REPORTS ON TURKISH ADMINISTRATIVE LAW AND INSTITUTIONS

by

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Dr. Lipstein asked me on my arrival at Cambridge to make a short report on Turkish Administrative Law for the foreign participants in the Comparative Law meeting in Istanbul which is due this September. I thought it best not to refuse, even though the necessary materials were not available. The following report has been prepared from memory. I may be able to complete it with supplementary information during the meeting in Istanbul.

I. BACKGROUND

Both the administrative law and the present administrative institutions are the product of the development since the reform movement. The earlier Ottoman administrative machinery, though efficient and successful in the period of ascendancy of the empire, later decayed, and was finally abolished by the reform movement which goes back to the 18th century but acquired an intensified form through the Tanzimat (1839), and gave way to new institutions. The fully-fledged development has occurred during the Republic, partly as a result of the large expansion of the activity of public administration, including cultural, economic and social fields.

As the reform was due to the conviction, inspired by the military setbacks of the superiority of western institutions, the reformers had quite naturally been influenced by western patterns in the establishment of the new institutions. It was in the civilian field with which we are alone concerned here, mainly French institutions which

served as a model in contrast with the case of law, yet, there has hardly occurred in the field of public administration any total adoption of a foreign institution. The closest adaptations of French institutions are the State Council, the Court of Accounts, some financial organisations and the system of provincial autonomous administration. But they all vary somewhat from their French equivalents.

On the other hand neither the earlier reformers nor their successors down to the present day have confined themselves to foreign patterns in establishing the needed administrative institutions. Particularly since the beginning of the Republic, development of the administrative machinery has followed the country's own need and conception. Certainly foreign experience has continually been taken into account, but more and more in a way approximating to the comparative method, which is always helpful in discovering the best solution, and as such is useful everywhere. The present Turkish administrative machinery has followed the country's own need and conception. Certainly foreign experience has continually been taken into account, but more and more in a way approximating to the comparative method, which is always helpful in discovering the best solution, and as such is useful everywhere. The present Turkish administrative machinery can safely be described as a system rather *sui generis*, with some foreign, mainly French, influences.

During this development more especially with the penetration of continental western european legal thinking, administrative law arose as one of the first results of this penetration. Here also the model was French administrative law. Developed first by the law teaching in the western oriented institutions, such as the Political Science School and the Law School, it received a fresh start and practical impetus when the administrative court-system headed by the State Council was established at the very beginning of the Republic.

Parallel to the administrative machinery Turkish administrative law is acquiring more and more its own character, more especially where it is concerned with the description of the legal provisions. But where no legal provision is available, foreign patterns,

again mostly French ones, continue to be taken into account. Many French concepts, e.g. " faute de service " or " domaine public " are to be found both in writings and Court decisions.

II. GENERAL CHARACTERISTICS OF TURKISH ADMINISTRATIVE LAW.

Turkish administrative law like its western patterns, is generally agreed to have, as a branch of public law, its own principles, which differ from those prevailing in private law. From this general characteristic of administrative law similar consequences are drawn in Turkey to those admitted in Western countries. Private law is not admitted as a supplementary source, if in an administrative law case the formal sources fail, as they often do in Turkey as elsewhere. But the resulting uncertainly is greater, as the judicial source have not been sufficiently developed. Yet another characteristic of Turkish administrative law is that the governmental cases relevant to it are, as in France, dealt with by a particular court called the Court of Administrative Justice (or, more briefly, Administrative Court), headed by the State Council.

As a result the delimitation between administrative law and private law acquires in Turkey an importance similar to that in the other civil law countries. It is equally rendered more difficult by the fact that the public administration in Turkey, as everywhere else, is subject partly to private law. For this problem little attempt has been made in Turkey to find a general solution as has been done in Germany and other civil law countries, mainly in the context of the general distinction between public and private law. The Turkish courts proceed casuistically. No difficulty arises in the matters connected with the public authority. On the other hand, for economic enterprises and partly also for social institutions, the law itself provides the answer, in submitting them to the private law. But there remains plenty of unexplored fields and unsolved problems.

III. ADMINISTRATIVE MACHINERY

I thought it might be useful to give a brief accound of the present Turkish administrative institution.

1. Main structure.

The administrative machinery in Turkey is composed, as in France, of a general administrative organisation and of both local and functional autonomous units under its tutelage. The Government appointed by the President of the Republic, and acting with the confidence of the Parliament, is head of the general administrative organisation, and has thus supervision over the autonomous units. In this way the cooperation and unity of the whole is assured.

2. The general administration.

The general administrative organisation has first of all its central departments (ministries) headed by a minister (a member of the government) who is assisted by a top administrative official called adviser (Müsteşar) except in the case of the Foreign Ministry.

It (general administrative organisation) has also regular branches over all the country. The country is administratively divided into " vilayet " (= Provinces), these into " Kaza " (= sub provinces) and these into " Nahiye " (= districts). In all these cases the administration is headed by a top official who is a local representative of the government, and controls local civilian administrative branches on the spot.

3. Local administration.

The local autonomous units are of three kinds : the province (Vilâyet) as local government, the municipal administration and the village administration. They all possess legal personality, and own financial resources. They are managed with the participation of the local population, which has the greatest share in the villages, a moderate share in the municipalities, and least share in the provinces. The local population directly elects in the villages all the administrators, in the municipalities and provinces only the decision-making Councils. The head of the municipal administration is chosen by the municipal council, subject to confirmation by the general administration ; but in provinces the equivalent task is accomplished by the governor, the local head of the general administration.

Disadvantages of the partition of the country into local units with limited resources are met partly by financial grants and technical assistance by the government, partly through a central insti-

tution called The Bank of the Provinces. The local autonomous units are also permitted by Law to make arrangements and form unions among themselves. This has, however, not proved very practical.

The only relic of the old administrative institution worth mentioning is the quarter as a local administrative unit within the municipality. The quarters are town counterparts of village administration, having similar administrators elected by the population of the quarter. But they have a narrow, rather documentary, task. The present municipal law (1930) abolished them, but they were revived again as the functions had not otherwise been fulfilled. In this particular case tradition has proved stronger than reform.

4. Functional autonomous units.

The form of the autonomous unit having legal personality is mainly applied to the Universities, to some research and social institutions, and to most public enterprises. The degree of their autonomy varies. Some of them do not posses any large financial autonomy, as their budget and acounts are subject to similar parliamentary and administrative control as the general administration. Of this type are the Universities and some semi-economic agencies.

But many autonomous agencies, particularly public enterprises in the economic and social field, enjoy a wide range of financial autonomy.

5. Public enterprises.

Mainly three types of organisation are to be found in the administration of publicly owned economic enterprises in Turkey. They are all mainly the result of our own experience. No suitable Western pattern was available at tho time when public enterprises started in Turkey.

One type is the affiliated enterprise. Of this type are most public utility enterprises owned by the municipalities. This is due on one hand to the lack of a general legal permission, to create autonomous public units. But it is mostly due to the fact that for the small

municipalities it is not worthwhile to multiply their organisations. The resulting difficulties are partly met by some legal provisions which on the one hand permit appropriation to such enterprises of working capital exempt from public financial procedure, and, on the other hand, submit their relations to the private law.

Most public enterprises, however, are run either by autonomous public agncies or by mixed companies. Both of these kinds are exempted from parliamentary control, and submitted to the private law.

Most mixed companies are established by ad hoc bill, giving to the government the supremacy of control, as the ordinary company law puts a narrow limit to the right of control by one shareholder.

The form of public agency is not limited to the state enterprises. It is also applied to the municipal enterprises of certain great towns such as Istanbul and Ankara. But as to the form of autonomous agency applied to State enterprises experience before 1937 has since resulted in a general pattern with the following outilne :

A range of economic enterprises is entrusted to a central agency which is attached to a ministry, and has the task of creating and afterwards running them by an autonomous establishment under its control. A central control body of specialists provides the supervision of the whole of this kind of agencies, and their dependencies. The final supervision is entrusted to a peculiar mixed committee composed of the ministers concerned, of a number of members of parliament and of the top manager of these agencies and national banks. The committee is the result of a compromise between the tendency of the Government to avoid this. The Control of the government is legally limited, but practically large.

It may be added that this form of agency is not confined to economic enterprises. It is also justly applied to some social institutions.

IV. ADMINISTRATIVE POWER

1. Rule-making power.

According to the Turkish Constitution which is subject to a special form not alterable by ordinary bills, the legislative power is

exercised exclusively by parliament. It does not permit any delegation of the legislative power to the government. This negative attitude is connected with the prevailing conception about the power of the present Turkish Parliament, which is due to its origin. But it is also somewhat due to the unfavourable experience of the emergency legislative power which was accorded to the government by the Constitution of the Ottoman Empire during its last constitutional period.

But the government has in legislative matters two kinds of rule-making power of an administrative character. One is the power of making " réglement " which the Constitution itself recognises in the government and describes as governmental decree issued after the advisory opinion of the State Council and establishing detailed rules on the subject regulated or prescribed by a bill.

The other is emergency power given to the government by two ordinary bills, one for Currency Control and the other for Economic Control in war or other emergency. This kind of emergency power had to be recognised in the government despite the above-mentioned negative attitude of the Constitution. The Parliament admitted it as a demand of circumstances, but not without hesitation. These emergency powers are used by a simple governmental decree. The emergency power is partly delegated to the ministries concerned.

Both the " réglement " and the emergency decrees are administrative acts and subject as a rule to judicial review by administrative courts as to their conformity to the law. This means in the case of emergency decrees, only their conformity to the relevant emergency power bill. But while the rule of judicial review is applied to the emergency decrees, the Constitution assigns to the parliament the decision of claims concerning the conformity of the " réglement " to legal provisions. Writers partly agree that this provision does not affect the concrete cases where the judge has to apply the superior rule. This opinion seems to be favoured by the courts.

Apart from those above-mentioned rule-making powers, the government and every other administrative authority have the power to make rules called " instructions " within their administative tasks. This power is not mentioned in the constitution, but different laws

refer to it, and it is generally considered as a means of orderly and objective administration.

2. Right and Liberty of Individuals.

The Turkish Constitution, following the constitutional ideal developed in Western countries, assigns the regulation of the right and liberty of the individuals to the jurisdicton of the legislative power, i.e. to the Parliament. The Public administration can take measures interfering with the right and liberty of the individual or ask personal or material sacrifices only within the permission and prescription of a bill.

Yet the Turkish legal provisions give such powers sufficiently wide to include calling a State of Siege, which the government is entitled to do by the constitution, under parliamentary control.

Worthmentioning is an administrative power given by a special bill to protect possession of immovables against disturbance. The bill goes back to the inability of the ordinary courts to provide the needed protection quickly enough.

But how far a legal provision gives to the administration such a power is in many cases a matter of interpretation. The administration is inclined to a large interpretation which the administrative courts do not accept. The State Council has held e.g. that a legal provision only submitting a bus service to licence does not entitled the public administration to the Control of the fare. It annuled some time ago a governmental " instruction " concerning journalists' certificate introduced by it, because it contained restrictions to the qualification of journalists without legal provision.

3. Regulation of the public services.

The services rendered to the public by different establishments of the public administration are regulated by the Bill mainly in the cases where, like social insurance, the benefit is connected with rate payment. In other cases the regulation is left to the Public Administration itself. Thus the status of University students is regulated by administrative " instructions ".

4. Organisational power.

In organisational matters the boundary between legislative and administrative powers is not clear-cut. A bill is certainly required at least for the basic structure and functions of a new organisational unit, particularly if it will have legal personality and autonomy. But legal provisions are not confined to these essentials, and, in many cases, enter into details. For example, the intermal organisation of some ministries is regulated by the bill, so that any change in it needs the modification of the bill.

An important restriction results for the general administration and for those autonomous agencies submitted to the parliamentary budget system, from the fact that the posts and number of their functionaries are defined by a bill.

V. SAFEGUARDING DEVICES

1. Public interest.

Different means, mostly adapted from French patterns, are provided to safeguard the public interest.

In financial matters the supreme administrative supervision is provided by a Court of Accounts, which is attached to and composed of the member chosen by the Parliament. It presents reports to the Parliament, which has the ultimate control. The Court of Accounts has also judicial power over the acounting officials which has the ultimate control which it exercices in such a way as to make them responsible for every illegality even without negligence. This makes the accounting officials rather less flexible. The Finance Ministry itself exercise an overall control in financial matters within the parliamentary budget system.

In addition, every ministry has its own inspectorate body which is sometimes a particular body not recruited from active administrators. This system has the disadvantage of lacking in understanding of the need of active administrators.

2. Interest of Individuals.

The Constitution gives to individuals a general right of partition to the parliament or other public authority concerned, in matters

not only of their own interest but also of public interest. It makes it a duty for the public authorities to answer petitions concerning individual interest. Failure to comply with this duty is made by the bill governing the status of functionaries a matter for disciplinary action.

The right of petition to parliament is widely used. The petitions are dealt with by a standing committee whose decision is final unless an appeal by a member of parliament is made to the Plenary Meeting of the Parliament. The final decisions are, according to a conventional rule, binding upon the administrative authority concerned.

In the course of time some restriction has developed to the parliamentary petition. In the cases where a judicial way is available, or *res judicata* is given, the Parliament refuses to intervene.

VI. JUDICIAL CONTROL OF PUBLIC ADMINISTRATION

1. The principle.

Though the Turkish Constitution does not contain a clear provision similar to the West German and Italian Constitutions, the principle of the control of public administration is and can safely be considered as a constitutional one. Indeed the constitution mentions it among the duties of the State Council. It is largely realised by the State Council law which provides a remedy against all administrative acts and events injuring individual rights and interests.

To this principle there has not yet been developed any general restriction similar to the French theory of " acte de Gouvernement ". The State Council refused in its earlier decisions to deal with some cases of high political import without formulating any general theory. Limitation in some specific subjects results from the related legal provisions. Such is an interpretative decision of the parliament not permitted judicial review of administrative decisions on foreign nationality. Other legal provisions restrains the courts from dealing with administrative decisions on the disposal of retirement of public functionaries.

2. Administrative Courts.

Turkey is one of the countries which has the system of administrative courts. The Turkish system stems from France. As a prin-

ciple all the governmental cases governed by the administrative law fall within the competence of the administrative courts, except a very limited number of such cases referred by the law to the ordinary Courts.

The system was introduced by the Republic which restored (in 1927) the State Council as a combined administrative and judicial institution similar to the French pattern. The earlier State Council of the Ottoman Empire had not been able to exercise a similar function. Afterwards the Constitution of the Empire referred governmental cases to the ordinary Courts. But these courts did not develop in administrative matters any judicial control worth mentioning. Therefore it can be safely asserted that the Turkish State Council, like its French equivalent, is fully justified by its judicial achievement. There is still a current of opinion, which is reflected in the programme of a certain political party, and sponsors the idea of the unity of the judicial system without having yet taken any step.

The State Council is in its judicial composition the main and highest administrative court. It is the court of final decision for administrative cases for which another administrative court is not indicated by the law. It is also a " Court of Cassation " for the cases decided by the subordinate administrative courts.

The judicial composition of the State Council consists like its administrative composition, of three sections. Each section acts as a court, and has five members including the Chairman. All the sections together form, under the Chairmanhsip of the President of the State Council, the General Assembly of the Judicial Sections, which acts as a separate court, additional to the sections themselves. The cases are divided among the different sections and the General Assembly. Each has the final decisions. The General Assembly has also the duty to unify the conflicting views among the different judicial decisions of the State Council.

All the members of the State Council, including the President, are elected by Parliament. Membership of the judicial sections is confined to members of the State Council having a legal training. The system of election by Parliament has some unsatisfactory aspects connected with the conduct of the elections.

Among the other staff of the State Council are worth mentioning " the speakers of law " who express like the French " commissaire de gouvernement " their own opinion about the judicial cases.

There are mainly two kinds of subordinate administrative court: One kind is the administrative Councils of the provinces and subprovinces, which are composed of top officials, and exercise both administrative and judicial functions. The other kind is the financial courts, composed of officials nominated by the administraton.

It need hardly be mentioned that this composition is not quite satisfactory in respect of the independence which a judicial position requires.

3. Procedure.

Procedure of the administrative courts is as a rule scriptural but permits pleading. It has many advantages compared to procedure of ordinary courts, being much simpler and entitling the court to ask the administration for any information. The expenses are negligible

It has, however, some disadvantages which result rather from some narrow interpretations by the State Council. The main disadvantage is that the State Council applies a legal provision setting a short time-limit (3 months) to claims before the administrative courts to all cases including those related to individual rights which are subject to a longer period of prescription.

4. Solution of Conflicts.

The existence of two separate court systems necessitate a rule for delimitation of their spheres of competence, as well as a device to solve the related conflicts. This device was neglected at the time of introduction of the administrative court system, but, under the pressure of the complaints caused by negative conflicts depriving the individual of judicial protection, it has since been provided afterwards (1946) by creating a tribunal of conflicts based on the French model, with few modifications.

It is similarly composed of an equal number of members of the Court of Cassation and the State Council. It has the similar task of solving the positive and negative conflicts of competence and conflicts of judgement. The main differences concern the Chairmanship which is provided in the Turkish system by the presidents of the State Council and the Court of Cassation alternately. The change of the President affects the stability of the tribunal in conflict cases where each member maintains the opinion of his own court.

Some general form for delimitation is given in the State Council bill which describes its competence as being related to two kinds of governmental cases, namely to the conflicts arising out of (a) an administrative act or event violating an individual's right or interest, (b) a contract aiming at the fulfilment of a public service. All these formulae have regularly been interpreted as related to the adminstratve act or event or contract governed by administative law, which does not constitute of itself a clear solution. The solution is sought, as mentioned above (II, 2), casuistically.

Some of the difficulties may be worth mention. One of them is related to the question whether the act governed by the administrative law of the Presidential body of the Parliament falls within the competence of the State Council as an administrative court. The State Council denied it at first, but now seems to be modifying this view.

Another difficulty concerns the tort liability of public administration for the accident caused by its vehicles. The State Council considers it as an act governed by administrative law, and falling within its competence. The Ordinary Courts take the opposite view. The Tribunal of conflict changed its view with its president, despite the fact that no solution is worse than uncertainty.

5. The extent of Judicial review.

Similar to the French system every administrative act or event governed by administrative law, which violates the right of an individual or, being illegal, conflicts with his interest, is at his request liable to judicial review. Illegality is interpreted by the State Council as contradictory to the rules established by any legislative or admi-

nistrative act. As the illegality justifying the judicial review can, according to law, arise when the act does not conform to the purpose of a legal provision, the State Council has extended its control to the matter of administrative discretion as far as their conformity to the purpose of the legal rule is concerned. This has given way to the legal provision which excludes for some cases any judicial remedy.

VII. SOME PARTICULAR ASPECT OF TURKISH ADMINISTRATIVE LAW.

Below are indicated some particular aspects of Turkish administrative law in the light of the court's decisions :

1. Administrative acts and Contracts.

a) The conception prevailing in Turkish administrative law about administrative acts and administrative contracts is similar to continental European administrative law systems. Administrative dealings in the field of administrative law requiring some consent of the party concerned, are in many cases qualified as one-sided acts of the administration called " administrative acts ". For example, the appointment of a functionary with administrative law status is considered as such an administrative act. A contractual link is rather exceptionally admitted, mainly where it results from the relevant legal provisions. There are such legal provisions relative to the concessions of public supply services and mining privileges.

(b) Concerning the delimitation of the administrative law contracts with respect to the private law contract of public administrations some hint is given in the above-mentioned (VI. 4) formula of the State Council Act which describes the competence of the State Council as being related to the contract aiming at the fulfilment of public services. But it does not bring any further clarification, as the expression "public service" has in Turkey, as in France, several different meanings, and the word " aiming " is also elastic.

It is agreed, contrary to the French system, that governmental transactions like sales, renting, public works, are governed by the private law, and dealt with by the ordinary courts even where they

are subject to a particular adjudicative system regulated by a special bill. Only the steps preliminary to the conclusion of the contract are considered as administrative acts falling within the competence of the administrative courts.

Difficulty arose about the legal qualification of a governmental contract concerning the exploitation of a stateowned forest. Both the State Council and the Tribunal of Conflict qualified it as an administrative contract to be dealt with by the State Council, on the basis that it concerned the exploitation of a public property, and gave particular rights to the Public administration.

c) The rules governing administrative acts are to some extent codified, mainly in the field of taxation. In other cases and concerning administrative contracts there are only a few scattered legal provisions. Therefore the related rules have to be worked out in the practice both of administdrative authorities and of the courts, which have as yet evolved very few rules on the subject. Therefore many problems remain unclarified, among others the important problem when an unlawful administrative act has to be considered as non-existent and when only as subject to withdrawal. On this subject a particular view is held by the accounting officials who refuse to pay when underlying acts are tainted with an illegality. To this view the State Council set a limit by not permitting the examination of the legality after the illegal act has reached some stability by giving way to successive acts.

The courts have been faced many times with the problem when a lawful administrative act can be withdrawn. The prevailing view appears to be that the withdrawal is permitted as long as the act has not yet produced a definite effect, which is itself a matter of interpretation. An example may be given: The State Council dismissed a claim against the withdrawal of an expropriation, though the concerned property was transferred to the administration. The State Council did not consider the situation as definitive, because, an appeal of the claimants before the Civil Courts against the offered price was pending.

2. *Legal Status of Public Personnel.*

This is one of the administrative matters which follows mainly its own line without or with very few foreign influences.

a) The public personnel is divided, as to their legal status in relation to the administration, into two categories, one being governed by administrative law, the other by private law.

As a rule the same law branch which governs the administrative organisation as a whole is applied to its personnel: that is the personnel of the public law organisation is governed by administrative law, while the private law organisation like public enterprises are subject to private law. Thus the legal status of the functionaries differs following the organisation they are serving.

But this rule suffers exception: among the personnel of the public law organisation there is one category called "employee" which is subject to the private law. On the other hand, the bill regulating the pay system of private law personnel is qualified by State Council and Tribunal of Conflicts as part of the administrative law, thus falling within the competence of the administrative courts.

Worth mention is the fact that as a result of the differences in legal status the same process of appointment is considered, if it concerns the administrative law personnel as a one-sided administrative act, whereas if it is related to the private law personnel, it is considered as contract.

b) The status of the public functionaries is regulated by a separate bill which intends its original text to make of it a lifelong profession, and permits dismissal only in defined cases which have to be decided by disciplinary procedure. But successive modification has enlarged in this respect the power of the administrative authorities concerned. A recent modification has empowered the administration to relieve functionaries of their posts, and after a short period to retire them; and eliminated all judicial control. Thus the status of Turkish public functionaries has reached in this respect a kind of system or dismissal at will; without any protection of professional organisations, to which they are not permitted by law to belong.

c) The public personnel is liable for tort towards the administration. Tey are also exposed to actions for tort by individuals, without enjoying any protection similar to that afforded in the French or German system.

3.*The Situation of the Beneficiary of the Public Services.*

As a result of the differences between administrative law and private law, the legal situation of the beneficiaries is diffenrently qualified. Admission to the benefit of a public law service like University teaching, is considered as a onesided administrative act, despite the fact that the request of the individuals concerned is needed. The same admission is qualified in the private law service, such as public supply as a contract of adhesion, the condition of the benefit being prevailing view of the courts, but some legal writers have claimed for the beneficiary of the public supply services a similar status to that in the case of administrative law services. To this principle of private law status an important exception is admitted by the State Council which held itself competent when administration refuses or withdraws the supply service. This view presupposes an administrative law rule making the service compulsory for the administration.

4. *Public Property.*

The status of public property in Turkey is not yet clarified. The Turkish Civil Code, like its Swiss pattern, mentions only the res in common use, and seems to follow the German conception which submits all public property to the private law, modified by the restriction resulting from public law as to property in public or administrative use.

For the res in common use the former Turkish law provided detailed and useful rules which were abolished with the rest of the system. There is now a trend to introduce a regulation similar to that in the French system, which divides public property into two main categories, one being "domaine public" governed exclusively by administrative law, the other being qualified as " domaine privé " subject to the private law. This trend resulted in a draft bill presented by the Government to the last parliament which has not yet passed into law. The draft goes in describing the " domaine public " far beyond the limit admitted by the French Courts, thus sponsoring an advanced view which has not been accepted in France.

The conception of " domaine public " has been used by the

Tribunal of Conflicts and the State Council as a basis for their decision in some cases which are, in my opinion, unrelated to the proper conception. The same decisions would have been better justified by other means.

5. *Tort Liability of the Public Administration*

No judicial control of public administration can be considered sufficiently developed without being completed by a corresponding tort liability, which has rightly been considered in the Continental doctrine as one of the principles resulting from the ideal of the " Rechtsstaat ". ,

Yet most countries including Switzerland are more or less far from the standard reached in French and German administrative law regarding the tort liability of the public administration. One of these countries is Turkey where the State Council have been reluctant to admit the tort liability of the public administration until very recently. Now it has started a new and hopeful development in this direction. It has admitted in some recent cases the tort liability of the Public Administration. Still some reluctance continues to be shown. Il requires strict conditions such as a strong degree of negligence, also in the cases resulting from the accident caused by the vehicle of the public administration.

The State Council gave hope for another development in the direction o fliability for " risk ". It admitted, based on the consideration. Of equity, the liability of the public administration for damages resulted in gun fire in war time air defences.

VIII. CONCLUDING REMARKS

In this report I have tried to give a summary picture of Turkish administrative law and institutions, with some hint as to their problems and as to the line of their development. I thought this sufficient as preliminary information.

It appears clear that Turkish administrative law and institutions are developing in a way which reflects the national needs

and conceptions, and thus offers an example of the limits set to the adaptation of foreign legal or governmental institutions.

Compared with the past one may consider the present state of Turkish administrative law and institutions as a remarkable achievement, and perhaps as a model for undeveloped countries. But a comparison with the developed systems, discloses the important distances to be covered, and gives way to thoughts about the efforts already made and the methods used.

Turkish experiences in governmental and legal reforms show clearly how and in what degree foreign patterns can be utilised. It confirms that in this respect the most satisfactory result can be obtained only by an appropriate comparative method, helping to discover if any and if so which foreign country's pattern is suitable.

I may end this report in hoping that the proposed Comparative Law meeting in Istanbul will result also for our country in a new step in this direction.

Cambridge, August 1955