

**Restructuring Public Professional Organizations:
A Proposal
for Civil Society and Democracy in Turkey**

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RESTRUCTURING PUBLIC PROFESSIONAL ORGANIZATIONS A PROPOSAL FOR CIVIL SOCIETY AND DEMOCRACY IN TURKEY

SUMMARY

The largest and the most effective section of professional organizations in Turkey are the ones which have been granted the status of public professional organizations by Article 135 of the Constitution and which have public legal entity in accordance with their constitutive laws. Currently, both professionals (such as doctors, lawyers and pharmacists) and natural and legal entities which perform commercial activities, but does not have definite professional character (such as craftsmen and tradesmen, farmers, merchants, industrialists, stockbrokers and bankers) have been organized under the framework of professional associations which have the same legal character and status and similar structures.

The current structure of public professional organizations harbors handicaps in terms of pluralist democracy, civil society, the freedom of association, free trade and the values and institutions of the free market economy. The type of organization in the form of public institutions and its working creates a bureaucratic structure favoring guardianship in the fields of politics, society and economy. The followings should be emphasized regarding the current type of professional organization:

- The current type of organization is an extension of the order and governmental approach favoring guardianship which was created by the Young Turks, the Single-Party period and the 1961 Constitution.
- Members of professions face a strict state control while performing their professional activities and are forced to shoulder various financial and non-financial burdens because of their membership in professional organizations.
- Compulsory membership and the monist type of organization are restrictive in terms of democratization, freedoms and individual rights. The lack of alternative organizations contradicts with the freedom of association and the freedom of choice of individuals.
- Professional organizations and their higher organs are not sufficient in representing all members, providing effective services and satisfying needs of members.
- The type of organization in the form of public associations undermines civil society and the development of non-governmental organizations and causes unfair competition between professional organizations.
- Some services provided by professional organizations and some authorities used by them constitute an intervention in the operation of the free market economy and restrict competition.
- The intervention of professional organizations in prices of goods and services (violations of competition) and the financial obligations of their members work at the disadvantage of consumers.
- Different practices of professional organization create inequalities among professions, members of professions and professional organizations.
- Professional organizations and the state have a strict control and guardianship over members of professions.
- The current structure creates also a variety of problems for the state, the government and the authorities who are in charge of inspecting professional organizations.

The facts mentioned above points to the need to reconsider the current model of professional organization and to reorganize public professional organizations with a new approach. It is clear that a comprehensive reform is urgently needed.

The debates of a new constitution provide an important opportunity in this issue. In the process of making a new constitution, the problems of professional organization, which have remained unresolved since the establishment of the Republic, should be dealt with and a new model should be

developed for organizing professional associations. Comprehensive reforms should be implemented and professional organizations should be restructured in the process.

First of all, the constitutional status of professional organizations should be ended and, in the new model, which would be regulated by law, membership should be made voluntary, the freedom of association should be ensured, pluralism should be guaranteed and professional organizations should be transformed into private law legal entities.

The process of restructuration should be realized according to the following principles:

- “*Permissiveness*” in establishment,
- “*Voluntariness*” in membership and financing,
- “*Private law legal entity*” as the type of organization and legal status,
- “*Freedom of act*” in activities and services, and
- “*Independence/autonomy*” in relations with the state.

In the light of these principles, the following types of organization are proposed:

Model I: Organization in the Form of Association Based on Permissiveness and Voluntary Membership

Model II: Organization in the Form of Labor Union Based on Permissiveness and Voluntary Membership

Model III: Organization in the Form of Chambers/Unions Having the Status of Association

While the structure of professional organizations is reconsidered in the reform process, the issue of competence and capability should be dealt with separately from the fact that professional organizations are interest or pressure groups. In order to ensure professional competence and capability, independent commissions of professional competence can be established by bringing together representatives of the state and professional organizations.

In this context, conformity with values of the civil society, democratic principles and the free market system should be sought. The type of professional organization in the form of “public professional organization and their higher organizations” should not be preferred. Instead, professional organization should be realized within the framework of non-governmental professional organizations such as associations, labor unions or chambers/unions which are based on the principles of permissiveness and voluntarism in terms of establishment and membership and which are independent from the state in their workings and activities.

Transforming professional organizations to non-governmental organizations will strengthen their accountability and liability, will expand the extent of their services and will improve their nature. In addition, ending the practices which harm the working of the free market and restrict competition will reduce the prices and increase the quality of goods and services produced by members of professions, and will protect the interests of consumers. If public services are provided by private companies which are authorized by the state, monopolies in this field will be eradicated to serve interests of the public.

Ultimately, professional organizations will become independent actors of the pluralist democracy and the free market system with their new structures and types of organizations. They will adopt a mission compatible with their characteristics as non-governmental organizations and they will both protect the rights and interests of members of professions and check the state power. In a sense, in this way, members of professions and professional organizations will save themselves from the guardianship of the state and will gain a suitable status to check and balance the state.

I. INTRODUCTION: THE NEED FOR REFORM

In Turkey, professional organizations are established and perform activities differently in terms of their type of establishment, their goals and functions, their legal and administrative statuses, their legal regimes etc. Some of them are “associations” which are established according to the laws and regulations on associations; some are “labor unions” which are formed according to the laws and regulations on labor unions and the others are “public professional organizations” which are created according to Article 135 of the Constitution. There are also other similar professional organizations which are established according to various laws and regulations.

Especially professional organizations and their higher organizations attract the attention of public opinion and become a subject of heated discussions in terms of the following points: their legal and administrative structures; their establishment; their types of organization and management; the activities and services provided by them to their members and to the public; their relations with the state; their relations with political authorities and organizations; their financial sources and expenditures; and their efficiency in the economic, social, political and cultural fields.

The following issues are discussed constantly: These organizations have public legal entity because of the Constitution and the laws. They have a structure in the form of “public professional organizations” and are a part of the state’s administrative system. Therefore, natural persons or legal entities which will perform a job or a profession have to be members of these organizations. These organizations have been equipped with some public authorities in such issues as professional inspection and discipline and other similar matters. In addition to activities and services performed for the members, these organizations are compelled to undertake some other duties, authorities and responsibilities. They have been empowered with the right of collecting money from their members and the people whom they provide services. Professional organizations have also been equipped with some privileges which are not owned by other organizations such as associations and trade unions.

Some other factors have increased the opposition to the structure of public professional organizations. Radical changes are observed in the social, economic and political structures and processes and in the public administration. In parallel with these changes, great developments appear in human rights, the rule of law, the civil society, the government, the participation in decision making processes (eradicating the guardianship of the military, restricting the other types of guardianship mechanisms and strengthening the public will) and democratization. In addition, public demands and pressures intensify for such values as individual rights, market economy, competition, civil society, freedoms, pluralism, participation, accountability and transparency.

The problematic relationship of the constitutional status of public professional organizations with their members, the civil society, democracy and the state is not a new phenomenon. The history of the current problematic structure goes as back as the last period of the Ottoman Empire. The structure which was inherited from the Ottomans was preserved after the Republic was established and gained a new character in the course of time. The increase in the number of the professions and the professional organizations having this character in the 1950s and the constitutional status and privileges granted to these organizations with the Constitution of 1961 strengthened the existing structure. The legal arrangements in the positive law regarding public professional organizations and the mission adopted by these organizations and the activities conducted by them were the main sources of their problematic structure. Therefore, these organizations should be reconsidered not only in terms of their legal characters, administrative statuses and types of organizations, but also in terms of their political functions, activities and characters.

Some people see the Constitution of 1961 as the most democratic Turkish constitution. But, in its essence, it was created as a result of illegitimate and illegal methods. It emerged after a military intervention which had violated the sovereignty of the nation, the civilian and political authority, the rule of law, human rights and freedoms and democratic values. The main goal of the 1961 Constitution

was to redraft a new state and societal order. It aimed to establish a new balance between different sections of the society who have different beliefs, political opinions and interests. It also sought to control the political authority, the bureaucracy, the military and in fact every section of the society. The 1961 Constitution actually sought to establish and legalize an order of guardianship in which intervention in the system would be easy. As a matter of fact, one of the foundations of the bureaucratic guardianship regime which was brought by it was public professional organizations which were arranged with a corporatist understanding. In the guardianship system created by the 1961 Constitution, public professional organizations were designed as a means to control members of professions, and thus the society and especially the political authority. Organizing the people who perform certain professions under the framework of these organizations having the public legal entity castrated the civil society and non-governmental organizations. Thus, transforming the professional organizations, which were supposed to be a part of the civil society and to conduct activities according to the private law, to the entities which were part of the state mechanism led them to depart from their original goals and missions. This structure of professional organization was preserved by the Constitution of 1982 and became increasingly more widespread. In spite of some measures required by the 1982 Constitution, this structure and nature of public professional organizations could not be improved.

Meanwhile, the following factors create a strong need to restructure these organizations: Membership in them is compulsory. Alternative organization is prohibited by the Constitution and the laws. There is a widespread dissatisfaction with the services and activities conducted by them for their members and the public. Their members are not happy with membership fees and the payments taken for official documents and services. The higher organizations of some of them have lost their ability of representing the majority of members of the profession because of the problems experienced in the election process. Some of them are under the influence of certain ideological or interest groups. In some organizations, the pluralism and participation cannot be achieved in the administration and oligarchic and bureaucratic approaches rather than democratic ones have been adopted in the structure and working of the organs. There are gaps and insufficiencies in terms of accountability, transparency and reporting. The structure and working of internal and external inspection mechanisms are problematic. Therefore, the control of members of professions, public opinion and state authorities on these organizations has become redundant. Professional organizations conduct activities which are not compatible with their original goals and functions and which do not meet the demands and needs of the members. The financial resources which are collected from the members are used in the areas which are not related to that profession. Resources cannot be managed effectively. Corruption and misuse are seen commonly. In some organizations, excessive financial and social privileges provided to the executives and personnel attract criticism.

The above problems point to the break between public professional organizations and members of professions who are compelled to be members of them. That break is also underlined by the fact that members of professions have chosen to organize (as associations, trusts, platforms, groups or initiatives) outside public professional organizations. Another sign is the low level of participation in the elections and activities of the organs of professional organizations. There are also uncertainties and doubts on the professional organizations' ability of representing their members, the compatibility of their services and activities with their goals, functions, constitutional statuses and natures and the benefits provided by them to the members of professions, consumers and the public.

On the other hand, some facts annoy and attract the criticism of both executives of professional organizations and members of professions who are compelled to be their members. Some jobs and professions have been organized under the framework of public professional organizations. These organizations have been granted the status of the public legal entity and public duties, authorities and responsibilities. Thus, they have been put under the guardianship of the state and have been subjected to administrative and financial inspection of the state's authoritative bodies. In addition, higher organizations have been given the authority of inspection and supervision over local professional organizations, extending from hierarchical inspection to the inspection of guardianship. In this way,

professional organizations and their members have been subjected to certain restrictions in their activities and a strict state control has been established on them. In fact, the public character and being a part of the state mechanism which is caused by the existing structure and status also have some handicaps for members of professions and professional organizations.

The guardianship role of the state over professional organizations and the practices of administrative and financial inspection brought about by this role are constantly criticized by professional organizations. But their executive bodies do not question the facts that these organizations are defined as “public professional organizations” and that they have been made part of the state mechanism as public institutions. So, there is no genuine demand of reform. On the contrary, the executive bodies object to the proposal that people who perform professional jobs (such as lawyers, pharmacists, architects and accountants) should be organized as non-governmental organizations in accordance with the freedom of association; the principles of the civil society, democratic values, free market and voluntariness; and private law arrangements. They actually demand the continuity of the status quo.

The executive bodies want to preserve the existing structure, but they also demand the removal of the supervision and inspection of the state authorities. In fact, what they want is a model of organization whose original goals, legal natures, administrative statuses, functions and public privileges are contradictory and complex and which is aimed at protecting interests of certain sections of the society. In other words, they want to preserve their status of “public legal entity” and to benefit public authorities and privileges caused by this status. But they also desire to be considered as non-governmental organizations totally independent from the state and to conduct their activities as such an entity.

Naturally, these demands which are not compatible with the legal natures, administrative statuses and public authorities of professional organizations defined in the constitution and the laws are not met by the legislative and the executive organs of the state. As a result, “the conflict of identity and mission” prevents professional organizations from providing services and benefits which the members of professions, the state and the public expect from them. Thus, it does not become possible to solve the problems in this issue.

For these reasons, it is a necessity to reconsider the current model of professional organization and to reorganize professional organizations with a new approach. A comprehensive and genuine reform process is needed. As a part of the reform program, the freedom of members of professions in conducting their professional activities will be expanded. The pressures of professional organizations and the state over members of professions will be reduced. The market will be allowed to function according to the principle of free competition and interests of consumers. The civil society will be strengthened. Relations between non-governmental organizations, political actors and the state will be placed on a healthy basis. A model of organization compatible with the pluralist democracy understanding will be implemented and the freedom of individual choice will be ensured. Reforms have to go beyond limited changes of laws. The corporatist understanding which still exists as a remnant of the ideology and practices of the Single-Party period have to be eradicated.

The facts, analyses and proposals which were put forward in the two reports and the discussions which were made around them point to the need for reform. One of them is the report prepared by the State Supervisory Board (Devlet Denetleme Kurulu) on the current system and model of professional organization, especially the form of public professional organizations, the problems related to the structure and working of such professional organizations and measures needed to be taken to solve them.¹ The other report was discussed in the conference titled as “Public Professional

¹ The report dated as 28/09/2009, numbered as 2009/6 and titled as “Assessment of Rules Regarding Organizational and Financial Structures and Supervision of Public Professional Organizations and the Election of Their Organs and the Measures Needed to be Taken to Allow Them to Perform Services Effectively”.

Organizations and Liberal Democracy”, which was held by the Association for Liberal Thinking in 2011.²

A strong will of reform is needed to build a modern civil society, to expand the capabilities of decision making, ruling and governing of political authorities (the parliament, the government, the state mechanism) and ultimately to adopt a new model of organization to make citizens happy and to develop the wealth of the society. Debates of new constitution are a good opportunity in this sense. The scattered character of the current structure and the problematic model of organization can be resolved in the process of preparing a new constitution.

Many sections of the society have got used to and accepted reluctantly the current structure of professional organizations. In fact, the functions and missions of these organizations have never been perceived correctly. Therefore, the damages and additional costs caused by them for members of professions, consumers, political authorities, the state, public administration and people have not been estimated. Unlike the constitutions prepared by the military rules, a civilian constitution should arrange public professional organizations with a pro-freedom approach. It should restructure them in a way which will destroy the order of bureaucratic guardianship, will strengthen civil society and non-governmental organizations and will improve pluralist democracy. It will be appropriate to design the process/reform of restructuration in a comprehensive way to include rearrangement of professions and reorganization of professional associations. In this point, it is understood that the changes needed to be made in Article 135 of the Constitution, which is the basis of the current structure, and in the specific laws on professional organizations have a high priority.

A new approach is needed for rearranging professional organization and professional organizations in the new constitution which will be made by civilian authorities in accordance with democratic principles. The new approach should solve basic problems, which have been experienced for centuries, in the light of developments and improvements seen in social, economic and political fields. It should destroy obstacles to the freedom of association and should end the organization having public character which undermines the working of free market economy, prevents competition and damages interests of the public. The new approach should also destroy monopolies in this field, should improve the civil society and non-governmental organizations, should make the mechanisms of guardianship in the public administration and political system redundant, should strengthen the political authority, should make participatory democracy functional, should give priority to the will of members of professions and should be based on voluntariness.

In this context, it is important to discuss alternative models of structure and necessary legal arrangements in restructuring professional organizations while a new constitution is prepared. Various models of organization/restructuration and concrete proposals which can be discussed by members of professions, public professional organizations, other professional organizations and other sections of the society will be discussed below. First of all, the existing form of organization and its problems will be outlined. Then, proposals will be put forward on alternative models of organization and on the changes which are needed to be made in the Constitution and laws.

² The report prepared as the result of the Project titled as “Public Professional Organizations, Civil Society and Liberal Democracy: An Academic Project of Research and Development”. A discussion meeting was held on the report in Ankara on 15 January 2011. Related institutions, researchers, academicians, journalists and the representatives of all professional organizations in Ankara and Istanbul were invited to the meeting.

II. THE EXISTING STRUCTURE AND PROBLEMS

When the practices of professional organization in other countries are analyzed, it is seen that professional organizations have different forms and structures in terms of their original goals, functions, areas of activity, organizational structures, legal statuses, rules, privileges, relations with the state, system of membership, method of financing and other matters. In the light of these features, it is possible to categorize models of professional organization under three titles:

1. *Model of Public Organization*
2. *Model of Non-Governmental Organization*
3. *Model of Combined Organization*

In the model of public organization, professional organizations are established and conduct activities according to rules of public law. They have public legal entity, are structured as a part of the state/government, undertake public duties, authorities and responsibilities and are equipped with public powers and privileges. In this type, membership is generally compulsory.

In the model of non-governmental organization, professional organizations are established by members of professions according to rules of private law on the basis of voluntariness and conduct activities as non-governmental organizations. In this type, professional organizations are structured as private law legal entities (associations, trade unions etc.) and as independent/autonomous from the state/government. They are not assigned public duties, authorities and responsibilities and, therefore, do not enjoy public powers and privileges. In this model, members of professions do not have to be members of professional organizations.

In the model of combined organization, professional organizations are structured and conduct activities differently from the other two types. In other words, it has a mixed structure in terms of way of establishment, functions, duties, authorities, legal status, method of membership and other matters.

It is possible to say that all of the three types of organization are implemented together in Turkey. The freedom of association is arranged in the Constitution under the titles such as the right to form association, the right to form labor unions and the right to form political parties. In addition, Article 135 of the Constitution contains provisions regarding public professional organizations. So, associations, labor unions, public professional organizations and other professional organizations having different natures which are based on separate legal arrangements conduct activities.

A general evaluation is made below on professional organization and structure.

A. Professional Organization and Professional Organizations in Turkey in General

Article 33 of the 1982 Constitution includes provisions on “the right to form associations” (including foundations) under the section Rights and Freedoms of Assembly. According to this article, everyone has the right to form associations, or to become a member of an association, or to withdraw from membership without prior permission. Nobody can be compelled to become or to remain a member of association. The article also brings some limitations for the use of the right of association. In addition to the right to form association, the Constitution (Article 51) also covers provisions regarding “the right to organize labor unions” as part of “social and economic rights and duties” and as related to working conditions. The right to organize labor unions of employees and employers as well as public servants who are not workers is outlined in the constitution (the right to form labor unions, employers’ associations and higher organizations without obtaining permission; the right to become a member of a union and to freely withdraw from membership; nobody can be forced to become a member of a union or to withdraw from membership). In this way, “labor unions” which are a kind of “association” in terms of their structures, functions and natures are subject to special provisions.

Apart from this general arrangement on the right to form associations and labor unions, the Constitution (Article 135) also includes an exceptional arrangement on professional organization. In

this context, the rules on establishment and operation of public professional organizations and their higher organizations are outlined for members of a given profession (determining members of a given profession has been left to the legislative). According to Article 135, those organizations are public corporate bodies established by law with the purposes which are mentioned in the Constitution; their organs are selected by secret ballot by their members under judicial provision. Members of professions (professions which will be determined by law) outside persons who are regularly employed in public institutions or in state economic enterprises are required to be members of public professional organizations. Unlike associations and labor unions, public professional organizations are structured in the Constitution as a part of the Executive/Government. Some other articles of the Constitution also include provisions on these organizations and their members.

Thus, three separate types of organization having different legal and administrative statuses are regulated in the Constitution on organization in general and professional organization in specific:

- Associations
- Labor unions
- Public professional organizations.

The categorization in Article 108 of the Constitution on the institutions/organizations which are inspected by the State Supervisory Council is the following: “public professional organizations”, “employers’ associations and labor unions at all levels”, “public welfare associations” and “foundations”. This categorization in the Constitution is in parallel with the above division. It clearly exemplifies the types of organizations (with the exception of public institutions and political parties) which is the intention of the Constitution maker. A similar categorization exists in other articles of the Constitution.

With the references to laws in Articles 33, 51 and 135 of the Constitution, the Legislative has been authorized to make arrangements on associations, labor unions and public professional organizations. The following laws were enacted to create legal arrangements in accordance with the structure and categorization stipulated by the Constitution:

- The Turkish Civil Code
- The Law on Associations
- The Law on Labor Unions
- The Law on Labor Unions of Public Servants
- The laws on the establishment and duties of public professional organizations (16 separate laws)

Apart from the above legal arrangements, there are also specific laws or provisions of law regulating basic rules on various organizations which are held separately from general provisions on associations for different reasons though they are established as associations, unions or other organizations.

When it is looked at professional organizations and the structure of professional organizations under the light of the above profile, it is possible to present organizations as the following:

Some of professional organizations (associations and similar non-governmental organizations) are formed as part of the civil society and conduct activities as such bodies. Some of them (public professional organizations having public legal entity) are formed as a part of the state/the executive and conduct their activities as such bodies. The others are outside these two types, having some characteristics of them in addition to different features.

The first-type professional organizations are formed with the free will of members of professions as private law legal entities (associations) according to the Turkish Civil Code and the regulations on associations (labor unions should also be included in this group). The membership in the association, its activities and its financing are conducted on the basis of voluntariness. These organizations which are considered as non-governmental organizations conduct their activities independently/autonomously from the state/government.

The second-type professional organizations (public professional organizations and their higher organizations) are formed as public law legal entities according to Article 135 of the Constitution and their law of establishment. Membership in these organizations is compulsory because of the law. Their financing is realized through membership fees which are taken forcefully. These organizations are different from the first-type associations since they are formed as part of the public administration/government as a requirement of their legal and administrative statuses and since they have been equipped with public duties, authorities and responsibilities with related laws.

The third-type organizations are formed as associations, unions or with other titles according to special laws. They are not public corporate bodies. Membership in them might be voluntary or compulsory. They are established by individuals or according to related special laws. The membership, activities and financing are conducted on the basis of voluntariness or compulsoriness. The organizations in this group have similar features with the first group in some points and have similar characteristics with the second group in some other issues. But they are also different from the first two groups in some aspects and have a unique structure.

It is possible to categorize those professional organizations as the following according to their statuses and the legal regime to which they are subjected:

I. Public Professional Organizations

- *Public professional organizations and their higher organizations*

II. Non-Governmental Organizations

- *Professional organizations having the status of associations*
- *Labor unions of employees and employers, labor unions of public servants and their higher organizations*

III. Other Professional Organizations

- *Associations of exporters and Turkish Exporters' Assembly*
- *Professional associations and federations of owners of intellectual and artistic works*
- *Agricultural producers' associations and their central organizations*
- *Associations of customs brokers*
- *Other professional organizations which are regulated with special laws*

The general structure of professional organizations in Turkey, their features, their founders, their method of establishment, the type of their legal personality, legal norms which they have to obey, their sources of membership, the type of their local and central organization, their organs, the election of their organs, their financial sources and their some other features are demonstrated in Appendix 1.

As examples of other professional organizations, four groups of professional organizations have been analyzed.

The table shows that there are important differences between non-governmental organizations, public professional organizations and other professional organizations in terms of the legal regime which they abide by, their legal and administrative statuses and other features. But it is also understood that they have some common characteristics. The similarities are seen in the method of their establishment, the legal arrangement regarding the first establishment (statute, regulation etc.), procedures, names of compulsory organs, their formations and functions, methods of election, financial sources and some other features.

The similarities point that professional organizations which are essentially “associations” in terms of their original goals, characteristics, functions and types of organization are formed with different names and different statuses and they are subjected to different legal rules. Some other factors underline the same fact. In the laws regarding public professional organizations and other professional organizations (even labor unions), it is stated that the law on associations will be implemented in the situations on which there are no provisions in special laws. In addition, many provisions of the special laws of these organizations are enacted in parallel with the laws on associations.

Thus, some professions, which should be organized as associations according to laws on associations because of their original goals, functions and characteristics, were regulated differently in the past for various reasons and their professional organization was made different from the organization of associations. They were given the public legal personality, were structured as public institutions and gained a different legal and administrative statue.

This caused different practices on professional organization in terms of the use of the right of association which are guaranteed by universal principles, international law and the Constitution. It is stated in the judgments of the European Court of Human Rights that the compulsory membership in public professional organizations not having the status of association is not in conflict with the European Convention of Human Rights (Article 11) and that the countries can make such arrangements in their domestic law. Legal arrangements stipulating compulsory membership are not considered to be in conflict with the Convention on the condition that they protect interests of members of professions and they do not prohibit establishment of associations for other reasons. Nevertheless, the mixed structure in the field of professional organization causes inequalities and injustices among members of professions in different ways. It also brings about conflict of interests and additional burdens (such as violations of competition, professional and organizational monopolies, benefiting from public powers and privileges, collecting fixed and relative membership fees, fees for documents and services and increases in the prices of goods and services).

As a result of constitutional and legal arrangements, natural persons and legal entities are subjected to different rights, responsibilities and privileges because of the jobs/professions/activities they perform. This divergent/discriminatory practice in professional organization, which is not based on objective criteria among people, is not compatible with the principles of equality and justice. It might not be possible to question the legality and legitimacy of this practice. But the political aspect and democratic nature of different arrangements and practices in professional organization and in the use of the right of association are problematic in terms of public interests, conflict of interests between different sections of the society, consumer rights and the social effects and results caused by these practices.

B. Public Professional Organizations

The historical roots of the present professional organizations (modern professional organizations having different structures and natures such as chambers, bars and associations) can be traced back to the period after the Reorganization (Tanzimat). The organizations which began to be established in this period continued to exist after the Republic of Turkey was founded and they went through important changes in the following process. When the history and judicial development of professional organizations in Turkey are studied, it is seen that the principles and rules regarding the organization of professional associations have been regulated by the laws since the first years of the Republic. Thus, professional organizations became a separate category of legal entity apart from public institutions, associations and labor unions. Since public professional organizations were structured as part of the public administration/government and they were given the public legal personality, the duty and authority of fulfilling various public services which had been conducted previously by public institutions were transferred to these organizations. This status and nature which had been given by special legal arrangements were put under constitutional guarantee with the constitutions of 1961 and 1982 and professional organizations became “constitutional institutions”. Some professions and professional organizations were given the same status in the recent period, thus the number of such professional organizations continued to increase.

The first constitutional arrangements on public professional organizations were included in the 1961 Constitution. The Constitutions of 1876 and 1924 did not include provisions on legal natures and administrative structure of professional organizations. However, it is known that some professional organizations were established with the laws which were enacted during the period of the 1924 Constitution. In the Constitution of 1961, the issue of professional organization was regulated with a separate article. It is stated in this constitution that public professional organizations would be established by law. Thus, professional organizations became a constitutional institution with the status of “public professional organizations” and were organized as a part of the Executive/Government.

The tendency of establishing public professional organizations, which had been strengthened from the 1950s, continued after 1980. As the extension of the order created by the Constitution of 1961, the Constitution of 1982 regulated and structured “public professional organizations” as part of “the Executive” in general and “the administration” in specific. The rules and principles regarding these organizations are regulated in Article 135, which is included in the section titled as “IV. Administration”. This section is part of the second chapter (“the Executive) of the Third Part in which “the Fundamental Organs of the Republic” (the Legislative, the Executive and the Judiciary) are regulated. Thus, the present Constitutional order has made professional organizations part of the state mechanism.

In short, public professional organizations have been established with special laws since the establishment of the Republic. This was the case during the period of the 1924 Constitution which did not include any provisions on professional organizations. The Constitutions of 1961 and 1982 followed the same pattern.

The Article 135 of the present Constitution include provisions on professional organizations, their original goals, the ways of their establishment, the election methods of their organs and their legal and administrative statuses:

H. Public Professional Organizations

ARTICLE 135. (As amended on July 23, 1995)

Public professional organizations and their higher organizations are public corporate bodies established by law, with the objectives of meeting the common needs of the members of a given profession, to facilitate their professional activities, to ensure the development of the profession in keeping with common interests, to safeguard professional discipline and ethics in order to ensure integrity and trust in relations among its members and with the public; their organs shall

be elected by secret ballot by their members in accordance with the procedure set forth in the law, and under judicial supervision.

Persons regularly employed in public institutions, or in state economic enterprises shall not be required to become members of public professional organizations.

(Amendment: 23/7/1995 – Article 4121/13) These professional organizations shall not engage in activities outside the aims for which they are established.

(Amendment: 23/7/1995 – Article 4121/13) Political parties shall not nominate candidates in elections for the organs of these professional organizations or their higher bodies.

(Amendment: 23/7/1995 – Article 4121/13) The rules concerning the administrative and financial supervision of these professional organizations by the state shall be prescribed by law.

(Amendment: 23/7/1995 – Article 4121/13) The responsible organs of professional organizations which engage in activities beyond their objectives shall be dissolved by court decision at the request of the authority designated by law or the public prosecutor, and new organs shall be elected in their place.

(Amendment: 23/7/1995 – Article 4121/13) However, in cases where delay endangers national security, public order and in cases where it is necessary to prevent the perpetration or the continuation of a crime or to affect an arrest, an authority designated by law may be vested with power to suspend professional organizations from activity. The decision of the said authority shall be submitted for approval to the responsible judge within twenty-four hours. Unless the judge declares a decision within forty-eight hours, this administrative decision is annulled automatically.

Two categories of professional organizations are mentioned in the Constitution: “public professional organizations” and “public higher professional organizations”. According to the Constitution, the goals of professional organizations are the followings:

- To meet the common needs of the members of a given profession
- To facilitate professional activities
- To ensure the development of the profession in keeping with common interests
- To ensure integrity and trust in relations among its members and with the public
- To safeguard professional discipline and ethics

Public professional organizations are public corporate bodies whose organs are elected by secret ballot by their members in accordance with the procedure set forth in the law, and under judicial supervision. Public professional organizations and their higher organizations are established according to the principles and rules in Article 135 of the Constitution and they are engaged in activities which are stated by their law of establishment.

Constitutional arrangements grant professional organizations both “public legal personality” and the status of “public institutions”. In this way, public professional organizations become different from professional organizations which are established as associations and, like other public institutions, they are subject to the rules of “public law” and enjoy the powers and privileges which public legal personality provides. On the other hand, they become liable to administrative and financial inspection of the state because of their statuses and they face some restrictions in their organizations and activities.

So, the expressions of “public professional organizations” and “higher public professional organizations” are used only for organizations which are established by law and are subject to the provisions of Article 135 of the Constitution. Professional organizations which do not have such features and which are established according to general arrangements on associations, foundations, labor unions or cooperatives are not in the same category.

It is not possible to categorize public professional organizations under only one title as homogenous entities. Nevertheless, they have some common features which stem from the Constitution and the laws and which are stated in the doctrine and the judgments of courts. These

organizations appear as state organs and public institutions in some aspects. But they also have similarities with associations and labor unions which are subject to private law arrangements in some other aspects. Public professional organizations have also some peculiar features making them different from the two other types.

There are eighteen professional organizations in Turkey, which are defined as public professional organizations by laws and which are thus included in the area of Article 135 of the Constitution. The laws which regulate establishment, organization, duties, authorities and responsibilities of public professional organizations and their higher organizations are shown in the table below.

	PUBLIC PROFESSIONAL ORGANIZATION/ITS HIGHER ORGANIZATION	LAW OF ESTABLISHMENT
1	The Union of Chambers and Commodity Exchanges of Turkey	The Law of the Union of Chambers and Commodity Exchanges dated as 18/05/2004 and numbered as 5174
2	The Confederation of Turkish Craftsmen and Tradesmen	Tradesmen and Craftsmen Professional Organizations Law dated as 7/6/2005 and numbered as 5362
3	The Union of Chambers of Agriculture of Turkey	The Law of the Union of Chambers of Agriculture dated as 15/5/1957 and numbered as 6964
4	The Union of Chambers of Turkish Engineers and Architects	The Law of the Union of Chambers of Turkish Engineers and Architects dated as 27/1/1954 and numbered as 6235
5	Turkish Medical Association	The Law of Turkish Medical Association dated as 23/1/1953 and numbered as 6023
6	Turkish Dental Association	The Law of Turkish Dental Association dated as 7/6/1985 and numbered as 3224
7	Turkish Veterinary Medical Association	The Law on Professing Veterinary and Organization of Turkish Veterinary Medical Association and its Functions dated as 9/3/1954 and numbered as 6343
8	Turkish Pharmacists' Association	The Law of Turkish Pharmacists' Association dated as 25/1/1956 and numbered as 6643
9	The Union of Turkish Bar Associations	The Law of Advocacy dated as 19/3/1969 and numbered as 1136
10	The Union of Chambers of Turkish Certified Accountants, Financial Consultants and Chartered Financial Consultants	The Law of Certified Accountancy, Financial Consultancy and Chartered Financial Consultancy dated as 1/6/1989 and numbered as 3568
11	Turkish Notary Association	Notary Public Law dated as 18/1/1972 and numbered as 1512
12	The Banks Association of Turkey	Banking Law dated as 19/10/2005 and numbered as 5411
13	The Participation Banks Association of Turkey	Banking Law dated as 19/10/2005 and numbered as 5411
14	The Association of Capital Market Intermediary Institutions of Turkey	Capital Market Law dated as 28/7/1981 and numbered as 2499
15	Association of the Insurance and Reinsurance Companies of Turkey	Insurance Law dated as 3/6/2007 and numbered as 5684
16	Association of Turkish Travel Agencies	The Law on Travel Agencies and the Association of Travel Agencies dated as 14/1972 and numbered as 1618
17	The Association of Appraisal Specialists of Turkey	Capital Market Law dated as 28/7/1981 and numbered as 2499
18	The Association of Turkish Seedsmen	The Law of Raising Seeds dated as 31/10/2006 and numbered as 5553

The goals, duties, organs, membership and election procedures and inspection methods of these organizations are regulated by the above laws. In addition, there are detailed regulations in the secondary law such as statutes, statutes and regulations which are based on these laws. Apart from the mentioned legal arrangements, there are legal or administrative regulations in many other laws, which are directly or indirectly related to public professional organizations.

The information is given in the following table on public professional organizations and their higher organizations:

	PROFESSIONAL ORGANIZATIONS	HIGHER ORGANIZATION
1	- Chambers of Trade and Industry (181) - Chambers of Trade (57) - Chambers of Industry (12) - Maritime Chambers of Trade (2) - Commodity Exchanges (113) - Other agencies of chambers and commodity exchanges (branches, offices)	The Union of Chambers and Commodity Exchanges of Turkey
2	- Chambers of Craftsmen and Tradesmen (mixed or specialized) - Associations of Craftsmen and Tradesmen - Federations of Craftsmen and Tradesmen - Branches and contact offices (1.015 professional organizations of craftsmen and tradesmen as total)	The Confederation of Turkish Craftsmen and Tradesmen
3	- Chambers of Agriculture (720)	The Union of Chambers of Agriculture of Turkey
4	- Chambers of Engineers and Architects, Chambers of City Planners (23) - Branches, offices and other agencies of these chambers	The Union of Chambers of Turkish Engineers and Architects
5	- Chambers of Doctors (65)	Turkish Medical Association
6	- Chambers of Dentists (33)	Turkish Dental Association
7	- Chambers of Veterinarians (50)	Turkish Veterinary Medical Association
8	- Chambers of Pharmacists (51)	Turkish Pharmacists' Association
9	- Bars (78)	The Union of Turkish Bar Associations
10	- Chambers of Turkish Certified Accountants and Financial Consultants (70) - Chambers of Chartered Financial Consultants (8)	The Union of Chambers of Turkish Certified Accountants, Financial Consultants and Chartered Financial Consultants
11	- Chambers of Notary Publics (18)	Turkish Notary Association
12	- The Banks Association of Turkey	
13	- The Participation Banks Association of Turkey	
14	- The Association of Capital Market Intermediary Institutions of Turkey	
15	- The Association of the Insurance and Reinsurance Companies of Turkey	
16	- The Association of Turkish Travel Agencies	
17	- The Association of Appraisal Specialists of Turkey	
18	- Sub-associations in the sector of seeds (7)	The Association of Turkish Seedsmen
Notice: The figures between parentheses give total number of professional organizations.		

Professional organizations and their higher organizations are subject to administrative and financial inspection of the state (the ministries or other state institutions). In addition, the laws have granted the state various authorities of guardianship over them. The information on state institutions which have the authority of inspection and supervision (guardianship) over professional organizations and their higher organizations is given in the following table:

	PROFESSIONAL ORGANIZATIONS / THEIR HIGHER ORGANIZATIONS	STATE INSTITUTION HAVING THE AUTHORITY OF INSPECTION AND SUPERVISION (AUTHORITY OF GUARDIANSHIP)
1	- Chambers of Trade and Industry, Chambers of Trade, Chambers of Industry, Maritime Chambers of Trade, Commodity Exchanges - The Union of Chambers and Commodity Exchanges of Turkey - Their affiliates and subsidiaries	The Ministry of Science, Industry and Technology & The Ministry of Customs and Trade
2	- Chambers of Craftsmen and Tradesmen, - Associations of Craftsmen and Tradesmen, - Federations of Craftsmen and Tradesmen - The Confederation of Turkish Craftsmen and Tradesmen	The Ministry of Science, Industry and Technology & The Ministry of Customs and Trade
3	-Chambers of Agriculture - The Union of Chambers of Agriculture of Turkey	The Ministry of Food, Agriculture and Livestock
4	-Chambers of Engineers and Architects, Chambers of City Planners - The Union of Chambers of Turkish Engineers and Architects	The Ministry of Environment and City Planning (the ministry which will inspect chambers of specialization has not been determined)
5	Chambers of Doctors Turkish Medical Association	The Ministry of Health
6	Chambers of Dentists Turkish Dental Association	The Ministry of Health
7	- Chambers of Veterinarians - Turkish Veterinary Medical Association	The Ministry of Food, Agriculture and Livestock
8	- Chambers of Pharmacists - Turkish Pharmacists' Association	The Ministry of Health
9	- Bars - The Union of Turkish Bar Associations	The Ministry of Justice
10	-Chambers of Turkish Certified Accountants and Financial Consultants - Chambers of Chartered Financial Consultants - The Union of Chambers of Turkish Certified Accountants, Financial Consultants and Chartered Financial Consultants	The Ministry of Finance
11	- Chambers of Notary Publics - Turkish Notary Association	The Ministry of Justice
12	The Banks Association of Turkey	The Banking Regulation and Supervision Agency
13	The Participation Banks Association of Turkey	The Banking Regulation and Supervision Agency
14	The Association of Capital Market Intermediary Institutions of Turkey	The Capital Markets Board
15	Association of the Insurance and Reinsurance Companies of Turkey	The Ministry of Economy
16	Association of Turkish Travel Agencies	The Ministry of Culture and Tourism
17	The Association of Appraisal Specialists of Turkey	The Capital Markets Board
18	- Sub-associations in the sector of seeds - The Association of Turkish Seedsmen	The Ministry of Food, Agriculture and Livestock

The information on the organizational structure of public professional organizations and their higher organizations and their number of members has been given below. There are about 5,000 such organizations and 8.6 million members of professions conduct activities as members of these organizations (in 2009).

PROFESSIONAL ORGANIZATIONS	FEDERATIONS / CHAMBERS / BRANCHES	NUMBER	NUMBER OF MEMBERS
The Union of Chambers and Commodity Exchanges of Turkey (TOBB)	Chambers of trade and industry	181	475.063
	Chambers of trade	57	689.479
	Chambers of industry	12	36.951
	Chambers of trade	113	47.560
	Maritime chambers of trade	2	7.631
	TOTAL	365	1.256.684
The Confederation of Turkish Craftsmen and Tradesmen	The Federation of Turkish Drivers and Auto Traders	690	527.190
	The Federation of Turkish Grocers and Vendors	146	151.824
	The Federation of Turkish Hardware Craftsmen	260	119.467
	The Federation of Turkish Tailors, Ready Made Sellers and Clothing Craftsmen	144	67.064
	The Federation of Turkish Woodwork Craftsmen and Tradesmen	167	67.865
	The Federation of Turkish Butchers, Stock Farmers and Craftsmen and Tradesmen of Meat Products	53	10.878
	The Federation of Turkish Barbers and Hair Dressers	120	57.258
	The Federation of Turkish Victualers, Turnspits, Pastry Cooks and Confectioners	104	49.438
	The Federation of Turkish Craftsmen and Tradesmen of Electrical, Electronic and Similar Products	96	40.589
	The Federation of Turkish Bakers	52	13.952
	The Federation of Turkish Keepers of Coffee Shops, Cafes and Kiosks	113	80.504
	The Federation of Turkish Craftsmen and Tradesmen of Vegetables and Fruits	94	43.066
	The Federation of Turkish Shoe Makers and Shoe Dealers	87	23.114
	Union of Chambers of Craftsmen and Tradesmen (80 cities + Istanbul 2) - 82 / Other Chambers	1.015	651.256
	TOTAL	3.141	1.903.465
The Union of Chambers of Agriculture	Chambers of Agriculture	720	4.814.764

The Union of Chambers of Turkish Engineers and Architects (TMMOB)	Chambers of Environmental Engineers	3	5.767
	Chambers of Electrical Engineers	14	32.000
	Chambers of Physics Engineers	1	1.582
	Chambers of Marine Engineers	2	2.313
	Chambers of Ship Machinery Engineers		1.578
	Chambers of Food Engineers	6	8.844
	Chambers of Survey Engineers	10	9.511
	Chambers of Interior Designers	3	1.516
	Chambers of Civil Engineers	26	69.066
	Chambers of Geophysics Engineers	6	3.581
	Chambers of Geological Engineers	11	11.461
	Chambers of Chemical Engineers	7	11.921
	Chambers of Mining Engineers	4	9.977
	Chambers of Mechanical Engineers	18	68.909
	Chambers of Metallurgical Engineers	1	3.667
	Chambers of Meteorological Engineers		496
	Chambers of Architects	23	33.606
	Chambers of Forest Engineers	13	8.792
	Chambers of Petroleum Engineers		953
	Chambers of Landscape Architects	4	3.188
	Chambers of City Planners	8	4.117
	Chambers of Textile Engineers	5	1.648
	Chambers of Agricultural Engineers	26	21.678
	TOTAL	191	316.171
Turkish Medical Association	Chambers of doctors	65	96.584
Turkish Dental Association	Chambers of dentists	33	18.619
Turkish Veterinary Medical Association	Chambers of veterinarians	50	16.538
Turkish Pharmacists' Association	Chambers of pharmacists	51	30.081
The Union of Turkish Bar Associations	Bars	78	63.487
The Union of Chambers of Turkish Certified Accountants, Financial Consultants and Chartered Financial Consultants	Chambers of Turkish Certified Accountants and Financial Consultants	70	73.626
	Chambers of Chartered Financial Consultants	8	3.852
	TOTAL	78	77.478
Turkish Notary Association	Chambers of notary publics		1.579
The Banks Association of Turkey	3 state, 11 private, 17 foreign, 1 incorporated, 13 development and investment banks		45
The Participation Banks Association of Turkey			4
The Association of Capital Market Intermediary Institutions of Turkey	41 Banks + 104 Intermediary institutions		145
Association of the Insurance and Reinsurance Companies of Turkey	58 insurance + 2 reinsurance companies		60

Association of Turkish Travel Agencies	Regional executive councils	21	5.557
The Association of Appraisal Specialists of Turkey		0	0
The Association of Turkish Seedsmen		0	0
TOTAL		4.811	8.601.007

Source: the State Supervisory Board's Report, 2009.

The annual revenues of public professional organizations and their higher organizations were estimated as the following in the report of the State Supervisory Board:

PROFESSIONAL ORGANIZATIONS	REVENUES OF ORGANIZATIONS	REVENUES OF CHAMBERS-COMMODITY EXCHANGES, BRANCHES AND BARS (*)
The Union of Chambers and Commodity Exchanges of Turkey (TOBB)	246.184.957	575.000.000
The Confederation of Turkish Craftsmen and Tradesmen (TESK)	20.886.792	330.000.000
The Union of Chambers of Agriculture	2.798.162	90.000.000
The Union of Chambers of Turkish Engineers and Architects (TMMOB)	1.498.167	139.079.891
Turkish Medical Association	3.561.008	9.000.000
Turkish Dental Association	1.860.016	4.000.000
Turkish Veterinary Medical Association	172.225	1.750.000
Turkish Pharmacists' Association	11.366.308	28.395.797
The Union of Turkish Bar Associations	6.027.148	26.500.000
The Union of Chambers of Turkish Certified Accountants, Financial Consultants and Chartered Financial Consultants	10.758.124	39.605.889
Turkish Notary Association	35.644.847	0
The Banks Association of Turkey	9.176.469	0
The Participation Banks Association of Turkey	1.064.373	0
The Association of Capital Market Intermediary Institutions of Turkey	3.032.423	0
Association of the Insurance and Reinsurance Companies of Turkey	6.989.191	0
Association of Turkish Travel Agencies	7.735.000	0
The Association of Appraisal Specialists of Turkey		
The Association of Turkish Seedsmen		
TOTAL	368.755.210	1.243.331.577
(*) In some professional organizations, total revenues of all chambers and branches were predicted in the light of the revenues of the chambers and branches which were elected as samples.		

Source: the State Supervisory Board's Report, 2009.

As it is stated in the report, the figures are not definite. It has not been possible to reach the exact figures on the revenues and expenses of 5,000 organizations. Estimation has been made by using the definite figures and the data which has been obtained in the light of samples taken from the organizations which have a large structure. In the report, the total revenues which all unions, associations, chambers, commodity exchanges, bars, and branches of the professional organizations obtained in a year were estimated as about 1.611.000.000 Turkish Liras. It is also stated that this figure might reach as far as 2 billion Turkish Liras because of solidarity funds, various deposit

accounts and retirements funds of these organizations in addition to the foundations and companies which are owned or shared by them. According to the report, the figure represents only annual revenue. There is no reliable data on all the assets of professional organizations (movable and immovable properties).

Professional organizations are financed essentially by membership fees and the payments which are received in return for providing official forms. In all of them, money is collected from the members in the form of membership fees, the prices for participation or the costs of services. The following statements are included in the report of the State Supervisory Body on the payments which professional organizations receive from their members:

The revenues which are needed in the budgets of the Banks Association of Turkey, the Participation Banks Association of Turkey, the Association of Capital Market Intermediary Institutions of Turkey and the Association of the Insurance and Reinsurance Companies of Turkey are allotted among members. Allotment is made in the Banks Association of Turkey and in the Insurance and Reinsurance Companies of Turkey according to the size of the balance sheet of the member while it is done equally in the other two organizations. In other professional organizations, membership fees are collected in the rates determined by the authorized organs. In some of them, fees are determined according to the income of the members. There is a ceiling in all kinds of membership fees. Levels are determined according to the residential place, the balance sheets of the firms or the size of the land.

The amount of membership fees which were collected from members of professions in 2009 were given in the below table:

MEMBERSHIP FEES OF PUBLIC PROFESSIONAL ORGANIZATIONS		
PROFESSIONAL ORGANIZATIONS	EXPLANATION	AMOUNT (TL)
The Union of Chambers and Commodity Exchanges of Turkey (TOBB)	Minimum Annual Fee	67
	Maximum Annual Fee	333
	Average Collection per Member	445
	The Rate of Cumulative Dues	0.5%
	The Ceiling of Cumulative Dues	6.660
The Confederation of Turkish Craftsmen and Tradesmen (TESK)	Minimum Dues	67
	Maximum Dues	167
	Average Collection per Member	141
The Union of Chambers of Agriculture	Minimum Dues	13
	Maximum Dues	3.330
	Average Collection per Member	19
The Union of Chambers of Turkish Engineers and Architects (TMMOB)	Admission Fee	0-52
	Annual Dues	60-120
	Outsiders Annual Dues	300-4500
	it varies in chambers (23 chambers)	
Turkish Medical Association	Private doctors-dues	194
	State doctors - dues	39

Turkish Dental Association	Registration fee	115
	Annual dues-private dentists	230
	Annual dues-state dentists	115
	Annual dues-starters	114
Turkish Veterinary Medical Association	Donations are collected since legal dues are 5 kuruş.	60-120
Turkish Pharmacists' Association	Annual dues-Minimum (those who work in the state)	13
	Annual dues-maximum	27
The Union of Turkish Bar Associations	Annual dues -ceiling	214
	Annual dues - base	54
	Annual dues ceiling-companies	2.140
	Annual dues base-companies	535
The Union of Chambers of Turkish Certified Accountants, Financial Consultants and Chartered Financial Consultants	Fixed dues (Istanbul)	210
	Proportional dues minimum (Istanbul)	210
	Proportional dues Maximum (Istanbul)	4.200
Turkish Notary Association	Dues (1.5% of monthly gross revenues) (Average amount)	6.355
The Banks Association of Turkey	Annual dues and shares for participation for small banks (35 Banks)	30.000
	Annual dues and shares for participation for big banks (10 Banks)	600.000
The Participation Banks Association of Turkey	Annual dues and sharing costs	250.000
The Association of Capital Market Intermediary Institutions of Turkey	Admission fee	30.000
	Annual dues	3.436
	Sharing annual expenses	10.384
Association of the Insurance and Reinsurance Companies of Turkey	Admission fee	100.000
	Sharing costs-minimum	142
	Sharing costs -maximum	351.800
Association of Turkish Travel Agencies	Admission fee	24.013
	Annual dues	1.201

Source: the State Supervisory Board's Report, 2009.

C. Structural and Operational Problems Related to Organization

The present public professional organization constitutes an important obstacle to strengthening civil society and non-governmental organizations, developing pluralist democratic order, establishing balances between the civil society, the state (the parliament, the government, the administration) and political actors, operating the processes of decision making and management healthily and making the free market economy function effectively. It also brings about negative results for members of professions and the society in general. These features of the present professional organization are related to three factors. In other words, there are three kinds of structural problems in the present model:

1. **Compulsory membership** for members of professions brings about various problems. The phenomenon of monopolization stemming from compulsory membership means that a single framework organization acts as the only representative and decision maker of that profession and its members. It naturally creates problems.

2. Professional organizations should be defined and formed as non-governmental organizations (associations or labor unions) which are subject to private law provisions because of their functions, their areas of activity, characteristics of their members, formation of their organs, their ways of administration and their methods of financing. But, instead, they have been structured as part of the state/the government as “**public professional organizations having public legal entity** and have been equipped with public duties, authorities, responsibilities and privileges. These features, too, create various problems.

3. A **distinction** is made between various professional organizations in terms of organization. Some professions have been organized within the framework of public professional organizations, but some have not been structured in this way. So, there are different models of organization for professional organizations. Some are public law entities, some are private law entities, some are non-governmental organizations and some are public professional organizations. Some professional organizations are established by law and have the status of association while some others are established by law, but have different structures. This creates inequalities and problems.

The problems and deficiencies related to the formation, organization, structure, management and operation of public professional organizations have been explained in details in the report of the State Supervisory Body and the report of the Association for Liberal Thinking. There are structural problems in the ways of their establishment and in their organization. Election of their organs is made through undemocratic practices. They perform activities incompatible with their original goals. Their resources are managed and used ineffectively and in connection with individual interests. Services and activities are not conducted effectively and constructively. The expectations of members of professions are not met satisfactorily. The systems of internal control and the practices of internal supervision are not sufficient. There are problems related to budget, accounting, purchasing and personnel. The privileges granted to them and their tax burdens are problematic. There is lack of trust between professional organizations and their members. Their relations with the state are not good. Ministries and other state institutions having the authority of external supervision are not able to fulfill their duties. There are gaps, contradictions and deficiencies in laws and other legal arrangements.

The reports also mentioned other problems. Sources are used in such a way to cause wastes. Corruption and abuses are widespread among executives of organizations. Their approaches contradict with democratic principles and values. The mechanisms of accountability are not operated effectively. Transparency is not ensured. Obstacles are erected in front of participatory actions. Bureaucratic mechanisms instead of professional management are in work. The structures which have been created for certain individuals are more effective than institutionalization. The administration of organizations is concentrated at the hands of certain individuals and groups. The expectations and demands of members of professions are not met satisfactorily. According to the reports, some organizations have a

small organizational base, do not suffer lack of sources and seem to be an effective professional union. They conduct activities more effectively and constructively in comparison with others and they do not harbor the problems mentioned above.

As it is explained in the report of the Association for Liberal Thinking, the present structure of public professional organizations harbors important problems related to pluralism, freedom of association and similar values in liberal democracies. Moreover, some features of professional organizations encourage corporatism. Although they do not have corporative political representation, some of their basic features evoke corporatism. For example, professional organizations are formed on the basis of professional representation. Only members of a certain profession can become member of that profession's organization. Members of the profession have to be members of its organization to be able to conduct professional activities. Only one organization is allowed in a certain profession. The existence of only one organization in each profession is compatible with authoritarian and totalitarian systems rather than liberal democracy. So, the present structure tends toward corporatism. It brings about "monopolies" rather than "competition". It does not allow professional organizations to affect decisions of the state mechanism as separate actors from it. Instead, being part of the state mechanism puts professional organizations under the influence of the state.

However, one of the indispensable means of pluralist/participatory democracy is the existence of a powerful and independent civil society. In advanced nations, individuals establish organizations and participate actively in the economic, cultural, social and political life through non-governmental organizations in which they are members. Distinctive features of the civil society are the followings:

- Voluntarism (in terms of organization, membership, finance and participation in activities)
- Independence/Autonomy (from the state, the government and other state authorities)
- Not aiming profits (conduct activities for the interests of the group and/or for the benefit of the public/society)

In Turkey, only professional organizations which have been established as associations and labor unions on the basis of permissiveness and voluntariness have these features. Public professional organizations, their higher organizations and other professional organizations which are established by law cannot be considered as non-governmental organizations.

This dual or even triple structure in the field of professional organizations prevents the civil society from strengthening itself and thus hinders democratization. The structure of organization having the public character and its functioning creates a bureaucratic structure creating guardianship in the fields of politics, society and economy. Professional organizations having public legal personality and using the public authority prevents development of non-governmental organizations. Moreover, professional organizations have become a centre of opposition within the state mechanism. They determine and pursue their own political, social and economic policies regarding the functioning of the state, the fulfillment of public services and the implementation of the government's policies.

The analyses of the ALT's report, which are given under the title "the problem of political standing and militarist approach in professional organizations", should be taken into consideration in the context of perceptions of democracy and non-democratic approaches and practices in professional organizations.

With the activities they conduct and with the services they provide, public professional organizations create problems in the functioning of the free market economy according to the principles of efficiency and free competition. The effects of professional organizations on competition are analyzed comprehensively in the report of the ALT. The report underlines the restrictions

stemming from the laws and from the activities of professional organizations. As it is explained in the report, professional organizations harbor the following restrictions:

1. The restrictions related to admission
2. The restrictions related to prices
3. The restrictions related to advertisement
4. The restrictions related to the type of organization
5. The restrictions related to professional attitudes

There are references to public interests in the goals of professional organizations, but most of the activities of these organizations are naturally aimed at advancing interests of their members. To prevent any decrease in incomes of their members and to increase their income if possible, professional organizations try to maintain and even expand their privileges of competition. For these purposes, those who do not obey the restriction of minimum price are subjected to sanctions; entries to the profession is prevented; working days and working hours are restricted; members of other professions are not allowed to work in the specialization field of the profession; and the authority of performing some transactions are kept at the hand of the organization. Professional organizations also try to get revenues by maintaining the monopoly of conducting some activities and they struggle to create new job opportunities for their members and to obtain various privileges. Moreover, they try to restrict the number of people who will enter their professions. They oppose the establishment of new universities and faculties and they object professional activities of foreign companies and the citizens of other countries. These kinds of acts strangle competition.

So, it is clear that public professional organizations prevent competition with their ways of establishment, with their laws, and with their various arrangements, activities and practices. Restrictions of competition hinder innovations and bring about damages for consumers and members of the profession. National and international studies, the decisions of the Turkish Competition Authority and disagreements which are brought to the courts confirm these points.

Consequently, the features of the present professional organization and its problematic structure can be summarized as the following:

- The present model of organization is the extension of the mentalities of the age of the Union and Progress and the Single Party period and the guardianship system created by the Constitution of 1961.
- Members of professions face powerful interventions while conducting their professional activities and shoulder heavy financial and non-financial burdens because of their membership in professional organizations.
- Compulsory membership and monist structure of organization limit and restrict democracy, freedoms and individual rights. The prohibition of establishing alternative organizations contradicts with the freedom of association and the freedom of individual choice.
- Professional organizations and their higher organizations are insufficient in representing their members, in providing services effectively and in satisfying their members.
- The public type of organization harms development of the civil society and non-governmental organizations and causes unfair competition.
- Some services provided by professional organizations and some authorities used by them constitute intervention in the functioning of the free market economy and restricts competition.
- The intervention of professional organizations in the prices of goods and services (violations of competition) and the financial burdens undertaken by members of professions because of their membership harm interests of consumers.

- Different practices in the field of professional organization cause inequalities between professions, members of professions and professional organizations.
- Members of professions are kept under strict control and guardianship of professional organizations and the state.
- The present structure also creates problems for the state, the government and the state authorities who have the duty of inspecting professional organizations.

So, there are reasons for restructuring and reforming professional organizations. The present model of organization harbors structural problems stemming from organization and functioning. It creates problems for democratization, freedoms, the civil society and the market economy. Therefore, public professional organizations should be reconsidered and restructured.

III. PROPOSALS OF SOLUTION

Alternative models of organization which could be considered in the process of restructuration and some proposals of solution are explained below. Alternative models of organization/structure which could be chosen will be discussed briefly and a new model of organization which is proposed will be explained. Constitutional and legal arrangements and changes which will be necessary in the context of this new model will be pointed out.

A. Alternative Models of Organization/Structure

Alternative models of organization/structure in rearranging professional organization and in restructuring public professional organizations are the followings:

Model I: Organization in the Form of Association Based on Permissiveness and Voluntary Membership

Model II: Organization in the Form of Labor Union Based on Permissiveness and Voluntary Membership

Model III: Organization in the Form of Chambers/Unions Having the Status of Association

Model I: Organization in the Form of Association Based on Permissiveness and Voluntary Membership

Constitutional restrictions regarding the freedom of association are needed to be removed. There is also necessity to eradicate the privileges granted to professions and members of professions who are organized under the framework of public professional organizations. The problems regarding the civil society, liberal democracy and freedoms, which stem from the present Constitution, should also be solved. In the light of these necessities, professional organization should be rearranged on the basis of permissiveness and voluntary membership and with a new pro-freedom approach which will allow the establishment of more than one organization in a certain profession.

It is feared that some members of professions and the professional organizations established by them might constitute threat for the state and the society and they might conduct some harmful activities. Therefore, it is felt that they should be kept under control. But such an approach preferring guardianship system based on distrusts should be given up. Instead, a new model of organization which will expand the freedom of association as much as possible, which will strengthen the civil society and non-governmental organizations and which will destroy the state's authority of guardianship over members of professions and professional organizations should be designed.

The type of organization in the form of public professional organizations should be abandoned. It is possible to make members of these organizations subject to general provisions regarding associations. Thus, professional organizations will be established with the status of association as it is the case in other non-governmental organizations. The principle of permissiveness will be adopted in terms of establishment. Membership will not be compulsory and members of the same profession will be able to organize themselves within different organizations. The associations which will be established by members of professions will also be able to establish federations and confederations as higher organizations according to the legal arrangements on associations.

In order to ensure this, Article 135 of the present Constitution should be eradicated altogether. The references which are made to public professional organizations in other articles of the Constitution should also be removed. As a result of constitutional changes, the laws which regulate the establishment, organization, duties and authorities of public professional organizations and their higher organizations need to be annulled. The provisions which are included in other laws and which assign professional organizations public duties and authorities might also be annulled with a general arrangement. The method which will be applied on the assets of the present professional organizations will have to be regulated with laws.

Naturally, the public services which are performed by professional organizations in the present structure will be fulfilled by the state institutions (the institutions of the central government or local administration). Some of the duties and authorities might be undertaken by the higher organization which will be established by associations of the related profession. However, the services which are not directly related to the profession and members of the profession should be provided by the related state organ.

If necessary changes are also made in the laws on professional associations or organizations which have private character and which are kept outside the legal arrangements on associations as a requirement of specific laws, a general standard structure can be created on professional organizations.

If this model is adopted and if regulating professional organization in the new constitution is preferred instead of making changes in the present Constitution, it will be appropriate not to include any provisions in the new constitution on public professional organizations. They should be regulated with the laws on associations. If it is desired to emphasize that the present professional organizations have the status of association, a statement can be included in the article on the right to form associations.

If a special professional organization is desired on some professions and members of professions, the Legislature should be granted in the Constitution the authority of making arrangements in this issue. In the present structure, although there is no clear arrangement in the Constitution, the Legislature creates separate regulations for some organizations in terms of their goals of establishment, functions, structures and characteristics and keeps them outside the associations which are established according to general provisions. Thus, like the present structure, the Legislature will be able to make specific arrangements for some professions. However, it is clear that parallel arrangements will be needed in the laws after the general principles are included in the Constitution on permissiveness, voluntarism and establishment of more than one organization in the same field.

With the changes which will be made in the Law on Associations in parallel with constitutional changes, career professions (such as professions of lawyers, pharmacists and doctors) should be separated from other jobs/professions/activities which do not have such a character and are conducted by natural or legal persons (the jobs of craftsmen and tradesmen, trade, industry, commodity exchanges, banking, travel agency). It will not be appropriate to organize jobs and professions having different natures in the same way and make them subject to same rules.

However, with the laws, some professional organizations having the status of association might be defined as “the associations serving the public” and they might be granted some privileges. Some

professional organizations might be given such a status by creating certain objective criteria. In the Constitution of 1961, many professional organizations were defined as “organizations benefiting the public”. Unlike the method stipulated by the present legal arrangements on associations, these organizations might be made “associations serving the public” directly through laws.

Constitutional and legal arrangements which will be made in order to restructure professional organizations as institutions having the status of association might be worded in alternative ways. The basic points on the arrangements which might be created in the context of this model are given below:

The Proposal of Constitutional and Legal Arrangement

In Model I, the followings are proposed: “the right to form associations” should be arranged as it is done in the present Constitution (restrictions regarding the freedom of associations should be reduced). A separate arrangement on “public professional organizations” should not be included in the Constitution. The right to form associations should not be restricted by other articles of the Constitution. Therefore, a draft article is not proposed.

In the absence of separate arrangements for professional organizations in the Constitution, members of professions (natural and legal persons) who have been organized presently under the framework of public professional organizations will be organized under the framework of associations and their higher organizations will be established according to the principles of permissiveness and voluntarism. Thus, professional organizations will not have public legal entity, will be subject to private law provisions and will conduct their activities with this status. Permissiveness, voluntary membership and organizing outside the state/the government will make professional organizations non-governmental organizations in real sense.

Moreover, more detailed and different arrangements can be made in the Law on Associations on professional organizations which will be established in the form of associations. The conditions for establishing professional organizations (for example the minimum number of members of profession who should come together), the rules which will be valid in establishing higher organizations of professions, the conditions for giving professional organizations the status of association serving the public and other issues can be regulated in the Law on Associations.

For this purpose, the Law on Associations can be replaced by a framework law which will regulate rules and practices regarding professional organizations having the status of association. In this way, all professional organization will be subject to the same framework law.

If compulsory membership wants to be maintained only in career professions, an article should be included in the Constitution on this exception. In this case, members of professions who will be specified in the related law will have to be members of the concerned professional organization to conduct their professional activities. However, in this model, it will be appropriate to create arrangements which will eradicate monopolies in professional organization and will allow members of professions to establish more than one professional organization and higher organization.

Model II: Organization in the Form of Labor Union Based on Permissiveness and Voluntary Membership

Another alternative is the model of restructuration which can be labeled as organization in the form of labor unions. According to the present Constitution and the present legal system, employers, employees and public servants not having the status of worker are allowed to establish labor unions

and their higher organizations without prior permission. According to the Constitution (Article 51), nobody can be forced to become a member of labor union or to withdraw from membership. The formalities, conditions and procedures to be applied in exercising the right to form union are prescribed by law.

In the present system, unions of employees and employers are established in a sector according to the features of that sector to conduct activities throughout Turkey. Unions of public employees are established in a public service to conduct activities throughout Turkey. More than one union can be established in a sector or public service, but unions cannot be established in the basis of profession or workplace. General principles and regulations regarding sectors and public services are determined by the Ministry of Labor and Social Security.

In this context, members of professional organizations who are organized under the framework of public professional organizations according to Article 135 of the Constitution can be organized as “labor unions” according to the general principles regarding labor unions. In this case, changes should be made in the present Constitution or an arrangement should be made in the new constitution in this line. With the changes which will be made in laws in the light of constitutional changes, it will be possible to organize members of professions (such as lawyers, doctors and pharmacists) under the framework of labor unions which will be established on the basis of professions. In this case, professional labor unions and confederations will be established without prior permission.

Labor unions are subject to private law provisions, the principle of permissiveness is valid in their establishment and membership in them is voluntary. With the changes mentioned above, professional labor unions will be subject to the same principles and members of profession who are mentioned in laws will be organized under the framework of professional organizations having the status of non-governmental organizations. Moreover, establishment of more than one organization in the same profession will be allowed. Professions will be regulated by laws and the related state institutions (the Ministry of Science and Technology, the Ministry of Customs and Trade, the Ministry of Health, the Ministry of Finance or the Ministry of Justice) will be authorized in supervising them according to the character of profession. Labor unions in the same profession will be allowed to come together to establish confederations.

Jobs and professions which are not suitable to be organized as labor unions (such as banks, participation banks, travel agencies, insurance and reinsurance companies, tradesmen and craftsmen, merchants, industrialists and those who work in commodity exchanges) will not be organized in this way. They will be organized under the framework of associations which will be established according to general principles on the basis of permissiveness and voluntary membership. Or they will be structured as private law legal entities according to the principles specified in a specific law. Thus, the type of professional organization in the form of labor unions will be valid exclusively for members of career professions. Members of jobs and professions which are not career professions will be subject to different principles and procedures.

The following constitutional and legal changes will be needed in the establishment of professional labor unions and confederations:

The Proposal of Constitutional and Legal Arrangement

In the Second Model, exclusively members of career professions will be organized under the framework of professional labor unions on the basis of permissiveness and voluntary membership. In this model, members of professions specified in laws (those who are in the same profession) will be able to establish unions without prior permission and the unions which are established by the members of the same profession will be able to come together to establish professional confederations. In this context, some constitutional and legal changes are needed.

If this Model is adopted, Article 135 of the Constitution and related other articles which regulate rules and principles on public professional organizations will be annulled and necessary changes will be made in the article on the right to form labor unions. In this context, a paragraph such as the following will be added to the article of the Constitution regulating the right of forming labor unions:

Alternative 1

"Members of a profession have the right to form labor unions and their higher organizations without prior permission, to become a member of a union and to withdraw from membership. Members of a profession shall not be forced to become a member of a union or to withdraw from membership. The rules relevant to the unions which will be established by members of professions shall be regulated by law."

The article regulating the right of forming labor unions can also be worded in the following way to include all kinds of unions:

Alternative 2

"Employees, employers, public servants who are considered as workers and those who are members of a certain profession have the right to form labor unions and their higher organizations without prior permission, to become a member of a union and to withdraw from membership. Members of a profession shall not be forced to become a member of a union or to withdraw from membership."

The right to form a union shall be solely be restricted by law and with the purposes of safeguarding national security and public order and prevention of crime commitment, protection of public health and public morals and the rights and freedoms of others.

The formalities, conditions and procedures to be applied in exercising the right to form union and the rules relevant to labor unions and their higher organizations which will be established by people mentioned in the first paragraph shall be prescribed by law.

The formalities, conditions and procedures to be applied in exercising the right to form union shall be prescribed by law.

Statutes, administration and operation of labor unions and their higher organizations shall not be contrary to democratic principles."

In both alternative arrangements, members of professions (those who perform certain professions) which will be specified by the Legislative will be organized under the framework of labor unions and their higher organizations which will be established on the basis of professions. Those labor unions and their higher organizations will be established without obtaining prior permission according to the principle of permissiveness. Membership in them will not be compulsory. They will conduct activities as non-governmental organizations which are subject to private law provisions. Thus, they will be independent of the state and will be saved from the guardianship authority of the state institutions.

Necessary changes will be made in laws according to the form of regulating the right to form labor unions in the Constitution. Three laws can be enacted on labor unions and their higher organizations which will be established by employees, employers, public servants who are not considered as workers and those who are members of professions. These are the Law on Labor Unions, the Law on Labor Unions of Public Servants and the Law on Labor Unions of Professions (the first two are in force presently). Thus, the people mentioned above will be made subject to different provisions according to the nature of their jobs, duties and professional activities and will be organized under the framework of different organizations. These organizations will be subject to some common principles and provisions on their legal structures, their forms of establishment and some other matters. Moreover, other changes will have to be made in laws in parallel with the new structure stipulated by the Constitution (such

as annulment of the present laws of establishment). In this model, the labor unions and their higher organizations which will be established on the basis of professions will be able to undertake some public duties and authorities.

Members of jobs and profession who are not suitable to be organized on the basis of professions can be organized according to general principles. Even if they are formed as labor unions, these kinds of professions will have to be structured as private law legal entities.

In this model, members of professions will be able to organize themselves as labor unions according to the freedom of association; professional organizations will become more independent institutions and they will conduct activities as non-governmental organizations.

Model III: Organization in the Form of Chamber/Union Having the Status of Association

Another model in restructuring professional organizations is the organization in the form of chambers and unions which are established as private law legal entities subject to private law provisions. In this model, the present structure of professional organizations are maintained as chambers, bars, unions and federations in the local level and as unions and confederations in the central level. Thus, they are made different in terms of their title and statuses from the associations which are formed according to general provisions.

It is possible to analyze this model as two alternatives according to whether membership is compulsory or voluntary.

Alternative 1: Voluntary Membership

Basing professional organization on the rule of voluntariness is important in terms of expanding the freedom of association, breaking monopolies in professional organization and transforming professional organizations into non-governmental organizations. In this alternative, professional organizations will be formed as private law legal entities in the context of constitutional and legal arrangements, membership in them will not be compulsory to conduct professional activities and professional organizations will not undertake public duties and services. Members of professions will be allowed to organize themselves as chambers in the local level and local unions will be allowed to establish common higher organizations. If certain conditions (such as the minimum number of members) are met, establishment of alternative organizations will be permitted. Unions will be able to establish higher organizations. The minimum of number of members should be determined as low as possible to allow alternative organizations.

Alternative 2: Compulsory Membership

In some professions, organizing under the framework of professional organizations might be necessary to conduct professional activities. In this case, such professional organizations will be formed as private law legal entities, but members of that profession will be compelled to become members of related professional organizations. As a requirement of the principle of equality, the compulsory membership should also be valid for those who work in state institutions and state economic enterprises according to related laws.

The principle of compulsory membership will restrict the freedom of associations for members of professions and it will harm professional organizations' character of being non-governmental organizations. Nevertheless, members of professions might be provided with the opportunity of establishing alternative professional organizations in order to eradicate this problem. Thus, monopolizing and prototyping will not be allowed in professional organization. It will be possible to

form more than one professional organization in the same profession. Members of profession will be allowed to be member of any of them.

Making a new categorization among members of professions and professional organizations according to the two alternatives might be considered. In this context, it will be appropriate to define career professions and other jobs and professions differently and to design separate models of organizations according to their natures. Organizing highly different jobs and professions under the framework of the same type of organization and considering all types of professional organizations in the same category will not be compatible with their structures and characteristics.

On the other hand, some duties and services which are fulfilled by public professional organizations in the present system can be undertaken by the relevant state institution. The duties, authorities and responsibilities of professional organizations regarding the relevant profession and its members will be regulated by law.

Constitutional and legal changes which will be made in the context of the mentioned model of structure can be worded in alternative ways. The general rules and principles on legal arrangements which will be made in the context of this model are underlined briefly as the following:

The Proposal of Constitutional and Legal Arrangement

In Model III, professional organizations of members of certain professions will be formed in the form of associations subject to private law provisions. Members of a profession will be organized under the framework of more than one chamber at local level (bars for lawyers). And they will be allowed to form unions or federations as higher organizations. In this case, organization in the form of public professional organizations will be ended and there will be no need to add an article to the Constitution regulating this issue.

While voluntarism might be adopted on membership, compulsory membership might be implemented for some professions if it is necessary. In this model, professional organizations will have the status of association from the legal perspective, but they will be formed as chambers/unions. They will not have public legal entity and they will not be defined as public professional organizations.

In accordance with the approach which will be adopted on membership, the following paragraphs regarding professional organizations should be added to the article of the Constitution on the right of forming associations:

Alternative 1

“The rules on professional organizations which are established by members of certain professions in the form of associations shall be regulated by law. Becoming member of a professional organization shall not be made the condition of conducting professional activities. More than one professional higher organization can be formed in the same profession.”

Alternative 2

“The rules on professional organizations which are established by members of certain professions in the form of associations shall be regulated by law. Conducting professional activities shall be conditioned by becoming member of the relevant

professional organization. This condition shall not be sought for those who work in public institutions and organizations and state economic enterprises. More than one professional higher organization can be formed in the same profession.”

With this paragraph which will be added to the article of the Constitution on the right of forming associations, professional organizations will be made different from the associations subject to general provisions. The general rules on these organizations can be regulated in the Law on Associations. Or they can be regulated by an independent framework law (the Law on Professional Organizations or the Law on Professional Unions). Special arrangements on members of career professions as well as members of other jobs/professions can be included in such a law. With necessary changes in relevant laws, all professional organizations can be made subject to the same law and a limited number of common rules.

In this model, the independence of professional organizations from the state will be strengthened though it is not at the desired level. Perhaps, some public duties, authorities and responsibilities will be transferred to state institutions and these organizations will become non-governmental organizations.

B. Assessment

In the light of the above analyses, the constitutional character of professional organizations should be ended in a new constitution and the present structure should be reconsidered. In the new structure, a new model should be regulated by law. According to this model, membership in professional organizations should be made voluntary, the freedom of association and pluralism should be guaranteed and these organizations should be transformed into private law legal entities.

In order to solve the problems stemming from the present structure of organization, members of professions can be organized according to three models of organization. Public professional organizations can also be restructured in accordance with the proposed models. In this context, the following three alternative models are discussed:

Model I: Organization in the Form of Association Based on Permissiveness and Voluntary Membership

Model II: Organization in the Form of Labor Union Based on Permissiveness and Voluntary Membership

Model III: Organization in the Form of Chambers/Unions Having the Status of Association

The distinctive features of three different models of organization/restructuring (the founder, the method of establishment, the type of legal entity and the status, type of membership, financing, type of organization etc.) are given in Appendix 2. The strengths and weaknesses of the models are shown in Appendix 3. These tables demonstrate the structure and features of alternative models of organization.

In accordance with the values of the civil society, democratic principles and the free market economy, the form of public professional organizations and their higher organizations should be abandoned. Instead, professional organization should be structured under the framework of associations, labor unions or chambers/unions which are independent non-governmental organizations. The principles of permissiveness and voluntariness should be valid in terms of establishment and membership. Professional organizations should be independent of the state in terms of establishment, operation and activities.

From the perspective of members of professions, the state, consumers and the society in general, the most appropriate model of organization is the one in which members of a certain profession are organized under the framework of professional organizations established as associations according to general provisions. Thus, different practices in professional organization

will be prevented in terms of professions and the problems stemming from the present structure will be solved.

While the structure of professional organizations is reformed, the two issues should be dealt with separately: the merit and proficiency of professional organizations and the functioning of professional organizations as interest or pressure groups. In order to decide on professional merit and proficiency, independent councils of professional proficiency can be established by bringing together members of professions, representatives of professional organizations and state authorities.

Present public professional organizations and their higher organizations have public legal entity as constitutional institutions. They are defined as public professional organizations in legal arrangements. However, they consider themselves as non-governmental organizations and complain about the guardianship of the state over them. When necessary changes are made in the Constitution and laws and thus legal and administrative statuses of these organizations are restructured and they are transformed into non-governmental organizations, the legal situation will be made compatible with the *de facto* situation.

Professional organizations have played roles contrary to democracy. In the organization of their organs, in their administration and in their operation, totalitarian, oligarchic and bureaucratic approaches rather than democratic principles such as pluralism and participation have become effective. They are not accountable and transparent. They misuse their resources which they have obtained as a result of their authorities and privileges. They cannot be inspected sufficiently. They are used as a means to control members of professions and thus the society and the government. All these factors underline the necessity that the model of professional organization in the form of public institutions should be abandoned.

As it is stated in the report of the ALT, since professional organizations determine the basic principles and rules which should be obeyed by members of professions, it might be said that compulsory membership in them will eradicate problems faced by beneficiaries of their services. However, not allowing the establishment of other professional organizations in a certain profession creates serious problems. In the present system, when a professional organization is established in a profession, all members of that profession conducting professional activities have to become its member. Thus, the first professional organization established in a profession acquires monopoly in that field. Another organization cannot represent that profession. This creates a privilege of professional representation for the professional organization established first. The real danger caused by this situation in a democratic society is that professional views cannot be expressed beside the views of the professional organization. Preventing the expression of different professional views is not compatible with the requirements of pluralist democracy.

The existence of one professional organization in a profession and the rule of compulsory membership prevent the expression of different views within one organization. Professional organizations are ruled by people who win the elections within the profession and strategies and policies are determined by them. Because of the election system, supervisory and disciplinary committees as well as the executive body are composed of the same people. Even the general board is formed of the executives in the organizations in which the system of delegates are implemented. Therefore, opposition groups and different opinions are not represented in the organs.

A new model of professional organization is needed. In the new model, members of professions should be able to exercise their free will; they should not be compelled to be members of professional organizations and establishment of more than one professional organization in a profession should be allowed. If such a model is implemented, different professional organizations will be established, members of professions will be able to become member of the organization which they prefer and those who do not prefer any organization will not become member of any of them. In this way, pluralism and competition will be ensured among professional organizations.

The present system creates problems in terms of conducting professional activities in free market conditions, operating the state mechanism, providing public services and improving the civil society. It brings about additional burdens for consumers, the state and the society as well as members of professions. The prohibition of conducting professional activities without being members of professional organizations, the high fees charged on members of professions and consumers of relevant services and the obstacles to the operation of the free market economy eventually harm interests of consumers.

In conclusion, the issue of professional organization should be debated widely in the preparation of a new constitution by members of professions, the state authorities having supervisory roles over professional organizations, consumers, representatives of non-governmental organizations and the other sections of the society. Professional organization should be restructured in a way to increase freedom, pluralism and participation in that field. Professional organizations should be made more accountable and auditable. For this purpose, public professional organizations should be restructured to transform them into non-governmental organizations in a real sense. If these are done, professional organizations will acquire a more effective structure compatible with interests of members of professions, consumers, the state and the society.

While determining constitutional and legal statuses of professional organizations, it will not be appropriate to use the system of only one state or to benefit from the standards of a supranational organization such as the European Union. There are differences between the practices of different countries. The European Union does not impose any standard on the member countries on professional organizations. In the democratic countries whose non-governmental organizations are powerful, professional organizations are registered to the state to supervise professional proficiency and merit, but pluralism and polyphony are ensured in professional organizations. The attitude held on professional organizations should be based on principles and it should not be shaped according to the model of one country.

Organizing professional organizations as “associations” will be compatible with the principle of the free and pluralist society. In this way, members of all professions will be able to choose the organization which is the most suitable in terms of their understanding of better life. If there are no associations fitting the understanding of certain members of professions, those people will form another one. Admission to the association, activities within the association and withdrawing from membership will be determined by the members of that association.

C. Other General Proposals on the Status of Public Professional Organizations and Constitutional Changes

Different circles and institutions (non-governmental organizations, political parties, public professional organizations and academics) have prepared proposals of changes in the present Constitution or drafts of a new constitution (TOBB, 2000; the Union of Turkish Bar Associations, 2001 and 2007; TÜSİAD, 1996, 2006; the draft of constitution prepared by the Science Committee of the Justice and Development Party, 2008; TUSKON, etc.). In these papers, no radical changes are proposed in Article 135 of the Constitution. In other words, no proposals have been developed on the legal status of professional organizations, their place in the state mechanism and compulsory membership in them. Instead, those works aim to maintain the present structure.

However, a different approach was adopted on professional organizations and the following proposal was put forward in the report of TÜSİAD in March 2011 titled as “the Series of Round Table Meetings on the New Constitution: Five Basic Aspects of the New Constitution”:

“Arrangements on public professional organizations which are regulated in the Constitution of 1982 should be based in the new constitution on the principle of free organization and the guardianship of the state over these organizations should be ended.”

In the report published by TESEV in April 2011, titled as “the Report of TESEV’s Committee of Constitution: Toward a New Constitution”, no assessment and proposals are included on public professional organizations.

The State Supervisory Body conducted a research on public professional organizations and published its final report in 2009. In this report, the need to reconsider the present structure of public professional organizations was stressed and rewriting Article 135 of the Constitution was proposed. The report included the following sentence on Article 135 of the Constitution:

“In the light of the above facts, assessments, debates and needs, the status of public professional organizations should be reconsidered and Article 135 of the Constitution should be changed.”

The report includes assessments on the legal and administrative statuses of public professional organizations, their types of organization, their organizational structures, their functions, duties, authorities and responsibilities, their public authorities and privileges and their relations with their members, the civil society and the state. It also stresses the need to ensure competition, to strengthen the civil society and to build a democratic structure. The report has developed various proposals on the solution of deep-rooted structural problems. However, apart from general proposals on the structure and statuses of professional organizations, the report includes measures and proposals for the solution of structural and operational problems in the context of the present organizational model by assuming that the present structure cannot be changed and by accepting the existence of public professional organizations as a given parameter.

Therefore, in the process of restructuring public professional organizations, the present arrangements and structure should be taken as a basis. A real intention and willingness of reform should be demonstrated to expand freedoms, to strengthen the civil society, to improve democracy and to create an efficient professional organizational model. In these lines, the issue of professional organization should be dealt with widely in the process of preparing a new constitution and legal arrangements should be made in the new organizational model.

The process of restructuring professional organizations mentioned above requires changes in the Constitution. On the other hand, necessary changes can be made in the Constitution in the light of the new model which will be adopted in the process of preparing a new constitution. Different arrangements can be made according to the approach which will be adopted in organizing professional organizations as non-governmental organizations (associations or labor unions) or as professional organizations having the status of private associations (chambers/unions).

In all the models which are proposed, members of professions should not be organized under the framework of public professional organizations and their higher organizations having the public legal personality. Instead, necessary changes should be made in parallel with the organizational model which is adopted. It is also possible to regulate professional organizations according to general provisions on associations (the Turkish Civil Code, the Law on Associations) by considering them in the light of the right to form associations and by not including any provisions on professional organization in the Constitution. In this case, if a new constitution comes into force, the present arrangements on professional organizations have to be annulled. If this is not preferred, necessary constitutional and legal changes can be made according to the proposals explained above.

Some duties and authorities having the character of public services which are undertaken by public professional organizations in the present system should also be transferred to other state institutions. The state institutions which will undertake them and the methods of fulfilling them have to be decided. Professional organizations might be authorized for some of them. Some of them might

be undertaken by the central government or the local governments. And some others might be transferred to the private sector with the standards and methods which will be determined.

Finally, in the process of restructuring professional organizations, if the present status of public professional organizations is ended and if members of professions are organized under the framework of associations and labor unions which will be formed according to the principles of permissiveness and voluntariness, some other things need to be done. The legal transactions (transferring assets to the professional organizations which will be established or to the Treasury) which will be conducted on the assets and properties of these organizations (movable and immovable assets) have to be determined by law.

IV. CONCLUSION

The practice of compulsory organization of members of professions under the framework of professional organizations established by law had begun to be seen in the early years of the Turkish Republic. It became more common in the post-1950 period and this type of organization was made compulsory for many professions. These organizations, which had been established by separate laws in the period of the Constitution of 1924, were made constitutional institutions by the Constitution of 1961 with the status of public professional organizations and were restructured as the part of the government. In the course of time, the number of such professional organizations increased. The Constitution of 1982 maintained and expanded the structure created by the Constitution of 1961.

Today, both members of career professions (doctors, lawyers, pharmacists, dentists, veterinarians, accountants, notary publics, architects, engineers, appraisal specialists) and natural and legal persons conducting commercial activities which are not considered as professions in the real sense (tradesmen and craftsmen, farmers, merchants, industrialists, stockbrokers, banks, participation banks, capital market intermediary institutions, travel agencies, insurance and reinsurance companies, those who are active in the seed sector) have been organized under the framework of professional organizations and their higher organizations having the same legal status and similar structures.

Professional organizations are formed by law and the condition of conducting professional activities is to become member of a profession (compulsory membership). As a requirement of the Constitution and the laws, public professional organizations and their organizations are established as institutions having the public legal entity. According to the accepted approach in the doctrine, they conduct activities as local government institutions and as part of the state mechanism. Professional organizations which are associations of individuals in terms of their members are similar to the organizations such as associations and labor unions, but the structure and operation which is stipulated by laws have made them state institutions. It seems that the organs and executives of these organizations have internalized this official and public identity.

Professional organizations are considered as non-governmental organizations in different platforms and, therefore, they complain about the guardianship and supervision of the state over them. But their executives do not develop a proposal of reform requiring organization of members of profession under the framework of professional organizations having the character of non-governmental organizations in the real sense. In fact, they oppose such proposals.

A new organizational model aiming at permissiveness in terms of establishment, voluntarism in terms of membership and financing, and private law legal personality in terms of the legal nature is needed. Public duties and services which are undertaken by these organizations can be fulfilled by the relevant state institution. In this case, services and activities which are related to professions and members of professions will be performed by professional organizations. When the public status of professional organizations are ended and when they are made subject to general provisions, equality

will be ensured between public professional organizations and other organizations which have not given such a status.

Transforming professional organizations into non-governmental organizations will strengthen their accountability and responsibility of administration and will expand the scope and nature of their services aimed at their members. When the practices harming the operation of the free market economy and restricting competition are eradicated, the prices of goods and services produced by members of professions will decrease and their quality will be improved, thus the interests of consumers will be protected. Public services can be conducted by the state or private companies under the supervision of the state. In this case, monopolies in this field will be ended to serve interests of the public.

Eventually, with their new structures, professional organizations will become independent actors of the civil society, liberal democracy and free market economy. As true non-governmental organizations, they will undertake missions compatible with their nature, will protect rights and interests of members of professions, and thus will balance the power of the state. In a sense, members of professions and professional organizations will be saved from the guardianship of the state and they will acquire a position suitable to control the state.

In the process of preparation of a new constitution, the issue of professional organization should be debated comprehensively by members of professions, public professional organizations, other professional organizations, political parties, non-governmental organizations, consumers and other related parties. Thus, it is important that the issue of restructuring public professional organizations should be solved with the new constitution. The searches of democratization and reform initiatives should not be conducted with a narrow approach. They should be designed as a process which is implemented in the same way in social, economic and political fields.

The present status of public professional organizations restricts the civil society and non-governmental organizations and establishes guardianship over members of professions, consumers and the society eventually. It should be ended with a new constitution. It is clear that a genuine will of reform is needed to achieve these. Whether the new constitution will be “new”, “civil”, “pro-freedom” and “democratic” will be tested by the approach which will be adopted in this field. Therefore, the arrangement which will be made in this field in a new constitution should be shaped in such a way to meet interests of the public rather than serving narrow interests of certain sections benefiting from the present system.

Appendix 1: The General Structure and Features of Professional Organizations in Turkey

1. PUBLIC PROFESSIONAL ORGANIZATIONS

Type of organization	Legal origin and method of establishment	Type of legal personality	Related Norms	Legal Establishment/ Membership/ Organization	Members	Type of Organization in the Local and Central Levels		Organs	Election of Organs	Financial sources	Explanation
						Local organizations	Central Organization (Higher Organization)				
<i>Public Professional organizations and their higher organizations</i>	<ul style="list-style-type: none"> • Special laws regulating establishment and organization. • Statutes, decrees and statuses which are enacted according to the special law. 	Public legal personality	<ul style="list-style-type: none"> • Constitution (Article 135) • Special laws on professional organizations and their higher organizations • Various laws 	<ul style="list-style-type: none"> • The procedures of establishment fulfilled by relevant job owners/members of professions after the law is enacted • Compulsory • Organization based on jobs/professions 	<ul style="list-style-type: none"> • a certain number of members of career professions • Job owners/professionals defined in the related laws • (Natural or legal persons) 	<ul style="list-style-type: none"> • Professional organizations such as chambers, bars, unions, sub-unions (at the levels of region, province or towns) • Other units of local governments (branch, agency etc.) 	<ul style="list-style-type: none"> • Higher Professional organizations such as unions and confederations (in Istanbul or Ankara) • There is only one organization in some professions. 	<ul style="list-style-type: none"> • Organs have been defined in the relevant laws separately for professional and their higher organizations. There is no standard structure for organs. • However, there are some common organs such as the General Assembly (members or delegates), the Executive Board, the Supervisory Board, the Disciplinary Board and the Honorary Board. There might be some other organs such as committees, councils or commissions. 	<ul style="list-style-type: none"> • Subject to the inspection of the Judiciary • The methods specified in special laws are implemented. 	<ul style="list-style-type: none"> • Sources of income of professional organizations and higher organizations have been regulated by their special laws. Incomes are membership fees (registration fee, admission fee, annual dues fixed or proportional), payments for services, payments for official forms and other incomes. • There is no standard structure for sources of income. Some organizations have different sources of income stemming from their special laws. 	<ul style="list-style-type: none"> • Professional organizations conduct activities to realize their goals mentioned in Article 135 of the Constitution and in their special laws. In this context, they perform duties and services specified in laws as well as conducting activities related to profession and members of profession. They enjoy some authorities and privileges. • The status of public professional organizations is given only by laws. Therefore, only job owners and professionals who are considered by the laws within the scope of Article 135 of the Constitution can be organized under the framework of such professional organizations. • These organizations have constitutional status. But each of them has its own special law. Therefore, they have different procedures. Nevertheless, they have also some common or similar features. • Some members of career professions such as lawyers, doctors, accountants, pharmacists and notary publics have been organized in this way. But some other natural and legal persons who conduct activities in different fields such as tradesmen and craftsmen, merchants, industrialists, stockbrokers, insurance and reinsurance companies, travel agents, capital market intermediary institutions and those working in seeds sector have been organized in the same way. • In accordance with the provisions in the special laws, professional organizations can establish funds, foundations, economic enterprises, learning centers, recreational facilities, and companies and they can become partner of existing companies. They can establish units and institutions conducting other economic, social and cultural activities.

II. NON-GOVERNMENTAL ORGANIZATIONS

II. NON-GOVERNMENTAL ORGANIZATIONS											
Type of organization	Legal origin and method of establishment	Type of legal personality	Related Legal Norms	Legal Establishment/ Membership/ Organization	Members	Type of Organization in the Local and Central Level		Organs	Election of Organs	Financial sources	Explanation
						Local organizations	Central Organization (Higher Organization)				
1. Professional Organizations in the Status of Association											
	<ul style="list-style-type: none">the will of the founders without prior permissionThe Statute of the AssociationThe Statute of the FederationThe Statute of the Confederation	Private law legal entity	<ul style="list-style-type: none">the Constitution (Article 33)The Turkish Civil CodeThe Law on Associations	<ul style="list-style-type: none">PermissiveVoluntaryThe will of the founders depending on the Statue	All natural legal persons	Association (Branch or Agency)	<ul style="list-style-type: none">Federation (minimum 5 associations)Confederation (minimum 3 federations)	Compulsory Organs <ul style="list-style-type: none">General AssemblyExecutive BoardThe Supervisory BoardOther Organs	<ul style="list-style-type: none">Not subject to the inspection of the JudiciaryThe method which is specified in the relevant legal arrangement is implemented.	<ul style="list-style-type: none">Membership feesIncomes from activitiesDonationsOther incomes	<ul style="list-style-type: none">"Everybody" (Minimum 7 natural or legal persons) can form associations.The associations meeting certain conditions can be given the status of “the association serving public interests”.Associations can establish funds, dormitories, hostels, clubhouses and economic enterprises.Associations might establish platforms together with foundations, labor unions and other non-governmental organizations to serve a common cause.
2. Labor unions											
a) Unions of employees and employers and their higher organizations	<ul style="list-style-type: none">the will of the founders without prior permissionThe Statute of the Labor UnionThe Statute of the Confederation	Private law legal entity	<ul style="list-style-type: none">the Constitution (Article 51)The Law on Labor UnionsThe Law on Labor Unions of Public Servants	<ul style="list-style-type: none">PermissiveVoluntarySector	Employees and employers (natural or legal persons)	Labor union (Branch, Regional branch)	Confederation (minimum 5 labor unions)	Compulsory Organs <ul style="list-style-type: none">General AssemblyExecutive BoardThe Supervisory BoardOther Organs	<ul style="list-style-type: none">Subject to the inspection of the JudiciaryThe method which is specified in the relevant legal arrangement is implemented.	<ul style="list-style-type: none">Membership feeSolidarity feeIncomes from activitiesDonationsOther incomes	<ul style="list-style-type: none">Labor unions of employees are formed by the employees working in the workplaces of a sector to conduct activities throughout Turkey.Labor unions of employers are formed by the employers of a sector to conduct activities throughout Turkey.More than one labor union can be formed in a sector. Labor unions of employees cannot be established on the basis of profession or workplace.They can establish facilities and enterprises which are allowed in the Law on Labor Unions.
b) Labor unions of public servants and their higher organizations	<ul style="list-style-type: none">the will of the founders without prior permissionThe Statute of the Labor UnionThe Statute of the Confederation	Private law legal entity	<ul style="list-style-type: none">the Constitution (Article 51)The Law on Labor Unions of Public Servants	<ul style="list-style-type: none">PermissiveVoluntaryPublic service	The public servants who work as workers in the state institutions specified in the laws.	Labor union (branch)	Confederation (minimum 5 labor unions)	Compulsory Organs <ul style="list-style-type: none">General AssemblyExecutive CommitteeThe Supervisory BoardOther Organs	<ul style="list-style-type: none">Subject to the inspection of the JudiciaryThe method which is specified in the relevant legal arrangement is implemented.	<ul style="list-style-type: none">Membership feeIncomes from activitiesDonationsOther incomes	Labor unions are formed by public servants working in public workplaces in a public service to conduct activities throughout Turkey. More than one labor union can be formed in a public service. Labor unions cannot be established on the basis of profession or workplace. They can establish facilities and enterprises which are allowed in the Law on Labor Unions.

III. SOME OTHER PROFESSIONAL ORGANIZATIONS											
Type of organization	Legal origin and method of establishment	Type of legal personality	Related Legal Norms	Establishment/ Membership/ Organization	Members	Type of Organization in the Local and Central Level		Organs	Election of Organs	Financial sources	Explanation
						Local organizations	Central Organization (Higher Organization)				
a) Associations of Exporters and Turkish Exporters' Assembly	• Association of exporters are formed by obtaining the suggestion, assent and approval of relevant authorities (TİM, the Ministry of Economy)		• Law No. 4059 (Establishment and Organization of Counsellorships of the Treasury and Foreign Trade) • The Law on Turkish Exporters' Assembly and the Establishment and Organization of Associations of Exporters	• Permission needed • Compulsory • Depending on the activity areas of exporters (minimum 75 exporters active in the same sector)	Exporters (Natural and legal persons engaged in exporting)	Associations of exporters (contact office, agencies abroad)	Turkish Exporters' Assembly Sector boards Sector councils	• General Assembly • Executive Board • Supervisory Board • Secretary General	• Subject to the inspection of the Judiciary • The method which is specified in the relevant legal arrangement is implemented.	• Membership fee (admission fee, annual dues, proportional payment) • Other incomes	• Associations of exporters have special budgets and legal personality. • Turkish Exporters' Assembly (TİM) is the higher organizations of associations of exporters and has a special budget and legal personality. • Associations of exporters and Turkish Exporters' Assembly are formed as dependent institutions of the Ministry of Economy. • Associations of exporters are formed by the assent and approval of the Ministry of Economy. • In order to form an association, minimum 75 exporters which are active in the same sector and have necessary conditions specified in laws have to apply to TİM. • The areas of activity and authority of associations are determined by TİM and the Ministry of Economy. The natural and legal persons which are members of associations of exporters can withdraw from membership through written application.
b) Professional associations and federations of owners of intellectual and artistic works	• With the will of founders and with the permission of the Ministry of Culture and Tourism • the Statute of the Association • the Statute of the Federation	Private law legal entity	The Law on Intellectual and Artistic Works	• Permissive • Voluntary • On the basis of "areas of professional associations" specified in laws.	Owners of rights related to intellectual and artistic works (natural or legal persons)	Professional associations (branches)	Federations of professional associations (minimum 2 professional associations active in the same field)	Compulsory Organs ♦ General Assembly ♦ Executive Board ♦ The Supervisory Board • Technical • Scientific Board • Honorary Board	• Not Subject to the inspection of the Judiciary • The method which is specified in the relevant legal arrangement is implemented.	• Admission fee • Annual dues • Shares of association • Incomes of publication • Other incomes	• Professional associations are formed "to protect the rights of owners of intellectual and artistic works, to administer and observe the rights granted by law, to collect relevant payments and to distribute them among owners of rights." • In order to form association, owners of works whose number is four times of the total number of members in the executive committee and disciplinary, technical-scientific and honorary boards; producers whose number is two times of the number of members of the same organs or radio-television companies have to apply to the Ministry of Culture and Tourism. The areas of professional associations have been determined by the relevant statutes. More than one association can be established in the same area. To form an association, a certain number of people specified in laws have to apply by meeting specified conditions. More than one federation cannot be established in the same area. • The statutes of associations and federations are prepared according to the Prototype Statute prepared by the Ministry of Culture and Tourism and approved by the Cabinet.

<i>c) Associations of agricultural producers' and their central organizations</i>	<ul style="list-style-type: none"> • With the will of founders and by applying to the Ministry of Food, Agriculture and Livestock. . the Statute of the Association . the Statute of the Central Union 		The Law on Associations of Agricultural Producers	<ul style="list-style-type: none"> • Permissive • Voluntary • In the areas where the laws allow establishment of associations (on the basis of products or group of products). 	Natural and legal persons who are agricultural producers	Associations of Agricultural Producers	Central Associations (minimum 7 associations of agricultural producers)	<ul style="list-style-type: none"> • Organs ◆General Assembly ◆Executive Board ◆The Supervisory Board 	<ul style="list-style-type: none"> • Not subject to the inspection of the Judiciary The method which is specified in the relevant legal arrangement is implemented. 	<ul style="list-style-type: none"> • Admission fee ◆ Annual dues • Shares of services • Consultancy fees • Other incomes 	<ul style="list-style-type: none"> • Associations of agricultural producers are formed by agricultural producers voluntarily at the basis of products or groups of products. They have legal personality. Those who produce and market all kinds of plants and animals and fisheries are considered as agricultural producers. • Associations can be formed by minimum 16 agricultural producers at the town level. Those producers should conduct activities on the basis of products or groups of products and should guarantee to provide agricultural products at the amount specified in their statutes through these associations. Only one association can be formed in one product or group of product at the town level. • Associations can form a central union at the national level at the basis of products or groups of products. A central association is composed of minimum 7 associations of agricultural producers in the same product or group of product. More than one central association cannot be formed in the same product or group of product.
<i>d) Associations of Customs Brokers</i>	<ul style="list-style-type: none"> • According to the Law on Customs and the Decree of Customs. • Their statutes are approved by the Ministry of Customs and Trade • the Statute of the Association 	Private law legal entity	<p>The Law on Customs (Numbered as 1615, Article 166)</p> <p>The Law on Customs (Numbered as 4458, provisional article. 6)</p> <p>The Decree of Customs</p>	<ul style="list-style-type: none"> • Compulsory • In the places where minimum 20 customs brokers exist. 	Customs brokers and their deputies (natural and legal persons)	Associations of Customs Brokers	The Executive Board of Associations of Customs (It was formed by associations as a kind of platform)	<ul style="list-style-type: none"> • Organs ◆General Assembly ◆Executive Board ◆The Supervisory Board • Advisory Board 	<ul style="list-style-type: none"> • Not subject to the inspection of the Judiciary . The method which is specified in the relevant legal arrangement is implemented. 	<ul style="list-style-type: none"> • Membership fees • Incomes from activities • Donations • Other incomes 	<ul style="list-style-type: none"> • The law on Customs numbered as 4458 includes provisional provisions which will be applied to customs brokers and their deputies until they organize themselves as public professional organizations. In this context, the Associations of Customs Brokers which were formed according to the provisions of the annulled Law on Customs numbered as 1615 will continue their activities. The procedures of granting warrants will be undertaken by the Ministry of Customs and Trade. According to the annulled Law on Associations numbered as 1615, in the places where minimum 20 customs brokers exist, an association of customs brokers is established with the approval of the Ministry of Customs and Monopolies. Deputies of customs brokers as well as customs brokers are registered to these associations. According to the provisional article 6 of the Law on Customs numbered as 4458, the duties of customs brokers and their deputies (exams, permissions, disciplinary punishments, approval of the tariff of minimum prices prepared by the Associations of Customs Brokers) will be undertaken by the Ministry of Customs and Trade. However, various duties and authorities have been assigned to Associations of Customs Brokers by the Decree of Customs and special arrangements. Associations of customs brokers have been structured as professional organizations which are dependents of the Ministry of Customs and Trade.

Appendix 2: Alternative Models of Professional Organization

Model	Legal origin	Method of Establishment	Type of legal personality and the status	Regulatory Norm	Type of membership	Members	Financial Sources	Type of Structure		Method of Election of Organs
								Local Level	Central Level	
MODEL I Organization in the Form of Associations	Members of the profession The statute of the association/federation/confederation	Permissive Without prior permission	Private law legal person. Association or association serving the public. More than one association can be formed on the basis of profession.	Changes in the Constitution. Arrangements on associations. Law on professional associations	Voluntary	Members of profession who perform a certain profession (natural and legal persons)	Membership fees	Association (branch, agency, etc.)	Federation Confederation	General provisions on associations or the method specified in Law on Professional Associations
MODEL II. Organization in the Form of Labor Unions	Members of the profession (a certain number of natural or legal persons) The statute of the labor union/confederation	Permissive Without prior permission	Private law legal person. More than one labor union and confederation can be formed on the basis of profession.	Changes in the Constitution. Arrangements on labor unions. Law on labor unions.	Voluntary	Members of profession who perform a certain profession (only career professions)	Membership fees	Labor union (branch, agency, etc.)	Confederation	General provisions on labor unions or the method specified in Law on Professional Labor Unions
MODEL III Organization in the Form of Chambers/Unions Having the Status of Association	Members of the profession (a certain number of natural or legal persons) The statute of the chamber/ union/ confederation	Permissive Without prior permission	Private law legal person. Professional organizations which will be formed as chambers or unions with the status of association. More than one local union can be formed on the basis of profession.	Changes in the Constitution. Arrangements on associations. Law on Professional Organization. Law on Professional Associations.	<i>Alternative 1</i> Voluntary <i>Alternative 2</i> Compulsory (the ability to be member of any associations)	Members of profession who perform a certain profession (natural and legal persons). Distinction between career professions and other professions	Membership fees	Chamber/Bar/ Union (branch, agency, etc.)	Union, Confederation	General provisions on associations or the method specified in Law on Professional Organization/Law on Professional Unions

Appendix 3: Strengths and Weaknesses of Alternative Models of Professional Organization

Model		Strengths	Weaknesses
model I	Organization in the Form of Association Based on Permissiveness and Voluntary Membership	<ul style="list-style-type: none"> • It expands the freedom of association. • It grants members of professions the freedom of choice. • It strengthens the civil society and non-governmental organizations. • It is compatible with the values of the civil society, the pluralist democracy and the free market economy. • It eradicates inequalities in professional organization. • It allows alternative organization. • It strengthens non-governmental character of professional organizations. • It strengthens ties between professional organizations and their members. • It encourages voluntary participation in activities and services. • It strengthens accountability of professional organizations. • It increases the control of the members over professional organizations. • It strengthens independency and sovereignty of professional organizations vis-à-vis the state and reduces the state control/guardianship. 	<ul style="list-style-type: none"> • It creates a complicated structure on professional organization. • Professional organizations might not have sufficient number of members because of voluntary membership. • It might cause difficulties in finding financial sources. • It might cause competition and struggle between different professional organizations. • Professional organizations might not accept such a model.
	Organization in the Form of Labor Union Based on Permissiveness and Voluntary Membership	<ul style="list-style-type: none"> • It expands the freedom of association. • It grants members of professions the freedom of choice. • It strengthens the civil society and non-governmental organizations. • It is compatible with the values of the civil society, the pluralist democracy and the free market economy. • It eradicates inequalities in professional organization. • It allows alternative organization. • It strengthens non-governmental character of professional organizations. • It strengthens ties between professional organizations and their members. • It encourages voluntary participation in activities and services. • It strengthens accountability of professional organizations. • It increases the control of the members over professional organizations. • It strengthens independency and sovereignty of professional organizations vis-à-vis the state and reduces the state control/guardianship. • It improves cooperation and solidarity between the labor unions and their higher organizations and their members. 	<ul style="list-style-type: none"> • It creates a complicated structure on professional organization. • Professional organizations might not have sufficient number of members because of voluntary membership. • It might cause difficulties in finding financial sources. • It might cause competition and struggle between different professional organizations. • Professional organizations might not accept such a model. • Since the title of labor union is used for employees, employers and public servants, some might resist the model.
	Organization in the Form of Chamber/Union Having the Status of Association	<ul style="list-style-type: none"> • It expands the freedom of association. • It grants members of professions the freedom of choice. • It strengthens the civil society and non-governmental organizations. • It is compatible with the values of the civil society, the pluralist democracy and the free market economy. • It eradicates inequalities in professional organization. • It allows alternative organization. • It strengthens non-governmental character of professional organizations. • It strengthens ties between professional organizations and their members. • It encourages voluntary participation in activities and services. • It strengthens accountability of professional organizations. • It increases the control of the members over professional organizations. • It strengthens independency and sovereignty of professional organizations vis-à-vis the state and reduces the state control/guardianship. • Using the definition of “chamber/union” separates professional organization from other associations. 	<ul style="list-style-type: none"> • It creates a complicated structure on professional organization. • Professional organizations might not have sufficient number of members because of voluntary membership. • It might cause difficulties in finding financial sources. • It might cause competition and struggle between different professional organizations. • Professional organizations might not accept such a model. • It might give the impression that the previous structure is maintained since the title of professional organizations will not be changed. • Differentiation from the associations which are established according to general provisions. • Note: The above weaknesses are valid for the voluntary membership alternative. They are partially valid for the compulsory membership model.

Association for Liberal Thinking

ALT is established in 1992 in Ankara. The objectives of ALT as a non-governmental organization are to introduce the richness of the intellectual tradition that lay at the heart of the liberal democratic civilization to engage in activities that promote understanding and acceptance of values and concepts like liberty, justice, tolerance, peace, human rights, the rule of law, to encourage academic researches on liberal themes; and to contribute to finding effective solutions to Turkey's political and economic problems within liberal thought.

ALT does not involve in day to day politics and have no direct links with any political party or movement. Instead, as an independent intellectual grouping, it aims to set and influence broader political debates so as to contribute to the liberalization of Turkey in economic and political fields.

ALT brings together like-minded people whose belief in and commitment to liberty, free market economy, and limited government have been proved by their intellectual and professional work.

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**Public Professional Organizations in Turkey, Civil Society and Democracy:
An Academic Project of Research and Development**

The Association of Liberal Thinking (ALT) conducted a research project titled as “Public Professional Organizations, Civil Society and Democracy” in 2010-2102.

Five academic reports were prepared as a result of the project. In these reports, the legal statuses, practices and policies of public professional organizations are analyzed from the historical perspective by putting an emphasis on constitutional democracy, free civil society and free competition and by making comparisons with the examples in democratic countries. It is questioned to what extent they are compatible with a pluralist, democratic and competitive system.

Moreover, a public survey was conducted on the members of professional organizations and the results were published as a report. The aim was to test and verify the opinions and information given in the five reports and to obtain quantitative and qualitative data on whether the proposals are viable.

The reports produced within the project have been discussed in three meetings gathering academics, researchers, members and representatives of professional organizations and journalists. The Association for Liberal Thinking shares the proposal of legal reform, which was prepared in the light of the results of the five academic reports, and the public survey with members of professions, professional organizations, policy makers, opinion leaders and the media. The academic reports, the report of the public survey and the reform proposal could be obtained from ALT free of charge.