Tunç, Bilal
Professor, Ağrı İbrahim Çeçen University*

Yildirim, Sefa
Professor, Ağrı İbrahim Çeçen University**

Doi: 10.15170/Dike.2025.09.01.18

Analysis of the Turkish 2001 Constitutional Amendments in the Context of Fundamental Rights and Freedoms from the Perspective of European Rule of Law

Türkiye's current constitution, the 1982 Constitution, is modelled on the constitutions of European states. In fact, the 6th amendments to the 1982 Constitution, which is the subject of this study, was made on October 3, 2001 within the framework of harmonization with the European Union acquis. With this regulation, in addition to the initial text of the Constitution, several articles[1] were amended. The main purpose of making these amendments was to make the 1982 Constitution harmonized within the scope of the accession works to the European Union. The aim of this study was to reveal the contribution of Articles 13, 14, 19, 20, 21, 22, 23, 26, 28, 31, 33, 34, 36, 38 and 40, regulating the issues in the context of protecting fundamental rights and freedoms and amended in 2001, to the development of fundamental rights and freedoms in Türkiye. For this purpose, it was aimed to reveal in detail the effect of the said Constitutional amendment on the development of human rights and freedoms. This study was created by making use of the Official Gazette and copyrighted works through a qualitative study in which the document analysis techniques were used in order to show how Türkiye embarked on the path of European legal development by ensuring constitutional fundamental rights.

Keywords: *Rule of Law, Türkiye, 1982 Constitution, 2001 Constitutional Amendments, fundamental rights and freedoms, European legal development*

* Orcid id: 0000-0001-5361-8494.
** Orcid id: 0000-0001-7351-6145.

1 Articles 13, 14, 19, 20, 21, 22, 23, 26, 28, 31, 33, 34, 36, 38, 40, 41, 46, 49, 51, 55, 65, 66, 67, 69, 74, 86, 87, 89, 94, 100, 118 and 149.

1. Introduction: the first effects of European legal culture in Türkiye

The Constitution is the basic written source that forms the basis of the legal structure of a State and regulates the fundamental rights and freedoms that determine the powers and boundaries of the institutions authorized on behalf of the nation and their relations with each other.[2] Constitutionalism, on the other hand, are activities which aim to set an upper limit on this issue in order to prevent the state organs from having the authority to determine the boundaries of their own power as they wish. Constitutions are also legal documents that emerged as a product of the modern age and constitutionalism activities.[3]

Türkiye has been governed by constitutions since 1876 and had a total of five constitutions starting from the Constitution of 1876.[4] Sultan *Abdul Hamid*'s (r. 1808–1839) first, Ottoman Constitution in 1876 – although partial and incomplete, and did not take a position on many important issues – nevertheless led the empire in the direction of a constitutional monarchy instead of an absolute monarchy. This constitution declared equality before the law, personal rights and the right to property, freedom of the press, and the free exercise of religions, while maintaining that the state religion was Islam.[5] The creation of the modern Turkish state is associated with the name of *Kemal Mustafa Atatürk* (1881–1938), under whose presidency the country's independence, the preservation of its territory, the abolition of the sultanate (and caliphate), also the establishment of a republic were ensured. Certain European human rights appeared for the first time in the constitution and other legal sources, which are also essential elements of European legal development. On December 26, 1925, the Gregorian calendar was adopted, and Sunday became the official day of rest, following the European model. A new penal code was drafted based on the Italian model, and a civil code based on the Swiss model, which made men and women equal before the law. Polygamy was banned, women were given the right to divorce, as previously, only men could initiate it, and higher education institutions were opened to them. Only civil marriages concluded before a registrar were recognized as legal. This manifested itself in the opening of the door to the influence of Roman law in private law, and in constitutional law in the pursuit of the Western Rule of Law.

Among the total of five constitutions of Türkiye, 1876, 1921, 1924, 1961[6] and 1982 Constitutions, the most comprehensive amendments were made in 1919, 1971 and 2001. With the regulation made on August 8, 1909, a total of 24 articles of the 1876 Constitution were amended. Likewise, Article 34 of the 1961 Constitution was amended on September 20, 1971. Lastly, a total of 33 articles of the 1982 Constitution, which is our subject of study, were regulated in 2001.[7] This is extremely important in terms of showing what major amendments were made in the Constitution in 2001.

2 Tunç, An Evaluation on the Amendments to the 1961 Constitution 658; Tanör, Ottoman-Turkish Constitutional Developments 13; Kubali, Constitutional Law Courses 15.

3 Esen, Constitutional Law 21; Tunç – Akarçay, An Evaluation on the Amendments to the 1961 Constitution 1544.

4 Tunç – Bacak, An Evaluation of the Government System in the 1924 Constitution 416; Sosyal, The Meaning of the Constitution in 100 Questions 16; Parla, Constitutions in Türkiye 7–8.

5 Lybyer, The Turkish Parliament 37–38.

6 More about the 1961 Constitution: Köse – Falus – Czukor, From the 1961 constitution to the present day social services in Türkiye 95–106.

7 Tunç, Turkish Constitutional History and Characteristics of Constitutions 83.

Democratic constitutions favour freedoms over authority. One of the main ways to protect freedoms is to determine the mechanisms for balancing and controlling state powers and to ensure that relevant assurances are in place. Balancing state powers by restraining them is indispensable to ensuring liberal democracy. In the 1980s, a phase of globalization began in Turkey, when the country had to respond to the strong internationalization at the legislative level as well. With the start of the Turkish-Eu negotiations and the establishment of closer relations between Turkey and the European Union, the phase of legal development of "Europeanization" in the modern sense began. The 1982 Constitution, however, has been still constantly criticized for being a coup constitution and for the system it contains, which glorifies authority and regresses freedoms extremely. Measures to change and transform the constitution were carried out from time to time in the form of comprehensive constitutional amendments.[8] The most comprehensive of these was made in 2001.

The dominant presence of the European Union was felt at every stage of the 2001 constitutional amendment process.[9] For example, there were news reports that the acceleration of the constitutional amendment regarding the closure of political parties was on the agenda after European Union warned Türkiye about the Fazilet Party case before the Association Council on June 26, 2001. As a result, at the leaders' summit, it was decided that the Assembly would recess on the normal date and begin the constitutional amendment negotiations by calling an extraordinary meeting on September 17, 2001. In other words, the main reason for the 2001 constitutional amendments was the process of adaptation to the laws of the European Union.[10]

As explained above, the essence of the Constitutional amendments of 2001 was its effects and reflections on fundamental rights and freedoms within the scope of accession works to the European Union. A high percentage up to 85% of these amendments, which were the most comprehensive of those made during the 20-year implementation process of the 1982 Constitution, are related to fundamental rights and freedoms, especially the restriction of fundamental rights and freedoms.[11] Some basic concepts need to be explained in an issue where such significant amendments have been made in the constitution. The most important of these are fundamental rights and freedoms.

The Turkish Grand National Assembly convened extraordinarily on September 17, 2001 to discuss constitutional amendments. In the meantime, the attitudes of the political parties in the Parliament regarding the constitutional amendment have started to become clearer. The Democratic Sol Party, Anavatan Party and Adalet Kalkınma Party gave unconditional support to the package. Milliyetçi Hareket Party, on the other hand, started the negotiations with some reservations that largely coincided with the "sensitivities" of the General Staff, especially regarding the amendments to Articles 13, 14, 26 and 28. Saadet Party intended to negotiate an arrangement that allowed formerly banned leader *Necmettin Erbakan* to return to politics. Therefore, it gave its conditional support to the amendments.[12]

8 Yokuş, The Search for a New Constitution and 2017 Constitutional Changes in Türkiye 665.

9 The constitutional amendment for the purpose of legal harmonization prior to accession to the European Union has also been carried out in Hungary. More on the topic: Falus, About a result of globalization in Hungarian fundamental law 20–21.; Aydin – Falus, Economic and Legal Integration?: Judgment in Case C-65/16 of the Court of Justice of the European Union 503–508.

10 Gönenç – Ozan, Living Constitution, Constitutional Developments 19.

11 Sağlam, After the Constitutional Amendments of October 2001 the Problem of the Limitation of Fundamental Rights and Freedoms 1.

12 Gönenç – Ozan, Living Constitution, Constitutional Developments 19.

As explained above, the 2001 Constitutional Amendments were a product of the consensus reached among the parties. In other words, amendments were made on the points on which the parties were able to reach agreement regarding the Constitutional amendment. Therefore, the holistic approach does not include a holistic view. However, whether we like it or not, it is necessary to recognize that the 1982 Constitution has a consistent integrity within itself in many aspects. When we decide to abolish a certain system in the Constitution, we have to replace it with a new system with internal consistency in accordance with the amendment we want to make. Otherwise, it is inevitable that inconsistent or even absurd results will arise. This was the case with the 2001 Constitutional amendments. Radical amendments were made. However, since the internal consistency required by these changes was not reflected in the Constitution as a whole and a new system was not adopted accordingly, new problems and consequently new debates emerged.[13]

In such an environment, within the scope of the constitutional amendment made with the *"Law on the Amendment of Certain Articles of the Constitution of the Republic of Türkiye"* numbered 4709, which was adopted on October 3, 2001 and published in the Official Gazette dated October 17, 2001, the Preamble, 32 articles and a provisional article of the 1982 Constitution were amended. In addition, the amendment to Article 86 of the Constitution was published in the Official Gazette dated on December 1, 2001 and entered into force.

2. Analysis of 2001 Constitutional Amendments in the context of fundamental rights and freedoms

Regarding the limitation of fundamental rights and freedoms, Article 13 of the 1982 Constitution was amended within the framework of the European Union acquis. Perhaps the most radical amendment in the Constitution was in Article 13. According to some scientists, the amendment in this article has been a groundbreaking change. This judgment related to Article 13 is based on the fact that the article is no longer a general limitation provision and is rearranged to include self-assurance.[14] In order to make the subject more understandable, the first and amended versions of the article were given and an attempt was made to analyse what consequences the new regulation had in terms of fundamental rights and freedoms.

The first version of Article 13 of the 1982 Constitution is as follows: *"Fundamental rights and freedoms may be restricted by law, in conformity with the letter and spirit of the Constitution, with the aim of safeguarding the indivisible integrity of the State with its territory and nation, national sovereignty, the Republic, national security, public order, general peace, the public interest public morals and public health, and also for specific reasons set forth in the relevant Articles of the Constitution. General and specific grounds for restrictions of fundamental rights and freedoms may not conflict with the requirements of the democratic order of society and may not be imposed for any purpose other than those for which they are prescribed. The general grounds for restriction stipulated in this Article apply to all fundamental rights and freedoms"*.[15] As can be clearly understood from this article, it has been emphasized that fundamental rights and freedoms can be restricted by giving many justifications.

Final version of Article 13 of the 1982 Constitution, amended in 2001, is as follows: *"Fundamental rights and freedoms may be restricted only by law and in conformity with the reasons mentioned*

13 Sağlam, Some Problems That May Be Created by the 2001 Constitutional Amendment 1.

14 Arslan, Limitation of Fundamental Rights and Freedoms 139.

15 *Official Gazette*, November 9, 1982, Issue: 17.863, 4.

in the relevant articles of the Constitution without infringing upon their essence. These restrictions shall not be contrary to the letter and spirit of the Constitution and the requirements of the democratic order of the society and the secular republic and the principle of proportionality".[16] According to *Evran Topuzkamış*, with the amendment made to this article, *"advanced or reinforced assurances"* came to the fore with the inclusion of the *"democratic society"* criterion as well as the *"secular republic"* and *"proportionality"* and *"essence of the right"* criterion.[17] For this reason, the amendment in the context of human rights and freedoms can be considered as a positive situation.

Article 14 of the 1982 Constitution, as amended, is related to the non-abuse of fundamental rights and freedoms. In fact, the prevention of the abuse of fundamental rights and freedoms is constitutionally guaranteed by this article.[18] The first form of the Article is as follows: *"None of the rights and freedoms embodied in the Constitution may be exercised with the aim of violating the indivisible integrity of the State with its territory and nation, of endangering the existence of the Turkish State and Republic, of destroying fundamental rights and freedoms, of placing the government of the State under the control of an individual or a group of people, or establishing the hegemony of one social class over others, or creating discrimination on the basis of language, race, religion or sect, or of establishing by any other means a system of government based on these concepts and ideas"*. [19]According to *Gözler*, the issues regulated in Article 14 are not *"offenses"* but cases of abuse of rights. Not every abuse of a right constitutes an offense; in order for it to constitute an offense, it must be separately and explicitly regulated as an *"offense"* by law. In fact, the last paragraph of Article 14 stipulates that the sanctions for the situations in Article 14 will be determined by law.[20]

With the constitutional amendment made in 2001, Article 14 was amended as follows: *"None of the rights and freedoms embodied in the Constitution shall be exercised in the form of activities aiming to violate the indivisible integrity of the State with its territory and nation, and to endanger the existence of the democratic and secular order of the Republic based on human rights. No provision of this Constitution shall be interpreted in a manner that enables the State or individuals to destroy the fundamental rights and freedoms recognized by the Constitution or to stage an activity with the aim of restricting them more extensively than stated in the Constitution. The sanctions to be applied against those who perpetrate activities contrary to these provisions shall be determined by law"*. According to *Can*, with this amendment, the article has become compatible with its title.[21] Indeed, in its former form, the aforementioned article has exceeded the limits of the prohibition of abuse and has started to have a direct constitutional limit quality, especially in terms of freedom of expression of thoughts.

According to *Tülen*, in addition to the statement made above, with the amendment in the Article 14, it is not quite possible to say that the norm area of rights and freedoms and therefore the freedom of expression has been expanded compared to the old regulation. Therefore, the amendment in Article 14 is rather a change of expression.[22] However, it is necessary to consider the amendment in question as a positive change in the context of fundamental rights and freedoms.

16 *Official Gazette*, October 17, 2001, Issue: 24.566, 1.

17 Evran Topuzkanamış, Fundamental Rights and Freedoms in the 1982 Constitution 1782.

18 Değirmenci Constitutional Framework of the Suspension of Fundamental Rights 53.

19 *Official Gazette*, November 9, 1982, Issue: 17.863, 4.

20 Gözler, Turkish Constitutional Law 559.

21 Can, Constitutional Amendments and Freedom of Expression 3.

22 Tülen, A General Assessment of the Constitutional Amendments 198.

Article 19 of the 1982 Constitution, as amended, is related to the freedom and security of the individual. As it is known, human rights are based on two basic concepts: liberty and security of individual and freedom of thought.[23] Therefore, it is extremely important that this issue is regulated in Article 19 of the 1982 Constitution. Article 19 is as follows: *"Everyone has the right to personal liberty and security. Execution of sentences restricting liberty and the implementation of security measures decided by courts; arrest or detention of an individual in line with a court ruling or an obligation upon him designated by law; execution of an order for the purpose of the educational supervision of a minor, or for bringing him/her before the competent authority; execution of measures taken in conformity with the relevant provisions of law for the treatment, education or rehabilitation of a person of unsound mind, an alcoholic, drug addict, vagrant, or a person spreading contagious diseases to be carried out in institutions when such persons constitute a danger to the public; arrest or detention of a person who enters or attempts to enter illegally into the country or for whom a deportation or extradition order has been issued."*[24] As can be clearly seen in this article, personal rights are restricted for many reasons. This is not appropriate in terms of fundamental rights and freedoms.

The continuation of the article is as follows: *"Individuals against whom there is strong evidence of having committed an offence may be arrested by decision of a judge solely for the purposes of preventing escape, or preventing the destruction or alteration of evidence, as well as in other circumstances prescribed by law and necessitating detention. Arrest of a person without a decision by a judge may be executed only when a person is caught in flagrante delicto or in cases where delay is likely to thwart the course of justice; the conditions for such acts shall be defined by law. Individuals arrested or detained shall be promptly notified, in all cases in writing, or orally when the former is not possible, of the grounds for their arrest or detention and the charges against them; in cases of offences committed collectively this notification shall be made, at the latest, before the individual is brought before a judge. The person arrested or detained shall be brought before a judge within at latest forty-eight hours and in case of offences committed collectively within at most four days, excluding the time required to send the individual to the court nearest to the place of arrest. No one can be deprived of his/her liberty without the decision of a judge after the expiry of the above specified periods. These periods may be extended during a state of emergency or in time of war."*[25] This article, which is considered extremely problematic in the context of human rights, has been amended.

In the context of the abovementioned statement, the right to liberty and security of the individual regulated in the amended Article 19 of the Constitution has ensured that individuals cannot be arbitrarily deprived of their liberty. However, in the same article, it is stated that this right can be restricted, provided that the formal conditions are specified in the law, and the reasons for which it can be limited are indicated one by one. According to Turan, one of the reasons for the restriction is that individuals will be deprived of their freedom depending on the charge of offense in Article 19, paragraph 3. Within the scope of this paragraph, it has been stated that persons who have strong indications of guilt can be arrested by a judge's decision in order to prevent their escape and the darkening of the evidence; in cases of in flagrante delicto or an inconvenience in delay, it has also been stated that the arrest and detention process can be carried out without a judge's decision.[26]

As can be understood from the article, Article 19 on personal security is one of the longest articles of the Constitution. In this article, the principles stated in the 1961 Constitution have been

23 Korkmaz, Freedom of Thought and Its Limits 119.

24 *Official Gazette*, November 9, 1982, Issue: 17.863, 4.

25 *Official Gazette*, October 17, 2001, Issue: 24.566, 2.

26 Turan, The Measure of not Leaving the House in the Context of Judicial Control 166.

repeated in general, and some new provisions taken from the European Convention on Human Rights have been introduced.[27] Therefore, in continuation of Article 19, the provisions of which were amended, protective measures that constitute an intervention in fundamental rights and freedoms that can be applied before the final judgment in the trial process have been regulated in order to ensure that the criminal trial can be conducted properly and the execution of the judgment pursuant to the Code of Criminal Procedure. The first measures that come to mind are the capture, detention and arrest measures specified in Article 19 of the Constitution. Because the implementation of these measures directly interferes with the right to personal liberty and security.

According to *Turan*, the Code of Criminal Procedure also stipulates judicial control measures as well as protection measures that provide for supervision within the community by subjecting the suspects or defendants to one or more obligations instead of arresting them. Judicial control measures also constitute an intervention to different fundamental rights and freedoms according to their types.[28] Therefore, the fact that Article 19 was largely amended, especially the reduction of the detention period, is extremely important for the protection and development of human rights in Türkiye.

According to *Hafızoğulları*, Article 20 of the 1982 Constitution, as amended, is related to the confidentiality and protection of private life. Human beings are social beings by nature and their private life must be secured.[29] The first unaltered version of the Article in the constitution is as follows: *"Everyone has the right to demand respect for his private and family life. Privacy of individual and family life may not be violated. Exceptions necessitated by judiciary investigation and prosecution are reserved. Unless there exists a decision duly passed by a judge in cases explicitly defined by law, and unless there exists an order of an agency authorized by law in cases where delay is deemed prejudicial, neither the person himself nor any private papers, nor any belongings of an individual may be searched, nor may they be seized."*[30] Although this article has secured the confidentiality of private life, *"Privacy of individual and family life may not be violated. Exceptions necessitated by judiciary investigation and prosecution are reserved,"* expressions regulate that private life may be restricted under certain circumstances. This does not compatible with fundamental rights and freedoms.

In order to ensure the privacy and protection of private life in a real sense, Article 20 was amended in 2001. In this way, freedoms were secured.[31] In this context, the third sentence of the first paragraph of the Article 20 was repealed and the second paragraph was amended as follows: *"Unless there exists a decision duly given by a judge on one or several of the grounds of national security, public order, prevention of crime, protection of public health and public morals, or protection of the rights and freedoms of others, or unless there exists a written order of an agency authorized by law, in cases where delay is prejudicial, again on the above-mentioned grounds, neither the person, nor the private papers, nor belongings of an individual shall be searched nor shall they be seized. The decision of the competent authority shall be submitted for the approval of the judge having jurisdiction within twenty-four hours. The judge shall announce his decision within forty-eight hours from the time of seizure; otherwise, seizure shall automatically be lifted."*[32] As can be seen, the amended version of

27 Dikmen Canikoğlu, Fundamental Rights and Our Constitutions with Their Meaning 478.

28 Turan, The Measure of not Leaving the House in the Context of Judicial Control 166.

29 Hafizoğullari Özen, Crimes Against Private Life and the Secret Area of Life 9.

30 *Official Gazette*, November 9, 1982, Issue: 17.863, 6.

31 Erdem, The Adventure of the 1982 Constitution 157.

32 *Official Gazette*, October 17, 2001, Issue: 24.566, 1.

the article has brought a much more detailed explanation in the context of securing private life compared to its original form, and it regulated that no one's private belongings will be searched without legal permission and that it will be possible to search for only a certain period of time with the permission of the judge.

Article 21 of the 1982 Constitution, as amended, is related to inviolability of the domicile. Inviolability of the domicile can be defined as the right of the individual to live with a sense of peace and security in the housing, which is a private living space and is protected against the outside in connection with the concept of space.[33] This right was first regulated in the 1982 Constitution as follows: *"The domicile of an individual shall not be violated. Unless there exists a decision duly passed by a judge in cases explicitly defined by law, and unless there exists an order of an agency authorized by law in cases where delay is deemed prejudicial, no domicile may be entered or searched, or the property therein seized".*[34]According to this article, it is possible to enter domiciles in cases clearly indicated by the law, however, the issue of how to enter the domicile or how long to search here has not been regulated. This indicates that the constitution's regulation on inviolability of the domicile is not sufficient.

According to *Gözler*, with the constitutional amendment made in 2001, Article 20 was arranged, and inviolability of the domicile has been secured as it should be. In the amendment, it was tried to ensure inviolability of the domicile by implementing a legal period for the confiscation process, especially in houses.[35] In this context, Article 21 was amended as follows: *"The domicile of an individual shall not be violated. Unless there exists a decision duly given by a judge on one or several of the grounds of national security, public order, prevention of crime, protection of public health and public morals, or protection of the rights and freedoms of others, or unless there exists a written order of an agency authorized by law in cases where delay is prejudicial, again on these grounds, no domicile may be entered or searched or the property seized therein. The decision of the competent authority shall be submitted for the approval of the judge having jurisdiction within twenty-four hours. The judge shall announce his decision within forty-eight hours from the time of seizure; otherwise, seizure shall be automatically lifted."*[36] As can be understood from this article, the inviolability of the domicile has been fully guaranteed by the judge, and it was regulated that the law enforcement agency wishing to search the domicile must obtain permission from the judge within 24 hours. Apart from this regulation, no one's domicile can be entered and their belongings cannot be confiscated. Undoubtedly, this is extremely important for securing inviolability of the domicile.

Article 22 of the 1982 Constitution, as amended, is related to freedom of communication. According to *Yokuş Sevük*, freedom of communication is one of the fundamental rights of an individual. In international documents regulating human rights, it is stipulated that every individual has the right and freedom of communication, and it is stated that this right should be recognized and protected.[37] This situation was regulated as follows in the first version of the 1982 Constitution: *"Everyone has the freedom of communication. Privacy of communication is fundamental. Communication shall not be impeded nor its secrecy be violated, unless there exists a decision duly passed by a judge in*

33 Olcay, The Right of Immunity of Residence and Violation of Residence Immunity 225.

34 *Official Gazette*, November 9, 1982, Issue: 17.863, 6.

35 Gözler, Is Constitutional Amendment Necessary?105.

36 *Official Gazette*, October 17, 2001, Issue: 24.566, 2.

37 Yokuş Sevük, Crime of Violating the Privacy of Communication 159.

cases explicitly defined by law, and unless there exists an order of an agency authorized by law in cases where delay is deemed prejudicial."[38] Although it is stated here that freedom of communication exists; there is a regulation that this freedom can be restricted in certain situations.

With the Constitutional amendment made in 2001, Article 22 was amended as follows: *"Everyone has the freedom of communication. Privacy of communication is fundamental. Unless there exists a decision duly given by a judge on one or several of the grounds of national security, public order, prevention of crime, protection of public health and public morals, or protection of the rights and freedoms of others, or unless there exists a written order of an agency authorized by law in cases where delay is prejudicial, again on the above-mentioned grounds, communication shall not be impeded nor its privacy be violated. The decision of the competent authority shall be submitted for the approval of the judge having jurisdiction within twenty-four hours. The judge shall announce his decision within forty-eight hours from the time of seizure; otherwise, seizure shall be automatically lifted."*[39]

According to *Tatar*, freedom of communication is secured by this article. Otherwise, it is not possible to accept interventions on fundamental rights in accordance with the requirements of the democratic social order. Therefore, interventions made to freedom of communication without justification or with a justification that does not meet the criteria put forward by the Constitutional Court violate Article 22 of the Constitution.[40]

Article 23 of the 1982 Constitution, which was amended in 2001, is related to the freedom of residence and movement. Freedom of residence and the right to housing in Türkiye are two important human rights that are important and up-to-date in legal regulation, but mostly in practice.[41] This situation was regulated as follows in the first version of the 1982 Constitution: *"Everyone has the right to freedom of residence and movement, Freedom of residence may be restricted by law for the purpose of preventing offenses promoting social and economic development ensuring sound and orderly urban growth, and protecting public property; freedom of movement may be restricted by law for the purpose of investigation and prosecution of an offense, and prevention of offenses. A citizen's freedom to leave the country may be restricted on account of the national economic situation, civic obligations, or criminal investigation or prosecution. Citizens may not be deported or deprived of their right of entry into their homeland."*[42]Although it has secured the freedom to travel and settle in the context of human rights; it is understood that there are some restrictions here. These restrictions were tried to be reduced by the 2001 amendment.

With the constitutional amendment made in 2001, Article 23 was amended as follows: In this context, the phrase *"national economic situation"* in the fifth paragraph of the article in question was removed from the text of the article.[43] Thus, the section in the first version of the Constitution, which is thought to restrict the freedom of residence, was removed from the Constitution. This should be considered as a positive step in the context of securing fundamental rights and freedoms.

Article 26 of the Constitution, as amended, is related to the freedom of expression and dissemination of thought. According to *Korkmaz*, freedom of expression or opinion is one of

38 *Official Gazette*, November 9, 1982, Issue: 17.863, 6.

39 *Official Gazette*, October 17, 2001, Issue: 24.566, 2.

40 Tatar, Right to Correspondence of Prisoners in the Light of Comparative Judicial Verdicts 217.

41 Kaboğlu, Freedom of Association and Assembly 150.

42 *Official Gazette*, November 9, 1982, Issue: 17.863, 6.

43 *Official Gazette*, October 17, 2001, Issue: 24.566, 2.

the fundamental human rights and must be protected.[44] According to *Korkmaz*, the article in question, unlike the 1961 Constitution, redefined the freedom of expression and dissemination of thought to include mass media such as radio, television and cinema. As can be seen below, the text of the article has been written to include the *"right to information"* in the freedom to express and disseminate thought.[45]

This was stated in the article of the 1982 Constitution before it was amended as follows: *"Everyone has the right to express and disseminate his thought and opinion by speech, in writing or in pictures. or through other media, individually or collectively. This right includes the freedom to receive and impart information and ideas without interference from official authorities. This provision does not preclude subjecting transmission by radio, television, cinema, and similar means to a system of licensing. The exercise of these freedoms may be restricted for the purposes of preventing crime, punishing offenders, withholding information duly classified as a State Secret, protecting the reputation and rights and the private and family life of others, or protecting professional secrets as prescribed by law, or ensuring the proper functioning of the judiciary."*[46]As with other rights, freedom of thought and opinion is restricted in some cases, especially when it comes to state security. In fact, the reason for the constitutional amendment in 2001 was to eliminate these existing restrictions.

Thought and freedom constitute an inseparably intertwined whole in the natural structure of humans. However, in the face of the reality of the social order, the expression of the thought is subject to limitation, which will not be limited in terms of content, but as part of the prevention of crime or punishment.[47] In the context of this thought, the phrases *"national security, public order, public safety, safeguarding the basic characteristics of the Republic and the indivisible integrity of the State with its territory and nation"* were added to the second paragraph of the article in question after the expression *"The exercise of these freedoms"*, the third paragraph was removed from the text, and a last section was added to the article as a paragraph as *"The formalities, conditions and procedures to be applied in exercising the freedom of expression and dissemination of thought shall be prescribed by law."*[48]

According to *Tülen*, the amendments made to this article are concentrated in two areas. First of all, the fact that the part of the constitution that states *"no language prohibited by law may be used in the expression and dissemination of thought,"* and the provision that communication tools and equipment in violation of the aforementioned prohibition shall be seized were removed from the constitution must be favoured. Secondly, the part regarding *"safeguarding the basic characteristics of the Republic"* was included in the article. Although it is a well-intentioned regulation, the restriction rate of freedom has been increased compared to the previous one.[49] This did not create a good situation both in the context of the protection and development of fundamental rights and freedoms and in the context of the harmonization framework of European Union laws.

Article 28 of the 1982 Constitution, as amended, is related to freedom of the press. According to *Armağan*, the reason why this freedom is widely talked about today is the emergence of the printed press and especially the visual press, which has become very widespread in recent years.

44 Bozkurt – Dost, Freedom of Expression and Türkiye in the Decisions of the European Court of Human Rights 7.

45 Korkmaz, Freedom of Thought and Its Limits 128.

46 *Official Gazette*, October 17, 2001, Issue: 24.566, 2.

47 Paçaci, The Minefield of the 1982 Constitution: Freedom of Thought 146.

48 *Official Gazette*, October 17, 2001, Issue: 24.566, 2.

49 Tülen, A General Assessment of the Constitutional Amendments 209.

Especially due to the increase in the number of live broadcasts in Tv broadcasting, the increase in technological opportunities and the increase in the ease of live broadcasting, freedom of the press maintains its status as one of the most mentioned freedoms.[50] For this reason, it is extremely important that the right in question is protected and secured by the Constitution.

Article 28 of the said Constitution is as follows: *"The Press is free, and may not be censored. The establishment of a printing house may not be subject to prior permission and to the deposit of a financial guarantee. Publication may not be made in any language prohibited by law. The State shall take the necessary measures to ensure the freedom of the Press and freedom of information. In the limitation of freedom of the press, Articles 26 and 27 of the Constitution are applicable."*[51] The continuation of this extremely long article is related to the situations in which restrictions can be imposed on freedom of the press.

As it is known, one of the most usual ways of freedom of expression is the press. It is extremely important that freedom of the press is guaranteed.[52] In the context of press freedom, the expressions in the second paragraph of Article 28 were removed from the Constitutional text in 2001. In fact, Article 28 consists of nine paragraphs, and most of the paragraphs include provisions about in which cases freedom of the press can be restricted.[53] However, only the second paragraph of the said article was amended. Thus, it was concluded that this was not sufficient in the context of ensuring freedom of the press.

Article 31 of the 1982 Constitution regulated the right to use media other than the press owned by public corporations. In fact, with this article, the state is obliged to provide the tools needed by the press to the press organizations, provided that the relevant price is.[54] The article is as follows: *"Individuals and political parties have the right to use mass media and means of communication other than the Press owned by public corporations. The conditions and procedures for such use shall be regulated by law. The law may not impose restrictions preventing the public from receiving information or forming ideas and opinions through these media, or preventing public opinion from being freely formed, on grounds other than the general restrictions set forth in Article 13."* [55]

According to *Canoruç*, the provisions regulating the right to use media other than the press owned by public corporations with Article 31 are directly related to radio and television broadcasting.[56] With the amendment made in 2001, the second paragraph of the article in question was amended as follows: *"The law shall not impose restrictions preventing the public from receiving information or accessing ideas and opinions through these media, or preventing public opinion from being freely formed, on the grounds other than national security, public order, or the protection of public morals and health."*[57]

According to *Tülen*, within the framework of harmonization with the European Union, the amendment made to the Article 31 is a consequence of the fact that Article 13 was removed in relation to the justifications of the limitation specified in the Constitution in general. Namely, since

50 Armağan, Security Forces and Mass Communication 25.

51 *Official Gazette*, November 9, 1982, Issue: 17.863, 8.

52 Acabey, Freedom of the Press and Personality as a Limit to It 2.

53 *Official Gazette*, October 17, 2001, Issue: 24.566, 2.

54 *Official Gazette*, November 9, 1982, Issue: 17.863, 9.

55 *Official Gazette*, November 9, 1982, Issue: 17.863, 9.

56 Canoruç, A Constitutional Institute, The Turkish Radio and Television Corporation Autonomy 52.

57 *Official Gazette*, October 17, 2001, Issue: 24.566, 3.

the provisions regarding the general restriction in the Article 13 have been repealed, the reasons for the restriction regarding the rights to use media other than the press owned by public corporations are specified one by one in the article text. It turns out that these reasons consist of four parts: protection of national security, public order, public morals and general health.[58] This situation clearly reveals that the regulation is not sufficient in terms of protecting fundamental rights and freedoms.

Article 33 of the 1982 Constitution, as amended, is related to the freedom of association. An association, which is a voluntary social organization, covers the principles of free establishment and organization and the elements of assurance of activities. According to *Kaboğlu*, freedom of association can only be achieved by ensuring these.[59] This was regulated as follows in Article 33 of the 1982 Constitution: *"Everyone has the right to form associations without prior permission. Submitting the information and documents stipulated by law to the competent authority designated by law shall suffice to enable an association to be formed. If the information and documents submitted are found to contravene the law, the competent authority shall apply to the appropriate court for the suspension of activities or dissolution of the association involved."*[60]

In 2001, Article 33 was amended as follows: *"Everyone has the right to form associations, or become a member of an association, or withdraw from membership without prior permission. No one shall be compelled to become or remain a member of an association. Freedom of association may be restricted only by law on the grounds of national security, public order, prevention of commission of crime, public morals, public health and protecting the freedoms of other individuals. Associations may be dissolved or suspended from activity by the decision of a judge in cases prescribed by law. However, where it is required for, and a delay constitutes a prejudice to, national security, public order, prevention of commission or continuation of a crime, or an arrest, an authority may be vested with power by law to suspend the association from activity. The decision of this authority shall be submitted for the approval of the judge having jurisdiction within twenty-four hours. The judge shall announce his/her decision within forty-eight hours; otherwise, this administrative decision shall be annulled automatically."*[61]

According to *Gümüş*, associations derive their power from the Constitution and the relevant legislations indicated by the Constitution. The fact that non-governmental organizations established by individuals by exercising their freedom of association are equipped with constitutional guarantees is one of the indispensable elements of democratic states of law.[62] Regarding the freedom of association, which is such an important freedom, it cannot be said that sufficient changes were made neither in the first version of the Constitution nor in the 2001 amendment. This article needs further amendment in the context of fundamental rights and freedoms.

Article 34 of the 1982 Constitution, as amended, is related to the right to hold meetings and demonstration marches. The right to hold meetings and demonstration marches is a fundamental element in democratic societies.[63] Protecting and securing these rights is extremely important for the Constitution. Article 34 of the Constitution is as follows: *"Everyone has the right to hold unarmed and peaceful meetings and demonstration marches without prior permission. The competent*

58 Tülen, A General Assessment of the Constitutional Amendments 211.

59 Kaboğlu, Freedom of Association and Assembly 111.

60 *Official Gazette*, November 9, 1982, Issue: 17.863, 9.

61 *Official Gazette*, October 17, 2001, Issue: 24.566, 3.

62 Gümüş, The Effects of Recent Changes in Association Legislation on Freedom of Association 474.

63 Ekinci The Scope of the Notification Procedure of Right to Hold Meetings and Demonstration March 754.

administrative authority may determine a site and route for the demonstration march in order to prevent disruption of order in urban life. Formalities, conditions, and procedures governing the exercise of the right to hold meetings and demonstration marches, shall be prescribed by law."[64]

According to *Arslan*, Article 34 of the 1982 Constitution, which regulated holding meetings and demonstration marches, gave the authority to postpone or even prohibit a certain meeting and demonstration march specified in the Constitution for up to two months to the *"competent authority indicated by the law"* with the amendment made in 2001, in a slightly reactional manner. However, the provision was removed from the constitution with the last constitutional amendment. In this case, the question arises whether the postponement and prohibition provisions in the current Law on Holding Meetings and Demonstration Marches involve the essence of the right to hold meetings and demonstrations. In fact, such problems forced those who prepared the 1982 Constitution to turn away from self-assurance, a concept whose essence was not yet known, and to find a new criterion.[65]

Article 36 of the 1982 Constitution is related to the freedom to claim rights. The freedom in question can be exercised legally by recognizing the right to apply to the competent authorities and the means of application.[66] This article was regulated in the Constitution as follows: *"Everyone has the right of litigation either as plaintiff or defendant before the courts through lawful means and procedure. No court may refuse to hear a case within its jurisdiction."*[67] Based on this article, it is evident that everyone has equal rights in the context of the freedom to claim rights and this is constitutionally assured. However, this cannot be considered sufficient. Because this article should have been made with more detailed regulations.

With the explanation made above, Article 36 of the Constitution, titled 'Freedom to Claim Rights', explicitly mentions the right to a fair trial with the amendment made in 2001. Some other articles of the Constitution following this article also contain rights regarding the right to a fair trial.[68] Therefore, in 2001, the phrase *"and fair trial"* was added to the first paragraph of the article to come after the expression *"defence"*.[69] In the justification for the amendment of this article, it is explained that the right to a fair trial, which is reported to be guaranteed in international conventions to which Türkiye is a party, is included in the text of the Constitution.

According to *Dündar Sezer*, it is extremely important that the right to a fair trial is added to the constitution as well as the freedom to claim rights. However, no limitation was mentioned either in the first version of the article or in the form it was enacted in 2001. Although Article 36 of the Constitution did not stipulate any reason for restriction on the freedom to claim rights, it cannot be said that this is an absolute right that cannot be restricted in any way. It is acknowledged that rights for which no special restriction reason is foreseen also had some restrictions arising from the nature of the right. In addition, although no reason for restriction was included in the article regulating the right, it may be possible to restrict these rights based on the rules in other articles of the Constitution.[70] However, these were not included in Article 36.

64 *Official Gazette*, November 9, 1982, Issue: 17.863, 10.

65 Arslan, Limitation of Fundamental Rights and Freedoms 139.

66 Aydin, Freedom to Seek Rights in Constitutional Court Decisions.

67 *Official Gazette*, November 9, 1982, Issue: 17.863, 10.

68 Akbulut, Arbitration in the Context of the Right 100.

69 *Official Gazette*, October 17, 2001, Issue: 24.566, 3.

70 Dündar Sezer, Issue of the limitation of Fundamental Rights 400.

Article 38 of the 1982 Constitution contains the principles regarding offenses and penalties. As stated in the Constitution, offenses and penalties are determined only by laws.[71] This situation was regulated in the first version of the constitution as follows: *"No one may be punished for any act which did not constitute a criminal offense under the law in force at the time it was committed; no one may be given a heavier penalty for an offense than the penalty applicable at the time when the offense was committed. The provision of the above paragraph shall also apply to the statute of limitations on offenses and penalties and on the results of conviction. Penalties and security measures in lieu of penalties, shall be prescribed only by law. No one may be held guilty until proven guilty in a court of law. No one may be compelled to make a statement that would incriminate himself or his legal next of kin, or to present such incriminating evidence. Criminal responsibility is personal. General confiscation may not be imposed as penalty"*.

With the amendment made in 2001, the tenth paragraph of the article 38 was amended as follows: *"Neither death penalty nor general confiscation shall be imposed as punishment. No citizen shall be extradited to a foreign country because of an offence, except under obligations resulting from being a party to the International Criminal Court"*.[72] With the amendment made, changing the provision of *"general confiscation may not be imposed as penalty"* to *"neither death penalty nor general confiscation shall be imposed as punishment"* has been an extremely important step in terms of abolishing the death penalty in Türkiye in 2004.

According to *Bilir*, with the amendments made in the article 38 later in that year in addition to this regulation, the death penalties were turned into life imprisonment. Thus, this law complied with European norms in this regard by abolishing the death penalty for terrorist offenses. With this last amendment made in 2004, as a continuation of such amendments, the expressions related to the death penalty in some articles were removed from the Constitution. In short, it is clear that the death penalty, which was abolished, had also been removed from the Constitution.[73]

Article 40 of the 1982 Constitution, as amended, is related to the protection of fundamental rights and freedoms. Protecting and securing fundamental rights is extremely important in terms of constitutions.[74] This issue was stated in the said article of the Constitution as follows: *"Everyone whose constitutional rights and freedoms are violated has the right to request prompt access to the competent authorities. Damages incurred by any person through unlawful treatment by holders of public office shall be compensated by the State. The State reserves the right of recourse to the official responsible."*[75] With the amendment made in 2001, the following paragraph was added to the article as the second paragraph: *"The State is obliged to indicate in its proceedings, the legal remedies and authorities the persons concerned should apply and time limits of the applications"*.

With the regulation made in the article in 2001, the uncertainties regarding the implementation of this regulation, which secured the right to effective application by making the administrative and judicial application methods and their time limits predictable for the realization of the freedom to seek justice, damage the principle of legal security in a way contrary to the purpose of the regulation. Although the obligation regulated in this article does not have a direct effect on the beneficiary of the procedure, bringing the responsibility of the administration that does

71 Yavuzdugan, the Constitutional Court's Approach to the Authority of the Executive 239.

72 *Official Gazette*, October 17, 2001, Issue: 24.566, 3.

73 Bilir, An Evaluation on the 2004 Constitutional Amendments 243–244.

74 Tunç, A General Assessment of the First Amendments to the 1982 Constitution 509.

75 *Official Gazette*, November 9, 1982, Issue: 17.863, 11.

not fulfil the obligation foreseen here to the agenda, recourse to the relevant public official for possible compensation, and holding public officials accountable for disciplinary and/or criminal offenses will perhaps be the most effective method for Article 40/2 to go beyond an intent in the legal order and become a binding Constitutional provision.[76]

3. Conclusion

Despite the fact that the constitution and the need to ensure certain freedoms in it were formulated as early as 1876, democratization by European standards could only begin in Türkiye at the beginning of the 20th century, under the leadership of *Mustafa Kemal Atatürk.* The demand for Europeanization in the modern sense can be linked to the 1980s. For this purpose, many changes were made to the 1982 Constitution within the framework of the European Union Acquis.

2001 was a very active and important year in terms of constitutional amendments in Türkiye. In fact, a number of amendments had been made to the 1982 Constitution in the years preceding 2001. However, none of these amendments was as comprehensive and major as those made in 2001. Although the amendments were considered to be important arrangements in democracy and other areas, they still had some shortcomings. Consequently, the Constitution has had to be amended in subsequent years.

Major changes and amendments were made to the 1982 Constitution in 2001. Among the amendments made within the framework of the European Union Acquis, the arrangements made in the field of fundamental rights and freedoms stand out. In this context, a large part of the articles on fundamental rights and freedoms were changed and attempts were made to bring them into line with European Union law.

With the amendments, Article 13 of the Constitution was brought into line with the European Convention on Human Rights in terms of the restriction regime. Similarly, Article 14 of the Constitution, which is about not abusing fundamental rights and freedoms, was brought into line with Article 17 of the European Convention on Human Rights. In particular, with the revised Article 19, the right to liberty and security of person and the principle that individuals cannot be arbitrarily deprived of their freedoms was secured.

With the regulation made in 2001, the privacy and protection of private life was truly secured and thus freedoms were tried to be protected. Similarly, with Article 20, a legal period was introduced for the seizure of houses, in particular, and housing security was tried to be ensured. It can be said that these regulations are extremely important in terms of protecting fundamental rights and freedoms.

Within the 2001 amendments, it is extremely important that Article 22, which guarantees the freedom of communication, was rearranged. In democratic societies, the freedom of communication must be guaranteed and protected by constitutional guarantees. Otherwise, interventions against fundamental rights cannot be accepted as compatible with the requirements of the democratic social order. Therefore, the amendment of Article 22 had become a necessity for Türkiye, which wanted to guarantee fundamental rights and freedoms. Similarly, Article 23, which guarantees the freedom of settlement, was also amended. The fact that the first version of the Constitution, which was considered to restrict the freedom of settlement, was removed from the Constitution is also very important in terms of the protection of fundamental rights.

76 Aksoylu, Evaluation of Ambiguities Around Implementation of Article 71.

Article 26 of the Constitution, which guarantees the freedom of expression and dissemination of thought and opinion, and Article 28, which is related to the freedom of the press, one of the most fundamental rights, were amended and an attempt was made to bring them in line with European Union laws. As is known, one of the most fundamental means of freedom of expression of thought and opinion is the press. Therefore, the fact that the freedom of the press is under guarantee and that these articles were amended in 2001 is a positive situation in terms of fundamental rights and freedoms.

With the amendment made to Article 31 of the Constitution, the provisions regulating the right to benefit from mass communication tools other than the press in the hands of public legal entities, radio and television broadcasting, were given more security. Similarly, Article 33, which guarantees the right to association and assembly, was rearranged. Thus, it can be said that it is important for the functioning of a democratic state governed by law for civil society organizations established by individuals to come together and use their freedom of association to be equipped with constitutional security. Similarly, the amendment of Article 34, which guarantees meetings and demonstrations, should be evaluated within this scope.

Article 36 of the 1982 Constitution was amended to include the right to a fair trial. Apart from this, the most important amendment to the Constitution in 2001 was the amendment to Article 38 on crime and punishment. In particular, with the amendment in Article 38, death sentences were converted into life imprisonment. Thus, with this law, the death penalties for terrorism offenses were abolished and harmonization with European norms was achieved. In 2004, as a continuation of such amendments, the last amendment to the constitution removed expressions related to the death penalty from some articles of the constitution.

Bibliography

Acabey, Mehmet Beşir: Freedom of the Press and Personality as a Limit to It. E-Journal of Yaşar University No. 8/2013, 1–54.

Akbulut, Lütfullah Yasin: Arbitration in the Context of the Right to Access to an Independent and Impartial Court in Light of the 1982 Constitution and the European Convention on Human Rights. Journal of the Turkish-German University Faculty of Law No. 2–2/2020, 97–144.

Aksoylu, Özge: Evaluation of Ambiguities Around Implementation of Article 40/2 of Constitution in Light of the Ruling of General Assembly on the Unification of Judgments of Council of State. Journal of Yeditepe University Faculty Law No. 1/20/2023, 23–75.

Armağan, Servet: Security Forces and Mass Communication. Journal of Gazi University Faculty of Law No. 1–2/1997, 23–30.

Armağan, Servet: Freedom of the Press and Its Limits. Journal of Ankara Hacı Bayram Veli University Faculty Law No. 2–2/1998, 1–9.

Arslan, Zühtü: Limitation of Fundamental Rights and Freedoms: Some Reflections on Article 13 of the Constitution. Journal of Constitutional Jurisdiction No. 18–1/2002, 139–154.

Aydin, Mesut: Freedom to Seek Rights in Constitutional Court Decisions. Journal of Ankara University Faculty of Political Sciences No. 61–3/2015, 1–37.

Aydin, Recai – Falus, Orsolya: Economic and Legal Integration?: Judgment in Case C-65/16 of the Court of Justice of the European Union In: Ercakar, Mehmet Emin et al. (eds.) 3th International Regional Development and the Role of Universities Symposium "The Future of Bandirma" Proceedings Book, Bandirma 2019, 503–508.

Bili Faruk: An Evaluation on the 2004 Constitutional Amendments. Journal of Gazi University Faculty of Law No. 9–1–2/2005, 239–251.

Bozkurt, Enver – Dost, Enver: Freedom of Expression and Türkiye in the Decisions of the European Court of Human Rights. Journal of Suleyman Demirel University Faculty of Economics and Administrative Sciences No. 7–1/2002, 47–74.

Can, Osman: Constitutional Amendments and Freedom of Expression. Journal of Constitutional Jurisdiction No. 18–1/2002, 1–30.

Canoruç, Mustafa Şenay: A Constitutional Institute, The Turkish Radio and Television Corporation Autonomy. Electronic Journal of Social Sciences No. 8–27/2009, 6–45.

Değirmenci Mehmet: Constitutional Framework of the Suspension of Fundamental Rights and Freedoms in Türkiye. Journal of Erzurum Technical University Social Sciences Institute No. 10/2020, 45–72.

Dikmen Canikoğl Meltem: Fundamental Rights and Our Constitutions with Their Meaning, Scope and Limits. Journal of Dokuz Eylul University Faculty of Law. Gift to Mahmut Tevfik Birsel. Izmir 2001, 461–493.

Dündar Sezer, Tijen: The Issue of the limitation of Fundamental Rights With No Specific Limitation Grounds Under 1982 Constitution and the Constitutional Court Decisions. Journal of Constitutional Law No. 3–5/2014, 375–411.

Ekinci Bezar Eylem: The Scope of the Notification Procedure of Right to Hold Meetings and Demonstration March. Journal of Ankara University Faculty of Law No. 68–4/2020, 753–794.

Erdem, Fazıl Hüsnü: The Adventure of the 1982 Constitution. Archive of Philosophy and Sociology of Law No. 15/2016, 28–173.

Esen, Bülent Nuri: Constitutional Law. Ankara 1970

Evran Topuzkanamış, Şafak: Fundamental Rights and Freedoms in the 1982 Constitution. Journal of Dokuz Eylul University Faculty of Law No. 21/2019, 1767–1793.

Falus, Orsolya: About a result of globalization in Hungarian fundamental law. In: András, István – Rajcsányi-Molnár, Mónika (eds.) East West Cohesion III: Strategical study volumes. Subotica 2019, 20–26.

Gönenç, Levent – Ozan, Ergül: Living Constitution, Constitutional Developments of 2001. Journal of the Union of Turkish Bar Associations No. 1/2002, 13–84.

Gözler, Kemal: Turkish Constitutional Law. Bursa 2018

Gözler, Kemal: Is Constitutional Amendment Necessary? A Defense of the 1982 Constitution. Bursa 2001

Gümüş, Mustafa: The Effects of Recent Changes in Association Legislation on Freedom of Association. Journal of Ankara Bar Association No. 80–3/2022, 469–501.

Hafizoğullari, Zeki – Özen, Muharrem: Crimes Against Private Life and the Secret Area of Life. Journal of Ankara Bar Association No. 4/2009, 9–22.

Kaboğlu, İbrahim Ö. Freedom of Association and Assembly. Human Rights and Public Officials Symposium. Todaie Yayınları No. 14/1992, 109–129.

Kaboğlu, İbrahim Ö.: Freedom of Settlement and Right to Housing. Journal of Human Rights Yearbook 1995–1996, 150–169.

Korkmaz, Ömer: Freedom of Thought and Its Limits. A Gift Book for Prof. Dr. Seyfullah Edis. Izmir 2000.

Köse, Resul – Falus, Orsolya – Czukor, Kristóf: From the 1961 Constitution to the Present Day Social Services in Türkiye. Civil Szemle No. 7/2023, 95–106.

Kubali, Hüseyin Nail: Constitutional Law Courses. General Principles and Political Regimes. Istanbul 1971

Lybyer, Albert H.: The Turkish Parliament. Proceedings of the American Political Science Association, vol. 7, 1910, 65–77, https://doi.org/10.2307/3038346.

Official Gazette, 9 November 1982, No. 17, 863.

Official Gazette, 17 October 2001, No. 24, 566.

Olcay, Suphan: The Right of Immunity of Residence and Violation of Residence Immunity. Journal of Istanbul Medipol University Faculty of Law No. 6–1/2019, 225–264.

Paçacı, İrfan: The Minefield of the 1982 Constitution: Freedom of Thought (Analysis and Interpretation of Articles 25 and 26 of the Constitution). Journal of Human Rights Yearbook 1997–1998/19–20, 127–149.

Parla, Taha: Constitutions in Türkiye. Istanbul 1971

Sağlam, Fazıl: Some Problems That May Be Created by the 2001 Constitutional Amendment and Possible Solutions. Journal of Constitutional Jurisdiction No. 18–1/2002, 1–23.

Sağlam, Mehmet: After the Constitutional Amendments of October 2001, the Problem of the Limitation of Fundamental Rights and Freedoms for which No Grounds for Restriction were Provided in the Articles of the Constitution. Journal of Constitutional Jurisdiction No. 18–1/2002, 1–34.

Sosyal, Mümtaz: The Meaning of the Constitution in 100 Questions. Istanbul 1979

Tanör, Bülent: Ottoman-Turkish Constitutional Developments (1789–1980). Istanbul 2016

Tatar, Berk Cem: Right to Correspondence of Prisoners in the Light of Comparative Judicial Verdicts. Journal of Süleyman Demirel University Faculty of Law No. 11–1/2021, 209–228.

Tunç, Bilal: Turkish Constitutional History and Characteristics of Constitutions. İstanbul 2023

Tunç, Bilal – Akarçay, Eren: An Evaluation on the Amendments to the 1961 Constitution after the March 12 Memorandum. Journal of Human and Social Sciences Research No. 11–3/2022, 1543–1571.

Tunç, Bilal: Place and Importance of the 1961 Constitution in the History of Turkish Constitution. Journal of Black Sea Studies No. 17–67/2020, 657–692.

Tunç, Bilal – BACAK, Eren: An Evaluation of the Government System in the 1924 Constitution from a Historical and Legal Perspective. Journal of History School No. 61/2022, 4146–4175.

Tunç, Bilal: A General Assessment of the First Amendments to the 1982 Constitution from a Historical and Legal Perspective (1982–2001 Period). Journal of Dicle University Faculty of Law No. 29–51/2024, 477–528.

Turan, Hüseyin: The Measure of not Leaving the House in the Context of Judicial Control from the Perspective of the Right to Personal Liberty and Security. Journal of Justice No. 73/2024, 165–197.

Tülen, Hikmet: A General Assessment of the Constitutional Amendments Made by Law No. 4709, Dated 3. 10. 2001. Journal of Erzincan Binali Yıldırım University of Faculty of Law No. 5–4/2001, 191–243.

Yavuzdugan, Seçkin: The Constitutional Court's Approach to the Authority of the Executive to Make Regulatory Actions. Journal of Ankara University Faculty of Law No. 8–3/2004, 235–254.

Yokuş, Sevtap: The Search for a New Constitution and 2017 Constitutional Changes in Türkiye. Journal of Dicle University Faculty of Law No. 6–12/2017, 665–682.

Yokuş Sevük, Handan: Crime of Violating the Privacy of Communication. Journal of Dicle University Faculty of Law No. 12–13/2009, 159–195.