

**LAW ON FOUNDATIONS**  
**NO 5737**  
**DATE OF ADOPTION 20 FEBRUARY 2008**  
**PUBLICATION IN THE OFFICIAL GAZETTE 27 FEBRUARY 2008**

**CHAPTER ONE**

**General Provisions**

**Objective**

Article 1- This Law has been prepared to set out the rules and procedures relating to the management, operations and monitoring of the foundations; to ensure that their movable and immovable listed properties at home and abroad are to be registered, safeguarded, repaired and maintained; to secure that the assets of the foundation are economically managed and exploited; and to define the organization, tasks, powers and responsibilities of the Directorate General for Foundations.

**Scope**

**Article 2-** This Law covers fused, subsidiary and new foundations, community and artisans' foundations, and the Directorate General for Foundations.

The international principle of reciprocity shall be reserved in the implementation of the law hereof.

**Definitions**

**Article 3-** For the purposes of enforcing this Law

**Directorate General** or the **Supervision Authority** refers to the Directorate General for Foundations.

**Director General** refers to the Director General of Foundations;

**Council** refers to the Foundations Council;

**Foundations** refer to the Fused, Subsidiary, Community and Artisans foundations, and New Foundations;

**Charter** refers to the document that covers and lays down the property, foundation terms, the wills of the founder grantor for the Fused and Subsidiary Foundations as well as the Community Foundations;

**1936 Declaration** refers to the declaration submitted by the Community foundations under the Foundations Law no. 2762;

**Deed of Trust** refers to a document of a foundation set up under the abolished Turkish Civil Law no. 743 and the Turkish Civil Law dated 22/11/2001 with no. 4721 that lays down the property and terms of foundation;

**Fused Foundations** refer to those ones to be administered and represented by the Directorate General under this Law, and those ones which were founded before the enforcement date of the abolished Turkish Civil Law no 743 and are administered by the General Directorate of Foundations in accordance with the Foundations Law no. 2762;

**Subsidiary Foundations** refer to those foundations which were set up before the enforcement date of the abolished Turkish Civil Law no. 743, whose administration is granted to the descendants of the founder-grantor;

**Community Foundations** refer to those foundations that belong to the non-Muslim communities in Turkey, whose members are citizens of the Turkish Republic and that are vested with a legal body status under the Foundations Law no. 2762, irrespective of if they have a charter or not;

**Artisan Foundations** refer to foundations that were established before the enforcement of the foundations Law with no: 2762 and which are managed by the Board of Directors selected by the artisans;

**New Foundations** refer to the foundations set up under the abolished Turkish Civil Law No: 743 and the applicable Turkish Civil Law No: 4721;

**Branch** refers to a subunit opened under the new foundations in order to pursue the operations of the foundation, which lack a legal body status and which comprise bodies;

**Representative office** refers to a subunit opened under the new foundations in order to pursue the operations of the foundation, which lack a legal body status and which does not comprise any body;

**Foundation Management** refers to the body that is authorized to represent and administer the Foundation according to the Charter, the 1936 Declaration, Deed of Trust, the Turkish Civil Law No: 4721 and this Law in subsidiary, community and new foundations;

**Foundation Manager** refers to those persons authorized to manage and represent the foundation in the subsidiary, and new foundations under the Charter, the 1936 Declaration, the Deed of Trust, the Turkish Civil Law No: 4721 and this Law, or any persons having an office in the authorized and competent bodies;

**Charities** refer to those goods and services directly put to the use and service of the society by the foundation;

**Rental-yielding real estate** refers to those movable and immovable properties that have to be used to generate income in order to realize the objective and operations of the foundation;

**Land-rented Foundations** refer to those foundation lands title of which belongs to the foundation where structures and trees are owned by the person who has the right of disposal, provided that the rental is paid on an annual basis;

**Double-rate rental Foundations** refer to those lands of a foundation let for an indefinite term against a fee paid in advance close to its value plus an annual rental

**Concession Fee** refers to a fee charged and collected against the free disposal and exploitation of the land-rented and double-rate rental immovable properties;

**Income Surplus** refers to the sum that remains outstanding after the performance of the repair works for the charities and the rental-yielding real estates of the foundation as well as the provision of charities services defined in the Charters of the fused and subsidiary foundations;

**Usufruct right** refers to the rights and income surpluses given to the concerned parties according to terms in the charters of the Fused and Subsidiary Foundations.

## **SECTION TWO Provisions Governing Foundations**

### **CHAPTER ONE Legal entity status, License, Management and Representation**

#### **Legal entity status**

**Article 4-** Foundations enjoy a private legal entity status.

#### **The assets, branches and representations of new foundations**

**Article 5-** New Foundations shall be established and shall operate in accordance with the provisions of Turkish Civil Code.

During the establishment of new foundations, the minimum amount of assets that will be allocated according to its objectives shall be determined by the Council every year.

New Foundations may establish branches and representative offices for the purposes of achieving its objects laid down in the deeds of trust, provided that they have to file a declaration with the DG. The rules and principles for the issue of a declaration shall be governed in the respective regulations.

Foreigners shall be able to establish new foundations in Turkey in accordance with the principle of *de jure* and *de facto* reciprocity.

#### **Management and representation**

**Article 6-** Fused Foundations shall be managed and represented by the **Directorate General**.

Subsidiary Foundations shall be managed and represented by those managers to be appointed by the Council in accordance with the terms laid down in the Charter provided that they do not contradict with the Constitution. The Foundation managers may appoint assistants to help them. Qualifications sought for the managers of subsidiary foundations and their assistants shall be laid down in a regulation. Charity works shall be conducted and performed

by the **Directorate General** per pro until the person who is not eligible for the manager position because they fail to meet terms laid down in the Charter become eligible; the minors or those under the care of a guardian acquire their legal capacity and the vacant manager position is filled.

Managers for the Community Foundations shall be appointed by their members. The rules and procedures for appointing foundation managers shall be laid down in a regulation.

The artisan foundations shall be subject to the provisions governing subsidiary foundations. These foundations shall be managed by the board of directors appointed by the artisans.

The management body of New Foundations shall be appointed according to the deed of trust and the majority of those parties holding an office in the management bodies of the foundations should have a domicile in Turkey.

### **Foundations to be administered and represented by the Directorate General**

**Article 7-** Subsidiary **foundations** for which managers could not be appointed or whose administrative bodies could not be set up for a term of ten years shall be managed and represented by the **Directorate General** under a Court decision.

No further manager shall be appointed to or elected for those foundations that are embodied in the Fused Foundations prior to the effectiveness of this Law as well as those that are embodied in the Fused Foundations under the law hereof.

The concerned parties' usufruct rights according to their charters are reserved.

### **Completion of New Foundation bodies**

**Article 8-** In the event that there is a vacancy in the bodies of New Foundations due to death, resignation or any other reason, a new member shall be appointed by the court according to the provisions in the deed of trust; where there is no provision, according to the resolution by the body competent to amend the Deed of Trust; and where there is no such body, then according to the resolution by the body authorized to carry out execution and upon consultation with the Directorate General.

### **Non-eligible parties for the Foundation management**

**Article 9-** Those ones who are convicted on the grounds of qualified larceny, looting, sacking, organized looting, fraud, organized fraud, breach of trust, smuggling or for any crime committed against the security of the state shall not be eligible for the manager position.

Any person who is convicted of above-mentioned crimes after having been appointed as the manager shall be automatically deprived of his position.

### **Responsibilities and dismissal of the Foundation managers**

**Article 10-** The Foundation managers are obliged to act in line with the foundation's purpose and to comply with the applicable law.

A foundation manager found not to obey the obligations in paragraph one and who is found:

- a) to fail to act in accordance with the object of the Foundation
- b) not to have used the goods and income of the foundation in accordance with its purposes;
- c) to cause the Foundation to suffer a loss because of his gross negligence and deliberate acts;
- d) to have failed to complete or amend in the permitted term the errors and missing points identified by the Supervision Authority, or insist on acting in violation;
- e) to have lost his legal competence to exercise civil rights; or to have contracted a disease or disability which prevents him from fulfilling his task on a permanent basis;
- f) to have been imposed an administrative fine twice pursuant to Article 11 of this Law;

may be dismissed out of the office under a judgment rendered by the court of first instance where the Foundation is situated, and on the basis of the decision of the Council rendered upon the application by the Supervision Authority. In cases which will yield irreparable consequences, upon the decision of the Council the court shall be asked by the Supervision Authority to order an interlocutory injunction for the temporary suspension of the management body from the office and for the management of the Foundation by a trustee until the finalization of the court case.

Any foundation manager dismissed from his office shall not be eligible for a membership to the Council and cannot be eligible to hold office in the same foundation's management and auditing bodies for a period of five years.

A foundation manager dismissed from his office on the grounds defined and given in paragraphs (c), (e) and (f) hereof shall be deemed to be also dismissed from the management position of another foundation (if any) and shall be ineligible for such offices in the management and auditing bodies of any foundation for a term of five years.

Any person involved in the foundation's management as well as foundation employees shall be liable for any loss or damage to the foundation due to their respective gross negligence and willful abuses.

Foundation managers cannot be dismissed or suspended from the office without any court order.

#### **Administrative fine**

**Article 11-** A foundation management that fails to deliver on time those declarations, documents and details requested under this Law in spite of the notice served by the Directorate General; that causes the bodies to convene in violation of the charter or the deed of trust or makes false declarations shall be imposed by the Directorate General an administrative fine of five hundred New Turkish liras for each of these acts. An objection may be lodged within fifteen days from the date of the service according to the provisions of Law No:5326 on Misdemeanors dated 30/03/2005.

## **CHAPTER TWO**

### **Foundation's Assets and Operations**

#### **Foundation's acquisition, replacement of rental-yielding real estates**

**Article 12-** Foundations may acquire goods, and have any disposition thereon.

The Council shall be authorized to replace, convert to cash or exploit those rental-yielding real estates or rights held by the Directorate General or the Fused Foundations with those ones which are more useful.

Concerning Subsidiary, Community, Artisan Foundations and New Foundations, those goods and rights allocated to the foundation at the establishment may be replaced with more useful ones or converted to cash with a Court decision if there are justified reasons, following the application by the Foundation's management body and consultation with the Supervision Authority; whereas their goods and rights acquired at a later stage may be replaced with more useful ones or converted to cash upon the decision of the competent body of the foundation and on the basis of the report to be prepared by independent expert institutions.

Foundation managers shall notify the Directorate General of the immovable properties they have acquired or replaced within one month from their registration with the property registry.

Article 35 of the Law No:2644 on Property Registry dated 22/12/1934 shall be applicable for the acquisition of immovable assets by the Foundations, a majority of the founders of which are composed of foreigners.

#### **Registration of immovable in the foundation's name**

**Article 13-** Upon the request of the Directorate General, the unregistered charity immovable of fused foundations shall be registered by the property registry office in the names of the respective foundations.

Sales and concession values of rental-yielding immovable properties belonging to Subsidiary and Fused Foundations, or immovable goods to be purchased, bartered or re-constructed shall be registered with the property registry office in the name of their respective foundations pro rata with the share held by that foundation.

#### **Change in objective and function**

**Article 14-** Where the fulfillment by foundations of the conditions in their charters becomes – de jure or de facto - impossible, the Council shall be authorized to change these conditions or to adjust the monetary values in their charity conditions according to current foundation revenues upon a proposal by the foundation’s managers in the subsidiary, community and artisan foundations and by the Directorate-General in fused foundations, provided that these shall not be inconsistent with the will of the founder grantor.

### **Qualities and exploitation of charity immovable**

**Article 15-** Charity immovable of the Foundations cannot be pledged or attached; the statute of limitations leading to the acquisition of ownership and usufruct rights shall not be applicable.

Those immovable properties belonging to the Directorate General, Subsidiary or Fused Foundations which cannot be used for the purposes they were originally endowed without violating the laws or public order or which turn out to be out of use or which cannot be used, partly or entirely, as a charity may be converted to a charity with the same or a similar purpose or may be turned into a rental-yielding real estate or may be turned into cash under a resolution by the Council in the case of fused foundations and under a resolution adopted by the Council upon the demand of the foundation manager in the case of subsidiary foundations. The cash may be allotted to another charity in the same manner. No fee shall be payable for allotments or transfers within the same foundation.

### **Allotment of charity immovable**

**Article 16-** A function shall be allotted by the Directorate General to the charity immovable belonging to the fused foundations in line with primarily its respective charter. Any charity immovable which cannot be exploited or utilized by the Directorate General may be rented out until they can actually be used for their original purposes.

For the purposes of making charity immovable functional, Directorate General may allot charity immovable to public entities and institutions, to foundations with similar objectives or to associations working for public benefit against their repair and restoration works under its supervision, in order to ensure their use for the services defined in the foundation charter.

The Directorate General shall be consulted for its opinion for the allotment of the charity immovable to a subsidiary foundation.

The allotted immovable shall not be used in any commercial business; in the event it is determined there is a usage that violates the objective of the allotment, the immovable shall be evicted by the civil administrative officers of the location where the immovable is situated, upon the Directorate General’s demand.

Immovable that belong to the community foundations and that are not used as charity in part or in full may be converted to the rental-yielding property of the foundation based on the Council resolution and upon such a demand by the foundation’s management, or may be allotted to another foundation that is the member of the same community.

## **Revert of immovable to the foundation**

**Article 17-** Where exploiters or owners pass away without designating an inheritor, or disappear, leave or become subject to exchange of populations, the title to the double-rate rental or land-rented properties shall be registered in the foundation's name.

## **Concession fee**

**Article 18-** Immovable properties owned by or under the disposition of real persons or legal bodies with a land-rented or double-rental foundation entry thereon shall be left to free disposal upon the payment of a concession fee equal to ten percent of the property tax value applicable on the transaction date. However, those governmental lands that were not allotted to the charities for which *mukataa* rent is paid and those immovable properties whose charges and tithes belong to the founded foundations shall not be subject to the concession fees.

For the calculation of the concession fee, the sales value shall be taken as basis for the ones sold by means of forced enforcement or by the removal of the partnership, and the expropriation fee shall be taken as basis for expropriations.

Unless the entire concession fee is paid in the foundation's name under the provisions of this law, the assignable dispositions on the immovable shall not be registered with and by the property registry offices.

As for the foundation entries, provisions set out in other laws for the forfeiting and prescriptive terms shall not be applicable.

## **Collecting the concession fee**

**Article 19-** Concession fees may be paid in advance within sixty days upon the relevant notification or may be bartered with an equivalent immovable or half of it may be paid in advance while the other half may be paid in five equal installments throughout a year. In case of payments under installation, a first degree and first rank mortgage is charged on the immovable. In the event that any of the installation sums is not paid in time, all of the remaining installments shall become due and payable.

Unless concession fees charged by the Directorate General are paid on time upon the notification in this respect, they shall be collected along with the delay fine in accordance with the Law for the Collection of Public Receivable no.6183, and shall be credited to the foundation.

## **Rental term**

**Article 20-** The lease term for the immovable properties that belong to the Directorate General and the fused foundations shall be three years in maximum. For the purposes of rent-outs against repair or construction works based on repair or construction values, the rental term may be agreed to be up to twenty years upon the Director General's approval, and up to forty-nine years upon the Council decision.

Cultural assets of the Directorate General or Fused Foundations, which are planned for repair works, and those immovable to be invested in shall be evicted through the civil administration by the end of the rental term upon the Directorate General's request without any further court order but with a one-month notice prior to the expiry of the rental term.

### **Foundation forests**

**Article 21-** Special foundation forests may be planted.

### **Conservation of cultural assets of foundations and notification of development projects**

**Article 22-** Public institutions and bodies shall consult the Directorate General during the preparation of development plans for the conservation of cultural assets of the foundation.

Any development and parceling plans prepared by the Municipalities and other public institutions and bodies in relation to immovable belonging to the Directorate General or Fused Foundations shall be notified by the relevant agency to the Foundation before any publication in relation thereto.

Development plans for the immovable of Fused Foundations shall be prepared in a manner to conserve the rental-yielding nature of the real estate.

Those immovable properties that belong to the Directorate General and fused foundations but which are trespassed or occupied by school, hospital or sports fields in the development plans may be exploited by the Directorate General as a private school, private hospital or sports facility –upon the consent of the relevant Ministry- in the event that they are not expropriated by the respective institutions within two years from the date of attestation of the development plan.

### **Acquisition through possession**

**Article 23-** Foundation properties shall not be subject to acquisition through possession.

### **Insurance**

**Article 24-** It is obligatory that rented or allotted immovable of the fused foundations shall be insured by their exploiters in the name of the Directorate General against theft, fire and natural disasters.

### **International activities**

**Article 25-** Foundations may establish branches and representation offices abroad; or carry out international operations and cooperation; set up high entities or may become members of organizations established abroad in accordance with their objectives and activities, provided that it is contained in their deed of trust.

Foundations may receive in-kind and in cash endowments and grants from individuals, institutions and bodies at home or abroad, and may give grants and donations in cash or in-kind form to the foundations and associations located at home and abroad with similar purposes. Cash aids that come from or are sent to abroad shall be remitted and received through and over the banks and shall be notified to the Directorate General. Form and content of the notice shall be laid down in a regulation.

### **Establishment of economic enterprises and companies**

**Article 26-** A foundation may establish and incorporate economic enterprises or firms so as to promote its goals and to generate revenues for itself, provided that the Directorate General shall be given a prior notice. The revenue generated from economic enterprises including the companies shall not be allotted for any purpose other than the objectives of the foundation. Regarding companies which have been established by foundations where the majority of the founders are foreign nationals or where more than half of the shares are owned by such foundations, the acquisition of property by such companies will be subject to the property acquisition provisions applicable to the same foundations.

The Directorate General for Foundations is entitled to establish economic enterprises or companies with the incomes and the rental-yielding real estate of the Directorate General and fused foundations, upon the decision of the Council of Ministers. The replacement of company shares and rights with more useful ones, their conversion into cash and exploitation and the utilization of all the rights related to these as well as the utilization of rights related to partnership shares shall be carried out by the Directorate General.

### **Rights and assets of dissolved or terminated New Foundations**

**Article 27-** Any estate and rights remaining after the settlement of the debts of dissolved New Foundations shall be transferred to a foundation with similar objectives in accordance with the provisions stipulated in its deed of trust, or under a court decision after consulting the Directorate General's opinion if no special provisions exist in the deed of trust; as for any estate and rights remaining after the settlement of the debts of terminated New Foundations, these shall be transferred to the Directorate General for Foundations.

## **CHAPTER THREE**

### **Foundation's cultural and natural assets**

#### **Identification, registration and sustenance of the foundation's cultural assets**

**Article 28-** Identification, inventory, registration and safeguarding (for the purposes of this term, those properties that belong to the Directorate General and fused foundations) of the immovable and movable cultural assets owned by the foundations at home and abroad as well as the expropriation, exploitation, repair, restoration and -if need be- reconstruction works of the cultural assets of the foundation and conservation areas whose ownership have changed over shall be pursued and carried out by the Directorate General.

Ten percent of the corporate tax base of enterprises and subsidiaries more than fifty percent of the capital of which belongs to Directorate General or fused foundations shall be transferred

to the Directorate General in order to be used for the repair of cultural assets belonging to fused foundations with scarce source of revenues.

The Council shall be authorized to conserve and maintain immovable categorized as cultural assets owned by Fused Foundations with scarce source of revenues by means of revenues generated by foundations with similar objectives.

**Conservation of Foundation’s cultural and natural assets**

**Article 29-** Immovable and movable cultural and natural assets owned by the foundations shall be preserved by the Directorate General, relevant public institutions and their users.

**Transfer of cultural assets of foundations**

**Article 30-** Cultural assets originating from foundations, the ownership of which have –for whatsoever reason- been passed to the treasury, provincial administrations, municipalities or village legal entities shall be transferred to the fused foundation.

**CHAPTER FOUR  
Accounting and Audit of Foundations**

**Foundation’s accounting**

**Article 31-** Foundations have to keep and maintain their accounting records in accordance with such rules and procedures to be designated by the Directorate General. Those rules and procedures in relation to the books and records to be kept and maintained shall be regulated in the respective regulation.

Revenues and expenses of each Fused Foundation shall be followed separately.

Foundations shall invest their assets by observing economic rules and risks.

**Obligation to submit statements**

**Article 32-** Foundation’s management shall submit to the Directorate General, within the initial six months of each calendar year, a statement containing a list showing the managers or the members of the board of the foundation; budget and financial statements, activity reports, real estate details, financial charts of the preceding year, documents confirming that these statements are published via appropriate media and means, financial statements of its business operations and subsidiaries as well as other information to be stipulated in the regulation.

**Audit of Foundations**

**Article 33-** Internal auditing is a must in subsidiary, community, artisan and new foundations. The foundation may be audited by its own bodies or by independent audit firms.

Foundation managers shall submit the reports of in-house audits which are to be conducted at least once a year and the results to the Directorate General within two months following the date of the report, at the latest.

The Directorate General shall carry out an audit for checking compliance of the foundation to its objectives and the applicable laws as well as for compliance of its economic enterprises with the legislation and its activities.

### **Management and representation expenses**

**Article 34-** Twenty percent of the annual gross revenues of the Fused Foundations subject to usufruct rights and those ones temporarily administered by the Directorate General shall be credited to the Directorate General budget for meeting management and representation expenses.

## **SECTION THREE Directorate General for Foundations, Foundations' Council, Organization of the Directorate General and Recruitment**

### **CHAPTER ONE Directorate General for Foundations**

#### **Directorate General for Foundations**

**Article 35-** The Directorate General with a legal entity status has been set up under the Prime Ministry in order to fulfill the tasks assigned to them hereunder.

If deemed necessary, the Prime Minister may exercise, through a State Minister he will delegate, the powers granted to him in relation to the management of Directorate General.

Directorate General shall comprise central and provincial organizations.

The head office of the Directorate General is based in Ankara.

#### **Tasks of the Directorate General**

**Article 36-** Tasks of the Directorate General are given below:

**a)** To fulfill and carry out charitable, social, cultural and economic terms and services set out in the charters of Fused Foundations or, where there is no charter, in its *firman*, deed or title of privilege that substitutes the charter.

**b)** In order to give the best service described in the charter, to exploit and invest funds and goods of the Directorate General and the Fused Foundations and to invest them in those investments that bring higher yields,

**c)** To establish companies, to participate in already-active companies and to decide on any capital increases of these companies with the funds of the Directorate General and the

Fused Foundations,

- d)** To conserve or restore the cultural assets of foundations located at home or abroad;
- e)** To check and audit subsidiary, community, new and artisan foundations;
- f)** To carry out training, research, development, cultural and publication activities in issues related to the foundations; to maintain national and international coordination;
- g)** To make up collections comprising cultural assets; to found and establish museums, libraries and cultural centers;
- h)** To carry out services and tasks assigned to it under this Law and other laws.

The Directorate General shall cooperate with other institutions and bodies in relation to its tasks relating to foundations and shall take necessary measures for the purposes of coordination. Whenever necessary, the Directorate General may hire experts, specialized institutions and entities for advice and legal opinions limited to the required topic and without being subject to the Public Tender Law enacted under No:4734.

#### **Auditing the Directorate General**

**Article 37-** The auditing of the Directorate General shall be conducted within the framework of the provisions of the Law No: 5018 on Public Financial Management and Control dated 10/12/2003.

#### **Budget of the Directorate General**

**Article 38-** The budget of the Directorate General shall be prepared within the frame of Public Financial Management and Control Law No: 5018. The budget shall be submitted to the relevant authorities within the permitted term after obtaining approval of the Council.

Any surplus revenue shall be carried over to the following year.

#### **Revenues of the Directorate General**

**Article 39-** Directorate General's revenues are given below:

- a)** Rental revenues
- b)** Business profits
- c)** Incomes from subsidiaries
- d)** Management and representation dues
- e)** Revenues to be generated by the sales of immovable properties belonging to the Fused Foundations
- f)** Concession Fees
- g)** Revenues and proceeds derived from the sales of immovable properties owned by the Directorate General;

- h)** Conditional endowments
- i)** Unconditional endowments
- j)** Other revenues

### **Spending of certain revenues and endowments**

**Article 40-** Revenues defined in paragraphs (e) and (f) of Article 39 of this Law may be used for purchasing immovable properties for the foundation and for the repair and maintenance works of the foundation's already existing immovable properties. These sums may be also invested, under the Council decision, in revenue yielding investments and the repair and maintenance works of cultural assets which are located at home and abroad and which belong to foundations with no income source.

Conditional endowments to the Directorate General shall be spent in line with the will of the endower.

## **CHAPTER TWO Foundations' Council**

### **Set-up of the Council**

**Article 41-** The Council is the highest decision-making body of the Directorate General.

The Council shall be composed of fifteen members in total, consisting of five members including the Director General, three deputy Directors General and one 1<sup>st</sup> legal advisor plus five members, who shall be university graduates and shall have specialized knowledge and experience in the field of foundations, to be appointed through a joint decree upon a proposal by the Prime Minister; plus three members to be elected by new foundations and two members, one of whom shall be elected by subsidiary foundations and the other by the Community foundations. Furthermore, new foundations shall elect three reserve members while each of the subsidiary foundations and community foundations shall elect one reserve member. The elections shall be held separately upon the invitation by the Directorate General and with the participation of a representative to be appointed by the management body in the new foundations; by the foundation managers in the subsidiary foundations and by the board of directors in the community foundations.

The Director General is also the chairman of the Council.

The Director General has the power and duty to enforce the decisions adopted. Where the Director General cannot attend his duties due to various reasons, the acting Director General shall also act as the Chairman of the Council.

Principles and procedures governing the functioning of the Council shall be laid down in the respective regulation.

### **Council's tasks**

**Article 42-** In addition to the tasks assigned to it by the other articles of the law hereof, the Council shall also perform the following tasks:

- a) To make decisions for public benefit on expropriations and dispositions for the allotments, sales and barter of the rental-yielding real estates and charity immovable owned by the Directorate General, Subsidiary and Fused Foundations;
- b) To approve the budgets of the Directorate General and Operational Directorates;
- c) To decide on the draft regulations and by-laws concerning the Directorate General and foundations;
- d) To make decisions on issues deemed necessary by the Directorate General.

### **Qualifications and tenure of Council members**

**Article 43-** It is imperative for the Council members to meet the qualifications sought from civil servants as set out and designated in the Civil Servants Law enacted on 14/07/1965 under no. 657; at least three of the members to be appointed upon a joint decree should have minimum ten years of experience in public institutions and bodies.

Council members who are not public officers shall be considered to be public officers with respect to the offences they committed in connection with their duties as well as those committed against them.

The tenure of Council members shall be three years. Membership of the Director General, Deputy Directors and 1<sup>st</sup> Legal Advisor in the Council shall be limited with their tenure in the Council. However, if any of the appointed members fail to fulfill his tasks due to a disease or disability, or if they are deprived of their membership qualifications, their tenure shall be terminated upon a joint decree in the case of members appointed by a joint decree and upon a Council decision and the proposal of the Director General in the case of other members.

Those appointed as members to the Council upon a joint decree during their term as civil servants or other public officers shall be discontinued from their former office as long as they keep office in the Council. These members may be re-employed by their former employers for a position meeting their qualifications in the event that their office term expires due to any reason whatsoever other than being deprived of the qualifications for civil servants, or they resign from their membership position or their term of office expires, provided that they file an application to their previous office within thirty days. In this case, the time they have spent in the Directorate General shall be counted as if they have been spent in the institution to which they are appointed. Provided that provisions governing the acquisition of academic titles are reserved, personnel transferred from universities shall be subject to the same provisions.

### **Replacement of the Council members and honorary fees**

**Article 44-** In the event that the office of a member appointed upon a joint decree becomes vacant for whatsoever reason, s/he shall be replaced for a term of three years within 30 days in line with Article 43.

In the event that the office of a member elected by foundations becomes vacant, reserve members shall take their turns in order to complete the remaining term.

Council members who do not hold any public office shall be paid an honorary fee for each meeting day, which shall be equal to the multiplication of (3000) indicator number with the coefficient of the salary payable to civil servants, provided that it shall not be more than 4 days a month.

### **Council's meetings and resolution quorum**

**Article 45-** The Council shall convene, at least twice a month and upon the Director General's call, with the presence of two thirds of the total number of members, and resolutions shall be adopted with the absolute majority of the total number of Council members. The Council members shall not be entitled to cast abstaining votes. Council members shall be responsible for their votes and resolutions.

The Council members shall not be entitled to attend meetings and cast votes on issues that concern themselves and their relations up to third degree in affinity and consanguinity as well as their and adopted children.

In meetings that concern them, foundations can appoint a representative who does not have the right to vote.

### **Rules for the Council members to comply with**

**Article 46-** Council members shall not engage in an undertaking, brokerage or representative relation, on a direct or indirect basis, with the Directorate General and its affiliates during their tenure and for a term of two years from the expiry of their tenure.

The Council members shall not be entitled to disclose any confidential information and documents they obtain during their tenure to any party other than those authorized by laws; and shall not use such information or documents to their personal advantages or to the disadvantage of third parties. This obligation shall apply even after the termination of their tenure.

Any member who fails to attend three consecutive meetings or ten meetings in total during a year without any justified excuse shall be dismissed upon a resolution by the Council.

## **THIRD CHAPTER Organization**

### **Central Organization**

**Article 47-** The Directorate General's central organization shall be composed of the main service unit, advisory unit, auditing units and auxiliary service units.

Directorate General's central organization is exhibited in the table (Table I).

### **Director General**

**Article 48-** The Director General is the highest official, representing the Directorate General.

The Director General shall carry out the activities of the Directorate General in line with the Charter terms and provisions, development plans, annual programs and the legislation, and shall be accountable to the Prime Minister, and shall ensure cooperation with other institutions in issues that fall within their scope of activity.

The Director General shall be authorized and responsible for the inspection/auditing of the activities, operations and accounts of the central and provincial organization as well as for the commissioning of these tasks.

### **Deputy Directors General**

**Article 49-** Three deputy directors general may be appointed to assist the Director General in the coordination of the main service units, advisory, auditing and auxiliary service units. The deputy director general shall perform the duties assigned by the Director General.

### **Main service units**

**Article 50-** Directorate General's main service units are given below:

- a) Foundation Services Department,
- b) Charity Services Department,
- c) Artistic Works and Construction Works Department,
- d) Investments and Real Estate Department,
- e) Health Services Department,
- f) Cultural Affairs and Registration Department,
- g) Foreign Relations Department.

### **Department of Foundation Services**

**Article 51** – Department of Foundation Services shall be in charge of:

- a) Carrying out the procedures and actions concerning subsidiary, community, artisan and new foundations,
- b) Carrying out the procedures regarding administrative fines,
- c) Performing other duties assigned by the Director General.

## **Department of Charity Services**

**Article 52** – Department of Charity Services shall be in charge of:

- a) Fulfilling the charity conditions and providing the services set forth in the charters;
- b) Fulfilling the formalities in relation to the allotment of charity immovable properties;
- c) Establishing education and training facilities at every level, healthcare and social service institutions, public kitchens, student dormitories, etc. to provide the charity conditions and services set forth in the relevant charters; managing such facilities; supporting students with scholarships, supporting destitute people with social aid, paying benefits to the sick or disabled;
- d) Cooperating with social service institutions and organizations;
- e) Developing and realizing social policies and social aid projects in cooperation with international institutions;
- f) Performing other duties assigned by the Director General.

## **Artistic Works and Construction Works Department**

**Article 53-** Tasks of Artistic Works and Construction Works Department shall be as follows:

- a) To locate and identify, and prepare inventory for, the cultural assets of foundations and to archive documents;
- b) To draft, or make third parties draft, measured drawings, restitution, restoration and other projects plus annual and five-year repair programs for cultural assets owned by the Directorate General and the Fused Foundations; to repair and restore them; or hire parties to carry out such works; upon request and in line with the terms and conditions of a protocol to be signed, to commission these works to public organizations and institutions as well as real and legal persons provided that the Directorate General shall be in charge of the control of such work;
- c) To prepare unit price analyses for the cultural assets of foundations; to ensure that they are published after being approved by the Directorate General;
- d) To carry out necessary procedures in relation to the repair and restoration projects for the cultural assets owned by the Directorate General and by the Fused Foundations; to discover their present conditions via measured drawings and photographs; to carry out expropriation procedures for the assets and conservation areas;
- e) To carry out the construction, repair and tender procedures of new buildings as well as the repair works for the cultural assets of owned by the Directorate General and fused foundations;

f) To buy materials deemed necessary for the repair works of the cultural assets of the foundation and new buildings; to establish and check construction sites;

g) To perform procedures and formalities in relation to the Conservation Law for Natural and Cultural Assets enacted under no. 2863 on 21/07/1983

h) To carry out other similar tasks assigned by the Director General.

### **Investment and Real Estate Department**

**Article 54-** Tasks of the Investment and Real Estate Department shall be as follows:

a) To prepare the inventory and keep registers of immovable properties owned by the Directorate General, or by the Fused, Subsidiary, and Community Foundations;

b) To determine the immovable properties that should be reverted to their respective foundations in accordance with this Law and the relevant laws and to have them registered with the property registry in the foundation's name; to pursue the ownership and disposal formalities of the cultural assets of foundations;

c) To monitor and keep track of the development practices and cadastre works for the immovable properties of the foundations owned by the Directorate General or by the Fused Foundation; to pursue their expropriation and rental formalities; to carry out the procedures for their inclusion and exclusion from the status of a foundation house or service building; to lay down rules and procedures governing rents; to ensure that they are rented in return for construction or renovation costs or against an apartment; to take all measures to prevent them against any violation; to replace or sell those ones that are not deemed useful, and to purchase the ones deemed necessary.

d) To carry out the procedures concerning the immovable property to be endowed to the Directorate General;

e) To determine the immovable properties subject to concession and to ensure that concession fees are collected;

f) To carry out, or hire third parties to perform the infrastructural works as required by its tasks and operations;

g) To carry out other similar tasks assigned by the Director General.

### **Health Services Department**

**Article 55-** The tasks of the Department of Health Services are as follows:

a) To provide in-bed, out-patient and mobile health services and to carry out the relevant procedures and actions in order to fulfill the medical charity conditions stipulated in the charters of the fused foundations,

- b) To take measures for provision of effective and efficient services at the health facilities,
- c) To cooperate with the institutions and bodies providing health services,
- d) To make sure that agreements are signed, when necessary, with public institutions and bodies, social security institutions as well as the private insurance companies operating in the health sector,
- e) To ensure that Bezm-i Alem Valide Sultan Gureba Foundation Hospital works efficiently and effectively as a training hospital in line with the conditions contained in its charter,
- f) To carry out other similar tasks assigned by the Director General.

### **Department of Cultural Affairs and Registration**

**Article 56** – Department of Cultural Affairs and Registration shall be in charge of:

- a) Translating, transcribing, sorting out and archiving the charters, Ottoman imperial edicts, deeds, orders and similar documents in the archives of the Directorate General;
- b) Keeping central registration records of foundations; registering new foundations in the central registration records;
- c) Tracking down the charters and similar documents stored in public archives, libraries and museums as well as in the private archives of real or legal persons, and ensuring that such documents are transferred to the Directorate General' archive;
- d) Registering and archiving updated versions of trusteeship, usufruct rights, certificates, amendments to conditions and charity conditions etc.;
- e) Ensuring that scientific studies and researches are conducted safely;
- f) Preparing a list of antique objects every five years, at the latest, and checking their compliance with the inventory;
- g) Producing publications about the foundations;
- h) Opening and inspecting museums, libraries and cultural centers for foundations;
- i) Organizing scientific, cultural and social activities and events, and developing projects, in cooperation with foundations and their high entities at home or abroad;
- j) Setting up an archive management system that will facilitate the utilization of the archives for all kinds of scientific studies; keeping the system in good operating condition;
- k) Organizing national and international meetings, conferences, panels, symposiums, exhibitions, fairs and similar events;

**l)** Taking appropriate measures to protect movable cultural assets owned by foundations and to prevent their smuggling; carrying put the relevant procedures for the return of the smuggled cultural assets;

**m)** Performing other duties assigned by the Director General.

### **Foreign Relations Department**

**Article 57** – Foreign Relations Coordination Department shall be in charge of:

**a)** The Directorate General’s relations and correspondence with international institutions;

**b)** Following up international developments concerning the foundations;

**c)** The procedures concerning the foundations’ real estate abroad;

**d)** Coordinating with other departments, the EU-related activities organized by the Directorate General;

**e)** Organizing international meetings to be held in Turkey for any of the topics falling under the mandate of Directorate General and conducting all necessary procedures in this respect;

**f)** Performing other duties assigned by the Director General.

### **Advisory and Auditing Units**

**Article 58** – Advisory and auditing units of the Directorate General shall be as follows:

**a)** Legal Counseling Unit

**b)** Guidance and Inspection Department

**c)** Strategy Development Department

**d)** Media and Public Relations Unit

### **Legal Counseling Unit**

**Article 59** – Legal Counseling Unit is in charge of:

**a)** Issuing legal opinions on legal affairs and on transactions which might yield to legal, financial or penal proceedings;

**b)** Reviewing in legal terms the draft laws, by-laws and regulations sent by the Prime Ministry or other offices in order to determine the Directorate General’s opinion;

c) Taking appropriate legal measures, on-time, to protect the Directorate General's interests, to prevent disputes and to facilitate the execution of agreements and contracts in accordance with the said measures;

d) Preparing case files for lawsuits to which the Directorate General is a party, representing the Directorate General in such lawsuits, or following and coordinating the lawsuits where external lawyers have been hired to represent the Directorate General;

e) Reviewing in legal terms the laws, by-laws and regulations concerning the Directorate General, preparing the drafts of such texts when need be, suggesting changes or amendments to the same;

f) Performing other duties assigned by the Director General.

### **Guidance and Inspection Services Department**

**Article 60-** Guidance and Inspection Services Department shall -upon instructions by or approval of the Directorate General- carry out inspection, investigation and examination activities related to the central and provincial organizations of the Directorate General on behalf of the Director General, and shall also be in charge of the following tasks;

a) Providing guidance services, reviewing and inspecting subsidiary, community, artisan and new foundations to find out whether they operate, and are managed, in accordance with the conditions laid down in their charters, deeds of trust, and the current legislation as well as in line with their objectives, and whether their properties and incomes are used in compliance with the conditions laid down in their charters, deeds of trust, and the 1936 Declaration;;

b) Inspecting and examining the foundations, their economic enterprises and subsidiaries;

c) Submitting to the Director General the reports issued by the inspectors of the Foundation pursuant to inspections, investigations and audits, by also enclosing the comments of the Department;

d) Reviewing internal audit reports issued by subsidiary, community, artisan and new foundations and carrying out necessary procedures;

e) Performing other duties assigned by the Director General.

Rural working groups may be set up upon the Director General's approval in the event that a need arises to carry out the services of the Department.

Procedures and principles governing the Department as well as working groups shall be laid down in a regulation.

### **Strategy Development Department**

**Article 61** – Strategy Development Department is in charge of:

a) Developing medium-term and long-term strategies and policies for the Directorate General in accordance with the national development plans and policies, annual programs and governmental programs; to perform the relevant tasks in order to determine the objectives;

b) Developing performance and quality criteria for the subjects falling under the mandate of the Directorate General and undertaking other duties to be assigned within this frame;

c) Collecting information and data about the improvement of the management of the Directorate General, and its services and performance, and analyzing and assessing the said information and data,

d) Examining external factors which may affect services in areas falling under the mandate of the Directorate General, carrying out studies on the internal capacity of the Directorate General, analyzing and studying efficiency and productivity of the services as well as conducting general studies;

e) Providing services relating to information management systems

f) Performing the tasks assigned to the financial services unit by the law on Financial Management and Control with No: 5018,

g) Carrying out the procedures concerning the trust fund of the Directorate General,

h) Planning investments to be made by the Directorate General in industrial, commercial, agricultural, tourism, healthcare, educational, cultural, social service and other fields; preparing or commissioning the necessary studies and projects;

i) Carrying out financial and technical studies in order to increase the production capacities of the undertakings within the scope of the rules of economy, conducting the procedures and actions concerning undertakings and subsidiaries;

j) Keeping the accounts of fused foundations, carrying out the procedures concerning usufruct rights;

k) Examining and approving the annual final accounts of subsidiary foundations;

l) Ensuring the development and implementation of projects which might benefit from external funds;

m) Performing other duties assigned by the Director General.

### **Media and Public Relations Unit**

**Article 62** – Media and Public Relations Unit is in charge of:

a) Providing the public with information about the institutional identity, mission, vision, mandate and activities of the Directorate General in order to ensure transparency for the Directorate General;

b) Establishing relations with the media and the press to provide the public with information about the activities and projects of the Directorate General, compiling information about the Directorate General, ensuring that such information is disseminated to the public through mass media;

c) Developing media plans for all kinds of news relating to the Directorate General, compiled in the form of bulletins, statements and announcements; and implementing such plans;

d) Developing advertising and promotional strategies to achieve visibility and to promote the Directorate General, its activities and its institutional identity to the public, and to implement such strategies;

e) Planning joint events and publication activities with other public institutions, organizations, non-governmental organizations and universities to promote the Directorate General; designing and printing promotional leaflets, posters and other printed materials and distributing the same to target groups;

f) Taking action to facilitate citizens' access to information under the Law on the Right to Access Information No. 4982 dated 09/10/2003; acting as a coordinator between the relevant units and citizens who would like to enjoy their right to access information;

g) Performing other duties assigned by the Director General.

### **Auxiliary Service Departments**

**Article 63** – Auxiliary service departments of the Directorate General are as follows:

a) Human Resources Department

b) Support Services Department

### **Human Resources Department**

**Article 64** – Human Resources Department is in charge of:

a) Carrying out activities on Directorate General's plans and policies on human resources, and developing proposals;

b) Carrying out the relevant procedures regarding the appointment, personnel records, disciplinary actions, retirement, transfer, promotion, salary, labor union and other formalities of the personnel of Directorate General;

- c) Preparing, implementing and assessing the in-service training programs for the Directorate General's personnel;
- d) Providing internal audit services;
- e) Performing other duties assigned by the Director General.

### **Support Services Department**

**Article 65** – Support Services Department is in charge of:

- a) Supplying the equipment, stationary and materials needed by the Directorate General; carrying out the distribution and the repair of the same, keeping their records and performing the accrual procedures of the spending;
- b) Renting movable and immovable properties needed by the Directorate General for its services;
- c) Conducting cleaning, lighting, heating, maintenance, repair and forwarding services for the Directorate General's service buildings and facilities;
- d) Allocating houses, building and managing healthcare and social facilities;
- e) Providing general documentation and archive services;
- f) Planning and providing the civil defense and mobilization services of the Directorate General;
- g) Performing other duties assigned by the Director General.

### **Provincial Branches**

**Article 66** – The provincial organization of the Directorate General has been shown in the attached Table II. The Council of Ministers, subject to the Directorate General's proposal, shall be authorized to establish or abolish the branches shown in the said table; to relocate and change the same.

Operating procedures and rules of the provincial branches of the Directorate General shall be set forth in a regulation.

## **CHAPTER FOUR Employment**

### **Personnel Regime**

**Article 67** – The personnel of the Directorate General shall be subject to the Civil Servants Law no. 657.

Those appointed to the Directorate General as Director General, Deputy Director General, Member of the Foundations' Council, 1<sup>st</sup> Legal Counselor, Head of Guidance and Inspection Department, Chief Inspector, Inspector, Press and Public Relations Officer, Head of Department, Regional Director, Legal Counselor, Director, Section Director, Foundation Expert, Lawyer, Architect, Engineer, Urban Planner, Research Expert on Museums and in-house Physicians shall be employed as contract personnel in the corresponding positions without being subject to the Civil Servants Law no. 657 and the provisions on contract personnel in other applicable laws.

The personnel who are actually working for the DG on a contractual basis shall be paid a gross amount to be determined by the Council, provided that it remains within the base and ceiling levels corresponding to their designations included in Schedule (III) annexed to the law hereof. The contractual personnel of the DG shall enjoy the same salary-rises applicable to the corresponding contractual personnel employed at the central organization of the Prime Ministry on the basis of the same principles and procedures. This personnel shall be included under the pension fund (Emekli Sandigi) of the Republic of Turkey. They shall be paid a bonus amounting to a month's salary in proportion with the days worked (including sick and annual leaves) in the months of January, April, July and October. From among these personnel, those who display an outstanding performance as a result of the activities they carried out in comparison to their other colleagues can be paid an incentive bonus corresponding to a month's salary in the months of June and December, upon an proposal by the Directorate General, the consent of the relevant Minister and the approval of the Prime Minister. The relevant principles and procedures regarding the implementation of this paragraph as well as other payments to the aforementioned personnel shall be determined by the Council of Ministers.

Overtime payment shall be made to the civil servants (excluding the contractual personnel corresponding to the same positions) working at the central and provincial organizations of the Directorate General under the same principles and procedures contained in Article 31 of the Law No: 3056 Amending the Decree on the Organization of the Prime Ministry dated 10/10/1984.

### **Appointments**

**Article 68** – Director General, Deputy Director General, 1<sup>st</sup> Legal Counselor and regional directors shall be appointed under a joint decree; Head of Guidance and Inspection Department and Head of Department shall be appointed upon a proposal by the Director General and the approval of the Prime Minister or a Minister of State authorized by the Prime Minister; and all other personnel shall be appointed by the Director General.

### **Foundation Expert and Deputy Foundation Expert**

**Article 69** – Expert services needed for the duties to be performed by the Directorate General shall be provided by the Foundation Expert and Deputy Foundation Expert.

Deputy Foundation Expert must have the qualifications described below in addition to the qualifications set forth in Article 48 of the Civil Servants Law no. 657:

a) Having a graduate degree from a faculty or college providing at least 4-year education at home, or those abroad whose equivalency has been approved by the Higher Education Council;

b) Passing the overall civil servant competency exam;

c) Achieving minimum “B” grade at the public servant foreign language exam;

d) Passing the exam to be held by the Directorate General;

e) Not having completed the age of 30 as of the date of the exam to be held by the DG.

Deputy Foundation Experts shall be entitled to take the Foundation Expert competency exam after serving minimum three years, obtaining an acceptable track record, presenting a thesis, and obtaining an approval for the said thesis. Those who pass the said exam shall be promoted to the Foundation Expert position; those who fail for a second time shall be appointed to an appropriate cadre.

Rules and procedures governing the Deputy Foundation Expert competency exam, the training programs and their durations, the thesis writing and the professional competency exam as well as the operational procedures shall be set forth in a regulation.

### **Foundation Inspector and Deputy Foundation Inspector**

**Article 70** - Deputy Foundation Inspector must have the qualifications described below:

a) Qualifications set forth in Article 48 of the Civil Servants Law no. 657;

b) Holder of a B.S. degree of law, political sciences, economics, business management, administration, architecture or engineering from a university, faculty, college or higher education school providing at least 4-year education and located in Turkey or abroad, provided that diplomas obtained from such university, faculty, college or school located abroad shall be subject to approval by Higher Education Board;

c) Documenting through a health council report that s/he is in good health to travel under any kind of climatic and travel conditions;

d) Passing the overall civil servant competency exam;

e) Passing the competitive exam to be held by the Directorate General;

f) Not having completed the age of 30 at the date of exam.

Deputy Foundation Inspectors, who succeed in the professional competency exam, shall be promoted to the position of Inspector provided that they have a three-year experience as a deputy foundation expert and that they have an acceptable track record.

Rules and procedures governing the above mentioned competitive competency exam shall be set forth in a regulation.

If a Deputy Foundation Inspector who has been found eligible for the said competency exam fails to take it without a reasonable excuse, or fails the said exam twice, or obtains an unacceptable track record, he shall be deprived of his title and be appointed to another appropriate cadre.

### **Termination and creation of cadres**

**Article 71** - Cadres described in Annexed Schedule 1 of the Decree on General Cadre Procedures for the Directorate General of Foundations no. 190 have been cancelled and omitted from the cadres described in Schedule IV of this law. The cadres contained in the list in Annex I have been introduced and added into Schedule I annexed to the aforementioned Decree as the cadres of the Directorate General.

### **Dividend and attorney's fee**

**Article 72** Revolving fund incomes earned thanks to services provided by the personnel of the Bezm-i Alem Valide Sultan Gureba Foundation Hospital shall be distributed as a dividend to the said personnel at rates and under conditions to be determined by the Foundations' Council by taking into account the procedures and principles laid down for the Health Ministry, provided that it does not exceed the ceiling foreseen for specific positions in the health facilities of the Health Ministry. These dividends shall be payable in accordance with the service provision conditions, titles, positions, working conditions, working times, service contribution levels, performance and status of the said personnel –whether s/he is self-employed or not- and with the nature of the said services including medical examination, operation, anesthesia, invasive interventions, special risks stemming from working conditions in risky departments, etc. The dividend paid as such shall not exceed fifty percent of the revolving fund income generated in the current year.

All personnel excluding those benefiting from the rights defined in the first paragraph shall be paid in accordance with the principles, procedures and at a rate to be identified by the Council, provided that these amounts do to exceed three percent of the rental revenues of the foundation and one third of their salaries. Such distribution shall be subject to deduction of the stamp tax only.

In the payment of Attorneyship fees to attorneys and officers employed at legal services for lawsuits and enforcement proceedings, which are ruled in favor of the Directorate General and are collected from the other party, the provisions of Law No: 1389 on Payment of Attorneyship Fee to Lawyers and Similar Officers Who Attend the Lawsuits of the State dated 2/2/1929 shall apply by analogy.

## **PART FOUR Various Rules**

### **Responsibilities and Powers**

**Article 73** – All management executives of the central and provincial organizations of the Directorate General are responsible for providing their services and performing their tasks in accordance with instructions and directives to be given by the Director General and with the applicable laws, plan and programs.

### **Transfer of Powers**

**Article 74** – Director General and all management executives shall be entitled to transfer some of their powers to their subordinates, provided that the limits applicable to such transfer must be clearly defined.

Such transfer of power shall be announced properly to whom it may concern.

### **Usufruct right**

**Article 75** – Rights of the persons concerned shall be reserved in accordance with the conditions set forth in the charters issued to fused foundations and to subsidiary foundations. Rules and procedures governing utilization of such rights shall be set forth in a regulation.

### **Joint defendant in the case of subsidiary foundations**

**Article 76-** In lawsuits of ownership and usufruct rights against the management of subsidiary foundations, the Directorate General and the foundation management shall act as a joint defendant.

### **Immunities and Exceptions**

**Article 77** – Immovable properties owned by the Directorate General or by the fused foundations shall enjoy the privilege of being government property, so that they shall be immune to being sequestered or pledged; all kinds of transactions involving the said properties shall be exempt from taxes, duties, levies and charges.

No collateral shall be required in the lawsuits to be filed by the Directorate General.

Bad debts due to the Directorate General or fused foundations shall be collected subject to the Public Receivables Collection Law no. 6183 of 21/7/1953.

Actions concerning repairs and restoration of cultural assets owned by the foundations, landscaping works and expropriations shall not be subject to the Decree no. 180 on Organization and Tasks of the Ministry of Development and Housing.

Actions concerning the renting-out of the cultural assets against restoration or repair costs shall not be subject to the State Tenders Law dated 10/09/1983 no. 2886.

Rules and procedures governing the above mentioned expenditures and renting operations shall be set forth in a regulation.

Real persons and legal entities who are willing to study, improve and support foundation culture at home or abroad shall be allowed to sponsor scientific organizations, strategic studies, conferences, symposiums and similar cultural events falling under the scope

of the Directorate General and included in its activity and investment programs. Individual and corporate sponsors shall be allowed to advertise commercials at such events subject to rules to be determined by the Directorate General. Funds, donations and sponsorships to be provided by such real persons and legal entities for the maintenance, repair, restoration or sustenance of movable and immovable properties owned by the foundations, for landscaping works and expropriation of such property under the Directorate General's control shall be deducted from their income and corporate tax base.

Movable and immovable properties donated to a foundation during or after its establishment shall be exempt from inheritance tax.

### **Rights to Settle and Waive**

#### **Article 78 -**

**a)** The Foundations' Council shall be authorized to settle legal disputes between the Directorate General and other public institutions, enterprises, real persons or legal entities through an amendment to the contract or the agreement;

**b)** The Director General shall be authorized to waive lawsuits or enforcement proceedings which are unlikely to yield any useful outcomes due to material or legal reasons or during review by a higher court, to approve a certain right or to waive a certain interest up to fifty thousand YTL; the Foundations' Council shall be authorized to do so for values exceeding the above mentioned limit;

even if there is no contract, provided that the settlement protects the Directorate General' interests.

The Director General shall be authorized to delegate some or all of his above mentioned powers to the deputy Director General, 1<sup>st</sup> Legal Counselor or a Regional Director.

The principles governing the implementation of the article hereof and the aforementioned amounts shall be determined by the Council.

### **Amended Rules**

#### **Article 79 –**

**a)** The phrase “or Directorate General” has been added to follow “municipalities” in Article 4 of Law No:6237 on the Construction of Ports dated 27/1/1954.

**b)** Civil Servants Law no. 657 has been amended as follows:

**1)** The term “Assistant Experts of the Foundation” has been added in Article 36 on Common Provisions, paragraph (A), subparagraph 11 right after the term “Assistant Experts of the Prime Ministry”; the term “Foundation Experts” has been added in the same subparagraph right after the term “Experts of Prime Ministry”;

**2)** The phrase “Foundation Experts” has been added in Article 152 Section “II-Indemnities”, paragraph A “Special Service Indemnity”, subparagraph (i) to follow “Culture and Tourism Experts”,

3) The term “Foundation Experts” has been added to follow “Culture and Tourism Experts” under Annex I, Schedule “I- General Administrative Services” paragraph (h),

4) The term “Head of Guidance and Inspection Services Department of the Directorate General” has been added to follow the section titled “Head of Inspection and Investigation Board” Annex II, Schedule “II- Judicial Organizations, Affiliated and Related Bodies and Higher Education Institutions”,

5) The term “Head of Guidance and Inspection Services Department of the Directorate General” has been added to Annex IV, Schedule “Executive Compensation” line 5 paragraph (e).

c) The phrase “as well as the immovable of the Directorate General and the fused foundations which it manages and represents” has been added to follow “Immovable under the private ownership of the State or those subject to its decisions and disposal” in paragraph 1 of Article 75 under State Tender Law No:2886 dated 8/9/1983.

d) The following have been added to the Public Procurement Law No: 4734 dated 4/1/2002;

1) The following paragraph (k) has been added to follow paragraph (j) under Article 3  
“(k) Procurement of goods or services concerning the repair, restoration and landscaping of the cultural assets of the foundation,”

2) The following paragraph under Provisional Article 4;  
“The principles and procedures regarding paragraph (k) under Article 3 of the law hereof shall be laid down in a regulation to be issued by the Directorate General upon consultation with the Ministry of Finance and Public Procurement Authority.”

### **Laws abolished**

**Article 80** – Foundations Law no. 2762, Law on Tasks and Organization of General Directorate of Foundations no. 6760 dated 30/06/1956, Law on Sale and Renting of Properties Owned by Foundations no. 2950 dated 27/04/1936, Law on Transfer of Ancient Structures Having Historical or Architectural Value to the General Directorate of Foundations no. 7044 dated 13/09/1957, Law on Lands and Lots Salable by Foundations to Certain Enterprises and Municipalities no. 748 dated 07/03/1926, Law on Sale of Olive Groves, Fig Groves, Nut Groves and Orchards Owned by Foundations no. 6092 dated 08/07/1953; Decree on Organization and Tasks of the General Directorate of Foundations no. 227 dated 18/06/1984; paragraph 2 of Article 111 of the Turkish Civil Law no. 4721 have been abolished together with their amendments and additions.

The phrase “Directorate General included in Article 20 of Decree No:547 dated 23/2/1995 and first paragraph under the annexed Article 3 of Decree with No: 375 dated 27/6/1989” has been omitted from the text.

**Provisional Article 1** – Until the organization of the Directorate General has been rearranged according to the principles of the law hereof, the cadres existing as of the enforcement date of this law shall continue to be valid.

Personnel whose cadres, positions and titles remain unchanged under this law shall be considered to have been appointed to their new cadres.

Personnel whose cadres, positions and titles have been changed or abolished by this law shall be assigned to appropriate cadres corresponding to their degrees and grades by the Directorate General within six months. Until they are appointed to their new cadres they shall reserve all rights regarding their salaries, additional indicators, salary increases and compensations as well as other financial rights. Where the sum of net amount of salaries, additional indicators, salary increases and compensations as well as other financial rights of the new cadres to which the personnel have been appointed are less than the sum of net amount of salaries, additional indicators, salary increases and compensations as well as other financial rights pertaining to the last month in their previous cadres, the difference shall be payable as compensation as long as they remain in the cadres they have been appointed to, without being subject to any tax or deductions.

Furthermore, those who are employed in the Directorate General and are subject to the Civil Servants Law no. 657 shall be entitled to take the competency exam to be held by the Directorate General, provided that they apply within six months of the enforcement of the law hereof. The applicants shall not be required to meet the conditions laid down in subparagraphs (b), (c) and (e) under the second paragraph of Article 69 of the said law.

Those who succeed in the exam shall be promoted as foundation experts.

**Provisional Article 2** – Regulations described in certain articles of this Law shall be passed and published in the Official Gazette within six months, until then the provisions of the existing regulations which do not contradict this law shall continue to be applicable.

**Provisional Article 3** – Tasks assigned to departments or units changed or created hereunder shall be performed by the departments or units which have been performing them before this law has been enacted, until they are rearranged hereunder.

**Provisional Article 4** – Provincial organization of the Directorate General shall continue to perform and provide its tasks and services until it is restructured hereunder.

**Provisional Article 5** – In on-going lawsuits concerning foundation entries, the forfeiting and prescriptive terms laid down other laws shall not be applicable hereunder.

**Provisional Article 6** – Subsidiary foundations, whose usufructs rights are more than the charity conditions in their charities, shall be turned into family foundations described in Article 372 of the Turkish Civil Law No: 4721 by a court decision, upon the request of the foundation manager and its relevant authorities and based on a Council decision.

**Provisional Article 7** –Community Foundations’;

a) immovable property registered in the 1936 Declarations, which are registered in the Property Registry Office under figurative or fictitious names and are still under the disposal of the foundation,

b) immovable property currently registered in the Property Registry in the name of the Treasury, Directorate General, the bequeathing party or the endowers on grounds of not being able to acquire property, despite the fact that they had been purchased by community foundations, or bequeathed or endowed to the community foundations after the 1936 Declaration,

shall be registered by the relevant Property Registry Directorates in the name of the community foundations together with all rights and obligations recorded on them in the Property Registry Office, upon an application lodged within eighteen months as from the enforcement of this law and following the approval of the Council.

**Provisional Article 8** – The cadres appointed to the Directorate General in accordance with Law No: 4046 on Privatization Applications shall remain valid.

**Provisional Article 9** – The personnel under the Ministry of Health cadres, who have been transferred to the cadres of the Directorate General during their service at the Bezm-i Alem Valide Sultan Gureba Foundation Hospital, shall continue to benefit from the provisions of the sixth paragraph of Article 5 of the Law No: 5283 dated 6/1/2005.

Ayvalik olive groves and spring waters of the foundation, as well as the undertakings of Bezm-i Alem Valide Sultan Gureba Foundation Hospital, which have been operating under the Directorate General, shall continue to operate as undertakings with revolving funds until the relevant regulation concerning the restructuring of undertakings with revolving funds has been enacted, in accordance with the provisional Article 11 of the Law No: 5018 on Public Financial Management and Control.

### **Validity**

**Article 81** – This law shall be valid and put in effect when it is published in Official Gazette.

### **Enforcement**

**Article 82** - This law shall be enforced by the Council of Ministers.