audit methods and other Assembly activities. The Procedural Rules of the Grand National Assembly of Turkey , which is a parliamentary decision in respect of its legal status, gets its basis from the Constitution. Assemblies preparing their own procedural rules is a requirement of their methodological independence in respect of the separation of powers.

The Procedural Rules which regulate the activities of the Grand National Assembly of Turkey was ratified on 05.03.1973. The said Procedural Rules consist of 17 clauses and 186 articles and The Grand National Assembly of Turkey executes its activities in accordance with the provision of these Procedural Rules. The Procedural Rules have been amended several times since its ratification so as to compensate for the needs of the Assembly's activities.

3. The Legal Status of the Parliamentarians in the Turkish Republic

The legal status of the parliamentarians in the Turkish Republic has been fundamentally identified in the Constitution and Procedural Rules of the Grand National Assembly of Turkey. The fundamental issues such as the number of parliamentarians within one specific legislative period , election adequecy and immunity have been identified by the Constitution while duties and authorities of parliamentarians have been identified in detail by the procedural rules.

a. Parliamentarian According to the Constitution of the Turkish Republic

According to the Constitution the authority of legislation belongs to the Grand National Assembly of Turkey and may not be delegated (Article 7). The Grand National

Assembly of Turkey consists of five hundred and fifty parliamentarians elected through general elections (Article 75).

The said Parliamentarians have the authority to introduce a bill before the parliament (Article 88). The Bureau of Assembly of the Grand National Assembly of Turkey consists of the Assembly President, Vice Presidents, Secretary Members and Administrators elected among the parliamentarians (Article 94).

b. The Authorities of the Parliamentarians in regard to the Procedural Rules of the Grand National Assembly of Turkey

Some of the authorities indicated in the Constitution and the Procedural Law may be used by one parliamentarian while others may be used by a certain number or ratio thereof.. As an example, while one parliamentarian's signature is sufficient to introduce a bill or table a motion of censure, on the contrary at least 20 parliamentarians signatures are required to conduct a parliamentary research or submit a motion for the general meeting.

In regard to the Article of the Constitution entitled Representation of the Nation the members of the Grand National Assembly of Turkey do not represent the region or citizens who elect them but the whole Nation. Parliamentarians are not delegated to the directives and requirements of the ones who elect them but have the duty and authority to act in favor of the whole nation at their own free will.

The Duties and Authorities of the Parliamentarians in regard to the Procedural Rules

· Proposing a bill.

· Participating and taking the floor in commission meetings, examining the documents of the commission.

· Representing the party groups in the commission to which they are a standing or provisional member of, participating in meetings, presenting opinions, making a motion for amendment, casting a vote.

· Requesting one's own bill to be directly included on the agenda of the General Assembly, taking the floor for up to five minutes during the General Assembly in regard to such a bill.

·Taking the floor during the General Assembly to request for the bill to be directly included on the agenda.

·Enabling for an already discussed agenda item at the commission to be discussed again with the written and reasoned request of the absolute majority of the commission members.

·Requesting to take the register.

·Discussing the previous minutes.

·Speaking about topics outside the agenda.

·Taking the floor at the General Assembly, requesting the speech and written speech to be read.

·Asking questions to the goverment or the commission during discussions.

·Requesting to speak about procedures.

·Right of Explanation

·Requesting for closed session and making a statement about the closed session motion.

·Objecting to the transfer of bills to the commissions organized by the Presidency.

·Revoking and adopting the bill submitted to the Presidency.

·Taking the floor, asking questions about and casting voting in regard to the whole or some articles of the draft laws and bills discussed at the General Assembly.

·Taking a motion in order for the rejection of an article of a draft law or bill, restitution of the whole or a specific article of the draft law or bill to the commission, amendment of an article, inclusion of an additional or provisional article to the text, and making a statement about such a motion.

·Making a "final speech" before the absolute approval of the draft law or bill.

·Submitting a parliamentary question to be responded to by written or oral means.

·Parliamentarian asking the question requesting the right for a brief additional explanation from where he is seated during the oral response to his question.

·Giving a motion for "General discussion".

·Giving a motion for Parliamentary inquiry.

·Tabling a motion of censure.

·Giving a motion for Parliamentary investigation.

·Giving a motion in regard to the accusation of the President for the crime of treason..

· Requesting secret voting.
· Applying to the Presidency for the necessary minutes correction.
· Defending one's self or another parliamentarian against disciplinary actions imposed.
· Giving a bill for a meeting during the said meeting or adjournment...

4. Co-operation among the Parliaments of TURKPA Member Countries in regard to Legislative Issues

Within the founding charter of TURKPA undertaking activities for the approximation of national legislations and exchange of information on legal affairs have been stated as the targets of the Assembly. Increasing and diversifying co-operation between TURKPA member countries' parliaments in regard to legislative topics shall increase the quality of the legislative activities. Common solutions may be developed in order to offset common problems.

To that end;

- to increase the reciprocal visits which are already being conducted by parliamentary officials,
- to organize legislative internship programs between the officials of the member countries' parliaments,
- to form an effective information and document exchange network,
- to continue the seminars, training programs etc. with the participation of bureaucrats and experts by carrying out bilateral and multilateral meetings between parliaments' specialized boards, to continue the seminars, training programs etc. with the participation of bureaucrats and experts by carrying out bilateral and multilateral meetings between parliaments' specialized boards,
- to organize international internship programs at parliaments for university students,
- to give legislation training to member countries' NGOs,
- to organize symposiums and conferences with the participation of scientific people and experts in order to discuss the common legislative problems; to organize an annual workshop with the participation of member countries' parliament experts in order to discuss current legislative problems,

- to promote legislation experts and parliament officials to learn the languages of member countries and to organize language courses,
- it is recommended to increase and diversify reciprocal visits between member countries' parliament officials.