



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

QUESTIONNAIRE POUR ÉVALUER LES SYSTÈMES JUDICIAIRES 2011

Pays : Turquie

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## 1. Données démographiques et économiques

### 1. 1. Généralités

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

##### 1) Nombre d'habitants (si possible au 1er janvier 2011)

72 561 312

##### 2) Total des dépenses publiques annuelles au niveau national et le cas échéant, les dépenses publiques des collectivités territoriales ou entités fédérales (en €) - (Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP)

	Montant
Niveau national	204 342 995 169
Niveau territorial / entités fédérales (total pour l'ensemble des niveaux territoriaux/entités fédérales)	NA

##### 3) PIB par habitant (en €)

7 541

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

11 501

##### 5) Taux de change de la monnaie nationale (zone non Euro) en € au 1 janvier 2011

2,07

#### A.1

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

Q2 : Studies regarding the CEPEJ reports have been carried out by the Strategy Development Department of the Ministry of Justice since the year 2011. The data pertaining to the year 2010 have been taken from the official web site of the Ministry of Development. The difference between the two periods mentioned in the question results from the fact that while the total annual expenditure declared for the year 2008 was based on the data on the central administration budget, the data pertaining to the year 2010 covered the total public expenditure (central administration budget, local administrations, organizations with circulating capital, unemployment insurance fund, social security institutions, general health insurance, and all the relevant funds). In 2008, while the total amount of annual public expenditure was equal to 154085794655,414 €, it was declared as 83547878000 €, due to the fact that the central administration budget was taken as basis.

On the other hand, the central administration budget for the year 2010 was 114582615942,028 €. By following the guidelines stated in the Explanatory Note of the CEPEJ Evaluation Scheme, the total annual public expenditure for the year 2010 was declared as 204342995169 €.

Apart from that, an increase of 131.71 % was observed in the payments made from the unemployment insurance fund, in connection with the increase in the number of enterprises closed due to global economic crisis (while the unemployment ratio was 11% in 2008, it increased to the

level of 12% in 2010). In addition, those individuals who had been working subject to the Law number 5434 on Pension Fund before the date of 01 October 2008, were taken under the coverage of general health insurance as from the date of 15 October 2010. As a result of that, the General Health Insurance premium in the ratio of 12% is entirely paid by the state. That explains the 413.58% increase in the share of the General Health Insurance premiums.

Q5 : Due to the fact that January 01 is an official holiday, the rate of exchange on the date of 03 January 2011 was taken as basis.

Sources:

Ministry of Finance

Official Web Site of the Central Bank

Turkish Statistical Institute

State Planning Organization (Ministry of Development)

Supplement to the 4th question

Average Annual Gross Salary: Expresses the average annual gross salary of a public servant, including the social security contributions.

Supplemental interpretation of question 2

General public expenses: Include the central administration budget, the local administrations, revolving fund organizations, unemployment insurance fund, social security organizations, general health insurance, and funds.

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

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

#### 6) Budget public annuel approuvé pour le fonctionnement de l'ensemble des tribunaux, en €(si possible sans le budget du ministère public et de l'aide judiciaire) :

TOTAL du budget public annuel approuvé pour le fonctionnement de l'ensemble des tribunaux (1 + 2 + 3 + 4 + 5 + 6 + 7)	<input checked="" type="checkbox"/> Oui	1 154 948 704
1. Budget public annuel alloué aux salaires (bruts)	<input checked="" type="checkbox"/> Oui	832 198 544
2. Budget public annuel alloué à l'informatisation (équipements, investissements, maintenance)	<input checked="" type="checkbox"/> Oui	22 973 075
3. Budget public annuel alloué aux frais de justice (frais d'expertise, d'interprètes, etc.), sans l'aide judiciaire. NB: ne concerne pas les taxes et frais à payer par les parties.	<input checked="" type="checkbox"/> Oui	48 236 098
4. Budget public annuel alloué aux bâtiments des tribunaux (maintenance, budget de fonctionnement)	<input checked="" type="checkbox"/> Oui	26 289 836
5. Budget public annuel alloué à l'investissement en nouveaux bâtiments (tribunaux)	<input checked="" type="checkbox"/> Oui	224 734 300
6. Budget public annuel alloué à la formation	<input checked="" type="checkbox"/> Oui	516 850
7. Autres (Veuillez préciser)		NA

#### 7) Dans le cas où vous ne pouvez pas distinguer le budget du ministère public et de l'aide judiciaire du budget alloué à l'ensemble des tribunaux, veuillez l'indiquer clairement. Si "autres", veuillez le 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) 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 à la règle de payer une taxe ou des frais ? Veuillez préciser ces exceptions:

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.

**9) Montant annuel des taxes ou frais judiciaires perçus par l'Etat (en €)**

525 138 372

**10) Budget public annuel approuvé et alloué à l'ensemble du système de justice, en € (ce budget n'inclut pas seulement le budget approuvé pour le fonctionnement de l'ensemble des tribunaux comme défini à la question 6, mais aussi le système pénitentiaire, la protection judiciaire de la jeunesse, le fonctionnement du ministère de la Justice, etc.)**

NA

2 274 389 431

**11) Veuillez préciser les éléments composant le budget de l'ensemble du système de justice.**

**Si "autre", veuillez préciser dans la case "commentaire" ci-dessous.**

Système des juridictions	Oui
Aide judiciaire	Oui
Ministère public	Oui
Système pénitentiaire	Oui
Service de probation	Oui
Conseil de la justice	Oui
Protection judiciaire de la jeunesse	Oui
Fonctionnement du ministère de la justice	Oui
Services des demandeurs d'asile et réfugiés	Non
Autres	Non

Commentaire :

Supplemental interpretation of question 12 : The importance of legal aid in terms of ensuring the access of citizens to justice is everyday accepted more and more in our country. In criminal cases, a legal aid (attorney) is provided if a certain punishment is considered to be given, or if the individuals require to get that aid. In civil cases, legal aid can be provided to economically deprived individuals if they require. Unlike the year 2008, certain amounts were transferred in 2010 to the account of Turkish Bar Association, to be used as legal aid.

**12) Budget public annuel approuvé et alloué à l'aide judiciaire, en €- Si une ou plusieurs données ne sont pas disponibles, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

	Total du budget public annuel approuvé et alloué à l'aide judiciaire (12.1 + 12.2)	12.1 Budget public annuel alloué à l'aide judiciaire en matière pénale	12.2 Budget public annuel alloué à l'aide judiciaire en matière autre que pénale
Montant (en €)	79338098	58052812	21285286

**13) Budget public annuel approuvé et alloué au Ministère public (en €). Veuillez ajouter dans la boîte "commentaire" ci-dessous toute information utile à l'interprétation des données.**

NAP

Commentaire :

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.

**14) Instances formellement responsables des budgets alloués aux tribunaux (réponses multiples possibles) :**

	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	Oui	Non	Oui	Oui

**15) Si autre ministère et/ou organisme d'inspection et/ou autre, veuillez préciser (au regard de la question 14) :**

Ministry of Justice, Ministry of Finance and State Planning Organization is responsible for the 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.

**A.2**

**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. Hence, Turkey has made a transition from the programme budget implementation to an analytic budget implementation.

Supplemental interpretation of question 6:

Department of Prison Workshops Institution is a unit subordinate to the Ministry of Justice, and it has a separate budget of its own. Revenues of the Institution consist partly of court fees and partly of the profits of income-generating enterprises operating in the courthouses. Objectives of this institution is to protect and develop the skills and professions of prisoners and detainees kept in penal institutions, to teach them skills and professions, and to market the economic values produced by them. A significant portion of the Institution's budget is used in judicial services. The given figures also cover the amounts allocated from the Institution's budget for judicial services.

On the other hand, the figures cover also the allocations made from the central budget for the courthouse buildings constructed in Istanbul in the year 2010, and completed recently. Since the military courts are included in our judicial system as a separate branch of the judiciary, they are not mentioned here. The military courts and prosecution offices do not have separate budgets allocated for their own use. The budgeting activities related with the military judicial system are covered within the budgets of the commands to which the military courts and prosecution offices in question are subordinate. The appropriations allocated by those commands for judicial activities are sufficient to meet the demands in that regard.

Q6#2#2 : While the total amount of gross salaries was 529883710 € in 2008, it was 832198544.92 € in 2010. Those figures indicate that an increase in the ratio of 57 % have occurred in the gross salaries compared to the previous period. During the period in question, an increase occurred in the number of judicial staff.

Q6#2#3 : There is a Department of Prison Workshops, which is subordinate to the Ministry of Justice, and has a separate budget. Some of the revenues of the said Department are coming from the court fees, and some from the profit-yielding enterprises run within the body of the judiciary. Aim of the said department is to maintain and develop the skills and professions of the convicts and detainees held in penal institutions, to teach them various skills and professions, and to market the economic values produced by them. A significant portion of the Department's budget is used in judicial services. In the data pertaining to the year 2008, the amount used within the Prison Workshops budget has not been included in the general total. In the 2010 data however, the amount used by the Department of Prison Workshops for computerization has been included in the general total.

In addition, the investments in infrastructure, as well as in computers and hardware have been further increased in the year 2010, in order to render the NJNP (National Judicial Network Project-UYAP in Turkish) more efficient.

Q6#2#4 : Since the year 2011, the studies related with CEPEJ have been carried out by our Department. The justice expenses declared for the year 2010 were calculated through the addition of the total amounts of the expenses related with surveys, reporting fees and expert salaries, conciliation proceedings, and other justice expenses. Apart from that, as a result of our re-evaluation, we have found out that an amount of 11242619.753 € was transferred from the Department of Prison Workshops in order to be spent for meeting the justice expenses arising from reporting fees and expert salaries. Therefore, the justice expenses pertaining to the year 2010 reaches to a total amount of 48236098.753 €.

Q6#2#5 : While the 2008 data indicate that the total amount of expenses made for the repair and

maintenance of the court buildings was 904977 €, those expenses seem to have increased to the level of 26289836 €, according to the 2010 data. The significant difference between those two figures can be explained with the increases made in the numbers and sizes of the court buildings. It should also be noted that the transfers made from the budget of the Department of Prison Workshops were not included in the 2008 data, while they were included in the 2010 data.

Q6#2#6 : Unlike the 2008 data, the appropriations allocated for the construction of new court buildings through the transfers made from the budget of the Department of Prison Workshops were included in the 2010 data. The appropriations allocated from the general budget for the court buildings being constructed during the year 2010 in İstanbul (the largest court buildings of Europe and the World) were also included in the 2010 data.

Q6#2#7 : The training and education expenses, which were 4977 € according to the 2008 data, have increased to 516850 € in 2010. An increase of 10285 % was recorded in 2010 compared to the year 2008.

In the 2010 data, the amounts utilized by the Academy of Justice and the Department of Prison Workshops for training and education purposes, as well as the training-education expenses and the expenses made for ensuring the attendance in courses by the Department of Education of the Ministry of Justice, and purchasing of other services were also included in the total amount. In the previous years, including 2008, the expenses made for the training and education of judges, prosecutors, and other staff employed within the judiciary were met by the Foundation for Supporting the Judicial Organization. The Foundation for Supporting the Judicial Organization is a foundation ensuring the fulfillment of the judicial services in the best way, and therefore it can be considered as a public entity carrying out public services. The amounts transferred to the Ministry of Justice by the said Foundation to be used in meeting the training and education expenses were not included in the 2008 data. On the other hand, following the amendments made in the national legislation, all of the judges and prosecutors in Turkey have attended an intensive educational program, particularly within the context of harmonization with the EU Acquis Communautaire.

Supplemental interpretation of question 9:

According to our tax legislation, every year the taxes are increased parallel to the Re-evaluation Ratio. The said ratio was 7.2% in 2008, 12% in 2009, and 2.2% in 2010. Therefore, the increase referred to in the question was entailed by the legislation. Another factor leading to such increase was the increased number of files forwarded to the judicial system for examination.

Supplemental interpretation of question 10:

Budgets of the following state organs are included in the total amount:

The Ministry of Justice, the Constitutional Court, the Court of Cassation, the Council of State, the Turkish Academy of Justice and the Prison Workshops Institution. Court of Disputes , Supreme Election Board and Forensic Medicine Institution budgets are included within Ministry of Justice budget. Allocations made from the central budget for the courthouse buildings constructed in İstanbul in the year 2010, and the allowances transferred by the Ministry of Finance to the Union of Turkish bar Associations as legal aid are also included. The figures shown in the Year-end Final Account Law passed by the Parliament as of the end of 2010 have been taken as basis. The given figures do not cover the military courts, which form a separate branch of the judiciary in Turkey.

Supplement to question 12:

The given figures are valid as of the end of year 2010.

There is a dual system of legal aid in Turkey. In the cases of criminal law, only the courts are authorized to provide legal aid, while in civil law cases Bars can also provide legal aid besides the courts. The amounts of legal aids provided by the courts and bars have also been included in the given figures.

Supplemental interpretation of question 14:

Budget of the military judicial system is under the responsibility of the Ministry of Defense.

**Veillez indiquer les sources des réponses aux questions 6, 9, 10, 11, 12 et 13.**

Ministry of Justice, Strategy Development Department  
Union of Turkish Bar Associations  
Ministry of Finance



## Ministry of Defense

cf. NC 19/06 (Q6\_table 2.1) : With the exclusion of the first column, the data given in all other columns of Table 2.1 do not cover the Constitutional Court, the Court of Cassation, the Council of State, the Supreme Election Board, and the Military Courts.

On the other hand, the data in the first column includes the budget of the the Ministry of Justice which covers also the budget of the the Court of Jurisdictional Disputes, the Supreme Election Board and the Forensic Medicine Institution, and the budget of the Prison Workshops Institution, the budget of the the Turkish Justice Academy, and the allocations transferred to the Union of Turkish Bar Associations by the Ministry of Finance.

3) In Table 2.17, a comment is required. What we can say about the subject is that in our country, legal aid is considered everyday more and more important, in terms of ensuring the access to justice by all individuals.

In the cases of criminal law, a defence council is assigned if a punishment is considered to be given, or upon the request of the beneficiaries. On the other hand, in the cases of civil law, legal aid can be provided to economically deprived individuals if they require such aid. Different from the implementations in the year 2008, certain amounts of money were deposited in 2010 by the Ministry of Finance in the bank account of the Union of Turkish Bar Associations.

4) The comment required in Figure 2: (explanation of the increase which occurred in the Courts budget, excluding the legal aids)

Different from the implementations in the year 2008, the data pertaining to the year 2010 included the expenses made from the budget of the Prison Workshops Institution. On the other hand, in preparing the 2010 data, the amounts stated in the final account law (the budget which is prepared at the end of the year and is passed by the Parliament) were taken as basis. The increased importance attached by our state to investments in the judicial field has also been effective in that regard.

5) A comment is required in Table 2.24: What we can say about the subject is that different from the implementations in the year 2008, the data pertaining to the year 2010 included the expenses made from the budget of the Prison Workshops Institution. On the other hand, in preparing the 2010 data, the amounts stated in the final account law (the budget which is prepared at the end of the year and is passed by the Parliament) were taken as basis. The increased importance attached by our state to investments in the judicial field has also been effective in that regard.

In addition to this, there are also allocations provided by the Ministry of Finance to the Union of Turkish Bar Associations for purposes of legal aid.

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

### 2. 1. Aide judiciaire

#### 2. 1. 1. Principes

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

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

#### 17) 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

(The legal aid is rearranged in Article 335 of the Civil Procedure Code, which was passed on the date of 12 January 2011. The said Code was put into effect as of the date of 01 October 2011)

#### 18) Est-il possible de bénéficier de l'aide judiciaire pour des frais relatifs à l'exécution des décisions de justice (par exemple : honoraires d'un agent d'exécution) ?

- Oui  
 Non

Si oui, veuillez préciser:

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

(The legal aid is rearranged in Article 335 of the Civil Procedure Code, which was passed on the date of 12 January 2011. The said Code was put into effect as of the date of 01 October 2011)

#### 19) L'aide judiciaire peut-elle être allouée pour d'autres frais (différents de ceux indiqués aux questions 16 à 18, par exemple honoraires d'un conseiller technique ou expert, honoraires d'autres professionnels de la justice (notaires), frais de voyage, etc.) ? Si oui, veuillez préciser dans la boîte "commentaire" ci-dessous.

	Affaires pénales	Affaires autres que pénales
	Oui	Oui

Commentaire :

For the individuals who benefit from legal aid, a provisional exoneration is granted for all litigation and pursuit costs and for the obligation to provide collateral for litigation and pursuit costs.

**20) Nombre d'affaires portées devant les tribunaux et ayant bénéficié de l'aide judiciaire. Veuillez préciser dans la boîte "commentaire" ci-dessous, le cas échéant. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

**[Cette question porte sur le nombre annuel de décisions octroyant l'aide judiciaire aux justiciables qui ont saisi un tribunal. Elle ne concerne pas le conseil juridique fourni pour des affaires qui ne sont pas portées devant un tribunal.]**

	Nombre
Total	92805
en matière pénale	85021
en matière autre que pénale	7784

Commentaire :

The files opened during the year 2010 were examined to see in how many files legal aid was provided. The data on the legal aids were collected not on the basis of the number of individuals who benefited from legal aids, but the number of files which included legal aids (even if those aids are provided to more than one person covered in the same file). Since no data was collected on the situations that during the hearing of a case a demand was submitted to receive legal aid, and that the demand was accepted through the interim decision of the court, such situations were not reflected in the results. Only the files concerning the criminal cases where there is an obligatory assignment of legal counsel were taken into account. In the cases of administrative jurisdiction, legal aid was provided within the scope of many actions brought for the compensation of losses caused by terrorism.

**21) En matière pénale, les personnes n'ayant pas les moyens financiers suffisants peuvent-elles bénéficier de l'assistance gratuite (ou financée par un budget public) d'un avocat ? Veuillez préciser dans la boîte "commentaire" ci-dessous.**

Personnes mises en cause	Oui
Victimes	Oui

Commentaire :

According to the Code of Criminal Procedure, if the accused or the suspect declares that he/she does not have the opportunity to appoint a lawyer, a defense counsel is provided by getting his/her approval. In the investigations and proceedings carried out due to crimes entailing a punishment of imprisonment for minimum five years, a legal counsel is appointed without getting the approval of the accused or the suspect. In the cases involving a sexual assault, or a crime entailing a punishment of imprisonment for minimum five years, if the sufferer of the crime does not have a lawyer, he/she has the right to demand the appointment of a lawyer by the bar.

If the sufferer of the crime is below eighteen years of age, or he/she is deaf or mute, or is not capable to express himself/herself, and he/she does not have a lawyer, a legal counsel is appointed without getting his/her approval.

**22) Si oui, ont-elles le libre choix de l'avocat dans le cadre de l'aide judiciaire?**

Oui

Non

**23) Votre pays procède-t-il à un examen des revenus et/ou des biens (patrimoine) du demandeur avant d'octroyer l'aide judiciaire ? Veuillez ajouter dans la boîte "commentaire" ci-dessous les informations utiles à l'interprétation des données fournies. Si un tel système existe, mais que les données ne sont pas disponibles, veuillez indiquer NA. Si un tel système n'existe pas, veuillez indiquer NAP.**

	montant du revenu (si possible pour une personne) en €	valeur des biens (patrimoine) en €
en matière pénale	no	NA
en matière autre que pénale ?	yes	NA

Commentaire :

A person who requests legal aid has to take a poverty certificate from local municipalities or village or neighbourhood eldementship 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.

**24) 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 ou en raison de l'absence d'un éventuel succès) ?**

- Oui  
 Non

Si oui, veuillez expliquer les critères concrets pour refuser l'aide judiciaire :

(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.

**25) La décision d'accorder ou de refuser l'aide judiciaire est-elle prise par :**

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

**26) Existe-t-il un système privé d'assurance protection juridique permettant aux personnes physiques (cela ne concerne pas les entreprises ou autres personnes morales) de financer une action en justice ?**

- Oui  
 Non

Le cas échéant, veuillez donner des indications sur le développement actuel de ce type d'assurance dans votre pays; s'agit-il d'un phénomène grandissant ?

**27) 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:**

en matière pénale ?	Yes
en matière autre que	

pénale ?

Yes

**B.1****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. Legal aid in other than criminal cases is regulated under;

1- Civil Procedure Law (No: 1086) (01.10.2011 de yürürlüğe girecek olan 6100 sayılı kanununun 335 vd. maddeleri)

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 for 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. Therefore, 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.

In the Strategic Plan and the Judicial Reform Strategy, which were prepared by the Ministry of Justice, and which cover the Ministry's activities for the period of 2010-2014, it is envisaged to carry out studies for increasing the effectiveness of legal aid system in civil justice proceedings.

Supplemental interpretation of question 25

In civil law cases, the requests submitted to the court for receiving legal aid are evaluated by the judge. On the other hand, the legal aid requests submitted to the Bar association concerning the assignment of attorney are evaluated by the Bar association.

**Veillez indiquer les sources des réponses aux questions 20 et 23:**

For Question 20, the data included in National Judicial Network Project (NJNP- UYAP in Turkish) Information system have been taken as basis.

## 2. 2. Usagers des tribunaux et victimes

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

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

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**Les sites internet mentionnés pourraient figurer notamment sur le site internet de la CEPEJ. Veuillez préciser dans la boîte "commentaire" ci-dessous quels documents et informations sont inclus aux adresses concernant "autres documents" :**

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> aux textes juridiques (codes, lois, règlements, etc.) ? adresse Internet:                        | <input checked="" type="checkbox"/> Oui | <a href="http://www.mevzuat.adalet.gov.tr/">http://www.mevzuat.adalet.gov.tr/</a><br><a href="http://www.adalet.gov.tr/">http://www.adalet.gov.tr/</a><br><a href="http://www.mevzuat.basbakanlik.gov.tr">www.mevzuat.basbakanlik.gov.tr</a> |
| <input type="checkbox"/> à la jurisprudence des hautes juridictions ? adresse Internet:                                   | <input checked="" type="checkbox"/> Oui | <a href="http://www.adalet.gov.tr/">http://www.adalet.gov.tr/</a>  |
| <input type="checkbox"/> à d'autres documents (par exemple le téléchargement de formulaires, l'enregistrement en ligne) ? | <input checked="" type="checkbox"/> Oui | <a href="http://www.hukukiyardim.gov.tr/index.html">http://www.hukukiyardim.gov.tr/index.html</a>  |

Commentaire :

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

- Oui  
 Non

Si oui, veuillez préciser:

**30) 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.

<http://www.hukukiyardim.gov.tr/index.html>

<https://vatandas.uyap.gov.tr/index.html>

<http://www.sms.uyap.gov.tr/>

**31) Existe-t-il des modalités favorables particulières applicables aux catégories de personnes vulnérables suivantes, au cours des procédures judiciaires. Si "autres personnes vulnérables" et/ou "autres modalités particulières", veuillez le préciser dans la boîte "commentaire" ci-dessous.**

**[Cette question ne concerne pas la phase d'investigation par la police et elle ne concerne pas l'indemnisation des victimes d'infractions traitée aux questions 32 à 34.]**

	Dispositif d'information	Modalités particulières pour les audiences	Autres
Victimes de viol	Oui	Oui	Oui
Victimes du terrorisme	Oui	Oui	Oui
Enfants (témoins ou victimes)	Oui	Oui	Oui
Victimes de violence domestique	Oui	Non	Oui
Minorités ethniques	Non	Non	Non
Personnes handicapées	Non	Oui	Oui
Délinquants mineurs	Oui	Oui	Non
Autres (par exemple, les victimes de la traite des êtres humains)	Oui	Oui	Oui

**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).

Judge of a family Court can ex officio take any of the measures stated in Article no. 4320 in the case that he/she is informed about an incident of family violence either by the members of the family in question, or by the public prosecutor's office. When taking that measure, the judge takes into account the nature of the matter. Applications made within the framework of the above mentioned law, and the proceedings carried out for the execution of the given judgement are not subject to any fee.

Under Article 234 of the Criminal Procedure Code, the victim and the complainant have the following rights:

a) At the stage of investigation: Submitting a request for collection of evidences; requesting copies of relevant documents from the public prosecutor, on the condition that no harm would be given to the privacy and objective of the investigation; requesting the assignment of a defense lawyer by the bar (if he/she has no lawyer), for the crimes of sexual abuse and the crimes entailing imprisonment not less than five years; having his/her lawyer examine the investigation documents and the articles confiscated and taken under protection; by following the procedure stipulated in the relevant law, taking an appeal against the public prosecutor's decision declaring that no prosecution is needed.

b) At the stage of prosecution: Being notified of the hearing; being present at the hearing of the criminal case in question; making a request through his/her lawyer to get copies of court records and documents; requesting the invitation of witnesses; requesting the assignment of a defense lawyer by the bar (if he/she has no lawyer), for the crimes of sexual abuse and the crimes entailing imprisonment not less than five years; taking an appeal against the final judgement of the court, on the condition that he/she is involved in the case. If the victim is under eighteen years old or he/she is deaf or dumb or disabled to express himself/herself, and has no lawyer, a lawyer shall be appointed for him/her without seeking his/her request. The above mentioned rights shall be declared and explained to the victim and complainant, and the fact that such explanation has been made shall be written in the court records.

According to Article 234 of the Criminal Procedure Code, if the victim is listened to as a witness, the provisions regarding the witnesses, except the oath, shall apply. The child or the victim who became mentally depressed as a result of the crime committed can be listened to as a witness only once during the stages of investigation or prosecution; however, the situations making it necessary to listen to them more than once for the uncovering of material facts are reserved. While listening to the children who are the victims of crime, or other victims who became mentally depressed as a result of the crime committed, an expert in the fields of psychology, psychiatry, medicine, or education shall be present. If the suspect is below 18 years old, the hearing shall be conducted in closed session.

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

Oui

Non

Si oui, pour quels types d'infractions

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, 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.

Criminal Procedure Code regulates the procedures like reconciliation, postponement of bringing a public action, delay of the declaration of the judgement, and imposing short-term sanction choices, as well as the termination of investigations or prosecutions through the compensation of the victims of crimes. Besides that, the victims of crimes can bring private law actions within the term defined in the law.

### **33) Si oui, cette procédure d'indemnisation consiste-t-elle en:**



- un dispositif public ?
- des dommages et intérêts à payer par la personne responsable (par décision du tribunal) ?
- un dispositif privé ?

**34) 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 le taux de recouvrement, le nom des études, la fréquence des études et l'organe responsable :

**35) 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.

Within the framework of the Child Protection law, there are duties assigned to the public prosecutor, such as: submitting a request to the relevant court for adoption of a decision for the protection of the victims of family violence (Law numbered 4320); sending notifications to the Social services and Child Protection Agency (its new name is the General Directorate of Services for Children-Ministry of Family and Social Policies) about the children in need of protection; and submitting requests for delivering the children in question to their parental guardians, and for the adoption of decisions for the protection and supporting of those children. Under Article 236, paragraph three of the Law numbered 5271, presence of an expert in the fields of psychology, psychiatry, medicine, or education is obligatory while listening to the children who are victims of crime, or other victims who became mentally depressed as a result of the crime committed.

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

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**Veillez vérifier la cohérence de votre réponse avec celle de la question 105 qui traite de la possibilité pour un procureur "de classer une affaire sans suite, sans avoir besoin d'obtenir une décision du tribunal".**

- Oui
- Non
- NAP (le procureur ne peut pas décider de classer une affaire de son propre chef. Une décision judiciaire est nécessaire)

Le cas échéant, 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

### 37) 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 ?

Le cas échéant, veuillez fournir des renseignements concernant la procédure d'indemnisation, le nombre d'affaires, le résultat des procédures et le dispositif actuel permettant de calculer le montant de l'indemnisation (par exemple, le tarif journalier pour une arrestation ou une condamnation injustifiée) :

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.

According to the Constitutional amendment made on the date of 12 September 2010, right of personal application to the Constitutional Court has been granted to the citizens in the cases of violation of fundamental rights and freedoms. It will also be possible to submit personal applications to the Constitutional Court regarding the prolongation of legal proceedings.

### 38) Votre pays a-t-il mis en place des enquêtes auprès des professionnels de la justice et des usagers des tribunaux pour mesurer leur confiance dans la justice et leur degré de satisfaction par rapport au service rendu ? (plusieurs options possibles)

- 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 parties
- enquêtes (de satisfaction) auprès d'autres usagers des tribunaux (par exemple jurés, témoins,

experts, interprètes, représentants des agences gouvernementales)

Enquêtes (de satisfaction) auprès des victimes

Si possible, veuillez préciser leurs titres, objets et sites internet où elles peuvent être consultées :

In the Strategic Plan of the Ministry of Justice (2010-2014), it is envisaged to conduct surveys aimed to measure the level of the feelings of trust and satisfaction towards the judicial system. The results of surveys made about the judges and prosecutors have not been published. In 2010, the Ministry of Justice conducted a survey to measure the trust and satisfaction of citizens towards the judicial system in general. Results of that survey have also not been published.

Turkish Statistical Institute conducts regular surveys on annual basis to measure the level of satisfaction of the citizens with the judicial services.

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

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

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

Oui

Non

**41) Veuillez préciser l'autorité compétente pour traiter de telles plaintes et informer si l'autorité doit ou ne doit pas respecter un délai pour répondre et/ou un délai pour traiter la plainte (plusieurs réponses possibles). Veuillez donner des informations sur l'efficacité de cette procédure de plainte dans la boîte "commentaire" ci-dessous.**

	Délai pour répondre (par exemple pour accuser réception de la plainte, pour informer des suites qui lui seront données, etc.)	Délai pour traiter la plainte	Pas de délais
Tribunal concerné	Non	Non	Non
Instance supérieure	Non	Non	Non
Ministère de la Justice	Oui	Oui	Non
Conseil supérieur de la magistrature	Non	Non	Non
Autres organisations extérieures (ex. médiateur)	Non	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

With the Constitutional amendment made on the date of 12 September 2010, the organization, functioning, and scope of duties of the High Council of Judges and Prosecutors (HCJP) have been redefined. Decisions about all the personal rights of judges and prosecutors, as well as their matters of assignment, transfer, promotion, and discipline are given by the HCJP. The Board of Inspection established within the body of the HCJP is responsible for carrying out inspections related with judges and prosecutors. The decisions about complaints filed against judges and prosecutors are also given by the HCJP.

According to the Law on the High Council of Judges and Prosecutors, which was amended on the date of 18 December 2010 following the Constitutional amendment, following are included among the duties of the Third Chamber of the HCJP: Having the Board of Inspection conduct inspections to check if the judges and prosecutors, including those who are members of the Board, carry out their duties in accordance with the laws, rules, regulations, and circulars (administrative circulars prepared for judges); examining the notifications and complaints submitted against judges and prosecutors, and doing the necessary about them; making inquiries about judges and prosecutors through the inspectors of the Inspection Board, or through senior judges or prosecutors having the powers of inspectors, to see if the judges and prosecutors commit offenses due to their duties or while fulfilling their duties and if their manners and actions comply with their status and duties; and if necessary, submitting proposals for starting proceedings and investigations against them.

The documents of investigation are prepared after the permission given by the Third Chamber of the HCJP for conduction of investigations about certain judges and prosecutors as a result of the complaints submitted against them, or the routine inspections made by the Justice Inspectors. Those documents are sent to Discipline Office within the body of the Second Chamber of the HCJP.

The above mentioned office may take a decision to cancel the file of investigation about the judges and prosecutors concerned, or to receive their final defenses for disciplinary reasons after the permission is provided for their prosecution. If it is not found necessary to provide permission for starting a prosecution about certain actions of those judges and prosecutors, then their written defense can still be decided to be received for disciplinary reasons. If permission is provided for starting prosecution about the judges and prosecutors concerned, and if the decision about them is finalized at the end of prosecution, a decision will be taken by the Second Chamber of the HCJP about the disciplinary punishment to be given to them, after receiving their final defenses.

If no request is submitted by the concerned individuals for the review of the decisions given by the Second Chamber of the HCJP, those decisions become finalized at the end of the legal period of 10 days following their date of notification to the concerned individuals. If a request is submitted for the review of the decisions, but no objection is submitted against the decisions of the Second Chamber, then those

decisions become finalized at the end of the legal period of 10 days following their date of notification to the concerned individuals. If an objection is submitted against the decisions of the Second Chamber, then those decisions become finalized at the date the General Council gives its decision about the objection.

### 3. Organisation des tribunaux

#### 3. 1. Fonctionnement

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

**42) Nombre de tribunaux considérés comme entités juridiques (structures administratives) et implantations géographiques. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

	Nombre total
42.1 Tribunaux de droit commun de 1ère instance (entités juridiques)	4 298
42.2 Tribunaux spécialisés de 1ère instance (entités juridiques)	1 437
42.3 Tous les tribunaux (implantations géographiques) (ce chiffre inclut les tribunaux de droit commun de 1ère instance, les tribunaux spécialisés de 1ère instance, tous les tribunaux de seconde instance et cours d'appels et toutes les cours suprêmes)	750

**43) Nombre (entités juridiques) de tribunaux spécialisés (ou ordre judiciaire spécifique) de 1ère instance. Si "autres tribunaux spécialisés de 1ère instance", veuillez donner des précisions dans la boîte "commentaire" ci-dessous. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

Total (il doit correspondre au nombre indiqué à la question 42.2)	1 437
Tribunaux commerciaux	62
Tribunaux du travail	157
Tribunaux des affaires familiales	177
Tribunaux des affaires locatives (tribunaux des baux)	NA
Tribunaux de l'exécution des sanctions pénales	14
Tribunaux administratifs	91
Tribunaux des assurances et/ou de la sécurité sociale	NA
Tribunaux militaires	32
Autres tribunaux spécialisés de 1ère instance	1 027

Commentaire :

The figure of 1027 given above about other specialized first instance courts covers 11 juvenile high criminal courts, 60 juvenile courts, 20 high criminal courts operating under article 250 of the Code of

Criminal Procedure, 23 Criminal/Civil Courts for intellectual and industrial property rights, 22 consumer courts, 695 land registration courts, 195 enforcement courts, and 1 maritime specialized court. Administrative courts are not specialized courts, and they are included as first instance administrative courts in the general total number of courts within our judicial system.

High criminal courts, civil courts of first instance, criminal courts of first instance, peace courts of civil jurisdiction, peace courts of criminal jurisdiction, regional administrative courts, administrative courts, and tax courts are considered among the courts of first instance of general jurisdiction.

At the places where there is no labor court, commercial court, family court, consumer court, Civil Court for intellectual and industrial property rights, and civil enforcement court, the duties of those courts are assumed by civil courts of first instance.

At the places where there is no criminal enforcement court, juvenile criminal court, and criminal court for intellectual and industrial property rights, the duties of those courts are assumed by criminal courts of first instance.

Among the courts of first instance of general jurisdiction and the specialized courts, those which were already established during the previous term are shown. However, the fact that a court is established does not mean that it is operating. As of the end of the year 2010, the number of established courts (total number of the courts of general jurisdiction, and the first instance specialized courts) was 5934. The figures given above show only the number of courts in operation. That accounts for the difference with the previous term.

When the number of courts shown in the table are added, a total number of 1560 is found. However, the figure of 1437 stated by us does not include the numbers of military courts and administrative courts. We have excluded the said courts on the grounds that the military courts constitute a separate branch of the judicial system in Turkey, and that the administrative courts are not considered as specialized courts, but they are considered as first instance general (administrative) courts. Therefore, 1437 is the number of courts which are considered as specialized courts within our judicial system.

Since the military judicial system is organized as a separate branch of the judiciary in our country, number of military courts are shown, but it is not included in the general total number of courts.

**44) 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 :

1-) According to article 13 and provisional article 3 of the Law numbered 6110, which amended Article 5, paragraph two of the Law numbered 5235 on the Organization, Duties, and Powers of Courts of Original Jurisdiction and the Regional Courts of Justice as "peace courts of civil jurisdiction, civil courts of first instance, and commercial courts of first instance are courts having single judge", the commercial courts which previously had 3 judges, have started to operate as single-judge courts as from the date of 25 July 2011.

2) Article 2, paragraph 1 of the law numbered 6100 (Code of Civil procedure) bearing the title of "duties of the civil courts of general jurisdiction" has been amended as "the court of jurisdiction in the cases about property ownership rights and the cases about immaterial rights (without taking into consideration the value and amount of the subject of the case) is the civil court of general jurisdiction, unless regulated otherwise". In accordance with that provision, scope of duties of the civil courts of general jurisdiction has been enlarged, and the legal regulation in that regard has come into force as from the date of 01 October 2011.

**45) Nombre de tribunaux de 1ère instance (implantations géographiques) compétents pour les affaires suivantes. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

Nombre de tribunaux	
le recouvrement d'une petite créance.	854
le licenciement	939
le vol avec violence	259

**Veuillez préciser la définition d'une petite créance et indiquer le montant financier en dessous duquel une créance est considérée comme telle :**

The receivables up to 3492 euro (7230 TL) are considered as minor receivables, and the cases related with them can be heard by the civil courts of peace.

**Veuillez indiquer les sources utilisées pour les réponses aux questions 42, 43 et 45 :**

Q42#1#3 : The 2008 data included only the number of court buildings. However, the figures stated for the year 2010 is the total number of the judicial and administrative service buildings, as well as the buildings of high courts.

Q45#1#3 : As a result of the evaluation made in the previous period (2008), it was concluded that the crime of theft covers all kinds of thefts, including those which do not involve an act of violence, and based on that conclusion, criminal courts of peace and criminal courts of first instance were also included in the total number of courts which are competent in the cases of theft. However, the 2010 data covers only the number of high criminal courts (including the juvenile high criminal courts) dealing with merely the cases of theft which involve an act of violence, and which are generally defined as robbery in the criminal law, as well as the number of high criminal courts having jurisdiction in accordance with article 250 of the Code of Criminal Procedure.

Sources : Ministry of National Defense  
High Council of Judges and Prosecutors  
General Directorate of Personnel Affairs

### 3. 1. 2. Juges et personnels non-juges

**46) Nombre de juges professionnels siégeant en juridiction (si possible au 31 décembre 2010)**

**(veuillez fournir l'information en équivalent temps plein et pour des postes permanents effectivement occupés, pour tous les types de juridictions confondus – droit commun et spécialisées). Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

**Veuillez ajouter dans la boîte "commentaire" ci-dessous toute information utile à l'interprétation des données ci-dessus.**

\*\*\*\*\*

**[Veuillez vous assurer que les procureurs et leurs personnels sont exclus des réponses suivantes (ils sont concernés par les questions 55-60). Si la distinction entre personnels attachés aux juges et personnels attachés aux procureurs n'est pas possible, merci de l'indiquer clairement.**

**Veuillez indiquer le nombre de postes effectivement pourvus à la date de référence et non pas les effectifs budgétaires théoriques.]**

	Total	Hommes	Femmes



Nombre total de juges professionnels (1 + 2 + 3)	7727	5280	2447
1. Nombre de juges professionnels de première instance	7450	5091	2359
2. Nombre de juges professionnels dans les cours d'appel (2ème instance)	NA	NA	NA
3. Nombre de juges professionnels dans les cours suprêmes	277	189	88

**Commentaire :**

Number of judges working at the first instance courts are as follows:

Judges of judicial courts: 5286

Judges of administrative courts: 952

Investigation judges of the court of cassation: 561

Investigation judges of the council of state: 250

Judges working at the Ministry: 384

Rapporteur judges working at the Constitutional court: 17

Members of the court of cassation : 198

Members of the council of state : 79

5 judges working at the Turkish Academy of Justice, 5 judges working at the General Directorate of Prisons and Detention Houses, and the 5 judges working at the Personnel Training Centers have not been included in the total number given above.

The figures given about high courts also include the presidents of those courts.

Since the military judicial system is organized as a separate branch of the judiciary in our country, the figures related with the military judicial system have not been included in the general total. Totally 210 judges are working at the military courts; 157 at first instance courts (155 male-2 female), and 53 at high courts (all of them are male).

there are very important variation between 2006 and 2010. The reason is, in 2006 and 2008, all non-judge staffs were written as court staff and prosecutor offices staff exluding only technical staff. In other words, there were no seperation between court staff and prosecutor office staff. But, in 2010, we seperated court staff from prosecutor office staff, that is why a decrease can be observed in the table. can you write a comment accordingly.

(cf CN 12/07)

**47) Nombre de présidents de tribunaux (juges professionnels). Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

	Total	Hommes	Femmes
Nombre total de juges professionnels (1 + 2 + 3)	325	305	20
1. Nombre de président(e)s de tribunaux de première instance	322	302	20
2. Nombre de président(e)s de cours d'appel (2ème instance)	NA	NA	NA
3. Nombre de président(s) de cours suprêmes	3	3	0

**48) Nombre de juges professionnels exerçant à titre occasionnel et rémunérés comme tel (si possible au 31 décembre 2010). Si nécessaire, veuillez indiquer dans la boîte "commentaire" ci-dessous toute information utile pour l'interprétation de la réponse à la**

**question 48.**

Donnée brute NAP  
 Si possible, donnée en équivalent temps plein NAP

Commentaire :

**49) Nombres de juges non professionnels, non rémunérés, percevant, le cas échéant, un simple défraiement (si possible au 31 décembre 2010) (y compris les "lay judges" et juges consulaires ; les arbitres et les jurés sont exclus de cette donnée).**

Donnée brute NAP

**50) 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) ?

**51) Veuillez indiquer le nombre de citoyens ayant participé à de tels jurys pour l'année de référence :**

NAP

**52) Nombre de personnel non-juge travaillant dans les tribunaux (si possible au 31 décembre 2010) (cette donnée ne devrait pas inclure le personnel travaillant pour les procureurs, voir question 60) (répondre en équivalent temps plein et pour les postes permanents effectivement occupés). Si « autres personnels non juges », veuillez le préciser dans la boîte "commentaire" ci-dessous.**

Nombre total de personnel non juge travaillant dans les tribunaux (1 + 2 + 3 + 4 + 5)	<input checked="" type="checkbox"/> Oui	22011
1. Rechtspfleger (ou organes équivalents) chargés de tâches juridictionnelles ou para-juridictionnelles, ayant des compétences autonomes et dont les décisions peuvent être susceptibles de recours.		NAP
2. Personnels non juges chargés d'assister les juges à l'instar des greffiers (préparation des dossiers, assistance à l'audience, tenue des procès verbaux, aide à la préparation de la décision)	<input checked="" type="checkbox"/> Oui	20366
3. Personnels chargés de tâches relatives à l'administration et la gestion des tribunaux (gestion des ressources humaines, gestion des moyens matériels y compris de l'informatique, gestion financière et budgétaire, gestion de la formation)	<input checked="" type="checkbox"/> Oui	511
4. Personnels techniques	<input checked="" type="checkbox"/> Oui	692
5. Autres personnels non juges	<input checked="" type="checkbox"/> Oui	442

Commentaire :

Other Staff who are not judges, mentioned in the fifth item, show the number of staff working as

psychologist, pedagogue, and social worker at family courts, juvenile courts, and juvenile high criminal courts.

In our judicial system, there is no job title as the “court staff” or “prosecution office staff”. At the places where high criminal courts exist, all of the staff are assigned by justice commissions, by way of appointing those staff to the courts and prosecution offices. According to the needs, the places of appointment can be changed by the justice commission within its jurisdiction. For that reason, no distinction is made as “court staff” and “prosecution office staff” within our judicial system. Therefore, such a distinction is made only in general sense, in order to give an idea.

Since the military judicial system is organized as a separate branch of the judiciary in our country, the figures related with the military judicial system have not been included in the general total. The total number of such staff working in the military is 135.

Q52#2#3 : In the 2008 report, the figure was given high, due to the fact that all of the staff, with the exclusion of technical staff, was shown as the court staff. However, in the 2010 data, only the total number of staff actually assisting the judges were given, with an intention to reflect the real situation. On the other hand, it should be noted that in our judicial system, the positions of court staff/prosecution office staff have a flexible nature. At the places where high criminal courts are located, those staff are appointed to the courts and prosecution offices by the local justice commissions, by taking into account the staff needs of those courts/prosecution offices. According to the needs, places of appointment of those staff can be changed by the justice commissions, within their areas of jurisdiction. For that reason, it is very difficult to make a distinction between the court staff and the prosecution office staff.

Q52#2#5 : When preparing the 2010 data, it was intended to determine the number of staff actually working at the technical units. A general increase have happened in the number of such staff. The figures pertaining to the year 2008 also cover the numbers of staff like sociologists, pedagogues, psychologists, etc., who can be considered as technical staff.

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

In our judicial system, there is no Rechtspfleger.

**54) Les tribunaux ont-ils délégué certains services, relevant de leur compétence, à un service privé (par exemple, la maintenance informatique, la formation continue du personnel, la sécurité, les archives, le nettoyage)**

Oui

Non

Si oui, veuillez préciser :

The courts have recently started to assign specific tasks within their jurisdiction (for instance, the services of information technologies, personnel training, security, archives, cleaning, etc.) to private service providers.

Under the law numbered 4734, private companies have been started to be employed to provide security services for the large courthouses operating at closed areas. In the first step, the security services needed at the newly built İstanbul Palace of Justice have been awarded to a private company as a result of the tender opened. It is aimed to open such tenders also for other large courthouses.

In most of the courthouses, the cleaning services are fulfilled by way of buying such services from private companies.

**C.1**

**Vous pouvez indiquer ci-dessous :**

- tout commentaire utile à 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

In both the Judicial Reform Strategy, which was submitted to the European Union in 2009, and the Strategic Plan (2010-2014) of the Ministry of Justice, certain aims and objectives have been established for increasing the effectiveness and efficiency of the judicial system; such as increasing the numbers of judges-prosecutors and the auxiliary staff to the level of international standards. In the studies carried out in that framework, the above-mentioned two reference documents are taken as basis.

Since the military judicial system is organized as a separate branch of the judiciary in our country, the figures related with the military judicial system have not been included in the general total. Within the military judicial system, there are totally 41 court presidents; 32 of them working at the courts of first instance (30 male-2 female), and 9 working at high courts (all of them are male).

Supplemental interpretation of question 42:

The figures given in 42.3 are showing the total numbers of the service buildings of judicial justice and administrative justice, as well as the buildings of the Court of Cassation, the Council of State, and the Constitutional Court in the year 2009.

Supplemental interpretation of question 45:

The cases of dismissal from jobs are dealt with by the labor courts. At the places where there is no labor court, such cases are heard by civil courts of general jurisdiction. Therefore, of the figure given above, 157 are labor courts.

As a result of the evaluation made during the previous term about the incidents of theft through violence, it was concluded that the scope of the crime in question should also cover other forms of theft which do not involve violence. Therefore, the criminal courts of peace and the criminal courts of general jurisdiction have also been included in the total figure. However, for the current term, only the numbers of the courts dealing with crimes of theft involving violence have been given. Those courts are the high criminal courts (including the juvenile high criminal courts), and the high criminal courts functioning under article 250 of the Code of Criminal Procedure.

Supplemental interpretation of question 47

The term "presidents of first instance courts" are used for the presidents of High Criminal Courts, Commercial Courts, Administrative Courts, and Regional Administrative Courts. In the said courts, cases are heard by court boards. However, following the amendment made in the relevant law in 2011, the Commercial courts became single-judge courts.

Heads of the chambers of the Court of Cassation and the Council of State are called as the Presidents of High Courts.

On the other hand, there are Justice Commissions within our judicial organization. At the places where high criminal courts exist, the justice commissions of the first instance courts of judicial justice consist of judges (a president, one full member and one associate member to be nominated by the High Council of Judges and Prosecutors) and the regional public prosecutor. At the places where regional administrative courts exist, justice commissions of the administrative justice consist of judges of administrative courts (under the presidency of the regional administrative court president, there will be two full members and one associate member to be nominated by the High Council of Judges and Prosecutors). Those commissions are responsible for the assignment of the staff to work at the courthouses within the area of jurisdiction. There are totally 162 commission presidents; 134 being presidents of judicial justice commissions, and 28 being presidents of administrative justice commissions.

Question 46: in Turkey there is no a chief judge/justice responsible for all administrative issues in court jurisdiction. On the other hand, there are 134 first instance civil justice commissions and 25 administrative justice commissions, totaly 159, which are responsible for administrative matters in their jurisdiction.

(cf CN 12/07)

**Veillez indiquer les sources utilisées pour les réponses aux questions 46, 47, 48, 49 et 52**

Ministry of National Defense  
High Council of Judges and Prosecutors  
General Directorate of Personnel Affairs

## 3. 1. 3. Procureurs et personnel

**55) Nombre de procureurs au 31 décembre 2010 (veuillez fournir l'information en équivalent temps plein et pour des postes permanents effectivement occupés, auprès de tous les types de juridictions confondus – droit commun et spécialisées). Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP. Veuillez ajouter dans la boîte "commentaire" ci-dessous toute information utile à l'interprétation des données.**

	Total	Hommes	Femmes
Nombre total de procureurs (1 + 2 + 3)	4 241	3 936	305
1. Nombre de procureurs auprès des tribunaux de première instance	4 017	3 757	260
2. Nombre de procureurs auprès des cours d'appel (2ème instance)	NA	NA	NA
3. Nombre de procureurs auprès des cours suprêmes	224	179	45

Commentaire :

Interpretation

Following are included in the number of prosecutors working at first instance courts:

Prosecutors of the courts of original jurisdiction: 4017

Prosecutors of the Court of Cassation: 170

Prosecutors of the Council of State: 54

Due to the fact that intermediate courts of appeal have not yet been started to operate in the year 2010, no judge has been appointed to those courts.

Since the military judicial system is organized as a separate branch of the judiciary in our country, the figures related with the military judicial system have not been included in the general total. Totally 152 judges are working at the military courts; 138 at first instance courts (135 male-3 female), and 14 at high courts (13 male-1 female).

**56) Nombre de chefs des ministères publics. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP. Veuillez ajouter dans la boîte "commentaire" ci-dessous toute information utile pour l'interprétation des données.**

	Total	Hommes	Femmes
Nombre total de chefs de ministères publics (1 + 2 + 3)	205	205	0
1. Nombre de chefs de ministères publics auprès de tribunaux de première instance	203	203	0
2. Nombre de chefs de ministères publics auprès des cours d'appel (2ème instance)	NA	NA	NA
3. Nombre de chefs de ministères publics auprès des cours suprêmes	2	2	0

Commentaire :

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

- Oui  
 Non

Nombre (en équivalent temps plein)

**58) Si oui, veuillez préciser leurs noms et fonctions :****59) Si oui, est-ce que leur nombre est inclus dans le nombre de procureurs que vous avez indiqué à la question 55 ?**

- Oui  
 Non

**60) Nombre de personnels (non procureurs) rattachés au ministère public (si possible au 31 décembre 2010) (sans le nombre de personnels non juges, v. question 52) (répondre en équivalent temps plein et pour les postes permanents effectivement pourvus)**

Nombre  Oui 13 023

**C.2**

**Vous pouvez indiquer ci-dessous :**

- tout commentaire utile à 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

Since the military judicial system is organized as a separate branch of the judiciary in our country, the figures related with the military judicial system have not been included in the general total. Totally 34 chief prosecutors are working at the military courts; 32 at first instance courts (31 male-1 female), and 2 at high courts (13 male-1 female). Total number of the staff assigned within the system of prosecution is 155.

Supplemental interpretation of question 60:

In the CEPEJ report pertaining to the year 2008, when calculating the number of staff working at the prosecution office other than prosecutors, the number of prosecution Office staff working in units other than those dealing with administrative affairs (i.e. those working in units where judicial proceedings are carried out) was included in the number of court staff. On the other hand, the number of staff working at the prosecution Office was calculated in terms of those dealing with administrative issues (human sources management, material and equipment management to include also the computer systems, finance and budget management, and management of training). The conflict between the numbers is thought to have arisen due to the fact that the number of above mentioned prosecution Office staff was included in the number of staff working at the court. The number of staff calculated as of the date of 31 December 2010 is shown above.

**Veillez indiquer la source des réponses aux questions 55, 56 et 60**

High Council of Judges and Prosecutors  
 Ministry of justice, General Directorate of Personnel Affairs  
 Ministry of defense

[3. 1. 4. Budget du tribunal et nouvelles technologies](#)

**61) Quelles instances possèdent des compétences budgétaires au sein des tribunaux ? Si**

"autre", veuillez le préciser dans la boîte "commentaire" ci-dessous.

	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

Commentaire :

DEPARTEMENT OF STRATEGY DEVELOPMENT (MoJ)

- Preparation of Budget

- Distribution of allocated allowances

Approval of condensed allowances

CHIEF PUBLIC PROSECUTOR OFFICES

Spending allowance

CHAIRMANSHIPS OF REGIONAL ADMINISTRATIVE AND ADMINISTRATIVE COURT

- Spending Allowance

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

Traitement de texte	100% of courts
Base de données électronique pour la jurisprudence	100% of courts
Dossiers électroniques	100% of courts
E-mail	100% of courts
Connexion internet	100% of courts

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

Enregistrement des affaires	100% of courts
Système d'information sur la gestion du tribunal	100% of courts
Système d'information financière	+50% of courts
Vidéoconférence	-50% of courts

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

Formulaire électronique	0 % of courts
Site internet	100% of courts
Suivi électronique des affaires	100% of courts

Registres électroniques	100% of courts
Recouvrement électronique d'une petite créance	0 % of courts
Recouvrement électronique d'une créance non contestée	0 % of courts
Dépôt d'un recours depuis un poste informatique	+50% of courts
Vidéoconférence	-50% of courts
Autres moyens de communication électronique	0 % of courts

**65) L'utilisation de la vidéoconférence dans les tribunaux (détails de la question 65). Veuillez indiquer dans la boîte "commentaire" ci-dessous toute précision sur le cadre juridique et le développement de la vidéoconférence dans votre pays.**

	65.1 En matière pénale, les tribunaux et les parquets ont-ils recours à la vidéoconférence pour des auditions de prévenus ou de témoins ?	65.2 Ces auditions par le juge / le procureur peuvent-elles avoir lieu dans les services de police ou/et les établissements pénitentiaires ?	65.3 Existe-t-il une législation spécifique sur les conditions d'utilisation de la vidéoconférence par les tribunaux ou les parquets, en particulier pour préserver les droits de la défense ?	65.4 La vidéoconférence est-elle utilisée en matière autre que pénale ?
	Oui	Non	Oui	Non

Commentaire :

Within the framework of the Better Access to Justice Project, which is carried out with the support of European Union, Audio and Visual Recording Equipment and Video Conference System has been put into operation.

By using the Audio and Visual Recording Equipment and Video Conference System, it was aimed to perform audio and visual record of the hearings conducted at 133 Heavy Penalty Centers and 225 High Criminal Courts of Special Jurisdiction, and to ensure live discussion of the issues between different courts through synchronous communication system. The system, which was set up at 133 Heavy Penalty Centers and 225 High Criminal Courts and juvenile high criminal courts, is currently being used by some of the courts. Studies for ensuring the effective utilization of the system are going on.

Under articles 52, 58, 180, 196, and 219 of the criminal procedure Law (Law numbered 5271), some legal arrangements are made for interrogating the individuals by using the audio-visual communication techniques, and for recording the hearings. The details related with those arrangements have been stipulated in the regulations. The "Regulations on the Utilization of Audio-Visual Communication System in Criminal Procedures" have come into force after its publication in the Official Gazette dated 20 September 2011.

### C.3

**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. Performance et évaluation

### 3. 2. 1. Performance et évaluation

**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 :

Ministry of Justice General Directorate of Criminal records and Statistics:

www.adliscil.adalet.gov.tr

**67) Les tribunaux individuels doivent-ils établir un rapport annuel d'activités (qui présente par exemple le nombre d'affaires traitées, d'affaires en instance, le nombre de juges et de personnels administratifs, les objectifs à atteindre et un bilan d'évaluation) ?**

 Oui Non

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

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**Le système de suivi des activités vise à contrôler l'activité quotidienne des tribunaux (en particulier la production des tribunaux) notamment au travers de collectes de données et d'analyses statistiques (v. aussi les questions 80 et 81).**

 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 ?

Si 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)

A lot of data which can form the basis of statistical information are kept within the scope of National Judicial Network Project (UYAP) Information System. In that framework, it can be possible to receive reports about personel status of the judicial organs, types of the most frequently filed lawsuits, classification of criminals by age and sex, etc.

However, those data should be modelled in a way to be made suitable for using in the preparation of statistical information. It is possible for everyone to visit the address of [vatandas.uyap.gov.tr/istatistik](http://vatandas.uyap.gov.tr/istatistik), in order to see the number of cases and the judicial workload.

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

-----

**Le système d'évaluation concerne la performance des systèmes judiciaires, incluant une vision à plus long terme et utilisant des indicateurs et des objectifs. Cette évaluation peut avoir une nature plus qualitative (v. questions 69-77). Elle ne concerne pas l'évaluation**

**globale du (bon) fonctionnement des tribunaux (v. question 82).**

- Oui  
 Non

Veillez 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

Through the amendments made in certain articles of the Constitution of the Republic of Turkey following the constitutional referendum held on 12 September 2010, changes have been made in the organizational structure of the High Council of Judges and Prosecutors (HCJP), as well as the way of assignment and the duties of its members. In that framework, and Inspection Board was established within the body of the HCJP to carry out inspections and disciplinary proceedings related with the judges and prosecutors. The duty of inspecting the judges and prosecutors, which was previously being carried out by the Ministry of Justice Inspection Board, has been assumed by the Inspection Board of HCJP

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

- Oui  
 Non

**71) Veuillez préciser les 4 principaux indicateurs de performance et de qualité qui ont été définis :**

- 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

Si autre, veuillez préciser :

**72) Existe-t-il des objectifs quantitatifs de performance (par exemple un nombre d'affaires à traiter par mois) pour chaque juge ?**

- Oui
- Non

**73) Veuillez préciser qui fixe les objectifs individuels des juges :**

- 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).

**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 les objectifs des tribunaux :**

- 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 appliqués aux tribunaux:**

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 la performance des tribunaux (v. questions 69 à 76) (réponses multiples possible):**

- 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 définis pour l'ensemble du système judiciaire (existe-t-il un système de qualité et/ou une politique de qualité de la justice) ?**

- 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 standarts 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 de ces standards de qualité ?**

- Oui  
 Non

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

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

**81) Disposez-vous d'une procédure d'évaluation permettant 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 globale du (bon) fonctionnement des tribunaux basé sur un plan d'évaluation (calendrier de visites) convenu a priori?**

-----

**Cette question ne concerne pas l'évaluation spécifique d'indicateurs de performance.**

- Oui  
 Non

Veuillez préciser la fréquence de l'évaluation:

Please specify (including an indication of the frequency of the evaluation):

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.

Through the amendments made in certain articles of the Constitution of the Republic of Turkey following the constitutional referendum held on 12 September 2010, changes have been made in the organizational structure of the High Council of Judges and Prosecutors (HCJP), as well as the way of assignment and the duties of its members. In that framework, and Inspection Board was established within the body of the HCJP to carry out inspections and disciplinary proceedings related with the judges and prosecutors. The duty of inspecting the judges and prosecutors, which was previously being carried out by the Ministry of Justice Inspection Board, has been assumed by the Inspection Board of HCJP

Regulations on the Inspection Board and its annex (inspection guide and its annexes), which were issued by the High Council of Judges and Prosecutors, have been put into implementation. The Inspection Guide, which was prepared in a way to be based on the evaluation of performance, is followed in all the inspections.

### **83) Existe-t-il une procédure régulière 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. Through the amendments made in certain articles of the Constitution of the Republic of Turkey following the constitutional referendum held on 12 September 2010, changes have been made in the organizational structure of the High Council of Judges and Prosecutors (HCJP), as well as the way of assignment and the duties of its members. In that framework, and Inspection Board was established within the body of the HCJP to carry out inspections and disciplinary actions related with the judges and prosecutors. The duty of inspecting the judges and prosecutors, which was previously being carried out by the Ministry of Justice Inspection Board, has been assumed by the Inspection Board of HCJP. Regulations on the Inspection Board and its annex (inspection guide and its annexes), which were issued by the High Council of Judges and Prosecutors, have been put into implementation. The Inspection Guide, which was prepared in a way to be based on the evaluation of performance, is followed in all the inspections.

#### **C.4**

**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 formeryears 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.

The courts are carrying out all their proceedings through the UYAP Information System by applying e-signatures. While carrying out those proceedings, the necessary data are entered to the UYAP System. In that way, the information and documents belonging to courts are stored in a secure central system. The information that will be needed for monitoring and evaluation of the courts can be found in the system.

Q67: The annual activity report prepared by individual court are not including all the categories specified in the question. They are including only the number of cases processed and pending cases.

## 4. Procès équitable

### 4. 1. Principes

#### 4. 1. 1. Informations générales

**84) Pourcentage de jugements par défaut de première instance en matière pénale (affaires dans lesquels le suspect n'est ni présent ni représenté par un professionnel juridique durant l'audience) ?**

11

**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):

640

**86) Nombre d'affaires relatives à l'Article 6 de la Convention Européenne des Droits de l'Homme (durée et non-exécution). Si la donnée n'est pas disponible, veuillez 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)	2	31	50	0
Procédures civiles - Article 6§1 (non-exécution)	1	1	6	0
Procédures pénales - Article 6§1 (durée)	0	15	33	0

**Veuillez préciser les sources :**

Ministry of Justice, Department of Information Technologies

Ministry of foreign Affairs

#### D.1

**Vous pouvez indiquer ci-dessous tout commentaire utile à l'interprétation des données indiquées dans ce chapitre**

Supplement to question 84: Total number of suspects named in the files which were submitted to courts for judgement in the year 2010 was 1.640.497, and the number of suspects who did not appear during the last session of the court and who did not have a defense lawyer was 145.937. Starting from those figures, the ratio of 145.937 / 1.640.497 can be found as 11.25%. Due to the fact that in one file there can be more than one suspect and more than one defense lawyer, the figures were given not on the basis of files, but on the basis of individuals.

### 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 ?
- il n'y a pas de procédure spécifique

Si oui, 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.

Civil cases: Adoption of a decision of temporary injunction in order to protect the ownership rights or receivables of the complainant, submission of a request to the court for the determination of evidences before bringing an action, and the cautionary attachment implemented in order to take the pecuniary receivables under guarantee.  
Administrative cases: stay of execution of the administrative decisions, in order to avoid damages which are hard or impossible to compensate,  
Criminal cases: the circumstances which are considered to cause harms in the case of delay, the circumstances covered within the scope of Law numbered 5395 on the Protection of Children, and the circumstances covered within the scope of Law numbered 4320 on the Protection of Family.

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

- en matière civile (petits litiges) ?
- en matière pénale (petites infractions) ?
- en matière administrative ?
- il n'y a pas de procédure simplifiée

Si oui, 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.  
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 accordés aux avocats pour soumettre leurs conclusions et des dates d'audience) ?**

- Oui
- Non

Si oui, veuillez préciser :

#### **4. 2. 2. La gestion des flux d'affaires et la durée des procédures judiciaires**

#### **90) Note:**

**Les correspondants nationaux sont invités à faire particulièrement attention à la qualité des réponses aux questions 91 à 102 concernant la gestion des flux d'affaires et la durée des procédures judiciaires. La CEPEJ a convenu que les données correspondantes ne seront traitées et publiées que dans la mesure où un nombre significatif d'Etats membres – tenant compte des données présentées dans le précédent rapport – y aura répondu, permettant une comparaison utile entre les systèmes.**

**91) Tribunaux de 1ère instance : nombre total d'affaires "autres que pénales". Si la donnée n'est pas disponible, indiquer NA. Si la situation n'est pas applicable dans votre pays, indiquer NAP.**

**Note 1: les affaires des catégories 3 à 5 (exécution, registres foncier et du commerce) doivent être présentées séparément dans le tableau. Les affaires de la catégorie 6 (administratives) doivent aussi être mentionnées séparément pour les pays disposant de tribunaux spécialisés, ayant des procédures spécifiques de droit administratif ou capables de distinguer affaires administratives et affaires civiles.**

**Note 2: vérifier la cohérence horizontale et verticale des données fournies. La cohérence horizontale des données signifie: "(affaires pendantes au 1er janvier 2010 + nouvelles affaires) – affaires terminées" doit correspondre au nombre d'affaires pendantes au 31.12.2010. La cohérence verticale des données signifie que la somme des catégories 1 à 7 doit correspondre au total des affaires "autres que pénales".**

	Affaires pendantes au 1 janvier 2010	Nouvelles affaires	Affaires terminées	Affaires pendantes au 31 décembre 2010
Nombre total d'affaires "autres que pénales" (1+2+3+4+5+6+7) *	1 187 929	2 302 157	2 186 311	1 303 775
1. Affaires civiles (et commerciales) contentieuses (si possible sans les affaires administratives, v. catégorie 6)*	NA	NA	NA	NA
2. Affaires civiles (et commerciales) non contentieuses, par exemple des créances incontestées, de requêtes en changement de nom, etc. (si possible sans les affaires administratives ; sans les affaires relatives à l'exécution et/ou à un registre et/ou autres affaires, v. catégories 3-7)*	NA	NA	NA	NA
3. Affaires relatives à l'exécution	74 312	233 416	242 028	65 700
4. Affaires relatives au registre foncier**	70 900	44 326	44 107	71 119
5. Affaires relatives au registre du commerce**	NA	NA	NA	NA
6. Affaires administratives (contentieuses et non contentieuses)	160 444	424 789	386 884	198 349
7. Autres affaires (par exemple affaires relatives au registre d'insolvabilité)	882 273	1 599 626	1 513 292	968 607

**92) Si les tribunaux traitent des "affaires civiles (et commerciales) non contentieuses", veuillez indiquer les catégories incluses :**

Decision of protection according to Law numbered 2828  
 Permission for marriage  
 Cancellation of the waiting period  
 Provisional Injunction  
 Determination  
 Child Adoption  
 Arrangement of bankruptcy  
 Complaint for non-seizability  
 Request for getting Certificate of Inheritance  
 Permission for marriage at the end of waiting period  
 Permission for marriage at early age  
 Permission for Marriage under Interdiction  
 Permission for marriage in Absence

Tutorship  
 Designation of Oath  
 Complaint  
 Bankruptcy  
 Coming of Age  
 Determination of Ownership

Request for the Correction of Sex

Registration of a deedless real estate (brought by the Treasury)  
 Assignment of a trustee  
 Birth registers  
 Return and Storage of the bank letter of guarantee  
 Cancellation of the registration of foundation voucher  
 Foundation voucher registration  
 Assignment of a trustee (actions brought by individuals)  
 Assignment of apartment building manager(propertyownership)  
 Issue of certificate of lost  
 Request for determination  
 Disclaimer of inheritance  
 Assignment of representative to the community of heirs  
 Assignment of a trustee to the heir in debt  
 Recusation/Abstention of the judge  
 Determination of evidence  
 Postponement of bankruptcy  
 Cancellation of a cheque (without an adversary)  
 Cancellation of negotiable instruments due to their lost  
 Addition of day and month to the year of birth  
 Cancellation of death register  
 Cancellation of negotiable instruments  
 Notarial attestation of boks  
 Protection of the properties of children  
 Permission for sales (tutorship)  
 Correction/changing of the names of parents  
 Cancellation of the decision of protection  
 Dismissal of thr trustee  
 Cancellation of the register of religion  
 Complaint about the conduct of the bailiff  
 Changing of the trustee  
 Correction of the place of birth

Decision of protection according to the Law numbered 5395  
 Permission for hostility  
 Closing the bankruptcy  
 Cancellation of promissory notes  
 Notary certification  
 Determination of Equity Capital  
 Approval of the Inspection Authority  
 Cancellation of the duplicate record  
 Requesting the approval of parents  
 Permission for hostility (Turkish Civil Code MK 462/8)  
 Permission for sales  
 Request for determination of the death of a person who seems alive in the records

**93) Si "autres affaires", veuillez indiquer les catégories incluses :**

**94) Tribunaux de 1ère instance : nombre d'affaires pénales. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

**Note : Veuillez vérifier que les données fournies sont cohérentes (horizontalement et verticalement). La cohérence horizontale des données signifie que : "(affaires pendantes au 1er janvier 2010 + nouvelles affaires) – affaires terminées" doit correspondre au nombre d'affaires pendantes au 31 décembre 2010. La cohérence verticale des données signifie que la somme des catégories 8 et 9 en matière pénale doit correspondre au nombre total d'affaires pénales.**

	Affaires pendantes au 1 janvier 2010	Nouvelles affaires	Affaires terminées	Affaires pendantes au 31 décembre 2010
Nombre total d'affaires pénales (8+9)	1 260 936	1 827 336	1 658 972	1 429 300
8. Affaires pénales (infractions graves)	806 112	727 151	797 006	736 257
9. Petites infractions	454 824	1 100 185	861 966	693 043

**95) La classification entre affaires pénales graves et petites infractions peut être difficile. Certains pays peuvent connaître d'autres voies de traitement des petites infractions (par exemple par la procédure administrative).**

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**Veuillez indiquer, si possible, les catégories d'affaires comprises dans la catégorie infractions graves et les affaires à inclure dans la catégorie petites infractions :**

In our criminal law, the penalties are categorized as punitive fines and prison sentences. In our system, no distinction is made between heavy offences and petty offences. Therefore, the numbers of cases heard by the courts dealing with simple disputes are shown here. The offences falling in the jurisdiction of the criminal courts of peace and the courts of criminal enforcement are considered as petty offences. The offences entailing imprisonment up to 2 years or a fine are petty offences.

The offences other than those described above are considered as heavy offences. The cases involving such offences are heard by high criminal courts, juvenile high criminal courts, high criminal courts operating under article 250 of the Code of Criminal Procedure, criminal courts of general jurisdiction, juvenile courts, and criminal courts for intellectual and industrial property rights.

**96) Commentaires relatifs aux questions 91 à 95. Vous pouvez indiquer par exemple une situation particulière dans votre pays, expliquer vos réponses NA ou NAP ou expliquer le calcul du total d'affaires « autres que pénales » ou la différence au niveau de la cohérence horizontale etc.**

Q91#1#1 : When the refreshed data pertaining to the years of 2008 and 2010 were examined, an increase of 12% was observed to have occurred during the period between those two years. In fact, that increase can be considered as a natural reflection of the changing population of the country, as well as the intensifying commercial and social relations.

Q91#2#1 : The 2008 data should be evaluated based on the figure of 1951531, which is the total amount of foreclosure cases, property registration cases, administrative cases, and other cases, which were included in the table when calculating the total number of incoming cases. The numbers of contentious and non-contentious cases on legal and commercial matters shown in the table under entries 1 and 2 include the numbers of cases we have mentioned above. While the number of incoming cases was given as 1951531 in the 2008 data, it was given as 2302157 in the official data pertaining to the year 2010.

Q91#3#1: The 2008 data should be evaluated based on the figure of 1905698, which is the total amount of foreclosure cases, property registration cases, administrative cases, and other cases, which were included in the table when calculating the total number of resolved cases. The numbers of contentious and non-contentious cases on legal and commercial matters shown in the table under entries 1 and 2 include the numbers of cases we have mentioned above. While the number of resolved cases was given as 1905698 in the 2008 data, it was given as 2186311 in the official data pertaining to the year 2010.

In our judicial system, cases of civil law are divided into two; as the contentious and non-contentious civil law cases. Each of those two categories consists of the types of cases shown in the tables. Due to the change made in the method of getting the statistical total, in the 2010 data, the total numbers of different types of cases were given, without making the distinction between contentious and non-contentious civil law cases. However, in the 2008 data, the said distinction was made between the two categories, and they were shown in the table together with their sub-categories.

**97) Tribunaux de 2ème instance (appel) : Nombre total d'affaires « autres que pénales ».** Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.

**Note: le nombre total d'affaires « autres que pénales » inclut tous les catégories d'affaires présentés (chiffre 1 à 7).**

	Affaires pendantes au 1 janvier 2010	Nouvelles d'affaires	Affaires terminées	Affaires pendantes au 31 décembre 2010
Nombre total d'affaires "autres que pénales" (1 + 2 + 3 + 4 + 5 + 6 + 7)	NAP	NA	NA	NA
1. Affaires civiles (et commerciales) contentieuses (si possible sans les affaires administratives, v. catégorie 6)*	NA	NA	NA	NA
2. Affaires civiles (et commerciales) non contentieuses, par exemple des créances incontestées, de requêtes en changement de nom, etc. (si possible sans les affaires administratives ; sans les affaires relatives à l'exécution et/ou à un registre et/ou autres affaires, v. catégories 3-7)*	NA	NA	NA	NA
3. Affaires relatives à l'exécution	NA	NA	NA	NA
4. Affaires relatives au registre foncier	NA	NA	NA	NA
5. Affaires relatives au registre du commerce	NA	NA	NA	NA
6. Affaires administratives (contentieuses et non contentieuses)	NA	NA	NA	NA
7. Autres affaires (par exemple affaires relatives au registre d'insolvabilité)	NA	NA	NA	NA

**98) Tribunaux de 2ème instance (appel) : Nombre total d'affaires pénales.** Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.

	Affaires pendantes au 1 janvier 2010	Nouvelles d'affaires	Affaires terminées	Affaires pendantes au 31 décembre 2010
Nombre total d'affaires pénales (8+9)	NAP	NA	NA	NA
8. Affaires pénales (infractions graves)	NA	NA	NA	NA
9. Petites infractions	NA	NA	NA	NA

Commentaire :

**99) Cours suprêmes : nombre total d'affaires "autres que pénales". Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

**Note: le nombre total d'affaires « autres que pénales » inclut tous les catégories d'affaires présentés (chiffre 1 à 7).**

	Affaires pendantes au 1 janvier 2010	Nouvelles d'affaires	Affaires terminées	Affaires pendantes au 31 décembre 2010
Nombre total d'affaires "autres que pénales" (1 + 2 + 3 + 4 + 5 + 6 + 7)	318 423	504 327	456 975	365 775
1. Affaires civiles (et commerciales) contentieuses (si possible sans les affaires administratives, v. catégorie 6)	NA	NA	NA	NA
2. Affaires civiles (et commerciales) non contentieuses, par exemple des créances incontestées, de requêtes en changement de nom, etc. (si possible sans les affaires administratives ; sans les affaires relatives à l'exécution et/ou à un registre et/ou autres affaires, v. catégories 3-7)	NA	NA	NA	NA
3. Affaires relatives à l'exécution	NA	NA	NA	NA
4. Affaires relatives au registre foncier	NA	NA	NA	NA
5. Affaires relatives au registre du commerce	NA	NA	NA	NA
6. Affaires administratives (contentieuses et non contentieuses)	168 639	129 202	103 880	193 961
7. Autres affaires (par exemple affaires relatives au registre d'insolvabilité)	NA	NA	NA	NA

**100) Cours suprêmes : Nombre total d'affaires pénales. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

	Affaires pendantes au 1 janvier 2010	Nouvelles d'affaires	Affaires terminées	Affaires pendantes au 31 décembre 2010
Nombre total d'affaires pénales (8+9)	304 071	269 505	209 076	364 500
8. Affaires pénales (infractions graves)	NA	NA	NA	NA
9. Petites infractions	NA	NA	NA	NA

Commentaire :

No distinction has been made according to the types of offences

**101) Nombre d'affaires de divorces contentieux, licenciements, vols avec violence et homicides volontaires reçues et traitées par les tribunaux de 1ère instance. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre**

**pays, veuillez indiquer NAP.**

	Affaires pendantes au 1er janvier 2010	Affaires nouvelles	Affaires terminées	Affaires pendantes au 31 décembre 2010
Divorces contentieux	85 004	181 294	198 370	67 928
Licenciements	9 108	12 881	14 059	7 930
Vols avec violence	12 063	11 819	12 089	11 793
Homicides volontaires	6 577	7 162	7 135	6 604

**102) Durée moyenne des procédures, en jours (à partir de la date de saisine du tribunal). Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

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**[La durée moyenne des procédures est calculée à partir de l'introduction du recours jusqu'au prononcé du jugement, sans tenir compte de la phase d'exécution. Nouveau : elle concerne la première, la deuxième et la troisième instance.]**

	% des décisions ayant fait l'objet d'un appel	% d'affaires pendantes de plus de 3 ans	Durée moyenne en 1ère instance (en jours)	Durée moyenne en 2ème instance (en jours)	Durée moyenne en 3ème instance (en jours)	Durée moyenne de la procédure complète (en jours)
Divorces contentieux	NAP	NA	169	NAP	NA	
Licenciements	NAP	NA	240	NAP	NA	
Vols avec violence	NAP	NA	295	NAP	NA	
Homicides volontaires	NAP	NA	432	NAP	NA	

**103) 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.

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

Since UYAP was put into operation at all the courts as of the end of 2008, it was not possible to get an idea at the end of 2010 as to the examination of how many of the cases started after the establishment of UYAP lasted more than 3 years; due to the fact that only 2 years have passed since then.

In the calculation of the average period of examination of cases at the courts of first instance, the dates of filing the case, and the dates of judgement have been taken into account (for the cases the judgement was given during the year of 2010). The periods of time passed during the process of seeking legal remedy have not been taken into account.

Due to the fact that intermediate courts of appeal have not yet been started to operate, an average time period could not be given for the courts of second instance.

**105) 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 besoin d'obtenir une décision du tribunal (observer la cohérence avec la question 36!)
- clore l'affaire par une sanction ou une mesure imposée ou négociée sans décision d'un juge
- autre attribution significative

Si "autres attributions significatives", veuillez préciser :

**106) 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.

In the cases concerning the public interest (for instance, the cases related with the ban of associations) the public prosecutors are entitled to submit requests and to seek legal remedy against the judgement given.

**107) La gestion des affaires par le procureur: ombre total des affaires pénales en 1ère instance. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

	Reçues par le procureur	Classées sans suite par le procureur (v. 108 ci-dessous)	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	6 076 676	1 991 299	9 131	2 881 643

**108) Total des affaires classées sans suite par le procureur. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**



	Nombre
Total des affaires classées sans suite par le procureur (1 + 2 + 3)	1 991 299
1. Classées sans suite par le procureur parce que l'auteur de l'infraction n'a pas pu être identifié	NA
2. Classées sans suite par le procureur en raison d'une impossibilité de fait ou de droit	NA
3. Classées sans suite par le procureur pour raison d'opportunité	NA

### 109) Est-ce que ces données incluent le contentieux routier ?

- Oui  
 Non

### D.2

**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

Q101: numbers of robbery cases and intentional homicide cases also include attempts. (cf CN 12/07)

Supplement to 102: Average duration of a lawsuit is 229 days at civil courts, and 278 days at criminal courts. In the calculation of the average duration of a lawsuit in the courts of first instance, the period between the dates of filing a lawsuit, and the dates of judgement have been taken into account. Average duration of lawsuits were calculated by taking into account the files for which judgement was not given during the year 2010. The files belonging to years earlier than 2010 were not taken into account, if still no judgement had been given for them. The periods of time passed during the process of seeking legal remedy have also not been taken into account.

Supplemental interpretation of question 107: FILES CARRIED FORWARD TO 2010 : 2.823.724, NUMBER OF INCOMING FILES IN 2010 : 3.266.830, TOTAL NUMBER OF FILES IN 2010 : 6.090.554, NUMBER OF OUTGOING FILES IN 2010 : 3.272.878, FILES CARRIED FORWARD TO 2011: 2.817.676, NUMBER OF FILES CARRIED FORWARD TO 2010 + INCOMING FILES IN 2010 = TOTAL NUMBER OF FILES IN 2010, TOTAL NUMBER OF FILES IN 2010 - OUTGOING FILES IN 2010 = NUMBER OF FILES CARRIED FORWARD TO 2011, Number of nolpros indictments in the year 2010 was 1.577.123, In 2010, totally 9.606 files were concluded by way of reconciliation and prepayment, On the other hand, totally 368.370 investigation files were concluded by other kinds of judgements given about them (incapacity, summary of proceedings, lack of jurisdiction etc.) Totally 1317779 lawsuits were filed in 2010

Question 107 : In our country, a change was made in the systems of keeping the crime and justice statistics, and data collection. Therefore, while the 2008 data were collected « based on files », the 2010 data were collected and evaluated « based on crimes ».

Note: Number of files incoming to the prosecutors include the total number of files in the hands of chief public prosecution offices as of the year 2011 (both the pending files from the previous year, and the newly incoming files). That total number is "file-based".

(according to the work status table of the prosecution offices, the total number of incoming files to the prosecution offices is 6076676. In the course of the year, 3260384 of those files were concluded, and 2816292 of them remained pending for the year 2011. Within the year, totally 3260384 investigation files were concluded, and totally 5496895 "crime-based" decisions were given. 1991299 of those decisions were ended up with a verdict of non-prosecution, 9131 were ended up with a verdict of non-prosecution according to article 75 of the Turkish Criminal Code (fulfilment of an obligation in advance) and non-prosecution due to conciliation, 138320 were

ended up with a verdict of non-prosecution due to lapse of time, 1849239 were ended up with a verdict of non-prosecution due to various other reasons, 2881643 were ended up with a verdict of filing a criminal case, and the rest 618562 were ended up with other verdicts (incompetence, lack of jurisdiction, joinder, or conveying to another office). In the year 2008 all of the figures regarding such verdicts are "file-based". That is, only one verdict was taken as basis for each file. However, in the year 2010, the crimes of each suspect contained in the file were counted separately, and the numbers of verdicts given for each of the crimes committed by those suspects were taken as basis. When it is considered that a file may contain more than one crime, more than one suspect, and more than one verdict, the increase referred to in the question can be explained (in this case, different data have been counted).

\*Number of the decisions of non-prosecution taken by the prosecutors in fact shows the crime-based number of the investigation files which were concluded with a decision of non-prosecution (each of the crimes included in the file, and the verdicts given about them were counted separately). Total number of the decisions of non-prosecution covers also the decisions of non-prosecution taken due to conciliation, due to lapse of time, and due to other reasons.

\*Number of cases concluded by a penalty or a measure imposed or negotiated by the prosecutors is also crime based (each of the crimes included in the file, and the verdicts given about them were counted separately). Number of decisions of non-prosecution taken due to conciliation or due to fulfilment of an obligation in advance also is the crime-based number of such non-prosecution decisions.

\*Number of investigations concluded with the submission of investigation files to the court in order to initiate a criminal case is also crime-based (each of the crimes included in the file, and the verdicts given about them were counted separately).

**Veillez indiquer les sources pour les réponses aux questions 91, 94, 97, 98, 99, 100, 101, 102, 107 et 108.**

Ministry of Justice, General Directorate of Criminal Records and Statistics  
Ministry of Justice, Department of Information Technologies

## 5. Carrière des juges et procureurs

### 5. 1. Recrutement et promotion

#### 5. 1. 1. Recrutement et promotion

##### **110) Comment les juges sont-ils recrutés ?**

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

Si autres, veuillez préciser:

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

- Both: Academic career and interview for academicians

Lawyers having a Professional experience of minimum 5 years, and below 35 years of age (after the last amendment made in the relevant law, the age limit has been raised to 45) can be assigned as judges-prosecutors, after passing a competitive examination.

Common amendment for 110th and 116th questions: Although options I and III should have been marked for the replies of these questions, because the system only accepted option I, option III has been imperfect. This case is observed in all comments which take place below both of the questions. Replies of the questions should be evaluated in this manner.

##### **111) Autorité(s) responsable(s): les juges sont-ils recrutés et nommés, initialement, en début de carrière, par :**

**[Cette question ne concerne que l'autorité qui est responsable de la décision de recrutement (elle ne touche pas l'autorité formellement responsable de la nomination si elle est différente de la première).]**

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

Veuillez indiquer le nom de l'autorité responsable de la procédure globale de recrutement et de nomination des juges. S'il existe plusieurs autorités impliquées, veuillez décrire leurs rôles respectifs :

Assignment of judges is a two-stage process. In the first stage, the candidates who are willing to become a judge or a prosecutor, and who succeeded to pass a written exam and an interview, are assigned as "candidate judges-prosecutors". The interview committee, who decides on the candidates to be chosen, consists of totally seven members. The committee shall be presided by the Undersecretary of the Ministry of Justice, or a Deputy Undersecretary to be appointed by him. Other members shall consist of: President of the Inspection Board, General Directors of Criminal affairs, Civil Affairs, and Personal Affairs, and two other members to be nominated by the Management Board of the Academy of Justice (if, in the Management Board of the Academy of Justice, there are one member from each of the Court of Cassation and the Council of State, then those members shall be appointed as full members in the interview committee). The above mentioned bureaucrats of the Ministry of Justice are individuals who were originally working as judges.

In the second stage, the candidate judges-prosecutors who have successfully completed their periods of candidacy, are accepted to work as judges and prosecutors by the High Council of Judges and Prosecutors (HCJP).

In our judicial system, parallel arrangements are planned regarding the appointments, promotions, and disciplinary affairs of judges and prosecutors.

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

- Oui  
 Non

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

In accordance with the subparagraph of the 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.

### **113) 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.

The situation after the enforcement of the Law numbered 6087 on the High Council of Judges and Prosecutors on the date of 02 December 2010: In order to get promotion in their current rank, the judges and prosecutors should complete the minimum term of work in that rank, they should not have any disciplinary punishment and there should not be any finalized court decree hindering their promotion. Furthermore, they shall be evaluated in terms of their moral conditions, professional knowledge and intellectual capacities, their enthusiasm and diligence, amount and quality of the works they produce, their work percentages, and the reports prepared about their conducts. The number of works passed from the Court of Cassation, is no more taken into account, and the Court of Cassation no more give marks to the judges and prosecutors to evaluate their works.

**114) Existe-t-il un système d'évaluation individuelle qualitative de l'activité professionnelle du juge ?**

- Oui  
 Non

**115) Le statut du ministère public est-il:**

- Indépendant?  
 Sous l'autorité du ministre de la Justice?  
 Autre?

Veillez préciser:

The prosecutors are fully independent in the fulfillment of their judicial duties.  
Administratively, they are subordinate to the Ministry of Justice.

**116) Comment sont recrutés les procureurs ?**

- Principalement par concours (par exemple après un diplôme universitaire en droit)

- Principalement par une procédure de recrutement spécifique pour des professionnels du droit ayant une longue expérience juridique (par exemple des avocats)
- Une combinaison des deux (concours et expérience professionnelle)
- Autres

Si "autres", veuillez préciser:

Both: Professional experience and examination for the lawyers (Law numbered 2802)  
- Both: Academic career and interview for academicians

Lawyers having a Professional experience of minimum 5 years, and below 35 years of age (after the last amendment made in the relevant law, the age limit has been raised to 45) can be assigned as judges-prosecutors, after passing a competitive examination.

Common amendment for 110th and 116th questions: Although options I and III should have been marked for the replies of these questions, because the system only accepted option I, option III has been imperfect. This case is observed in all comments which take place below both of the questions. Replies of the questions should be evaluated in this manner.

**117) Autorité(s) responsable(s): les procureurs sont-ils recrutés et nommés, en début de carrière, par :**

**[Cette question ne concerne que l'autorité qui est responsable de la décision de recrutement (elle ne touche pas l'autorité formellement responsable de la nomination si elle est différente de la première).]**

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

Veuillez indiquer le nom de l'autorité responsable de la procédure globale de recrutement et de nomination des procureurs. S'il y a plusieurs autorités impliquées, veuillez décrire leurs rôles respectifs :

Assignment of judges is a two-stage process. In the first stage, the candidates who are willing to become a judge or a prosecutor, and who succeeded to pass a written exam and an interview, are assigned as "candidate judges-prosecutors". The interview committee, who decides on the candidates to be chosen, consists of totally seven members. The committee shall be presided by the Undersecretary of the Ministry of Justice, or a Deputy Undersecretary to be appointed by him. Other members shall consist of: President of the Inspection Board, General Directors of Criminal affairs, Civil Affairs, and Personnel Affairs, and two other members to be nominated by the Management Board of the Academy of Justice (if, in the Management Board of the Academy of Justice, there are one member from each of the Court of Cassation and the Council of State, then those members shall be appointed as full members in the interview committee). The above mentioned bureaucrats of the Ministry of Justice are individuals who were originally working as judges.

**118) 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 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.

**119) 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.

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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.

The situation after the enforcement of the Law numbered 6087 on the High Council of Judges and Prosecutors on the date of 02 December 2010: In order to get promotion in their current rank, the judges and prosecutors should complete the minimum term of work in that rank, they should not have any disciplinary punishment and there should not be any finalized court decree hindering their promotion. Furthermore, they shall be evaluated in terms of their moral conditions, professional knowledge and intellectual capacities, their enthusiasm and diligence, amount and quality of the works they produce, their work percentages, and the reports prepared about their conducts. The number of works passed from the Court of Cassation, is no more taken into account, and the Court of Cassation no more give marks to the judges and prosecutors to evaluate their works.

**120) Existe-t-il un système d'évaluation individuelle qualitative de l'activité professionnelle du procureur ?**

- Oui  
 Non

**121) Le mandat des juges est-il à durée indéterminée (à savoir "à vie" = jusqu'à l'âge officiel de la retraite) ?**

- Oui  
 Non

Si oui, existe-t-il des exceptions ? (ex: la révocation comme sanction disciplinaire) ? Veuillez

préciser :

Following the disciplinary proceedings, penalty of dismissal from profession can be given

**122) S'il existe une période probatoire pour les juges (par exemple avant d'être nommé "à vie"), quelle en est la durée ? Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

	Durée de la période probatoire (en années)
	2

**123) Le mandat des procureurs est-il à durée indéterminée (à savoir « à vie » = jusqu'à l'âge officiel de la retraite) ?**

- Oui  
 Non

Si oui, existe-t-il des exceptions (la révocation comme sanction disciplinaire) ? Veuillez préciser :

Following the disciplinary proceedings, penalty of dismissal from profession can be given

**124) S'il existe une période probatoire pour les procureurs, quelle en est la durée? Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

	Durée de la période probatoire (en années)
	2

**125) Si le mandat n'est pas à durée indéterminée pour les juges (voir question 121), est-il renouvelable ? Quelle est la durée du mandat (en années)?**

NAP

**126) Si le mandat n'est pas à durée indéterminée pour les procureurs (voir question 123), est-il renouvelable ? Quelle est la durée du mandat (en années)?**

NAP

### E.1

**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 healthy 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 Candidacy 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. 2. Formation

### 5. 2. 1. Formation

#### 127) Formation des juges

Formation initiale (par exemple fréquentation d'une école de la magistrature, stage dans un tribunal)	Compulsory
Formation continue générale	Optional
Formation continue pour des fonctions spécialisées (ex. juge pour les affaires économiques ou administratives)	Optional
Formation continue pour des fonctions spécifiques de gestion (ex. présidence d'un tribunal)	Optional
Formation continue	

pour l'utilisation des outils informatiques au sein des tribunaux	Optional
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### 128) Fréquence de la formation continue des juges:

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

### 129) Formation des procureurs

Formation initiale	Compulsory
Formation continue générale	Optional
Formation continue pour des fonctions spécialisées (ex. procureur spécialisé en crime organisé)	Optional
Formation continue pour des fonctions spécifiques de gestion (ex. Procureur Général, administrateur)	Optional
Formation continue pour l'utilisation des outils informatiques au sein des tribunaux	Optional

### 130) Fréquence de la formation continue des procureurs :

Formation continue générale	Occasional (e.g. at times)
Formation continue pour des fonctions spécialisées (ex. procureur spécialisé en crime organisé)	Occasional (e.g. at times)
Formation continue pour des fonctions spécifiques de gestion (ex. Procureur Général, administrateur)	Occasional (e.g. at times)
Formation continue pour l'utilisation des outils informatiques au sein des tribunaux	Occasional (e.g. at times)

**131) Disposez-vous d'(une) institution(s) publique(s) chargée(s) de la formation des juges et des procureurs? Si oui, quel est le budget de cette (ces) institution(s) ? Si vos institutions de formation judiciaire ne répondent pas à ces critères, veuillez le préciser.**

	Formation initiale seulement	Formation continue seulement	Formation initiale et continue
Une institution pour les juges	Non	NAP	NAP
Une institution pour les procureurs	Non	NAP	NAP
Une institution commune pour juges et procureurs	Non	Non	Oui

**Commentaire :**

Education is given to the judges and prosecutors at the Turkish Academy of Justice, which is a public institution. 2010 budget of the academy was 4224360 Euro

**E.2**

**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)

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.

**5. 3. Exercice de la profession**

**5. 3. 1. Exercice de la profession**

**132) Salaires des juges et des procureurs.**

	Salaires annuels bruts (€), en €, au 31 décembre 2010	Salaires annuels nets (€), en €, au 31 décembre 2010
Juge professionnel de 1ère instance au début de sa carrière	21 137	16 390
Juge de la Cour suprême ou de la dernière instance de recours (veuillez indiquer le salaire moyen d'un juge de ce niveau, non pas le salaire du président de la cour)	43 166	31 776
Procureur au début de sa carrière	21 137	16 390
Procureur auprès de la Cour suprême ou de la dernière instance de recours (veuillez indiquer le salaire moyen d'un procureur de ce	41 263	30 357

niveau, non pas le salaire du Procureur Général).		
---	--	--

**Commentaire :**

no differnt betweet judge and prosecuter saleries

**133) 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

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

Judges and prosecutors, as well as other judicial staff can benefit for a reasonable price from the installations operated by the Judicial Support Foundation.

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

	Rémunéré	Non rémunéré
Enseignement	Oui	Oui
Recherche et publication	Oui	Oui
Arbitrage	Non	Non
Consultant	Non	Non
Fonction culturelle	Non	Oui
Fonction politique	Non	Non
Autre fonction	Non	Non

**136) Si des règles existent dans votre pays (par exemple, une autorisation est exigée pour exercer une fonction), veuillez les préciser. Si « autre fonction », veuillez préciser :**

Depending on the approval of the High Council of Judges and Prosecutors, the judges and prosecutors can provide education at the public educational institutions (like giving lessons of law).

judges and prosecutors can combine his/her main function with teaching and researc in public institutions with the High Council's permission. In addition, they can write various essays in newspaper and magazine, scientific etc. Also, they can participate in any kind of seminar, conference etc. without taking permission from the High Council, but only in weekends. (cf CN 12/07)

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

	Rémunéré	Non rémunéré
Enseignement	Oui	Oui
Recherche et		

publication	Oui	Oui
Arbitrage	Non	Non
Consultant	Non	Non
Fonction culturelle	Non	Oui
Fonction politique	Non	Non
Autre fonction	Non	Non

**138) Précisions s'il existe des règles particulières (par exemple autorisation nécessaire pour exercer tout ou partie de ces activités). Si « autre fonction », veuillez préciser :**

Depending on the approval of the High Council of Judges and Prosecutors, the judges and prosecutors can provide education at the public educational institutions (like giving lessons of law).

**139) Prime de productivité : les juges ont-ils droit à des primes en fonction du respect d'objectifs quantitatifs de production de décisions (par exemple nombre de jugements rendus pour une période donnée) ?**

- Oui  
 Non

Si oui, veuillez préciser les conditions et éventuellement les montants:

## 5. 4. Procédures disciplinaires

### 5. 4. 1. Procédures disciplinaires

**140) Qui peut engager des procédures disciplinaires contre les juges (choix multiples possibles) ?**

- Citoyens  
 Tribunal concerné ou supérieur hiérarchique  
 Cour suprême  
 Conseil Supérieur de la Magistrature  
 Tribunal ou autorité disciplinaire  
 Médiateur  
 Parlement  
 Pouvoir exécutif  
 Autre ?  
 Ceci n'est pas possible

Si "pouvoir exécutif" ou/et "autre", veuillez préciser :

**141) Qui peut engager des procédures disciplinaires contre les procureurs (choix multiples possibles) :**

- Citoyens  
 Chef de l'unité organisationnelle ou supérieur hiérarchique  
 Procureur Général/Procureur d'Etat

- Conseil Supérieur de la Magistrature
- Tribunal ou autorité disciplinaire
- Médiateur
- Organisme professionnel
- Pouvoir exécutif
- Autre?
- Ceci n'est pas possible

Si "pouvoir exécutif" ou/et "autre", veuillez préciser :

**142) Quelle autorité détient le pouvoir disciplinaire à l'encontre des juges? (plusieurs options possibles)**

- Tribunal
- Cour suprême
- Conseil Supérieur de la Magistrature
- Tribunal ou autorité disciplinaire
- Médiateur
- Parlement
- Pouvoir exécutif
- Autre?

Si "pouvoir exécutif" ou/et "autre", veuillez préciser :

Q142: in Turkey, there is an effective remedy against High council decisions. First, against the chamber decision, relevant person can appeal to Plenary Session. Second, against the dismissal decisions, relevant person can file a claim in Council of State (High Administrative Court).  
(cf CN 12/07)

**143) Quelle autorité détient le pouvoir disciplinaire à l'encontre des procureurs ? (plusieurs options possibles)**

- Cour suprême
- Chef de l'unité organisationnelle ou supérieur hiérarchique
- Procureur Général/Procureur d'Etat
- Conseil Supérieur de la Magistrature
- Tribunal ou autorité disciplinaire
- Médiateur
- Organisme professionnel
- Pouvoir exécutif
- Autre ?

Si "pouvoir exécutif" ou/et "autre", veuillez préciser :

**144) Nombre de procédures disciplinaires intentées à l'encontre des juges et des procureurs. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est**

**pas applicable dans votre pays, veuillez indiquer NAP. Si "autre", veuillez le préciser dans la boîte "commentaire" ci-dessous.**

**[Si la procédure disciplinaire est intentée sur la base de plusieurs manquements, veuillez ne compter ces procédures qu'une seule fois, pour le manquement principal.]**

	Juges	Procureurs
Nombre total (1+2+3+4)	199	NA
1. Faute déontologique	NA	NA
2. Insuffisance professionnelle	NA	NA
3. Délit pénal	NA	NA
4. Autre	NA	NA

Commentaire :

Question 144 : The figure stated in the 2008 data shows the total number of files on the judges and prosecutors, about whom disciplinary proceedings were initiated. In those data pertaining to the year 2008, no distinction was made between judges and prosecutors. On the other hand, the data pertaining to the year 2010 shows the total number of judges and prosecutors, about whom disciplinary proceedings were initiated.

According to the 2010 data, total number of disciplinary proceedings initiated about judges and prosecutors (total number of files prepared) was 199.

**145) Nombre de sanctions prononcées à l'encontre des juges et des procureurs. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

**Si « autre », veuillez le préciser dans la boîte "commentaire" ci-dessous. S'il existe une disparité entre le nombre de procédures disciplinaires intentées et le nombre de sanctions prononcées, veuillez préciser les raisons dans la boîte "commentaire" ci-dessous.**

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

Commentaire :

Disciplinary penalties which can be given to judges and prosecutors have not been shown separately.

Other penalties: Totally 71 decisions have been taken to impose penalty. Those penalties were in the forms of: Warning (23), reprimand (22), stopping the rank advancement (7), stopping the level increase

(1), provisional cutting of monthly salary (2), appointment to another geographical location (court) (7), dismissal from job (profession) (2), temporary suspension from duties (3), and other penalties (4).

### **E.3**

**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**

Similar disciplinary rules apply to judges and prosecutors, and the penalties imposed on them are also similar.

**Veillez indiquer les sources aux questions 144 et 145**

High Council of Judges and Prosecutors



## 6. Avocats

### 6. 1. Statut de la profession et formation

#### 6. 1. 1. Statut de la profession et formation

#### **146) Nombre d'avocats exerçant dans votre pays.**

70 332

#### **147) Ce nombre inclut-il la catégorie « conseiller juridique » (« solicitor/in-house counsellor ») qui ne peut pas représenter en justice ?**

- Oui  
 Non

#### **148) Nombre de conseillers juridiques qui ne peuvent pas représenter en justice**

NAP

#### **149) Les avocats ont-ils le monopole de la représentation en justice ? (plusieurs options sont possibles) pour les :**

- Affaires civiles  
 Affaires pénales - Défendeur  
 Affaires pénales - Victime  
 Affaires administratives  
 Il n'y a pas de monopole

En cas d'absence de monopole, veuillez préciser les organismes ou personnes pouvant représenter les clients devant un tribunal (par exemple une ONG, un membre de la famille, un 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

**150) La profession d'avocat est-elle organisée à travers (plusieurs réponses possibles):**

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

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

- Oui
- Non

Si non, veuillez indiquer s'il existe d'autres exigences spécifiques en matière de diplôme ou de niveau universitaire :

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

- Oui  
 Non

**153) La spécialisation dans certains domaines est-elle liée à certaines formations, à un certain niveau de compétence, à un certain diplôme ou à certaines autorisations ?**

- Oui  
 Non

Si oui, veuillez préciser :

**F.1****Veillez indiquer les sources aux questions 146 et 148 :**

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**Commentaires utiles à l'interprétation des données indiquées dans ce chapitre :**

Union of Turkish Bar Associations  
Ministry of Justice, General Directorate of Civil Affairs

Apart from some exceptional cases provided for in article 35 of the Attorneyship Law, the power of attorney at the courts belong to the attorneys who are registered at the bar associations. However, for the individuals working as attorneys at the public organizations and institutions and at the Public economic enterprises, registration at bar association depends on their own will. Therefore, the above mentioned attorneys who don't have registration at the bar associations have not been included in the total figures.

## 6. 2. Exercice de la profession

### 6. 2. 1. Exercice de la profession

**154) Pour le justiciable, existe-t-il une transparence sur les honoraires prévisibles des avocats (à savoir, est-ce que les usagers peuvent aisément obtenir des informations préalables sur le montant des honoraires prévisibles, sont-ils transparents et loyaux) ?**

- Oui  
 Non

**155) Les honoraires des avocats sont-ils librement négociés ?**

- Oui  
 Non

**156) La loi ou les règlements du Barreau contiennent-ils des règles sur les honoraires des avocats (même s'ils sont librement négociés) ?**

- Oui, la loi contient des règles  
 Oui, les règlements du Barreau contiennent des règles  
 Non, ni la loi ni les dispositions du Barreau ne contiennent de règles

**F.2****Commentaires utiles à l'interprétation des données indiquées dans ce chapitre :**

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. 3. Standards de qualité et procédures disciplinaires

#### 6. 3. 1. Standards de qualité et procédures disciplinaires

**157) Des normes de qualité ont-elles été formulées pour les avocats ?**

- Oui  
 Non

Si oui, quels sont les critères de qualité utilisés?

In the Attorneyship law numbered 1136, in the relevant regulations, and in the professional rules determined by the Turkish Union of Bar associations to be compulsorily followed, the provisions and rules as to the expected quality standards of attorneys are also stipulated. Within the framework of the professional rules, the general rules, relations with the judicial bodies and authorities, the solidarity and relations with other colleagues, relations with business owners, and the relations of attorneys with the bar associations and with the Turkish Union of Bar Associations are regulated.

**158) Si oui, qui est responsable de la formulation de ces normes de qualité:**

- le Barreau ?  
 le législateur ?  
 autre ?

Si "autre", veuillez préciser :

**159) Existe-t-il une possibilité de déposer une plainte concernant :**

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

Veillez préciser :

In Article 134 of the Attorneyship law, it is stipulated that disciplinary penalties stated in the same law shall be imposed on those attorneys who act in a way inconsistent with the honor, order, traditions, and rules of the profession of attorneyship, who do not fulfill their professional missions, and who does not conform to the principles of integrity entailed by their profession. Furthermore, according to Article 62 of the Attorneyship law, those attorneys who would abuse their duties shall be punished under Article 257 of the Turkish Criminal Code.

It is possible to file a complaint against an attorney who makes an agreement with his/her client to receive a fee which is under the Attorneyship Minimum Fee, or which exceeds 25 % of the value of the litigated object or money.

**160) Quelle est l'autorité compétente pour traiter des procédures disciplinaires?**

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

Si autre, veuillez préciser :

**161) Procédures disciplinaires initiées à l'encontre des avocats. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP. Si « autre », veuillez spécifier dans la boîte "commentaire" ci-dessous.**

**[Si la procédure disciplinaire est intentée sur la base de plusieurs manquements, veuillez ne compter ces procédures qu'une seule fois, pour le manquement principal.]**

	Nombre total de procédures disciplinaires initiées (1 + 2 + 3 + 4)	1. Faute déontologique	2. Insuffisance professionnelle	3. Délit pénal	4. Autre
Nombre	756	NA	NA	NA	NA

Commentaire :

Though the total number of files opened is known, no categorization was made among them as shown in the table.

**162) Sanctions prononcées à l'encontre des avocats. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

**Si "autre", veuillez le spécifier dans la boîte "commentaire" ci-dessous. S'il existe une disparité entre le nombre de procédures disciplinaires initiées et le nombre de sanctions, veuillez indiquer les raisons dans la boîte "commentaire" ci-dessous.**

	Nombre total des sanctions (1 + 2 + 3 + 4 + 5)	1. Réprimande	2. Suspension	3. Révocation	4. Amende	5. Autre (par exemple exclusion du barreau)
Nombre	114	61	NAP	6	15	32

Commentaire :

Totally 32 attorneys were given penalties of warning

### F.3

**Vous pouvez indiquer ci-dessous tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre**

## 7. Mesures alternatives au règlement des litiges

### 7. 1. Mesures alternatives au règlement des litiges

#### 7. 1. 1. Mesures alternatives au règlement des litiges

**163) Existe-t-il des procédures de médiation dans le système judiciaire ? Si non, veuillez aller à la question 168**

-----  
**[Médiation judiciaire : dans ce type de médiation, il y a toujours l'intervention d'un juge ou d'un procureur qui facilite, conseille, décide ou/et approuve la procédure. Par exemple, dans des litiges civils ou des cas de divorce, les juges peuvent diriger les parties vers un médiateur s'ils estiment que des résultats plus satisfaisants peuvent être obtenus pour les deux parties. En matière pénale, le procureur peut se proposer en tant que médiateur entre un délinquant et une victime (par exemple pour établir un accord d'indemnisation).]**

- Oui  
 Non

**164) Veuillez préciser, par type d'affaires, l'organisation de la médiation judiciaire :**

	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	Oui

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

- Oui  
 Non

Si oui, veuillez préciser :

Article 253 of the Criminal Procedure Law is taken into account

**166) Nombre de médiateurs accrédités ou enregistrés qui exercent la médiation judiciaire :**

NA

**167) Nombre total de procédures de médiation judiciaire**

-----  
**Veuillez indiquer la source dans la boîte "commentaire" ci-dessous:**

Nombre total (1+2+3+4+5)	NA
1. les affaires civiles	NA
2. les affaires familiales	NAP
3. les affaires administratives	NA
4. les affaires de licenciements	NA
5. les affaires pénales	NA

Commentaire :

**168) Votre système judiciaire connaît-il les formes d'ADR suivantes.**

**Si "autres mesures", veuillez le spécifier dans la boîte "commentaire" ci-dessous.**

la médiation autre que la médiation judiciaire?	Non
l'arbitrage?	Oui
la conciliation?	Oui
d'autres mesures alternatives au règlement des litiges?	Oui

Commentaire :

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.

**G.1**

**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

In the Strategic Plan of the Ministry of Justice (2010-2014), it is envisaged to establish aims and objectives for the development of alternative means to settle disputes.

**Veuillez indiquer les sources des réponses à la question 166**



## 8. Exécution des décisions de justice

### 8. 1. Exécution des décisions civiles

#### 8. 1. 1. Fonctionnement

**169) Existe-t-il dans votre système judiciaire des agents d'exécution ?**

- Oui  
 Non

**170) Nombre d'agents d'exécution**

2 606

**171) 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 ?

Veillez préciser leur statut et leurs compétences (pouvoirs):

Bailiffs are public officials having the status of civil servant. They are assigned by the Ministry of Justice, and they carry out their duties under the supervision and observation of the enforcement judge, the public prosecutor, and the Ministry of Justice. The Bailiffs carry out the duty of enforcement of court decisions (with the exclusion of criminal courts), pecuniary receivables, and the documents having the force of court decision.

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

- Oui  
 Non

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

- une instance nationale ?  
 une instance régionale ?  
 une instance locale ?  
 NAP (la profession n'est pas organisée)

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

- Oui  
 Non

**175) Est-ce que les frais d'exécution sont librement négociés ?**

Oui

Non

**176) Est-ce que la loi stipule des règles sur les frais d'exécution (même s'ils sont librement négociés) ?**

Oui

Non

**Veillez indiquer la source de la réponse à la question 170 :**

Q170 : Number of enforcement agents has been increased in order to respond to the needs which have arisen due to existing work load (approximately 13 million files), insufficient number of staff, and the new enforcement offices established. The given figures reflect the actual rate of increase (34.89%).

Ministry of Justice, General Directorate of Personnel Affairs

#### 8. 1. 2. Efficacité des services d'exécution

**177) Existe-t-il un système de supervision et de contrôle de l'activité des agents d'exécution ?**

Oui

Non

**178) 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 ?

Si autre, veuillez 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.

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

Oui

Non

Si oui, 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  
In Article 3 of the Regulations on Examinations, Appointments, and Transfers, the points related with the Enforcement Directors and their Deputies are stated.

**180) Qui est chargé de formuler ces normes de qualité ?**

- un organisme professionnel
- le juge
- Ministère de la Justice
- autre

Si "autre", veuillez préciser :

**181) 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 :

**182) 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)

UYAP Information system is used effectively

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

**Veillez 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 ?

Si autre, veuillez préciser:

**184) 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 :

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

- pour les affaires civiles ?  
 pour les affaires administratives ?

**186) 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

Si plus, veuillez préciser

**187) Nombre de procédures disciplinaires initiées à l'encontre des agents d'exécution. Si "autre", veuillez le préciser dans la boîte "commentaire" ci-dessous.**

**[Si la procédure disciplinaire est intentée sur la base de plusieurs manquements, veuillez ne compter ces procédures qu'une seule fois, pour le manquement principal.]**

Nombre total de procédures disciplinaires initiées (1+2+3+4)	<input checked="" type="checkbox"/> nombre :	1 268
1. pour faute déontologique		NA
2. pour insuffisance professionnelle		NA
3. pour délit pénal		NA
4. Autre		NA

Commentaire :

Total number of the files opened: 291

Total number of the closed files: 1268

Number of the files under examination: 147

**188) Nombre de sanctions prononcées à l'encontre des agents d'exécution.**

**Si "autre", veuillez le spécifier dans la boîte "commentaire" ci-dessous. S'il existe une disparité entre le nombre de procédures disciplinaires initiées et le nombre de sanctions, veuillez indiquer les raisons dans la boîte "commentaire" ci-dessous.**

Nombre total de sanctions (1+2+3+4+5)	<input checked="" type="checkbox"/> nombre :	53
1. Réprimande	<input checked="" type="checkbox"/> nombre :	11
2. Suspension	<input checked="" type="checkbox"/> nombre :	0
3. Révocation	<input checked="" type="checkbox"/> nombre :	1
4. Amende	<input checked="" type="checkbox"/> nombre :	9
5. Autre		32

nombre :

Commentaire :

Number of the penalties of warning: 27

Number of the penalties of stopping the rank advancement: 5

### H.1

**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**

Besides the enforcement of court decisions, the directorates of enforcement are also responsible for the enforcement of the special circumstances which are not based on court decisions, but are defined in the relevant laws. Below are some of the enforcement duties which are based on court decisions:

- Delivery of movables, delivery of children, enforcement of the final court decision regarding the establishment of personal relations with a child, evacuation and delivery of a real property, enforcement of court decisions related with making/not making a certain action, and enforcement of the final court decisions related with easement, using rights of usufruct on a ship, and the payment of money and guarantees.

Directorates of enforcement are also responsible for pursuing matters which are not based on court decisions; for instance,

- Pursuit of: monetary debts and guarantees; individuals who are subject to bankruptcy; individuals who give up commercial activities; the receivables guaranteed through liens and mortgages; and proceedings of seizure

**Veillez indiquer les sources pour les réponses aux questions 186, 187 et 188 :**

Source: General Directorate of Personnel Affairs

## 8. 2. Exécution des décisions pénales

### 8. 2. 1. Exécution des décisions pénales

**189) Qui est chargé de l'exécution des décisions pénales? (plusieurs options possibles)**

- Juge
- Procureur
- Services pénitentiaire et de probation
- Autre autorité

Veillez préciser ses fonctions et compétences (ex. fonctions d'initiative ou de contrôle). Si "autre autorité", veuillez préciser :

Duties of prosecutors related with the enforcement of sentences:

When the sentences of imprisonment are given by the courts, the judge puts an annotation under the judgement to confirm that decision, and the judgement is sent to the public prosecutor to be enforced within one week.

Public prosecutors are responsible for the enforcement of the sentences of imprisonment given by the courts. Finding the convicted persons in order to enforce their sentences of imprisonment, and carrying out all the necessary proceedings to that end are among the duties of public prosecutors.

Duties and Authorities of Penal Institutions with regard to the Execution of sentences:

According to Article 6 of the Law dated 13 December 2004 and numbered 5275 on the Execution of Sentences and Security Measures, the penal institutions ensure that:

The convicts are kept in the penal institutions under the security measures to prevent their escape, and in a way to maintain order, security and discipline among them,

The convicts maintain an orderly life within the penal institution,

All the possible means are used for the betterment of the conditions of the convicts during the execution of their sentences,

Programs which are customized for the convicts by taking into consideration their personalities are implemented at the penal institution,

All the measures are taken in order to protect the convicts' rights to live and to maintain the integrity of their bodies and souls,

The disciplinary penalties stipulated in the relevant laws are imposed on those individuals who disturb the order of the institution with their manners, conducts, and actions.

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

- Oui  
 Non

**191) Si oui, quel est le taux de recouvrement ?**

- 80-100%  
 50-79%  
 moins de 50%  
 ne peut être estimé

Veillez indiquer la source ayant permis de répondre à cette question:

**H.2**

**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**

According to Article 5 of the Law numbered 5275 on the Execution of Sentences and Security Measures, when a court gives its final judgement about a crime, and approves the execution of the sentence given for that crime, it sends that judgement to the public prosecutor. Execution of the given sentence is monitored and supervised by the public prosecutor. Under Article 45 of the Turkish Criminal Code numbered 5237, "the sentences imposed as sanctions for the crimes committed are imprisonments and punitive fines".

Also, decisions to impose security measures can be taken by Criminal Courts. Enforcement of those security measures is under the responsibility of the Directorate of Probation, according to article 12.13.14.1 of law numbered 5402 on Probation and Help Centers and Protection Boards.

1- Execution of the sentences of imprisonment: Finalized court decisions on sentences of imprisonment are sent by the court which gave those decisions to the office of chief public prosecutor, by stating clearly the convict and the sentence mentioned in each of the decisions.

By taking into consideration the duration of the sentence mentioned in the court decision, which was recorded in the book of executions at the office of chief public prosecutor, either a "subpoena" or a "warrant of arrest" is issued about the convict.

If the convict does not come and submit himself/herself to justice despite the invitation made, or causes suspicions that he/she would escape, or he/she indeed escapes or hides, the public prosecutor issues a warrant of seizure for that convict to ensure the execution of his/her sentence of imprisonment.

Those individuals who were sentenced to imprisonment, or those for whom a judgement was given to convert their unpaid punitive fine to imprisonment, are sent to a penal institution, based on the written order of the office of chief public prosecutor.

The convict shall be given a "document of term of imprisonment", prepared by the office of chief public prosecutor. In that document, it shall be declared that the convict was taken to the penal institution, and information shall be given about convict's date of release from the penal institution, his/her term of imprisonment, and the convict's crime which entailed that sentence.

2- Execution of punitive fine:

Punitive fine is the payment of the amount of money calculated through the multiplication of the amount of determined fine by the number of days, which shall not be less than five, and more than seven hundred and thirty unless otherwise stipulated by the law, to the State treasury by the convict.

The court decision about the punitive fine is given to the office of chief public prosecutor. Within thirty days after getting that decision, the public prosecutor sends an order of payment to the convict.

If the convict does not pay the punitive fine notified to him/her within a defined period of time, he/she is sent to prison under the decision of the public prosecutor, to remain there for a term equivalent to the unpaid portion of the fine. Even if it is not stated in the court decision that the punitive fine can be converted to imprisonment, it can be converted by the office of chief public prosecutor.

In the cases of failure of the payment of punitive fines given to children, or the punitive fines given to children after the conversion of their sentences of short-term imprisonment, those unpaid fines can not be converted to imprisonment. The court decision on the collection of punitive fine is given to the highest level of fiscal office in the region by the office of chief public prosecutor, and the fine is collected according to the Law numbered 6283 on the Collection of Public receivables.

## 9. Notaires

### 9. 1. Notaires

#### 9. 1. 1. Notaires

**192) Existe-t-il des notaires dans votre pays ? Si non allez à la question 197**

- Oui  
 Non

**193) Les notaires ont-ils un statut :**

-----

**Si "autre", veuillez le préciser dans la boîte "commentaire" ci-dessous.**

privé (sans contrôle d'une autorité publique)?		NAP
de profession libérale réglementée par les pouvoirs publics ?		NAP
public?	<input checked="" type="checkbox"/> nombre	1 694
autre ?		NAP

Commentaire :

Inspection of the opening or closing of notary offices at a certain place, and appointment of notaries to those offices are conducted by the Ministry of Justice

**194) Le notaire exerce-t-il une fonction (plusieurs réponses possibles):**

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

Si "autre", veuillez préciser :

Determination of certain points, keeping deposits, attestation of commercial books, preparation of notifications, preparation of formal protests related with negotiable instruments, sales of motor-vehicles, preparation of preliminary sales contracts

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

- Oui  
 Non

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

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

Si "autre", veuillez préciser :



**I.1**

**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**

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

Under the legal regulation which came into force on the date of 01 October 2011, the public notaries have been granted the authorities to:

- a) Invite the spouse who left the other to their joint residence
- b) Issue certificates of inheritance

## 10. Interprètes judiciaires

### 10. 1. Interprètes judiciaires

#### 10. 1. 1. Interprètes judiciaires

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

- Oui  
 Non

**198) La fonction d'interprète judiciaire est-elle régulée par des normes juridiques?**

- Oui  
 Non

**199) Nombre d'interprètes judiciaires accrédités ou enregistrés :**

NAP

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

- Oui  
 Non

Si oui, veuillez préciser (par exemple avoir passé avec succès un examen particulier) :

**201) Les tribunaux sont-ils responsables de la sélection des interprètes judiciaires ? Si non, veuillez indiquer dans la boîte "commentaire" ci-dessous quelle autorité est responsable de la sélection.**

- Oui  pour les recruter et/ou les nommer pour un mandat d'une certaine durée  
Oui  pour les recruter sur une base ad hoc en fonction des besoins d'une procédure spécifique  
-  Non

Commentaire :

### J.1

**Vous pouvez indiquer tout commentaire utile à l'interprétation des données indiquées dans ce chapitre**

In the criminal procedure Law (Law numbered 5271), there are provisions related with interpreters.

In Article 202, the situations making the presence of an interpreter necessary are defined. According to that article, if the accused or the victim can not speak Turkish at a level that would be sufficient to express himself/herself, the vital points of the statements of claim and defense shall be interpreted by an interpreter who would be appointed by the court. If the victim or accused is disabled, then the vital points of the statements of claim and defense shall be explained to him/her in a way that could be understood by him/her. Provisions of the above mentioned article shall also apply to the suspects, victims, or accused persons, who are listened to at the stage of investigation. The interpreter shall be appointed by the judge, or the public prosecutor at the stage of investigation.

According to Article 324, the price to be paid to the interpreter that would be appointed to help the

suspects, victims, or accused persons who can not speak Turkish, or are disabled shall not be considered among the court expenses, and shall be met by the State Treasury.

According to Article 56, the deaf or dumb persons who can read and write, give their oath by writing signing their oaths. Deaf or dumb persons who cannot read and write shall give their oath through an interpreter who knows the special language of deaf and dumb people.

The provisions related with legal experts also apply to the interpreters.

**Veillez indiquer la source pour répondre à la question 199 :**

Ministry of Justice, Strategy Development Department

## 11. Experts judiciaires

### 11. 1. Experts judiciaires

#### 11. 1. 1. Experts judiciaires

**202) Dans votre système, les experts interviennent-ils durant la procédure judiciaire comme (choix multiple possible):**

- "Experts témoins" à qui les parties demandent d'apporter leur expertise pour soutenir leur argumentation
- "Experts techniques" qui mettent à la disposition du tribunal leurs connaissances scientifiques et techniques sur des questions de fait
- "Experts juristes" qui peuvent être consultés par le juge pour des questions de droit spécifiques ou qui ont pour tâche de soutenir le juge dans la préparation du travail judiciaire (mais qui ne participent pas au jugement)

**203) Le titre d'expert judiciaire est-il protégé ?**

- Oui
- Non

**204) La fonction d'expert judiciaire est-elle régulée par des normes juridiques?**

- Oui
- Non

**205) Nombre d'experts judiciaires (experts techniques) accrédités ou enregistrés.**

133 508

**206) Existe-t-il des critères relatifs à l'exercice de la fonction d'expert judiciaire dans le cadre des procédures judiciaires ?**

- Oui
- Non

Si oui, veuillez préciser, notamment les délais impartis pour présenter un rapport technique au juge :

Articles 62-73 of the Criminal Procedure Law numbered 5271 contain binding provisions. According to the first paragraph of Article 66 of the said Law, in the decision taken for having an examination made by a judicial expert, the information shall be included as regards to the questions needed to be answered by an expert who has special and technical knowledge and expertise on the matter, as well as the duration of examination. The duration of examination can not exceed 3 months, depending on its nature. However, if there are special reasons necessitating the extension of the duration of examination, it can be extended for a period of maximum three months, upon the request made by the expert, and the reasoned decision of the administration which appointed the expert.

**207) Les tribunaux sont-ils responsables de la sélection des experts judiciaires ?**

-----

**Si non, veuillez indiquer dans la boîte "commentaire" ci-dessous quelle autorité est responsable de la sélection des experts judiciaires?**

- Oui  pour les recruter et/ou la nommer pour un mandat d'une certaine durée  
Oui  pour les recruter sur une base ad hoc en fonction des besoins d'une procédure spécifique  
Non .

Commentaire :

**K.1**

**Vous pouvez indiquer tout commentaire utile à l'interprétation des données indiquées dans ce chapitre**

GENERAL INFORMATION ABOUT THE INSTITUTION OF JUDICIAL EXPERTISE

The procedures and principles to be followed as regards to judicial expertise in criminal cases are regulated by the Criminal Procedure Law.

According to the first paragraph of Article 63 titled "Appointment of Experts" of the Criminal Procedure Law numbered 5271; in the cases necessitating a specific expertise, knowledge, and technical information to reach a conclusion, decision can be given by an expert, upon the will of the suspect or accused person, his/her attorney, the defendant, or his/her legal representative. However, in the matters that can be resolved through the general and legal knowledge had by a judge due to his/her profession, no expert can be appointed. According to the second paragraph of the same article, appointment of an expert, or more than one expert based on reason, is under the sole discretion of the judge or the court. Same decision mechanism applies when the requests for the appointment of more than one expert are rejected. According to the third paragraph of the same article, at the stage of investigation the public prosecutors are also furnished with the powers stated in that article.

According to Article 64 titled "The Persons who can be Appointed as Experts" of the Law numbered 5271; the experts are chosen from the list of real and legal persons, prepared on annual basis by the provincial justice commissions. Public prosecutors and judges can choose the experts not only from the lists prepared for the province they are located, but also from the lists of other provinces. The procedures and principles to be taken as basis for the preparation of those lists, or for crossing some of the persons off the list are defined in the relevant regulations. When appointing an expert according to the above mentioned second paragraph, it is also possible to appoint persons who are not included in the lists mentioned in the first paragraph, by giving the reasons for choosing them. The official experts determined under the law to decide on specific issues are given priority while appointing experts. However, the public officials cannot be appointed as experts in the cases concerning the public organization they are working for.

In the Civil Procedure Law numbered 1086, the procedures and principles to be followed about the appointment of experts in cases other than criminal cases.

According to Article 275 of the Law numbered 1086, in the cases necessitating a specific expertise, knowledge, and technical information to reach a conclusion, the court decides to get the vote and opinion of an expert. However, in the matters that can be resolved through the general and legal knowledge had by a judge due to his/her profession, no expert can be appointed.

According to Article 276 of the same Law; in the disputes which can not be settled, the judge examining the matter can appoint an expert. If there are experts nominated by the Government, they should be appointed to give their votes and opinions on the matter. Only one person can be appointed as expert. When it is necessary more than one expert can also be appointed; but their number cannot exceed three. If the judge deems it necessary, he/she can administer an oath to the experts to act impartially when stating their votes and opinions.

Under article 277 of the same Law; the judges can reject an expert based on certain reasons. The judge can give the decision about the rejection of an expert, after examining the matter as a case. An oath can not be requested about the reasons of rejection. The request for rejection should be submitted within three days after the appointment of the expert.

According to article 278 of the same Law; the individuals who, considering the jobs they are openly performing, should definitely be an expert on the specific matter whose opinion would be received, are obliged to accept the proposal made to them to be an expert. They can refuse the proposal only due to reasons related with witnesses. The provisions on the issues of giving testimony apply

on the experts who refuse coming to the court and fulfilling the duties as an expert.

According to article 279 of the same Law; after listening to both of the parties, the judge determines the questions to be asked to the expert. The expert shall be warned beforehand that he/she can not listen to one of the parties in the absence of the other party.

According to article 280 of the same Law; if a survey or another proceeding is needed to be conducted for the investigation of the matter, each of the parties in dispute can be present during that survey or proceeding.

According to article 281 of the same Law; depending on the nature of matter in question, if it is necessary to receive the votes and opinions of the experts in writing, then the required number of copies of the expert report, and the time to be given for the preparation of that report shall be determined by the judge. That time can not exceed three months, depending on the nature of the matter. The report shall contain the names and surnames of the parties, the matters requested to be resolved by the expert, the material facts examined, the reasons and grounds, the conclusions, reasons of conflicts between the experts (if there is any), the date of preparation of the report, and the signatures of experts who prepared it. The expert who remained in minority can prepare a separate report.

According to article 282 of the same Law; the expert submits his/her report to the court clerk's Office. The date of submission of the report is marked on the report by the senior clerk. Before the court hearing, the copies of expert report are sent to both parties by the senior clerk.

According to article 283 of the same Law; if the judge detects certain deficiencies or vague points in the report, he/she can direct new questions to the experts for the elimination of deficiencies and clarification of vague points. Furthermore, within one week after they receive the report, the parties can also submit a request in writing to the judge for the elimination of deficiencies and clarification of vague points they detected in the report.

The judge can invite the experts any of the court sessions to verbally direct them certain questions to obtain complementary explanations from them.

According to article 285 of the same Law; the price to be paid to the expert shall be determined by the judge.

According to article 286 of the same Law; the votes and opinions of the expert do not bind the judge. If it is convinced that there are strong evidences and suspicions that the expert report submitted to the court does not comply with the material facts and actual realities, without prejudice to the civil and criminal liabilities stipulated in other laws, a certified copy of the case file to be prepared for carrying out legal proceedings about those experts under the Law dated 19 April 1990 and numbered 3628 on Declaration of Properties in Fighting Corruption and Briberies shall be sent to the competent public prosecutor.

**Veillez indiquer la source pour répondre à la question 205 :**

UYAP Information system

## 12. Réformes envisagées

### 12. 1. Réformes envisagées

#### 12. 1. 1. Réformes

**208) Veuillez fournir des informations sur le débat actuel dans votre pays sur le fonctionnement de la justice. Des réformes sont-elles en préparation ou envisagées. Si possible, respectez les catégories suivantes:**

**1. Programmes de réforme généraux**

**2. Budget**

**3. Tribunaux et Ministère Public (par exemple pouvoir et organisation, modifications structurelles -par exemple la réduction du nombre des tribunaux-, gestion et méthodes de travail, technologies de l'information, arriéré judiciaire et efficacité, frais de justice, rénovation et construction de nouveaux bâtiments)**

**4. Conseil supérieur de la Magistrature**

**5. Professionnels de la justice (juges, procureurs, avocats, notaires, agents d'exécution, etc.) : organisation, formation, etc.**

**6. Réformes en matière civile, pénale et administrative, de conventions internationales et d'actes de coopération**

**7. Exécution des décisions de justice**

**8. Médiation et autres ADR**

**9. Lutte contre la criminalité et système pénitentiaire**

**10. Autres**

Constitutional Amendment

As a result of the referendum held on the date of 12 September 2010, the Law numbered 5982, which brings important Constitutional amendments having the nature of reform have come into force.

Important changes have been made in the structural organization and functioning of the High Council of Judges and Prosecutors, with a view to strengthen the independence and impartiality of the judiciary, to reorganize the Council according to the principle of broad-based representation, and to bring an autonomous structure to the Council.

professionals of Justice (judges, prosecutors, attorneys, notaries, enforcement officers, etc.): organization, education, etc.

Law on the Judges and Prosecutors

Within the framework of alignment with the Constitutional amendment of 2010, partial amendments are envisaged to be made in the law numbered 2802 on the Judges and Prosecutors.

Training of the Judges and Prosecutors

Within the framework of the Constitutional amendment made in 2010 through the the Law numbered 5982, the subject of the training of Judges and Prosecutors was planned to be among the duties of the High Council of Judges and Prosecutors under the amended article 159 of the Constitution. According to the Law numbered 6087 on the High Council of Judges and Prosecutors, which was passed in that context, the First Chamber of the Council was given the responsibility to carry out the procedures of giving permission for attendance at the training programs to be organized in accordance with the planning made by the Turkish Academy of Justice, and the requests made in that regard.

Establishment of the Regional Courts of Justice

In 2005, through the passage of the law on the establishment of the courts of appeal, the road was opened for the second instance jurisdiction within the Turkish Judiciary. However, those courts have not been started to operate yet, due to lack of staff and infrastructure. The studies in that regard are intensively going on. Through the appointment of chief prosecutors of regional courts of justice in 2011, another step was taken towards putting the courts of appeal into operation.

Construction of the service buildings of the newly-established regional courts of justice is going on.

Employment of contract staff within the judiciary

In 2009, with the employment of contract staff for the first time, the need for auxiliary staff within the judiciary was largely met, compared to the previous years.

Development of the institution of notaries

In order to make the notaries more functional and responding better to the contemporary needs, it is aimed to make amendments in the existing legislation and to formulate the professional principles for the notaries through the establishment of a cooperation between the Turkish Union of Notaries and the Ministry of justice. Studies on the preparation of the Bill on Notaries are still going

on.

Studies related with the profession of attorneyship

It is planned to establish cooperation with the Turkish Union of Bar Associations and bar associations, in order to ensure a more effective participation of the attorneys in judicial activities, and in activities directed to the solution of the problems of the profession of attorneyship.

Decreasing the administrative duties of the members of the judiciary

It is planned to prepare a legislative infrastructure for decreasing the administrative duties and responsibilities of the members of the judiciary.

Carrying out studies for increasing the effectiveness and efficiency of the debt enforcement and bankruptcy system

In order to increase the effectiveness and efficiency of the debt enforcement and bankruptcy system, it is envisaged to carry out studies for developing the human resources, making amendments in the relevant legislation, determining principles of ethics, and strengthening the institutional structure. The proposal prepared by our Ministry regarding the amendment intended to be made on the Law on Debt Enforcement and Bankruptcy have been submitted to the opinions of the relevant institutions and organizations. On the other hand, amendment of the Law on Debt Enforcement and Bankruptcy in its entirety is also considered. The matters related with bailiffs are also going to be handled in that framework.

Ensuring the development of professional competence

Provision of prevocational and in-service training to the members and employees of the judiciary is very important in ensuring the high quality of judicial activities. To that end, following objectives have been included in the Strategic Plan of the Ministry of justice

#### 4. Reforms in the fields of law, criminal law, administrative law, international conventions, and cooperation

##### Legislative Reform

In order to ensure the functioning of the judiciary more effectively and efficiently as a condition of the devotion to the principles of rule of law and state of law, many of the basic laws have been amended by taking into account the changing conditions of our time. The studies for further amendments are still going on.

In that framework, Turkish Commercial Code, Turkish Code of Obligations, and the Code of Civil Procedure have been entirely renewed.

The commissions set up to prepare the amendments to be made in the laws concerning the administrative law, administrative jurisdiction procedure, and courts of appeals in the administrative jurisdiction continue their studies.

New studies have been started to minimize the number of decisions of violation given by the European Court of Human Rights about our country. In that framework, a Department of Human Rights has been established within the body of the General Directorate of International Law and Foreign Relations.

##### Law on the Establishment and Rules of Procedure of the Constitutional Court

This law regulates the issues related with the establishment, duties, procedure, election of the President, Deputy Presidents, and members, disciplinary and personnel affairs, as well as the qualifications, appointment, duties and responsibilities and the disciplinary and personnel affairs of the rapporteurs, deputy rapporteurs, and other staff of the Constitutional Court.

##### The Law on Making Amendments in Certain laws to Speed up the Judicial services

This law regulates the issues related with: conversion of some offences to misdemeanor; giving up bringing all the offences related with debt enforcement and entailing disciplinary actions and preventive detention before the courts; demanding legal fee for seeking legal remedy and application to courts of appeals in criminal cases; assignment of some of the duties of courts to notaries; determination of an authority to resolve the jurisdictional disputes arising between chief public prosecutor offices; and increasing the limits of definiteness in the decisions given by criminal courts.

#### 5. Enforcement of the judicial decisions:

The Law on Debt Enforcement and Bankruptcy is planned to be renewed entirely. While making the



arrangements in that regard, it is envisaged to determine the deficiencies of the current system, and to establish a new system which would permit the enforcement of judicial decisions in full and in the most rapid way possible.

#### 6. Judicial mediation and alternative means of resolution of other disputes:

The Draft Law on the Mediation in Civil Disputes has been prepared by our Ministry. Currently this Draft Law is being examined by the Justice Commission of the Turkish Grand National Assembly. It is planned to be renewed during the new legislative term. Furthermore, the Draft Law on İstanbul Arbitration Center has been submitted to the Prime Ministry.

The studies are also going on for increasing the effectiveness and efficiency of the institution of mediation arranged within the framework of the Criminal Procedure Law.

Ensuring the improvement and effective utilization of the means to access justice

- This is one of the most important studies which is aimed to be realized and included in the Strategic Plan of the Ministry of Justice.

Taking effective measures for preventing disputes and ensuring the development of alternative means for the resolution of disputes

- It is one of the targets of the Strategic Plan of the Ministry of Justice.

#### 7. Prison system and combating crimes

Development of Criminal Execution system and Probation Services to the level of international standards

- The outmoded penal institutions which do not respond to the needs of modern execution concept were closed down,
- New, modern, and high-capacity penal institutions were opened to replace the closed ones,
- With the aim of increasing the standards of criminal execution system and the penal institutions to the level stated in the *acquis communautaire* and the recommendations of the EU within the process of accession to the EU, projects were carried out with the European countries within the framework of the bilateral cooperation.

#### Other Subjects

##### Strategic Plan of the Ministry of Justice

Parallel to the developments taking place in the world, a strategic management and planning approach was also adopted in our public management system. In that framework, Strategic Plan of the Ministry of Justice (2010-2014) has been prepared. The said plan consists of 12 aims and 80 objectives.

##### Judicial Reform Strategy

Within the framework of the Judicial Reform Strategy, it is envisaged to carry out studies in order to achieve 10 main objectives which would cover the road map for the future, with a view to ensure the integration with the European Union *Acquis Communautaire*, and to bring forward proposals for the solution of basic problems of the Turkish judiciary. Furthermore, the activities to be carried out to reach those objectives have been designated, an action plan has been prepared, and a calendar and a budget have been planned in that regard.