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**Council for Trade-Related Aspects of  
Intellectual Property Rights**

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**MAIN DEDICATED INTELLECTUAL PROPERTY  
LAWS AND REGULATIONS NOTIFIED UNDER  
ARTICLE 63.2 OF THE AGREEMENT**

**TURKEY**

The present document reproduces the text<sup>1</sup> of the Draft Law related to Breeder Protection Rights for New Plant Varieties, as notified by Turkey under Article 63.2 of the Agreement (see document IP/N/1/TUR/2).

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**Conseil des aspects des droits de propriété  
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET RÉGLEMENTATIONS CONSACRÉES À LA  
PROPRIÉTÉ INTELLECTUELLE NOTIFIÉES AU TITRE  
DE L'ARTICLE 63:2 DE L'ACCORD**

**TURQUIE**

Le présent document contient le texte<sup>1</sup> du Projet de loi relatif au régime de protection des obtenteurs de nouvelles variétés végétales, notifié par la Turquie au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/TUR/2).

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**Consejo de los Aspectos de los Derechos de Propiedad  
Intellectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA  
PROPIEDAD INTELECTUAL NOTIFICADOS EN VIRTUD  
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

**TURQUÍA**

En el presente documento se reproduce el texto<sup>1</sup> del proyecto de Ley para la protección de los derechos del obtentor de una nueva obtención vegetal, que Turquía notificó de conformidad con lo dispuesto en el párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/TUR/2).

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<sup>1</sup> In English only. The texts in the original language are available for consultation by interested Delegations at the WTO Secretariat./En anglais seulement. Les délégations intéressées peuvent consulter les textes dans leur langue d'origine, au Secrétariat de l'OMC./En inglés solamente. Las delegaciones interesadas podrán consultar en la Secretaría de la OMC los textos en su idioma original.

# DRAFT LEGISLATION

**RELATING TO BREEDER PROTECTION**

**RIGHTS FOR NEW PLANT**

**VARIETIES**

DRAFT LEGISLATION RELATING TO  
BREEDER PROTECTION RIGHTS FOR NEW PLANT VARIETIES

## **FIRST PART**

### **Introduction Terms**

## **FIRST SECTION**

### **Purpose, Scope, Definitions**

#### **Purpose and Scope**

Article 1- The Purpose of this law, is to incite the development of plant varieties, and to provide the protection of the new varieties and the rights of the breeders and to make the necessary structural arrangement.

This law covers all plants.

#### **Definitions**

Article 2- In this law:

Ministry: Ministry of Agriculture and Rural Affairs,

Court : Courts specialized in Ideal and Industrial Rights,

Breeder : A person who breeds or who finds or develops a new plant variety,

Owner of the Right : Breeder or his lawful successors,

Law : Law Related to the Rights of Breeders for New Plant Varieties

Plant : All plants

Variety : The plant group which is identified by the showing up of some properties exposed by one or more than one genotypes, without looking at whether if the necessary conditions for granting the rights of breeders are met or not; and differentiated by at least one typical property from other genotypes in the same variety; and the plant group that takes place in the smallest taxonomical part and which is accepted as a unit from the point of view of reproduction without being changed.

Seed : The vegetative and generating plant parts used for the reproduction of plants

Reproduction and Reproducing : The obtaining of the next generation plants which carry the same properties with the principal or parent plants,

Production and Producing : The growing of plants for obtaining of crops or reproducing material,

Reproducing Material : A complete plant or its parts used for the reproducing of plants,

Contract : The 1991 version text of International Contract for the Prevention of New Plant Varieties,

Register : The recording of the Varieties covered in this law to the rights of breeders record,

Institution : The Institution of Variety Register, Protection and seed Certification of Turkey,

Bulletin : Plant Variety Bulletin, in which application, register and other announcements are made in the rights of breeders subject,

Record : The registers in which the points related to the application of breeder rights and the register of the right,

Board of Directors: The Board of Directors of the Institution of Variety Register, Protection and Seed Certification of Turkey,

Presidency : The Presidency of the Institution of Variety Register, Protection and Seed Certification of Turkey,

Catalogue : List in which the varieties that the commerce of them are being carried out within the framework of the related regulations.

## **SECOND SECTION**

### **Conditions of Protection and the persons who will make use of protection**

#### **General Conditions**

Article 3- The new, distinct, uniform and stable plant varieties, make use of the protection under this law, provided that the other conditions needed by law are complied with and the fee mentioned in Article 34 of this law has been paid.

#### **The persons who will make use of protection**

Article 4 – The citizens of Turkish Republic or those who have residence or business in the Turkish Republic or those real and juristical persons or those people who have the right to apply under the terms of the contract make use of the protection under this law.

Although they remain outside the coverage of the first article of this law, the citizens of Turkish Republic and those real and juristical persons who are the citizens of states that provide lawful or actual protection do also make use of the protection due to principle of reciprocity.

#### **Novelty and cases that do not affect the novelty**

Article 5- The reproduction or harvested material of a variety is considered new, for the right of Breeder, when this material is not sold by the owner of the right or his consent or not offered to public for one year domestically, and four years abroad, and for six years for trees and grapevines: backwards from date of application, then this variety is considered new.

Below mentioned situations do not affect the variety to be considered new:

- a) Sales and declarations that will be considered as the misuse of the right, against the owner of the right,
- b) Sales and declarations that remain within the scope of the transfer of the right of breeder contract,
- c) The activities that remain within the reproduction contract of the material in the name of the owner of the right. provided that the right of ownership for the reproduction material to be at the owner of the right and this material not to be used in the production of another kind,
- d) The activities related to field trials or laboratory trials or with small scale crops processing trials for the determination of the properties of the variety within the framework of a contract,
- e) Activities that arise from the responsibilities like the legal procedures that will be made for the purpose of biological security or not recording of the varieties that will be traded to the official catalogue,
- f) The sales or offering of the left material that appear during the obtaining of the variety or the harvested material having the quality of by-product or the material that appear as a result of the activities of this material in the framework of subparagraphs (c), (d) and (e),

### **Diversity**

Article 6- A variety that can clearly be distinguished from the varieties known to everybody at the date of the application or at the date of priority right, is considered to be distinct.

In any one country, it is accepted that the variety is known to everyone from the date of application, provided that a right has been granted to a variety as a breeder. or a right has been granted as a result of the application for the purpose of the variety to enter the catalogue of varieties that are being traded.

To be known by everyone, may also be determined by looking at these: by the start of the use of variety, its taking place in the varieties catalogue of a well-known professional organization in the sector. or like its being included in the reference collection.

### **Uniformity**

Article 7- If a variety shows a sample property from the point of the related properties, apart from possible changes in relation to the reproduction method used, then this variety is considered to be uniform.

## **Stability**

Article 8- A variety that its related properties remain the same, during the reproductions that follow each other or at the end of specific reproduction periods, is considered stable..

## **Denominating and the use of denomination**

Article 9- The denomination of a protected variety becomes its general denomination. It consists of one or more than one or more than one words, word and figures, or letter and figures, that are meaningful or not; provided that the denomination provides the recognition of the variety.

If a denomination is used for the variety in Turkey or in a country who is a contracting party, or if it is registered in a country who is a contracting party, the applications are made under this denomination, provided that the terms of Article 19 are kept valid. The denominations of the variety as used in other countries are recorded to the Application Register and to the Breeders' Rights Register.

The identical of the denomination of a variety as used in Turkey or in a country, which is a contracting party, or a similar denomination which will cause confusion; cannot be used for the same variety or for a close variety. This term is also applied for the registered denominations in the country who is a party.

Everybody who sells the reproduction material of a variety which is being protected, or markets in any other way, is obliged to use this denomination of the variety. This obligation is also applied to the varieties cited in Article 14, Subsection Five, (b) subparagraph.

The obligation to use the denomination continues even if the Right of Breeder terminates.

The previous rights of third parties are reserved. If the use of a denomination belonging to a variety, is forbidden to the person who has undertaken to use the denomination, due to previous rights of third parties, then the Institution asks a new denomination from the breeder.

Elements which will hinder the obtaining of a mark for the variety related to the products related to the variety, from the angle of view of Regulations of Mark, inside the denomination, proposed for the variety cannot be existent.

The use of the denomination of a variety offered for sale or sent to the market in other ways, together with mark, trade denomination or similar other denominations, is only possible when the denomination of the variety is written in easily recognizable way.

## **THIRD SECTION**

### **Protection Period and its Start**

Article 10- The protection period is 20 years after the register under this law. This period is 25 years for trees and grapevines.

Protection period is calculated as end of calendar year.

## **PART TWO**

### **OWNERSHIP OF RIGHT, THE SCOPE OF RIGHT, LIMITATION**

#### **SECTION ONE**

##### **Owner of Right and his Authority**

###### **Ownership of Right**

Article 11- The Right of Breeder of a variety, belongs to the breeder, or his legal successors. In case if there is no agreement on the contrary, the breeders have the right, within the framework of common property terms.

Each owner of the right, may perform the following procedures, in the name of himself, independent of the others.

- a) Performs freely over the share that falls onto himself. In case the right is being transferred to a third person, the other share owners have the right to buy on priority.

The transfer of the share is made in writing and is recorded to the register. The institution informs the situation to the other shareholders within two months for the use of the right to buy on priority. The right to buy on priority is used within one month following the receipt of the informing.

- b) May use the variety which is the subject of the right after written informing.
- c) May take necessary measures for the protection of the variety.

The granting of license to third persons; for the use of the variety, is only possible by the consent of all of the owners of the right. However, if this is not possible, or this cannot be achieved, and in case one of the owners of the right applies to the court; then the court may also give this authority to only one of the owners of the right by considering the existing conditions.

- d) Legal lawsuit or punishment lawsuit may be opened against third persons in case the right arising from the application made to the Institution or from the registering is violated by any way. The situation is informed by the one who opens the lawsuit to the other owners of the right to enable their participation in the lawsuit within one month from the date of opening of the lawsuit.

###### **Ownership of Right in Service Relationship**

Article 12- The owner of the varieties that the employees improve or find and develop while they are performing their work, is the employer of these, if it is not understood oppositely, from a special agreement in between, or from the character of the work.

The owner of the variety, whose employees breed, find and develop by making use of the knowledge and equipment in the workplace, even if their contract necessitate; then the owner of the right is the employer.

For the varieties that the employees breed, or find or develop under the first and second subparagraphs of this article, with the contribution of the breeder and the institution, they are entitled for an amount to be determined by taking into account the economical value of the variety. In case the parties cannot resolve this amount among themselves, then, the court determines the subject amount. The parties may put the amount to the service contract by determining it beforehand.

The making use of who and in how much and how will be determined by taking the view of the related institutions through a Regulation to be issued by the Ministry for the officials working in Public / Government Institutions and Organizations.

### **Ownership of Right in Contracts that remain outside the Service Contract**

Article 13- The owner of the variety, that is bred, or found and developed within the framework of the business contracts that remain outside the service contract, in case there is no agreement on the contrary; is the employer.

### **Authorizing of the owner of the right**

Article 14- The Right of Breeder gives the following monopoly authorizations to the owner of the right.

- a) To produce or reproduce,
- b) To prepare for the purpose of reproduction,
- c) To offer for sale,
- d) To sell or to offer to the market in other ways,
- e) To export or to import,
- f) To store towards any one of the activities in subparagraphs a-e.

The permission of the owner of the right, is necessary for all of the activities cited in the first subsection of this article, subparagraphs a-f, related to the harvested use of the reproduction materials, as a result of unauthorised use of the reproduction material consisting of both complete plants as a whole, or the parts of plant belonging to a variety under protection. However, if the owner of the right has not used his this right on the subject reproduction material even though he had a reasonable opportunity in the past, then permission is not necessary.

The second subsection of this article is also applied to the produced materials obtained directly from the harvested material which are provided by the unauthorised use of the reproduction material belonging to a variety under protection. The owner of the right may tie his authorization, to the terms of first, second and third subsections of this article or bring limitation.

The first, second, third and fourth subsections of this article is also applied to the following varieties.

- a) To the varieties derived essentially and developed from this variety, provided that it is not essentially derived from the variety itself under protection,
- b) To the varieties that cannot stably be distinguished from a variety under protection according to 6th article of this law,
- c) To the varieties that need the use of a variety under protection for the reproduction of it every time.



The following cases cover the varieties that are essentially derived from another variety as mentioned in the fifth subsection subparagraph (a) of this article.

- a) The variety to be derived from the starting variety from the point of view of predominant properties, or to be derived from another variety that is again derived from a starting variety from the point of view of predominant properties. In both cases, the essentially derived variety, should exhibit by the genotype or genotypes that from the starting variety.
- b) The derived variety must be clearly distinguishable from the starting variety, and should exhibit the principle properties formed by the genotype or genotypes from the starting variety, other than the differences created by the derivation method.

Essentially, the derivation, may be through methods like the natural or artificial mutant, somaklonal variant selection, selection of distinct individuals from inside the starting variety, backwards cross-breeding, or obtaining from plants that have been subjected to transformation through genetic engineering.

Authorities that remain inside the period between Application and Registering dates.

Article 15- The person, who carries out the activities that need the permission of the owner of the right, within the period between the application date which made for the right of breeder and the date on which the right is given as mentioned in article 14: is obliged to pay a justifiable amount to the owner of the right.

## **SECOND SECTION**

### **The cases where the Authorization is Limited**

#### **General Limitation Cases**

Article 16- The following cases are outside the authorizations of the owner of the right.

- a) The activities that are limited by personal purposes and that do not carry commercial purposes,
- b) The activities that are carried out for the purpose of trials,
- c) The activities that are carried out for the cited of obtaining other varieties cited in the fifth subsection of Article 14 of this law.

#### **Exception of Farmer**

Article 17- The farmers have the right to use the reproduction material of a variety that is being protected, for the new productions in their own land again from the crops obtained from their own land, provided that they do not give harm to the legal interests of the breeder, provided that it is not against the terms of Article 14, subsection one and subparagraphs a-h for the purpose of the protection and the looking after of agricultural protection and excepting the hybrid and synthetic varieties.

The first subsection of this article is applied to the following varieties.

a) Grains

- 1- Wheat “*Triticum* spp.”
- 2- Barley “*Hordeum vulgare* L.”
- 3- Paddy “*Oryza sativa* L.”
- 4- Oast “*Avena sativa* L.”
- 5- Rhye “*Scale cereale* L.”
- 6- Triticale “*Triticosecale* “

b) Leguminous Plants for Eating

- 1-Dried Beans “*Phaseolus vulgaris* L.”
- 2-Chickpea “*Cicer arietinum* L.”
- 3-Lentils “*Lens culinaris* Medik.”
- 4-Peas “*Pisum sativum* L.”
- 5-Broad Beans “*Vicia faba* L.”

c) Fodder Plants

- 1-Clover “*Medicago sativa* L.”
- 2-Sainfoin “*Onobrychis sativa* L.”
- 3-Vetch “*Vicia sativa* L.”
- 4-Trefoil “*Trifolium* spp.”

d) Industrial Plants

- 1-Cotton “*Gossypium* spp.”
- 2-Tobacco “*Nicotiana tabacum* L.”
- 3-Potatoes “*Solanum tuberosum* L.”
- 4-Colza “*Brassica napus* L.”
- 5-Peanuts “*Arachis hypogaea* L.”
- 6-Soybean “*Glycine Max* L.”

The conditions of exception indicated in the first subsection of this article shall be applied by taking into consideration the following criteria in a way to protect the legal rights of the breeders and the farmers.

- a) There is no limitation to the land that the farmer needs as for the quantity to work. The land that is worked by the farmer, is the land owned in the name of the farmer himself, on which the farmer grows plant under his own responsibility, on his own property or rented by him or by share cropper method.
- b) Those farmers who can produce crops 92 tons of wheat or equivalent quantity of crops at the maximum, from the types indicated in the second subsection of this article make use of farmer exception. These farmers do not pay any amount to the owner of the right.
- c) Those farmers who stay outside of exception, pay a certain amount to the owner of the right. This amount is determined by an agreement to be made between the owner of the right and the farmer.
- d) Those farmers who make use of the exception and those who process the product, are obliged to give all information and documents on the request of the owner of the right. The owner of the right may demand help from the Institution when necessary. The Institution may give the related information and documentation to the owner of the right against payment. In case the Institution refuses to give the information and the documents, then the institution informs the decision of refusal together with the reasons.

The applications related to the farmer exception are determined by a regulation to be issued by the Ministry.

### **Compulsory License**

Article 18. Everybody who wants, may apply to the Institution and may demand the grant of compulsory license related to a certain breeder right. The institution may apply for the opinion of the organizations that are active in the related field before giving the compulsory license. The Institution gives compulsory license only when it deems necessary for the protection of public interest.

In case of the start of use of the variety due to health and national defence reasons, the increased use of its use or its being spread have great importance, then the existence of public interest is accepted.

It is also accepted that there is the interest of public when the protected variety is not used, or used insufficiently from the point of view of quality and quantity, would create serious hazard from the angle of economical and technical development, then it is also accepted that there is the existence of public interest.

Compulsory license is given in the conditions when the following conditions are complied with:

- a) If three years have passed from the granting of breeder right until the compulsory license application date,
- b) If the person who applies for the grant of compulsory license to the Institution, is capable from financing and other aspects and if he would be able to use the breeder right in a competent and effective way,
- c) If the owner of the right had refused the conditions to the person who applied for the compulsory license,

- d) If the person who applies for the compulsory license has paid for the amount proposed in the regulations for this right.

With the compulsory license, a right which is not a monopoly right, is being granted to the license owner to meet the market needs of the country by carrying out all the activities as stated in article 14.

The Institution determines the amount that the owner of the compulsory license will justly pay to the owner of the right, in case the compulsory license is given. The person who receives the compulsory license is obliged to show a guarantee bond against this amount to the owner of the right.

The owner of the right is obliged to provide the reproduction material during the period of license to the person who receives the compulsory license.

The period of the compulsory license is being determined by the Institution. Except for the exceptional cases, this period cannot be less than two years and cannot be more than four years. When the license period is completed, the Institution makes the necessary investigation and if it determines that the conditions needed for the grant of the license still continues, it can extend the period of the license.

The grant of compulsory license with the reason that there exists the public interest for the essentially derived varieties, is made in accordance with the terms stated in this article.

The activities related to the compulsory license are informed by the Institution to the owner of the right of the starting variety. An amount is also being paid to the owner of the right of the starting variety in the decision of the compulsory license to be given related to the essentially derived variety.

The Institution gets back the compulsory license in case the receiver of the license violates the conditions that necessitate the granting of the compulsory license.

Those methods and basics pertaining to the granting of compulsory license are determined in the regulations.

### **Exhaustion of Breeder Right**

Article 19- Breeder right cannot be demanded against the later executions, subject to such quality crops, since the right will be considered to be exhausted, if a material that belong to a variety which is being protected, or which is considered to be within the terms of fifth subsection of article 14 or a material obtained from this material, is domestically sold by the breeder, or if it is sold by the consent of the breeder, or has been marketed in another way.

However, if the later execution is consisting of activities that allow the reproduction of the subject variety, or if it covers activities the export of material that will enable the reproduction of the variety to a country where the type and kind that the variety belongs to is not been taken into the scope of protection, then the right of breeder can be demanded in both cases. But, in the latter case defined in this subsection, in case the exported material is being used for final consumption purpose, then the right of breeder is again considered to be consumed.

The concept of material, belonging to the mentioned variety, that is mentioned in the first subsection of this article; covers all kinds of reproduction material, whole plant or material that has been harvested which covers the parts of plant and all kinds of products that has been directly obtained from the harvested material.

## **THIRD PART**

### **Application, Register, Announcement, Objection and Fees**

#### **FIRST SECTION**

#### **Application Conditions and Objection to the Application**

##### **Authority to be Applied**

Article 20- The owner of the variety, applies in writing, to the Institution to enjoy the protection right given by this law.

##### **Conditions of Application**

Article 21- The petition of the person who demands breeder right registering, must include at least the following information and documents:

- a) Name and address of the owner of the application or his proxy, if any;
- b) If the person who makes the application is not personally the breeder himself, the name and address of the breeder, together with information and document showing how the right has been obtained from the breeder;
- c) The Latin and Turkish denomination of the variety in the botanical classification;
- d) Proposed denomination for the variety, or a temporary denomination as used by the breeder,
- e) In case a priority right is being demanded due to a previous application, the date and authority that the first application has been made;
- f) The technical properties of the variety;
- g) In case a commercial procedure has been made previously, related to the variety, information and documents related to these;
- h) Document showing the fee for application has been paid;

The form of the application, its contents and documents to be enclosed are arranged by the regulation.

##### **Priority Right**

Article 22- If the owner of the application or his successor has applied for the protection of the variety in a country which is a contractor party, and twelve months has not passed following the date of application, then he enjoys the priority right to make an application in Turkey for being granted by Breeder Right. In such a case, the application date which has been made in the country which is a party of the Contract, is accepted as the date of application in Turkey.

The breeder informs the Institution, in writing, that he wants to make use of his priority right of the first application, in his later application that he wants to enjoy priority right. The priority right which is not used within the period, will be void.

The Institution may demand within three months following the Application, the approved copies of the first Application that he submitted to the authority, together with samples or evidences showing that the subject of both Applications are the same.

The Institution of the necessary information, document and material needed for enabling the accomplishment of technical evaluation, up to two years after completion of the priority right. In case the first Application is refused, or withdrawn, then the Institution may grant to the owner of the Application a period up to twelve months following the refusal or withdrawal date, for the providing of information, document and material, by giving up the extended period.

### **Evaluation of the Application**

Article 23- The Institution evaluates the Application made from two angles:

a) In the formal evaluation of the Application:

- 1- If the Application has been made in accordance with the terms of article 20 or not;
- 2- If it is in accordance with the conditions of article 21 and the terms of the regulations related to the Application of the article;
- 3- If there is the demand for priority right, if it is in accordance with the terms of article 34 has been paid within the period specified;

is being investigated.

In case the Application is made insufficiently or wrongly, then the Institution requests the owner of the Application to correct this situation within thirty days starting from the date on which the demanded is received by the Institution. In case this situation is not corrected within the specified time, then this Application is counted as if it is not made.

b) In the essential investigation of the Application; it investigates:

- 1- If the variety can be considered new or not in accordance with article 5;
- 2- Whether if the owner of the Application is eligible or not to make such an Application,
- 3- If the denomination proposed for the variety is in accordance with the terms of articles 9 and 30.

In case the Institution determines that there exists an obstruction for granting breeder Right upon investigating, then the Institution rejects the Application. The Institution informs the situation; in writing, to the owner of the Application together with the reasons within thirty days following the date on which the decision is taken.

Each Application which is made without lacking articles and correctly, is recorded on the Application register and a file number is given. The receipt date of the document indicated in article 21 is accepted as the date of Application.

### **The Announcement of Application in Bulletin**

Article 24- The Institution publishes the information requested in subparagraph a-e of first subsection of article 21, within thirty days after the recording of the Application to the register.

### **Objection to the Application**

Article 25- The objections to the Application are made to the Institution within three months following the date on which the Application is announced in the Bulletin.

The objections are made with a petition to which evidences and documents are enclosed regarding the reasons like : the variety is not new, not distinct, not uniform and not yet stable, or the owner of the Application is not owner of the right, or the denomination proposed for the variety is not in accordance with article 9 and subparagraph (a) of article 30.

The Evaluation of Objection informs the objection to the owner of the Application regarding the Breeder Right Application and asks him to express his views within three months related to the objection, and further asks if he would continue to be the owner of the Application or his Application or not. The period given may be extended upon rightly demand of the owner of the Application related to the objections made.

If no answer could be received from the owner of the Application at the end of given period, then the Application is considered to be withdrawn. If the owner of the Application informs that he will continue in the same way as he made his Application, or he will be make change, then this situation will be informed to the person who objects and he will be asked to inform his views, within thirty days. Then, he should inform within this period whether he will continue his objection or not.

In case the person who is objection do not give up his objection, then:

- a) If the objection is based on grounds that the variety is not new, the owner of the Application is not the owner of the right, or the denomination proposed for the variety, is on contrary to the terms of article 9 and subparagraph (a) of article 30, then the Institution immediately starts the investigation.
- b) If the objection is based on the grounds that the variety is not distinct, not uniform, and not stable, in this case, the investigation is carried out within the course of the technical evaluation.

In order to be able to make an investigation in accordance with the reason of the objection, the Institution determines the technical investigation method by itself.

Submission of more information, documents or plantation material that investigation to be made on it may be asked from the person who objects, in order to supplement his objection. In this case, the terms of fourth and fifth subsections of article 27 are applied.

A lawsuit may be opened, upon the objection made within the framework of the third subsection, subparagraph (a) of this article, within thirty days, following the receipt of the decision given by the Institution.

In case the real owner of the right, who makes an Application for the same variety, demands the Application date which is rejected to be his own application date, within one month, following the receipt of the decision related to the acceptance of the objection based on the real ownership of the right; then this demand is accepted by the Institution.

## **SECOND SECTION**

### **Technical Evaluation, Registering Announcement, Objection to the Register**

#### **The Evaluation of the Variety from the Technical Point of View**

Article 27- After the variety is found suitable for being taken into technical evaluation, then the variety is subjected to technical evaluation for the determination of the below indicated points:

- a) The confirmation of the variety that it belongs to the specified bothanical class;
- b) The determination of the variety that it is distinct, uniform and stable;
- c) The preparation of property certificate of the variety, in case the variety complies with subparagraphs (a) and (b).

The evaluation is being realized under the supervision of the Institution.

The technical evaluation may be based on the growing tests or other necessary tests, in case these have been carried out by the authorized organization of one of the countries who is a party in the Contract, or is being carried out by the same, and in case the results of these tests are submitted to the Institution, and the variety is found suitable to the climatic conditions of the country.

In case the evaluation is not based on these test results, then:

- a) The Institution makes the evaluation by itself or it can have it made by an organization of its own or it can have it made by another research organization. In case the tests are conducted by other organizations, then the fee which is to be determined in accordance with the terms of article 34, will be paid,
- b) The evaluation is based on the growing tests and owner of the application himself or have it made upon the demand of the Institution.

The institution determines the application conditions necessary for the evaluation. New parts may be added or changed depending on the changes of the agricultural and botanical information of the property certificate belonging to the variety mentioned in the first subsection (c) subparagraph of this article.

However, subject of protection is not affected from this situation.

The institution demands all kinds of information, documents and material from the owner of the application. If the owner of the application, does not submit the information, documents and material requested within the tome period specified by the institution, then the application is refused.



## **Evaluation Report**

Article 28- In case the organization, that makes the technical evaluation in the name of the institution, reaches to the conclusion that the determination of the properties belonging to the variety is sufficient, it sends an evaluation report to the institution covering the determination of the points included in the articles 6, 7 and 8 together with properties certificate.

In case the institution does not find the evaluation report sufficient, for giving a definite decision, it informs the owner or the makes them done. The completing evaluations are considered as a continuation of evaluations mentioned in the first subsection a-c subparagraphs of article 27.

Those organizations who are made to conduct technical evaluation, may only use the result of the evaluations by the permission of the institution.

### **Finalization of the Temporary denomination**

Article 29- In case a temporary denomination is informed in the petition of the application, then the institution asks immediately first to the owner of the application before the stage of registering, to inform a suitable definite denomination within thirty days in accordance with the terms of articles 9 and 30.

In case the institution finds the denomination suitable, informs this denomination to the countries which are the parties of the contract and publishes it in the Bulletin.

Objection to the denomination may be made within three months following the publishing date in the Bulletin within the framework of article 9 and subparagraph (a) of article 30. The related organizations of the countries which are the parties of the contract may inform their views related to the denomination. The objections and the views are informed to the owner of the application and a period of thirty days is given to him to answer.

In case a new denomination is proposed by the owner of the application, then the procedures indicated in the second and third subsections of this article are repeated. The application is rejected, in case no answer is given in both situations. The decision, together with the reasons of it is informed by the institution to the parties, related to the acceptance of the objection or its refusal. A lawsuit may be opened within thirty days starting from the notification date of the decision.

## **Reasons of Refusal of the Application**

Article 30- The institution rejects the application by its own initiative in the following cases:

- a) In case the proposed denomination does not bear the following conditions;
  - 1- If the denomination does not comply with the terms of article 9, except for the seventh subsection of article 9 in which the situation of contradiction connected to it,
  - 2- If it is not carrying the property of a specifically distinct denomination or if it is not sufficient from the point of view of linguistics for the identification of the variety,
  - 3- If it is on contrary to public order and general ethics,

- 4- If the denomination is barely consisting of indications showing the type, quality, quantity, purpose, geographical origin or date of production; which are only considered in the plant varieties or seed industry sector,
  - 5- If it is misleading or causing confusion from the point of view of the properties of the variety, its value and the geographical origin or from the point of view of the connection between the variety and the breeder or between the variety and the owner of the activity,
  - 6- Apart from the situations that the variety has been lifted from production or its being widely known, if its denomination is identical with the denomination of a variety registered in a country which is a contractor party, or to a close relative type, or if it is very similar that it will cause confusion,
- b) In case the terms of article 23 are not complied with;
  - c) In case the terms of the fourth subsection of article 27 are not complied with;
  - d) In case the necessities of articles 6, 7 and 8th articles are not complied with, accordance with the article 28 ;
  - e) In case of violation of the first subsection of article 29.

### **Registering**

Article 31- The Institution gives the breeder right, in case it determines that the variety is suitable to the 4th article at the end of evaluation and that the owner of the application has completed the necessary processes set forth in the law. This point is recorded to the Breeder Right Register and approved Breeder Right Certificate is given to the owner of the right.

### **Announcement of the Register**

Article 32- It is announced in the Bulletin that Breeder Right is given within thirty days after the register date.

### **Objection to the Register**

Article 33- Third persons may object against the registering process, to the Institution on grounds that there are lacking points in the procedures as indicated in articles 20, 21, 22, 24, 27, 28, 29 and 32.

The Institution decides on the invalidity of the process related to the register and to return to the stage in which the lacking articles are made and that the processes to be performed again, in case the Institution determines that a process is not complied with, related to the giving of breeder right or if there is an important lacking point, during the investigation is made by the Institution.

## **THIRD SECTION**

### **Fees**

Article 34- The Institution makes due, the payment of two distinct types of fees; one being the process fee and the annual fee, details of which are shown in the regulations.

a) The process fee is taken against the processes conducted by the Institution within the framework of this law and covers at least the following subjects:

- 1- Application fee,
- 2- Technical evaluation fee,
- 3- Denomination evaluation fee,
- 4- Objection fee,
- 5- Registering fee,
- 6- Fee related to the compulsory license,
- 7- The fee collected from copies,
- 8- Publication fees.

In case the fees that need to be paid related to the processes covered within this law, are not paid within thirty days following the notification date to the related person, then the application is considered as not made at all, and considered as no objection has been made, and the decision related to this fact is informed to the related person.

b) Annual fee is paid in the month of January of each year, the same year that it corresponds to the breeder right protection period, as down payment.

In case the annual fee is not paid on time / within its period, then this fee may also be paid within six month after it becomes due as delayed payment, by the addition of an additional period, as indicated in the regulations.

## **PART FOUR**

The Undertaking of the owner of the right following the Registering, The Inspection performed by the Institution and Cancelling by Initiative the Undertaking of the Owner the Right Following the Registering.

Article 35- The owner of the right is responsible of the continuation of the protected variety or the genetic structure of the genetic parts of it depending on the case during the period when the right is under force.

Upon the demand of the Institution, the owner of the right provides information, documents and material for the investigation of the fact that the genetic structure of the protected variety is continued or not, to the Institution or to an organization determined by the Institution.

The Institution investigates whether if the variety or the genetic structure of its genetic parts, depending on the case, is being continued or not during the protection period. In case the Institution falls into suspicion that the genetic structure of the variety being continued, and this suspicion cannot be eliminated by the information, documents and material as indicated in the second subsection of this article, then the Institution requests the investigation to be made in order to determine the fact that if the genetic structure of the variety is continued or not. This investigation includes the verification by comparing the material provided by the owner of the right and the information in the variety property of the samples and the growing tests of the samples and by making other tests.

In case the investigations conducted show that the owner of the right is unsuccessful in the continuation of the genetic structure of the variety, then the view of the owner of the right is taken before the Breeder Right is cancelled in accordance with subparagraph (a) of article 36.

The owner of the right gives the sufficient amount of the variety under protection or its genetic parts to be the sample of the variety or to renew the existing sample or for the purpose to enable the conducting of a verification study based on the comparison of it with other varieties for the protection of the variety, to the Institution or the authorized organization to be determined by the Institution.

The owner of the right keeps the sample belonging to the variety, in the denomination of the Institution, upon the demand of the Institution.

### **The Inspection Made by the Institution and Cancellation by Initiative**

Article 36- In case it is determined that the undertakings of the owner of the right that he is obliged to accomplish in accordance with the first subsection of article 35, are not realized, or if it is determined that the variety has lost its uniformity and being stable within the time period specified by the Institution, then the Breeder Right is cancelled by the initiative of the Institution. Also, in the following cases, the Breeder Right is cancelled by the initiative of the Institution:

- a) In the cases when the requested information, documents and material are not supplied by the owner of the right in accordance with the second subsection of article 35 within the time period specified by the owner of the right,
- b) In case the denomination of the variety is cancelled by the court, and when a new denomination belonging to the variety is not informed within the time period specified by the Institution.

The cancellation of the Breeder Right is recorded to the Register and becomes effective from the date of being recorded. The cancellation decision is published in the bulletin within thirty days after it is recorded to the register.

## **PART FIVE**

The Transfer of the Right Arising from Application and Registering, its Conveyance, The establishment of Mortgage, Seizure and license contract

### **FIRST SECTION**

#### **Transfer and Conveyance, Mortgage and Seizure**

##### **Transfer and Conveyance, Mortgage and Seizure**

Article 37- The right arising from the application or register, within the framework of this law, related to a variety, may be transferred to another person or it may be passed with inheritance. It is possible to make executions on these rights connected to death.

The right arising from the application or from the registering, may be subject to legal or contractual mortgage right, and may be subject to seizure. In such a case, the related right are recorded to the register, upon the demand of the one of the parties, and these right are published in the Bulletin. The related terms of the Turkish Civil law and Seizure and Bankruptcy law are applied.

The processes between the alive persons related to the application or to the registering, are subject to written form.

The transfer or the conveyance of the right arising from the application or from the registering is recorded to the register and published, upon payment of the fee indicated in the regulations. The date of publishing is the date of validity of the term against third persons.

## **SECOND SECTION**

### **License Depending on Contract**

#### **License Depending on Contract**

Article 38- The right to use, which arises from the application or from the registering, may be subject to the license contract, to be valid within the borders of the country. The license depending on Contract, is given as monopoly license or non-monopoly license.

In case not otherwise decided on the license contract, then the license is non-monopolized. The licensor may use the variety by himself or he may also give other licenses to third persons related to the same variety.

When monopolized license is concerned, the licensor cannot give license to others, and he also cannot use the subject variety which has the right, unless he does not keep reserved his right.

In case the term of the first subsection of this article is violated by the license, the rights arising from the application or the registering, may be set forth by the way of a lawsuit, against the licensee by the owner of the right.

The owners of license depending on contract, cannot transfer their rights arising from the license to third persons, or they cannot give sub-licenses.

The person who receives the license right depending on contract, can conduct all kinds of executions related to the use of the variety which is the subject of the right, within the integrity of the national borders, during the protection period of the variety, unless otherwise decided on in the contract, on the contrary. The license contract is made in writing. The license contract is recorded to the register and published, upon the written demand of one of the parties, by the Institution.

The person who has the monopolized license may open the lawsuits on his own denomination, that the owner of the right may open in accordance with this law, in case their rights are violated by third persons; unless otherwise decided on in the license contract, on the contrary. Those who receive non-monopolized license, have no right to open lawsuit.

The license who does not have the right to open a lawsuit, due to violation of the right, according to eighth subsection of this article, may ask the owner of the right to open a lawsuit, by a notification through public notary. In case the owner of the right does not accept this demand or if the lawsuit is not opened within three months after the receipt of the notification, then the licensee may open a lawsuit, by enclosing a copy of the notification, in the denomination of himself, and informs that he has opened a lawsuit, to the owner of the right. The licensee, may demand a precautionary measure decision from the court, before the passing of the period consisting of three months against a serious danger of harm.

The Transfer of the Right and the Responsibility arising from the Grant of license.

Article 39- In case it is understood that a person who transfers his right which arises due to the application or from registering against an amount or a person who transfers without an amount or a licensor; has no authority or if the application is rejected or if it is cancelled or if a decision is given regarding its invalidity; then this person has his responsibility against the person who takes over or to the license.

The indemnity demand period which originates from the term of this article, starts upon the learning of the decision of refusal, cancellation or invalidity or non-authorization and as for the prescription subject, the terms of Debts law are applied.

In case, the person who transfers, or the licensor, acts with evil intentions, then these are always responsible of their acts. In case the person who transfers, or the licensor has not informed the Breeder Right application or the reports and decisions on the ability to prevent the variety with this given decision which is the subject of the right for the variety, or the things that he knows and has not placed the documents related to these in the contract, then it is accepted that there exists the evil intention.

## **PART SIX**

### **The Cases of Invalidity and the Termination of the Right**

#### **The Cases of Invalidity**

Article 40- The court decides on considering the invalidity of the Breeder Right, in the existence of one of the following cases, these cases:

- a) The conditions cited in the 5th and 6th articles of this law are not realized by the date of the application or the priority right;
- b) It is understood that the conditions proposed in article 7 and 8 are not realized;
- c) It is understood that the Breeder Right register is made in the name of an unauthorized person, apart from those indicated in article 11, 12 and 13.

#### **Demand for Invalidity**

Article 41- Everybody who has legal interest, may demand invalidity from the court, as long as the protection right continues. This demand can only be set forth by the real owner of the right, in accordance with subparagraph (c) of article 40.

#### **The effect of Invalidity**

Article 42- In case invalidity is decided on, the results of this decision are effective towards past, and the protection provided under this law is considered not to be born within this invalidity.

The finalized invalidity decision is recorded to the register and this fact expresses term against everybody.

The effect of the invalidity towards the past, does not influence the following conditions; that originates from the evil intended actions of the owner of the right and the demands of indemnification right to be reserved and related to the eradication of the harm:

- a) The legally finalized and applied decision that are taken due to the violation of the subject right, before the right is considered to be invalid,
- b) License contracts which are made and applied before the decision is taken on the invalidity of the right.

However, it will be decided by the court that if the payment which has been made in accordance with the license contract be refunded partially or fully, with the reason of rightly reasons or with the thought of being just.

## **SECOND SECTION**

### **The Termination of the Right by Itself**

Article 43 – The Breeder Right ends up by the realisation of one of the following cases:

- a) The Termination of the protection period,
- b) The giving up of the owner of right from his right,
- c) Not affecting of the annual payments on due times determined.

The variety which is the subject of the right, is considered to be the property of the public, in case the right terminates. This point is published in the Bulletin by the Institution.

The owner of the right may give up the Breeder right. The giving up of the right need to be informed by writing to the Institution. The giving up creates a term by the date of its recording to the register.

None of the owners of the right may give up his right, unless other owners of the right who are recorded to the register and the owners of the license give consent.

In case a third person charges any ownership right on the right itself, the right can not be given up, without his consent.

The breeder right terminates by the last date of the annual fee, in case this fee is not paid in due time period.

In case the right has terminated by the reason of not paying the annual fee, and if the owner of the right proves that he has not made the payment due to force majeure reasons, then the right becomes valid again.

The demand for the force majeure reasons must be made within six months following the publication of the advertising of the termination of the right in the Bulletin. This demand is published in the Bulletin and those related persons may inform their views related to the subject within thirty days.

The re-validation of the right, is done by the decision of the Institution, and is published in the Bulletin. The re-validation of the right, does not affect the rights of the third persons which are already won, by the termination of the right and won some rights related to this subject. The rights of the third parties and the scope of these are determined by the court.

In case of the re-validation of the right, then the owner of the right becomes responsible for the fees that he has not paid.

## **SEVENTH PART**

### **Cases of Violation of the Right, Lawsuits and the Court on Duty**

#### **FIRST SECTION**

##### **The Cases of Violation of the Right**

###### **The Cases which are considered to be the Violation of the Right**

Article 44- The following cases are considered as violation of the Breeder Right:

- a) The use of the authorisations listed in the article 14 of this law, without the consent of the owner of the right,
- b) To prepare the subject material for the purpose of the reproduction, to reproduce, to offer them for sales, to sell them or to offer them to the market in other ways, to export them, to import them or to store them with these purposes; even though that it is known that the reproduction material belonging to the variety which is being protected, that it is produced by violating the monopolised rights of the owner of the right or that it should have been known;
- 
- c) To spread the given authorisation by the license, without consent or to transfer these authorisations to third persons;
- d) To violate the fourth and fifth subsections of article 9;
- e) To seize by force the right;
- f) To participate the actions listed in subparagraphs a-e of this article or to help them or to encourage them or to ease the execution of these actions under whatever way or conditions that may be;
- g) To abstain from informing the material existent with him, and the material produced or offered to the market in a way that it violates the authorities of the owner of the right or where it has been taken from or how it is obtained.

#### **SECOND SECTION**

##### **Legal Lawsuits**

###### **The Demand of the Owner of the Right and the Court on Duty in the Legal Lawsuits**

Article 45- In case the breeder right is violated, the owner of the right may demand the followings from the court:

- a) To stop the acts of violation to the rights arising from breeder right;
- b) The eradication of violation and material and moral indemnification,



- c) The seizure of the material produced as a result of violation of the right and the seizure of the equipment used directly in the production of these;
- d) The recognition of the right of property to himself on the material and equipment seized within the framework of the first subsection, subparagraph (c) of this article, when possible; in this case, the value of the subject material is deducted from the value of the indemnification. When this value exceeds the accepted indemnification, then the owner of the right needs to pay the extra amount to the other party.
- e) The taking of the preventive measures that prevent the continuation of the violation of the right; the changing of the shape of the seized material and equipment within the framework of first subsection, subparagraph (c), or their destruction in case there is no other way to prevent the violation;
- f) The notification of the decision of the court which is against the person who violates the right, to the related persons and announcement of this to the public, where the related costs are to be born by the violator;

The authorized court in the legal lawsuits to be opened by the owner of the right, is the court where the plaintiff resides or where the guilt is committed or where the effects of the violation act are seen.

In case the plaintiff does not reside in Turkey, then the authorized court, is the court where the headquarters of the Institution is present.

The authorized court in the lawsuits to be opened against the owner of the application, or against the owner of the right, by third persons, is the court where the defendant resides.

In case the owner of the application or the owner of the right does not reside in Turkey, then the terms of the third subsection of this article are applied.

In case more than one courts happen to have the authorization, then the authorized court are the courts where the first lawsuit is opened.

In case the Institution is the plaintiff or the defendant, then the authorized court are the courts where the Institution is residing.

### **Indemnification**

Article 46- The person who produces, sells, distributes or offers to the market by other ways, or exports or imports for these purposes, or the person who keeps these in his hand for commercial purpose or who uses the variety that is being protected, without the consent of the owner of the right; is responsible to avoid the contradiction to the law and to indemnify the harm caused by him.

The person who has been using the variety that is being protected is responsible to indemnify the damage that he has caused, in case the owner of the right informs him about the existence of the right and about the violence and demands the stopping of the violence or when the usage forms a faulty behaviour.

### **The Profit that is been Deprived**

Article 47- The damage that the owner of the right is subjected covers not only the value of the actual loss, but the profit that is been deprived of as a result of the violation to the breeder right in addition to the former.

The profit which has been deprived of, is calculated in accordance with one of the following evaluation methods, which will be selected by the owner of the right, who is subjected to the loss:

- a) In accordance with the probable profit that the owner of the right would get with the use of the variety, in case there had not been the competition of the person who violates the right;
- b) In accordance with the profit that the person who violates the breeder right, by using the variety that is being protected;
- c) In accordance with the license fee that the person who violates the right, would pay, in case he made use of the variety that is being protected in a way which is legal.

The influencing factors like the economical importance of the variety, which is the subject of the right, the validity period at the time when violation is made, the number and type of the licenses related to the variety that is being protected at the time when the violation is made; are taken into consideration for the calculation of the profit which is deprived of.

In case the court determines that the owner of the right has not executed his responsibility for the use of the variety as proposed with this law, then the profit which has been deprived of is determined by the framework of the second subsection subparagraph (c) of this article.

### **Cost Amount Lawsuit**

Article 48 – A lawsuit of personal property, may be opened for the obtaining of a suitable cost amount which is just, in the cases proposed in the law, by the owner of the application or by the owner of the right.

The lawsuit of cost amount which may be opened related to the cost amount to be paid by the farmers who are outside the farmer exception, may also be opened by the professional organisations related to the breeder right.

In the determination of the amount specified in article 15, attention will be paid that it will not exceed the license fee that will be paid in a license contract by supposing that the breeder right are registered.

The lawsuit is opened within one year, following the learning of the act that will necessitate the payment of the amount.

### **The lawsuit about the Non-existence of Violence of Right and its Conditions**

Article 49- Everybody who have interest, may open a lawsuit against the owner of the right, and may demand to be decided that his activities do not form a violation of the breeder right.

The owner of the interest, demands the owner of the right to inform his views through public notary, before the opening of the lawsuit indicated in the objection one of this article, that the processes conducted or to be conducted related to the materials produced at the end of these procedures of the owner of the interest in Turkey, that these do not form a violation of breeder right.

The owner of the interest, opens the lawsuit, in case the owner of the right does not answer, within one month after the notification date of this demand to the owner of the right, or if the given answer is not accepted by the owner of interest.

The lawsuit indicated in the first subsection, cannot be opened by a person who has been opened a lawsuit against him on grounds of the violation of breeder right.

The lawsuit is notified to all owners of right who are recorded to the Breeder Rights Register and who have rights on the variety that is being protected.

The lawsuit mentioned in this article, may also be opened together with the lawsuit of the invalidity of the right.

### **Determination Lawsuit**

Article 50- The person who authorized to open a lawsuit of violation of the breeder right, may demand from the court the determination of the events that may be considered as the violation of these rights.

### **Precautionary Measure Demand and its Quality**

Article 51- Those persons who open a lawsuit or those who will open a lawsuit in the way proposed in this law, may demand the decision for precautionary measure, in order to obtain the effectivity of the lawsuit, provided that they prove that the variety which is the subject of the lawsuit is being used in Turkey, which forms a violation of their own rights or there exist the serious and effective activities for its use.

The demand for precautionary measure may be made before the lawsuit is opened or together with the lawsuit or after the lawsuit is opened. The demand for the precautionary measure is evaluated apart from the lawsuit.

The precautionary measures, should have the quality to provide the effectivity of the judgement to be given and should cover the below indicated measures:

- a) To stop the acts that form the violation of the breeder right;
- b) The seizure of the material which is produced by violating the breeder right or material related to the variety that is being imported which is the subject of the right within the borders of Turkey, inclusive of customs areas, and free ports or free zones and the stocking of these without damaging them;

### **The Application of Law Method**

#### **Courts Law**

Article 52- The terms of the Law Method Courts Law No. 1086, are applied to those other points which are related to determination lawsuits and precautionary measures.

#### **Prescription**

- Article 53- The terms of Debts Law No. 818, related to prescription, are applied in the demands related to special law that originate from this law.

## **THIRD SECTION**

### **Punishments and Terms of Procedure**

#### **The Cases Considered as Violation and Sanctions**

Article 54- The cases considered violation and the punishments to be given in these cases are given as follows:

- a) Those who commit the acts indicated in the subparagraphs of (a), (b), (e) and (f) of article 44 on purpose, will be sentenced from thirteen months to two years of imprisonment or from five billion Liras to ten billion Liras of heavy fine or they will be sentenced by both of them, and it will be decided that the workplaces of those who are dealing with commerce will be shut down for not less than one year and their prohibition from commerce for the same period.
- b) Those who violate on purpose the subparagraphs (c), (d) and (g) of article 44, are sentenced to pay five billion Liras of heavy fine.
- c) Those who acknowledge themselves as the owner of the application or owner of the right, in a way which is against the reality, will be punished with five billion Liras of heavy fine.
- d) In case the acts cited in the subparagraphs (a), (b) and (c) of this article are committed by the employees of a facility while they perform their services, directly by their own or upon order; then the person who actually manages the facility will also be punished in the same way, whether he/they are the employee(s), or the owner of the facility who does not hinder the committing of the guilt, his representative or administrator or the person who manages the facility under whatever name it might be. If any one of the acts indicated in article 44 is / are committed, while the business of a juristical person, is conducted, then the juristical person is also jointly responsible of the costs and the fine.

#### **Procedure and Prescription**

Article 55- The legal proceedings due to the guilts listed in article 54 are subject to the owner of the right. In case the act indicated in subparagraph (c) of article 56, then the Institution, the associations related with the breeder rights, those organisations which are dependent on consumer societies, and Chambers of Commerce and Industry, Chambers of Commerce, Chambers of Industry, Marine Chambers of Commerce, Bourses of Commerce Law No. 5590 and Tradesman and Small Artisans Law No. 507, along with the owner of the right also have the right to complain.

It is necessary that the complaint is to be made within one year after the being informed / being aware of the act and the actor. The complaints are considered among urgent jobs. The juristical procedures cited in Law No. 3005.

The No. 8 subparagraph of first subsection of article 344 of Punishment Juristical Method Law No. 1412, is not applied in the application of the terms of article 54.

## **FOURTH SECTION**

### **Specialist Courts**

#### **Authorized Court**

Article 56- The authorized court that is proposed in this Law, are the specialized ideal and industrial rights courts which are to be established by the Ministry of Justice.

The Supreme Council of Judges and Prosecutors determines which of the Court of First Instance of Commerce and Court of First Instance of Punishment will be given the duty as specialist court and the juristical surrounding of these courts, upon the proposal of the Ministry of Justice.

The authorized court in the lawsuits that will be opened against all decisions taken by the Institution within the framework of the terms of this law, and in the lawsuits that are to be opened against the Institution by third persons who are subjected to harm due to the decisions of the Institution, are the specialized courts as specified by the first subsection of this article.

#### **The Announcement of the Judgement**

Article 57- The party who becomes the rightly side at the end of the lawsuit, the these have the right to demand the publishing of the finalized judgement in daily newspaper or similar means, either in full or partially, in case there is a rightly reason or interest, where the costs will be born by the opposite party.

The form and contents of the advertisement are determined in the decision. The right for advertising, becomes void in case this right is not used within three months following the judgement becomes definite.

## **EIGHTH PART**

### **Breeder Right Register and the Bulletin**

#### **Breeder Right Register**

Article 58- The Institution forms a register which covers the Application Register and the Breeder Right Register.

Those points which need to take place in both of the registers within the framework of this law are determined by the regulation.

Those everybody, who has legal interest may examine the documents related to the application, and the registering of the breeder right, the growing tests which are necessary to be made within the framework of the terms of articles 27 and 36 and other tests.

The owner of the varieties that necessitate the continuous use of other varieties for the production or reproduction of it, may demand the documents and tests belonging to the variety to be excluded from the scope of the evaluation of the Register.

## **Plant Varieties Bulletin**

Article 59- At least the following points take place in the Bulletin that will be published by the Institution:

- a) The breeder right applications;
- b) Denomination proposed for the variety or the temporary denomination, if any;
- c) Giving up of application;
- d) The refusal of the application;
- e) The registering of breeder right and the registered denomination;
- f) The changes related to the owner of the right or his proxy;
- g) The termination of the right;
- h) Licenses;
- i) Official announcements.

The Institution publishes an annual report in which the owner of the variety, protection period, registering date and its denomination are included for the related variety which is being protected along with other information deemed necessary.

## **NINTH PART**

### **The Turkish Variety Register, Protection and Seed Certification Institution**

#### **FIRST SECTION**

#### **Establishment and Purpose**

##### **Establishment and Purpose**

Article 60- Turkish Variety Register, Protection and Seed Certification Institution has been established, which is established for the purpose of registering the new plant varieties and the plants obtained by biotechnical methods in the country, to conduct studies in the subject of variety protection, and seed test and certification, to provide the development of method research activities, to encourage the activities of plant breeders to find new plant varieties, to provide the protection of the rights of plant breeders, and the offering of the information and documentation to the public for their use which exist domestically or abroad, and to contribute the agricultural production of our country and the development of such, having a juristical personality, dependent on special legal terms in cases when not specified in this law, connected to the Ministry of Agriculture and Rural Affairs, having a special budget. The Turkish Variety Register, Protection and Seed Certification Institution is a public organisation and its short denomination is ‘TTKS’.

The headquarters of TTKS is in Ankara.

## **SECOND SECTION**

### **Duties and Organs**

#### **Duties**

Article 61- In order to contribute the agricultural development of the country, in accordance with the terms of the related regulations;

- a) Makes the registering of the right of the breeder within the framework of this law which is the subject of the protection, and conducts the related procedures for the protection of the rights;
- b) Conducts the compulsory license procedures, and acts as expert in the courts;
- c) Registers and records the license and transfer agreements;
- d) Cooperates with the similar institutions abroad and with the international organisations,
- e) Represents Turkey in the face of the international institutions with the approval of the Ministry;
- f) Contributes in the preparation of international agreements related to the rights of plant breeders and provides these agreements to be applied in Turkey;
- g) Cooperates with the institutions and organisations and information banks domestically or abroad that conduct activities for the seed technology and research and development, forms documentation units, offers these information to the interest / use of public;
- h) Publishes various publications related to the rights of plant breeders,
- i) Makes the necessary studies for informing the persons and organizations domestically in the subject of the protection of the rights of plant breeders and for the directing of those;
- j) Makes the registering of the new plant varieties that are being improved domestically and the varieties being brought from abroad, and those plant varieties that are being obtained by biotechnological ways;
- k) Conducts the services related to the control and certification of the seeds of varieties that are produced and makes field controls and makes laboratory inspections;
- l) Issues seed certificates which have international validity;
- m) Established control trials belonging to all seeds that are produced in our country or that are exported or imported;
- n) Determines the standards for the registering and seed certification fields;
- o) Prepares list of varieties that are allowed to be produced in our country;
- p) Makes other duties given by laws.

## **Organs and Units**

Article 62- The Institution comprises of the following organs and units:

- a) Board of Directors,
- b) Presidency,
- c) Re-study and Evaluation Council,
- d) Main Services Units,
- e) Auxiliary Service Units,
- f) Consulting Unit,
- g) Test Directorates.

## **Board of Directors**

Article 63- The Board of Directors is the uppermost level management and decision organ of the Institution.

The Board of Directors comprise of 1 member from the Ministry of Finance, 2 members from the Ministry or from the dependent/ connected or related organizations, together with the president of the Institution and assistant president, thus totalling to 5 members altogether.

The president of the Institution is at the same time the President of the Board of Directors. In cases when the President of the Institute is not present, then the Assistant President becomes the President of the Board of Directors.

The members of Board of Directors and the President and the Assistant president are assigned whit a joint decree, upon the proposal of the ministry.

The period of duty of the members of the board of Directors is 5 years. Those members who complete their period of duty may again be assigned.

For a membership of Board of Directors that is vacant for any reason, an assignment is made whit the same proceeding, within one month at the latest and the assigned member completes the period of duty of the predecessor member.

The working method and basics of the Board of Directors are determined by a Regulations to be issued by the Ministry.

## **The Duty and Authorization of the Board of Directors**

Article 64- For the purpose of execution of the duties given to the Institution by this law and other regulations , the Board of Directors;

- a) Takes all decisions necessary for enabling the Institution to act in a uniform , effective and efficient way from financial and technical aspects. Prepares the regulations for the purpose of providing effectivity to the operation of the Institution ;
- b) Approves the budget of the Institution ;



- c) Discusses and decides on the activity report and financial report prepared ;
- d) Prepares development plans in the subjects of rights of plant breeders , variety registration and seed certification , and short and long term working programs in the direction of annual programs , determines method research subjects;
- e) Approves the fee tariffs that will be taken against the services to be given by the Institution,
- f) Decides on the assignment proposals that will be made by the President;
- g) Decides on the arrangement of national and international quality seminar, symposium, open discussions , conference and similar subjects, to enlighten the public opinion that fall into the area of duty of the Institution, and to get the views of the related persons;
- h) Forms permanent or temporary specialist commissions consisting of specialists in this field to get their views on variety registering, rights of breeders, and seed certification;
- i) Decides on the construction of building for the needs of the Institution, and on the procurement of mobile and immobile properties or their being rented, the sales of these when necessary and their being leased.

The Board of Directors, meets each month upon the addenda that is to be prepared by the President and upon the invitation.

The Board of Directors meets at least with four members, the decisions are taken in the direction of absolute majority of the participating members. In case the votes are equal then the vote of the President is counted as two / double votes.

The Board of Directors may transfer one or more of its authorities to the President, provided that the limits of this/these are stably indicated in writing. However, the transfer of the authorization, does not lift the responsibility of the ones who transfer the authority.

### **Presidency**

Article 65-The President is the superior official of the Institution and represents the Institution. The Presidency comprises of the President and the Assistant President.

The President of the Institution and the Assistant President are assigned with a joint decree for a period of five years. Those who complete their periods may again be assigned. For the positions of the President and the Assistant President that may become void, an assignment is made within one month at the latest by the same method, and the person who is assigned, completes the period of duty of the precedes or of himself.

The President, Assistant President and Heads of Departments are assigned to other posts suitable to their positions according to their gained salaries, in case they cannot be assigned again.

### **The Duties and Authorities of the Presidency**

Article 66- The duties and the authorities of the Presidency are as follows;

- a) Provides cooperation and coordination with the national and international institution and organizations that fall into the field of activity of the Institution, and conducts the services of the Institution in accordance with the rights of breeders that Turkey is a party of, the subjects of variety registration and seed certification, together with international agreements, national security policy, development plan and annual programs, decisions of Board of Directors;
- b) Provides the application of the regulations related to the Institution,
- c) Prepares the budget of the Institution , and offers it to approval of the Board of Directors;
- d) Is responsible from the procedures of the employees of the Institution, and has the duty and is authorized to inspect the activities and calculations of the Institute.

The President may transfer a part of his authorizations to their subordinates, provided that the limits of it are clearly defined in writing. However, the transfer of the authorization, does not lift the responsibility of the one who transfer the authority.

### **Re-study and Evaluation Council**

Article 67- The study and evaluation procedures for the objections to be made by the owners of the application or third persons against the decisions taken by the Institutions together with the registration procedures of plant breeder right, are conducted by Re-study and Evaluation Council.

The Re-study and Evaluation Council comprise of at least two specialist members who are specialists in the field of the subject in which the re-study will be made upon investigation, and who are to be selected by the President of the Institution, who do not have duty on the decisions taken related to the objections made.

The decisions of the Re-study and Evaluation Council are the final decisions of the Institution. Lawsuits against these decisions may be opened in the related courts.

The working basics and the operation of the Re-study and Evaluation Council are determined by the regulations to be prepared by the Institution and issued by the approval of the Ministry.

## **THIRD SECTION**

### **Service Units**

#### **Main Service Units**

Article 68-The main service units of the Institution are as follows:

- a) Presidency of Registration Department for Variety and Research Organizations,
- b) Presidency of Variety Protection Department,
- c) Presidency of Seed Control and Certification Department.

**Presidency of Registration Department for Variety and Research Organization.**

Article 69-The duties of the Presidency of Registration Department for variety and Research Organization are as follows;

- a) Conducts trial tests for the registration of the domestically improved new plant varieties , together with the varieties brought from abroad and the plant varieties obtained by biotechnological ways , in accordance with the terms of the regulations , and prepares the registration reports belonging to these,
- b) Prepares the projects of internal and external origin related to the variety registration procedures in the subjects of research , investigation , evaluation and development;
- c) Evaluates the trial and the test results of the registered varieties and prepares the national variety and recommendation tests;
- d) Performs the investigation, evaluation, registering and inspection procedures of registration applications private organizations in accordance with the related terms of regulations;
- e) Performs the other works given by the ministry.

The Presidency of Registration Department for variety and Research Organizations comprise of the following service units:

- a) Branch Directorate of Field Plants Registration Test,
- b) Branch Directorate of Garden Plants Registration Test,
- c) Branch Directorate of Registration, Recording and Archive.

**Presidency of variety protection department**

Article 70- The duties of the presidency of variety protection department are as follows:

- a) Performs the recording, filing, research, investigation, evaluation and registering procedures in accordance with the terms of related regulations,
- b) Performs the license, transfer and other changes of the breeder right and breeder right registering applications, in accordance whit the terms of the related regulations,
- c) Makes the announcement and registering procedures of breeder right,
- d) Performs the other works given by the ministry.

The presidency of variety protection department comprise of the following service units:

- a) Branch Directorate of application receipt,
- b) Branch Directorate of breeder right inspection
- c) Breeder right inspection Branch Directorate.

**Presidency of seed control and certification  
Department**

Article 71- The duties of the presidency of seed control and certification department are as follows:

- a) Performs the certification procedures of the seeds produced domestically or the seeds which are traded internationally,
- b) Makes the field controls and laboratory inspection of the seeds,
- c) Makes the control trials of the certified seeds that exist in the production,
- d) Prepares the certification labels/tags of the seeds, seedlings, saplings and matures,
- e) Evaluates the results of control trials of the seeds produced domestically,
- f) Establishes the control trials of the exported or imported seeds,
- g) Follows the applications related to the seedling and sapling inspections that are traded domestically,
- h) Makes the regulatory studies related to the certification and control of seed,
- i) Performs the other works given by the ministry.

The presidency of the seed control and certification department comprise of the following service units:

- a) Branch Directorate of seed control,
- b) Branch Directorate of seed certification,
- c) Branch Directorate of international trials.

**Auxiliary service units**

Article 72- The Auxiliary service units of the institution are as follows:

- a) Branch Directorate of personnel,
- b) Branch Directorate of administrative and financial works,
- c) Branch Directorate of international relations.

**Branch Directorate of personnel**

Article 73- The duties of the Branch Directorate of personnel are as follows:

- a) Conducts the services of the personnel employed within the body of the institution like work contracts, positions, advancement, duty, pension, health, absence and similar personnel procedures,
- b) Makes the related works related to social services and in service training,

- c) Performs the other works given by the ministry.

#### **Branch Directorate of administrative and financial works**

Article 74- The duties of the Branch Directorate of administrative and financial works are as follows:

- a) provides the execution of the expenditures that are needed to be made by the institution, collect the incomes that are to be collected, makes the procurement within the framework of the terms of the related laws and regulations,
- b) Conducts the cleaning, maintenance and repair service of the institution, offers the proposals for the procurement needs of the institution for the mobile and immobile goods or for their lease, or for their sale or rent when needed; by the approval of the Branch Directors,
- c) Provides the orderly conduct of the entry and exit of documents together with the service of archive,
- d) Keeps the record of inventory and other articles,
- e) Performs the other works given by the ministry.

#### **Branch Directorate of international relations**

Article 75- The duties of Branch Directorate of international relations are as follows.

- a) Follows the international agreements that fall into the duty area of the institution, investigates them and conducts the necessary works for conforming the responsibilities,
- b) Conducts the necessary procedures for the participation to international agreements that are needed to be participated, within the framework of Law no: 1173
- c) Makes proposals to the presidency to make arrangements/modifications in the regulations when needed,
- d) Provides foreign regulations and follows them,
- e) Performs the other works given by the ministry.

#### **Consulting Units**

Article 76- The consulting units of the institution are the followings:

- a) Branch Directorate of legal works,
- b) Branch Directorate of information and documentation.

### **Branch Directorate of legal works**

Article 77- The duties of the Branch Directorate of legal works are as follows:

- a) Conducts studies for the adaptation of the regulations in the fields of plant breeder rights and variety registration and certification to the current conditions,
- b) Acts as consultant to the Branch Directorate of and the presidency in the legal subjects,
- c) Keeps the arrangements ready for service like national and international agreements, laws, regulations, other regulations, reports, articles and similar related to the rights of breeders and variety registration and certification,
- d) Represents the institution in the courts,
- e) Performs the other works given by the ministry.

The advocate Branch Directorate, Advocates and other personnel who work in the Branch Directorate of legal works make use of the payment given in the courts and other seizure departments as the proxy payment in accordance with the terms of law related to proxy payments No. 1389 / Ücreti Vekalet Hakkında Kanun to the payment to be given to advocates and the like.

### **Branch Directorate of information and documentation**

Article 78- The duties of the information and documentation are as follows:

- a) Provides all kinds of publishing for the training and informing of the institution about its duties,
- b) Publishes publications domestically and internationally related to breeder rights,
- c) Prepares and publishes variety catalogues for the varieties registered,
- d) Collects information and documents belonging to registered rights of breeders domestically and internationally,
- e) Publishes plant varieties bulletin related to breeders right,
- f) Provides the establishment of the data body of the institution, provides the operation of its equipment and software and provides the development,
- g) Provides conveyance of the information and documents to the computer media and provides their storage, related to the rights of breeders,
- h) Makes the necessary studies for the fastest use of the information in the computer media by the related units of the institution,
- i) Performs the other works given by the ministry.

## **Organization**

Article 79- The organization of the Turkish variety register, protection and seed certification institution consist of the organizations of the headquarters and the provinces,

## **FOURTH SECTION**

### **Conditions of assignment, budget and personnel**

#### **Conditions of assignment**

Article 80- the domestic and international experience of the personnel to be assigned as managers within the institution is predominantly evaluated along with the conditions searched for in the Government officers Law No : 657 / Devlet Memurları Kanunu, Together with their service period inside the institution.

Foreign language knowledge of the personnel to the positions of heads of departments and managers to the variety registering and breeders right department together with variety register branch, breeder rights branch, international relations branch and information and documentation and data processing branch, are predominantly evaluated like at least one of the languages of English, French and German.

The personnel outside those who are assigned by joint decree, are assigned by the ministry upon proposal of the president and by the approval of the board of directors.

Those who prove to be successful in the sufficiency examination to be opened are assigned within the body of the institution, provided that:

- a) In addition to the conditions cited in government officers Law No: 657 Devlet Memurları Kanunu, in order to be assigned as assistant specialist,
  - 1) To be graduated from faculties of agriculture,
  - 2) To be successful in the contest and sufficiency examination,
  - 3) To be completed thirty years of age in the first day of January of the year when the examination is made,

are compulsory.

- b) Those who become successful in the examination to be opened are assigned to the “specialist” position, provided that they work at least for three years as assistant specialty and they receive positive records.

Those who become unsuccessful in two successive examinations are assigned to other posts suitable to their positions.

It is compulsory that those who will be assigned to specialist positions should know at least one of the languages of English, French or German in good level.

The procedures and the basics related to assistant specialists and specialist and their training domestically or internationally, the basics of their selection and other points are determined by regulations to be issued by the ministry.

### **Inspection**

Article 81- The institution is subject to the inspection of prime ministry supreme inspection council.

### **Incomes, Expenditures and Budget**

Article 82- The incomes of the institution are as follows:

- a) The general budget sources of the ministry,
- b) The fees to be collected against the service to be conducted by the institution,
- c) Incomes that will be obtained from the projects made by joint agreements,
- d) Other incomes.

The amounts of fees indicated in the No: 8 tariff of Fees Law No : 492 / Araçlar Kanunu, for the plant breeders rights are collected together with the are collected together with registration, certification and other services that the institution will make; by the institution and fees collected in this way are transferred monthly to the ministry of finance until the twenty first day of the next month.

The expenditures of the institution are met from the general budget sources and from the budget to be approved by the Board of Directors.

A revolving capital facility is established within the body of the institution for the purpose of the realization of the services to be given to real and juristical persons, in the fields that fall into the areas of activity of the institution; upon positive view of the Board of directors and upon approval of the Minister.

The activity areas of the revolving capital facilities, their capital limits, the basics of management procedures related to the facility and accounting procedures are determined by the revolving capital regulations by taking the positive view of the Ministry of Finance, and in accordance with Board of Directors.

The institution may make use of the services of domestic and international organizations for the procedures of plant breeder right and other services. The payments to be paid for such services that are to be made use of, are collected by the institution together with the fees that are taken against the services of the institution to be made and the payments to the related organizations are made by the institution.

### **Personnel Employment**

Article 83- Personnel with contract may be employed without being tied up with the terms of Government Officials Law No : 657 and other laws related to employment of personnel with contract, provided that positions of president, assistant president, head of department, branch manager, plant breeder right assistant specialist, advocate, Engineer, Translator, analyst, Programmer, Computer Expert are shown on their opposites. Foreign specialists may also be employed with contract, the employment of the foreign specialists, the employment of the foreign specialists, are made in accordance with the regulations to be prepared by the institution and to be approved by the Ministry.



For the jobs and services that necessitate a specific expertise, a procedure is carried out within the framework of the Board of Directors.

Nationals or foreigners may be employed according to the needs for health, training and other works that the services necessitate, by special agreements from the country or from abroad by the approval of the Board of Directors.

The personnel with contracts are tied to the retired personnel organization / Emekli Sandığı, in case they demand.

### **The positions in the institution**

Article 84- The determination, establishment, use and cancellation of positions and other points pertaining to the positions that are arranged in accordance with the terms of the Decree With the power of law about General Positions and Proceedings No : 190 / Genel kadro ve Üsülü Hakkında Kanun Hükmünde Kararname.

## **TENTH PART**

### **LAST TERMS**

#### **Terms that will not be applied**

Article 85- The terms of general accounting Law No : 1050 / Muhasebe-i Umumiye Kanunu are not applied to the works and procedures of the institution established by this law. Apart from this, the institution is not dependent on Government Tender Law No : 2886 / Devlet İhale Kanunu, in procurement- sales, renting and other processes. The properties of the institution are considered legally as the property of government.

A regulation which arranges the procurement- sales, renting and other procedures of the institution, is prepared by the board of directors, and approved by the Ministry, upon positive view / opinion of the Ministry of Finance.

#### **The independence of breeder right**

Article 86- The breeder right which is arranged by this law, is independent of the legal and administrative arrangements which are taken from the view of the production of the related material, its certification offering of it to the market from commercial point of view, its import and its export; and the aforesaid arrangements does not affect the protection of this right as the breeder right.

#### **Regulations**

Article 87- The regulations related to the application of this law, are prepared within six months following the validation date of this law, and the arrangements related to the institution are prepared within three months following the first meeting of the Board of Directors.

## Regulations that are removed from validity

Article 88- The ş, t and u subparagraphs of the 5<sup>th</sup> article, and the third subsection of the 6<sup>th</sup> of the Law Pertaining the Registration, Control and Certification of Seeds No : 308, modified by Law No: 3976 / 308 Sayılı Tohumlukların Tescil Kontrol ve Sertifikasyonu Hakkında Kanun; are removed from validity. The duties given to Protection and Control General Directorate/ Koruma ve Kontrol Genel Müdürlüğü, by the regulation with the power of law No : 441, about the establishment and duties of the ministry of agriculture and rural affairs, related to “ to determine the control and arrangement basics and announcement related to seed, seedling, sapling and similar inputs “ the term branch directorate of seed registering and certification has been removed from validity.

The village type which passes in the various articles has been removed from the Law Pertaining the Registration, Control and Certification of Seeds No. 308, has been removed.

The (a) sub paragraph of 5<sup>th</sup> article of the Law Pertaining the Registration, Control and Certification of Seeds No : 308 has been modified as follows:

- a) Registration, the specifying of morphological, biological and agricultural by field trials and laboratory analyses and recording to a register, for the purpose of certification by determining that these are distinct from the existing ones and new variety,

TEMPORARY ARTICLE 1- those persons who make use of the third subsection of the 6<sup>th</sup> article of Law No : 308 for a new, distinct, uniform and stable variety as of February 26. 1994; are protected under the they apply to the institution within six months following the validation date of this law and by complying with the conditions cited in this law. The effects of this law, to third persons, are taken into consideration, following the validation date of this law, provided that breeder right is given.

TEMPORARY ARTICLE 2- The institution prepares the list of varieties and the denominations of the owners that make use of the second subsection of article 6 of Law Pertaining the Registration, Control and Certification No : 308; within three months following the validation date of this law, and this is published in the Official Gazette together with the authorization declared in temporary article 1,

TEMPORARY ARTICLE 3- The one – year period which is mentioned from the angle of domestic in the 5<sup>th</sup> article, for the applications to be made within the first three months following the validation date of this law, while the novelty investigation is being carried out, is applied as five years for only once.

TEMPORARY ARTICLE 4- All the books, note-books, publications, documents, procedure files, and computers, and other mobile properties of ministry of agriculture and rural affairs protection and control general directorate seed registration and certification branch management, connected to the general directorate, Çayırova Seed Certification and Test Management, Samsun, İzmir, Antalya, Mersin, Diyarbakır Provincial Control Laboratories and Certification, have been transferred to the institution.

TEMPORARY ARTICLE 5- All of the personnel and the servants, who have been working in the Ministry and Control General Management of Agriculture and Rural Affairs Protection and Control General Management Seed Registration and Certification Branch Management, Seed Registration and Certification Center Management and Çayırova Seed Certification Test Management; together with the personnel and servants working in Samsun, İzmir, Antalya, Mersin and Diyarbakır Provincial Control Laboratory Management; gain the right of the personnel and the servants of the institution.

Those personnel, whose positions and duty titles do not change that will pass to the institution are accepted to be assigned to their new positions.

Those, whose positions and duty titles do not change or those lifted, are given the works suitable to their positions; their salaries, additions and indemnities belonging to their old positions are continued to be paid, until they are met/ provided with additional indicators, and all kinds of additions and indemnities; and their all kinds of personnel rights are preserved.

TEMPORARY ARTICLE 6- All duties given to the institution by this law, and all kinds of procedures are conducted by the Ministry until the institution is organized.

TEMPORARY ARTICLE 7- The assignment of the president of the institution, the assistant president and the members of Board of Directors; are made within latest one month, after the validation date of this law.

TEMPORARY ARTICLE 8- Those who has worked for live years or more as Agricultural Engineer in the field of seeds and certification; at the date of validation date of this law, among the personnel who has worked in the organizations listed in temporary Article 5; are assigned to specialist position, without being dependent on the terms in the regulations. Those who have services between two years to five years may make use of the right of entering the specialist examination and those who have services, less than two entering the assistant specialist examinations, not to be more than two times, without looking at the age limits and the periods cited in the related regulations.

Those who prove to be successful in the examinations, are assigned to specialist and assistant specialist positions, by taking into consideration the order of success.

TEMPORARY ARTICLE 9- Those positions cited in the enclosed Table No : 1 have added to the tables connected to the Decree in the Power of Law No : 190 as the part of Turkish variety Register, Protection and seed Certification institution Presidency.

TEMPORARY ARTICLE 10- The 1999 year fiscal year expenditures of Turkish Variety Register, Protection and seed Certification institution presidency are met from the ministry of agriculture and rural affairs budget. Ministry of Finance is authorized to make arrangements in this regard.

TEMPORARY ARTICLE 11- “ Turkish Variety Register, Protection and Seed Certification Institution President ” is added, to become after “ Insurance Inspection Council President” that is present in the (d) part of “ 1- General Administrative Services Class” of additional indicator table No : 1, enclosed to Government Officials Law No : 657; and at the end of (h) part of it “ Plant Breeder Right Specialist ” is added; and " Seed Certification Institution Assistant President “ is added in the ”

II- juristical organizations connected and related organizations " part, after " Government Personnel Presidency Assistant President " title.

TEMPORARY ARTICLE 12- To the government officials law;

- a) " Plant Breeder Rights Assistant Specialist " is added to the article 36 " Common Terms " section (A) subsection, No : (II) subparagraph, after " Consumer and Plant Breeder Rights Specialist " is added after " Consumer and Competition Specialist ",
- b) " Plant Breeder Rights Specialist" has been added after "Consumer and Competition Specialist " to the (i) subparagraph of " A - Special Service Indemnifications " Part of additional Article of " Addition and Indemnification".

TEMPORARY ARTICLE 13- " Turkish Variety Register, Protection and Seed Certification Institution Presidency " is added after " Atatürk Forest Farm Management " that is mentioned in the Article 29 Connected Organization part of Decree in Power of Law about the Establishment and Duties of Ministry of Agriculture and Rural Affairs No. 441.

### **Validity**

Article 89- This law becomes valid on the date of publication.

### **Execution**

Article 90- The terms of this law are executed by the Council of Ministers.

**LIST NO.01**

**INSTITUTION: THE PRESIDENCY OF TURKISH VARIETY REGISTER,  
PROTECTION AND SEED CERTIFICATION INSTITUTE  
ORGANISATION: HEADQUARTERS AND PROVINCES**

THE POSITIONS, THE ESTABLISHMENT OF WHICH ARE FOUND SUITABLE

CLASS	TITLE	LEVEL	NUM. OF FREE POSITIONS	NUM. OF RESERVED POSITIONS	TOTAL
G.I.H.	PRESIDENT	1	1	'''	1
G.I.H.	ASSISTANT PRESIDENT	1	1	'''	1
G.I.H.	HEAD OF DEPARTMENT	1	3	'''	3
G.I.H.	BRANCH MANAGER	1	15	'''	15
G.I.H.	TEST CENTER MANAGER	1	12	'''	12
G.I.H.	ADVOCATE	1	2	'''	2
T.H.	ASSISTANT MANAGER	1	12	'''	12
T.H.	SPECIALIST	1	50	'''	50
T.H.	ASSISTANT SPECIALIST	2	50	'''	50
T.H.	ENGINEER	3	50	'''	50
T.H.	CHEMIST	3	5	'''	5
G.I.H.	BIOLOG	1	10	'''	10
G.I.H.	TRANSLATOR	1	2	'''	2
G.I.H.	TRANSLATOR	2	1	'''	1
G.I.H.	LIBRARIAN	7	1	'''	1
G.I.H.	CHIEF	3	10	'''	10
G.I.H.	SECRETARY	6	15	'''	15
G.I.H.	SECRETARY	7	10	'''	10
G.I.H.	COMPUTER OPERATOR	4	2	'''	2
G.I.H.	COMPUTER OPERATOR	6	4	'''	4
G.I.H.	MANAGEMENT ECONOMIST	1	1	'''	1
G.I.H.	CLERK	5	10	'''	10
G.I.H.	CLERK	6	15	'''	15
G.I.H.	TYPIST	6	10	'''	10
G.I.H.	TYPIST	8	10	'''	10
G.I.H.	DRIVER	6	10	'''	10
G.I.H.	DRIVER	7	10	'''	10
T.H.	DRIVER	8	10	'''	10
T.H.	TECHNICIAN	5	10	'''	10
T.H.	TECHNICIAN	6	10	'''	10
T.H.	TECHNICIAN	7	10	'''	10
T.H.	GRAPHIST	1	1	'''	1
T.H.	PRINTING	HOUSE	2	'''	2
Y.H.	SERVANT	10	10	'''	10
Y.H.	SERVANT	11	10	'''	10
Y.H.	SERVANT	12	10	'''	10
Y.H.	MASTER	...	10	'''	10
Y.H.	ELECTRICIAN	...	10	'''	10
Y.H.	AGRICULTURAL WORKER	...	100	'''	100
Y.H.	TRACTOR DRIVER	...	10	'''	10
	TOTAL		525		525