



## 1.5. JUDICIAL REFORM



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## I- NEW LEGISLATION

### Adopted Legislation

The fundamental laws are given below:

- Law on Establishment of Courts of Appeal and First Instance Civil and Criminal Courts (Law No. 5235)
- Turkish Criminal Code (Law No.5237)
- Criminal Procedure Code (Law No. 5271)
- Turkish Civil Code (Law No. 4721)
- Law on Family Courts (Law No. 4787)
- Law on Establishment of the Probation and Help Centres and Protection Boards (Law No. 5402)
- Law on Turkish Justice Academy (Law No. 4954)



- Law on Misdemeanours (Law No. 5326)
- Law on Public Inspection Authority (Ombudsman) (Law No. 5548)
- Law on Execution of Penalties and Security Measures (Law No. 5275)
- Law on Child Protection (Law No. 5395)
- Law on Prison Enforcement Judges (Law No. 4675)
- Law on Monitoring Boards of Enforcement Institutions and Detention Centers (Law No. 4681)



## Legislation Under Preparation

### 1 – Drafts before the Commissions of the TGNA

- Draft Commercial Code,
- Draft International Private and Procedure Law



## **2- Legislation which has been submitted to the Prime Ministry**

- Draft Law Amending the Law on Procedures of Administrative Justice,
- Draft Law on Protection of Witnesses,
- Draft Law on Protection of Personal Data,
- Draft Law on Obligations



### **3- Legislation which has been sent to the public institutions for their views.**

- Draft Law on Enforcement and Implementation of Obligations Law
- Draft Civil Procedure Code
- Draft Law on Arrangement of IT Networks and Crimes
- Draft Law on Enforcement and Implementation of Turkish Commercial Code
- Draft Law on Cheques



## **4- Legislation which is being drafted within the Ministry of Justice**

- Draft Law on Payment of Additional Remuneration to Judicial Staff
- Draft Law on the Union of Judges and Prosecutors
- Draft Law on General Administrative Procedures





## II- PROJECTS OF THE MINISTRY OF JUSTICE

### 1- National Judiciary Network Project (UYAP)

UYAP is an information system, an e-justice system as a part of the e-government, which has been developed in order to ensure fast, reliable, soundly operated and accurate judicial system.

The project was started in 2000 and it is expected to be completed by the end of 2007.

Most of the project has been completed.



## **2- Modernization of the Judiciary and Penal Reform Project (Total Budget 10.700.000 Euro)**

Main activities of the Project are:

- Training of judges and public prosecutors in specific areas including human rights training.
- Two Model Prisons were constructed.
- 7 judges from EU Department were sent for their postgraduate education in EU countries.
- Prison management principles were drafted and training was given for practitioners.
- Technical support and equipment was given to Turkish Justice Academy.
- To improve judicial statistics, information technology system and modernize forensic medicine services.



## **3 - Better Access to Justice in Turkey (2006-2008 Total Budget: 4.400.000 Euro)**

The Project will produce four key results:

- Increased utilization of the present legal aid system through public awareness activities on legal aid and training for lawyers
- Introduction of ADR into the Turkish legal practice through public awareness activities on ADR and training for lawyers
- Improvement of fairness in criminal proceedings through installing audio and visual recording systems at all Heavy Criminal Court Rooms



(As a part of Ministry's criminal justice policy which envisages the installment of audio and visual recording equipment in all 1775 penal courts in Turkey, this recording systems will be established in 225 heavy penal court houses as a pilot project with the support of this project)

- Strengthening the technical capacity of the Ministry of Justice by procuring the infrastructure equipment necessary for a well-functioning judicial statistics system.



## 4- Effective Implementation of Intellectual and Industrial Property Rights Project

- 8 judges were trained in intellectual and industrial property rights in famous centers in Europe for 10 months.
- 500 judges and other relevant persons were trained in international Symposiums.
- A Documentation Centre was established.
- All relevant IP units were connected to each other with a network.



## 5- Establishment of Probation Centres

The project will support the activities for strengthening the judicial system.



## 6- Regional Courts of Appeal Projects

- Establishment of courts of appeal and introducing this system as a third tier to the existing two-tier system has been put as a short term priority in the 2003 Accession Partnership Document. As a response to this Document, the National Programme endorsed the establishment of courts of appeal as a short term priority in 2003.
- The legal basis of the courts of appeal is the Law on Establishment, Duties and Competences of the First Instance Courts and Regional Courts of Appeal. (Law No: 5235 O.G.7.10.2004, No:25606)



- The Ministry of Justice runs two separate EU funded projects which are aimed to support the establishment of regional courts of appeal in Turkey.
- The Twinning Project on Support to the Establishment of Courts of Appeal in Turkey focuses on meeting the training needs of the future judges, prosecutors and judicial personnel of the prospected courts of appeal.
- Project has been launched on 19 January 2006 and will be finalized on 19 July 2007. The Netherlands and Sweden are twinning partners of the project and it has a budget of 1.4 million Euro.





- The Project is composed of 4 components: International conferences at the Court of Cassation, preparation of three different handbooks as training materials for judges, prosecutors and judicial personnel (completed), training seminars and a study visit for Turkish authorities to the Netherlands and France.
- Under this Project 1500 judges/prosecutors and 1200 judicial personnel will have basic knowledge on courts of appeal system.



- The backbone of the project is the training activities. The Project will first train a group of trainers who will train their colleagues through regional seminars. For the first phase of training activities 40 judges/prosecutors and 25 judicial personnel will assume trainer mission. Those 40+25 trainers will afterwards share their knowledge and experience with remaining 1500 judges/prosecutors and 1200 judicial personnel in regional seminars which will last two days.
- It is aimed to finish all training activities before the start date of the courts of appeal, which is 1 June 2007.



- The second project on the establishment of courts of appeal in Turkey is a construction project. This project has been prepared in order to present a model structure for the future courts of appeal in Turkey. The EU Member States' standards and practices have been taken as a model for building three new modern courts of appeal in the provinces of Ankara, Diyarbakır and Erzurum.
- 22,5 million Euro has been allocated from EU sources and 7,5 million Euros from the national sources.



- The project has 18 months of implementation period which will start after the signing of contracts with the tender awarded companies.
- As of 1 October 2006, tender notices both for work contract and supervision contracts have been announced and offers collected. The evaluation process is underway.



## 7- Support to Court Management System Project (proposed in 2006 programming year)

### Overall objective

To improve the functioning and efficiency of the judiciary according to European standards as foreseen in the Accession Partnership and the National Program for the Adoption of the Acquis.

### Project purpose

To reconstruct the court management system, strengthening the effectiveness of the judiciary and facilitated speedy judicial processes.



## Expected Results

- 1- New court management system including, fiscal, case flow and human resources management of the courts, developed and implemented.
- 2- Backlog of the cases from previous years reduced.
- 3- The average trial duration shortened.
- 4- Professional skillfulness of the auxiliary personnel in pilot court s raised, especially effectiveness and responsibility of administrative staff enhanced
- 5- Effective technological solutions and technology management system serving to the more satisfactory and rapid judiciary obtained.



### **III- CONSTRUCTION OF MODERN COURTHOUSES**

The Ministry of Justice started to construct new and modern courthouses in Turkey in recent years in the context of modernization of the judiciary.

#### **- Constructed Courthouses**

Since the year 2003, 66 Courthouses have been constructed and 396.906.000 YTL (237.810.665 Euro) has been spent.



## - Courthouses under Construction

26 courthouses are under construction in Turkey.

- By the end of 2006, 6 courthouses are expected to be completed and 66.248.000 YTL (40.150.303 Euro) will have been spent.

- The amount of 543.336.000 YTL (329.294.545 Euro) will be spent in total when the remaining 20 courthouses will be completed.





## - Courthouses in the Project Phase

New courthouses in the project phase are as follows:

- a) Projects of 9 courthouses have been completed by the Ministry of Justice. The amount envisaged for construction of these 9 Courthouses is 30.750.000 YTL (18.636.363 Euro).
- b) Work is carried out for project of 29 courthouses and 681.600.000 YTL (413.090.909 Euro) will be spent for construction.
- c) 15 courthouses are also in the investment programme and their projects will be prepared.



All projects and construction work are carried out by the Ministry of Justice by using the budget and resources of the Ministry.



## Capacity Enhancement for the Judges and Public Prosecutors

1- Ensuring consistent interpretation of legal provisions in line with the European Convention on Human Rights and its related case law and continuing the training of judges and prosecutors on their application.

Human Rights Law is a priority area for the Ministry of Justice. Therefore, training programs are implemented continuously and intensively.



The Ministry of Justice and the Justice Academy are in close cooperation with the international organizations to organize training on Human Rights Law and study visits to the leading institutions and courts in this field. In recent years, all of the judges and prosecutors have been provided training on human rights through projects implemented in cooperation with the EU and Council of Europe and some Member States.



The EU-Council of Europe Joint Project on Human Rights presented an opportunity to reach all judges and prosecutors in Turkey for providing human rights law training.

Under this Project, 225 judges were given the responsibility of being trainers and they were trained by Turkish and European experts on the European Convention on Human Rights (ECHR) and jurisprudence of the European Court of Human Rights (ECtHR).



Following the completion of the Project, the Ministry of Justice organized regional seminars and through these seminars 225 trainers trained 8470 judges and prosecutors on the ECHR and the jurisprudence of the ECtHR. The early impacts and results of these trainings have been positive since judges and prosecutors started to make direct references to the ECHR and ECtHR in their judgments, indictments or other judicial documents.



A similar project on training of judges and prosecutors on human rights had been implemented in cooperation with the British Council in 2001.

10 experts have been trained in the UK and they reflected their knowledge and experience to the chief public prosecutors and presiding judges of the heavy criminal courts in 81 provinces. In the last phase of the Project, 1000 judges and prosecutors have been trained on human rights matters. The implementation of this Project was continued in 2002, and 4594 judges and prosecutors were given human rights training through regional seminars.



In last five years significant legislative changes have been introduced in order to align with the EU standards in the field of human rights. Following the legislative process, the Ministry of Justice has prepared and implemented EU funded seminars to explain reform packages which have mostly included human rights issues. Through 6 regional seminars 934 judges and prosecutors have been trained on human rights.





The MoJ is one of the beneficiaries of the Project on Support for the Implementation of Human Rights Reforms in Turkey which has been designed for use of several governmental institutions. Under this Project 400 judges/prosecutors and 180 inspector judges are aimed to be trained on European Convention on Human Rights and jurisprudence of the European Court of Human Rights. Under the scope of this Project 40 judges/prosecutors and 50 inspector judges will be given opportunity to attend study visits to international institutions and EU member states.



Apart from the abovementioned projects on human rights, the Ministry of Justice organized several training programs in cooperation with universities, international organizations and institutes working in this field. The following chart provides figures about this training between 2001-2006.



## Human Rights Training

<b>YEAR</b>	<b>Cooperation with International Institutions</b>	<b>Cooperation with National Institutions</b>	<b>TOTAL</b>
<b>2001</b>	1323	542	1865
<b>2002</b>	5244	86	5330
<b>2003</b>	275	-	275
<b>2004</b>	9207	-	9207
<b>2005</b>	54	80	134
<b>TOTAL</b>	<b>16103</b>	<b>708</b>	<b>16811</b>



## Training of Judges and Public Prosecutors

Pre-service and in-service training programs have been one most important tools for enhancing the judiciary's capacity. In this regard such activities will be continued to implement. Especially, the best practices following the legislative reforms can only be ensured through qualified training programs. The Justice Academy, the Ministry of Justice and High Courts will always involve such kind efforts and activities cooperatively. Bilateral and multilateral projects especially funded and supported by EU and the Council of Europe will continue to present us the opportunity of grasping the comparative and contemporary approaches and experiences in various fields.



In this regard;

- Whenever an important change in codes or laws is introduced, countrywide seminars will be organized and judges and prosecutors will be informed by experts of that field.
- In-service training programs will continue to be the primary tool for freshening the knowledge of judges and prosecutors.
- Especially human rights law covering several subtitles, will be an important item of training programs
- Foreign language training will be supported and in addition to courses at universities, private institutions or cultural centers judges and prosecutors will be sent abroad for long term courses.