

23 – JUDICIARY AND FUNDAMENTAL RIGHTS

(Studies within the context of political criteria shall be carried out principally according to the decisions taken by the Reform Monitoring Group)

LEGISLATION CONSIDERED BENEFICIAL TO BE ENACTED (LAW)

I. LEGISLATION CONSIDERED BENEFICIAL TO BE ENACTED IN PERIOD 2007-2008 (01/10/2007 – 30/09/2008)

Reference No.	Name of the Legislation to be Amended/Enacted	Objective/Scope	Stage	EU Legislation Envisaged to Comply with	Institution Responsible for the Preparation of the Legislation
23.0007.1.01	Law Amending the Law on the Monitoring Commissions of Punishment and Execution Institutions and Prisons	Aims at laying down a healthier basis for the reporting of the management, functioning and applications of punishment execution institutions and prisons	At the GNAT	Council of Europe Committee of Ministers Recommendation No. 87(3) on “European Prison Rules” and recommendations of European Committee for the Prevention of Torture	Ministry of Justice
23.0007.1.02	Law on the Legal Dimension and Scope of International Child Abduction	Aims at enabling effective struggle on the international platform against the abduction of children from one country to another by persons who do not have parental right, and developing international legal cooperation in relation to such events.	At the GNAT	The Hague Convention on the Aspects of International Child Abduction	Ministry of Justice

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Reference No.	Name of the Legislation to be Amended/Enacted	Objective/Scope	Stage	EU Legislation Envisaged to Comply with	Institution Responsible for the Preparation of the Legislation
23.0007.1.03	Law Amending Various Laws for Harmonization with Fundamental Criminal Laws	Having enforced the Turkish Criminal Law No. 5237 and Law No. 5326 on Misdemeanours, aims at achieving unity of implementation regarding actions and crimes, which necessitate administrative sanction decisions, overcoming hesitations arising due to implementation of laws involving provisions of punishment, and ensuring harmonization of the provisions of fundamental criminal law such as Turkish Criminal Law, Law on Criminal Procedures and Law on Misdemeanours and some elements of certain crimes with the Turkish Criminal Law No. 5237, which came into force on 01.06.2005.	At the GNAT	Recommendations of the Advisory Visit Reports to reduce the excessive workload of the courts	Ministry of Justice
23.0007.1.04	Law Amending the Law on the Establishment and Working of the Court of Jurisdictional Disputes and Judges and Prosecutors Law	Reflecting the opinion of relevant high courts (Supreme Court of Appeals, Council of State, Supreme Military Court of Appeals and High Military Administrative Court) on the integrated committees of the court of jurisdictional disputes and contributing to the resolution of disputes.	At the GNAT	Political Criteria	Ministry of Justice
23.0007.1.05	Law Amending the Public Officials Law and the Labour Law Also included in the chapter on Social Policy and Employment with reference number	Aims at creating a parent leave by enabling the mother and the father to share maternity leave.	At the GNAT	Directive 92/85/EEC Directive 96/34/EC	Directorate General on the Status of Women Ministry of Labour and Social Security

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Reference No.	Name of the Legislation to be Amended/Enacted	Objective/Scope	Stage	EU Legislation Envisaged to Comply with	Institution Responsible for the Preparation of the Legislation
23.0007.1.06	Law Amending Law No. 4320 on the Protection of Family	Better protection of the family by expanding the definitions of family members exposed to violence and of households	At the GNAT	Political criteria	Directorate General on the Status of Women
23.0007.1.07	Law on Foundations	Enabling foundations to work in an effective, transparent and democratic environment, and making egalitarian arrangements concerning property rights.	At the GNAT	Political criteria	General Directorate of Foundations
23.0007.1.08	Law on Special Provincial Administration and Municipality Revenues	To enable special provincial administrations, the authorities of which have been increased, and municipalities to have sufficient financial resources to carry out their duties.	At the GNAT	Political criteria	Ministry of Interior
23.0007.1.09	Law Amending the Law on Associations, Turkish Civil Law and the Law on the Organization and Duties of the Ministry of Interior	To prevent legal problems, especially disputes between the association and its members, that may arise due to the articles open to comment of Law No. 5253 on Associations, to carry out the services provided for associations effectively and efficiently, to prevent misuses so as to improve confidence towards non-governmental organizations, and as has been stated in the ECHR decisions, as a requirement of the active obligations of the state besides its passive obligations regarding the freedom of organization preparing the legal basis for enabling non-governmental organizations to work effectively and for preventing arbitrary interventions of the state or other persons	At the GNAT	Political criteria	Ministry of Interior

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Reference No.	Name of the Legislation to be Amended/Enacted	Objective/Scope	Stage	EU Legislation Envisaged to Comply with	Institution Responsible for the Preparation of the Legislation
23.0007.1.10	Law on the Turkish Court of Accounts Also included in the chapter on Financial Control with reference number 32.0708.1.01.	To enable the Court of Accounts performs its duties within the framework of Law No. 5018.	At the GNAT	Political criteria	Turkish Court of Accounts
23.0007.1.11	Law Amending the Law on Supreme Court	Reducing the workload of the Supreme Court by establishing courts of appeals.	At the GNAT	Political criteria	Ministry of Justice
23.0007.1.12	Law on the Union of Judges and Prosecutors of Turkey	To satisfy the common needs of members of the professions of judicature and prosecution, to facilitate their professional activities, and enabling the development of this profession in compliance with general interest.	At the GNAT	- Political criteria - Council of Europe Committee of Ministers Decision R (94)12	Ministry of Justice
23.0708.1.01	Law on Collection of Contributions	Annulment of Law No. 2860 on Collection of Contributions, which has been in force for 24 years, and introducing a re-arrangement made according to the different conditions of the present day.	Technical studies are in progress	Political criteria	Ministry of Interior
23.0708.1.02	Law Amending the Administrative Jurisdiction Law	- To resolve certain technical problems in the application and shortening the trial process. - Introducing new arrangements on matters regarding duty and authority.	Technical studies are in progress	Political criteria	Ministry of Justice

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Reference No.	Name of the Legislation to be Amended/Enacted	Objective/Scope	Stage	EU Legislation Envisaged to Comply with	Institution Responsible for the Preparation of the Legislation
23.0708.1.03	Law on Trade Secrets, Secrets of Banks and Customers	Arranging the principles and procedures on requesting, furnishing, using and protecting the trade, bank and customer secrets of public agencies and institutes, as well as business enterprises and companies, banks, insurance companies and intermediary institutions in financial markets working in the fields of production, consumption and services in economic, commercial and financial sectors.	At the Prime Ministry	<ul style="list-style-type: none"> - Directive 95/46/EC on the Protection of Individuals with regard to Processing of Personal Data and On the Free Movement of such Data - Directive 91/308/EEC on Prevention of the Use of the Financial System for the Purpose of Money Laundering 	Ministry of Justice
23.0708.1.04	<p>Law on the Regulation of Informatics Network Services and Informatics Crimes</p> <p>Also included in the chapter on Information Society and Media with reference number 10.0708.1.01.</p>	To resolve legal and criminal problems arising due to informatics networks, the use of which has become widespread in our country.	At the Prime Ministry	<ul style="list-style-type: none"> - Council of Europe Convention on Cyber Crime of 23 November 2001 - Directive 2000/31/EC on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market - Directives 1997/66/EC and 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector - Directive 2000/31/EC on e-trade 	Ministry of Justice

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Reference No.	Name of the Legislation to be Amended/Enacted	Objective/Scope	Stage	EU Legislation Envisaged to Comply with	Institution Responsible for the Preparation of the Legislation
23.0708.1.05	Law Amending the Turkish Civil Law	Modernizing the procedures of identifying the blood tie between fathers and child born out of wedlock through recognition or judge decision.	Technical studies are in progress	<ul style="list-style-type: none"> - European Convention on Human Rights - Decisions of the European Court of Human Rights - United Nations Convention on the Elimination of All Forms of Discrimination against Women 	Ministry of Justice
23.0708.1.06	Law on Assistance to Children Aggrieved by Crimes of Violence	Compensation of material damages and emotional distress of children aggrieved by crimes of violence in a fair way and by means of social solidarity, and providing such children with necessary assistance.	Technical studies are in progress	<ul style="list-style-type: none"> - Charter of Fundamental Rights of the European Union - United Nations International Convention of 1998 on the Rights of the Child - Political Criteria-Economic and Social Rights Chapter of the Progress Report of 2006 	Ministry of Justice
23.0708.1.07	General Administrative Procedure Law	Introduction of the obligation for the administration to specify the authority which the person subject to administrative action has the right apply to or file a court case, and the deadline for such application or filing.	Technical studies are in progress	<ul style="list-style-type: none"> - Political criteria - Improving the functionality and capacity of the judiciary in line with recommendations in the EU progress reports 	Ministry of Justice

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Reference No.	Name of the Legislation to be Amended/Enacted	Objective/Scope	Stage	EU Legislation Envisaged to Comply with	Institution Responsible for the Preparation of the Legislation
23.0708.1.08	Law on the Establishment of a Political Ethics Commission and Amending Certain Laws	Specification of ethical principles such as transparency, impartiality, honesty, accountability, loyalty to public interest regarding the members of the Grand National Assembly of Turkey and the members of the Council of Ministers appointed from outside and improving efficiency in the implementation of the legislation on political ethics.	Technical studies are in progress	Council of Europe Committee of Ministers Recommendation Rec (2003/4) on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns	Ministry of Justice
23.0708.1.09	Law on the Protection of Personal Data Also included in the chapter on Information Society and Media with reference number 10.0708.1.04.	- To protect the privacy, material and moral existence as well as fundamental rights and freedoms of individuals by protecting personal data. - To establish basic principles on collecting, processing and securing personal data.	At the Prime Ministry	- Council of Europe Convention ETS No. 108 (919999JHA10184) opened for signature on 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data - Directive 95/46/EC on the Protection of Individual with regard to the Processing of Personal Data and on the Free Movement of such Data	Ministry of Justice

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II. LEGISLATION CONSIDERED BENEFICIAL TO BE ENACTED IN PERIOD 2008-2009 (01/10/2008 – 30/09/2009)

Reference No.	Name of the Legislation to be Amended/Enacted	Objective/Scope	Stage	EU Legislation Envisaged to Comply with	Institution Responsible for the Preparation of the Legislation
23.0809.1.01	Civil Procedure Law	<p>Establishing new institutions in order to ensure trials to be carried out in a more accurate, expedient, fast and effective way.</p> <p>Making the judicial system simpler.</p> <p>Achieving the unity of terms; developing a logical, unsophisticated and simple system that is easy to follow and in compliance with the course of trials.</p>	At the Prime Ministry	<ul style="list-style-type: none"> - Council of Europe Committee of Ministers Recommendation No. R (86) 12 concerning the Measures to Reduce the Excessive Workload in the Courts - Council of Europe Recommendation No. R (81) 7 on Measures Facilitating Access to Justice - Recommendation No. R (84) 5 on the Principles of Civil Procedure Designed to Improve the Functioning of Justice 	Ministry of Justice
23.0809.1.02	Law on the Resolution of Disputes outside the Judicial System	Reduction of the workload in judiciary, resolution of disputes with minimum costs and satisfaction of the parties in a more peaceful and conciliatory manner outside the judicial system in accordance with the “restorative justice principle”.	Technical studies are in progress	<ul style="list-style-type: none"> - Political criteria - Recommendation No. R (86) 12 of the Council of Europe Committee of Ministers concerning the Measures to Reduce the Excessive Workload in the Courts - Council of Europe Recommendation No. R (98) on Mediation in Family Matters - Council of Europe Recommendation No. R (99) 19 on Mediation in Penal Matters - Council of Europe Decision No. R (2002) 10 on Mediation in Legal Matters 	Ministry of Justice

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Reference No.	Name of the Legislation to be Amended/Enacted	Objective/Scope	Stage	EU Legislation Envisaged to Comply with	Institution Responsible for the Preparation of the Legislation
23.0809.1.03	Law on Non-Contentious Jurisdiction and Alternative Ways of Dispute Resolution	Within the framework of the judiciary reform, aims at resolution of certain disputes through non-contentious jurisdiction, compromise, and conciliation instead of contentious jurisdiction	Technical studies are in progress	<ul style="list-style-type: none"> - Political criteria - Recommendation No. R (86) 12 of the Council Of Europe Committee of Ministers concerning the Measures to Reduce the Excessive Workload in the Courts - Council of Europe Recommendation No. R (98) 1 on Mediation in Family Matters - Council of Europe Recommendation No. R (99) 19 on Mediation in Penal Matters - Council of Europe Decision No. R (2002) 10 on Mediation in Legal Matters 	Ministry of Justice

III. LEGISLATION CONSIDERED BENEFICIAL TO BE ENACTED IN YEARS 2009 (01/10/2009) – 2013

NO LEGISLATIVE MEASURE HAS BEEN ENVISAGED.

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SECONDARY LEGISLATION (REGULATIONS, IMPLEMENTING REGULATIONS, COMMUNIQUÉS, CIRCULARS, ETC) ENVISAGED TO BE ENACTED AND DOCUMENTS SUCH AS STRATEGIES, PLANS AND PROGRAMS ENVISAGED TO BE DRAFTED

I. SECONDARY LEGISLATION ENVISAGED TO BE ENACTED IN YEAR 2007

Reference No.	Name of the Secondary Legislation to be Amended/Enacted	Objective/Scope	Stage	EU Legislation Envisaged to Comply with	Institution Responsible for the Preparation of the Legislation
23.2007.2.01	Regulation on Carrying Out the Intermediation Procedures for the Adoption of Minors Also included in the chapter on Social Policy and Employment with reference number 19.2007.2.04.	According to the relevant article of the Turkish Civil Law, the duty of drawing up the Bylaw on the adoption of minors is given to the General Directorate of SSSPC; the issues regarding the intermediation activities in the field of adoption shall be regulated.	At the Prime Ministry	European Strategy for Social Inclusion	General Directorate of the SSSPC
23.2007.2.02	Implementing Regulation on Conciliation in Penal Procedures	Procedures and principles of conciliation are regulated under the Penal Procedures Law. This Regulation includes provisions regarding the conciliation procedures for crimes described within the scope of conciliation according to Article 253 of the Penal Procedures Law and other laws between the suspect or the defendant and the victim or the one who was harmed due to the crime, either a real or private law legal person.	Technical studies are in progress	- Council of Europe Committee of Ministers Recommendation No. R (99) 9 - Recommendation No. R (86) 12 of the Council Committee of Ministers concerning the Measures to Reduce the Excessive Workload in the Courts - Recommendations of the Advisory Visit Reports to reduce the excessive workload of the courts	Ministry of Justice

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II. SECONDARY LEGISLATION ENVISAGED TO BE ENACTED IN YEAR 2008

Reference No.	Name of the Secondary Legislation to be Amended/Enacted	Objective/Scope	Stage	EU Legislation Envisaged to Comply with	Institution Responsible for the Preparation of the Legislation
23.2008.2.01	Prime Ministry Circular on the “Framework Program and Time-Dependent Policies for the Prevention of Child Labour”, which is prepared by the contribution of all institutes, agencies and social parties in order to prevent child labour Also included in the chapter on Social Policy and Employment with reference number 19.2008.2.05.	Prevention of child labour within target groups (labouring on streets, labouring in small and medium sized workplaces in hard and dangerous works, and labouring in mobile and seasonal agricultural jobs apart from agricultural family work) specified by the “Framework Program and Time-Dependent Policies for the Prevention of Child Labour” in 10 years by means of holistic, participatory and multilateral approaches.	Technical studies are in progress	It has been stated many times in the EU progress reports that the prevention of child labour is a significant priority. Although this is not directly related to any Directive, it is related with the ILO Convention No. 182.	Ministry of Labour and Social Security
23.2008.2.02	Implementing Regulation Amending Implementing Regulation on Associations (It will be enacted after the adoption of the amendment to the Law on Associations with reference number 23.0007.1.09)	To prevent disputes especially between the association and its members that may arise, to carry out the services provided for associations effectively and efficiently, to prevent misuses so as to improve confidence towards non-governmental organizations, and as has been stated in the ECHR decisions, as a requirement of the active obligations of the state besides its passive obligations regarding the freedom of organization preparing the legal basis for enabling non-governmental organizations to work effectively and for preventing arbitrary interventions of the state or other persons	Technical studies are in progress	Political criteria	Ministry of Interior
23.2008.2.03	Implementing Regulation on Collection of Contributions (It will be enacted after the adoption of the law with reference number 23.0708.1.01.)	Making up-to-date arrangements for the collection of contributions.		Political criteria	Ministry of Interior

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III. SECONDARY LEGISLATION ENVISAGED TO BE ENACTED IN YEAR 2009

NO LEGISLATIVE MEASURE HAS BEEN ENVISAGED.

III. SECONDARY LEGISLATION ENVISAGED TO BE ENACTED IN YEARS 2010 – 2013

NO LEGISLATIVE MEASURE HAS BEEN ENVISAGED.