



COMMISSION EUROPEENNE POUR L'EFFICACITE DE LA JUSTICE  
(CEPEJ)

QUESTIONNAIRE POUR ÉVALUER LES SYSTÈMES JUDICIAIRES 2009

Pays : Turquie

Correspondant national

Nom Prénom : **DÖNEN Mustafa**  
Profession : **Judge**  
Organisation : **Ministry of Justice**  
E-mail : **mustafa.donen@adalet.gov.tr**  
N° Téléphone :

Nom Prénom : **BOZDAG Gonca gulfem**  
Profession : **Judge**  
Organisation :  
E-mail : **gonca.gulfem.yilmaz@adalet.gov.tr**  
N° Téléphone : **+90 312 219 45 23**

Nom Prénom : **AYDIN Talip**  
Profession :  
Organisation : **Ministry of Justice**  
E-mail : **talip.aydin@adalet.gov.tr**  
N° Téléphone :

Nom Prénom : **TURKER Gökçen**  
Profession : **Judge**  
Organisation : **Ministry of Justice**  
E-mail : **gokcen.turker@adalet.gov.tr**  
N° Téléphone :

## 1. Données démographiques et économiques

### 1. 1. Généralités

#### 1. 1. 1. Habitants et informations économiques

##### 1) Nombre d'habitants

71517100

##### 2) Dépenses publiques totales annuelles de l'Etat / le cas échéant dépenses publiques des collectivités territoriales ou entités fédérales (en €)

	Montant
Niveau national	83547878000
Niveau territorial / entités	

##### 3) PIB par habitant (en €)

7050

##### 4) Salaire moyen brut annuel (en €)

0

##### 5) Taux de change de la monnaie nationale (zone non Euro) en € au 1 janvier 2009

2133

#### **Veillez indiquer les sources des réponses aux questions 1 à 4 et tout commentaire relatif à l'interprétation des données fournies, le cas échéant:**

Buying Selling

EUR/TRY 1 EURO 2.1332 2.1435

Sources for questions 1 to 4

Turkish Statistics Institution  
The Ministry of Finance

### 1. 2. Données budgétaires relatives au système judiciaire

#### 1. 2. 1. Budgets (tribunaux, ministère public, aide judiciaire, frais)

##### 6) Budget total annuel approuvé et alloué à l'ensemble des tribunaux (en €)

786503133

##### 7) Veuillez préciser

Please note that in Turkey there is not a separate budget allocated to all courts. This amount includes the budget of the public prosecution system.

**8) Le budget approuvé pour les tribunaux inclut-il les postes suivants? Veuillez préciser pour chaque poste (ou pour certains d'entre eux) les montants concernés ou indiquer NA (non disponible) dans le cas où ce montant est impossible à évaluer:**

**Veuillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus:**

Budget public annuel alloué aux salaires (bruts)	<input checked="" type="checkbox"/> Oui	529883710
Budget public annuel alloué aux nouvelles technologies de l'information (équipements, investissements, maintenance)	<input checked="" type="checkbox"/> Oui	11689140
Budget public annuel alloué aux frais de justice	<input checked="" type="checkbox"/> Oui	117630542
Budget public annuel alloué aux bâtiments (maintenance, budget de fonctionnement)	<input checked="" type="checkbox"/> Oui	904977
Budget public annuel alloué à l'investissement en nouveaux bâtiments (tribunaux)	<input checked="" type="checkbox"/> Oui	126389786
Budget public annuel alloué à la formation	<input checked="" type="checkbox"/> Oui	4977
Autres (Veuillez préciser)	<input type="checkbox"/> Oui	

Commentaire :

**9) Le budget public annuel alloué à l'ensemble des tribunaux a-t-il été modifié (augmentation – diminution) lors des cinq dernières années ?**

- Oui  
 Non

Si oui, veuillez préciser (par exemple en fournissant une indication sur l'augmentation ou la diminution du budget lors des cinq dernières années):

COURT BUDGETS

2008 648.419.230,77  
 2007 523.526.271,49  
 2006 343.460.633,48  
 2005 309.158.371,04

**10) Existe-t-il une règle générale selon laquelle une personne doit payer une taxe ou des frais pour intenter une procédure devant une juridiction de droit commun :**

- en matière pénale ?  
 en matière autre que pénale ?

Si oui, existe-t- il des exceptions ? Veuillez préciser:

If the litigant is granted legal aid, she/he is not required to pay a court tax or fee to start a proceeding at a court of general jurisdiction. There are several exemptions according to articles of the Law on Charges numbered 492 and the specific laws. For instance, the cases which are brought by public prosecutors before civil courts, the cases which are brought by the Social Security Organization for Artisans and the Self-Employed and the cases which are brought by soldiers, corporals and sergeants are exempt from charges.

**11) Si oui, veuillez préciser le montant annuel des frais (ou taxes) perçus par l'Etat (en €)**

436651583

**12) Budget total annuel approuvé pour l'ensemble du système de justice (en €)****Veillez préciser les éléments composant ce budget de l'ensemble du système judiciaire:**.  Montant 1288654751

Commentaire :

TOTAL COURT BUDGET: 648.419.230,77

Constitutional Court: 7.738.461,54

Supreme Court of Appeals: 21.472.398,19

Council of State: 18.070.588,24

Court of Accounts: 40.815.542,99

**13) Budget public annuel approuvé et alloué à l'aide judiciaire (en €)****Veillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus:**.  Montant 49570981

Commentaire :

**14) Si possible, veuillez préciser (dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP), veuillez l'indiquer en utilisant les bonnes abréviations).**

	Budget public annuel alloué à l'aide judiciaire dans les affaires pénales	Budget public annuel alloué à l'aide judiciaire dans les affaires autres que pénales
Montant	40723981	8847000

Commentaire :

1. In criminal cases, above-mentioned figure consists of only fees of compulsory defense.
2. Numbers of cases requested legal aid are provided below.

Total law cases figure

2004 191.594

2005 479.258

2006 874.592

2007 1.686.421

2008 1.402.818

Total law cases figure requested legal aid

2004- 3.655

2005- 5.942

2006- 13.067

2007- 10.997

2008- 4.888

**15) Le budget public annuel alloué à l'aide judiciaire est-il compris dans le budget des**

**tribunaux ?**

- Oui  
 Non

**16) Budget public annuel approuvé et alloué au Ministère public (en €)**

**Veillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus:**

Montant

Commentaire :

There is no budget separately allocated to the public prosecution.

**17) Le budget public annuel alloué au Ministère public est-il compris dans le budget des tribunaux ?**

- Oui  
 Non

**18) Instances formellement responsables des budgets alloués aux tribunaux :**

	Préparation du budget global des tribunaux	Adoption du budget global des tribunaux	Gestion et répartition du budget entre les tribunaux	Evaluation de l'utilisation du budget au niveau national
Ministère de la justice	Oui	Non	Oui	Oui
Autre ministère	Non	Non	Non	Non
Parlement	Non	Oui	Non	Oui
Cour Suprême	Non	Non	Non	Non
Conseil Supérieur de la Magistrature	Non	Non	Non	Non
Tribunaux	Non	Non	Non	Non
Organisme d'inspection	Non	Non	Non	Non
Autre	Non	Non	Non	Oui

**19) Si autre ministère et/ou organisme d'inspection et/ou autre, veuillez préciser (au regard de la question 18) :**

Ministry of Justice, Ministry of Finance and State Planning Organization is responsible for the preparation of the total court budget.

Parliament is responsible for the adoption of the total court budget.

Ministry of Justice is responsible for the allocation of the budget among courts. Public Prosecution Offices are responsible for the management of the budget among courts. Parliament, Ministry of Justice and Turkish Court of Accounts are responsible for the evaluation of the use of budget at a national level.

**Vous pouvez indiquer ci-dessous :**

- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre
- les caractéristiques de votre système budgétaire et les réformes majeures mises en œuvre au cours des deux dernières années
- si possible un organigramme avec une description des compétences des différentes instances responsables des procédures budgétaires

Please note that the approved total annual budget allocated to all courts is within the budget of the Ministry of Justice. Approved total annual budget allocated to all courts covers the budget of the first instance courts of general jurisdiction, regional administrative courts, administrative courts and tax courts. As Constitutional Court, Court of Cassation and Council of State have their own budgets, the approved total annual budget allocated to all courts does not cover the budgets of the mentioned courts. This figure also does not cover the amount allocated to the expenditure of the Court of Jurisdictional Disputes and the High Election Board.

Law on Public Finance Administration and Control numbered 5018 entered into force on December 24, 2003. The purpose of this Law is to regulate the structure and functioning of the public financial management, the preparation and implementation of the public budgets, the accounting and reporting of all financial transactions, and financial control in line with the politics and objectives covered in the development plans and programs, in order to ensure accountability, transparency and the effective, economic and efficient collection and utilization of public resources. The law stipulates that the budgets shall be prepared on the basis of strategic future vision rather than the figures of previous years. New public finance administration concept envisages the implementation of the performance based budgeting and thus transition from the input based budgeting to the output oriented budgeting. By the Law, new budget classification is implemented compatible with IMF's Government Financial Standards. Hence, Turkey has made a transition from the programme budget implementation to an analytic budget implementation.

**Veillez indiquer les sources des réponses aux questions 6, 8, 11, 12, 13, 14 et 16**

Ministry of Justice, Head of the Strategy Development

## 2. Accès à la justice et à l'ensemble des tribunaux

### 2. 1. Aide judiciaire

#### 2. 1. 1. Principes

#### 20) L'aide judiciaire concerne-t-elle :

	Affaires pénales	Affaires autres que pénales
Représentation devant les tribunaux	Oui	Oui
Conseil juridique	Oui	Oui
Autres	Non	Oui

#### 21) Si autres, veuillez préciser (au regard de la question 20):

It covers provisional exoneration from all trial fees and costs, fees of witnesses and expert witnesses, ensuring guarantee for trial cost, fee and cost of service of documents, representation fee of attorney, fees and levies for copies and documents to be prepared by notaries.

#### 22) L'aide judiciaire prévoit-elle la couverture ou l'exonération des frais de justice?

- Oui  
 Non

Si oui, veuillez préciser:

Provisional exoneration of court fees are provided within the scope of Article 466/1 of Civil Procedure Code.

#### 23) Est-il possible de bénéficier de l'aide judiciaire pour des frais relatifs à l'exécution des décisions de justice ?

- Oui  
 Non

#### 24) Nombre d'affaires ayant bénéficié de l'aide judiciaire publique octroyée au niveau national, régional ou local (dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP), veuillez l'indiquer en utilisant les bonnes abréviations).

	Nombre
Total	5934915
en matière pénale	3058701
en matière autre que pénale	2876214

Commentaire :

#### 25) En matière pénale, toute personne qui n'en a pas les moyens peut-elle bénéficier de l'assistance gratuite (ou financée par un budget public) d'un avocat ?



- Oui  
 Non

**26) Votre pays procède-t-il à un examen des revenus et biens du demandeur avant d'octroyer l'aide judiciaire :**

	Oui	Montant en €
en matière pénale		
en matière autre que pénale ?	X	

Commentaire :

A person who requests legal aid has to take a poverty certificate from local municipalities or village or neighbourhood eldership council in order to prove his poverty (Code of Civil Procedure,468). There is no further income and property test. Also there is no numeral criterion for determining poverty. Whether or not to grant legal aid is subject to the consideration of Courts or Bars.

**27) En matière autre que pénale, est-il possible de refuser l'aide judiciaire pour absence de bien- fondé de l'action (par exemple pour caractère abusif de l'action en justice)?**

- Oui  
 Non

Veillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus:

(Civil Procedure Code) Article 465- If persons who are incapable of paying the case costs partially or fully without leading himself and his family in a bad condition can prove accuracy of their allegations and defenses or in application to enforcement and provisional injunction, they can benefit from legal aid.

Reciprocity principle is required for foreign citizens to benefit from legal aid.

**28) Si oui, la décision pour accorder ou refuser l'aide judiciaire est-elle prise par :**

- le tribunal ?  
 une instance extérieure au tribunal ?  
 une instance mixte tribunal/organe externe?

**29) Existe-t-il un système privé d'assurance de protection juridique permettant aux justiciables de financer une action en justice?**

- Oui  
 Non

Veillez préciser:

**30) La décision judiciaire peut-elle porter sur la manière dont les frais de justice payés par les parties au cours de la procédure seront partagés :**

	Oui (la décision judiciaire peut porter sur la manière dont les frais de justice sont payés par les parties)
en matière pénale ?	Oui
en matière autre que pénale ?	Oui

**Vous pouvez indiquer ci-dessous :**

**- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre  
- les caractéristiques de votre système d'aide judiciaire et les réformes majeures mises en œuvre au cours des deux dernières années**

**A-General Comments**

Legal aid in other than criminal cases is regulated under;

1- Civil Procedure Law (No: 1086)

2- Attorneyship Law (No: 1136)

3- Legal Aid Regulation of the Union of Bar Associations of Turkey

In civil cases, legal aid shall be requested in accordance with Articles 465-472 of the Turkish Civil Procedure Code. The person who cannot pay the costs of the proceedings can obtain legal aid. If it becomes clear that the person is lack of financial means to pay the costs of the proceedings and if there is a strong belief that the person is likely to be justified at the end of the case, the request for legal aid can be accepted. Legal aid in civil matters covers attorney fees and all costs of the proceedings.

According to Article 176 of the Attorneyship Law, legal aid means that costs of advocacy are met for those who are not able to pay for costs of the advocacy and proceedings.

Request for legal aid is submitted to the Legal Aid Office consisting of lawyers of the Bar Association or representatives of the legal aid. The applicant should bring forward evidence to make sure that he/she needs legal aid.

Decision on request for legal aid may be appealed to the president of the Bar Association. The Decision of the president of the Bar Association is final. (Article 178)

In criminal matters, if the suspect states that she/he is unable to retain a lawyer, she/he is provided with a lawyer if she/ he requests so. If the suspicious or suspect is deaf or dumb or disabled to defend himself and has no lawyer, then a defense lawyer shall be appointed for her/him without seeking his/her request. The defense lawyer shall be appointed for crimes which have an upper limit not less than five years' imprisonment.

According to the New Turkish Criminal Procedure Code which came into force on June 1st, 2005, at the investigation and prosecution period victim or complainant has right to request a lawyer designated for him by the bar. If the victim or complainant is under eighteen years old or she/he is deaf or dumb or disabled to express himself and has no lawyer, then a lawyer shall be appointed for him without seeking her/his request.

**B- Reforms**

The issue of legal aid services remains one of the main topics in the EU progress reports and advisory visit reports. Beyond these reports, Turkey intends frankly to enhance the quality of judicial system for users. Therefore, legal aid issue is envisaged as a medium term target in the Judiciary Reform Strategy which was submitted to EU by Turkish Government. In this scope legal aid service will be simplified and made more effective and efficient.

Although Turkey has a legal aid system, the current system is not effective and accountable enough. Not only users, but also lawyers, judges, prosecutors and the Ministry of Justice do not consider the current legal aid system is satisfactory and sustainable.

While legal aid funds are provided by the Ministry of Finance in civil and administrative procedures, in criminal procedures it is provided by the Ministry of Justice. So there have been two procedures for the provision of legal aid service in terms of financing and this raises concerns on the quality of legal aid services.

While in civil and administrative procedure the decision of providing legal aid is at the discretion of judges, in criminal matters it is compulsory, which causes dualism in implementation. In addition to this, there are different regulations about legal aid in Turkish legislation, and non-existence of adequate infrastructure causes various and irregular implementations.

To cover the shortcomings of the existing system, the Ministry of Justice developed an EU project and submitted it to the EU Commission.

The aim of the project is to establish more effective, sustainable and satisfactory legal aid system. To this end, a working group will be established with the participation of MS experts in

order to make in-depth analysis of current system and conduct social surveys in pilot courthouses.

Besides, the establishment of an effective and sustainable legal aid system requires legal amendments. Therefore, within the scope of this project, a report will be submitted to the relevant department of the Ministry of Justice for the necessary legislative amendments.

**Veillez indiquer les sources des réponses aux questions 24 et 26:**

Turkish Statistical Institute  
 Ministry of Justice, Department of Information Technologies  
 Ministry of Justice, General Directorate of Civil Law Affairs

## 2. 2. Usagers des tribunaux et victimes

### 2. 2. 1. Droit des usagers et victimes

**31) Existe-t-il des sites/portails Internet officiels (ex: Ministère de la Justice, etc.) à partir desquels le public a accès gratuitement:**

- aux textes juridiques (codes, lois, règlements, etc.) ? adresse Internet:  Oui <http://digerlb.uyap.gov.tr/Veribankasi/yenitasarim/> and [http://www.adalet.gov.tr.UYAP Mevzuat Programı](http://www.adalet.gov.tr.UYAP_Mevzuat_Programı)
- à la jurisprudence des hautes juridictions ? adresse Internet:  Oui <http://digerlb.uyap.gov.tr/Veribankasi/yenitasarim/> and [http://www.adalet.gov.tr.UYAP Mevzuat Programı](http://www.adalet.gov.tr.UYAP_Mevzuat_Programı)
- à d'autres documents (par exemple formulaires) ? adresse Internet:  Oui Internet address(es): <http://www.adalet.gov.tr/>

**32) Votre système prévoit-il une obligation d'information des parties concernant les délais prévisibles de la procédure judiciaire ?**

- Oui  
 Non

Si oui, veuillez préciser:

**33) Existe-t-il un système d'information spécifique, public et gratuit, pour informer et aider les victimes d'infractions?**

- Oui  
 Non

Si oui, veuillez préciser:

Victims of crimes can get information from 157 Help Line established for human trafficking and migrant smuggling.

While there is no such system in 2008, brochures related with the functioning systems of courts have started to be delivered and a website on this issue has started to serve within a European Union Project which has been implemented as a pilot project.

In order to present a set of information on the Turkish Justice System and basic legal rights to the victims as well as all citizens, legal aid web page has been prepared within the official web site of Ministry of Justice. Citizens can also access and examine relevant information about their cases on internet and learn the day fixed for the trial without going to courts by using citizen's portal. If citizens log in to the citizen's portal with their e-signature they can reach the content of all documents; if not, they have to sign in with their citizen ID number and it means that they can only get some basic information about their case files such as hearing dates, name of the parties and the last situation of their file.

**34) Existe-t-il des modalités favorables particulières applicables, au cours des procédures judiciaires, aux catégories de personnes vulnérables suivantes :**

	Dispositif d'information	Modalités d'audition	Droits procéduraux	Autres
Victimes de viol	Oui	Oui	Non	Non
Victimes du terrorisme	Oui	Oui	Non	Non
Enfants/Témoins/Victimes	Oui	Oui	Oui	Non
Victimes de violence domestique	Oui	Non	Non	Non
Minorités ethniques	Non	Non	Non	Non
Personnes handicapées	Non	Oui	Oui	Non
Délinquants mineurs	Oui	Oui	Oui	Non
Autres	Oui	Oui	Oui	Non

Commentaire :

-Studies for victims of human trafficking are still going on. In this context, 157 Help Line was created in order to detect the victims of human trafficking and ensure them to benefit from help. Under the topic of access of victims to justice, studies on prohibiting human trafficking (Article 80 of Turkish Penal Code), investigation and prosecution of traffickers and rights of victims are still going on.

- According to Article 202 titled "Cases where the presence of an interpreter is required" of the Criminal Procedure Code, if the accused or the victim does not know sufficient Turkish, his statement shall be interpreted by an interpreter.

- In accordance with Article 23 and et seq. of the Criminal Procedure Code, child victims can be listened only once (in order to prevent secondary victimisation).

**35) Votre pays dispose-t-il d'une procédure d'indemnisation des victimes d'infractions ?**

- Oui  
 Non

**36) Si oui, cette procédure d'indemnisation consiste-t-elle en**

- un dispositif public ?
- une décision du tribunal ?
- un dispositif privé ?

Si oui, quels sont les types d'affaires entrant dans le cadre de cette procédure ?

Damages of victims of terrorism are compensated in accordance with the Law on Compensation for Damage Arising from Terrorism and Combating Terrorism numbered 5233. This Law came into effect on 27 July 2004. The objective of this law is to lay down the principles and procedures for the compensation of material damages suffered by persons due to terrorist acts or activities undertaken during the fight against terror.

- In accordance with the Law on Monetary Compensation and Pension dated 2330, in the cases where persons, who are commissioned to protect security and safety given, to ban, chase and investigate trafficking, have died or become incapacitated because of injury or illness they faced due to their service either after or during their service, monetary compensation and pension is stipulated.

- According to Articles 12 and 13 of Procedure of Administrative Justice Act numbered 2577, The persons whose rights have been violated directly by an administrative action may bring directly a full remedy action to the administration.

**37) Existe-t-il des études permettant d'évaluer le taux de recouvrement des dommages et intérêts prononcés par les juridictions pour les victimes?**

- Oui
- Non

Si oui, veuillez préciser :

Recovery is done depending on the inflation rate within the framework of re-evaluation rate under Tax Procedure Code.

**38) Le procureur a-t-il un rôle spécifique au regard des victimes (protection et assistance)**

- Oui
- Non

Si oui, veuillez préciser :

According to Articles 5, 6 and 7 of Code of Child Protection numbered 5395, preventive and supporting measures may be requested to be taken.

According to Article 1 of the Law on Family Protection, security measures may be taken for the victims of domestic violence.

**39) Les victimes d'infractions peuvent-elles contester une décision du procureur de classer une affaire ?**

- Oui
- Non

Si oui, veuillez préciser :

According to the article 234 of the Turkish Penal Procedure Code victim has the right to plea against decision of non-prosecution given by public prosecutor. Article 173 of the mentioned Code regulates this situation. According to this article titled "Objection to decision of the public prosecutor" the party injured by the crime may lodge an objection against the decision not to prosecute within fifteen days after he was notified of the decision to the president of the assize court nearest in the judicial district to the assize court to which the public prosecutor giving the decision is attached.

## 2. 2. 2. Confiance des citoyens dans leur justice

### **40) Existe-t-il un système d'indemnisation pour les usagers dans les circonstances suivantes :**

- durée excessive de la procédure ?
- non exécution des décisions de justice?
- arrestation injustifiée ?
- condamnation injustifiée ?

Si oui, veuillez préciser (dispositif, tarif journalier) :

According to Article 141 of the Turkish Criminal Procedure Code, at the investigation and prosecution period, a person who has been detained, arrested or whose arrest period has been extended under the conditions incompatible with the law can request the recovery of her/his all pecuniary damages and non-pecuniary damages from the state. Furthermore, according to Article 323 of the Turkish Criminal Procedure Code, a person can request the recovery of her/his all pecuniary and non-pecuniary damages stemming from the completely or partially execution of the wrongful condemnation decision. The amount of the compensation to be determined by the court depends on the individual situation of the plaintiff and circumstances of the case.

According to Article 28 of the Code of Administrative Procedure, in the case of failure to comply with the judgments of the Council of State, regional administrative courts, administrative courts and tax courts, a case may be brought against the administration before the Council of State or the competent administrative court in order to claim compensation for pecuniary and non-pecuniary damages. If a public official intentionally fails to comply with judgments within 30 days, a case may be brought against the administration while a case for compensation may also be brought against the public official who fails to comply with the judgment.

### **41) Votre pays a-t-il mis en place des enquêtes auprès des usagers ou des professions juridiques (juges, avocats, fonctionnaires, etc.) pour mesurer leur confiance dans la justice et leur degré de satisfaction par rapport au service rendu ?**

- enquêtes (de satisfaction) auprès des juges
- enquêtes (de satisfaction) auprès du personnel des tribunaux
- enquêtes (de satisfaction) auprès des procureurs
- enquêtes (de satisfaction) auprès des avocats
- enquêtes (de satisfaction) auprès des citoyens (visiteurs des tribunaux)
- enquêtes (de satisfaction) auprès d'autres usagers des tribunaux

Si possible, veuillez préciser leurs titres, comment se les procurer, etc. :

"Life Satisfaction Research" is conducted every year in order to measure the general satisfaction understanding of individuals, general satisfaction from fundamental life areas and the satisfaction from public service in this area and to follow up the difference in the satisfaction level within time.

Satisfaction from security and judicial services is also measured within the scope of satisfaction from public services.

Satisfaction surveys are planned to be carried out which include all in Turkey by 2010. Survey studies were conducted for once within strategic planning towards some judges, public prosecutors, judicial staff and bars about services carried out by Ministry of Justice in 2008.

Within the scope of the Project for Improvement of Judicial Services, court administration takes the opinions of clients of courts and judicial servants of 5 pilot courts about new exercises every month.

In addition, universities also carry out surveys.

**42) Si possible, veuillez préciser :**

	Oui (enquêtes systématiques : par exemple annuelles)	Oui (enquêtes occasionnelles)
Enquêtes au niveau national	Oui	Oui
Enquêtes au niveau des tribunaux	Oui	Non

**43) Existe-t-il un dispositif national ou local permettant de déposer une plainte concernant le fonctionnement (par exemple le traitement d'une affaire par un juge ou la durée d'une procédure) du système judiciaire?**

- Oui  
 Non

**44) Si oui, veuillez préciser :**

**Veuillez donner quelques éléments d'information sur l'efficacité de cette procédure de plainte ?**

	Délai pour répondre (Oui)	Délai pour traiter la plainte (Oui)
Tribunal concerné	Non	Non
Instance supérieure	Non	Non
Ministère de la Justice	Oui	Oui
Conseil supérieur de la magistrature	Non	Non
Autres organisations extérieures (ex. médiateur)	Non	Non

Commentaire :

In Turkey there are different ways for a person to make complaints about the functioning of the judicial system. The person can make an objection to a court against the decision of that court. He can complain about the judge concerned as well.

Complaints and reports sent to General Directorate of Criminal Affairs directly or through other

institutions (within 10 days according to internal circular) are subject to pre- examination; and are evaluated whether they satisfy the conditions for taking action under Article 97 of the Law No:2802. If the application does not satisfy the conditions stipulated under the Article, it is not put in process and consequences are notified to the concerned.

If there are found some issues to be examined in the report or complaint, then the examination shall be done by a senior judge or public prosecutor or, depending on the scope and seriousness of the issue, by justice inspectors. Following the end of examination, the file shall, after preparation of summary of proceedings, be sent to the General Directorate of Criminal Affairs and it is re-examined and decided whether or not to get through the investigation phase. If it is considered there is no need to get through this phase, the application is considered as not requiring any action and ended; the applicant is informed of such action. Otherwise, investigation is allowed and the file is sent to the one which has carried out the first examination in order to take the defense of the concerned and to collect evidences. After the investigation has been completed, the file is to be sent to the General Directorate of Criminal Affairs again and following the last examination, the investigation file is decided to be cancelled or submitted to the High Council of Judges and Prosecutors for disciplinary evaluation of the situation of the concerned. Consequences of all these proceedings shall be notified to the applicant.

Such examinations and investigations can take time around 1 year depending on the importance of the allegations in the file. Consequences of the proceedings shall be notified to the applicant as soon as possible.

It is compulsory to handle the complaint in an appropriate time. Otherwise, criminal liability shall occur for the ones who have not taken any action.

In addition, the person can file a complaint to the Turkish Grand National Assembly Commission of Human Rights and Committee for Petitions about the judicial system.



### 3. Organisation des tribunaux

#### 3. 1. Fonctionnement

##### 3. 1. 1. Tribunaux

**45) Nombre de tribunaux considérés comme entités juridiques (structures administratives) et implantations géographiques (compléter le tableau). Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.**

	Nombre total
Tribunaux de droit commun de 1ère instance (entités juridiques)	4141
Tribunaux spécialisés de 1ère instance (entités juridiques)	1617
Tous les tribunaux (implantations géographiques) (ce chiffre inclut également les cours suprêmes et/ou les juridictions supérieures)	5758

**46) Veuillez préciser les différentes sphères de spécialisation (et, si possible, le nombre de tribunaux concernés):**

Specialized Courts Established Active

Land Registry Court 705 694  
 Enforcement Court 206 193  
 Labour Court 162 153  
 Family Court 176 166  
 Commercial Court 63 61  
 Consumer Court 26 25  
 Intellectual Property Civil Court 12 12  
 Intellectual Property Criminal Court 11 11  
 Juvenile High Criminal Court 20 12  
 Juvenile Court 73 64  
 Specialized High Criminal Court 21 20  
 Execution Court 141 11  
 Maritime Court 1 1

**47) Une réforme dans la structure des tribunaux est-elle envisagée (par exemple une diminution du nombre de tribunaux (implantations géographiques) ou une réforme de la compétence des tribunaux).**

- Oui  
 Non

Si oui, veuillez préciser:

**48) Nombre de tribunaux de 1ère instance compétents pour une affaire concernant (dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations):**

	Nombre
un recouvrement d'une petite créance.	851
un licenciement	1137
un vol avec violence	1193

**Veillez préciser ce qu'est une petite créance dans votre pays (ne répondre que si la définition a changé par rapport à l'exercice d'évaluation précédent):**

According to Turkish Civil Procedure Code, small claims can be defined as the claims that are less than 2.959 € (5.490 YTL) and dealt at the civil courts of peace.

**Veillez indiquer la source pour les réponses aux questions 45 et 48:**

Ministry of Justice, General Directorate of Personnel Affairs

### 3. 1. 2. Juges, personnels des tribunaux

**49) Nombre de juges professionnels siégeant en juridiction (répondre en équivalent temps plein et pour les postes permanents; si les données ne sont pas disponibles veuillez l'indiquer avec NA)**

**Veillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus:**

Nombre  . 7176

Commentaire :

Judiciary: 5191

Administrative Judiciary: 887

Cassation: 1082

Constitutional Court: 38

In addition:

Ministry of Justice: 353

**50) Nombre de juges professionnels exerçant à titre occasionnel et rémunérés comme tel:**

	Nombre
donnée brute	NAP
si possible, donnée en équivalent temps plein	NAP

**51) Veillez ajouter tout commentaire utile pour l'interprétation de la réponse à la question 50 ci-dessus:**

**52) Nombres de juges non professionnels, non rémunérés (y compris "lay judges") percevant, le cas échéant, un simple défraiement. Veillez indiquer NA si les données ne sont pas disponibles.**

**Veillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus:**

	Oui	Nombre
Avez vous dans votre système des catégories de juges non professionnels ?	NAP	NAP

Commentaire :

**53) Votre système judiciaire prévoit-il un jury de jugement avec une participation des citoyens ?**

- Oui  
 Non

Si oui, pour quel(s) type(s) d'affaire(s) ?

**54) Si possible, veuillez indiquer le nombre de citoyens ayant participé à de tels jurys pour l'année de référence?**

**55) Nombre de personnel non juge travaillant dans les tribunaux (répondre en équivalent temps plein et pour les postes permanents). Veuillez indiquer NA si les données ne sont pas disponibles**

**Veillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus:**

Nombre  . 26492

Commentaire :

Title Number on Duty

Director 3131

Clerk of the Court (Permanent Staff) 17588

Clerk of the Court (Contract Personnel) 2742

Court Attendant 3031

Civil Servant (Administrative task) 606

Technical staff 993

**56) Si possible, veuillez distinguer ce personnel selon les 4 catégories suivantes. Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.**

- personnels non juge (Rechtspfleger ou organes équivalents), chargé de tâches juridictionnelles ou para juridictionnelles, ayant des compétences autonomes et dont les décisions peuvent être susceptibles de recours NAP

- personnels non juge chargés d'assister les juges (préparation des dossiers, assistance à l'audience, tenue des procès verbaux, aide à la préparation de la décision) à l'instar des greffiers  Oui 26492

- personnels chargés de tâches relatives à

l'administration et la gestion des tribunaux (gestion des personnels, gestion des moyens matériels y compris de l'informatique, gestion financière et budgétaire, gestion de la formation)	<input checked="" type="checkbox"/> Oui	606
- personnels techniques	<input checked="" type="checkbox"/> Oui	993

Commentaire :

Regarding third column:

This figure consists of local personnel of General Directorate of Criminal Records and Statistics.

Regarding fourth column:

This figure consists of local personnel of Department of Information Technologies.

**57) S'il existe dans votre système la fonction de Rechtspfleger (ou fonction équivalente), veuillez décrire brièvement leur statut et leurs fonctions:**

The core business of courts should be the resolution of disputes and the prosecutor's office stands for conducting investigations and preparing indictments. However, almost all judicial and administrative tasks with any degree of relevance to judicial proceedings are assigned to judges and prosecutors in the Turkish judicial system, without any classification or prioritization. Numerous non-judicial tasks, such as overseeing even the simplest correspondence, signing all documents presented to courts for registration, checking if expert reports and requests from public institutions have arrived, calculating court fees and supervising duly depositions, scheduling and organizing on-site examinations, etc. keep judges and prosecutors busy and prevent them from focusing on actual work. This situation at times causes excessive length of proceedings. The Project Strategy Plan proposed the delegation of non-judicial tasks entrusted to judges and public prosecutors to other judicial officials, such as court clerks and registrars. Therefore, it was considered appropriate to introduce the function of judicial assistant who would assist the judges and prosecutors in preparing cases, indictments, and hearings; make proposals to judges and prosecutors as regards actions to be taken; collect relevant case law, and possibly draft simple verdicts and indictments to be checked, approved (and signed) by judges and prosecutors. This would enable the judges and prosecutors to concentrate on their actual works. Throughout the implementation of the Project, it was observed that the introduction of judicial assistants as a separate judicial profession required further discussion and a significant amount of legislative amendments. During the discussions, it was foreseen that even an amendment to the Constitution would be necessary. Hence, the Ministry of Justice proposed using candidate judges and prosecutors as judicial assistants.

Around 50 judicial assistants were selected and received customized training. Judicial assistants have been assigned to all five pilot courts since August 10th, 2009. The evaluation reports filled in by the judges and prosecutors working with them show that judicial assistants have contributed positively to reducing the workload of the judges and prosecutors.

### 3. 1. 3. Procureurs

**58) Nombre de procureurs (répondre en équivalent temps plein et pour les postes permanents). Si les données ne sont pas disponibles veuillez le préciser (NA).**

Nombre	<input checked="" type="checkbox"/> .	4222
--------	---------------------------------------	------

Commentaire :

Assigned in Judiciary: 4003

Assigned in Court of Cassation: 171

Assigned in Council of State: 48

**59) D'autres personnes ont-elles des fonctions comparables à celles des procureurs ?**

- Oui  
 Non

Si oui, veuillez préciser :

**60) Nombre de personnels (non procureurs) attachés au Ministère public  
(répondre en équivalent temps plein et pour les postes permanents)  
Si les données ne sont pas disponibles veuillez le préciser (NA)**

**Veillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus:**

Nombre  3692

Commentaire :

Title Number on duty  
Director of Management 151  
Civil Servant 231  
Storekeeper 1  
Consignment officer 227  
Switchboard Operator 117  
Warrant Officer 15  
Cashier 85  
Driver 324  
Nurse 3  
Medical Officer 9  
Laboratory Worker -  
Technician 8  
Mechanic 221  
Assistant Mechanic 4  
Retainer 1694  
Cook 34  
Furnaceman 298  
Warden 270

### 3. 1. 4. Budget des tribunaux et nouvelles technologies

**61) Qui est responsable du budget du tribunal ?**

	Préparation du budget	Arbitrage et répartition du budget	Gestion quotidienne du budget	Evaluation et contrôle de l'utilisation du budget
Conseil d'administration	Non	Non	Non	Non
Président du tribunal	Non	Non	Non	Non
Directeur administratif du tribunal	Non	Non	Non	Non
Greffier en chef	Non	Non	Non	Non
Autre	Oui	Oui	Oui	Oui

**62) Vous pouvez indiquer ci-dessous :**

- tout commentaire utile pour l'interprétation des données ci-dessus
- si possible un organigramme avec une description des compétences des différentes

**instances responsables des procédures budgétaires au sein des tribunaux**

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL AFFAIRS

- Preparation of Budget
- Distribution of allocated allowances

DEPARTEMENT OF STRATEGY DEVELOPMENT

- Approval of condensed allowances

CHIEF PUBLIC PROSECUTOR OFFICES

- Spending allowance

CHAIRMANSHIPS OF REGIONAL ADMINISTRATIVE AND ADMINISTRATIVE COURT

- Spending Allowance

**63) Pour l'assistance directe au travail du juge/du greffier, quelles sont les possibilités offertes par le système informatique existant dans les juridictions ?**

	100% des tribunaux	+50% des tribunaux	-50% des tribunaux	-10% des tribunaux
Traitement de texte	Oui	Non	Non	Non
Base de données électronique pour la jurisprudence	Oui	Non	Non	Non
Dossiers électroniques	Oui	Non	Non	Non
E-mail	Oui	Non	Non	Non
Connexion internet	Oui	Non	Non	Non

**64) Pour l'administration et gestion, quelles sont les possibilités offertes par le système informatique existant dans les juridictions ?**

	100% des tribunaux	+50% des tribunaux	-50% des tribunaux	-10% des tribunaux
Enregistrement des affaires	Oui	Non	Non	Non
Système d'information sur la gestion du tribunal	Oui	Non	Non	Non
Système d'information financière	Oui	Non	Non	Non

**65) Pour la communication entre le tribunal et les parties, quelles sont les possibilités offertes par le système informatique existant dans les juridictions ?**

	100% des tribunaux	+50% des tribunaux	-50% des tribunaux	-10% des tribunaux
Formulaire électronique	Oui	Non	Non	Non
Site internet spécifique	Non	Oui	Non	Non
Autres moyens de communication électronique	Oui	Non	Non	Non

**66) Existe-t-il une institution centralisée responsable de la collecte de données statistiques concernant le fonctionnement des tribunaux et du système judiciaire?**

Oui

Non

Si oui, veuillez préciser le nom et les coordonnées de cette institution:  
General Directorate of Criminal Records and Statistics

**Vous pouvez indiquer ci-dessous :**

**- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre  
- les caractéristiques de votre système judiciaire et les réformes majeures mises en œuvre au cours des deux dernières années**

### 3. 2. Suivi et évaluation

#### 3. 2. 1. Suivi et évaluation

**67) Les tribunaux doivent-ils établir un rapport annuel d'activités ?**

Oui

Non

**68) Existe-t-il un système régulier de suivi des activités des tribunaux concernant:**

- le nombre de nouvelles affaires ?
- le nombre de décisions rendues ?
- le nombre d'affaires faisant l'objet d'un renvoi ?
- la durée des procédures (délais)?
- autre ?

Veuillez préciser :

It is possible to get every kind of information and statistics a few of which are number of files, verdicts, pending cases and the average duration of the cases, through UYAP, an outstanding e-justice system developed in order to ensure fast, reliable, soundly operated and accurate judicial system. As a central network project, it includes all courts, public prosecutors services, prisons, other judicial institutions and other government departments in Turkey, enabling production of every kind of instant or periodical statistics that policy maker may need.

Furthermore, case type, judgment type, offence type, number of accused persons, age groups, nature of the conviction decisions can also be monitored regularly by the General Directorate of Criminal Records and Statistics. (criminal records)

**69) Existe-t-il un système régulier d'évaluation de l'activité (en termes de performance, rendement) de chaque tribunal?**

Oui

Non

Veuillez préciser :

Ministry of Justice Inspection Board which, in accordance with Article 144 of the 1982 Constitution and article 100 of the Law on Judges and Prosecutors numbered 2802, has the task of monitoring whether the judges and prosecutors carry out their tasks according to law, by-law, regulation and circular (regulations of the administrative character for the judges), as well as the traditional inspections as a result of the inspection carried out in every two years, and performance inspections of the courts.. In this concept, at the timesheet received from the courts, performance of the courts are evaluated from the point of incoming, outgoing, remaining workload, distribution of the remaining works by years, nature of the outgoing works and number of files with dockets dated back and their distribution by years, number of files that were gone through appeal, and backlogs at the courts. (Inspection)

Evaluations regarding the "Recommendation List" prepared as a result of inspections conducted by the Ministry of Justice Inspection Board are also carried out. Every year, performance situations of courts, incoming, outgoing, continuing works are determined as tables, and transformed into a statistical report by the General Directorate of Criminal Record and Statistics. These reports are evaluated by the General Directorate of Personnel, and if there are courts that should be established or abolished according to the workload, it is submitted to the consideration of the Supreme Council of Judges and Prosecutors. Statistics that indicates instant and periodical performance of the courts can be accessed through National Judiciary Informatics System.

**70) Concernant l'activité des tribunaux, avez-vous défini des indicateurs de performance (si non, veuillez passer à la question 72):**

- Oui  
 Non

**71) Veuillez préciser les 4 principaux indicateurs de performance et de qualité d'une bonne justice :**

- nouvelles affaires  
 durée des procédures (délais)  
 affaires terminées  
 affaires pendantes et stocks d'affaires  
 productivité des juges et des personnels des tribunaux  
 pourcentage d'affaires traitées par un juge unique  
 exécution des décisions pénales  
 satisfaction du personnel des tribunaux  
 satisfaction des usagers (au regard des services rendus par les tribunaux)  
 qualités judiciaire et organisationnelle des tribunaux  
 coûts des procédures judiciaires  
 autre

Veuillez préciser :

**72) Existe-t-il des objectifs de performance pour chaque juge? (si non, veuillez passer à la question 74)?**



- Oui  
 Non

**73) Veuillez préciser qui fixe ces objectifs:**

- pouvoir exécutif (par exemple Ministère de la justice)  
 pouvoir législatif  
 pouvoir judiciaire (par exemple un Conseil supérieur de la Magistrature ou une instance supérieure)  
 Autre

Si autre, veuillez préciser :

Please note that the Supreme Council of Judges and Prosecutors is responsible for setting the performance targets of the courts and the judges. Performance targets of judges and courts are determined by the resolutions of Supreme Council of Judges and Prosecutors pursuant to the Law on Judges and Prosecutors (numbered 2802). Furthermore, Regulation on Inspection Board stipulates performance targets of judges.

**74) Existe-t-il des objectifs de performance au niveau des tribunaux (si non, veuillez passer à la question 77)?**

- Oui  
 Non

**75) Veuillez préciser qui fixe ces objectifs:**

- pouvoir exécutif (par exemple Ministère de la justice)  
 pouvoir législatif  
 pouvoir judiciaire (par exemple un Conseil supérieur de la Magistrature ou une instance supérieure)  
 autre

Si autre, veuillez préciser :

**76) Veuillez préciser les principaux objectifs retenus :**

Number of files a judge should handle within a year without causing backlog. These goals provide the judiciary to be effective, productive and accessible.

- workload of judges
- number of decisions which are appealed to the Court of Cassation
- given marks about their decisions which are appealed to the Court of Cassation pursuant to Article 21 of the Code of Judges and Public Prosecutors (No. 2802)

There are not any institutional performance goal determined at the level of courts. However, as explained above, in accordance with Articles 21, 32, 33, 118 of the Law on Judges and Prosecutors numbered 2802, "The Supreme Council of Judges and Prosecutors Resolution regarding normal case numbers to be proceeded by every court in a year as new case according to its type and specialty" dated 24.02.2009 and numbered 74 was determined by the Supreme Council of Judges and Prosecutors. According to this resolution, there are goals determined for

High Criminal Courts (400), High Criminal Courts assigned by Article 250 of the Criminal Procedure Code (350), Juvenile Assize Courts (400), Criminal Courts of First Instance (800), Juvenile Courts (800), Criminal Courts for Intellectual and Industrial Property Rights (800), Criminal Courts of Peace (1000), Commercial Courts (600), Civil Courts of First Instance (800), Enforcement Courts (Criminal) (3000), Enforcement Courts (Civil) (1000), Family Courts (1000), Consumer Courts (1000), Labor Courts (1000), Civil Courts for Intellectual and Industrial Property Rights (600), Civil Courts of Peace (1200), Marine Courts (500), Land Registration Courts (500), Court of Execution (1500), 1st Regional Administrative Courts (600), (for every member except for the Chairman excluding objections to stay of execution) Administrative Courts (500), (For every member except for Chairman) Tax Courts (600), (for every member except for Chairman).

**77) Quelle est l'autorité chargée d'évaluer ces indicateurs de performance des tribunaux :**

- Conseil Supérieur de la Magistrature  
 Ministère de la justice  
 organe d'inspection  
 Cour Suprême ?  
 organe d'audit extérieur ?  
 autre

Si autre, veuillez préciser :

**78) Existe-t-il des standards de qualité (politiques de qualité d'organisation et/ou de qualité judiciaire) définis pour les tribunaux (existence d'un système qualité au sein du système judiciaire) ?**

- Oui  
 Non

Si oui, veuillez préciser :

The organisation, functions and jurisdiction of the courts, their functioning and trial procedures shall be regulated by law (Constitution art.142). The quality standards of courts are stated in laws numbered 5235 and 2576.

The courts stated in the response of question 76 are established by High Council of Judges and Prosecutors according to these standards.

**79) Existe-t-il des personnels spécialisés dans les tribunaux responsables d'une politique de qualité et/ou de systèmes de qualité de la justice ?**

- Oui  
 Non

**80) Existe-t-il un système permettant de mesurer le stock d'affaires en cours et de repérer les affaires non traitées dans un délai raisonnable :**

- en matière civile ?  
 en matière pénale ?  
 en matière administrative ?

**81) Disposez-vous d'un moyen de mesurer les temps morts durant les procédures judiciaires?**

- Oui  
 Non

Si oui, veuillez préciser :

Please note that within the framework of the project called UYAP, inspectors can access all information in electronic environment.

Inspectors can access to:

- inspection reports
- list of the files hearings of which have not been held on the fixed date
- work schedules
- cash reports
- list of the files justified decisions of which have not been written within the time prescribed by the law.

Thus, backlogs and waiting time during court procedures can be analyzed. Furthermore, waiting time during court procedures is analysed through the inspections of the local courts which are held regularly in every two year. The inspectors appointed among from the judges and public prosecutors and commissioned under the Head of Inspection Board of the Ministry of Justice are entitled to visit and monitor all local courts in every two year. (Once a judge is appointed as an inspector she/he can no longer go on working as a judge.) During this inspection period, they also analyse the queuing time of the court files and examine the reason of their queuing.

As regards the answer of the previous question, it is completely possible to see the pending time of the cases both in nationwide or on regional base. (Bid)

Case process can be monitored within the scope of National Judiciary Informatics System (UYAP) carried out within the body of Department of Information Technologies.

**82) Existe-t-il un système d'évaluation du fonctionnement des tribunaux basé sur un plan d'évaluation (calendrier de visites) convenu a priori ?**

- Oui  
 Non

Veuillez préciser (y compris en indiquant la fréquence de l'évaluation):

In accordance with Article 28 of the Regulation and Article 7 of the By-Law of the Ministry of Justice Inspection Board, an annual inspection program is prepared according to the principle of inspection in every two years, and inspections are conducted on the dates considered by the Inspection Board after the Minister's approval is taken.

**83) Existe-t-il un dispositif régulier de suivi et d'évaluation de l'activité du Ministère public?**

- Oui  
 Non

Si oui, veuillez préciser :

In accordance with Article 144 of the 1982 Constitution and Article 100 of the Law on Judges and Prosecutors numbered 2802, Ministry of Justice Inspection Board monitors the process of service of the prosecution office through its regular inspection carried out in every two years. Some of the deficiencies observed are made up either by the suggestion list submitted or presented orally to the relevant persons. In this concept, number of investigations, misdemeanors, execution and rogatory documents, number of court judgments applied for legal remedy, and rates of approval and reversal of these are examined. Furthermore, in accordance with Article 18 of the Law numbered 5235, as every chief prosecutor has been given the tasks of ensuring productive, coordinative and organized working of the chief prosecutor's offices, doing necessary work division and continuing observation and monitoring authority over Public Prosecutors and affiliated units, prosecution services are monitored closely by every chief public prosecutor. During these inspections, the fulfillment with diligence of these issues by Chief Public Prosecutor is taken into consideration.

**Vous pouvez indiquer ci-dessous :**

- **tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre**
- **les caractéristiques du système de suivi et d'évaluation des tribunaux**

Monitoring and evaluation of courts are conducted on the procedures and basis stated under the law within the framework of principles of independence of courts and guaranties of judges provided for by the Constitution.

Quality and quantity evaluation are also conducted. By monitoring incoming and outgoing works, whether causing backlog in courts, nature of the outgoing works, number of files of the former years and attention paid to these issues are taken into consideration. By this way, possible problems that may occur in the general process of judiciary are determined and tried to be solved.

## 4. Procès équitable

### 4. 1. Principes

#### 4. 1. 1. Principes généraux

**84) Quel est le pourcentage de jugements de première instance en matière pénale dans lesquels le suspect n'est pas présent ou représenté par un professionnel (ex. avocat) durant l'audience (jugements par défaut)? Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.**

NA

**85) Existe-t-il une procédure permettant la récusation effective d'un juge si une partie estime qu'il n'est pas impartial ?**

- Oui  
 Non

Si possible, nombre de récusations qui ont abouti (en une année):

NA

**86) Veuillez préciser les données suivantes concernant le nombre d'affaires relatives à l'Article 6 de la Convention européenne des Droits de l'Homme (durée et non-exécution), pour l'année de référence. Si les données ne sont pas disponibles veuillez l'indiquer (NA).**

	Affaires déclarées irrecevables par la Cour	Règlements amiables	Jugements constatant une violation	Jugements constatant une non violation
Procédures civiles - Article 6§1 (durée)	NA	NA	NA	NA
Procédures civiles - Article 6§1 (non-exécution)	NA	NA	NA	NA
Procédures pénales - Article 6§1 (durée)	NA	NA	NA	NA

### 4. 2. Durée des procédures

#### 4. 2. 1. Généralités

**87) Existe-t-il des procédures spécifiques pour les affaires urgentes :**

- en matière civile ?  
 en matière pénale ?  
 en matière administrative ?

Veuillez préciser:

Civil Cases: Article 501 of Civil Procedure Code stipulates Serial Trial Procedure; Article 507 of Civil Procedure Code stipulates Simple Trial Procedure; Article 473 of Civil Procedure Code stipulates Verbal Trial Procedure as provided for by the legal legislation.

Administrative Cases: Judgments of stay of execution may be given.

**88) Existe-t-il des procédures simplifiées :**

- en matière civile (petits litiges) ?
- en matière pénale (petites infractions) ?
- en matière administrative ?

Veillez préciser (par exemple si une nouvelle loi sur les procédures simplifiées a été adoptée):

Civil Cases: Article 501 of Civil Procedure Code stipulates Serial Trial Procedure; Article 507 of Civil Procedure Code stipulates Simple Trial Procedure; Article 473 of Civil Procedure Code stipulates Verbal Trial Procedure as provided for by the legal legislation.  
Criminal Cases: Cases handled by the Criminal Courts of Peace  
Administrative Cases: Judgments given by a single judge

**89) Les tribunaux et les avocats ont-ils la possibilité de conclure des accords sur les modalités de traitement des affaires (présentation des dossiers, fixation des délais pour conclure et des dates d'audience) ?**

- Oui
- Non

Si oui, veuillez préciser :

4. 2. 2. Affaires pénales, civiles, et administratives

**90) Nombre total d'affaires en 1ère instance (contentieuses et non contentieuses): veuillez compléter le tableau. Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.**

	Affaires pendantes au 1 janvier 2008	Nouvelles affaires	Affaires terminées	Affaires pendantes au 31 décembre 2008
Nombre total d'affaires civiles, commerciales et administratives	1052138	3572324	3473868	1150594
1 Affaires civiles (et commerciales) contentieuses*	NA	1117212	1069043	NA
2 Affaires civiles (et commerciales) non contentieuses*	NA	503581	499127	NA
3 Affaires relatives à l'exécution	54749	206256	196992	64013
4 Affaires relatives au registre foncier**	81333	58843	58152	82024
5 Affaires relatives au registre du commerce**	NAP	NAP	NAP	NAP
6 Affaires administratives*	151513	330738	337528	144723
7 Autres	764543	1355694	1313026	807211
Nombre total d'affaires pénales (8+9)	1343818	1716821	1848906	1211733
8 Affaires pénales (infractions graves)	681817	796920	758610	720127
9 Petites infractions	662001	919901	1090296	491606

**91) Commentaires (y compris concernant les types d'affaires inclus dans le total des affaires civiles, commerciales et administratives et les types d'affaires pénales -**

**définition des petites infractions et des infractions graves):**

The total of civil, commercial and administrative law cases includes all civil, commercial and administrative cases. Criminal cases (severe criminal offences) include cases addressed by High Criminal Courts, High Criminal Courts assigned by Article 250 of the Criminal Procedure Code and Juvenile Assize Courts. Misdemeanor and/or simple offences cases include cases performed by Criminal Courts of First Instance, Criminal Courts of Peace, Criminal Courts of Enforcement, Juvenile Courts, Traffic Courts and Courts for Intellectual and Industrial Property Rights.

**92) Nombre total d'affaires en 2ème instance (appel) (contentieuses et non contentieuses): veuillez compléter le tableau. Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.**

**\* Veuillez indiquer (dans les commentaires ci-dessous) quels types d'affaires sont inclus dans le total des affaires civiles, commerciales et administratives**  
**\*\* le cas échéant**

**Veuillez vérifier la cohérence des données tel qu'expliqué à la question 91.**

**Commentaires (y compris concernant les types d'affaires inclus dans le total des affaires civiles, commerciales et administratives et les types d'affaires pénales et, si possible les taux d'appel pour certaines catégories d'affaires):**

	Affaires pendantes au 1 janvier 2008	Nouvelles d'affaires	Affaires terminées	Affaires pendantes au 31 décembre 2008
Nombre total d'affaires civiles, commerciales et administratives (contentieuses et non contentieuses)				
1 Affaires civiles (et commerciales) contentieuses*				
2 Affaires civiles (et commerciales) non contentieuses*				
3 Affaires relatives à l'exécution				
4 Affaires relatives au registre foncier**				
5 Affaires relatives au registre du commerce**				
6 Affaires administratives				
7 Autres				
Nombre total d'affaires pénales (8+9)				
8 Affaires pénales (infractions graves)				
9 Petites infractions				

Commentaire :

The system of court of appeal is adopted but not in force yet.

**93) Nombre total d'affaires au niveau des cours suprêmes (contentieuses et non contentieuses): veuillez compléter le tableau. Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.**

**\* Veuillez indiquer (dans les commentaires ci-dessous) quels types d'affaires sont inclus dans le total des affaires civiles, commerciales et administratives**

**\*\* le cas échéant**

**Veillez vérifier la cohérence des données tel qu'expliqué à la question 88.**

**Commentaires (y compris concernant les types d'affaires inclus dans le total des affaires civiles, commerciales et administratives et les types d'affaires pénales, ainsi que les possibles limitations des recours devant la plus haute juridiction):**

	Affaires pendantes au 1 janvier 2008	Nouvelles d'affaires	Affaires terminées	Affaires pendantes au 31 décembre 2008
Nombre total d'affaires civiles, commerciales et administratives				
1 Affaires civiles (et commerciales) contentieuses*	214376	480568	425393	269551
2 Affaires civiles (et commerciales) non contentieuses*	NAP	NAP	NAP	NAP
3 Affaires relatives à l'exécution	NAP	NAP	NAP	NAP
4 Affaires relatives au registre foncier**	NAP	NAP	NAP	NAP
5 Affaires relatives au registre du commerce**	NAP	NAP	NAP	NAP
6 Affaires administratives	118423	130255	99284	149394
7 Autres	NAP	NAP	NAP	NAP
Nombre total d'affaires pénales (8+9)	194318	245604	197375	242547
8 Affaires pénales (infractions graves)	NAP	NAP	NAP	NAP
9 Petites infractions	NAP	NAP	NAP	NAP

Commentaire :

**94) Nombre d'affaires de divorces contentieux, licenciements, vols avec violence et homicides volontaires reçues et traitées par les tribunaux de 1ère instance: veuillez compléter le tableau. Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.**

	Affaires pendantes au 1er janvier 2008	Affaires nouvelles	Affaires terminées	Affaires pendantes au 31 décembre 2008
Divorces contentieux	NAP	175173	166389	NAP
Licenciements	NA	NA	NA	NA
Vols avec violence	NAP	168636	181219	NAP
Homicides volontaires	NAP	8334	8504	NAP

**95) Durée moyenne des procédures, en jours (à partir de la date de saisine du tribunal), nombre d'affaires pendantes de plus de 3 ans et % d'affaires ayant fait l'objet d'un appel: veuillez compléter le tableau Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.**

**Veillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus:**

	fait l'objet d'un appel	de plus de 3 ans	moyenne)	moyenne)	(moyenne duree totale)
Divorces contentieux	NA	NAP	152 DAYS	NA	NA



Licenciements	NA	NA	NA	NA	NA
Vols avec violence	NA	15.7%	433 DAYS	NA	NA
Homicides volontaires	NA	10.4%	334 DAYS	NA	NA

Commentaire :

**96) Le cas échéant, veuillez préciser les procédures propres au divorce (contentieux et non contentieux):**

Divorce cases are handled by family courts. According to Article 7 of the Law on the Establishment, Functions and Trial Procedure of Family Courts, before entering to the merits of the case, the family courts, if appropriate, by benefiting from the specialists, shall encourage the parties to solve the problems peacefully. If the conflict is not solved by this way, then the court is entitled to hear the case. In the same Article, it is also stated that, reserving/without prejudice to the provisions of special laws, the procedural provisions of the Turkish Civil Code related with family law and the provisions of Civil Procedure Code shall be applied in these cases. According to Article 184 of the Turkish Civil Code, the judge is not, as a rule, bound by the declarations of the parties in a divorce case, unless he personally is convinced of the facts; and he is not entitled to offer an oath to the parties either ex officio or upon a request of them. Also, the judge may, upon a request of the parties, decide to hear the case in a closed session.

**97) Comment est calculé le délai de procédure pour les quatre catégories d'affaires ? Veuillez décrire la méthode de calcul.**

The length of proceedings is calculated from the date of bringing a suit into the court of first instance and to the date of the decision of that court.

Trial duration is arranged according to the distribution of the lawsuits finalized in 2008 to the initiation years.

It is calculated as ((Lawsuits initiated in 2007) + (Lawsuits initiated in 2006 x 2) + (Lawsuits initiated in 2005 x 3) + (Lawsuits initiated in 2004 and before x 4) / (Finalized lawsuits)) x 36.  
(For all types of offences)

**98) Veuillez décrire le rôle et les attributions du procureur dans la procédure pénale (plusieurs choix possibles):**

- diriger ou superviser l'enquête policière
- mener des enquêtes
- quand cela est nécessaire, saisir le juge pour qu'il ordonne des mesures d'enquêtes
- porter une accusation
- soumettre l'affaire au tribunal
- proposer une peine au juge
- faire appel
- superviser la procédure d'exécution
- classer l'affaire sans suite, sans avoir une décision du tribunal
- clore l'affaire par une sanction ou une mesure imposée ou négociée sans décision d'un juge
- autre attribution significative

Veuillez préciser :

Public prosecutor is, himself, entitled to act as a mediator and may also appoint a lawyer or a person graduated from law school as a mediator in order to manage the mediation process.

**99) Le procureur a-t-il également un rôle dans les affaires civiles et/ou administratives ?**

- Oui  
 Non

Si oui, veuillez préciser :

Under the Turkish legal system, there exist certain situations specified in various codes regarding civil matters where the public prosecutor is entitled not only to file a case to a civil court but also to be present during the proceedings. Generally, these types of cases are considered to be the cases where the public interest is paramount, such as parental affiliation cases, cases regarding personal status, annulment of the marriage where there are absolute annulment grounds pursuant to the Turkish Civil Code.

As to administrative cases, special public prosecutors are assigned at the Council of State.

**100) Fonctions du procureur concernant les affaires pénales – veuillez compléter le tableau. Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.**

**Veuillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus, et préciser notamment si les données indiquées incluent ou non le contentieux en matière de code de la route:**

	Reçues par le procureur	Classées sans suite par le procureur parce que l'auteur de l'infraction n'a pas pu être identifié	Classées sans suite par le procureur en raison d'une impossibilité de fait ou de droit	Classées sans suite par le procureur pour raison d'opportunité	Terminées par une sanction ou par une mesure imposée ou négociée par le procureur	Portées par le procureur devant les tribunaux
Nombre total d'affaires pénales de 1ère instance	1067045	NA	NA	NA	1153	NA

Commentaire :

**Vous pouvez indiquer ci-dessous :**

- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre
- les caractéristiques de votre système concernant la durée des procédures et les réformes majeures mises en œuvre au cours des deux dernières années

**Veuillez indiquer les sources pour les réponses aux questions 90 à 95 et 100:**

Department of Judicial Records and Statistics

## 5. Carrière des juges et procureurs

### 5. 1. Désignation et formation

#### 5. 1. 1. Recrutement, nomination et promotion

##### 101) Comment les juges sont-ils recrutés ?

- Par concours (par exemple après un diplôme universitaire en droit)
- Une procédure de recrutement spécifique pour des professionnels du droit ayant une longue expérience juridique (par exemple des avocats)
- Une combinaison des deux
- Autres

Si autres, veuillez préciser:

- Both: Professional experience and examination for the lawyers (Law numbered 2802)

- Both: Academic career and interview for academicians

##### 102) Les juges sont-ils recrutés et nommés, initialement, en début de carrière, par :

- une instance composée seulement de juges?
- une instance composée seulement de non juges?
- une instance composée de juges et de non juges?

##### 103) La même instance est-elle compétente pour la promotion des juges ?

- Oui
- Non

Si non, veuillez préciser quelle instance est compétente pour la promotion des juges

In accordance with the subparagraph d of the paragraph 3 of Article 4 of the Law on the Supreme Council of Judges and Prosecutors numbered 2461, proceedings of any kind of promotion and promotion to first class of judges and prosecutors are conducted by the Supreme Council of Judges and Prosecutors.

##### 104) Quels critères et procédures sont utilisés pour promouvoir les juges ? Veuillez préciser:

The fundamental principles for promotion of judges, qualification in the profession, seniority and judicial ethics. The profession of judges is composed of four classes. From higher to lower, these classes are, first class, designated as first class, second class and third class. The seniority of judges is designated in accordance with their degrees and grades. Judges get one grade every year and get one degree in two years if they are qualified. There are three types of promotion, namely, distinguished (the best promotion), preferential (the medium promotion) and ordinary (the minimum type of promotion).

The main criteria for promotion of judges are accuracy in the judgments and rapidity in finalizing a case. The evaluation is based on the number of cases reviewed by High Courts (Court of Cassation or Council of State) and the assessment also made by the High Courts.

For all cases reviewed by the High Courts a mark is given by filling a form in respect of Accuracy of the judgment, rapidity in finalizing the case, including not causing unnecessary delays, implementing procedural provisions in full and on time, comprehension ability regarding the subject of the case, success in the reasoned opinion, taking into account precedent cases. The marks given by the High Courts are: very good, good, medium or poor.

Ratio of incoming and finalized cases by a judge is a criterion for promotion. However, the ratios are at the discretion of the High Council of Judges and Public Prosecutors.

Between the articles 18-31 procedures and merits of rank advancement and level increase, in the article 32 promotion to first class, in the 3 paragraph of the article 15 conditions to become first class are determined in the Law on Judges and Prosecutors numbered 2802 which regulates the qualities of Judicial Judges and Prosecutors, their appointments, rights and duties, salaries and allowances, professional promotions and any personal benefit.

According to this, judges and prosecutors have level increase in every year and rank advancement in every two years.

In order the judges and prosecutors to have level increase; it is necessary that he/she worked for at least one year in the same level and did not have discipline punishment or conviction that hinders the level increase. In order to have rank advancement; it is necessary that he/she worked for 2 years in the same rank, did not have any discipline punishment or court decree that hinders the rank advancement and to carry the conditions stated in the resolutions regarding the merits of rank advancement declared by the Supreme Council of Judges and Prosecutors. As a summary these conditions are; to pass a certain number of works from the Court of Cassation and the Council of State in the promotion period and a certain proportion of the grades they get from these works to be very good and good, to finish a certain proportion of the works they attend and the inspector certificate of conduct prepared as a result of the inspection conducted every two years to be positive. In accordance with the article 29 of the Law numbered 2802, the judges and prosecutors who are deemed worthy of level increase are promoted in three different types as (A) worthy of increase, (B) worthy of preferential increase, and (C) worthy of privileged increase.

In order to be promoted to first class, however; it is necessary to work for 10 years actively in the profession, to advance to first class and to be distinguished among his/her equals according to his/her scientific power and skills and success in service and profession, not to have discipline punishment or conviction that hinders the promotion to first class, and to carry the conditions stated under the resolutions regarding the merits of promotion to first class.

The most important of these conditions is; more than half of the increase inspections they are subjected to through their professional lives to be preferential (B).

To become first class: according to the paragraph 3 of the article 15 of the Law numbered 2802; judges and prosecutors who are promoted to first class, completed their three years in the profession as of the date of promotion, and did not lose the right to be elected for membership of the Court of Cassation and the Council of State become first class.

### 105) Comment sont recrutés les procureurs ?

- Par concours (par exemple après un diplôme universitaire en droit)
- Une procédure de recrutement spécifique pour des professionnels du droit ayant une longue expérience juridique (par exemple des avocats)
- Une combinaison des deux
- Autres

Si autres, veuillez préciser:

### 106) Les procureurs sont-ils recrutés et nommés, en début de carrière, par :

- une instance composée seulement de procureurs ?
- une instance composée seulement de non procureurs?
- une instance composée de procureurs et de non procureurs?

**107) La même instance est-elle compétente pour la promotion des procureurs ?**

- Oui  
 Non

Si non, veuillez préciser quelle instance est compétente pour la promotion des procureurs

In accordance with the subparagraph (d) of the paragraph 3 of Article 4 of the Law on the Supreme Council of Judges and Prosecutors numbered 2461, any process of promotion and promotion to first class of the judges and prosecutors are carried out by the Supreme Council of Judges and Prosecutors.

**108) Quels critères et procédures sont utilisés pour promouvoir les procureurs? Veuillez préciser.**

Between the articles 18-31 procedures and merits of rank advancement and level increase, in the article 32 promotion to first class, in the 3 paragraph of the article 15 conditions to become first class are determined in the Law on Judges and Prosecutors numbered 2802 which regulates the qualities of Judicial Judges and Prosecutors, their appointments, rights and duties, salaries and allowances, professional promotions and any personal benefit.

According to this, judges and prosecutors have level increase in every year and rank advancement in every two years.

In order the judges and prosecutors to have level increase; it is necessary that he/she worked for at least one year in the same level and did not have discipline punishment or conviction that hinders the level increase. In order to have rank advancement; it is necessary that he/she worked for 2 years in the same rank, did not have any discipline punishment or court decree that hinders the rank advancement and to carry the conditions stated in the resolutions regarding the merits of rank advancement declared by the Supreme Council of Judges and Prosecutors. As a summary these conditions are; to pass a certain number of works from the Court of Cassation and the Council of State in the promotion period and a certain proportion of the grades they get from these works to be very good and good, to finish a certain proportion of the works they attend and the inspector certificate of conduct prepared as a result of the inspection conducted every two years to be positive. In accordance with the article 29 of the Law numbered 2802, the judges and prosecutors who are deemed worthy of level increase are promoted in three different types as (A) worthy of increase, (B) worthy of preferential increase, and (C) worthy of privileged increase.

In order to be promoted to first class, however; it is necessary to work for 10 years actively in the profession, to advance to first class and to be distinguished among his/her equals according to his/her scientific power and skills and success in service and profession, not to have discipline punishment or conviction that hinders the promotion to first class, and to carry the conditions stated under the resolutions regarding the merits of promotion to first class.

The most important of these conditions is; more than half of the increase inspections they are subjected to through their professional lives to be preferential (B).

To become first class: according to the paragraph 3 of the article 15 of the Law numbered 2802; judges and prosecutors who are promoted to first class, completed their three years in the profession as of the date of promotion, and did not lose the right to be elected for membership of the Court of Cassation and the Council of State become first class.

**109) Le mandat est-il à durée indéterminée pour les juges?**

- Oui  
 Non

Existe-t-il des exceptions ? Veuillez préciser :

**110) Une période probatoire est-elle instaurée pour les juges? Si oui, quelle en est la**

**durée?**

	Oui	Durée de la période probatoire (en années)
Durée de la période probatoire pour les juges	X	2

**111) Le mandat est-il à durée indéterminée pour les procureurs?**

- Oui  
 Non

Existe-t-il des exceptions ? Veuillez préciser :

**112) Une période probatoire est-elle instaurée pour les procureurs? Si oui, quelle en est la durée?**

	Oui	Durée de la période probatoire (en années)
Durée de la période probatoire pour les procureurs	X	2

**113) Si le mandat n'est pas à durée indéterminée pour les juges/procureurs, qu'elle est la durée du mandat ? Est-il renouvelable?****Veillez préciser la durée**

- pour les juges?  Oui  
pour les procureurs  Oui

**Vous pouvez indiquer ci-dessous :**

- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre
- les caractéristiques de votre système de sélection et de nomination des juges et des procureurs et les réformes majeures mises en œuvre au cours des deux dernières années

8 month period of the 2 year candidacy training of judge and prosecutor candidates is given by the Academy of Justice as 4 month preparatory stage and 4 month final stage. The curriculum of this training is reviewed every term and updated. Currently continuing, 10th Judicial Preparatory Term has been planned as 428 lesson hours.

There are 103 trainers, 6 of which are from the Constitutional Court, 36 from the Court of Cassation, 1 from the Military Court of Cassation, 29 from the Ministry of Justice, 12 from the Ankara Courthouse, 4 from the Turkish Justice Academy and 25 from other institutions (Universities, Notary unions, General Directorate of Security, Bars).

After the analysis of the curricula and practices of the 50 law schools in our country and training models of some similar international institutions, a new curriculum is being worked on for creating an ideal profile for judges and prosecutors in the light of the meetings held with our trainers and trainees, questionnaires, observations and other scientific studies and opinions of the some institutions such as the Ministry of Justice, Court of Cassation, and Council of State. In this sense, lessons improving cognitive and sensual characteristics and professional efficacy, formation courses, personal development and social activities are determined. Programs and practices are being implemented in order to ensure methodological realization of professional practices, improvement of intellectual level, formation of the person's professional identity and

healty communication with his environment being aware of his inner world. Within the context of human rights, in addition to the course " Human Rights and Public Freedoms Practices", it has been agreed with the trainers that in every lesson European Human Rights and the European Court of Human Rights will be referred. In this context, a project internalizing human rights practices was carried out with participation of foreign experts and trainers during the Marta Project which lasted for 3 years . (ACADEMY)

While judge and prosecutor candidates used to be determined after a written exam and interview carried out by OSYM (Central Exam Institution) according to By-Law on Written Exam, Interview and Appointment for Judge and Prosecutor Candidancy in Judicial and Administrative Justice prepared in accordance with article 9 of the law numbered 2802 In accordance with Article 9 of the code numbered 2802, by an amendment made on Article 9 of the law numbered 2802, the last paragraph of the mentioned article on which that By-Law was grounded was annuled and Article 9/A was added to the law. According to the new regulation, written exam is made by OSYM again and interview is conducted by a 7 member-interview committee composing of executive members of Justice Academy and two members from the Court of Cassation and the Council of State.

With this new regulation it is ensured that:

- 1.The content of the written exam has been changed; general knowledge questions shall be evaluated with 20 points whereas occupational knowledge questions with 80 point and general ability and general knowledge questions shall be pointed equally;
- 2.With the condition of getting minimum 70 points out of 100 in the written exam, persons in the number of twice of the number of vacant staff indicated in the exam notice and by beginning with the person who gets the maximum point, are invited to the interview;
- 3.After calculation of the total of 70 percent of the written exam point and 30 percent of the interview point, final success list shall be prepared starting from the top score and those who are successful in the list shall be appointed;

Appointments of those judge and prosecutor candidates who are successful in the written exam and interview are made by the Ministry of Justice. At the end of the two year internship period (pre-occupational training), after being accepted for duty by the Supreme Council of Judges and Prosecutors, judges and prosecutors are, by lot, sent to the spots determined by evaluating needs and demands of those places.

## 5. 1. 2. Formation

### 114) Nature de la formation des juges. Est-elle obligatoire ?

- Formation initiale
- Formation continue générale
- Formation continue pour des fonctions spécialisées (ex. juge pour les affaires économiques ou administratives)
- Formation continue pour des fonctions spécifiques de gestion (ex. présidence d'un tribunal)
- Formation continue pour l'utilisation des outils informatiques au sein des tribunaux

### 115) Fréquence de la formation des juges

	Annuelle	Régulière	Occasionnelle
Formation initiale	Non	Oui	Non
Formation continue générale	Non	Oui	Non
Formation continue pour des fonctions	Non	Non	Oui

spécialisées (ex. juge pour les affaires économiques ou administratives)			
Formation continue pour des fonctions spécifiques de gestion (ex. présidence d'un tribunal)	Non	Non	Oui
Formation continue pour l'utilisation des outils informatiques au sein des tribunaux	Non	Oui	Non

### 116) Nature de la formation des procureurs. Est-elle obligatoire ?

- Formation initiale
- Formation continue générale
- Formation continue spécialisée (ex. procureur spécialisé)
- Formation continue pour des fonctions spécifiques de gestion (ex. procureur général et/ou gestionnaire)
- Formation continue pour l'utilisation des outils informatiques au sein des tribunaux

### 117) Fréquence de la formation des procureurs

	Annuelle	Régulière	Occasionnelle
Formation initiale	Non	Oui	Non
Formation continue générale	Non	Oui	Non
Formation continue spécialisée (ex. procureur spécialisé)	Non	Non	Oui
Formation continue pour des fonctions spécifiques de gestion (ex. procureur général et/ou gestionnaire)	Non	Non	Oui
Formation continue pour l'utilisation des outils informatiques au sein des tribunaux	Non	Oui	Non

#### Vous pouvez indiquer ci-dessous :

- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre
- des commentaires sur l'attention portée dans les curricula à la Convention européenne des Droits de l'Homme et à la jurisprudence de la Cour
- les caractéristiques de votre système de formation des juges et des procureurs et les réformes majeures mises en œuvre au cours des deux dernières années

Persons graduated from the 4-year-law schools of faculties with bachelor degree and who are successful in the written exam by the Central Exam Institution (OSYM) and passed the interview made by the Ministry of Justice are to attend a two year internship program. Those who successfully complete the candidacy procedure are, by lot, appointed to pre-determined locations as judges and prosecutors.

Judges and prosecutors occasionally receive in-service trainings based on the occurring needs to continue their occupational development, benefit from the improvements in international legal and share knowledge and experience among themselves. Attendance in these trainings is generally optional; and they are called for trainings ex officio depending on the occurring new conditions.( such as enforcement of new Turkish Penal Code numbered 5237, Criminal Procedure Code numbered 5271, Turkish Civil Code numbered 4721)



In addition, after 2001, important amendments have been made on the Constitution in the field of human rights such as thought and expression freedom, prevention of torture, strengthening democratic and civil authority, freedom of assembly and of association, right to a fair trial, immunity of domicile, freedom of information, gender equality; and constitutional guarantees have been improved.

With an amendment dated 7.5.2004 and numbered 5170 in the 90th Article of the Constitution, the provision "In the case of a conflict between international agreements in the area of fundamental rights and freedoms duly put into effect and the domestic laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail." has been added.

Within this context, number of training activities on the human rights issue carried out within Ministry of Justice increased significantly in 2004 and 2005.

Between the dates April 15th –July 11th, 2004, 206 human rights seminars in total where the provisions including the 3rd Article of the Prohibition of Torture and the 14th Article of the Prohibition of Discrimination of the European Convention on Human Rights and the Optional Protocol together with the UN Elimination of Discrimination against Women provisions were prepared for 8647 judges and prosecutors throughout Turkey by the Department.

In 2005, training seminars were prepared for 8500 judges and prosecutors all over Turkey with the aims of introduction and implementation of the new Turkish Penal Code where the articles in line with the international treaties on women and children rights that Turkey is party to exist, adopted on 26.04.2004 and enacted on 01.06.2005.

Judgments of the European Court of Human Rights about Turkey are submitted regularly to the use of judges and prosecutors through the Bulletin on Judicial Legislation pressed and distributed by our Ministry, and the website <http://www.inhak-bb.adalet.gov.tr>.

Except for the training programs mentioned above, following training activities were carried out for the judges and prosecutors in 2007 and 2008:

2007

Within the context of "the Project of Supporting the Application of the Reforms in the Area of Human Rights in Turkey" carried out jointly by Ministry of Justice and the EU Commission and the Council of Europe, 3 separate training seminars on " the Right to a Fair Trial and Judicial Ethics" were organised for 170 chief inspectors and inspectors commissioned in Inspection Board in Ankara in 22 -30 January 2007.

With the participation of 24 judges and prosecutors, the seminar on " Expression Freedom and its Limits" were realized by Bahçeşehir University and TUSIAD in İstanbul in 26 -28 January 2007 within the context of the projects of Human Rights and Democracy European of the European Union Commission.

With the participation of 250 judges and prosecutors and in an organisation of five 50-person-groups, the seminar on " the Application of the Penal Code within the title of the freedom of assembly and of association and the Freedom of Expression in the light of the European Convention on Human Rights" were realized within the context of "the Project of Supporting the Application of the Reforms in the Area of Human Rights in Turkey".

The study visits were made with the participation of 62 participants in total;

first one in 19-15 April 2007 in Italy by the 31 participants  
second one in 15 – 21 April 2007 in France by the 31 participants.

Two groups participated in these study visits are the chief inspectors and inspectors commissioned under Inspection These chief inspectors and inspectors participated in the study visits upon an invitation letter of the European Council within the scope of " the Project of

Supporting the Application of the Reforms in the Area of Human Rights in Turkey” implemented by our Presidency together with the European Council within the coordination of the Human Rights Presidency of the Prime Ministry.

## 5. 2. Exercice de la profession

### 5. 2. 1. Salaires

**118) Salaires des juges et des procureurs: veuillez compléter le tableau. Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.**

**Veuillez ajouter tout commentaire utile pour l'interprétation des données ci-dessous:**

	Salaire annuel brut (€)	Salaire annuel net (€)
Juge professionnel de 1ère instance au début de sa carrière	18.250,64	15.027,96
Juge de la Cour suprême ou de la dernière instance de recours	37.145,70	29.864,25
Procureur au début de sa carrière	18.250,64	15.027,96
Procureur auprès de la Cour suprême ou de la dernière instance de recours	37.145,70	29.864,25

Commentaire :

**119) Les juges et les procureurs bénéficient-ils des avantages complémentaires suivants :**

	Juges	Procureurs
Imposition réduite	Non	Non
Retraite spécifique	Non	Non
Logement de fonction	Oui	Oui
Autre avantage financier	Oui	Oui

**120) Si autre avantage financier, veuillez préciser:**

Other Financial Benefits: Bank promotions, and payments of viewing (inspection) in line with code numbered 3717

**121) Un juge peut-il cumuler son travail avec les autres fonctions suivantes :**

	Oui rémunéré	Oui non rémunéré	
Enseignement	Non	Non	Oui
Recherche et publication	Oui	Oui	Non
Non	Non	Non	Oui
Consultant	Non	Non	Oui
Fonction culturelle			

	Non	Oui	Non
Autre fonction	Non	Non	Non

**122) Si autre fonction, veuillez préciser :**

**123) Un procureur peut-il cumuler son travail avec les autres fonctions suivantes :**

	Oui rémunéré	Oui non rémunéré	
Enseignement	Non	Non	Oui
Recherche et publication	Oui	Oui	Non
Non	Non	Non	Oui
Consultant	Non	Non	Oui
Fonction culturelle	Non	Oui	Non
Autre fonction	Non	Non	Non

**124) Si autre fonction, veuillez préciser :**

**125) Des indemnités sont-elles accordées aux juges en fonction du respect d'objectifs quantitatifs de production de décisions ?**

- Oui  
 Non

Si oui, veuillez préciser :

**Veillez indiquer la source pour répondre à la question 118:**

Ministry of Justice, Department of Administrative and Financial Affairs

### 5. 2. 2. Procédures disciplinaires

**126) Quelle autorité peut engager des procédures disciplinaires contre les juges et/ou les procureurs ? Veuillez préciser:**

The Constitution provides that investigations of judges or public prosecutors may be possible in the following conditions:

- If they have committed offences in connection with, or in the course of their duties,
- Whether or not their behaviour and attitude are in conformity with their status and duties.

Initiating disciplinary investigation on behaviour and conduct not conforming with profession and initiating criminal investigation on offences in connection with the profession of judges and prosecutors is subject to the permission of the Ministry of Justice. Disciplinary investigation or criminal investigation may be initiated upon a complaint or denunciation. The denunciation or complaint petitions on judges/prosecutors are submitted to the Directorate General for Criminal Affairs. In the DG for Criminal Affairs a judge is appointed to examine the complaint and make an assessment on whether to investigate or not.

On complaints which are processed, a senior judge/prosecutor or judicial inspector conducts a preliminary investigation. According to the report prepared after the preliminary investigation, if the events claimed against the judge/prosecutor cannot be proved, it is decided not to proceed

further. If the events are proved, it is decided to give permission for initiating investigation. Upon permission for investigation, a senior judge/prosecutor or judicial inspector leading the investigation, takes the statement of judge/prosecutor and prepares a report. This report is submitted to the DG for Criminal Affairs and examined therein. Upon assessment of this unit, if it is necessary to impose disciplinary sanction, the investigation file is sent to the High Council of Judges and Prosecutors. If it is decided to open a criminal investigation, the investigation file is sent to Prosecution Office concerned.

If the choices mentioned above are not applied, the investigation file is finalized and after this phase Ministry of Justice shall not intervene in investigation. At this phase all transaction relating to disciplinary or criminal investigation are conducted by a judge discharged in Ministry of Justice. It is possible to object or appeal to Administrative Courts against the transactions conducted during the investigation.

**127) Quelle autorité détient le pouvoir disciplinaire à l'encontre des juges et des procureurs ? Veuillez préciser:**

The power to impose disciplinary sanctions against judges and public prosecutors is vested in the High Council of Judges and Public Prosecutors. The report prepared by the Ministry of Justice is examined by the High Council of Judges and Public Prosecutors and a decision is taken on disciplinary matter. The report is not binding for the High Council.

The conditions under which judges may be subjected to disciplinary sanctions are prescribed in Law on Judges and Prosecutors (No 2802) Article 62-69. Accordingly, these disciplinary sanctions may be applied depending on the nature and gravity of disciplinary actions: warning, deduction from salary, condemnation, suspension of grade development, suspension of degree promotion, change of location and dismissal from profession. Judges and public prosecutors can request re-examination of the case from the High Council. Furthermore an objection can be made to the Council of Examination of Objections. But, no objection or appeal may be made to any court against decisions of the Supreme Council.

**128) Nombre de procédures disciplinaires intentées à l'encontre des juges et des procureurs: veuillez compléter le tableau. Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.**

**Veuillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus:**

	Juges	Procureurs
Nombre total (1+2+3+4)	350	
1. Faute déontologique	123	
2. Insuffisance professionnelle		
3. Délit pénal		
4. Autre	227	

Commentaire :

**129) Nombre de sanctions prononcées à l'encontre des juges et des procureurs: veuillez compléter le tableau. Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.**

**Veuillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus**

	Juges	Procureurs
Nombre total (total 1 à 9)		
1. Réprimande	123	
2. Suspension	35	
3. Révocation		
4. Amende	8	
5. Diminution de salaire temporaire		
6. Rétrogradation de poste	2	
7. Mutation dans un autre tribunal géographiquement	18	
8. Démission	9	
9. Autre	51	

Commentaire :

Information concerned is provided by Turkish Ministry of Justice Department of Personnel.

**Vous pouvez indiquer ci-dessous :**

- **tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre**
- **les caractéristiques de votre système de procédures disciplinaires pour les juges et les procureurs et les réformes majeures mises en œuvre au cours des deux dernières années**

The numbers mentioned above include the disciplinary proceedings and sanctions against both of judges and prosecutors. The number of suspension sanctions includes the number of dismissal sanctions.

## 6. Avocats

### 6. 1. Statut de la profession

#### 6. 1. 1. Profession

**130) Nombre d'avocats exerçant dans votre pays. Si les données ne sont pas disponibles, veuillez l'indiquer (NA).**

63.487

**131) Ce nombre inclut-il la catégorie « conseiller juridique » (« solicitor/in-house counsellor ») qui ne peut pas représenter en justice ? Si non, veuillez aller à la question 133**

- Oui
- Non
- Non applicable

**132) Nombre de conseillers juridiques. Si les données ne sont pas disponibles, veuillez l'indiquer (NA)**

NA

**133) Les avocats ont-ils le monopole de la représentation en justice? (plusieurs options sont possibles)**

- Affaires civiles\*
- Affaires pénales\* - Défendeur
- Affaires pénales\* - Victime
- Affaires administratives\*

\*Le cas échéant, veuillez préciser si cela concerne tous les niveaux d'instance. En cas de non monopole, veuillez préciser les organismes ou personnes pouvant représenter les clients devant un tribunal (par exemple une ONG, membre de la famille, syndicat, etc....) et pour quelles affaires.

According to Article 35 of Attorneyship Law, providing opinion on legal matters; litigating and defending the rights of real persons and legal entities before courts, arbitrators or other bodies invested with jurisdictional powers; following judicial proceeding; and managing all documentation in connection therewith are the sole prerogative of attorneys enrolled at bar associations. The word of "court" comprises both first instance courts and court of appeals. Moreover, it can be said that attorneys have monopoly rights within Article 35 (except the exceptional circumstances mentioned above and at the following paragraph).

However, the last paragraph of Article 35 of the Attorneyship Law stresses that "The provisions of the Codes of Civil and Criminal Procedure and other laws are reserved" Therefore, attorneys in accordance with Provisional Article 13 of Attorneyship Law, case pursuers stated in Provisional Article 17, military officers in accordance with Articles 85 and 86 of the Law numbered 353 on Establishment and Tribunal Procedures of Military Courts, accountants and advisors in accordance with Article 2 of the Independent Accountants, Financial Consultancy and Sworn Councillorship Law numbered 3568, spouses in accordance with Article 193 of the Civil Code, liquidators in accordance with Article 593 of the Civil Code, agencies in accordance with Article 119/2 of the Turkish Trade Law, chairman of trade union in accordance with Article 32/3 of the Trade Union Law, brands and patent representatives in accordance with Article 30 of the Decree Law numbered 544 on the Establishment and Functions of Turkish Patent Institution may carry out the functions mentioned within the monopoly rights of attorneys in terms of the limited cases within the framework of the provisions of the Attorneyship Law. In addition, according to Article 86 of the Law on Establishment and Tribunal Procedures of Military Courts, "if there is nobody competent by law to act as a lawyer or a representative in the place where the military court has been situated, military officers graduated from faculty of law (except for military judges, military prosecutors and their assistants) and if they are also absent other military officers may be compulsorily appointed as defense counsel."

As regards criminal tribunals, Articles 149 and 150 of Criminal Procedure Code regulates selection of defense counsels whereas Article 234 regulates the cases where defense counsels are appointed.

According to Article 2 of Criminal Procedure Code, "Attorney" denotes the lawyer at the criminal proceedings who represent the victim of crime or the party liable for pecuniary compensation.

As explained in details above, defense council or representative must be attorney in criminal tribunals. Furthermore, accused or suspected or victim may, without looking for the request of complainant or the intervening party, appoint a defense counsel or attorney for himself.

### **134) La profession d'avocat est-elle organisée à travers :**

- un barreau national ?
- un barreau régional ?
- un barreau local ?

Veillez préciser :

A local bar association is established in every capital of province where a minimum of thirty attorneys are present. The Union of Bar Associations of Turkey is an organisation formed with the participation of all the bar associations in Turkey. The Union is a professional organisation in the nature of a public agency with legal personality.

### **Veillez indiquer les sources des réponses aux questions 130 et 132:**

The Union of Bar Associations of Turkey

## 6. 1. 2. Formation

**135) Existe-t-il une formation initiale ou un examen spécifique pour accéder à la profession d'avocat ?**

- Oui  
 Non

**136) Existe-t-il un système de formation continue générale obligatoire pour les avocats ?**

- Oui  
 Non

**137) La spécialisation dans certains domaines est-elle liée à certaines formations/à un certain niveau de diplôme/à certaines autorisations ?**

- Oui  
 Non

Si oui, veuillez préciser :

### 6. 1. 3. Honoraires

**138) Pour le justiciable, existe-t-il une transparence sur les honoraires prévisibles des avocats ?**

- Oui  
 Non

Veuillez apporter toute précision permettant d'interpréter la réponse ci-dessus

In principle, the attorneyship fee shall be determined by the parties freely. However, there are restrictions in accordance with the Attorneyship Law. According to Attorneyship Minimum Fee Tariff prepared by Turkish Bar Associations and approved by the Ministry of Justice, parties cannot agree on a fee less than the attorneyship fee determined by the Attorneyship Minimum Fee Tariffs and a fee less than the minimum amount of fee. Second restriction in the Attorneyship Law is arranged under Article 164 which stipulates that in the cases where the attorneyship fee is determined proportionally according to the value of the entity to be litigated or adjudicated or where it includes some part of the money requested through the case, it cannot exceed twenty-five percent of the entity or money to be litigated or adjudicated. Parties may agree on the fee regarding the attorneyship contract freely within the framework of the mentioned provisions.

**139) Les honoraires des avocats sont-ils**

- réglementés par la loi ?  
 réglementés par le Barreau ?  
 librement négociés ?

Veuillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus:



As stated above, attorneyship fee is determined freely in principle. However, it cannot be agreed on as less than the Attorneyship Minimum Fee Tariff determined by Turkish Bar Association; and also in the cases where the attorneyship fee is determined proportionally according to the value of the entity to be litigated or adjudicated or where it includes some part of the money requested through the case, it cannot exceed twenty-five percent of the entity or money to be litigated or adjudicated.

Attorneyship Minimum Fee Tariff is regulated under article 168 of the Attorneyship Law, titled preparation of attorneyship fee tariff. According to this provision, every year in September, the boards of directors of bar associations prepare a tariff indicating the minimum limits of the attorneyship fees to be charged for actions at the juridical authority and other actions, and forward it to the Union of Bar Associations of Turkey. The tariff to be prepared by the Board of Directors of the Union of Bar Associations of Turkey by taking into consideration the recommendations of the bar associations shall be completed by the end of October in the same year and submitted to the Ministry of Justice. However, the Ministry of Justice may return a tariff, it does not deem appropriate, to the Union of Bar Associations of Turkey for reconsideration together with the reasons for return. A tariff returned is considered as approved if passed unchanged by a two thirds majority vote of the Board of Directors of the Union of Bar Associations of Turkey; otherwise it is considered as not approved. The result shall be communicated to the Ministry of Justice by the Union of Bar Associations of Turkey. The Ministry of Justice, candidate and pertinent bar can apply to administrative judicial authority against the decisions made by Turkish Bar Association upon being returned by Ministry of Justice for reconsideration. The tariff in effect on the date of legal assistance completed or on the date of a decision made at the end of the suit shall be taken as the basis for the adjudication of the attorneyship fee.

Besides the Attorneyship Minimum Fee Tariff prepared by Turkish Bar Association which shall be obeyed for the determination of attorneyship fee, Bars also publish fee tariffs as recommendations prepared on the basis of free market.

## 6. 2. Evaluation

### 6. 2. 1. Plaintes et sanctions

#### 140) Des normes de qualité ont-elles été formulées pour les avocats ?

- Oui  
 Non

#### 141) Si oui, qui est responsable de la formulation de ces normes de qualité:

- le Barreau ?  
 le législateur ?  
 autre ?

Veuillez préciser (y compris une description des critères de qualité utilisés):

According to Article 34 of Attorneyship Law, "Attorneys are under the obligation to carry out the duties they assume with care, accuracy, and integrity in a manner suitable to the sacredness of their profession; to comport in a manner suitable to the respect and trust the profession requires; and to comply with the professional rules set by the Union of Bar Associations of Turkey." In this regard, within the context of "professional rules" published by Turkish Bars Association related with qualifications of attorneys, rules that attorneys are obliged to obey in their professional life are stipulated and professional qualification and discipline are provided both by these professional rules and Article 34 and other articles of the Law. Bars also have the right to carry out arrangement procedures for some issues and they may issue internal guidelines in this context.

#### **142) Existe-t-il une possibilité de déposer une plainte concernant**

- la prestation de l'avocat ?
- le montant des honoraires ?

Veillez préciser :

In accordance with Article 34 of The Attorneyship Law, attorneys are under the obligation to carry out the duties they assume with care, accuracy, and integrity in a manner suitable to the sacredness of their profession; to comport themselves in a manner suitable to the respect and trust the profession requires; and to comply with the professional rules set by the Union of Bar Associations of Turkey. According to this Article, attorneys not conforming the rules can be lodged a complaint against. In fact, according to Article 134, the disciplinary penalties prescribed in the present Law shall be imposed on those whose acts and conduct contradict the honor, order, traditions, and professional rules of attorneyship; and those who neglect their duties in professional practice or fail to exercise the personal integrity required by their duties.

Apart from these discipline provisions, according to Article 62 titled 'abuse of power', "Attorneys who abuse the power conferred upon them either by virtue of their attorneyship or as members in the various organs of the Union of Bar Associations of Turkey or bar associations in accordance with the present Law or other laws shall be punished in accordance with Articles 257 of the Turkish Criminal Code."

Attorneyship fee cannot be agreed on as less than the Attorneyship Minimum Fee Tariff determined by Turkish Bar Association; and also in the cases where the attorneyship fee is determined proportionally according to the value of the entity to be litigated or adjudicated or where it includes some part of the money requested through the case, it cannot exceed twenty-five percent of the entity or money to be litigated or adjudicated. If it exceeds, the attorney can be lodged a complaint against Also, according to Article 164 " Contracts to be made in accordance with the second paragraph may not bear any terms to the effect that part of the non-monetary property and rights under litigation will be owned in kind by the attorney." The attorney can be lodged a complaint against, if he acts contrary to that Article.

#### **143) Quelle est l'autorité compétente pour traiter des procédures disciplinaires**

- le juge ?
- le ministère de la justice ?
- une instance professionnelle ou autre ?

Veillez préciser :

A disciplinary prosecution shall be initiated with a decision made by the board of directors of the bar association. The board of directors is under the obligation to make a decision on the disciplinary prosecution urgently and at any rate not later than one year from the date of notice, complaint, or request. (Article 141)

Objections may be raised by the complainant or the public prosecutor to the Board of Directors of the Union of Bar Associations of Turkey against the decisions of the boards of directors of bar associations not to initiate disciplinary prosecution, within fifteen days from the date of notification of the decision. (Article 142) If the subject matter of the complaint, notice, or request is found to be worthy for reconsideration as a result of the examination to be conducted on the file by the Board of Directors of the Union of Bar Associations of Turkey, the former decision shall be revoked and the file shall be forwarded to the bar association which has made the former decision for the initiation of disciplinary proceeding. Such decisions of the Board of Directors of the Union of Bar Associations of Turkey are final.

Decisions not to initiate disciplinary proceeding made by the boards of directors of bar associations shall become final if no objections are raised within the statutory period. The decisions not to initiate disciplinary proceeding made by the Union of Bar Associations of Turkey shall become final if no decision is made by the Ministry of Justice within two months as of the date of their receipt by the Ministry of Justice or if the decisions are approved by the Ministry. However, the Ministry of Justice shall return the decisions it does not deem appropriate to the Union of Bar Associations of Turkey for reconsideration together with the reasons for return. The decisions returned shall be considered as approved if passed unchanged by a two thirds majority vote of the Board of Directors of the Union of Bar Associations of Turkey; otherwise they shall be considered as not approved. The result shall be communicated to the Ministry of Justice by the Union of Bar Associations of Turkey. The Ministry of Justice, the candidate, and the bar association concerned against the decisions made by the Union of Bar Associations of Turkey after reconsideration of the decisions found inappropriate and returned by the Ministry of Justice.

Objections may be raised by the public prosecutor or the relevant parties to the Disciplinary Board of the Union of Bar Associations of Turkey against the decisions of the disciplinary board within thirty days from the date of notification of the decision. (Article 157)

The disciplinary board of the Union may approve the decision, or decide to revoke the decision and send the file to the bar association concerned for a more comprehensive prosecution, or, in circumstances where a re-examination is not required, decide on the merits of the case by revoking a decision it does not deem appropriate or approve the decision after they amend it. The decisions made by the Disciplinary Board of the Union of Bar Associations of Turkey in response to objections shall become final if no decision is made by the Ministry of Justice within two months as of the date of their receipt by the Ministry of Justice or if the decisions are approved by the Ministry. However, the Ministry of Justice shall return the decisions it does not deem appropriate to the Union of Bar Associations of Turkey for reconsideration together with the reasons for return. The decisions returned shall be considered as approved if passed unchanged by a two thirds majority vote of the Disciplinary Board of the Union of Bar Associations of Turkey; otherwise they will be considered as not approved. The result shall be communicated to the Ministry of Justice by the Union of Bar Associations of Turkey. The Ministry of Justice, the candidate, and the bar association concerned against the decisions made by the Union of Bar Associations of Turkey after reconsideration of the decisions found inappropriate and returned by the Ministry of Justice.

In both cases, if the application is made to an administrative law authority, trial is carried out by the Administrative Court. As stipulated under Article 7 of the Administrative Procedure Code, term of litigation, if not stated otherwise in special laws, is sixty days at administrative courts. Application for appeal can be lodged against the final judgments of the Administrative Courts to the Council of State within thirty days following the date of notice (Article 46 of the Administrative Procedure Code).

As understood from the abovementioned provisions of the codes, Executive and Disciplinary Boards of Bars, Executive and Disciplinary Boards of the Union of Bar Associations of Turkey, Ministry of Justice and administrative courts are responsible for the disciplinary procedures.

**144) Procédures disciplinaires initiées à l'encontre des avocats: veuillez compléter le tableau. Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.**

**Veillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus:**

	Faute déontologique	Insuffisance professionnelle	Délit pénal	Autre
Nombre annuel	NA	NA	NA	NA

Commentaire :

The total number of the disciplinary proceedings initiated against lawyers was 546 in 2008, and 527 cases were finalized. 199 disciplinary penalties against lawyers were approved, and also 66 disciplinary penalties were approved after they were amended. However, there is not any detailed information beyond this.

**145) Sanctions prononcées à l'encontre des avocats: veuillez compléter le tableau. Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.**

**Veillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus:**

	Réprimande	Suspension	Révocation	Amende	Autre
Nombre annuel	NA	NA	NA	NA	NA

Commentaire :

**Vous pouvez indiquer ci-dessous :**

- **tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre**
- **les caractéristiques de votre système d'organisation du Barreau et les réformes majeures mises en œuvre au cours des deux dernières années**

## 7. Mesures alternatives au règlement des litiges

### 7. 1. Médiation et autres formes de règlement des litiges

#### 7. 1. 1. Médiation

**146) Existe-t-il des procédures de médiation dans le système judiciaire ? Si non, veuillez aller à la question 151**

- Oui  
 Non

**147) Le cas échéant, veuillez préciser, par type d'affaires, l'organisation de la médiation**

	Possibilité de médiation privée proposée par le juge ou médiation annexée au tribunal	Médiateur privé	Instance publique (autre que le tribunal)	Juge	Procureur
Affaires civiles et commerciales	Oui	Non	Non	Non	Non
Affaires familiales (ex. divorce)	Non	Non	Non	Non	Non
Affaires administratives	Oui	Non	Non	Non	Non
Licenciements	Non	Non	Oui	Non	Non
Affaires pénales	Oui	Non	Non	Non	Non

**148) Est-il possible de bénéficier de l'aide judiciaire lors des procédures de médiation ?**

- Oui  
 Non

Si oui, veuillez préciser :

Legal Assistance can be taken under Article 253 of Criminal Procedure Law.

**149) Nombre de médiateurs accrédités. Si les données ne sont pas disponibles, veuillez l'indiquer (NA)**

NA

**150) Veuillez indiquer le nombre total de procédures de médiation par catégories d'affaires. Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.**

- les affaires civiles ?  Oui  
les affaires familiales ?  Oui  
les affaires administratives ?  Oui  
les affaires de licenciements ?  Oui  
les affaires pénales ?  Oui

**Veuillez indiquer la source pour la réponse à la question 150 :**

## 7. 1. 2. Autres formes de règlement des litiges

### **151) Pouvez-vous donner des informations sur les autres mesures alternatives au règlement des litiges (par ex. arbitrage, conciliation) ? Veuillez préciser:**

- i. Arbitration: It is regulated under Articles 516 – 536 of the Code of Civil Procedure. It is classified in two categories as obligatory and optional. Obligatory arbitration is exceptional and regulated under special acts. In such cases, courts shall not be applied for. Arbitration, except for obligatory arbitration, is optional.
- ii. Encouragement to Settlement under Article 213 of the Code of Civil Procedure
- iii. Arbitration Committee of Consumer Problems. (Article 22 of the Law on Protecting of Consumer Rights.)
- iv. Ensuring settlement regulated under Article 35/A of the The Attorneyship Law.
- v. Settlement regulated under Articles 253 – 255 of the Criminal Procedure Law.

#### **Vous pouvez indiquer ci-dessous :**

- **tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre**
- **les caractéristiques de votre système de mesures alternatives au règlement des litiges et les réformes majeures mises en œuvre au cours des deux dernières années**

Settlement has been brought into effect in the Criminal Procedure Law. The Bill about Mediation in civil disputes is on the agenda of the Justice Commission of the Parliament.

Studies conducted during the process of full membership in order to improve the present system regarding criminal trial and carry that system into civil trial are written below;

#### A-BILATERAL COOPERATION WITH THE UK

##### Aim:

- Adoption of the alternative dispute resolutions into the Turkish Legal System and improvement of the system,
- Building up the required technical structure in order to bring mediation into effect.

##### Activities:

- a. Organizing a study visit to the Ministry of Justice of the UK and other relevant institutions with a delegation consisting of 10 persons -5 members of the Justice Commission of the Parliament and 5 high level officials from the Ministry-(October 2008).
- b. Forming a databank on alternative dispute resolutions (still continuing)
- c. Training of 5 officials from the Ministry as trainers in one of the prestigious mediation institutions of the UK.
- d. Organizing 2 seminars for judges and prosecutors, lawyers, notaries and related professional groups.
- e. Organizing a workshop by the Ministry, with the participation of 30 persons, about the studies required to be done regarding the period after the approval of the related law by the General Assembly of the Parliament.

#### B- ONGOING PROJECTS OF COOPERATION WITH INTERNATIONAL INSTITUTIONS

The Project for the Improvement of the Mediation Practices in Penal System;

##### Aim:

It is aimed to establish the concept of restorative justice, to improve dispute resolution applications, to give technical support, to contribute to the efficacy of the justice system and to create awareness.

##### Activities:

- questionnaires (They were sent to the Public Prosecutor Offices, Prosecutors, Criminal Judges, Bars and Universities and their opinions were collected. By analyzing these questionnaires, road maps were created.)
- Group works of situation analysis
- A report has been prepared by emphasizing the handicaps, opportunities and problems on the implementation of the mediation.
- 100 judges and prosecutors were given two-day-training for four times in February 2009.
- A seminar for 30 Justice Inspectors was held.
- A website will be designed. Also, campaigns for giving information and raising awareness will be prepared.

- Common fair and effective restorative justice principles will be identified and 5000 booklets of principles and guidelines will be distributed to all courthouses.

At the end of the Project, it is considered that a mediation institute is to be built up with its all aspects, awareness will be raised on this issue, and the application will be enhanced through informing judges and public prosecutors of the mediation practises by domestic and foreign experts.

## 8. Exécution des décisions de justice

### 8. 1. Exécution des décisions civiles

#### 8. 1. 1. Fonctionnement

**152) Existe-t-il dans votre système judiciaire des agents d'exécution? Si non, veuillez aller à la question 154**

- Oui  
 Non

**153) Nombre d'agents d'exécution . Si la donnée n'est pas disponible, veuillez l'indiquer (NA).**

1932

**154) Les agents d'exécution sont-ils (plusieurs choix possibles):**

- des juges ?  
 des huissiers de justice exerçant en profession libérale réglementée par les autorités publiques ?  
 des huissiers de justice attachés à une institution publique ?  
 d'autres agents d'exécutions ?

Veuillez préciser leur statut et leurs compétences (pouvoirs):

**155) Existe-t-il une formation initiale ou un examen spécifique pour accéder à la profession d'agent d'exécution?**

- Oui  
 Non  
 Non applicable

**156) La profession d'agent d'exécution est-elle organisée par :**

- une instance nationale ?  
 une instance régionale ?  
 une instance locale ?  
 non applicable

**157) Pour le justiciable, existe-t-il une transparence sur le coût prévisible des frais d'exécution?**

- Oui  
 Non  
 Non applicable



**158) Les frais d'exécution sont-ils :**

- réglementés par la loi ?  
 librement négociés ?  
 non applicable

**Veillez indiquer la source de la réponse à la question 153:**

The General Directorate of Personnel of Ministry of Justice.

**8. 1. 2. Supervision****159) Existe-t-il un système de supervision et de contrôle de l'activité des agents d'exécution ?**

- Oui  
 Non  
 Non applicable

**160) Quelle est l'autorité chargée de superviser et de contrôler les agents d'exécution :**

- une instance professionnelle ?  
 le juge ?  
 le ministère de la justice ?  
 le procureur ?  
 autre ?

Veillez préciser :

The enforcement agents are regularly monitored and supervised by the relevant public prosecutor and judge as well as by the inspector judges appointed to the Ministry of Justice.

**161) Des normes de qualité sont-elles formulées pour les agents d'exécution ?**

- Oui  
 Non  
 Non applicable

Si oui, quelle est l'autorité chargée de formuler ces normes de qualité et quels sont les critères de qualités utilisés?

The General Directorate of Personnel of Ministry of Justice is responsible for formulating these quality standards. Enforcement agents are selected from the graduates of faculty of law, high school of justice or justice division of high vocational school.

**162) Disposez-vous d'un mécanisme spécifique pour l'exécution des décisions de justice rendues contre des autorités publiques, y compris pour assurer le suivi de cette exécution?**

- Oui  
 Non

Si oui, veuillez préciser :

**163) Disposez-vous d'un système de contrôle de l'exécution ?**

- Oui  
 Non

Si oui, veuillez préciser :

Inspection is made through the Department of Inspection Board of the Ministry of Justice, Public Prosecutors' Offices and Courts of Enforcement. (through fact-finding reports)

8. 1. 3. Plaintes et sanctions

**164) Quelles sont les principales plaintes des usagers concernant les procédures d'exécution ?**

**Veuillez n'en indiquer que 3 au maximum**

- absence de toute exécution ?  
 non exécution des décisions judiciaires rendues contre des autorités publiques ?  
 manque d'information ?  
 durée excessive ?  
 pratiques illégales ?  
 supervision insuffisante ?  
 coût excessif ?  
 autre ?

Veuillez préciser:

Besides excessive length, excessive work load and insufficiency of the number of personnel working at the enforcement agents are the main complaints of users concerning the enforcement.

**165) Votre pays a-t-il préparé ou adopté des mesures concrètes pour changer la situation concernant l'exécution des décisions de justice – en particulier les décisions rendues contre les autorités publiques?**

- Oui  
 Non

Si oui, veuillez préciser :

- Article 257 of the Turkish Penal Code 257.
- Article 12, 13, 32, et seq. of the Administrative Procedure Act.

**166) Existe-t-il un système mesurant la durée des procédures d'exécution :**

- pour les affaires civiles ?  
 pour les affaires administratives ?

**167) Pour un jugement concernant un recouvrement de créances, pouvez-vous estimer le délai de notification aux parties habitant dans la ville du siège de la juridiction :**

- entre 1 et 5 jours  
 entre 6 et 10 jours  
 entre 11 et 30 jours  
 plus

Veillez préciser

**168) Nombre de procédures disciplinaires initiées à l'encontre des agents d'exécution. Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.**

Nombre total de procédures disciplinaires initiées	<input checked="" type="checkbox"/> nombre :	950
pour faute déontologique	<input checked="" type="checkbox"/> nombre :	92
pour insuffisance professionnelle	<input checked="" type="checkbox"/> oui, nombre :	14
pour délit pénal	<input checked="" type="checkbox"/> nombre :	50
Autre	<input checked="" type="checkbox"/> nombre :	794

**169) Nombre de sanctions prononcées à l'encontre des agents d'exécution. Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.**

Nombre total de sanctions	<input checked="" type="checkbox"/> nombre :	86
Réprimande	<input checked="" type="checkbox"/> nombre :	24
Suspension	<input checked="" type="checkbox"/> nombre :	5
Révocation	<input checked="" type="checkbox"/> nombre :	5
Amende	<input checked="" type="checkbox"/> nombre :	9
Autre	<input checked="" type="checkbox"/> nombre :	43

**Vous pouvez indiquer ci-dessous :**

- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre
- les caractéristiques de votre système d'exécution des décisions civiles et les réformes majeures mises en œuvre au cours des deux dernières années

**Veillez indiquer les sources pour les réponses aux questions 167, 168 et 169 :**

The General Directorate of Personnel of Ministry of Justice

## 8. 2. Exécution des décisions pénales

### 8. 2. 1. Fonctionnement

**170) Existe-t-il un juge chargé spécifiquement de l'exécution ?**

Oui

Non

Si oui, veuillez préciser ses fonctions et compétences (ex. fonctions d'initiative ou de contrôle).  
Si non, veuillez préciser quelle autorité est compétente pour l'exécution des jugements (par ex: procureur) :

Basically, the enforcement of judgments is implemented by the public prosecutors. However, in case any complaint or objection is made by any persons concerned, then the enforcement judge handles this complaint or objection and decides whether it is justifiable or not. Thus, these judges have control functions over the enforcement procedures of judgments.

**171) En matière d'amendes prononcées par une juridiction pénale, existe-t-il des études permettant d'évaluer le taux de recouvrement effectif ?**

Oui

Non

Si oui, veuillez préciser :

**Vous pouvez indiquer ci-dessous :**

- **tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre**
- **les caractéristiques de votre système d'exécution des décisions pénales et les réformes majeures mises en œuvre au cours des deux dernières années**

## 9. Notaires

### 9. 1. Statut

#### 9. 1. 1. Fonctionnement

#### 172) Existe-t-il des notaires dans votre pays ? Si non allez à la question 177

- Oui  
 Non

#### 173) Les notaires ont-ils un statut (dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations):

privé (sans contrôle par une autorité publique)?	<input type="checkbox"/> nombre	
de profession libérale réglementée par les pouvoirs publics?	<input type="checkbox"/> nombre	
public?	<input checked="" type="checkbox"/> nombre	1578
autre ?	<input type="checkbox"/> nombre	

Commentaire :

#### 174) Le notaire exerce-t-il une fonction :

- dans le cadre de la procédure civile ?  
 dans le domaine du conseil juridique ?  
 pour authentifier les actes/certificats ?  
 autre ?

Veuillez préciser :

In accordance with Articles 1 and 72 of the Notary Act numbered 1512, notaries public, on the request of the relevant persons, document procedures for assuring legal safety and preventing disagreements.

According to the 60 Article of the same Act, Notaries are commissioned to:

- Arrange all kinds of legal procedures which are not required to be done legally by any other office, authority or person (are not entitled by law)
- According to the said Law, conduct all kinds of legal procedures which are required to be done formally by legislations, but authorities in charge are not determined.
- Certify signature, seal or any sign or date above the paper that is written outside as stipulated by this law,
- Carry out other duties stipulated by this law and by the other laws.

#### Veuillez indiquer la source pour répondre à la question 173

Union of Turkish Public Notaries

#### 9. 1. 2. Supervision

#### 175) Existe-t-il un système de supervision et de contrôle de l'activité des notaires ?

- Oui  
 Non

**176) Quelle est l'autorité chargée de superviser et de contrôler notaires:**

- une instance professionnelle ?  
 le juge ?  
 le ministère de la justice ?  
 le procureur ?  
 autre ?  
 non applicable

Veillez préciser :

General provisions about Notary procedures and the supervision of the Notaries Union of Turkey are stipulated under:

- Article 100 of the Law numbered 2802 of Judges and Prosecutors.
- Articles 121, 122 and 134 of the Notary Public Law numbered 1512
- The Ministry of Justice, the Regulation of the Department of Inspection Board of the Ministry of Justice
- The Regulation of the Inspection Board of Union of Turkish Public Notaries

The notary publics are subject to an inquiry by;

- Justice inspector,
- Public prosecutor
- Chairmans and members of management boards of the Notary Chamber Board and the Union
- Inspectors of Union of Turkish Public Notaries

**Vous pouvez indiquer ci-dessous :**

- **tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre**
- **les caractéristiques de votre système notarial et les réformes majeures mises en œuvre au cours des deux dernières années**

Notaries are regulated with Notary Public Law numbered 1512. In the first article of the Notary Public Law, it's stated that Notary Public is a public service and Notary Publics document procedures for assuring legal safety and preventing disagreements and execute other duties given by laws. Notarial service is carried out by Law School graduates who are assigned as notaries.

In accordance with the Articles 1 and 72 of the Notary Public Law, Notary Publics document, on the request of concerned persons, procedures for assuring legal safety and preventing disagreements. Documents regarding procedures prepared by notaries prevent the disputes from transferring to the judicial bodies and also expedite the resolution of the disputes which have been transferred.

Documents prepared by notaries are accepted as full evidence (Code of Civil Procedure Art.295) and are valid until proven fraudulent. As seen above, notaries conduct functions of helping judicial system by contributing to the general prevention of disputes among persons as well as rapid resolution of the disputes occurred.

## 10. Interprètes judiciaires

### 10. 1. fonction

#### 10. 1. 1. Statut

**177) Le titre d'interprète judiciaire est-il protégé?**

- Oui  
 Non

**178) La fonction d'interprète judiciaire est-elle régulée?**

- Oui  
 Non

**179) Nombre d'interprètes judiciaires. Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations**

NAP

**180) Existe-t-il des critères relatifs à la qualité de l'interprétation dans les tribunaux?**

- Oui  
 Non

Si oui, veuillez préciser :

**181) Les tribunaux sont-ils responsables de la sélection des interprètes judiciaires?**

- Oui  
 Non

Veuillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus (notamment: si non, quelle est l'instance chargée de sélectionner les interprètes?):

## 11. Fonctionnement de la justice

### 11. 1. Réformes envisagées

#### 11. 1. 1. Réformes

**182) Pouvez-vous fournir des informations relatives au débat actuel dans votre pays en ce qui concerne le fonctionnement de la justice ? Des réformes sont-elles envisagées ? Par exemple modification de la législation, modification dans la structure judiciaire, programme d'innovation, etc. Veuillez préciser:**

With the participation of the Ministry of Justice and other judicial bodies, the Judicial Reform Strategy and Action Plan were prepared in order to produce solutions to the common problems of the Turkish Justice System and to schedule the implementation of these solutions. Controversial areas in this strategy plan can be summarized as:

- The restructuring of the Constitutional Court aiming to function as a pre-solution mechanism for human rights violations.
- The restructuring of the Supreme Board of Judges and Prosecutors in a manner to represent the whole judicial system.
- Making Courts of Appeal functional in civil, criminal and administrative jurisdiction and expedite the proceedings.
- Eliminating the administrative duties on judges and prosecutors and improving a court management system to transfer these duties to a professional administrative staff.
- Media and Judiciary Relations (EU)

Turkey has many reform studies related with the Judicial Reform Strategy prepared and presented in the context of negotiation process for EU membership.

The Judicial Reform Strategy was prepared in a manner which comprises the whole aspects of judicial system. The problematical areas regarding the justice system were identified and afterwards primary aims to solve them were determined. Activities to be conducted to reach these aims were identified and an action plan stipulating institutions responsible for steps to be taken, necessary time and budget were prepared.

The Judicial Reform Strategy and Action Plan was submitted to the EU Commission in September 2009. The Judicial Reform Strategy has been prepared under the following main objectives:

#### I- STRENGTHENING INDEPENDENCE OF THE JUDICIARY

1. In the light of international instruments, redefining tasks of Constitutional Court and restructuring it accordingly
2. Restructuring High Council of Judges and Prosecutors to provide representation of the judiciary as a whole on the grounds of objectiveness, impartiality and transparency in the light of the international documents and providing an effective objection procedure against decisions of the High Council and providing judicial remedy.
3. In parallel with the restructuring of the HCJP reorganization of secretariat of the High Council and the inspection system
4. Review of promotion system for judges and prosecutors including grading system with the restructuring of HCJP and functioning of Courts of Appeal
5. In the framework of the right to freedom of association, establishment of Union of Judges and Prosecutors without restricting freedom of association
6. Studying on strengthening awareness of judicial professionals and the public on independence and impartiality of judiciary
7. Enabling formation of military courts only with professional military judges
8. Removing the military courts from the military forbidden zones
9. Reconsidering duties and competence of the military courts
10. In the light of the principle of right to a fair trial transforming the High Administrative Military Court proceedings into two-level system

#### II. PROMOTING IMPARTIALITY OF JUDICIARY

1. Studying in cooperation with high courts and HCJP in order to prescribe the code of ethics for



judiciary members

2. Raising awareness of media professionals on impartiality of the judiciary
3. Under the condition of protection of personal data, facilitation of access to High Court decisions
- 4 Under the condition of protection of personal data, providing public access to disciplinary decisions of the HCJP
5. Reviewing disciplinary provisions in Law on Judges and Prosecutors (Law No:2802) to provide objective criteria

### III. ENHANCING EFFICIENCY AND EFFECTIVENESS IN THE JUDICIARY

1. Providing operation of Courts of Appeal in civil and criminal judiciary
2. Establishing and making operational of Courts of Appeal in administrative judiciary
3. Carrying out activities in cooperation with the Turkish Bar Association for increasing the efficiency of the defence within the framework of the right to a fair trial and the principle of the equality of arms
4. Paying attention to the principles of availability to judicial control and objectiveness in selecting trainee judges and prosecutors and increasing quantity of judges, public prosecutors and judicial staff to a sufficient level
5. Merging courthouses with the geographically close ones or courthouses with a less workload to the nearest one
6. Continuation of improvement of physical capacity of courthouses in the framework of determined principles
7. Considering international practice and necessities wide spreading the specialized courts
8. Strengthening capacity of the Forensic Medicine Institution
9. Appointment of judicial counsellors to Turkey's certain Embassies
10. Completing UYAP (National Judicial Network Project) and providing effective functioning of the system
11. Spreading the usage of electronic signature in civil, criminal and administrative judiciary
12. Continuation of training to enhance strategic management capacity and drafting MoJ's strategic plan
13. Diminishing the types of cases heard by High Courts as first instance
14. Rearrangement of the "Law on Service"
15. Adoption of the new Civil Procedure Code
16. Enhancing efficiency of civil enforcement and bankruptcy system
17. Reviewing expert witness system
18. Restructuring the positions of counsellors, government and treasury lawyers in order to allow them to provide more effective service.
19. Continuation of activities for improving juvenile justice system in line with international documents.

### IV. ENHANCING PROFESSIONALISM IN THE JUDICIARY

- 1 Carrying out activities in cooperation with Ministry of Education, Higher Education Board and law schools for increasing the efficiency of law education
2. Continuation of training for members of judiciary and judicial staff on the subjects of enhancing professional competence and individual development
3. Reconsidering organizational structure of Turkish Justice Academy to enhance its capacity
4. Organizing periodical meetings like seminars, symposiums on training of judicial professionals with participation of the Ministry of Justice, HCJP, TJA, universities and other relevant institutions
5. Continuation of foreign language training for judges, public prosecutors and other judicial staff
6. Continuation of translation of the ECtHR case law and other relevant international documents related to the judiciary to Turkish and enabling access to mentioned documents.

### V. IMPROVING MANAGEMENT SYSTEM of the JUDICIAL ORGANIZATION

1. Reducing administrative and financial duties and responsibilities of judges and public prosecutors
2. Prescribing duties and working standards of judicial professionals other than judges and public

prosecutors and improving personal rights

3. Rearranging the task definition and criteria for setting up notaries taking into consideration the practices of the EU member states

#### VI. ENHANCING CONFIDENCE IN THE JUDICIARY

1. Performing studies to prescribe factors positively or negatively effecting confidence in the judiciary in the opinion of public

2. Continuation of delivering training to judicial employees on fight against corruption

3. Developing the relations between the judiciary, media and public in cooperation with related institutions

4. Establishing or improving public relations units in the High Courts and designated courthouses

#### VII. FACILITATING ACCESS TO JUSTICE

1. Reviewing legal aid system to enable effective access to the system

2. Opening web sites of the courthouses prepared in a standard format and providing their effective usage.

3. Finalizing the preparatory works for filing cases in electronic environment by individuals benefiting from the judicial services

4. Standardizing interpretation services at the judicial institutions

#### VIII. ENSURING EFFECTIVE IMPLEMENTATION OF MEASURES TO PREVENT DISPUTES AND IMPROVING ALTERNATIVE DISPUTE RESOLUTION MECHANISMS

1. Teaching basic legal knowledge starting from the elementary classes at schools

2. Informing the individuals in public institutions by using certain methods about their rights, duties and legal procedures before public institutions,

3. Increasing the efficiency of reconciliation system in the Criminal Procedure

4. Developing mediation and alternative dispute resolution methods for civil disputes

5. Increasing the efficiency of the arbitration system,

6. Taking necessary measures for the administration to take stable judicial decisions into account in its transactions and other activities

7. Developing and effectively implementing pre-judiciary dispute resolution procedures in administrative judiciary

8. Functioning of the Ombudsman Institution

#### IX. IMPROVING PENITENTIARY SYSTEM

1. Continuation of the work to bring penitentiary institutions in line with the international standards

2. Closing down the small and insufficient penitentiary institutions

3. Strengthening and spreading probation system

4. Efficient and widespread implementation of alternative sanctions instead of short term imprisonment

5. Continuation of spreading and improving of the workshops at the penitentiary institutions

6. Enhancing the capacity of the training centres in penitentiary institutions to provide training for other judicial staff

7. Transferring external security service of penitentiary institutions to the MoJ

8. Establishing efficient public relations units of the penitentiary institutions

#### X. NEEDS OF OUR COUNTRY AND CONTINUATION OF LEGISLATION WORK FOR EU HARMONIZATION

1. Draft Turkish Commercial Code

2. Draft Law on Amending the Law on Court of Cassation

3. Draft Law on Union of Judges and Prosecutors

4. Draft Law on Obligations

5. Draft Civil Procedure Code

6. Draft Law on Secrets of Trade, Bank and Customers
7. Draft Law on Data Protection
8. Draft Law on State Secrets
9. Draft Law on Amending Law on Administrative Adjudication Procedure
10. Draft Law on DNA Data and National Data Bank
11. Draft Law on Mediation in Civil Disputes
12. Draft Law on External Security Services on Penitentiary Institutions
13. Draft Law on the Enforcement and the Implementation of Commercial Code
14. Draft Law on General Administrative Procedure
15. Draft Law on the Organization of the Ministry of Justice
16. Draft Law on the Assistance to the Victims of Violent of Crime
17. Draft Law Amending the Law on Notaries
18. Draft Law Amending the Civil Code