

論土耳其的軍事司法制度

——兼論軍法官參與組成下的憲法法院



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提要

土耳其軍事司法制度由來已久，西元前209年正式建立軍隊時即存在軍事審判制度，但隨著時代演進，軍法體系更為複雜且細緻，依據其1982年憲法第3章規定，軍事司法包含軍事法院、紀律法庭以及軍事行政法院，分別行使對軍人及軍事犯罪、違紀過犯行為以及軍事相關行政措施、人員或勤務糾紛事件之審理。此外，明定憲法法院11位常任法官中，總統應自最高軍事法院及最高軍事行政法院各選任1位法官擔任憲法法院法官。

關鍵詞：土耳其軍事司法、軍事法院、軍刑法、紀律法庭、憲法法院

Abstract

The first Turkish military units were organized in 209 B.C. Because of its long history, the Turkish military system also has a complex and detailed military jurisdiction system. According to Chapter 3 of the Turkish Constitution, military jurisdiction consists of military courts, disciplinary tribunals and military administrative court. These courts are competent judicial authorities for military crimes and military-related crimes, disciplinary cases and disputes arising from administrative acts and actions involving military personnel or relating to military service. The Constitutional Court is composed of 11 regular members. The President of the Republic shall appoint one member each from the Military High Court of Appeals and the High Military Administrative Court.

Keywords: Military Justice Turkey, Military Court, Military Penal Code, Disciplinary Tribunal, Constitutional Cour