



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE  
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2013

Country: Turkey

National correspondent

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## 1. Demographic and economic data

### 1. 1. General information

#### 1. 1. 1. Inhabitants and economic information

##### 1) Number of inhabitants (if possible on 1 January 2013)

75 627 384

##### 2) Total of annual public expenditure at state level and where appropriate, public expenditure at regional or federal entity level (in €) - (If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP).

	Amount
State or federal level	231 786 944 783
Regional / federal entity level (total for all regions / federal entities)	NA

##### 3) Per capita GDP (in €)

8 221

##### 4) Average gross annual salary (in €)

12 103

##### 5) Exchange rate of national currency (non-Euro zone) to € on 1 January 2013

2,36

##### A1. Please indicate the sources for questions 1 to 4 and give comments concerning the interpretation of the figures supplied if appropriate:

Sources:

- Ministry of Finance
- Official Web Site of the Central Bank
- Turkish Statistical Institute
- 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.

#### 1. 1. 2. Budgetary data concerning judicial system

##### 6) Annual approved public budget allocated to the functioning of all courts, in € (if possible without the budget of the public prosecution services and without the budget of legal aid):

TOTAL annual approved budget allocated to the functioning of all courts (1 + 2 + 3 + 4 + 5 + 6 + 7)	<input checked="" type="checkbox"/> Yes	1 295 361 065
1. Annual public budget allocated to (gross) salaries	<input checked="" type="checkbox"/> Yes	1 077 127 934
2. Annual public budget allocated to computerisation (equipment, investments, maintenance)	<input checked="" type="checkbox"/> Yes	25 127 767
3. Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid. NB: this does not concern the taxes and fees to be paid by the parties.	<input checked="" type="checkbox"/> Yes	81 455 770
4. Annual public budget allocated to court buildings (maintenance, operating costs)	<input checked="" type="checkbox"/> Yes	11 591 377
5. Annual public budget allocated to investments in new (court) buildings	<input checked="" type="checkbox"/> Yes	95 392 385
6. Annual public budget allocated to training and education	<input checked="" type="checkbox"/> Yes	4 665 832

7. Other (please specify):

NA

**7) If you cannot separate the budget of the public prosecution services and the budget of legal aid from the budget allocated to all courts, please indicate it clearly. If "other", please specify:**

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) Are litigants in general required to pay a court tax or fee to start a proceeding at a court of general jurisdiction:**

for criminal cases?

for other than criminal cases?

If yes, are there exceptions to the rule to pay court a tax or fee? Please provide comments on those 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.

**8.1) Please briefly present the methodology of calculation of courts fees?**

In Turkey, There are two main ways in calculation of court fees;

1- There is a fixed fee for the cases which have no economic value, such as divorce cases, eviction cases etc. (For 2013 = 21,15 Turkish Liras [= 8,962 Euro])

2- For the cases have economic value, such as dept recovery cases, the court fee is 5,94 % of the total amount of the value of a case. (the amount cannot be lower than 21,15 Turkish Liras [= 8,962 Euro])

**8.2) Please indicate, if possible, the amount of court fees to commence an action for 3000€ debt recovery?**

The calculation of court fee of 3000 Euro debt (for 2012);

3.000 Euro x 2,36 = 7.080 Turkish Liras

5,94 % of 7.080 Turkish Liras = 420,552 Turkish Liras

However, only one-quarter of the calculated fee must be paid in advance at the beginning of the legal procedure. Therefore, an applicant, to commence a civil case procedure, must pay 105,138 Turkish Liras (= 44,55 Euro) as a fee. That amount does not include other case expenses, such as expenses for postal delivery services, expenses for expert witness etc.

**9) Annual income of court taxes or fees received by the State (in €)**

637 583 272

**12) Annual approved public budget allocated to legal aid, in €. - If one or several data are not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. (Question modified)**

**If your system enables to be granted legal aid for cases which are non litigious or not brought to court, please specify:**

	Amount (in €)
Total annual approved public budget allocated to legal aid (12.1 + 12.2)	89840624
12.1 Annual public budget allocated to legal aid for cases brought to court	89840624
12.1.1 in criminal law cases	73967027
12.1.2 in other than criminal law cases	15873597
12.2 Annual public budget allocated to legal aid for non litigious cases or cases not brought to court (legal consultation, ADR, etc)	NA

Comment :

CN 31/03:

12.1.1 : Turkish government has paid specific attention to the issue of legal aid at this term. Moreover, not only for criminal cases but also for civil cases, has public awareness reached to pretty high level. Therefore the usage if the system has led the increase of the budget allocated to this system.

CN 15/04:

12.1.2 : Annual public budget allocated to legal aid in non criminal law cases decreases of more than 30% and number of cases referred to the court for which legal aid has been granted in other than criminal cases increases of more than 50% from 2010 and 2012. The decrease probably arises from the fact that citizens are becoming aware of the legal aid system and claiming legal aid for cases more, whereas the courts and judges are becoming more restrictive in granting legal aid in cases which require more expensive procedures.

**13) Total annual approved public budget allocated to the public prosecution services (in €). Please indicate in the "comment" box below any useful information to explain the figures provided .**

NAP

Comment :

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) Authorities formally responsible for the budgets allocated to the courts (multiple options possible) :**

	Preparation of the total court budget	Adoption of the total court budget	Management and allocation of the budget among the courts	Evaluation of the use of the budget at a national level
Ministry of Justice	Yes	No	Yes	Yes
Other ministry	No	No	No	No
Parliament	No	Yes	No	Yes
Supreme Court	No	No	No	No
High Judicial Council	No	No	No	No
Courts	No	No	No	No
Inspection body	No	No	No	No
Other	Yes	No	Yes	Yes

**14.1) If any other Ministry and/or inspection body and/or other, please specify (considering 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 You can indicate below:**

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your budgetary system and the main reforms that have been implemented over the last two years
- if available, an organisation scheme with a description of the competencies of the different authorities responsible for the budget process

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.

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. 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.

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 Jurisdictional Disputes, Supreme Election Board and Forensic Medicine Institution budgets are included within Ministry of Justice budget. CN 31/03: Allocations made from the central budget for the courthouse buildings constructed in Istanbul in the year 2011 and 2012, 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 2011 and 2012 have been taken as basis. The given figures do not cover the military courts, which form a separate branch of the judiciary in Turkey.

There is no change in explanations put in the 2010 and 2012 reports because every year some amount of budget is allocated from central budget for the construction of courthouses in Istanbul, rather than the budget of the Ministry of Justice or the budget of other institutions. Also some amount of budget is transferred to the Union of Turkish bar Associations as legal aid.

Original:

Supplemental interpretation of question 14:

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

CN 31/03 :

q. 6 :

- salaries: The increase of the budget is accurate because :

- 1- General increase in salaries: The salaries of civil servants have increased about % 20 from 2010 to 2012.
- 2- The numbers of judges (from 7727 to 8126), prosecutors (from 4241 to 5357) and other staff (from 22011 to 24362) has also increased.

- justice expenses:

The reason for the increase are the following:

- 1- The number of incoming criminal case files has increased from 1.827.336 to 1.937.716.
- 2- The more technical and therefore expensive methods have been used by the courts. Also, the government has paid special attention to securing "reasonable time" for cases. (The number of pending criminal cases decreased from 1.429.300 to 1.298.008, while the number of incoming criminal case files has increased from 1.827.336 to 1.937.716)

- investments new buildings:

The data is accurate because physical conditions of the court buildings in Turkey were very bad at the beginning of 2000. Turkish government has taken important steps and completed many courthouses until 2010. Therefore the budget for new court buildings decreased after 2010. For example one of the largest courthouses of Turkey (Caglayan Courthouse) was completed at the very beginning of 2010.

- training:

The budget of the Turkish Justice Academy which is the major institution for training and education for judiciary was not included in the 2010 Report. After discussion on this issue, it was decided to include the budget of the Turkish Justice Academy in this respect.

q. 9: The rates of taxes and fees increase every year on the basis of "revaluation rate". "Revaluation rate" is used for all kind of public services (taxes, fees, salaries, etc.) and is decided by the Ministry of Finance. "Revaluation rate" was 10,26 % for 2011 and 7,8 % for 2012 and therefore 18,86 % for 2 years. However, the increase of Euro against Turkish liras is below this rate: 14 %.

Also, there are some increases in taxes and fees more than "Revaluation rate".

**Please indicate the sources for answering questions 6, 9, 12 and 13.**

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

**1. 1. 3. Budgetary data concerning the whole justice system**

**15) The following data would be useful for information**

**15.1) (Former question 10) Annual approved public budget allocated to the whole justice system, in € (this global budget does not include only the court system as defined under question 6, but also the prison system, the judicial protection of juveniles, the operation of the Ministry of Justice, etc.)**

NA

2667643220

**15.2) (Former question 11) Please indicate the budgetary elements that are included in the whole justice system. If "other", please specify in the "comment" box below.**

Court (see question 6)	Yes
Legal aid (see question 12)	Yes
Public prosecution services (see question 13)	Yes
Prison system	Yes
Probation services	Yes
Council of the judiciary	Yes
Constitutional court	Yes
Judicial management body	NAP
State advocacy	NAP
Enforcement services	Yes
Notariat	No
Forensic services	Yes
Judicial protection of juveniles	Yes
Functioning of the Ministry of Justice	Yes
Refugees and asylum seekers services	No
Other	No

Comment :

In Turkey, there is not a judicial management body and state advocacy. Notariats have their own budgets. Refugees and asylum seekers services have also separate budget and their budgets is not included in the total budget.

## 2. Access to justice

### 2. 1. Legal aid

#### 2. 1. 1. Principles

#### 16) Does legal aid apply to:

	Criminal cases	Other than criminal cases
Representation in court	Yes	Yes
Legal advice	Yes	Yes

#### 17) Does legal aid include the coverage of or the exemption from court fees?

- Yes  
 No

If yes, please specify:

Provisional exoneration of court fees are provided within the scope of Article 335 of the Civil Procedure Code.

#### 18) Can legal aid be granted for the fees that are related to the enforcement of judicial decisions (e.g. fees of an enforcement agent)?

- Yes  
 No

If yes, please specify:

The legal aid is rearranged by 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. This Article is as follows;

The scope of legal aid

ARTICLE 335 - (1) A legal aid decision provides grants as follows:

- a) Exemption from all expenses for proceedings and enforcements.  
b) Exemption from the responsibility of providing collateral for expenses for proceedings and enforcements.

...

#### 19) Can legal aid be granted for other costs (different from questions 16 to 18, e.g. fees of technical advisors or experts, costs of other legal professionals (notaries), travel costs etc ? If yes, please specify it in the "comment" box below).

Criminal cases	Other than criminal cases
Yes	Yes

Comment :

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) Number of cases referred to the court for which legal aid has been granted. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

-----  
Please specify in the "comment" box below, when appropriate.

[This question concerns only the annual number of cases for which legal aid has been granted to those referring a case to a court. It does not concern legal advice provided for cases that are not brought before the court.]

	Number
Total	102305
in criminal cases	90521



other than criminal cases	11784
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Comment :

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). See also comments to q. 12.

**20.1) Number of cases not brought to court (see 12.2 above) for which legal aid has been granted. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

Number of cases
NA

Comment :

**21) In criminal cases, can individuals who do not have sufficient financial means be assisted by a free of charge (or financed by a public budget) lawyer?**

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Please specify in the "comment" box below.

Accused individuals	Yes
Victims	Yes

Comment :

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) If yes, are individuals free to choose their lawyer within the framework of the legal aid system**

Yes

No

**23) Does your country have an income and assets evaluation for granting legal aid to the applicant ? If you have such a system but no data available, please indicate NA. If you do not have such a system, please indicate NAP.**

-----  
Please provide in the "comment" box below any information to explain the figures provided.

	amount of annual income (if possible for one person) in €	amount of assets in €
for criminal cases	NO	NAP
for other than criminal cases?	YES	NA

Comment :

A person who requests legal aid has to take a poverty certificate from local municipalities or village or neighbourhood eldership council in order to prove his poverty (Code of Civil Procedure,468).

There is no further income and property test. Also there is no numeral criterion for determining poverty. Whether or not to grant legal aid is subject to the consideration of Courts or Bars.

**24) In other than criminal cases, is it possible to refuse legal aid for lack of merit of the case (for example for frivolous action or no chance of success)?**

Yes

No

If yes, please explain the exact criteria for denying legal aid:

Civil Procedure Code, Article 334:

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.

If public associations and foundations which are incapable of paying the case costs partially or fully without leading themselves 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) In other than criminal cases, is the decision to grant or refuse legal aid taken by:**

- the court?  
 an authority external to the court?  
 a mixed authority (court and external bodies)?

**26) Is there a private system of legal expense insurance enabling individuals (this does not concern companies or other legal persons) to finance court proceedings?**

- Yes  
 No

If appropriate, please inform about the current development of such insurances in your country; is it a growing phenomenon?

**27) Can judicial decisions direct how legal costs, paid by the parties during the procedure, will be shared, in:**

criminal cases?	Yes
other than criminal cases?	Yes

**B.1 You can indicate below:**

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your legal aid system and the main reforms that have been implemented over the last two years

**Please indicate the sources for answering questions 20 and 23:**

The Ministry of Justice,  
The Bar Association.

**2. 2. Users of the courts and victims**

**2. 2. 1. Rights of the users and victims**

**28) Are there official internet sites/portals (e.g. Ministry of Justice, etc.) for which the general public may have free of charge access to the following:**

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**The websites mentioned could appear in particular on the internet website of the CEPEJ. Please specify in the "comment" box below what documents and information the addresses for "other documents" include:**

- |  |   |  |
|--|---|--|
| legal texts (e.g. codes, laws, regulations, etc.)? Internet address(es): | <input checked="" type="checkbox"/> Yes | www.mevzuat.adalet.gov.tr/<br>www.adalet.gov.tr/<br>www.mevzuat.basbakanlik.gov.tr |
| case-law of the higher court/s? Internet address(es):                    | <input checked="" type="checkbox"/> Yes | www.adalet.gov.tr/   |
| other documents (e.g. downloadable forms, online registration)? Internet | <input checked="" type="checkbox"/> Yes | www.hukukiyardim.gov.tr/index.html   |

address(es):

Comment :

**29) Is there an obligation to provide information to the parties concerning the foreseeable timeframes of proceedings?**

- Yes  
 No  
 Yes only in some specific situations

If yes only in some specific situations, please specify:

**30) Is there a public and free-of-charge specific information system to inform and to help victims of crime?**

- Yes  
 No

If yes, please specify:

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) Are there special favourable arrangements to be applied, during judicial proceedings, to the following categories of vulnerable persons. If "other vulnerable person" and/or "other special arrangements", please specify it in the "comment" box below.**

**[This question does not concern the police investigation phase of the procedure and does not concern compensation mechanisms for victims of criminal offences, which are addressed under questions 32 to 34.]**

	Information mechanism	Special arrangements in court hearings	Other
Victims of sexual violence/rape	Yes	Yes	Yes
Victims of terrorism	Yes	Yes	Yes
Children (witnesses or victims)	Yes	Yes	Yes
Victims of domestic violence	Yes	No	Yes
Ethnic minorities	No	No	No
Disabled persons	No	Yes	Yes
Juvenile offenders	Yes	Yes	No
Other (e.g. victims of human trafficking, forced marriage, sexual mutilation)	Yes	Yes	Yes

Comment :

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 in the case that he/she is informed about an incident of domestic 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.

### 31.1) Is it possible for minors to be a party to a judicial proceedings :

- Yes  
 No

If yes, please specify which procedure can be concerned (civil, criminal, administrative/normal or accelerated procedure) and at which conditions (can children benefit from legal aid, be represented by a lawyer, etc.) :

### 32) Does your country allocate compensation for victims of crime?

- Yes  
 No

If yes, for which kind of offences

Damages of victims of terrorism are compensated in accordance with the Law on Compensation for Damage Arising from Terrorism and Combating Terrorism numbered 5233. 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) If yes, does this compensation consist in:**

- a public fund?
- damages to be paid by the responsible person (decided by a court decision)?
- a private fund?

**34) Are there studies that evaluate the recovery rate of the damages awarded by courts to victims?**

- Yes
- No

If yes, please illustrate with available data concerning the recovery rate, the title of the studies, the frequency of the studies and the coordinating body:

**35) Do public prosecutors have a specific role with respect to the victims (protection and assistance)?**

- Yes
- No

If yes, please specify:

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 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) Do victims of crime have the right to dispute a public prosecutor's decision to discontinue a case?**

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Please verify the consistency of your answer with that of question 105 regarding the possibility for a public prosecutor "to discontinue a case without needing a decision by a judge".

- Yes
- No
- NAP (the public prosecutor cannot decide to discontinue a case on his/her own. A decision by a judge is needed).

If necessary, please specify:

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. Confidence of citizens in their justice system

**37) Is there a system for compensating users in the following circumstances:**

- excessive length of proceedings?
- non execution of court decisions?
- wrongful arrest?
- wrongful condemnation?

Where appropriate, please give details on the compensation procedure, the number of cases,

the result of the procedures and the existing mechanism for calculating the compensation (e.g. the amount per day for unjustified detentions or convictions):

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) Does your country have surveys aimed at legal professionals and court users to measure their trust and/or satisfaction with the services delivered by the judicial system? (multiple options possible)**

- (Satisfaction) surveys aimed at judges
- (Satisfaction) surveys aimed at court staff
- (Satisfaction) surveys aimed at public prosecutors
- (Satisfaction) surveys aimed at lawyers
- (Satisfaction) surveys aimed at the parties
- (Satisfaction) surveys aimed at other court users (e.g. jurors, witnesses, experts, interpreters, representatives of governmental agencies)
- (Satisfaction) surveys aimed at victims

If possible, please specify their titles, object and websites where they can be consulted:

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

**39) If possible, please specify:**

	Surveys at a regular interval (for example annual)	Occasional surveys
Surveys at national level	Yes	Yes
Surveys at court level	No	No

**40) Is there a national or local procedure for making complaints about the functioning of the judicial system (for example the handling of a case by a judge or the duration of a proceeding)?**

- Yes
- No

**41) Please specify which authority is responsible for dealing with such complaints and inform whether there is or not a time limit to respond and/or a time limit for dealing with the complaint (multiple options possible). Please give information concerning the efficiency of this complaint procedure in the "comment" box below.**

	Time limit to respond (e.g. to acknowledge receipt of the complaint, to provide information on the follow-up to be given to the complaint, etc.)	Time limit for dealing with the complaint
Court concerned	No	No

Higher court	No	No
Ministry of Justice	Yes	Yes
High Council of the Judiciary	Yes	Yes
Other external bodies (e.g. Ombudsman)	No	No

**Comment :**

In Turkey there are different ways for a person to make complaints about the functioning of the judicial system.

**Complaints about prosecutors;**

Complaints about prosecutors are subject to pre-examination of the Ministry of Justice. 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 prosecutor or, depending on the scope and seriousness of the issue, by justice inspectors. The MoJ decides 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 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.

**Complaints about judges;**

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.

**41.1) Please indicate the number of complaints that are upheld and the amount of compensation given to users in 2012 for complaints about the functioning of the judicial system**

Numbers are not available.

### 3. Organisation of the court system

#### 3. 1. Functioning

##### 3. 1. 1. Courts

**42) Number of courts considered as legal entities (administrative structures) and geographic locations. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

	Total number
42.1 First instance courts of general jurisdiction (legal entities)	4349
42.2 First instance specialised Courts (legal entities)	2107
42.3 All the courts (geographic locations) (this includes 1st instance courts of general jurisdiction, first instance specialised courts, all second instance courts and courts of appeal and all supreme courts)	652

**43) Number (legal entities) of first instance specialised courts (or specific judicial order). If data is not available, please indicate NA.**

-----  
**If the situation is not applicable in your country, please indicate NAP.**

	Number
Total (must be the same as the data given under question 42.2)	2107
Commercial courts (excluded insolvency courts)	184
Insolvency courts	NAP
Labour courts	263
Family courts	303
Rent and tenancies courts	NAP
Enforcement of criminal sanctions courts	140
Fight against terrorism, organised crime and corruption	NAP
Internet related disputes	NAP
Administrative courts	160
Insurance and / or social welfare courts	NAP
Military courts	32
Other specialised 1st instance courts	1025

Comment :

In 2012, 102 courthouses have been closed in small provinces. Judges, prosecutors and auxiliary personnel have been relocated to other cities and provinces. Therefore the number of court have increased whereas the number of geographic location have decreased.

CN 31/03:

The establishment of new specialized courts is a long term goal prescribed in the Judicial Reform Strategy entered into force at the beginning of 2009.

Goal 3.7.

Wide spreading the specialized courts considering international practices and needs.

(please refer to <http://www.sgb.adalet.gov.tr/yrs/Reform%20Strategy%20Action%20Plan.pdf>)

Therefore a lot of new specialised courts have been established at this period.

**44) Is there a foreseen change in the structure of courts [for example a reduction of the number of courts (geographic locations) or a change in the powers of courts]?**

Yes

No

If yes, please specify:

**45) Number of first instance courts (geographic locations) competent for the following cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**



	Number
a debt collection for small claims	NAP
a dismissal	210
a robbery	276

**Please give the definition for small claims and indicate the monetary value of a small claim:**

Since 01.10.2011, there is no special courts for small claims in Turkey. Only commercial cases are held by commercial courts.

CN 31/03:

The difference concerning the number of first instance courts for "dismissal cases" arises from the definition of "dismissal". On the basis of new definition, the last number is accurate.

**Please indicate the sources for answering questions 42, 43 and 45:**

The Ministry of Justice (Activity Report 2012)  
The Ministry of National Defence,  
The High Council of Judges and Prosecutors

3. 1. 2. Judges, court staff

**46) Number of professional judges sitting in courts (if possible on 31 December 2012) (please give the information in full-time equivalent and for permanent posts actually filled for all types of courts - general jurisdiction and specialised courts). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

**Please provide in the "comment" box below any useful comment for interpreting the data above.**

\*\*\*\*\*

**[Please make sure that public prosecutors and their staff are excluded from the following figures (they will be part of questions 55-60). If a distinction between staff attached to judges and staff attached to prosecutors cannot be made, please indicate it clearly.]**

**Please indicate the number of posts that are actually filled at the date of reference and not the theoretical budgetary posts.]**

	Total	Males	Females	NAP
Total number of professional judges (1 + 2 + 3)	8126	5332	2794	
1. Number of first instance professional judges	7596	4901	2695	
2. Number of second instance (court of appeal) professional judges	NAP	NAP	NAP	
3. Number of supreme court professional judges	530	431	99	

Comment :

CN 31/03:

This difference from 2010 to 2012 in respect of "supreme court" arises from the change in understanding of "supreme court judge". In Turkey, there are rapporteur judges working at supreme courts. They are not the member of these courts. We have discussed and decided that the number of rapporteur judges should not be included in the figure.

**47) Number of court presidents (professional judges). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

	Total	Males	Females	NAP
Total number of court presidents (1 + 2 + 3)	395	366	29	
1. Number of first instance court presidents	392	363	29	
2. Number of second instance (court of appeal) court presidents	NAP	NAP	NAP	NAP
3. Number of supreme court presidents	3	3	0	

**48) Number of professional judges sitting in courts on an occasional basis and who are paid as such (if possible on 31 December 2012).**

-----

**Please provide in the "comment" box below any information to explain the answer under question 48.**

Gross figure NAP  
 If possible, in full-time equivalent NAP

Comment :

**49) Number of non-professional judges who are not remunerated but who can possibly receive a simple defrayal of costs (if possible on 31 December 2012) (e.g. lay judges and "juges consulaires", but not arbitrators and persons sitting in a jury):**

-----

**If such non-professional judges exists in your country, please specify it in the "comment" box below:**

Gross figure NAP

Comment :

**50) Does your judicial system include trial by jury with the participation of citizens?**

- Yes  
 No

If yes, for which type of case(s)?

**51) Number of citizens who were involved in such juries for the year of reference:**

NAP

**52) Number of non-judge staff who are working in courts for judges (if possible on 31 December 2012) (this data should not include the staff working for public prosecutors; see question 60) (please give the information in full-time equivalent and for permanent posts actually filled). If "other non-judge staff", please specify it in the "comment" box below.**

Total non-judge staff working in courts (1 + 2 + 3 + 4 + 5)  Yes (among which women) 2 4 362

1. Rechtspfleger (or similar bodies) with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal NAP

2. Non-judge staff whose task is to assist the judges (case file preparation, assistance during the hearing, court recording, helping to draft the decisions) such as registrars  Yes (among which women) 2 1 962

3. Staff in charge of different administrative tasks and of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management)  Yes (among which women) 424

4. Technical staff  Yes (among which women) 1 008

5. Other non-judge staff  Yes (among which women) 968

Comment :

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.

CN 31/03:

Concerning the increase for the "Technical staff" and the "Other non-judge staff", Turkish government is planning to establish second instance courts at this year. Therefore, there is a dramatic increase in the number of personnel.

Also the government pays attention to family courts, juvenile courts, and juvenile high criminal courts and increased the number of psychologists, pedagogues, and social workers working for these courts.

**53) If there are Rechtspfleger (or similar bodies) in your judicial system, please describe briefly their status and duties:**

In our judicial system, there is no Rechtspfleger.

**54) Have the courts delegated certain services, which fall within their powers, to private providers (e.g. IT services, training of staff, security, archives, cleaning)?**

Yes

No

If yes, please specify:

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 Istanbul 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.

**C1 You can indicate below:**

- any useful comments for interpreting the data mentioned in this chapter

- the characteristics of your judicial system and the main reforms that have been implemented over the last two years

**Please indicate the sources for answering questions 46, 47, 48, 49 and 52**

The Ministry of Justice, (The General Directorate of Personnel) The High Council Judges and Prosecutors.

3. 1. 3. Public prosecutors and staff

**55) Number of public prosecutors (if possible on 31 December 2012) (please give the information in full-time equivalent and for permanent posts actually filled, for all types of courts – ordinary and specialised jurisdictions). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. Please provide in the "comment" box below any useful information for interpreting the data.**

	Total	Males	Females	NAP
Total number of prosecutors (1 + 2 + 3)	4 357	4 057	300	
1. Number of prosecutors at first instance level	4 089	3 832	257	
2. Number of prosecutors at second instance (court of appeal) level	15	15	0	
3. Number of prosecutors at supreme court level	253	210	43	

Comment :

Due to the fact that courts of appeal have not yet been started to operate in the year 2012, 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.

**56) Number of heads of prosecution offices. If data is not available, please indicate NA. If the situation is**

**not applicable in your country, please indicate NAP.**

**Please provide in the "comment" box below any useful information for interpreting the data.**

	Total	Males	Females	NAP
Total number of heads of prosecution offices (1 + 2 + 3)	217	216	1	
1. Number of heads of prosecution offices at first instance level	200	199	1	
2. Number of heads of prosecution offices at second instance (court of appeal) level	15	15	0	
3. Number of heads of prosecution offices at supreme court level	2	2	0	

Comment :

Even though courts of appeal have not yet been started to operate in 2012, chief public prosecutors have been appointed to carry out the efforts to make these courts operational.

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.

**57) Do other persons have similar duties to public prosecutors?**

- Yes  
 No  
 NA

Number (full-time equivalent)

**58) If yes, please specify their title and function:**

**59) If yes, is their number included in the number of public prosecutors that you have indicated under question 55?**

- Yes  
 No

**59.1) Do all prosecution offices have specially trained prosecutors in domestic violence and sexual violence etc.?**

- Yes

**60) Number of staff (non-public prosecutors) attached to the public prosecution service (if possible on 31 December 2012) (without the number of non-judge staff, see question 52) (in full-time equivalent and for permanent posts actually filled).**

Number  NA 18060  
 Among which women  NA

**C2 You can indicate below:**

- Any useful comments for interpreting the data mentioned in this chapter
- The characteristics of your judicial system and the main reforms that have been implemented over the last two years

CN 31/03: q. 60 Turkish government is planning to establish second instance courts and prosecution services in these courts at this year. Therefore, there is a dramatic increase in the number of personnel.

**Please indicate the sources for answering questions 55, 56 and 60.**

The Ministry of Justice, (The General Directorate of Personnel) The High Council Judges and Prosecutors.

[3. 1. 4. Management of the court budget](#)

**61) Who is entrusted with responsibilities related to the budget within the court?**

-----  
**If "other", please specify it in the "comment" box below.**

	Preparation of the budget	Arbitration and allocation	Day to day management of the budget	Evaluation and control of the use of the budget
Management Board	No	No	No	No
Court President	No	No	No	No
Court administrative director	No	No	No	No
Head of the court clerk office	No	No	No	No
Other	Yes	Yes	Yes	Yes

Comment :

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

### 3. 1. 5. Use of Technologies in courts

**62) For direct assistance to the judge/court clerk, what are the computer facilities used within the courts?**

Word processing	100% of courts
Electronic data base of caselaw	100% of courts
Electronic files	100% of courts
E-mail	100% of courts
Internet connection	100% of courts

**63) For administration and management, what are the computer facilities used within the courts?**

Case registration system	100% of courts
Court management information system	100% of courts
Financial information system	100% of courts
Videoconferencing	-50% of courts

**64) For the electronic communication and exchange of information between the courts and their environment, what are the computer facilities used by the courts ?**

-----  
**Si "autres moyens de communication électronique", veuillez le préciser dans la boîte de commentaires ci-dessous.**

Electronic web forms	0 % of courts
Website	100% of courts
Follow-up of cases online	100% of courts
Electronic registers	100% of courts
Electronic processing of small claims	0 % of courts
Electronic processing of undisputed debt recovery	0 % of courts
Electronic submission of claims	+50% of courts
Videoconferencing	-50% of courts
Other electronic communication facilities	100% of courts

Comment :

Although it is not possible to file a case via the Internet, the National Judicial Network System, which is the IT system used by courts and other judicial bodies, allows citizens to follow the stage of their cases through the Internet. In addition, lawyers are able to file a case via the National Judicial Network System using electronic signature. Also, all citizens have the opportunity to learn the stage of their case with text message.

### 65) The use of videoconferencing in the courts (details on question 63).

-----  
Please indicate in the "comment" box below any clarification on the legal framework and the development of videoconferencing in your country.

65.1 In criminal cases, do courts or prosecution offices use videoconferencing for hearings in the presence of defendants or witnesses or victims?	Yes
65.2 Can such court hearing be held in the police station and/or in the prison?	Yes
65.3 Is there any specific legislation on the conditions for using videoconferencing in the courts / prosecution offices, especially in order to protect the rights of the defence?	Yes
65.4 Is videoconferencing used in other than criminal cases?	Yes

Comment :

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.

As for the civil law cases, Article 149 of the Law on Civil Procedure allows civil courts to use videoconferencing during the hearings. The Article says;

Using of videoconferencing at hearings:

ARTICLE 149 - (1) The court, provided that the parties have consent, may allow using videoconferencing to make able parties and their representatives to participate and carry out procedures for the case.

(2) Subject to the consent of the parties, the court, also may allow witness, expert, specialist and parties to give statement from other court during the hearing. Videoconferencing is used during the hearing.

### C3 You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your judicial system and the main reforms that have been implemented over the last two years

## 3. 2. Monitoring and evaluation

### 3. 2. 1. Performance and evaluation

### 66) Is there a centralised institution that is responsible for collecting statistical data regarding the functioning of the courts and judiciary?

Yes

No

If yes, please indicate the name and the address of this institution:

Ministry of Justice General Directorate of Criminal records and Statistics:  
Tuna Caddesi No:10 Yenisehir/ANKARA/TURKEY  
www.adlisicil.adalet.gov.tr

### 66.1) Does this institution publish statistics on the functioning of each court on the internet:

- Yes  
 No, only in an intranet website  
 No

**67) Are individual courts required to prepare an annual activity report (that includes, for example, data on the number of cases processed or pending cases, the number of judges and administrative staff, targets and assessment of the activity)?**

- Yes  
 No, only in an intranet website

**68) Do you have, within the courts, a regular monitoring system of court activities concerning:**

-----  
**The monitoring system aims to assess the day-to-day activity of the courts (namely, what the courts produce) thanks in particular to data collections and statistical analysis (see also questions 80 and 81).**

- number of incoming cases?  
 number of decisions delivered?  
 number of postponed cases?  
 length of proceedings (timeframes)?  
 other?

If other, please specify:

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) Do you have a system to evaluate regularly the activity (in terms of performance and output) of each court?**

-----

**The evaluation system refers to the performance of the court systems with prospective concerns, using indicators and targets. The evaluation may be of more qualitative nature (see questions 69-77). It does not refer to the evaluation of the overall (good) functioning of the court (see question 82).**

- Yes  
 No

If yes, please specify:

The Inspection Board of the High Council of Judges and Prosecutors has the task of monitoring whether the judges and prosecutors carry out their tasks according to law and other regulations. There are also regular inspections carried out in every two years for judges and prosecutors. 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. Evaluations regarding the "Recommendation List" prepared as a result of inspections conducted by the Inspection Board.

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 High Council of Judges and Prosecutors.

Statistics that indicates instant and periodical performance of the courts can be accessed through the National Judiciary Informatics System (UYAP).

**70) Concerning court activities, have you defined performance and quality indicators (if no, please skip to question 72)**

- Yes  
 No

**71) Please select the 4 main performance and quality indicators that have been defined:**

- incoming cases  
 length of proceedings (timeframes)  
 closed cases  
 pending cases and backlogs  
 productivity of judges and court staff  
 percentage of cases that are processed by a single sitting judge  
 enforcement of penal decisions  
 satisfaction of court staff  
 satisfaction of users (regarding the services delivered by the courts)  
 judicial quality and organisational quality of the courts  
 costs of the judicial procedures  
 other:

If other, please specify:

**72) Are there quantitative performance targets (for instance a number of cases to be addressed in a month) defined for each judge?**

- Yes  
 No

**73) Who is responsible for setting the targets for each judge?**

- executive power (for example the Ministry of Justice)?  
 legislative power  
 judicial power (for example a High Judicial Council, Higher Court)  
 President of the court  
 other

If other, please specify:

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) Are there performance targets defined at the level of the court (if no please skip to question 77)?**

- Yes  
 No

**75) Who is responsible for setting the targets for the courts?:**

- executive power (for example the ministry of Justice)?  
 legislative power  
 judicial power (for example a High Judicial Council, Higher Court)  
 President of the court  
 other

If other, please specify:

**76) Please specify the main targets applied to the courts:**

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) Who is responsible for evaluating the performance of the courts (see questions 69 to 76)? (multiple options possible)**

- High Council of judiciary  
 Ministry of Justice  
 Inspection authority  
 Supreme Court  
 External audit body  
 Other

If other, please specify :

**78) Are quality standards determined for the whole judicial system (are there quality systems for the judiciary and/or judicial quality policies)?**

- Yes  
 No

If yes, please specify:

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) Do you have specialised court staff that is entrusted with these quality standards?**

- Yes  
 No

**80) Do you monitor backlogs and cases that are not processed within a reasonable timeframe for ?**

- in civil law cases  
 in criminal law cases  
 in administrative law cases

**81) Do you monitor waiting time during court procedures?**

- Yes  
 No

If yes, please specify:

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) Is there a system to evaluate the overall (smooth) functioning of courts on the basis of an evaluation plan (plan of visits) agreed beforehand?**

-----  
**This question does not concern the specific evaluation of performance indicators.**

- Yes  
 No

Please specify the frequency of the evaluation:

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) Is there a system for monitoring and evaluating the performance of the public prosecution service?**

- Yes  
 No

If yes, please give further details:

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 You can indicate below:**

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your court monitoring and evaluation systems

## 4. Fair trial

### 4. 1. Principles

#### 4. 1. 1. General principles

**84) Percentage of first instance criminal in absentia judgments (cases in which the suspect is not attending the hearing in person nor represented by a lawyer)?**

10

**85) Is there a procedure to effectively challenge a judge if a party considers that the judge is not impartial?**

NA

**86) Number of cases regarding Article 6 of the European Convention of Human Rights on duration and non-execution. If data is not available, please indicate NA.**

	Cases declared inadmissible by the Court	Friendly settlements	Judgements establishing a violation	Judgements establishing a non violation
Civil proceedings - Article 6§1 (duration)	5	68	51	0
Civil proceedings - Article 6§1 (non-execution)	0	1	20	0
Criminal proceedings - Article 6§1 (duration)				

**Please indicate the sources:**

The Ministry of Justice, Human Rights Department.

**D.1 You can indicate below any useful comments for interpreting the data mentioned in this chapter**

The numbers at the line of "Civil proceedings - Article 6§1 (duration)" is the total number of civil proceedings and criminal proceedings. Seperate numbers are not available.

### 4. 2. Timeframes of proceedings

#### 4. 2. 1. General information

**87) Are there specific procedures for urgent matters as regards:**

- civil cases?
- criminal cases?
- administrative cases?
- there is no specific procedure

If yes, please specify:

Civil Cases: Article 316 of the Civil Procedure Code stipulates "simple trial procedure" which provides simplified procedures for certain cases. Also, according to the Article 389 of the same Code, courts can decide interim measurements 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: Article 27 of the Administrative Procedure Code lays down; courts can take interim measurements 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) Are there simplified procedures for:**

- civil cases (small disputes)?
- criminal cases (small offences)?

- administrative cases?  
 there is no simplified procedure

If yes, please specify:

Criminal Cases: Cases handled by the Criminal Courts of Peace.

Administrative Cases: Judgments given by a single-judge court rather than a delegation court consisting of 3 judges.

CN 31/03 :As it is stated at the Q 45;

"Since 01.10.2011, there is no special courts for small claims in Turkey. Only commercial cases are held by commercial courts."

Therefore, there is no simplified procedures applied by these court.

**88.1) For these simplified procedures, may judges deliver an oral judgement with a written order and dispense with a full reasoned judgement?**

- Yes  
 No

**89) Do courts and lawyers have the possibility to conclude agreements on arrangements for processing cases (presentation of files, decisions on timeframes for lawyers to submit their conclusions and on dates of hearings)?**

- Yes  
 No

If yes, please specify:

**4. 2. 2. Case flow management and timeframes of judicial proceedings**

**90) Comment:**

The national correspondents are invited to pay special attention to the quality of the answers to questions 91 to 102 regarding case flow management and timeframes of judicial proceedings. The CEPEJ agreed that the subsequent data would be processed and published only if answers from a significant number of member states – taking into account the data presented in the previous report – are given, enabling a useful comparison between the systems.

**91) First instance courts: number of other than criminal and criminal law cases.**

Number of other than criminal law cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

**Note 1:** cases mentioned in categories 3 to 5 (enforcement, land registry, business register) should be presented separately in the table. Cases mentioned in category 6 (administrative law) should also be separately mentioned for the countries which have specialised administrative courts or separate administrative law procedures or are able to distinguish in another way between administrative law cases and civil law cases.

**Note 2:** check if the figures submitted are (horizontally and vertically) consistent. Horizontal consistent data means: "(pending cases on 1 January 2012 + incoming cases) – resolved cases" should give the correct number of pending cases on 31 December 2012. Vertical consistency of data means that the sum of the individual case categories 1 to 7 should r

	Pending cases on 1 Jan. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
Total of other than criminal law cases (1+2+3+4+5+6+7)*	1028222	1768983	2046349	750856
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*	917136	1617015	1852995	681156
2. General civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, etc. (if feasible without administrative law cases; without enforcement cases, registration cases and other cases, see categories 3-7)*	NA	NA	NA	NA
3. Non litigious enforcement cases	NA	NA	NA	NA
4. Non litigious land registry cases**	NA	NA	NA	NA
5. Non litigious business registry cases**	NA	NA	NA	NA
6. Administrative law cases	111086	151968	193354	69700
7. Other cases (e.g. insolvency registry cases)	NA	NA	NA	NA

**92) If courts deal with "civil (and commercial) non-litigious cases", please indicate the case categories included:**

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) If "other cases", please indicate the case categories included:**

**94) Number of criminal law cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

**Note: please check if the figures submitted are (horizontally and vertically) consistent. Horizontal**

**consistent data means that: "(pending cases on 1 January 2012 + incoming cases) – resolved cases" should give the correct number of pending cases on 31 December 2012. Vertical consistency of data means that the sum of the categories 8 and 9 for criminal cases should reflect the total number of criminal cases.**

	Pending cases on 1 Jan. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
Total of criminal cases (8+9)	1458389	1937716	2098097	1298008
8. Severe criminal cases	78204	100581	99912	78873
9. Misdemeanour and / or minor criminal cases	1380185	1837135	1998185	1219135

**95) To differentiate between misdemeanour / minor offenses and serious offenses and ensure the consistency of the responses between different systems, the CEPEJ invites to classify as misdemeanour / minor all offenses for which it is not possible to pronounce a sentence of privation of liberty. Conversely, should be classified as severe offenses all offenses punishable by a deprivation of liberty (arrest and detention, imprisonment). If you cannot make such a distinction, please indicate the categories of cases reported in the category "serious offenses" and cases reported in the category "minor offenses":**

**96) Comments on questions 90 to 95 (specific situation in your country e.g. NA-answers and the calculation of the total number of other than criminal law cases, differences in horizontal consistency etc.)**

**97) Second instance courts: total number of cases**

**Number of "other than criminal law" cases.**

**If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

	Pending cases on 1 Jan. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
Total of other than criminal law cases (1+2+3+4+5+6+7)	NAP	NAP	NAP	NAP
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*	NAP	NAP	NAP	NAP
2. General civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, etc. (if feasible without administrative law cases; without enforcement cases, registration cases and other cases, see categories 3-7)*	NAP	NAP	NAP	NAP
3. Non litigious enforcement cases	NAP	NAP	NAP	NAP
4. Non litigious land registry cases	NAP	NAP	NAP	NAP
5. Non litigious business registry cases	NAP	NAP	NAP	NAP
6. Administrative law cases	NAP	NAP	NAP	NAP
7. Other cases (e.g. insolvency registry cases)	NAP	NAP	NAP	NAP

**98) Number of criminal law cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

	Pending cases on 1 Jan. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
Total of criminal cases (8+9)	NAP	NAP	NAP	NAP
8. Severe criminal cases	NAP	NAP	NAP	NAP
9. Misdemeanour and/or minor criminal cases	NAP	NAP	NAP	NAP

Comment :

Second instance courts are not operational yet. Therefore there is no case held by these courts.

**99) Highest instance courts: total number of cases**

**Number of "other than criminal law" cases:**

**If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

	Pending cases on 1 Jan. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
Total of other than criminal law cases (1+2+3+4+5+6+7)	393926	615958	635043	374841

1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)	NA	NA	NA	NA
2. General civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, etc. (if feasible without administrative law cases; without enforcement cases, registration cases and other cases, see categories 3-7)	NA	NA	NA	NA
3. Non litigious enforcement cases	7313	23136	26053	4396
4. Non litigious land registry cases**	6182	33068	32186	7064
5. Non litigious business registry cases	334	352	421	265
6. Administrative law cases	207029	143113	140815	209327
7. Other cases (e.g. insolvency registry cases)	173068	416289	435568	153789

**99.1) At the level of the Higher court, is there a procedure of manifest inadmissibility?**

Yes. If yes, please indicate the number of cases closed by this procedure?

No

Number

**100) Number of criminal law cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

	Pending cases on 1 Jan. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
Total of criminal cases (8+9)	366743	401903	427553	341093
8. Severe criminal cases	64572	72411	69295	67688
9. Misdemeanour and/or minor criminal cases	302171	329492	358258	273405

Comment :

**101) Number of litigious divorce cases, employment dismissal cases, insolvency, robbery cases and intentional homicide cases received and processed by first instance courts. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

	Pending cases on 1 January 2012	Incoming cases	Resolved cases	Pending cases on 31 December 2012
Litigious divorce cases	46812	64694	82074	27940
Employment dismissal cases	NA	NA	NA	NA
Insolvency	956	575	731	800
Robbery cases	3318	3227	3216	2851
Intentional homicide	22730	16599	16117	22439

**102) Average length of proceedings, in days (from the date the application for judicial review is lodged). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

-----  
**[The average length of proceedings has to be calculated from the date the application for judicial review is lodged to the date the judgment is made, without taking into account the enforcement procedure.]**

	% of decisions subject to appeal	% pending cases more than 3 years	Average length in 1st instance (in days)	Average length in 2nd instance (in days)	Average length in 3rd instance (in days)	Average total length of the total procedure (in days)
Litigious divorce cases	NA	0,4%	171	NAP	NA	NA
Employment dismissal cases	NA	NA	NA	NAP	NA	NA
Insolvency	NA	NA	NA	NAP	NA	NA
Robbery cases	NA	4,7%	431	NAP	NA	NA
Intentional homicide	NA	4,4%	475	NAP	NA	NA

**103) Where appropriate, please inform about the specific procedure as regards divorce cases (litigious and non-litigious):**

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) How is the length of proceedings calculated for the five case categories? Please give a description of the calculation method.**

CN 31/03:

"The calculation is made through Judicial Network Project (UYAP).

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

CN 15/04:

The calculation method of the length of proceedings of cases at the first instance courts:

1- In criminal cases, the date of accepting the indictment by the court is considered the beginning of the proceeding. The date of the service of the court verdict is the end of the proceedings for first instance courts. The length of proceedings is the period between these two dates.

2- In cases other than criminal cases, the date of filing the case in a court is considered the beginning of the proceeding. The date of the service of the court decision is the end of the proceedings for first instance courts. The length of proceedings is the period between these two dates.

The calculation method of the length of proceedings of cases at the third instance courts (Court of Cassation and Council of State):

In both criminal cases and other than criminal cases, the date of receiving the petition of appellate by the Court of Cassation or the Council of State is considered the beginning of the proceeding. The date of the service of the final decision of these of courts to the first instance courts is the end of the proceedings. The length of proceedings is the period between these two dates.

**105) Role and powers of the public prosecutor in the criminal procedure (multiple options possible):**

- to conduct or supervise police investigation
- to conduct investigations
- when necessary, to request investigation measures from the judge
- to charge
- to present the case in the court
- to propose a sentence to the judge
- to appeal
- to supervise the enforcement procedure
- to discontinue a case without needing a decision by a judge (ensure consistency with question 36!)
- to end the case by imposing or negotiating a penalty or measure without requiring a judicial decision
- other significant powers

If "other significant powers", please specify:

**106) Does the public prosecutor also have a role in civil and/or administrative cases?**

- Yes
- No

If yes, please specify:

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.

**106.1) Does the public prosecutor also have a role in insolvency cases?**

- Yes  
 No

If yes, please specify:

**107) Case proceedings managed by the public prosecutor**

**Total number of 1st instance criminal cases.**

**If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

	Received by the public prosecutor	Cases discontinued by the public prosecutor (see 108 below)	Cases concluded by a penalty or a measure imposed or negotiated by the public prosecutor	Cases charged by the public prosecutor before the courts
Total number of 1st instance criminal cases	3052941	1366311	NA	977492

**107.1) Among cases charged by the public prosecutor before the courts, how many were brought to court under a guilty plea procedure or similar ?**

	Before the court case:	During the court case:
If possible, please distinguish the number of guilty plea procedure:	NAP	NAP

**108) Total cases which were discontinued by the public prosecutor. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

	Number
Total cases which were discontinued by the public prosecutor (1+2+3)	630 777
1. Discontinued by the public prosecutor because the offender could not be identified	NA
2. Discontinued by the public prosecutor due to the lack of an established offence or a specific legal situation	NA
3. Discontinued by the public prosecutor for reasons of opportunity	NA

**109) Do the figures include traffic offence cases?**

- Yes  
 No

**D.2 You can indicate below:**

**any useful comments for interpreting the data mentioned in this chapter  
the characteristics of your system concerning timeframes of proceedings and the main reforms that have been implemented over the last two years**

CN 31/03:

q. 91: The numbers are accurate. The difference between 2010 and 2012 may arise from the fact that IT has not been common to all courthouses at the time of previous report.

Concerning data related to enforcement, land registry and business register cases, we estimate that these number wouldn't be accurate. Therefore we decided not to provide them.

q. 94: The difference between 2010 and 2012 arises from the difference of the definition of "misdemeanour" and "minor" crime between two report circles.

q. 99 - differences between 2010 and 2012 in administrative cases: See comment to q. 91

**Please indicate the sources for answering questions 91, 94, 97, 98, 99, 100, 101, 102, 107 and 108.**

## 5. Career of judges and public prosecutors

### 5. 1. Recruitment and promotion

#### 5. 1. 1. Recruitment and promotion

##### 110) How are judges recruited?

- Mainly through a competitive exam (for instance, following a university degree in law)
- Mainly through a recruitment procedure for legal professionals with long-time working experience in the legal field (for example lawyers)
- A combination of both (competitive exam and working experience)
- Other

If "other", please specify:

- 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.

##### 110.1) Are there specific provisions for facilitating gender equality within the framework of the procedure for recruiting judges?

- Yes
- No

If "yes", please specify:

##### 111) Authority(ies) in charge: are judges initially/at the beginning of their carrier recruited and nominated by:

**[This question strictly concerns the authority entrusted with the decision to recruit (not the authority formally responsible for the nomination if different from the former)].**

- An authority made up of judges only?
- An authority made up of non-judges only?
- An authority made up of judges and non-judges?

Please indicate the name of the authority(ies) involved in the whole procedure of recruitment and nomination of judges. If there are several authorities, please describe their respective roles:

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, paralel arrangements are planned regarding the appointments, promotions, and disciplinary affairs of judges and prosecutors.

**112) Is the same authority competent for the promotion of judges?**

- Yes  
 No

If no, which authority is competent for the promotion of judges ?

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 of judges and prosecutors are conducted by the Supreme Council of Judges and Prosecutors which is a body independent from the government and majority of its members are selected by judges and prosecutors.

**112.1) Are there specific provisions for facilitating gender equality within the framework of the procedure for promoting judges?**

- Yes  
 No

If "yes", please specify:

**113) Which procedures and criteria are used for promoting judges? Please specify.**

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 clearance rates and the reports prepared about their conducts.

**114) Is there a system of qualitative individual assessment of the judges' activity?**

- Yes  
 No

If yes, please indicate the frequency

Every 2 years, inspector judges, on behalf of the High Council of Judges and Prosecutors, prepare individual assessment reports about the activities of judges and prosecutors.

**115) Is the status of prosecution services:**

- Independent?  
 Under the authority of the Minister of justice ?  
 Other?

Please specify:

The prosecutors are fully independent in the fulfillment of their judicial duties. However, they have administrative duties as well, and they are subordinate to the Ministry of Justice in this context.

**116) How are public prosecutors recruited?**

- Mainly through a competitive exam (for instance, following a university degree in law)  
 Mainly through a recruitment procedure for legal professionals with long-time working experience in the legal field (for example lawyers)  
 A combination of both (competitive exam and working experience)  
 Other

If "other", please specify:

- 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) Authority(ies) in charge: are public prosecutors initially/at the beginning of their carrier recruited by:**

**[This question concerns the authority entrusted with the responsibility to recruit only (not the authority formally responsible for the nomination if different from the former).]**

- An authority composed of public prosecutors only?
- An authority composed of non-public prosecutors only?
- An authority composed of public prosecutors and non-public prosecutors?

Please indicate the name of the authority(ies) involved in the whole procedure of recruitment and nomination of public prosecutors. If there are several authorities, please describe their respective roles:

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.

**117.1) Are there specific provisions for facilitating gender equality within the framework of the procedure for recruiting prosecutors?**

- Yes
- No

If "yes", please specify:

**118) Is the same authority formally responsible for the promotion of public prosecutors?**

- Yes
- No

If no, please specify which authority is competent for promoting public prosecutors:

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) Which procedures and criteria are used for promoting public prosecutors? Please specify:**

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.

**119.1) Are there specific provisions for facilitating gender equality within the framework of the procedure**

**for promoting prosecutors?**

- Yes
- No

If "yes", please specify:

**120) Is there a system of qualitative individual assessment of the public prosecutors' activity?**

- Yes
- No

**121) Are judges appointed to office for an undetermined period (i.e. "for life" = until the official age of retirement)?**

-----  
**If yes, are there exceptions (e.g. dismissal as a disciplinary sanction)? Please specify in the "comment" box below**

Yes. If yes, please indicate the compulsory retirement age	65
No	

Comment :

According to the Constitution (Article 139) judges and public prosecutors shall not be dismissed, or unless they request, shall not be retired before the age 65 nor shall they be deprived of their salaries, allowances or other rights relating to their status, even as a result of the abolition of a court or a post.

**121.1) Can a judge be transferred to another court without his consent:**

- For disciplinary reasons
- For organisational reasons
- For other reasons. Please specify modalities and safeguards

Please specify modalities and safeguards

The transfer from one court to another of judges and prosecutors are conducted by the Supreme Council of Judges and Prosecutors which is a body independent from the government and majority of its members are selected by judges and prosecutors. Additionally, period of time for each location has been predetermined. Without a disciplinary procedure, the Supreme Council respects these time limits.

**122) If there is a probation period for judges (e.g. before being appointed "for life"), how long is this period? If the situation is not applicable in your country, please indicate NAP.**

	Duration of the probation period (in years)
Yes	2
No	
NAP	

**123) Are public prosecutors appointed to office for an undetermined period (i.e. "for life" = until the official age of retirement)?**

-----  
**If yes, are there exceptions (e.g. dismissal as a disciplinary sanction)? Please specify in the "comment" box below:**

Yes. If yes, please indicate the compulsory retirement age	65
No	

Comment :

According to the Constitution (Article 139) judges and public prosecutors shall not be dismissed, or unless they request, shall not be retired before the age 65 nor shall they be deprived of their salaries, allowances or other rights relating to their status, even as a result of the abolition of a court or a post.

**124) Is there a probation period for public prosecutors? If yes, how long is this period? If the situation is not applicable in your country, please indicate NAP.**

	Duration of the probation period (in years)
Yes	2
No	
NAP	

**125) If the mandate for judges is not for an undetermined period (see question 121), what is the length of the mandate (in years)? Is it renewable?**

NAP

**126) If the mandate for public prosecutors is not for an undetermined period (see question 123), what is the length of the mandate (in years)? Is it renewable?**

NAP

**E.1 You can indicate below:**

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of the selection and nomination procedure of judges and public prosecutors and the main reforms that have been implemented over the last two years

## 5. 2. Training

### 5. 2. 1. Training

**127) Training of judges**

Initial training (e.g. attend a judicial school, traineeship in the court)	Compulsory
General in-service training	Optional
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	Optional
In-service training for management functions of the court (e.g. court president)	Optional
In-service training for the use of computer facilities in courts	Optional

**128) Frequency of the in-service training of judges:**

General in-service training	Occasional (e.g. at times)
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	Occasional (e.g. at times)
In-service training for management functions of the court (e.g. court president)	Occasional (e.g. at times)
In-service training for the use of computer facilities in courts	Occasional (e.g. at times)

**129) Training of public prosecutors**

Initial training	Compulsory
General in-service training	Optional
In-service training for specialised functions (e.g. public prosecutor specialised on organised crime)	Optional
In-service training for management functions of the court (e.g. Head of prosecution office, manager)	Optional



In-service training for the use of computer facilities in office	Optional
--	----------

### 130) Frequency of the in-service training of public prosecutors

General in-service training	Occasional (e.g. at times)
In-service training for specialised functions (e.g. public prosecutor specialised on organised crime)	Occasional (e.g. at times)
In-service training for management functions of the court (e.g. Head of prosecution office, manager)	Occasional (e.g. at times)
In-service training for the use of computer facilities in office	Occasional (e.g. at times)

### 131) Do you have public training institutions for judges and / or prosecutors? If yes, please indicate the budget of such institution(s) in the "comment" box below.

-----

If your judicial training institutions do not correspond to these criteria, please specify it:

	Initial training only	Continuous training only	Initial and continuous training	2012 budget of the institution, in €
One institution for judges	No	NAP	NAP	NAP
One institution for prosecutors	No	NAP	NAP	NAP
One single institution for both judges and prosecutors	No	No	Yes	Yes

Comment :

Education is given to the judges and prosecutors at the Turkish Academy of Justice, which is a public institution. 2012 budget of this institution is 4.986.016 Euro.

#### 131.1) If there is no initial training for judges and/or prosecutors in such institutions, please indicate briefly how these judges and/or prosecutors are recruited and trained ?

#### E.2 You can indicate below:

any useful comments for interpreting the data mentioned in this chapter

comments regarding the attention given in the curricula to the European Convention on Human Rights and the case law of the Court

the characteristics of your training system for judges and public prosecutors and the main reforms that have been implemented over the last two years

### 5. 3. Practice of the profession

#### 5. 3. 1. Practice of the profession

### 132) Salaries of judges and public prosecutors.

	Gross annual salary, in €, on 31 December 2012	Net annual salary, in €, on 31 December 2012
First instance professional judge at the beginning of his/her career	23003	16718
Judge of the Supreme Court or the Highest Appellate Court (please indicate the average salary of a judge at this level, and not the salary of the Court President)	42638	32991
Public prosecutor at the beginning of his/her career	23003	16718
Public prosecutor of the Supreme Court or the Highest Appellate Instance (please indicate the average salary of a public prosecutor at this level, and not the salary of the Public prosecutor General)	42638	32991

Comment :

In Turkey, there is no difference between salaries of judges and public prosecutors.

### 133) Do judges and public prosecutors have additional benefits?

Reduced taxation	No	No
Special pension	No	No

Housing	Yes	Yes
Other financial benefit	Yes	Yes

**134) If other financial benefit, please specify:**

Judges and prosecutors, as well as other judicial staff can benefit a reduction in the installations (hotels, resorts etc.) operated by the Judicial Support Foundation.

**135) Can judges combine their work with any of the following other functions ?**

	With remuneration	Without remuneration
Teaching	Yes	Yes
Research and publication	Yes	Yes
Arbitrator	No	No
Consultant	No	No
Cultural function	No	Yes
Political function	No	No
Other function	No	No

**136) If rules exist in your country (e.g. authorisation needed to perform these activities), please specify. If "other function", please specify.**

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 research in public institutions with the permission of the High Council of Judges and Prosecutors. Additionally, they can write essays in newspaper and magazine, scientific publications etc. Also, they can participate in any kind of seminar, conference etc. without permission, but only at weekends.

**137) Can public prosecutors combine their work with any of the following other functions ?**

	With remuneration	Without remuneration
Teaching	Yes	Yes
Research and publication	Yes	Yes
Arbitrator	No	No
Consultant	No	No
Cultural function	No	Yes
Political function	No	No
Other function	No	No

**138) Please specify existing rules (e.g. authorisation to perform the whole or a part of these activities). If "other function", please specify:**

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 research in public institutions with the permission of the High Council of Judges and Prosecutors. Additionally, they can write essays in newspaper and magazine, scientific publications etc. Also, they can participate in any kind of seminar, conference etc. without permission, but only at weekends.

**139) Productivity bonuses: do judges receive bonuses based on the fulfilment of quantitative objectives in relation to the delivery of judgments (e.g. number of judgments delivered over a given period of time)?**

Yes

No

If yes, please specify the conditions and possibly the amounts:

## 5. 4. Disciplinary procedures

### 5. 4. 1. Disciplinary procedures

**140) Who has been authorised to initiate disciplinary proceedings against judges (multiple options possible)?**

- Citizens
- Relevant Court or hierarchical superior
- High Court / Supreme Court
- High Judicial Council
- Disciplinary court or body
- Ombudsman
- Parliament
- Executive power
- Other
- This is not possible

If "executive power" and/or "other", please specify:

**141) Who has been authorised to initiate disciplinary proceedings against public prosecutors: (multiple options possible):**

- Citizens
- Head of the organisational unit or hierarchical superior public prosecutor
- Prosecutor General /State public prosecutor
- Public prosecutorial Council (and Judicial Council)
- Disciplinary court or body
- Ombudsman
- Professional body
- Executive power
- Other
- This is not possible

If "executive power" and/or "other", please specify:

**142) Which authority has disciplinary power on judges? (multiple options possible):**

- Court
- Higher Court / Supreme Court
- Judicial Council
- Disciplinary court or body
- Ombudsman
- Parliament
- Executive power
- Other

If "executive power" and/or "other", please specify:

In Turkey, there is an effective remedy against the decisions of the judicial council namely the High Council of Judges and Prosecutors. Firstly, against the decisions of its chambers, relevant person can appeal to the Plenary Session. Secondly, against the dismissal decisions, relevant person can file a claim in the Council of State (the highest administrative court).

**143) Which authority has the disciplinary power on public prosecutors? (multiple options possible):**

- Supreme Court
- Head of the organisational unit or hierarchical superior public prosecutor
- Prosecutor General /State public prosecutor
- Public prosecutorial Council (and Judicial Council)
- Disciplinary court or body
- Ombudsman
- Professional body
- Executive power
- Other

If "executive power" and/or "other", please specify:

**144) Number of disciplinary proceedings initiated against judges and public prosecutors. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. If "other", please specify it in the "comment" box below.**

**[If disciplinary proceedings are undertaken because of several mistakes, please count the proceedings only once and for the main mistake.]**

	Judges	Public prosecutors
Total number (1+2+3+4)	384	NA
1. Breach of professional ethics	42	NA
2. Professional inadequacy	54	NA
3. Criminal offence	31	NA
4. Other	257	NA

Comment :

As stated previously, in Turkey, judges and prosecutors are subject to the same laws and have the same status. Disciplinary actions are carried out by the High Council of Judges and Prosecutors for each profession. Therefore, these figures are related for both judges and prosecutors. Seperate statistics are not available for now.

**145) Number of sanctions pronounced in 2012 against judges and public prosecutors. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

**If "other", please specify it in the "comment" box below. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons in the "comment" box below.**

	Judges	Public prosecutors
Total number (total 1 to 9)	384	NA
1. Reprimand	53	NA
2. Suspension	1	NA
3. Removal of cases	NA	NA
4. Fine	NA	NA
5. Temporary reduction of salary	18	NA
6. Position downgrade	NA	NA
7. Transfer to another geographical (court) location	24	NA
8. Resignation	13	NA
9. Other	275	NA

Comment :

As stated previously, in Turkey, judges and prosecutors are subject to the same laws and have the same status. Disciplinary actions are carried out by the High Council of Judges and Prosecutors for each profession. Therefore, these figures are related for both judges and prosecutors. Seperate statistics are not available for now.

**E.3 You can indicate below:**

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your system concerning disciplinary procedures for judges and public prosecutors and the main reforms that have been implemented over the last two years

**Please indicate the sources for answering questions 144 and 145**

## 6. Lawyers

### 6. 1. Status of the profession and training

#### 6. 1. 1. Status of the profession and training

**146) Total number of lawyers practising in your country.**

74496

**147) Does this figure include "legal advisors" who cannot represent their clients in court (for example, some solicitors or in-house counsellors)?**

Yes

No

**148) Number of legal advisors who cannot represent their clients in court:**

NAP

**149) Do lawyers have a monopoly on legal representation in (multiple options are possible):**

- Civil cases?
- Criminal cases - Defendant?
- Criminal cases - Victim?
- Administrative cases?
- There is no monopoly

If there is no monopoly, please specify the organisations or persons that may represent a client before a court (for example a NGO, a family member, a trade union, etc) and for which types of cases:

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) Is the lawyer profession organised through? (multiple options possible)**

- a national bar?
- a regional bar?
- a local bar?

**151) Is there a specific initial training and/or examination to enter the profession of lawyer?**

- Yes
- No

If not, please indicate if there are other specific requirements as regards diplomas or university degrees :

**152) Is there a mandatory general system for lawyers requiring in-service professional training?**

- Yes
- No

**153) Is the specialisation in some legal fields tied with specific training, levels of qualification, specific diploma or specific authorisations?**

- Yes

No

If yes, please specify:

**Please indicate the sources for answering questions 146 and 148:**

The Union of the Turkish Bas Associations, the Ministry of Justice

**F1 Comments for interpreting the data mentioned in this chapter:**

6. 2. Practising the profession

6. 2. 1. Practising the profession

**154) Can court users establish easily what the lawyers' fees will be (i.e. do users have easy access to prior information on the foreseeable amount of fees, is the information transparent and accountable)?**

Yes

No

**155) Are lawyers' fees freely negotiated?**

Yes

No

**156) Do laws or bar association standards provide any rules on lawyers' fees (including those freely negotiated)?**

Yes laws provide rules

Yes standards of the bar association provide rules

No, neither laws nor bar association standards provide rules

**F2 Useful comments for interpreting the data mentioned in this chapter:**

6. 3. Quality standards and disciplinary proceedings

6. 3. 1. Quality standards and disciplinary proceedings

**157) Have quality standards been determined for lawyers?**

Yes

No

If yes, what are the quality criteria used?

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) If yes, who is responsible for formulating these quality standards:**

the bar association?

the Parliament?

other?



If "other", please specify:

**159) Is it possible to file a complaint about :**

- the performance of lawyers?  
 the amount of fees?

Please specify:

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) Which authority is responsible for disciplinary procedures?**

- the judge  
 the Ministry of justice  
 a professional authority  
 other

If other, please specify:

**161) Disciplinary proceedings initiated against lawyers. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. If "other", please specify it in the "comment" box below.**

**[If disciplinary proceedings are undertaken because of several mistakes, please count the proceedings only once and for the main mistake.]**

	Number
Total number of disciplinary proceedings initiated (1 + 2 + 3 + 4)	2 835
1. Breach of professional ethics	788
2. Professional inadequacy	147
3. Criminal offence	477
4. Other	1 423

Comment :

The figures have been collected from the bar associations directly. Therefore they are much more accurate than the figures of previous years. There is no a significant increase but the previous figures are problematic.

**162) Sanctions pronounced against lawyers.**

**If "other", please specify it in the "comment" box below. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons in the "comment" box below.**

	Number
Total number of sanctions (1 + 2 + 3 + 4 + 5)	1 155
1.Reprimand	243
2. Suspension	13
3. Removal	29

4. Fine	60
5. Other (e.g. disbarment)	810

**Comment :**

The figures have been collected from the bar associations directly. Therefore they are much more accurate than the figures of previous years. There is no a significant increase but the previous figures are problematic.

**F3 You can indicate below any useful comments for interpreting the data mentioned in this chapter:**

## 7. Alternative Dispute Resolution

### 7. 1. Mediation and other forms of ADR

#### 7. 1. 1. Mediation and other forms of ADR

**163) Does the judicial system provide for judicial mediation procedures? If no skip to question 168**  
 -----

**Judicial mediation: in this type of mediation, there is always the intervention of a judge or a public prosecutor who facilitates, advises on, decides on or/and approves the procedure. For example, in civil disputes or divorce cases, judges may refer parties to a mediator if they believe that more satisfactory results can be achieved for both parties. In criminal law cases, a public prosecutor can propose that he/she mediates a case between an offender and a victim (for example to establish a compensation agreement).**

- Yes
- No

**163.1) In some fields, does the judicial system provide for mandatory mediation procedures?**  
 -----

**If there are mandatory mediation procedures, please specify which fields are concerned in the "comment" box below.**

- Before going to court
- Ordered by a judge in the course of a judicial proceeding

If there are mandatory mediation procedures, please specify which fields are concerned:

**164) Please specify, by type of cases, the organisation of judicial mediation:**

	Court annexed mediation	Private mediator	Public authority (other than the court)	Judge	Public prosecutor
Civil and commercial cases	No	Yes	No	No	No
Family law cases (ex. divorce)	No	Yes	No	No	No
Administrative cases	No	Yes	No	No	No
Employment dismissals	No	Yes	Yes	No	No
Criminal cases	Yes	No	No	No	Yes

**165) Is there a possibility to receive legal aid for judicial mediation procedures?**

- Yes
- No

If yes, please specify:

**166) Number of accredited or registered mediators who practice judicial mediation:**

NA

**167) Number of judicial mediation procedures.**  
 -----

**Please indicate the source in the "comment" box below:**

Total number of cases (total 1+2+3+4+5)	NA
1. civil cases	NA
2. family cases	NA
3. administrative cases	NA
4. employment dismissals cases	NA
5. criminal cases	NA

Comment :

**168) Does the legal system provide for the following ADR :**

If "other", please specify it in the "comment" box below:

Mediation other than judicial mediation?	No
Arbitration?	Yes
Conciliation?	Yes
Other alternative dispute resolution?	Yes

Comment :

There is no mediation other than judicial mediation.

However;

1. 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.
2. Encouragement to Settlement under Article 213 of the Code of Civil Procedure
3. Arbitration Committee of Consumer Problems. (Article 22 of the Law on Protecting of Consumer Rights.)
4. Ensuring settlement regulated under Article 35/A of the The Attorneyship Law.
5. Settlement regulated under Articles 253 – 255 of the Criminal Procedure Law.

**G.1 You can indicate below:**

- any useful comments for interpreting the data mentioned in this chapter

- the characteristics of your system concerning ADR and the main reforms that have been implemented over the last two years

CN 31/03:

The mediation was put into force in 2011 effectively. Therefore the answer is different from the answer of the previous report.

CN 15/04:

In 2012, the mediation was already existed, however it was very recent institution and therefore the using of the system was very limited. The Ministry of Justice carried out some promotion activities for the mediation. Also, the Mediation Unit has been established in June 2012 to manage these activities.

**Please indicate the source for answering question 166:**

## 8. Enforcement of court decisions

### 8. 1. Execution of decisions in civil matters

#### 8. 1. 1. Functioning

**169) Do you have enforcement agents in your judicial system?**

- Yes  
 No

**170) Number of enforcement agents**

2558

**171) Are enforcement agents (multiple options are possible):**

- judges?  
 bailiffs practising as private professionals under the authority (control) of public authorities?  
 bailiff working in a public institution?  
 other enforcement agents?

Please specify their status and powers:

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) Is there a specific initial training or examination to become an enforcement agent?**

- Yes  
 No

**173) Is the profession of enforcement agents organised by?**

- a national body?  
 a regional body?  
 a local body?  
 NAP (the profession is not organised)

**174) Are enforcement fees easily established and transparent for the court users?**

- Yes  
 No

**175) Are enforcement fees freely negotiated?**

- Yes  
 No

**176) Do laws provide any rules on enforcement fees (including those freely negotiated)?**

- Yes  
 No

**Please indicate the source for answering question 170:**

The Ministry of Justice, the General Directorate of Personnel Affairs.

#### 8. 1. 2. Efficiency of enforcement services

**177) Is there a body entrusted with supervising and monitoring the enforcement agents' activity?**

- Yes  
 No

**178) Which authority is responsible for supervising and monitoring enforcement agents?**

- a professional body  
 the judge  
 the Ministry of justice  
 the public prosecutor  
 other

If other, please specify:

**179) Have quality standards been determined for enforcement agents?**

- Yes  
 No

If yes, what are the quality criteria used?

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) If yes, who is responsible for establishing these quality standards?**

- a professional body  
 the judge  
 the Ministry of Justice  
 other

If "other", please specify:

**181) Is there a specific mechanism for executing court decisions rendered against public authorities, including for supervising such execution?**

- Yes  
 No

if yes, please specify

**182) Is there a system for monitoring how the enforcement procedure is conducted by the enforcement agent?**

- Yes  
 No

If yes, please specify

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) What are the main complaints made by users concerning the enforcement procedure? Please indicate a maximum of 3.**

- no execution at all
- non execution of court decisions against public authorities
- lack of information
- excessive length
- unlawful practices
- insufficient supervision
- excessive cost
- other

If "other", please specify:

**184) Has your country prepared or established concrete measures to change the situation concerning the enforcement of court decisions – in particular as regards decisions against public authorities?**

- Yes
- No

If yes, please specify:

**185) Is there a system measuring the length of enforcement procedures:**

- for civil cases?
- for administrative cases?

**186) As regards a decision on debts collection, please estimate the average timeframe to notify the decision to the parties who live in the city where the court sits:**

- between 1 and 5 days
- between 6 and 10 days
- between 11 and 30 days
- more

If more, please specify

**187) Number of disciplinary proceedings initiated against enforcement agents. If other, please specify it in the "comment" box below.**

-----  
**[If disciplinary proceedings are undertaken because of several mistakes, please count the proceedings only once and for the main mistake.]**

Total number of initiated disciplinary proceedings (1+2+3+4)	<input checked="" type="checkbox"/> number:	2886
1. for breach of professional ethics		NA
2. for professional inadequacy		NA
3. for criminal offence		NA
4. Other		NA

Comment :

**188) Number of sanctions pronounced against enforcement agents.**

If "other", please specify it in the "comment" box below. If a significant difference between the number of disciplinary proceedings initiated and the number of sanctions exists, please indicate the reasons in the "comment" box below.

Total number of sanctions (1+2+3+4+5)	<input type="checkbox"/> number:	262
1. Reprimand	<input type="checkbox"/> number:	58
2. Suspension		NAP
3. Dismissal	<input type="checkbox"/> number:	17
4. Fine	<input type="checkbox"/> number:	41
5. Other	<input type="checkbox"/> number:	146

Comment :

**H.1 You can indicate below:**

any useful comments for interpreting the data mentioned in this chapter  
the characteristics of your enforcement system of decisions in civil matters and the  
main reforms that have been implemented over the last two years

Please indicate the sources for answering questions 186, 187 and 188:

## 8. 2. Execution of decisions in criminal matters

### 8. 2. 1. Functioning

**189) Which authority is in charge of the enforcement of judgments in criminal matters? (multiple options possible)**

- Judge  
 Public prosecutor  
 Prison and Probation Services  
 Other authority

Please specify his/her functions and duties (initiative or monitoring functions). If "other authority", please specify:

**190) Are the effective recovery rates of fines decided by a criminal court evaluated by studies?**

- Yes  
 No

**191) If yes, what is the recovery rate?**

- 80-100%  
 50-79%  
 less than 50%  
 cannot be estimated

Please indicate the source for answering this question:

**H.2 You can indicate below:**

any useful comments for interpreting the data mentioned in this chapter  
the characteristics of your enforcement system of decisions in criminal matters and the main reforms  
that have been implemented over the last two years



## 9. Notaries

### 9. 1. Statute

#### 9. 1. 1. Functionning

**192) Do you have notaries in your country? If no please skip to question 197.**

- Yes  
 No

**193) Are notaries:**

-----

**If other, please specify it in the "comment" box below.**

private professionals (without control from public authorities)?		NAP
private professionals under the authority (control) of public authorities?	<input checked="" type="checkbox"/> number	1 771
public agents?		NAP
other?		NAP

Comment :

According to the Notary Law (Numbered 1512), Article 1 services provided by notaries are considered public service. They are supervised and controlled by the Ministry of Justice and the Turkish Notaries Union. However, notaries are not civil servants and they are considered private sector in their affairs.

CN 31/03:

Notary status is very complicated because the Law says their services are considered public service, but public notaries are not civil servants, they have not salary from the government and they earn money by taking payment from clients for their affairs.

**194) Do notaries have duties (multiple options possible):**

- within the framework of civil procedure?  
 in the field of legal advice?  
 to certify the authenticity of legal deeds and certificates?  
 other?

If "other", please specify:

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.

#### 9. 1. 2. Supervision

**195) Is there an authority entrusted with supervising and monitoring the notaries' activity?**

- Yes  
 No

**196) Which authority is responsible for supervising and monitoring notaries:**

- a professional body?  
 the judge?  
 the Ministry of justice?  
 the public prosecutor?  
 other?

If other, please specify:

**I.1 You can indicate below:**

**any useful comments for interpreting the data mentioned in this chapter  
the characteristics of your system of notaries and the main reforms that have been implemented over  
the last two years**

The Turkish Notaries Union.

**Please indicate the sources for answering question 193:**

## 10. Court interpreters

### 10. 1. Court interpreters

#### 10. 1. 1. Functionning

**197) Is the title of court interpreters protected?**

Yes

No

**198) Is the function of court interpreters regulated by legal norms?**

Yes

No

**199) Number of accredited or registered court interpreters:**

NAP

**200) Are there binding provisions regarding the quality of court interpretation within judicial proceedings?**

Yes

No

If yes, please specify (e.g. having passed a specific exam):

**201) Are the courts responsible for selecting court interpreters?**

-----

**If no, please indicate in the "comment" box below which authority selects court interpreters.**

Yes  for recruitment and/or appointment for a specific term of office

Yes  for recruitment and/or appointment on an ad hoc basis, according to the specific needs of given proceedings

No .

Comment :

The courts are responsible for selecting interpreters. They decide on interpreters for each case.

**J.1 You can indicate below any useful comments for interpreting the data mentioned in this chapter:**

**Please indicate the sources for answering question 199:**

## 11. Judicial experts

### 11. 1. Judicial experts

#### 11. 1. 1. Judicial experts

**202) In your system, what type of experts can be requested to participate in judicial procedures (multiple choice possible):**

- "expert witnesses", who are requested by the parties to bring their expertise to support their argumentation,  
 "technical experts" who put their scientific and technical knowledge on issues of fact at the court's disposal,  
 "law experts" who might be consulted by the judge on specific legal issues or requested to support the judge in preparing the judicial work (but do not take part in the decision).

**203) Is the title of judicial experts protected?**

- Yes  
 No

**204) Is the function of judicial experts regulated by legal norms?**

- Yes  
 No

**205) Number of accredited or registered judicial experts (technical experts)**

191013

**206) Are there binding provisions regarding the exercise of the function of judicial expert within judicial proceedings?**

- Yes  
 No

If yes, please specify, in particular the given time to provide a technical report to the judge:

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) Are the courts responsible for selecting judicial experts?**

-----  
**If no, please specify in the "comments" box below which authority selects judicial experts?**

- Yes  for recruitment and/or appointment for a specific term of office  
 Yes  for recruitment and/or appointment on an ad hoc basis, according to the specific needs of given proceedings  
 No .

Comment :

**You can indicate below any useful comments for interpreting the data mentioned in this chapter:**

CN 31/03:

The number increased because of the fact that the implementation of certificated judicial experts was very limited in the period of the Report 2010.

**Please indicate the sources for answering question 205:**

## 12. Foreseen reforms

### 12. 1. Foreseen reforms

#### 12. 1. 1. Foreseen reforms

**208) Can you provide information on the current debate in your country regarding the functioning of justice? Are there foreseen reforms? Please inform whether these reforms are under preparation or have only been envisaged at this stage. If possible, please observe the following categories:**

**1. (Comprehensive) reform plans**

**2. Budget**

**3. Courts and public prosecution services (e.g. powers and organisation, structural changes - e.g. reduction of the number of courts -, management and working methods, information technologies, backlogs and efficiency, court fees, renovations and construction of new buildings)**

**3.1 Access to justice and legal aid**

**4. High Judicial Council**

**5. Legal professionals (judges, public prosecutors, lawyers, notaries, enforcement agents, etc.): organisation, education, etc.**

**6. Reforms regarding civil, criminal and administrative laws, international conventions and cooperation activities**

**6.1 Personal status**

**7. Enforcement of court decisions**

**8. Mediation and other ADR**

**9. Fight against crim**

The efforts to modify and update the Judicial Reform Strategy is still ongoing. The major amendments are as follows;

- Human rights issues were designed as a separate goal,
- The courthouses should prepare annual activity reports to ensure transparency.
- Judicial timeframe will be established.

In 2012, 102 courthouses have been closed in small provinces. Judges, prosecutors and auxiliary personnel have been relocated to other cities and provinces. Therefore the number of court have increased whereas the number of geographic location have decreased.

The righth to individual application to the Constitutional Court has become operational in 2012.

The Institution of Ombudsman has been established.

New Turkish Code of Trade has been enacted.

Videoconferencing System has been developed to ensure active interaction between courts and public prosecutor offices.

Probation System has been established.