



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2011

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 2011)

72 561 312

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 level	204 342 995 169
Regional / federal entity level (total for all regions / federal entities)	NA

3) Per capita GDP (in €)

7 541

4) Average gross annual salary (in €)

11 501

5) Exchange rate from national currency (non-Euro zone) to € on 1 January 2011

2,07

A.1

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

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

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

Apart from that, an increase of 131.71 % was observed in the payments made from the unemployment insurance fund, in connection with the increase in the number of enterprises closed due to global economic crisis (while the unemployment ratio was 11% in 2008, it increased to the level of 12% in 2010). In addition, those individuals who had been working subject to the Law number 5434 on Pension Fund before the date of 01 October 2008, were taken under the coverage of general health insurance as from the date of 15 October 2010. As a result of that, the General Health Insurance premium in the ratio of 12% is entirely paid by the state. That explains the 413.58% increase in the share of the General Health Insurance premiums.

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

Sources:

Ministry of Finance

Official Web Site of the Central Bank

Turkish Statistical Institute

State Planning Organization (Ministry of Development)

Supplement to the 4th question

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

Supplemental interpretation of question 2

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

1. 2. Budgetary data concerning judicial system

1. 2. 1. Budget (courts, public prosecution, legal aid, fees)

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	1 154 948 704
1. Annual public budget allocated to (gross) salaries	<input checked="" type="checkbox"/> Yes	832 198 544
2. Annual public budget allocated to computerisation (equipment, investments, maintenance)	<input checked="" type="checkbox"/> Yes	22 973 075
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	48 236 098
4. Annual public budget allocated to court buildings (maintenance, operating costs)	<input checked="" type="checkbox"/> Yes	26 289 836
5. Annual public budget allocated to investments in new (court) buildings	<input checked="" type="checkbox"/> Yes	224 734 300
6. Annual public budget allocated to training and education	<input checked="" type="checkbox"/> Yes	516 850
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.

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

525 138 372

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 2 274 389 431

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

Court system	Yes
Legal aid	Yes
Public prosecution services	Yes
Prison system	Yes
Probation services	Yes
Council of the judiciary	Yes
Judicial protection of juveniles	Yes
Functioning of the Ministry of Justice	Yes
Refugees and asylum seekers services	No
Other	No

Comment :

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

12) 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.

	Total annual approved public budget allocated to legal aid (12.1 + 12.2)	12.1 Annual public budget allocated to legal aid in criminal law cases	12.2 Annual public budget allocated to legal aid in non criminal law cases
Amount (in €)	79338098	58052812	21285286

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 individual 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
Judicial Council	No	No	No	No
Courts	No	No	No	No
Inspection body	No	No	No	No
Other	Yes	No	Yes	Yes

15) 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. Law on Public Finance Administration and Control numbered 5018 entered into force on

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

Supplemental interpretation of question 6:

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

The given figures also cover the amounts allocated from the Institution's budget for judicial services.

On the other hand, the figures cover also the allocations made from the central budget for the courthouse buildings constructed in Istanbul in the year 2010, and completed recently.

Since the military courts are included in our judicial system as a separate branch of the judiciary, they are not mentioned here. The military courts and prosecution offices do not have separate budgets allocated for their own use. The budgeting activities related with the military judicial system are covered within the budgets of the commands to which the military courts and prosecution offices in question are subordinate. The appropriations allocated by those commands for judicial activities are sufficient to meet the demands in that regard.

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

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

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

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

Q6#2#5 : While the 2008 data indicate that the total amount of expenses made for the repair and maintenance of the court buildings was 904977 €, those expenses seem to have increased to the level of 26289836 €, according to the 2010 data. The significant difference between those two figures can be explained with the increases made in the numbers and sizes of the court buildings. It should also be noted that the transfers made from the budget of the Department of Prison Workshops were not included in the 2008 data, while they were included in the 2010 data.

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

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

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

Supplemental interpretation of question 9:

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

Supplemental interpretation of question 10:

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

The Ministry of Justice, the Constitutional Court, the Court of Cassation, the Council of State, the Turkish Academy of Justice and the Prison Workshops Institution. Court of Disputes , Supreme Election Board and Forensic Medicine Institution budgets are included within Ministry of Justice budget. Allocations made from the central budget for the courthouse buildings constructed in Istanbul in the year 2010, and the allowances transferred by the Ministry of Finance to the Union of Turkish bar Associations as legal aid are also included. The figures shown in the Year-end Final Account Law passed by the Parliament as of the end of 2010 have been taken as basis.

The given figures do not cover the military courts, which form a separate branch of the judiciary in Turkey.

Supplement to question 12:

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

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

Supplemental interpretation of question 14:

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

Please indicate the sources for answering the questions 6, 9, 10, 11, 12 and 13.

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

cf. NC 19/06 (Q6_table 2.1) : With the exclusion of the first column, the data given in all other columns of Table 2.1 do not cover the Constitutional Court, the Court of Cassation, the Council of State, the Supreme Election Board, and the Military Courts.

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

3) In Table 2.17, a comment is required. What we can say about the subject is that in our country, legal aid is considered everyday more and more important, in terms of ensuring the access to justice by all individuals. In the cases of criminal law, a defence council is assigned if a punishment is considered to be given, or upon the request of the beneficiaries. On the other hand, in the cases of civil law, legal aid can be provided to economically deprived individuals if they require such aid. Different from the implementations in the year 2008, certain amounts of money were deposited in 2010 by the Ministry of Finance in the bank account of the Union of Turkish Bar Associations.

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

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

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

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

2. Access to Justice and to all courts

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 466/1 of Civil Procedure Code

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

18) 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:

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

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

19) 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 and for which legal aid has been granted. Please specify in the "comment" box below, when appropriate. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

[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	92805
in criminal cases	85021
other than criminal	

cases	7784
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Comment :

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

21) 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? 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 ?

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

If you have such a system but no data available, please indicate NA. If you do not have such a system, please indicate NAP.

	amount of annual income (if possible for one person) in €	amount of assets in €
for criminal cases	no	NA
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 465- If persons who are incapable of paying the case costs partially or fully without leading himself and his family in a bad condition can prove accuracy of their allegations and defenses or in application to enforcement and provisional injunction, they can benefit from legal aid.

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

25) Is the decision to grant or refuse legal aid taken by :

- the court?
 an authority external to the court?
 a mixed decision-making 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

A. Legal aid in other than criminal cases is regulated under;

- 1- Civil Procedure Law (No: 1086) (01.10.2011 de yürürlüğe girecek olan 6100 sayılı kanununun 335 vd. maddeleri)
- 2- Attorneyship Law (No: 1136)
- 3- Legal Aid Regulation of the Union of Bar Associations of Turkey

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

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

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

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

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

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

B- Reforms

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

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

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

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

Supplemental interpretation of question 25

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

Please indicate the sources for answering the questions 20 and 23

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

2. 2. 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:

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:

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

Comment :

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

- Yes
 No

If yes, 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 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)	Yes	Yes	Yes

Comment :

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

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

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

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

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

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

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

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

If the suspect is below 18 years old, the hearing shall be conducted in closed session.

32) 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. This Law came into effect on 27 July 2004. The objective of this law is to lay down the principles and procedures for the compensation of material damages suffered by persons due to terrorist acts or activities undertaken during the fight against terror.

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

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

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

33) 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 inform about 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 Social services and Child Protection Agency (its new name is the General Directorate of Services for Children-Ministry of Family and Social Policies) about the children in need of protection; and submitting requests for delivering the children in question to their parental guardians, and for the adoption of decisions for the protection and supporting of those children. Under Article 236, paragraph three of the Law numbered 5271, presence of an expert in the fields of psychology, psychiatry, medicine, or education is obligatory while listening to the children who are victims of crime, or other victims who became mentally depressed as a result of the crime committed.

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

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 judicial decision".

- Yes
 No
 NAP (the public prosecutor cannot decide to discontinue a case on his/her own. A judicial decision 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:

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

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

39) 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 treatment 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	No time limits
Court concerned	No	No	No
Higher court	No	No	No
Ministry of Justice	Yes	Yes	No
High Council of the Judiciary	No	No	No
Other external bodies (e.g. Ombudsman)	No	No	No

Comment :

In Turkey there are different ways for a person to make complaints about the functioning of the judicial system. The person can make an objection to a court against the decision of that court. He can complain about the judge concerned as well. Complaints and reports sent to General Directorate of Criminal Affairs directly or through other institutions (within 10 days according to internal circular) are subject to pre-examination; and are evaluated whether they satisfy the conditions for taking action under Article 97 of the Law No:2802. If the application does not satisfy the conditions stipulated under the Article, it is not put in process and consequences are notified to the concerned.

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

After the investigation has been completed, the file is to be sent to the General Directorate of Criminal Affairs again and following the last examination, the investigation file is decided to be cancelled or submitted to the High Council of Judges and Prosecutors for disciplinary evaluation of the situation of the concerned. Consequences of all these proceedings shall be notified to the applicant. Such examinations and investigations can take time around 1 year depending on the importance of the allegations in the file. Consequences of the proceedings shall be notified to the applicant as soon as possible.

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

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

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

According to the Law on the High Council of Judges and Prosecutors, which was amended on the date of 18 December 2010 following the Constitutional amendment, following are included among the duties of the Third Chamber of the HCJP:

Having the Board of Inspection conduct inspections to check if the judges and prosecutors, including those who are members of the Board, carry out their duties in accordance with the laws, rules, regulations, and circulars (administrative circulars prepared for judges); examining the notifications and complaints submitted against judges and prosecutors, and doing the necessary about them; making inquiries about judges and prosecutors through the inspectors of the Inspection Board, or through senior judges or prosecutors having the powers of inspectors, to see if the judges and prosecutors commit offenses

due to their duties or while fulfilling their duties and if their manners and actions comply with their status and duties; and if necessary, submitting proposals for starting proceedings and investigations against them.

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

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

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

3. Organisation 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)	4 298
42.2 First instance specialised Courts (legal entities)	1 437
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)	750

43) Number (legal entities) of first instance specialised courts (or specific judicial order). If "other specialised 1st instance courts", please specify it in the "comment" box below. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Total (must be the same as the data given under question 42.2)	1 437
Commercial courts	62
Labour courts	157
Family courts	177
Rent and tenancies courts	NA
Enforcement of criminal sanctions courts	14
Administrative courts	91
Insurance and / or social welfare courts	NA
Military courts	32
Other specialised 1st instance courts	1 027

Comment :

The figure of 1027 given above about other specialized first instance courts covers 11 juvenile high criminal courts, 60 juvenile courts, 20 high criminal courts operating under article 250 of the Code of Criminal Procedure, 23 Criminal/Civil Courts for intellectual and industrial property rights, 22 consumer courts, 695 land registration courts, 195 enforcement courts, and 1 maritime specialized court. Administrative courts are not specialized courts, and they are included as first instance administrative courts in the general total number of courts within our judicial system.

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

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

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

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

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

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

44) 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:

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

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

45) 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 of courts
a debt collection for small claims	854
a dismissal	939
a robbery	259

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

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

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

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

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

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

3. 1. 2. Judges and non-judge staff

46) Number of professional judges sitting in courts (if possible on 31 December 2010)

(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
Total number of professional judges (1 + 2 + 3)	7727	5280	2447
1. Number of first instance professional judges	7450	5091	2359
2. Number of second instance (court of appeal) professional judges	NA	NA	NA
3. Number of supreme court professional judges	277	189	88

Comment :

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

Judges of judicial courts: 5286

Judges of administrative courts: 952

Investigation judges of the court of cassation: 561

Investigation judges of the council of state: 250

Judges working at the Ministry: 384

Rapporteur judges working at the Constitutional court: 17

Members of the court of cassation : 198

Members of the council of state : 79

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

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

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

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

(cf CN 12/07)

47) 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
Total number of court presidents (1 + 2 + 3)	325	305	20
1. Number of first instance court presidents	322	302	20
2. Number of second instance (court of appeal) court presidents	NA	NA	NA
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 2010). If necessary, 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 2010) (e.g. lay judges and "juges consulaires", but not arbitrators and persons sitting in a jury).

Gross figure NAP

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 2010) (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 22011

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 20366

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 511

4. Technical staff Yes 692

5. Other non-judge staff Yes 442

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.

Q52#2#3 : In the 2008 report, the figure was given high, due to the fact that all of the staff, with the exclusion of technical staff, was shown as the court staff. However, in the 2010 data, only the total number of staff actually assisting the judges were given, with an intention to reflect the real situation.

On the other hand, it should be noted that in our judicial system, the positions of court staff/prosecution office staff have a flexible nature. At the places where high criminal courts are located, those staff are appointed to the courts and prosecution

offices by the local justice commissions, by taking into account the staff needs of those courts/prosecution offices. According to the needs, places of appointment of those staff can be changed by the justice commissions, within their areas of jurisdiction. For that reason, it is very difficult to make a distinction between the court staff and the prosecution office staff.

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

53) 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 İstanbul Palace of Justice have been awarded to a private company as a result of the tender opened. It is aimed to open such tenders also for other large courthouses.

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

C.1

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

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

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

Supplemental interpretation of question 42:

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

Supplemental interpretation of question 45:

The cases of dismissal from jobs are dealt with by the labor courts. At the places where there is no labor court, such cases are heard by civil courts of general jurisdiction. Therefore, of the figure given above, 157 are labor courts. As a result of the evaluation made during the previous term about the incidents of theft through violence, it was concluded that the scope of the crime in question should also cover other forms of theft which do not involve violence. Therefore, the criminal courts of peace and the criminal courts of general jurisdiction have also been included in the total figure. However, for the current term, only the numbers of the courts dealing with crimes of theft involving violence have been given. Those courts are the high criminal courts (including the juvenile high criminal courts), and the high criminal courts functioning under article 250 of the Code of Criminal Procedure.

Supplemental interpretation of question 47

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

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

On the other hand, there are Justice Commissions within our judicial organization. At the places where high criminal

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

Question 46: in Turkey there is no a chief judge/justice responsible for all administrative issues in court jurisdiction. On the other hand, there are 134 first instance civil justice commissions and 25 administrative justice commissions, totally 159, which are responsible for administrative matters in their jurisdiction. (cf CN 12/07)

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

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

3. 1. 3. Public prosecutors and staff

55) Number of public prosecutors (if possible on 31 December 2010) (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
Total number of prosecutors (1 + 2 + 3)	4 241	3 936	305
1. Number of prosecutors at first instance level	4 017	3 757	260
2. Number of prosecutors at second instance (court of appeal) level	NA	NA	NA
3. Number of prosecutors at supreme court level	224	179	45

Comment :

Interpretation

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

Prosecutors of the courts of original jurisdiction: 4017

Prosecutors of the Court of Cassation: 170

Prosecutors of the Council of State: 54

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

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

56) 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
Total number of heads of prosecution offices (1 + 2 + 3)	205	205	0
1. Number of heads of prosecution offices at first instance level	203	203	0
2. Number of heads of prosecution offices at second instance (court of appeal) level	NA	NA	NA
3. Number of heads of prosecution offices at supreme court level	2	2	0

Comment :

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

Yes

No

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

60) Number of staff (non-public prosecutors) attached to the public prosecution service (if possible on 31 December 2010) (without the number of non-judge staff, see question 52) (in full-time equivalent and for permanent posts actually filled).

Number

Yes

13 023

C.2

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

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

Supplemental interpretation of question 60:

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

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

High Council of Judges and Prosecutors

Ministry of justice, General Directorate of Personnel Affairs

Ministry of defense

3. 1. 4. Court budget and new technologies

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	No	No	No	No

clerk office				
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

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 jurisprudence	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	+50% 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?

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	0 % of courts

65) The use of videoconferencing in the courts (details on question 65). 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?	65.2 Can such court hearing be held in the police station and/or in the prison?	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?	65.4 Is videoconferencing used in other than criminal cases?
	Yes	No	Yes	No

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.

C.3

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 has been implemented over the last two years

3. 2. Performance 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:
www.adlisicil.adalet.gov.tr

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

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 personnel 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, 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

Please specify:

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

Every year, performance situations of courts, incoming, outgoing, continuing works are determined as tables, and transformed into a statistical report by the General Directorate of Criminal Record and Statistics. These reports are evaluated by the General Directorate of Personnel, and if there are courts that should be established or abolished according to the workload, it is submitted to the consideration of the Supreme Council of Judges and Prosecutors.

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

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

70) 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 or a Higher 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)
- 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**

Monitoring and evaluation of courts are conducted on the procedures and basis stated under the law within the framework of principles of independence of courts and guaranties of judges provided for by the Constitution. Quality and quantity evaluation are also conducted. By monitoring incoming and outgoing works, whether causing backlog in courts, nature of the outgoing works, number of files of the former years and attention paid to these issues are taken into consideration. By this way, possible problems that may occur in the general process of judiciary are determined and tried to be solved.

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

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

4. Fair trial

4. 1. Principles

4. 1. 1. General information

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 legal professional)?

11

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

Yes

No

If possible, number of successful challenges (in a year):

640

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)	2	31	50	0
Civil proceedings - Article 6§1 (non-execution)	1	1	6	0
Criminal proceedings - Article 6§1 (duration)	0	15	33	0

Please indicate the sources:

Ministry of Justice, Department of Information Technologies

Ministry of foreign Affairs

D.1

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

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

4. 2. 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 501 of Civil Procedure Code stipulates Serial Trial Procedure; Article 507 of Civil Procedure Code stipulates Simple Trial Procedure; Article 473 of Civil Procedure Code stipulates Verbal Trial Procedure as provided for by the legal legislation.
Administrative Cases: Judgments of stay of execution may be given.

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

88) Are there simplified procedures for:

- civil cases (small disputes)?
 criminal cases (small offences)?
 administrative cases?
 there is no simplified procedure

If yes, please specify:

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

89) 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. Caseflow 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 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 2010 + incoming cases) – resolved cases" should give the correct number of pending cases on 31 December 2010. Vertical consistency of data means that the sum of the individual case categories 1 to 7 should reflect the total number of other than criminal law cases.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total of other than criminal law cases (1+2+3+4+5+6+7)*	1 187 929	2 302 157	2 186 311	1 303 775
1. Civil (and	NA	NA	NA	NA

commercial) litigious cases (if feasible without administrative law cases, see category 6)*				
2. 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. Enforcement cases	74 312	233 416	242 028	65 700
4. Land registry cases**	70 900	44 326	44 107	71 119
5. Business register cases**	NA	NA	NA	NA
6. Administrative law cases (litigious and non-litigious)	160 444	424 789	386 884	198 349
7. Other cases (e.g. insolvency registry cases)	882 273	1 599 626	1 513 292	968 607

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) First instance courts: 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 2010 + incoming cases) – resolved cases" should give the correct number of pending cases on 31 December 2010. 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. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total criminal cases (8+9)	1 260 936	1 827 336	1 658 972	1 429 300
8. Criminal cases (severe criminal offences)	806 112	727 151	797 006	736 257
9. Misdemeanour and / or minor offences cases	454 824	1 100 185	861 966	693 043

95) The classification of cases between severe criminal cases and misdemeanour and/or minor criminal cases may be difficult. Some countries might have other ways of addressing misdemeanour offences (for example via administrative law procedures).

Please indicate, if feasible, what case categories are included under "severe criminal cases" and the cases included under "misdemeanour and /or minor criminal cases".

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

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

96) Comments on questions 91 to 95. You can indicate, for instance, the specific situation in your country, give explanations on NA or NAP answers or explain the calculation of the total number of other than criminal law cases or differences in horizontal consistency, etc.

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

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

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

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

97) Second instance courts: total 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: the total of "other than criminal" cases includes all of the following categories (categories 1 to 7).

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total of other than criminal law cases (1+2+3+4+5+6+7)	NAP	NA	NA	NA
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*	NA	NA	NA	NA
2. 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. Enforcement cases	NA	NA	NA	NA
4. Land registry cases	NA	NA	NA	NA
5. Business register cases	NA	NA	NA	NA
6. Administrative law cases (litigious and non-litigious)	NA	NA	NA	NA
7. Other cases (e.g. insolvency registry cases)	NA	NA	NA	NA

98) Second instance courts: total 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. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total criminal cases (8+9)	NAP	NA	NA	NA
8. Criminal cases (Severe criminal offences)	NA	NA	NA	NA
9. Misdemeanour and/or minor offences cases	NA	NA	NA	NA

Comment :

99) Highest instance courts: total 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: the total of "other than criminal law cases" includes all of the following categories (categories 1 to 7).

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total of other than				

criminal law cases (1+2+3+4+5+6+7)	318 423	504 327	456 975	365 775
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)	NA	NA	NA	NA
2. 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. Enforcement cases	NA	NA	NA	NA
4. Land registry cases	NA	NA	NA	NA
5. Business register cases	NA	NA	NA	NA
6. Administrative law cases (litigious and non-litigious)	168 639	129 202	103 880	193 961
7. Other cases (e.g. insolvency registry cases)	NA	NA	NA	NA

100) Highest instance courts: total 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. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total criminal cases (8+9)	304 071	269 505	209 076	364 500
8. Criminal cases (severe criminal offences)	NA	NA	NA	NA
9. Misdemeanour cases (minor offences)	NA	NA	NA	NA

Comment :

No distinction has been made according to the types of offences

101) Number of litigious divorce cases, employment dismissal cases, 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 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Jan. '10
Litigious divorce cases	85 004	181 294	198 370	67 928
Employment dismissal cases	9 108	12 881	14 059	7 930
Robbery cases	12 063	11 819	12 089	11 793
Intentional homicide	6 577	7 162	7 135	6 604

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. New: the question concerns first, second and third instance proceedings.]

	% 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	NAP	NA	169	NAP	NA	
Employment dismissal cases	NAP	NA	240	NAP	NA	
Robbery cases	NAP	NA	295	NAP	NA	
Intentional homicide	NAP	NA	432	NAP	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 four case categories? Please give a description of the calculation method.

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

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

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

105) 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 demand 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 enforcement procedure
- to discontinue a case without requiring a judicial decision (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.

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	6 076 676	1 991 299	9 131	2 881 643

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)	1 991 299
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

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

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

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

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

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

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

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

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

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

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

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

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

5. Career of judges and public prosecutors

5. 1. Recrutement and promotion

5. 1. 1. Recrutement 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.

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 and promotion to first class of judges and prosecutors are conducted by the Supreme Council of Judges and Prosecutors.

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

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

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

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

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

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

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

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

In order to be promoted to first class, however; it is necessary to work for 10 years actively in the profession, to advance to first class and to be distinguished among his/her equals according to his/her scientific power and skills and success in service and profession, not to have discipline punishment or conviction that hinders the promotion to first class, and to carry the conditions stated under the resolutions regarding the merits of promotion to first class. The most important of these conditions is; more than half of the increase inspections they are subjected to through their professional lives to be preferential (B).

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

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

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

- Yes
 No

115) Is the status of prosecution services:

- Indépendant?

Under the authority of the Minister of justice ?

Other?

Please specify:

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

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 Personnel Affairs, and two other members to be nominated by the Management Board of the Academy of Justice (if, in the Management Board of the Academy of Justice, there are one member from each of the Court of Cassation and the Council of State, then those members shall be appointed as full members in the interview committee). The above mentioned bureaucrats of the Ministry of Justice are individuals who were originally working as judges.

118) 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:

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

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

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

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

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

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

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

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)?

Yes

No

If yes, are there exceptions? (e.g. dismissal as a disciplinary sanction)? Please specify:

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

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 probation period (in years)	
	2

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

Yes

No

If yes, are there exceptions (e.g. dismissal as a disciplinary sanction)? Please specify:

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

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

	Duration of the probation period (in years)
	2

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

NAP

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

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 prosecutors and the main reforms that have been implemented over the last two years

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

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

After the analysis of the curricula and practices of the 50 law schools in our country and training models of some similar international institutions, a new curriculum is being worked on for creating an ideal profile for judges and prosecutors in the light of the meetings held with our trainers and trainees, questionnaires, observations and other scientific studies and opinions of the some institutions such as the Ministry of Justice, Court of Cassation, and Council of State. In this sense, lessons improving cognitive and sensual characteristics and professional efficacy, formation courses, personal development and social activities are determined. Programs and practices are being implemented in order to ensure methodological realization of professional practices, improvement of intellectual level, formation of the person's professional identity and healthy communication with his environment being aware of his inner world. Within the context of human rights, in addition to the course " Human Rights and Public Freedoms Practices", it has been agreed with the trainers that in every lesson European Human Rights and the European Court of Human Rights will be referred. In this context, a project internalizing human rights practices was carried out with participation of foreign experts and trainers during the Marta Project which lasted for 3 years . (ACADEMY)

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

With this new regulation it is ensured that:

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

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

5. 2. 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 in the "comment" box below the budget of such institution(s).

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

	Initial training only	Continuous training only	Initial and continuous training
--	-----------------------	--------------------------	---------------------------------

One institution for judges	No	NAP	NAP
One institution for prosecutors	No	NAP	NAP
One single institution for both judges and prosecutors	No	No	Yes

Comment :

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

E.2

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 prosecutors and the main reforms that has been implemented over the last two years

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

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

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

5. 3. 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 2010	Net annual salary in €, on 31 December 2010
First instance professional judge at the beginning of his/her career	21 137	16 390
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)	43 166	31 776
Public prosecutor at the beginning of his/her career	21 137	16 390
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)	41 263	30 357

Comment :

no differnt between judge and prosecutor salaries

133) Do judges and public prosecutors have the following additional benefits?

	Judges	Public prosecutors
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 for a reasonable price from the installations 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 High Council's permission. In addition, they can write various essays in newspaper and magazine, scientific etc. Also, they can participate in any kind of seminar, conference etc. without taking permission from the High Council, but only in weekends.

(cf CN 12/07)

137) 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).

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 is 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:

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

143) 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)	199	NA
1. Breach of professional ethics	NA	NA
2. Professional inadequacy	NA	NA
3. Criminal offence	NA	NA
4. Other	NA	NA

Comment :

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

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

145) Number of sanctions pronounced 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)	NA	NA
1. Reprimand	NA	NA
2. Suspension	NA	NA
3. Removal of cases	NA	NA
4. Fine	NA	NA
5. Temporary reduction of salary	NA	NA
6. Position downgrade	NA	NA
7. Transfer to another geographical (court) location	NA	NA
8. Resignation	NA	NA
9. Other	NA	NA

Comment :

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

Other penalties: Totally 71 decisions have been taken to impose penalty. Those penalties were in the forms of: Warning (23),

reprimand (22), stopping the rank advancement (7), stopping the level increase (1), provisional cutting of monthly salary (2), appointment to another geographical location (court) (7), dismissal from job (profession) (2), temporary suspension from duties (3), and other penalties (4).

E.3

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 prosecutors and the main reforms that have been implemented over the last two years**

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

Please indicate the sources for answering questions 144 and 145

High Council of Judges and Prosecutors

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.

70 332

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:

F.1

Please indicate the sources for answering questions 146 and 148:

Comments for interpreting the data mentioned in this chapter:

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

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

6. 2. 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

F.2

Useful comments for interpreting the data mentioned in this chapter:

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

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

Besides the Attorneyship Minimum Fee Tariff prepared by Turkish Bar Association which shall be obeyed for the

determination of attorneyship fee, Bars also publish fee tariffs as recommendations prepared on the basis of free market.

6. 3. 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.]

	Total number of disciplinary proceedings initiated (1 + 2 + 3 + 4)	1. Breach of professional ethics	2. Professional inadequacy	3. Criminal offence	4. Other
Number	756	NA	NA	NA	NA

Comment :

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

162) Sanctions pronounced 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 a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons in the "comment" box below.

	Total number of sanctions (1 + 2 + 3 + 4 + 5)	1.Reprimand	2. Suspension	3. Removal	4. Fine	5. Other (e.g. disbarment)
Number	114	61	NAP	6	15	32

Comment :

Totally 32 attorneys were given penalties of warning

F.3

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

7. Alternative Dispute Resolution

7. 1. Alternative Dispute Resolution

7. 1. 1. Alternative Dispute Resolution

163) Does the legal system provide for 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

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	Yes	No	No	No	No
Family law cases (ex. Divorce)	No	No	No	No	No
Administrative cases	Yes	No	No	No	No
Employment dismissals	No	No	Yes	No	No
Criminal cases	Yes	No	No	No	Yes

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

- Yes
 No

If yes, please specify:

Article 253 of the Criminal Procedure Law is taken into account

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	NAP
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 :

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

G.1

- 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

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

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

2 606

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:

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

Ministry of Justice, General Directorate of Personnel Affairs

8. 1. 2. 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:

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

179) 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 the execution?

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 has 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 timeframes of the 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 disciplinary proceedings
(1+2+3+4)

 number: 1 268

1. for breach of professional ethics

NA

2. for professional inadequacy

NA

3. for criminal offence

NA

4. Other

NA

Comment :

Total number of the files opened: 291

Total number of the closed files: 1268

Number of the files under examination: 147

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 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 checked="" type="checkbox"/> number:	53
1. Reprimand	<input checked="" type="checkbox"/> number:	11
2. Suspension	<input checked="" type="checkbox"/> number:	0
3. Dismissal	<input checked="" type="checkbox"/> number:	1
4. Fine	<input checked="" type="checkbox"/> number:	9
5. Other	<input checked="" type="checkbox"/> number:	32

Comment :

Number of the penalties of warning: 27

Number of the penalties of stopping the rank advancement: 5

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 has been implemented over the last two years**

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

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

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

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

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

Source: General Directorate of Personnel Affairs

8. 2. Execution of decisions in criminal matters**8. 2. 1. Execution of decisions in criminal matters****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:

Duties of prosecutors related with the enforcement of sentences:

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

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

Duties and Authorities of Penal Institutions with regard to the Execution of sentences: According to Article 6 of the Law dated 13 December 2004 and numbered 5275 on the Execution of Sentences and Security Measures, the penal institutions ensure that:

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

The convicts maintain an orderly life within the penal institution,

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

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

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

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

190) 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%

it 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

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

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

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

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

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

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

public prosecutor.

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

2- Execution of punitive fine:

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

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

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

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

9. Notaries

9. 1. Notaries

9. 1. 1. Notaries

192) Do you have notaries in your country? If no go 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?		NAP
public agents?	<input checked="" type="checkbox"/> number	1 694
other?		NAP

Comment :

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

194) 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

195) Is there an authority entrusted with supervising and monitoring the 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

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

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

The notary publics are subject to an inquiry by;

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

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

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

10. Court interpreters

10. 1. Court interpreters

10. 1. 1. Court interpreters

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 :

J.1

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

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

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

According to Article 324, the price to be paid to the interpreter that would be appointed to help the suspects, victims, or accused persons who can not speak Turkish, or are disabled shall not be considered among the court expenses, and shall be met by the State Treasury.

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

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

Please indicate the sources for answering question 199:

Ministry of Justice, Strategy Development Department

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)

133 508

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 indicate in the "comment" 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 :

K.1

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

GENERAL INFORMATION ABOUT THE INSTITUTION OF JUDICIAL EXPERTISE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Please indicate the sources for answering question 205:

UYAP Information system

12. Foreseen reforms

12. 1. Foreseen reforms

12. 1. 1. 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. 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)

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

7. Enforcement of court decisions

8. Mediation and other ADR

9. Fight against crime and prison system

10. Other

Constitutional Amendment

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

Important changes have been made in the structural organization and functioning of the High Council of Judges and Prosecutors, with a view to strengthen the independence and impartiality of the judiciary, to reorganize the Council according to the principle of broad-based representation, and to bring an autonomous structure to the Council. professionals of Justice (judges, prosecutors, attorneys, notaries, enforcement officers, etc.): organization, education, etc.

Law on the Judges and Prosecutors

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

Training of the Judges and Prosecutors

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

Establishment of the Regional Courts of Justice

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

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

Employment of contract staff within the judiciary

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

Development of the institution of notaries

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

Studies related with the profession of attorneyship

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

Decreasing the administrative duties of the members of the judiciary

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

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

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

Ensuring the development of professional competence

Provision of prevocational and in-service training to the members and employees of the judiciary is very important in

ensuring the high quality of judicial activities. To that end, following objectives have been included in the Strategic Plan of the Ministry of Justice

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

Legislative Reform

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

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

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

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

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

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

The Law on Making Amendments in Certain Laws to Speed up the Judicial Services

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

5. Enforcement of the judicial decisions:

The Law on Debt Enforcement and Bankruptcy is planned to be renewed entirely. While making the arrangements in that regard, it is envisaged to determine the deficiencies of the current system, and to establish a new system which would permit the enforcement of judicial decisions in full and in the most rapid way possible.

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

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

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

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

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

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

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

7. Prison system and combating crimes

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

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

Other Subjects

Strategic Plan of the Ministry of Justice

Parallel to the developments taking place in the world, a strategic management and planning approach was also

adopted in our public management system. In that framework, Strategic Plan of the Ministry of Justice (2010-2014) has been prepared. The said plan consists of 12 aims and 80 objectives.

Judicial Reform Strategy

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