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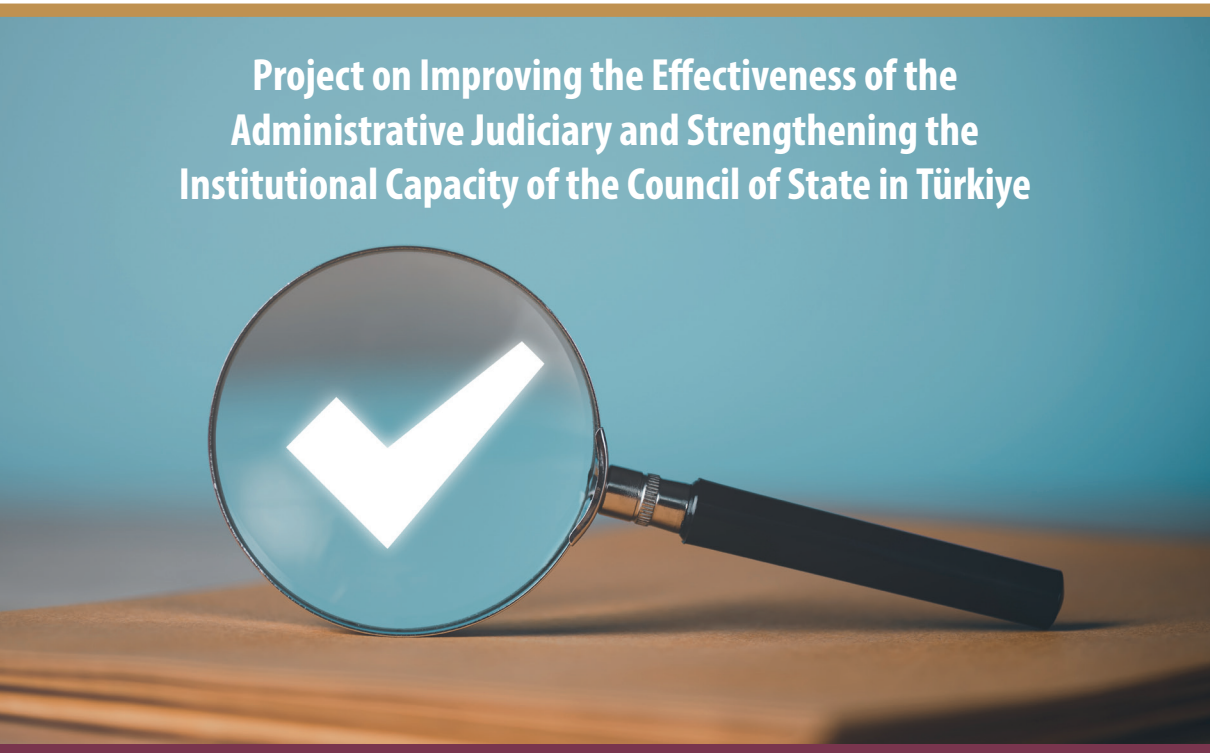
Project on Improving the Effectiveness of the Administrative Judiciary and Strengthening the Institutional Capacity of the Council of State in Türkiye



FINAL ASSESSMENT REPORT

Project on Improving the Effectiveness of the Administrative Judiciary and Strengthening the Institutional Capacity of the Council of State in Türkiye

FINAL ASSESSMENT REPORT

Ray Burningham

May 2023

Final Assessment Report has been prepared in the framework of the Joint Project on Improving the Effectiveness of Administrative Judiciary and Strengthening the Institutional Capacity of the Council of State. The Project is co-funded by the European Union, Republic of Türkiye and the Council of Europe and implemented by the Council of Europe. The Turkish Ministry of Justice – Directorate General for Legal Affairs is the end beneficiary of the Project. The Central Finance and Contracts Unit is the contracting authority of this Project.

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CONTENTS

LIST OF ABBREVIATIONS

CEPEJ	European Commission for the Efficiency of Justice
CoS	Council of State
CLRSU	Case Law Reporting and Statistics Unit
DHRMoJ	Department of Human Rights of the Ministry of Justice
DGLA	Directorate General of Legal Affairs
ECHR	European Convention on Human Rights
EctHR	European Court of Human Rights
Initial Report	Initial Assessment Report and Proposals for Reform Road Map
Interim Report	Interim Progress & Assessment Report
HRAP	Human Rights Action Plan
JRS	Judicial Reform Strategy for Türkiye
MoJ	Ministry of Justice
OI	Ombudsman Institution
RAC	Regional Administrative Courts
TCA	Turkish Court of Accounts
TCC	Turkish Constitutional Court
UYAP	National Judiciary Network Project
IYUK	(İdari Yargılama Usulü Kanunu) Administrative Procedural Adjudication Code
IUK	(İdari Usul Kanunu) Administrative Procedural Code

FINAL ASSESSMENT REPORT

Activity A.1.1 In-Depth Administrative Justice System Review

INTRODUCTION

The Final Assessment Report

This Final Assessment Report is the third and final report in a series produced for the purposes of this project. An 'Initial Assessment Report and Proposals for Reform Road Map' (Initial Report) was published in July 2020 and an Interim Progress & Assessment Report (Interim Report) was published in April 2022.

The overall objective of this project is to foster public confidence in the administrative judiciary by further strengthening its independence, impartiality and effectiveness, and by increasing public awareness of it. This objective is being pursued by assisting the Turkish authorities in identifying and giving effect to practices and procedures that support the independence and impartiality of the judiciary, and that strengthen the responsiveness and efficiency of the administrative justice system.

The Project was expected to achieve the following results:

Expected Result 1: Approaches to and policies for improving the effectiveness of the administrative judiciary are agreed, evidence-based and its implementation supported.

Expected Result 2: The institutional and professional capacity of the administrative judiciary is strengthened, thereby increasing public confidence in the administrative judiciary.

Expected Result 3: The measures to relieve the administrative justice system and courts of their heavy workload are identified and supporte d, the existing pre-trial resolution mechanism are strengthened, and appropriate ADR mechanisms are introduced.

Expected Result 4: The length of appellate proceedings is reduced by more efficient and effective case management by the Regional Administrative Courts (RACs) and the Council of State (CoS), and any necessary changes to the systems and processes are introduced.

This Report provides an overview of:

- The initial observations of the system and feedback from stakeholders obtained during the in-depth review in the early phase of the project
- An account of relevant reforms introduced by the Turkish authorities over the life of the project
- An overview of the project activities and of project outputs
- Commentary on the progress achieved in support of the 'Road Map for an Improved Administrative Justice System' launched in April 2022 and on the updated Road Map which is to be published as a project legacy document
- Recommendations for reform or sustainability of project activities

Ongoing Consultation With Stakeholders

The in-depth review of the Turkish administrative justice system which began at the commencement of the project has continued throughout and information has been continually gathered. Close cooperation has continued between the project team and the Ministry of Justice Directorate of Legal Affairs (DGLA), the beneficiary Department of the project, with the Council of State (CoS) and other stakeholders

To inform the drafting of the Final Assessment Report a series of meetings took place with the following stakeholders in November 2022:

Council of State

Ombudsman Institution

Human Rights and Equality Institution of Türkiye

Union of Turkish Bar Associations

Presidency of Ankara Regional Administrative Court

Ministry of Justice

Turkish Constitutional Court

Justice Academy of Türkiye

Council of Judges and Prosecutors

Pilot Courts

The project team is very grateful to the Presidents, judges and staff of the pilot courts for their valuable contribution to the project. The team is also grateful to the RAC presidents in the pilot regions who have given their valuable support to the project and enabled the contribution of the pilot courts. The pilot courts are:

- Ankara Regional Administrative Court First Administrative Litigation Chamber
- Ankara Second Administrative Court
- Istanbul Regional Administrative Court Second Tax Litigation Chamber
- Istanbul Fifteenth Tax Court
- Izmir Regional Administrative Court Third Administrative Litigation Chamber
- Gaziantep First Administrative Court

Court User Survey

This report also makes reference to various findings of a pilot court user survey conducted as part of the project with the support and co-operation of the pilot courts. The survey comprised quantitative and qualitative elements. The quantitative element was piloted in Ankara, Istanbul, Izmir and Gaziantep between July and August 2021 and comprised a series of interviews conducted in courthouses. A total of 614 lawyers and 390 citizens attending courthouses were interviewed. The survey questionnaire sought to measure the expectation and satisfaction levels of various aspects of the service provided. The qualitative element comprised a focus group meeting held in September 2021 and a series of in-depth interviews with a targeted group of stakeholders.

International Collaboration And Study Visits

The project has provided opportunities for representatives of the stakeholder organisations to participate in a number of study visits and placements to slash in institutions of EU member states and EU institutions/Council of Europe and ECtHR to recognise best practices and to contribute to improving the effectiveness of the Turkish administrative judiciary. These were intended to enable participants to develop fresh proposals in the light of their experiences for improvements based on concrete, practical information.

These comprised visits to France in December 2021, Germany in June 2022, Strasbourg in October 2022 (where the programme included meetings with the European Court of Human Rights and Venice Commission) and Portugal in April 2023.

A seminar was held in Ankara on 14 December 2022 providing an opportunity for participants to exchange ideas and experiences and to identify ways of improving the functioning of the Turkish system based on the study visits, and the outcome of the seminar is referred to later in this report.

PART 1

TURKISH ADMINISTRATIVE JUSTICE SYSTEM: OVERVIEW

The Turkish administrative justice system is more fully described in the Initial and Interim Reports, but the following short description is intended to provide a brief overview. A short history of the system is at **Annex A**.

There are currently 189 administrative and tax courts sitting in Türkiye in approximately 45 location. Tax courts comprise around 30% of the overall total. A high proportion of the national caseload is heard in the three largest cities: Ankara (25 administrative courts, 7 tax courts), Istanbul (13 administrative courts, 14 tax courts) and Izmir (6 administrative courts, 4 tax courts). There are nine Regional Administrative Courts (RACs) following a reform of the appellate structure in 2016. An additional Regional Administrative Court was established in Bursa with effect from 1 September 2021 increasing the number of the operational RACs from the original 6 established in 2016 to 9. The current regional map of the administrative courts is at **Annex B.**

The Council of State acts both as a review, advisory and decision-making body, and as a judicial institution. It has judicial duties both in the capacity of a first instance court in certain categories of case and as an appellate authority. The reforms introduced in 2016 were intended, inter alia, to reduce the workload of the Council of State, to make it a court of precedent and an expeditious forum for the resolution certain categories of urgent dispute. The Regional Administrative Courts were transformed into courts of appeal and, in general, their decision on appeals against the decisions of the first instance administrative and tax courts which do not exceed a certain amount are final.

As of September 2019, there were approximately 2000 administrative judges sitting. A large proportion of judges have less than five years' experience. Recent legislative changes mean that in future non-law graduates cannot exceed 20% of the total number of judges appointed annually. The Council of Judges and Prosecutors (CJP) has responsibilities which include the appointment, transfer and promotion of judges, and for the imposition of disciplinary penalties including removal from office. It also makes final decisions on proposals by the Ministry of Justice concerning court closures, or changes in the territorial jurisdiction of a court.

Operating within the scope of the CJP is an Inspectorate responsible for the supervision of judges and public prosecutors with regard to the performance of their duties. They perform an audit function and conduct investigations concerning potential offences related to the performance of duties or judicial conduct.

The procedural code (IYUK) for the administrative and tax courts is contained in Law no. 2577 (IYUK) (1982) on the Procedure of Administrative Justice. Law no. 2577 (IYUK) cross-refers to Civil Procedure Code no. 6100 with regard to various procedural actions. Procedural provisions are also found in Law 2575 (1982) concerning the Council of State and Law no. 2576 (1982) on the Foundation and Tasks of Regional Administrative Courts, Administrative Courts and Tax Courts.

An Ombudsman Institution of the Republic of Türkiye was established in 2012 by the 'Law on the Ombudsman Institution No.6328 as a constitutional public entity affiliated with the Grand National Assembly of Türkiye. It has been assigned functions "to examine, investigate, and submit recommendations to the Administration with regard to all sorts of acts and actions as well as attitudes and behaviours of the Administration upon complaint on the functioning of the Administration within the framework of an understanding of human rights-based justice and in the aspect of legality and conformity with principles of fairness". The Institution started to receive complaints in March 2013.

PART 2

REFORM PRIORITIES OF THE TURKISH AUTHORITIES

The Reform Priorities of the Turkish Authorities - Strategic Framework

The project has sought to provide support to the reform activities of the Turkish authorities that support the independence and impartiality of the judiciary and that strengthen the responsiveness and efficiency of the administrative justice system. Close attention has therefore been paid to the priorities set out in Turkish strategic plans.

A key document in this respect is the third Judicial Reform Strategy for Türkiye (JRS), adopted in May 2019. The JRS sets out work towards a 'Judicial Vision 2023 - A Trustworthy and Accessible Justice System.' This includes a series of objectives in support of the following aims which are relevant to the project:

- Protection and Improvement of Rights and Freedoms
- Improving Independence, Impartiality and Transparency of the Judiciary
- Increasing the Quality and Quantity of Human Resources
- Enhancement of Performance and Productivity
- Ensuring Access to Justice and Enhancing Satisfaction from Service
- Simplification and Enhancement of The Efficiency of Civil and Administrative Trials
- Spreading of Alternative Dispute Resolution Methods

Other relevant strategic documents are the Council of State Strategic Plan 2019-2023; the Ombudsman Institution Strategic Plan 2022-2026; and Council of Judges and Prosecutors Strategic Plan 2022-2026.

The strategic framework was supplemented during the life of the project when the President of the Republic published an Action Plan on Human Rights (HRAP)[1]. Like the JRS, the HRAP also contained planned activities in support of aims which link closely to the objectives of this project i.e.

Aim 1: A Stronger System for Protection of Human Rights

Aim 2: Strengthening Judicial Independence and the Right to a Fair Trial

Aim 3: Legal Foreseeability and Transparency

Aim 9: High-Level Administrative and Social Awareness on Human Rights

Activities concerning the administrative courts referred to in the HRAP include:

- The introduction of specialised courts for zoning and expropriation
- The improvement of target time limits
- Enabling the use of the UYAP by the Council of State in its capacity as a first instance court
- Reducing the time limit afforded to the public administration to reply to applications from 60 days to 30 days
- Introducing a legislative requirement for a reasoned judgment to be given within 30 days of an administrative court decision

1 Presidential Circular No. 2021/9 with the Official Gazette N0 31749, dated 30 April 2021:

PART 3

PROJECT OUTPUTS & ROAD MAP FOR AN IMPROVED ADMINISTRATIVE JUSTICE SYSTEM: COMMENTARY

Road Map for an Improved Administrative Justice System 2020-2023

A 'Road Map for an Improved Administrative Justice System 2020 2023' (Road Map) was developed within the scope of the Project in order to provide a framework for the implementation of solutions identified through the in-depth review of the system. It was intended that the Road Map would be a living document, altered as assessments identify different issues and priorities. The Road Map was launched in April 2022. An updated Road Map will be published before the conclusion of the project as a companion document to this report.

The Road Map reflects the strategic plans of the stakeholder organisations but in particular reflects the inter-relationship between project activities and the Judicial Reform Strategy and the HRAP. The original text also reflected relevant project activities and the updated version, which will serve as a legacy document after the project is closed, includes activities intended to promote the sustainability of the project activities.

The structure of this Report reflects the structure of the Road Map, which has the following main headings:

- Reducing the workload of the first instance courts and RAC chambers in the administrative judiciary:
  - **I.** Good public administration decision making and internal review
  - **II.** Promoting alternative dispute resolution
  - **III.** Simplification and enhancing the efficiency of administrative trial procedure
- Human resources: improving professional capacity
- Enhancement of quality, performance and productivity
- Ensuring access to justice and enhancing satisfaction from service
- Simplification and enhancing the efficiency of administrative trial procedure

- Strengthening the institutional capacity of the Council of State & promoting unity of case law

The report provides a brief description of the project outputs under each heading, and a brief assessment of the present position.

Reducing The Workload of the Administrative Courts I

Good public administration decision-making and internal review

All cases before the administrative court concern disputes in which a public authority is a party. Standards of public administration and the effectiveness of pre-litigation dispute resolution mechanisms are therefore a major factor in determining the workload of the administrative and tax courts. The conduct of public authorities as a party to court proceedings, for example in relation to compliance with court decisions, also impacts on the workload.

Against this background, with a focus on reducing the workload of the administrative courts, work has also been conducted on:

- Raising awareness of best practice concerning good administration and internal review by public authorities, with a particular focus on European standards and human rights
- Providing guidance to public authorities with the aim of strengthening the internal review (sometimes referred to as "administrative appeals" or "review by a senior officer") system in Türkiye, to encourage consistent practices and to improve the overall functioning of administrative authorities in relation to appeal of decisions.
- Promoting greater awareness by citizens of their right to review by a senior authority following an adverse administrative decision
- Exploration of the impact of the Turkish "public loss"[2] concept and its perceived role in inhibiting early dispute resolution by public authorities

2 "Public loss" is a mechanism concerning the process of recovering public losses and taking action against officials deemed to be responsible. The mechanism is regulated in the Public Financial Management and Control Act no. 5018 and in its secondary legislation. Article 71 of the Law no. 5018 defines public loss as "preventing an increase or causing a decrease in the public resource as a result of a decision, transaction or action that violates the legislation and that stems from their intention, fault or negligence." Article 71 goes on to list actions which should be considered when determining a public loss: making payments in excess of the amount determined as the price of works, goods or services; making payments without receiving the goods or without having the work done or service provided, purchasing goods, works or services for a price higher than their market price; and make payments not envisaged in the relevant legislation.

Good administration: The Council of Europe Committee of Ministers *Recommendation CM/Rec(2007)7 on good administration* isets out nine core principles of good administration. These also appear in the *European Code of Good Administrative Behaviour'*nda *da yer almaktadır.* The nine core principles are as follows:

Lawfulness: The duties and powers of administrative authorities shall be exercised in compliance with all laws, the rules of Constitution, international law, Presidential decrees and regulatory procedures

Equality: In taking decisions the administrative authority shall ensure that the principle of equality of treatment is respected, that public services are offered equally to those whose legal status is the same and that any difference in treatment is objectively justified.

Impartiality: Administrative authorities shall ensure the duties are powers are carried out in an impartial manner, irrespective of personal beliefs and interests.

Proportionality: The administrative authority shall ensure that when making decisions they are proportional to the aim pursued and reflect a fair balance between the interests of members of the public and the general public interest.

Legal certainty: Administrative authorities are required to be consistent in administrative behaviour and action and to respect the legitimate and reasonable expectations of members of the public unless there are legitimate grounds for departing from those practices in individual cases.

Taking action within a reasonable time limit: Applications to administrative authorities by members of the public should be handled within a reasonably short time, taking account of the characteristics of the application and subject to any specific timeframes that may already apply.

Participation: Administrative authorities should provide members of the public with the opportunity through appropriate means to participate in the preparation and implementation of administrative decisions that affect their rights or interests.

Respect for privacy: Administrative authorities shall have respect for privacy, particularly when processing personal data.

Transparency: Administrative authorities should ensure that information is provided to members of the public in a systematic, prompt and accessible manner.

As previously explained, the project Road Map is closely aligned to the Judicial Reform Strategy but there is no comparable overarching strategy for public administration reform at present. Interlocutors have emphasised that raising standards of public administration decision-making, and the effective operation of internal review

procedures for which the legal framework is already in place, would be a major factor in improving the experience of citizens and reducing the volume of appeals.

Judicial interlocutors have expressed the view that administrative decision-making is of variable quality across public bodies, and that the quality and availability of training for public officials needs to be improved. Descriptions have also been given of the public administration culture that is not inclined to litigate disputes than seeking formal resolution, and reluctance to exercise discretion due to the perceived risks of the "public loss" provisions. Descriptions have also been given of techniques sometimes employed by public administration office holders and officials to circumvent court decisions, for example by complying with a court order then renewing the original activity that attracted the adverse finding from the court, giving rise to repeated cases concerning the same issue. It has been stated that the problem of non-compliance with court decisions is encountered less frequently in cases related to disputes of tax and excise duties due to a clearer regulatory framework. Non-compliance by the public administration with established case law is identified also as an issue, although the consistency of caselaw and problems in finding relevant case law have been contributory factors in this. The length of judicial proceedings can also reduce the relevance of the court decisions as sometimes they have lost their applicability or relevance by the time the decision is given.

The largest category of disputes before the administrative courts concerns the affairs of public servants, in relation to remuneration or disputes concerning such matters as discipline and assignment. These reached a peak of 44% of the total administrative court workload in 2017 but typically represent around a quarter of administrative court cases. Turkish public administration human resources policy, practice and procedure are therefore a major factor in determining the workload of the courts.

As previously described in the Interim Report, the project has arranged for the Council of Europe Handbook "The Administration and You", published in October 2018, and over 20 Recommendations and Resolutions of the Committee of Ministers concerning good administration to be published in Turkish for the first time .

In November 2019, the Ombudsman Institution of the Republic of Türkiye (the Ombudsman Institution) has also published a valuable 'Manual on Good Administration Principles.' The introduction to this document describes how the concept of good administration reflects modern European standards but that exploring the relations between the administrator and the public is also an ancient tradition in Turkish-Islamic States. The manual provides guidance on the 'Principles of Good Administration,' contained in article 6 of the Bylaw of the Procedures and Principles regarding the Implementation of the Ombudsman Institution Law[3] . This is a valuable addition to the Turkish literature concerning good administration.

3 number 28601, published in the official Gazette dated 28 March 2013

"it should always be remembered that good administration is a right of the citizens while it is an obligation of the administration." Seref Malkoç, Chief Ombudsman, Foreword to Manual on Good Administration Principles, November 2019

Pre-litigation dispute resolution mechanisms

Expected Result 3 of the project states that: "The measures to relieve the administrative justice system and courts of their heavy workload are identified and supported, the existing pre-trial resolution mechanisms including appropriate alternative dispute resolution (ADR) mechanisms are reviewed and addressed."

Standards in regard to administrative appeals (also referred to as internal review) are expressly provided for in two Council of Europe Recommendations:

- Recommendation CM/Rec (2007)7 on good administration at Article 22 entitled "Appeals"
- Recommendation Rec(2001)9 on alternatives to litigation between administrative authorities and private parties at Part III and entitled "Internal reviews".

In summary these provide that:

- Judicial review of an administrative decision should be available but an administrative appeal prior to a judicial review, should, in principle, be possible;
- In certain cases, such administrative appeals may be compulsory;
- Administrative appeals may concern an appeal on the merits or an appeal on the legality of the administrative decision.
- An individual must not suffer any prejudice from a public authority for seeking to appeal an administrative decision.

In the Council of Europe handbook "The Administration and You", Principle 17 states that: "Everyone adversely affected by an administrative decision made by a public authority shall be entitled to a request and internal review of the decision." In the commentary to Principle 17, the following criteria are set out:

- The principles of good administration that apply to decision-making apply also to internal review .
- Internal reviews should be carried out by competent persons within the public authority.
- A request for an internal review should of itself suspend time limits for instigating an appeal to a court.

- It is assumed that the preferred option is that internal review precedes judicial review.

Article 40 of the Turkish Constitution requires administrative authorities to outline the legal remedies available to individuals in the context of judicial proceedings, including in the context of administrative procedures and administrative appeal. Administrative authorities are required therefore to make available the option of administrative appeal for individuals affected by administrative decisions.

Administrative appeal prior to a judicial review is available under the Procedure of Administrative Justice Act No. 2577 (IYUK), Article 11 of which provides for a general right of appeal. The Article 11 provisions are:

1. Before filing an administrative action, the concerned persons may request from the senior authority, or in the absence of the senior authority, from the authority which has performed the procedure, within the time limit for filing an administration, abolishment, withdrawal, amendment of the administrative procedure, or the performance of a new procedure. This application shall suspend the time limit for filing an administrative action that has started.
2. If no answer is given within 30 days, the request shall be deemed to have been dismissed
3. If the request is dismissed or deemed to have been dismissed, the time limit for filing an action shall restart and the period elapsed until the date of application shall also be taken into account.

Turkish stakeholders generally regard the practical operation of the administrative appeals procedure as problematic. "Administrative silence" i.e. a failure by the relevant public authority to respond to an administrative appeal by a citizen resulting in "deemed dismissal" of the appeal after the relevant time period has elapsed, has been reported as a frequent occurrence by interlocutors. Other problems mentioned have included a reluctance by public officials to change decisions, and the absence of standards concerning the form of appeals and the operation of the internal review procedure, and the availability of information for citizens about their rights and about administrative appeals mechanisms.

To assist in strengthening the administrative appeal system in Türkiye the project has produced a "Guide to Good Administrative Practices for Administrative Appeals" to encourage consistent practices and to improve the overall functioning of administrative authorities in relation to appeal of decisions.

Consultation with stakeholders concerning a draft "Guide to Good Administrative Practices for Administrative Appeals" is currently taking place and it is hoped that the Guide will be published before the close of the project. The guide includes a Questions and Answers document for individuals applying for an administrative appeal. It

also contains a series of recommendations designed to improve the operation of administrative appeals by administrative authorities. The recommendations are grouped into six, interrelated, themes:

- Information issues-emphasising the importance of effective and clear information before during and at the conclusion of the administrative appeal
- Communication issues-concerning the different routes an individual can communicate with an administrative authority in the Turkish system
- Systems and the value of statistics-enabling lessons to be learned concerning policies and procedure through the systematic analysis of data collected from administrative appeals
- Training and development of expertise-ensuring that public officials acting in the role of appeals authority should be competent, and familiar with the relevant legislation, policies, processes and procedures
- The availability of legal advice to administrative authorities-two assist in the assessment of whether certain appeals should either be defended or compromised in favour of the appellant, taking into account relevant case law
- Structure of the appeals body-recommending the creation of a separate section or body for administrative appeals where feasible to promote objectivity and impartiality

However, project stakeholders have expressed the view that a stronger regulatory framework is necessary to achieve significant reform in this area. The introduction of a code of administrative procedure (IUK) may be expected to better equip decision-makers in public authorities to deal with the public fairly resulting in better decisions and fewer disputes, to reduce the workload of the administrative judiciary and increase confidence in the public administration. It will ensure unity in the procedure in all institutions and organizations of the administration and require procedural principles to be consistently applied.

It is recommended that the Turkish authorities introduce greater regulation of public authorities through the introduction of a code of administrative procedure (IUK)

The project has also sought to raise awareness in Türkiye of the "deemed acceptance" principle introduced in France in certain categories of dispute since 2013 through consultants' reports, a study visit to France and discussion in seminars and an international symposium.

The Turkish administrative justice system is based on the French model. In France since 2013 (Article 21 of the Law N.2013-1005 on simplification of relations between the public and administration), a new principle was introduced that the absence of answer

from the public administration is treated an acceptance of the request ("deemed acceptance"). The new rule is applicable to 1200 different administrative procedures and an official webpage is maintained listing the procedures for which the deemed acceptance principle applies.

A comparable reform for Türkiye does not yet feature in Turkish strategic plans but the topic of "deemed acceptance" remains a potential area for further research and discussion, and a possible option to mitigate the problem of "administrative silence" and reduce the workload of the administrative courts. Potential sources for further research include an evaluation of the operation Law N.2013-1005 in a report published by the French Senate in 2015.

It is recommended that the Turkish authorities conduct further evaluation of the "deemed acceptance" principle operating in France for certain administrative acts and consider conducting a pilot exercise in Turkiye.

The Turkish authorities have identified their preferred main route for pre-litigation dispute resolution to be "peace commissions." The Judicial Reform Strategy states that "the majority of the disputes in which the administration is a party can be solved through peace." Objective 9.4 of the Judicial Reform Strategy seeks to ensure effective implementation of the institution of peace in disputes in which the public administration is a party.

Article 12 of Decree Law No 659 adopted in 2011 entitled "Settlement and withdrawal competences via peaceful settlement of administrative disputes." Article 12 (1) states, inter-alia, that "those claiming their rights have been violated through administrative acts may request remedy of the loss suffered through peaceful settlement procedures within the time limit to file a lawsuit." The citizen may make an application describing the incident and causes leading to violation, whether the loss is the result of an administrative act or action and how it took place, whether the administrative authority has the responsibility for indemnification, and the amount of the loss. Provision is made for a "legal dispute assessment commission" to perform any necessary research and examination, including the hearing of witnesses. In cases where multiple administrative authorities are involved a joint commission may be established. The commission should prepare a report at the end of the examination and present this to the relevant decision-making authorities. When the application is accepted by these authorities a 15-day period is allowed for the citizen to sign a peaceful settlement protocol. References to "Peaceful settlement" are also made in Law No 5233, Law No 2942, Law No 5302, Law No 5393 and Regulation on Law No 5018.

During the course of the project little information concerning the practical operation of peace commissions since 2012 under existing legislation has been available. This resolution mechanism does not appear to be well known among Turkish stakeholders or its practice widespread. Further announcements from the Turkish authorities about

the progress of the work on peace commissions are still awaited, but it appears likely that more detailed regulation of the peace procedure will be required.

The project has obtained insights and data concerning pre-litigation mechanisms as part of a court user survey.

The extent to which the range and/or quality of prelitigation resolution mechanisms impact on the workload of the courts is difficult to measure. However, some insights can be gained from the court user survey conducted for this project (which is described more fully later in this report).

In the quantitative element of the survey almost 60% of the citizens interviewed had made a prior application to higher authorities before proceeding with a court petition.

> *"It is seen that more than half of the participating citizens, with a rate of 58.2%, resort to applying to the higher authorities before they decided to sue. The rate of citizens who sued without applying to higher authorities is 41.8%. Of the citizens who did not apply to higher authorities 26.7% said they had no right of appeal to higher authority. Only 9.9% said it would be a waste of time but 23.6% gave no reply to this question the reasons are unknown."*
>
> Court user survey

For the qualitative research element of the court user survey, participants were asked for their opinions about pre-judicial resolution mechanisms generally and about practical barriers to further progress on this issue.

> *"We should make the justice reveal somehow. Either in court or pre-trial. As long as we create an administration that acts within the law, both could be used. A judicial decision is not a must for this aim. Even before, we can somehow draw the administration into the law; Let›s bring together the citizen, the individual and the administration within the law, and compensate those complaints -the claim of the person that the work done is against the law - in some way, so that we can keep the two together.*

The value of establishing effective pre-trial resolution mechanisms was widely emphasized by participants.

Issues that participants raised concerning development of pre-judicial alternatives in administrative justice were:

- Confidence issues regarding that whether one administration being checked by another administration will result in the protection of the interests of the administration and in decisions that may be against the interests of the citizens.
- The tendency of the administration not to be in favor of reconciliation due to the fact that not leaving the solution to the court does not create any financial advantage/disadvantage for the administration.

- As mentioned above, there is a lack of confidence in the effective implementation of different reconciliation solutions, since even the implementation of court decisions is problematic.
- Mediation not being suitable for administrative justice since it is a method of dispute resolution between equals.
- The importance of various guarantees regarding the independence of the persons involved in every stage of the institutions and commissions that will work on administrative pre-trial remedies and their having a notion of law.
- Negative perceptions arising from the existing compromise methods applied in some institutions such as tax jurisdiction. The following quotation summarizes this issue through concrete experiences:

The following comment was made concerning pre-litigation dispute resolution tax cases (which has been stated by interlocutors to be much more common than in administrative cases:

> *"You know, an institution called conciliation before assessment has emerged regarding tax. You go and you can never tell your problem, you are faced with an attitude such as «We will delete 75% of the fines, we will not delete the principal and interest» and if you do not accept, a compromise cannot be reached. An institution that you cannot tell your troubles to is not a compromise institution, but a bargaining institution. The state almost says to me, ‹Do you give or don›t you?› It is necessary to put forward the mechanisms by which the parties can reveal their legal status and find a settlement. As of now, it consists of trying to remove the workload, the part of trust in justice and judiciary has been neglected."*

Participants were asked specifically about the operation and reform of "peace commissions." The general view was that concern about the audit of the Turkish Court of Accounts was a major inhibiting factor.

> *"As for the peace method, it would be nice if it worked. The workload of the courts would be reduced. Arrangements have been made for this in our legislation, but our administrations do not seem very willing to resort to the peace method. There are various reasons for this, but the foremost reason is the fear of the Court of Accounts. Our administrations do not resort to the way of peace because of the concern that «why did you pay this money without a court decision, why did you go to peace, there was a public loss here». Let it go, let the case be concluded, and then let›s do what is necessary, especially in full-remedy actions, such an approach is in question."*

The project has consulted with the Court of Accounts on understanding of "public loss" practices by public authorities in relation to dispute resolution and opportunities to reduce unnecessary workload in the courts.

The Turkish Court of Accounts (TCA) has a mission "To perform audits, trials and guidance in order to contribute to accountability and fiscal transparency in the public sector." Its functions are more fully set out in the Initial Assessment Report. It has been

a valuable contributor to the project and provided very helpful information including this response to the question 'On a general level, and not necessarily relating to the TCA procedures regarding public loss, do the TCA have any views on the use of internal review of administrative decisions as an alternative to judicial review?

> "We answer this question with an understanding of the "internal review" more like the concept of "exhausting administrative application methods" in our administrative justice system.[4] The answer also refers to the alternative legal remedies as mediation in some aspects. The CoA does not have a specific opinion regarding the "exhaustion of administrative application methods" in our administrative justice system. However, it is considered necessary to explain some issues on the subject below.
>
> The existence of public loss within the context of a CoA trial is an issue to be decided by Trial Chambers upon the audits and examinations of auditors. But since the CoA does not have the authority to rule on the responsible persons in cases where judicial and administrative investigations are needed, the CoA has decisions to direct the case to relevant administrative and judicial authorities for the required administrative investigation or judicial prosecution to be performed.
>
> The judicial report prepared as a result of the audits performed by the CoA basically aims to define the financial obligations of the public officials charged with performing the financial acts and transactions and ensure indemnification of the public loss resulting from the intention, fault or omission of the responsible persons. In other words, to be able to rule on indemnification by charging the responsibility to a person during the CoA trial, the relevant person should bear the responsibility of performing the financial act and action or have their signature on the official document (payment order, accounting transaction bill etc.) leading to the public loss or the action resulting in public loss could be related to the person within the framework of their public officer status. As a rule, a decision on indemnification of the public loss in the capacity of "responsible" for a person who is not a public official or who does not have a duty or authority to make an expenditure.
>
> Pursuant to the provisions of the By-Law on Principles and Procedures of Collection of Public Loss, a public loss could be detected as a result of a) Control, audit and examination, b) Final decision rendered by the CoA and c) Trial. Internal review of the public loss can be performed under the scope of a) above. In this context, pursuant to the By-Law, the issues detected as a result of the control,audit or examination shall be submitted for evaluation to senior administrator in the headquarters and to the superior administrator in the rural, along with Annex-1 Evaluation Form prepared by expenditures unit including the view of the relevant expenditure authority.

4 Turkish Court of Accounts Strategic Plan (2019-2023), p.59.

> Should it be decided in the evaluation of the senior administrator or the superior administrator in the rural that a public loss has occurred, the documents related to the detection of the loss shall be submitted to the follow-up unit, together with the Evaluation Form. In case the detected loss is covered at once or guaranteed in written to be paid by the responsible persons and/or the relevant parties, the debt in question shall be collected through a debt accrual record without any need for the actions mentioned above. In case the loss detected during the control, audit or examination does not bear the nature of a public loss, but rather a debt requiring collection then such debt should be enforced and collected in accordance with general provisions.
>
> The important point here is that the collection process foreseen in the By-Law does not constitute an alternative method to the CoA trial. In other words, starting of an enforcement process by the relevant authority on the public loss does not create an obstacle before drafting of an inquiry and judicial report following an audit, nor before an indemnification decision to be taken by the CoA trial chambers. Undoubtedly, if the public loss has been remedied through a collection following the investigation performed by the public authority, this would be taken into account during the CoA trial.
>
> On the other hand, it is considered that methods as mediation and conciliation that are revealed as alternative solutions in the literature, obstruct the constitutional duty and authority of the CoA, since the decisions have the nature of a judicial decision, and that the risk of parties having low levels of knowledge, experience and expertise creates serious concerns that the solutions reached could be unhealthy and unfavourable for the public, since the decided issue is related to public revenue and expenditure."

The issues are complex, but discussions have suggested that there is an exaggerated perception among public administration officials concerning the risk of being held accountable for a "public loss" through a settlement made in good faith as part of a pre-litigation dispute mechanism. However, the current legislative framework, for example in relation to 'payments not envisaged in the relevant legislation' is very wide in scope so the extent of individual liabilities is difficult to define or clarify by issuing additional guidance. It therefore seems that the apparent chilling effect the "public loss" provisions have on informal dispute resolution can only be overcome by clear guidance or, more likely, a clearer legislative framework.

It is recommended that the Turkish authorities introduce additional guidance for public servants or law reform to address current disincentives for the informal resolution of disputes generated by current perceptions of the operation of audit "public loss" within the public administration.

Reducing the wWorkload of the First Instance Courts II

Raising the profile of the Ombudsman Institution (OI) as a potential mechanism for dispute resolution

The project has produced a series of recommendations for strengthening the OI as one of the alternatives to court proceedings and thereby reducing the number of disputes proceeding to the administrative courts and the heavy workload that currently falls to them.

The OI has been a valuable partner and contributor to this project, which has sought to contribute to raising awareness of its work among project stakeholders and to raise awareness of international examples of the contribution of ombudsmen to reducing the work of the administrative courts.

As part of the project activities a team of international consultants produced a comparative report "A Comparative Review on Ombuds: Recommendations of Action for the Turkish Ombudsman and Guidelines for the Ombudsman and Public Authorities." The report described evidence from a range of Ombuds (the Member States of the CoE) about how they operate and where there are relevant examples of best practise. The report drew on the two main principles which guide the institution of the Ombuds, *the Paris principles*[5]*(1993)* which set out a framework to set up national institutions to *protect* human rights (including by receiving, investigating and resolving complaints, mediating conflicts and monitoring activities) and *promote* human rights, and the *Venice principles*[6]*(2019)*, which set out 25 basic international principles for the operation of ombuds.

The report, launched at an online meeting on 21 June 2021, made a series of recommendations for strengthening the OI as one of the alternatives to court proceedings and thereby reducing the number of disputes proceeding to the administrative courts and the heavy workload that currently falls to them. It recognised that the OI as relatively new institution and has already been developed in conformity with the Paris Principles (on national human rights institutions) and with what is regarded as best practice by other ombuds in Europe. The recommendations therefore mainly focused on extension and reinforcement of existing practice, but included certain recommendations for legislative reform concerning the mandate of this institution.

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5 United Nations Human Rights Office of the High Commissioner, The Paris Principles (1993) available at: https://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx.

6 PRINCIPLESON THE PROTECTION AND PROMOTION OF THE OMBUDSMAN INSTITUTION ("THE VENICE PRINCIPLES") 2019 available at: https://www.venice.coe.int/webforms/documents/default.aspx?pdf-file=CDL-AD(2019)005-e

The report was welcomed by the Chief Ombudsman and the recommendations directly impacted upon the Ombudsman Institution Strategic Plan 2022-2026, which has since been published. Recent work in support of the new strategic plan has included:

- an outreach programme to Diyarbakır, with the participation of the Chief Ombudsman Including a Forum for Discussion with Citizens and Interviews with Prisoners in Diyarbakır prison
- Continuation of work to produce special reports on human rights violations
- Supporting the project the "Increasing the Effectiveness of Civilian Monitoring Boards in line with European Standards" Project to implement Council of Europe standards and European good practices and to improve prison monitoring practices in Türkiye
- Promoting and supporting Ombudsman Student Clubs on University Campuses and collaboration with the Turkish Red Crescent for the dissemination of volunteering culture and the development of various volunteering models.
- Providing training on aspects of human rights, women's rights, migrant rights and children's rights

The recommendations of the experts concerned further legislation aimed at strengthening the operational independence of the Ombudsman Institution, extend its powers and increase its status of the Chief Ombudsman. These included the following:

- Full independence in respect of the allocation of the annual financial grant to the institution from central government to prevent interference by the use of the budgetary process
- A new power and the necessary resources to conduct ex officio investigations and, if necessary, special thematic reports that disclose patterns of bad practice, enabling the ombudsman to address issues that may not attract complaint e.g. because potential complainants lack access or are not easily identifiable by individual complainants
- A new power to seek to intervene as amicus curiae in court proceedings and to bring legal proceedings before the courts on occasions when the experience and intelligence acquired by the ombudsman puts it in a good position to contribute to court proceedings in the public interest
- Linking the status and remuneration to that of the senior judiciary rather than that of public authorities to promote the credibility of the ombudsman
- Strengthening the reciprocal relationship between the ombudsman and the legislature through opportunities to debate the annual reports and enhance dialogue through means of a dedicated legislative committee

Alternative Dispute Resolution In Turkish Administrative Justice and Exploring Practice In Other Legal Jurisdictions

The project has provided opportunities for Turkish stakeholders to obtain information about and to discuss conventional/judicial alternative dispute resolution mechanisms in administrative disputes in other jurisdictions

An analysis was conducted by national and international experts early in the project concerning the potential for new ADR procedures[7] in the Turkish system. The analysis identified main three obstacles to the greater use of mediation in administrative disputes:

- *Potential personal liability of civil servants representing the Public Authority.* This is one of the main barriers of using mediation to solve administrative disputes. Civil servants who represent the Public Authority are reluctant to take a decision to settle since he/she can be personally liable in the future before the Court of Accounts (referred to earlier in this report in relation to internal review). In order to avoid such risk, civil servants tend to avoid the responsibility to settle and leave to a Court to take a decision. In this way, even when the Public Authority would lose in Court – after few years and at higher legal costs - no one would be responsible for such result.
- *Need of treat equal cases in equal manner.* One of the basic principles of the behaviour of public authorities is to treat equal cases in equal manner regarding the preferences of the counterparts. This is not the case in the vast majority of mediation in labour, civil and commercial disputes where equal case can result in different settlements since involve different individuals with different priorities.
- *Fear of public precedents due to lack of confidentiality.* Due to the need of transparency, it is very rare that a mediation settlement between a Public Authority and a private party can be kept confidential. For this reason, Public Authorities fear that each settlement can set a precedent that will influence the behaviour of private parties. For example, if in a tax dispute the Public authority decide to settle at half of the amount requested, the fear is that this settlement would be a precedent that encourage parties to initiate a dispute in order to settle at half of the tax amount due.

The Union of Turkish Bar Associations has also been consulted and has urged caution concerning the use of alternative dispute resolution methods in administrative law. It recommends that should be careful evaluation before any new procedure is introduced considering the purpose of the existence of the administrative law is to protect the individuals before the administration using public power.

7 Paper by Assoc. Prof Nilay Arat and Leonardo D'Urso (ADR Center, Italy) 31 March 2020

The project also commissioned international and national consultants to draft a reference report[8] concerning ADR in the Turkish administrative justice system and providing an overview of the information collected during project activities concerning the use of ADR in the administrative justice systems of selected Council of Europe member states. This Report ('the reference report')describes the different forms of ADR; sets out current Turkish law with respect to various ADR mechanisms; presents learning from other legal jurisdictions presented and collated during the project with some suggested learning for Turkish Administrative Justice; and sets outs some conclusions and recommendations.

The forms of ADR described in the report are informed by Council of Europe Recommendation Rec (2001)[9]of the Committee of Ministers to Member States on alternatives to litigation between administrative authorities and private parties. This Recommendation refers to the following alternatives to litigation: internal review , conciliation, mediation, negotiated settlement and arbitration.

The report provides an overview of the information collected concerning the use of ADR mechanisms in the administrative justice systems of France, Germany, Spain and England & Wales. This is being obtained through a wide range of activities including webinars, study visits, written reports and presentations. A report entitled 'Reforms in the French Administrative Justice System and Alternative Dispute Resolution (ADR) Methods'[10] was commissioned by the project and this described the three main ADR mechanisms available on the French administrative law. These are:

- 'transaction'(peaceful settlement) which refers to article 2044 of the Civil Code, according to which a transaction is a contract by which the parties end a dispute or prevent an upcoming one. To be lawful, a transaction i.e. agreement reached between the parties must meet three conditions: the object of the transaction shall not be illegal; the parties shall make concessions that are mutual as well as balanced; and 'public order' shall be respected.
- 'mediation' which may be initiated by the parties or ordered by a judge with the agreement of the parties.
- Mandatory preliminary appeal to the public administration (RAPO) which applies in approximately 140 categories of dispute including aspects of tax law, migration law e.g. denial of a Visa and parking fines

8 'Alternative Dispute Resolution In Turkish Administrative Justice And Learning From Other Legal Jurisdictions' Assoc. Prof. Nilay Arat & Dr. Sarah Nason

9 Internal review has been treated as a pre-litigation dispute resolution mechanism, part of the ordinary process of dispute resolution in administrative law, rather than an 'alternative' dispute resolution

10 Reforms in the French Administrative Justice System and Alternative Dispute Resolution (ADR) Methods' Assoc. Prof Karine Gilberg, December 2020

An online seminar bringing together experts from France and Türkiye arranged by the project to discuss aspects of alternative dispute resolution took place in December 2020.

A paper on "Judicial Mediation in the Field of Administrative Jurisdiction"[11]was also commissioned by the project to obtain comparative information about the German system. This provided information about Bavarian practice concerning mediation at the administrative courts but is comparable with the practice in the other German federal states (Bundesländer) as the relevant German federal law applies in all federal states including Bavaria (German Code of Administrative Court Procedure, 278 subsection 5 of the German Code of Civil Procedure).

Under the provisions the court may "refer the parties for the conciliation hearing, as well as for further attempts at resolving the dispute, to a judge delegated for this purpose, who is not authorised to take a decision (Güterichter, conciliation judge). The conciliation judge may avail himself of all methods of conflict resolution, including mediation".

There are around 30 trained conciliation judges in the Bavarian administrative jurisdiction and between 2019 and 2021, 111 cases were submitted to the conciliation judges for mediation. Of these, 54 mediation procedures were successful or partially successful.

The reference report notes that:

> *"A commonly held view in Germany is that the rules on administrative procedure and administrative court procedures provide adequate means both to ensure effective legal protection and to definitively settle conflicts. There is a strong constitutional perspective that administrative authorities must not decide - as a "non court" of last resort - on administrative matters concerning individual rights, and that administrative appeal procedures may never be opened as a substitute for recourse to the courts."*

According to the reference report, the Spanish model of administrative justice had historically followed the French system, however, various periods of political instability brought about changes. The 1978 Spanish Constitution set out a new model of public administration and a new concept of the relationship between citizens and public administration.

A paper on mediation in the Spanish administrative justice system was provided to the project by a Spanish expert[12] . The paper notes that:

11 Prepared by Dr Otto Mallmann Presiding Judge at the German Federal Administrative Court (ret.)

12 Judge Susana Abad Suarez, Judge of Administrative Court Number Five, Madrid, Spain

> *"reluctance around mediation stems from traditional, indeed constitutional, understandings of legality and the rule of law; where law is seen to regulate administrative activity, it can be hard to see room for choices in the resolution of disputes, suggesting mediation and compromise is less appropriate."*

However, the paper also cites the CEPEJ(2022)11 document on P*romoting mediation to resolve administrative disputes in Council of Europe* member states, includes a number of examples of good practice from Spain, in particular from some of the Spanish Autonomous Communities (e.g. the Canaries and Catalonia).

The reference paper notes that:

> *"England and Wales as a legal jurisdiction does not have a formally separate administrative law system or express administrative procedure law. However, most administrative law is laid down in specialist subject-area legislation, for example in social security, health, education, social care, aspects of property, planning, tax, pensions, and immigration and asylum, and this law sets out procedural as well as substantive standards to be applied by administrative decision-makers, as well as outlining the boundaries of their powers. This legislation will usually expressly include a route to redress in the administrative justice system, primarily a specific right of appeal to a tribunal (with a named specialist tribunal designated in the legislation or in later regulations) or a court, increasingly also with an initial right to request an administrative review, reconsideration, or appeal by the administrative body that first made the disputed decision. An administrative appeal to the administrative decision-making body is available in most subject areas and is a mandatory requirement before seeking court action in some areas, such as in relation to welfare benefits, and immigration.)*

It further notes that:

> *"at this time, much of the discussion about ADR in the UK is focused on the use of technology, and this extends from using technology to assist with preparation and sharing of documents, to telephone and online mediations and arbitrations, to the asynchronous resolution of disputes where judges, sometimes assisted by other key professionals, consider information and make decisions over a period of time (with the capacity to ask the parties for further information and so on), to the use of Artificial Intelligence to analyse information and reach conclusions with respect to some parts of particular disputes."*

The reference report made the following recommendations:

Recommendation 1: A General Administrative Procedure Law should be enacted within the Turkish Legal System, which should regulate the administrative process

and provide guidance in terms of ADR methods. This legislation should, among other things:

- Set out ADR options;
- Empower those involved at various stages of disputes to use ADR methods;
- Require that where individuals seek to use ADR, administrative authorities must engage in a genuine and conscientious way;
- Empower the administrative judiciary at all levels to require the parties to use ADR methods where this is considered to be appropriate by more specialist legislation, regulations and judicial practices.

Recommendation 2: In addition to overarching General Administrative Procedure Law, there should be further exploration of developing specialist legislation, regulations and judicial practices, including the potential for making it mandatory for the parties to seek to resolve their disputes using ADR before court processes. Legislation should make it clear that administrative authorities should be legally obliged to co-operate in ADR where this is sought by another party to a dispute. Any such specialist legislation, regulation and judicial practice, should always be subject to the overarching principles of legality and access to the courts. Where ADR fails, recourse to the courts must always remain available.

Recommendation 3: Consideration should be given to further developing mechanisms for consultation with the public where administrative authorities are in the process of taking certain types of administrative action, similar to "notice and comment" procedures in other legal jurisdictions. Further thought should be given to legislating for such notice and comment procedures in appropriate subject areas.

Recommendation 4: "negotiation" / "conciliation" / "peace" / "settlement" should be considered for cases within the scope of full remedy actions arising from administrative acts/actions.

Recommendation 5: The scope of Decree Law No. 659 should be expanded, especially by including local administrations in the scope of Decree by amending Law No. 5018. In addition, amendments need to be considered to the Decree Law No. 659, which may include as follows:

- Determining the issue whether the excess of the amount agreed with the "negotiation" / "conciliation" / "peace" / "settlement" procedure could be claimed later with a full remedy action
- In the resolution of disputes within the scope of the "negotiation" / "conciliation" / "peace" / "settlement" procedure - since the basis of the dispute is the

assessment of the responsibility of the administration - there need to be clear rules on the issue of recourse, especially in the content of the settlement report.

Recommendation 6: Further regulations should be developed regarding the schedules in Law No. 5018

Recommendation 7: Council of Europe Committee of Ministers Rec (2001)9 on *Alternatives to Litigation between Administrative Authorities and Private Persons* and European Commission for the Efficiency of Justice (CEPEJ) document on *Promoting mediation to resolve administrative disputes in Council of Europe* member states December 2022 CEPEJ (2022)11 should be taken into account as a guide when creating a system including ADR methods.

Recommendation 8: Guides to good administration developed for administrative bodies should include sections on ADR and its benefits, and administrative officials should be trained in the general principles of ADR and appropriate methods in order to ensure the most successful outcomes when using these methods.

Recommendation 9: A "Dispute Resolution Commitment" should be developed through which administrative authorities can commit to certain principles of dispute resolution, including using the most cost-effective and proportionate methods of dispute resolution, in resolving their own disputes with individuals or other administrative bodies.

Recommendation 10: A list of mediators specialised in administrative justice, sorted by field of specialisation, should be established and published

Recommendation 11: It should be ensured that mediators are appropriately qualified, trained and specialised, through developing further legislation or practice codes establishing minimum qualifications and training standards, including a requirement to engage in career-long continuing professional development training. Progressing this recommendation should take into account work to progress the Turkish Ministry of Justice Action Plan on Human Rights activities, including activity 3.5.h. relating to the establishment of mediation centres.

Recommendation 12: A Charter of Ethics on common shared principles and values between mediators and other administrative justice professionals should be established.

Recommendation 13: Conventions or agreements between national or local bar associations, the Council of State and individual administrative courts, and associations of mediators deemed appropriate by Turkish authorities, should be developed, aiming to raise awareness of mediation.

Recommendation 14: A range of print and online materials to raise awareness and improve the use of ADR routes, including mediation, should be developed.

Recommendation 15: Information, including statistical data, about intra-judicial mediation and other relevant ADR methods, should be provided in the relevant regular reports of the administrative courts and the Council of State.

Recommendation 16: Consideration should be given to conducting a study, together with the Turkish Ombudsman, of areas where citizens and public administration would benefit from institutional mediation.

Recommendation 17: Consideration should be given to the creation of a body or forum to oversee the development of ADR, especially mediation, in administrative disputes, to include key leadership and representation from the Council of State, the Turkish Ombudsman, major administrative authorities, bar associations, mediation and other ADR professionals and organisations representing individual users of administrative justice mechanisms.

Recommendation 18: This report also further endorses the Turkish Ministry of Justice Human Rights Action Plan activity 3.5.d that the institutional structure within the Ministry of Justice be strengthened in regard to alternative dispute resolution methods

Recommendation 19: Where consideration is given to how new technologies, especially digital and online technologies, can be used to improve the efficiency of dispute resolution within the Turkish administrative justice system, specific attention should also be paid to the use of such technology within ADR mechanisms as well as within court structures. .

Reducing the Workload of the Administrative Courts

III. Simplification and enhancing the efficiency of administrative trial procedure

Administrative justice procedure – general position

The project has carried out a detailed examination of the administrative trial procedure contained in Laws 2575, 2576 and 2577 (IYUK)

A critical examination of the administrative trial procedure has been conducted throughout the project through a series of meetings, seminars and reports. In May 2021 a team of academic experts commissioned by the project produced a report "Proposals for Amendments on Law No 2577 (IYUK) on Administrative Adjudication

Procedure; Law No 2576 On Establishment and Duties of Regional Administrative Courts, Administrative Courts and Tax Courts; Law No 2575 on the Council of State." This report [13]has been published on the project website. It identifies a number of topics where amendment of these Laws would be beneficial as short-term measures but recommends that they be fully re-regulated.

Some proposed interim amendments are intended to improve comprehensibility and update terminology. Others address issues that have arisen from experience of the operation of the current law and have given rise to differences of interpretation, or risk the loss of rights in particular situations. In a third category of proposals some significant re-regulation is recommended in relation, for example to the introduction of a pilot case procedure, and elaboration of the powers of the RAC on appeal from the first instance court. Consultation has also taken place with inspectors of the administrative courts responsible to the CJP Inspection Board. Inspectors are responsible for, inter alia, carrying out audit, research, and investigation procedures. The inspectors shared the view that holistic reform of the administrative trial procedure (IYUK) was necessary. A problem encountered by inspectors is that there are differences of interpretation of the procedure leading to widespread variation in practice in individual administrative courts. The problem partly arises from the brevity of the IYUK. By comparison, the Civil Procedure Code no. 6100, enacted in 2011, consists of 452 articles, whereas Law 2577 (IYUK) consists of only 65 articles. While there are 20 articles in Code no. 6100 concerning appeal provisions, there is only a single article in Law no. 2577. It also arises from complexity and deficiencies which have arisen from twenty-six piecemeal amendments made to the IYUK since it was introduced in 1982. Isolated amendments can sometimes have unforeseen consequences or introduce new areas of uncertainty.

"it is possible to say that the complexity and deficiencies in procedure laws is the primary factor for the administrative justice process being prolonged." Administrative court inspectors

Since the Interim Report was published, in December 2022, a 'Workshop on Recommended Solutions for Turkish Administrative Judiciary System and International Practices' to review impressions of other systems obtained by participants in study visits, to review problems in the Turkish system highlighted during the project, and to generate recommendations for reform. This workshop generated a number of recommendations for amendments to the administrative trial procedure and calls for holistic reform The workshop also highlighted another significant problem with the IYUK: on certain topics it cross refers to the Civil Procedure code, which was not drafted with the requirements of administrative procedure in mind.

13 "Report On Proposals For Amendments On Law No 2577 On Administrative Adjudication Procedure– Law No 2576 On Establishment And Duties Of Regional Administrative Courts, Administrative Courts And Tax Courts – Law No 2575 On The Council Of State" Prof Dr Cemil Kaya , Assoc. Prof Dilşat Yılmaz, Assoc. Prof Fatma Ebru Gündüz, October 2021 ('Report on Proposals for Amendments')

"Review of the references to Law on Civil Proceedings in Article 31 of Law No. 2577 - It is needed to develop an independent adjudication procedure with administrative law specific rules which enable an agile, simple and efficient trial; considering the qualities of administrative law and administrative trial, the ex officio examination and research authority of administrative judges and the characteristics of litigation and the parties to the litigation." (workshop presentation, December 2022)

There would therefore appear to be significant potential to increase the efficiency of the administrative courts through a holistic modernisation, rationalisation and clarification administrative trial procedure.

It is recommended that

- a pre-legislative impact assessment procedure, which includes consultation with relevant stakeholders in the administrative judiciary, before all proposed future amendments to the administrative trial procedure that there be a comprehensive re-regulation of the administrative trial procedure to improve comprehensibility, update terminology, remove the need to cross refer to the Civil Procedure Code, address differences of interpretation and introduce procedural changes identified during the course of project activities and study visits.

In the interim, as a project sustainability activity, it is recommended that a committee of practitioners, on which all project stakeholders are represented, is established to review the academic report produced by the project in May 2021 from a practitioner's perspective and make any further recommendations concerning priorities for amendments.

Administrative justice procedure (IYUK) –specific reform proposals

The project has supported the reform objective of the Turkish authorities to introduce a pilot/group case procedure by providing information about the operation of the pilot judgment procedure of the ECtHR and about comparable developments in the French system, and provided a case study illustrating the potential benefits of this reform.

In addition to wholesale modernisation and clarification of the procedural law some significant changes in approach have also been considered, influenced in part by best practice in other jurisdictions.

The introduction of a pilot case procedure for group actions was set as an objective in the Judicial Reform Strategy[14] and in the Human Rights Action Plan. [15]

14 Judicial Reform Strategy objective 8.7

15 Human Rights Action Plan Goal 7.2 (activity h)

In May 2021 a consultation meeting was held to provide Turkish stakeholders with information about the ECtHR pilot judgment procedure and about relevant comparable innovations in the French administrative justice system. Further information about this, including a case study and a list of procedural issues to be addressed in the implementation of this reform is contained in the Interim Assessment Report[16] . The introduction of a pilot case procedure has the potential to reduce the pressure on Turkish administrative courts from unnecessarily duplicated cases. Plans to introduce a pilot case procedure are contained in both the JRS and HRAP, and a further announcement about this issue is awaited.

The project has conducted analysis to help inform the JRS objective to extend the range of disputes which may be decided by single judge.

In the Turkish system a single judge may hear cases below a certain monetary limit (TL 77,000 for 2022) and where a claim is below TL 9000 there is no right of appeal against the first instance decision. According to the Judicial Reform Strategy (Objective 8.7) the Turkish extend the range of disputes which may be decided by single judge, although it contains no discussion about the criteria to be applied. The project has highlighted controversy concerning both single judge decision-making generally and the use of monetary limits and criteria.

The Union of Turkish Bar Associations has argued that the range of disputes should be narrowed rather than extended. It has argued:[17]

> "Given that the administrative judiciary is a very technical field, the judges are very young and unexperienced, and considering the definition of administrative judiciary; within the scope of its duty to protect individuals before administrations, the absence of single-judge cases in administrative proceedings is considered mandatory in terms of the right to a fair trial."

Academic commentators have also expressed opposition to these provisions. In a report commissioned by the project[18] academic commentators recommended that the provisions concerning cases to be resolved by a single judge be abolished. It stated that:

> "The title of article 7 of Law no. 2576 is "cases to be resolved by a single judge", and an administrative case may likely be heard by an administrative court or tax court judge, taking into account "a certain monetary limit that changes every year" in administrative jurisdiction … In administrative jurisdiction, administrative courts and tax courts resolve administrative cases through a

16 Interim Assessment Report pp. 32-3; Annex D

17 Road Map For An Improved Administrative Justice System
(2020-2023) March 2022 Opinions And Reviews Of Union Of Turkish Bar Associations

18 Ibid p.26

> "commission", in other words, a "council". In short, administrative courts and tax courts resolve a dispute through three (3) judges. The resolution of an administrative dispute by a single judge and even the "finalisation" of a dispute resolved by a single judge in some cases, thus, the inability to seek any legal remedy, are not appropriate under the right to a fair trial. In this regard, it is necessary to end the practice of "a single judge" in administrative jurisdiction. For this reason, it is proposed to abolish article 7 that enables cases that could be resolved by a single judge in administrative jurisdiction."

Some members of the judiciary have also expressed reservations about the single judge provisions and stated that they do not significantly add to the efficiency or expedition of procedure. It has also been stated that that a significant number of single judge decisions are overturned on appeal, and this gives rise to concern about potential injustice in the single judge cases where no appeal is available. Also, it is pointed out that the monetary limit of the claim does not always reflect the importance of the issue at stake or the complexity of the case, and in such cases where the initial claim is below TL 9000 the absence of a right of appeal results in a loss of rights. There is also concern about inconsistency of decision-making in low value cases in the absence of oversight by appellate courts.

Information about comparable practice in the French system has been provided as one of the project outputs. In France a 2016 *"justice administrative de demain"* decree which via article r. 222-1 Code Justice Administratif (CJA) extended the number of cases where a single judge may issue a decision via an 'ordonnance'. In first instance tribunals and regional appellate courts, 'single judges' are either the court president or a senior judge of the competent court or chamber of the court. Collegiality still remains the guiding principle. Single judge proceedings apply mainly to cases that are obviously inadmissible, cases that are not in the scope of the administrative court, and in cases where the parties have withdrawn their application. It also applies to summary proceedings, except if the President of the court or litigation division decides otherwise in consideration of the nature of the case.

Against this background it is recommended that the current policy objective to extend the range of cases resolved by a single judge be the subject of further comprehensive analysis and consultation. The use of simplified, expedited procedures in straightforward categories of dispute as an alternative to single judge decision-making may, for example, have a greater impact on the efficiency of the courts.

It is recommended that the policy proposal to extend of the range of disputes decided by a single judge in accordance with the Judicial Reform Strategy be reviewed in the light of the criticisms made, particularly in relation to the suitability of the monetary limit criterion and potential loss of rights in categories of case where rights of appeal have been removed.

Witnesses

The Judicial Reform Strategy includes an objective (JRS 8.7) to further consider the possibility of hearing witnesses in some administrative disputes. The court user survey conducted for the project indicated support for this some categories of dispute from stakeholders. The issue was discussed as part of the qualitative research element of the survey (focus group meeting and in-depth interviews) and the subsequent report noted that:

> "It is possible to say that there is a consensus among the participants that the witness statement is necessary in terms of the principle of a fair trial, especially in civil servant disciplinary files. The quotation below summarizes the participants' comments on this issue:
>
> ***When you look at the issues that constitute a disciplinary offense, you see that many things are based on seeing. Therefore, these should definitely be supported by witness statements. For example, there is a ban on receiving gifts from civil servants, the ban on not gaining any benefit, insulting his superior, being drunk on duty, things that can be proven with more witnesses in such things as acts that undermine the credibility and honor of the civil service. Of course, it should not be enough on its own, it should be supported by other written evidence, but a witness statement is very important here.***

Apart from this, few participants expressed their opinions on the necessity of hearing the testimony of witnesses for zoning cases and other cases. It has been observed the concerns of those who are sceptical about the witness statement's being considered as evidence are that it prolongs the litigation process"

Some judicial stakeholders and attorneys who have contributed to the project have also argued that witness evidence should be available in certain categories of case, either at the request of the parties or upon the direction of the court. Against this background, further analysis to explore the potential for the use of witness statements in certain categories of administrative case, ensuring that fair trial considerations are applied, would be valuable.

It is recommended that consideration be given to the (re) introduction of witness evidence in selected categories of case, either at the request of the parties or upon the direction of the court.

Court hearings are available in administrative cases upon the request of the parties and hearings, which frequently last only a few minutes, take place in approximately 10% of cases.

Among the lawyers participating in the court survey, 49.4% considered that the hearings are inefficient and 15.2% refrained from expressing an opinion. Rates of dissatisfaction were highest among older, more experienced lawyers and lawyers practising in Ankara. Some judicial stakeholders and attorneys who have contributed to the project have compared the conduct of administrative court hearings unfavourably with hearings in civil and criminal proceedings and have advocated reforms such as the keeping minutes and setting standards concerning the contents of minutes. The use of video and voice recording has also been suggested. Improvements of this nature would certainly appear to be essential to accompany the taking of witness evidence.

It is recommended that current practice concerning the conduct of court hearings be reviewed and that minimum standards concerning the keeping of minutes be introduced

Specialisation of courts and judges

The concept of specialised courts is well established in the Turkish legal system, and these include Commerce, Labour, Civil Enforcement, Family, Consumer, Intellectual and Industrial Property Rights and Juvenile Courts. Specialisation of litigation chambers exists in the Council of State and the RACs been introduced but specialisation of first instance courts is very limited. Specialist tax courts are well established but the only current specialisation of first instance administrative courts, which hear over 200 different types of case, are courts deciding immigration/asylum cases, and courts in Ankara deciding cases arising from State of Emergency Appeals Commission decisions.

A Committee of the Ankara Regional Administrative Court previously analysed the issue of specialisation and identified the following potential advantages of specialisation in first instance jurisdictions:

- Having judges with deep legal knowledge on the disputes they handle, with wide experience related to the adjudication methods of such disputes and with knowledge of the case law on the issues under the field of specialisation and therefore ensuring a more agile and precise justice,
- Preventing conflicting decisions on the similar disputes in the first instance jurisdictions with the same competence and thus decreasing the workload of the appellate courts and increasing the confidence in judiciary,
- Saving budget and time by ensuring pre- and in-service trainings in smaller groups based on the fields of specialisation for judges rather than mass trainings

- Increasing the interest and productivity in the profession by allowing judges to work in different fields of specialisation in accordance with their field of interest and skills,

Some challenges were also identified:

- Necessity to have a broad infrastructure analysis to define procedures and principles related to **trainings of judges in the specialised courts, how long and in which specialisation fields they will serve, their replacements, monitoring and promotion, and the obligation** to remedy the deficits on the issue,
- Obligation to plan the **staffing pattern and locations for the judges to work in the specialised courts and to adopt the UYAP system** to specialisation and remedy the deficits on the issue before the specialised courts become operative,
- **Problems of professional adaptation of judges who have served for a long time in certain specialisation fields to the circumstances when they leave the specialised courts,**
- Obligation to establish an assignment mechanism that would consistently define which kind of disputes would be assigned to which specialised court and an efficient organizational application method to ensure the disputes to be faced on the issue,
- Obligation to have a new legal regulation to define the procedure to be applied at the stage of appeal or objection for those decisions noted to have not been taken by the competent specialised courts.

The Union of Turkish Bar Associations has highlighted the risk of operational problems arising from specialisation and the consequential risk of introducing further delay in processing times. It has expressed the view that any further specialisation be realized within the framework of the following principles:

- It is necessary to avoid establishing a separate specialised court for each dispute as well as establishing a small number of specialised courts with a huge caseload.
- Unreasonable deviations between the caseloads of the courts should be avoided.
- It should be ensured that there are at least two competent courts available in each specialization field, and the specialized courts should try, even if few in numbers, the general types of cases as well.

As first mentioned in the Interim Report, there has been a significant policy development concerning this issue since the commencement of the project. The

HRAP stated, inter alia, that specialised courts will be designated in respect of certain dispute types including zoning and expropriation that the CJP will take steps to ensure that administrative and tax court judges will (along with civil and criminal judges) maintain and specialise in their functions rather than be transferred to a different area of law (HRAP Activity 3.4.b.). For the purposes of this report, enquiries were made of the CJP to establish the latest position and it is understood that analysis of the issues is still underway. As stakeholders identified, some of the associated issues are quite challenging and new tools, such as the case 'scoring' method previously discussed within the Turkish judiciary, will be required as the distribution of cases between courts becomes more complex. The human resources aspects of this initiative also require careful consideration. However, the analysis and policy development required to support the introduction of zoning and expropriation courts will potentially also support the introduction of more specialised courts if deemed appropriate.

It is recommended that implementation plans for specialist zoning/expropriation courts take into account organisational and workload considerations to avoid introducing excessive caseloads or procedural delays

it is recommended that the report of the international symposium be reviewed as part of the development of future policy concerning further opportunities for specialisation of the administrative judiciary.

Dialogue between judicial institutions and stakeholders

The project has sought to promote dialogue between stakeholders in the administrative justice system, including judicial institutions and public administration concerning a range of policy issues to achieve greater efficiency and systemic improvement. These have included:

- Measures that could be adopted to improve the application of case law in decisions by public authorities
- How best to empower administrative decision-makers to exercise discretion
- Good administrative practices for internal review of administrative decisionsr
- Systems for the remedy of systemic deficiencies identified by internal review of patterns of adverse court decisions
- Appropriate dispute resolution alternatives to litigation
- Raising awareness of the role of the Ombudsman

Also, consultation with public administration attorneys alongside representatives of attorneys representing citizens as court users is also valuable in providing feedback to the courts about aspects of service quality and opportunities to improve quality and efficiency. For the court user survey conducted in this project a total of 90 public administration lawyers (15% of the total number of lawyers who participated in the

survey) and this is valuable in providing the Ministry of Justice and the courts with comprehensive feedback.

Continued communication between stakeholders to address and resolve issues concerning the operation of the law and the administration of justice will be helpful, taking full account of the need to preserve the independence of the judiciary and transparency in operating practices

Human Resources: Improving Professional Capacity

The project has collected data concerning perceptions of court users of the professional capacity of the administrative judiciary and court staff; conducting a training needs analysis, developed a series of training modules and provided training for members of the judiciary and court staff.

The overall objective of the project was to foster public confidence in the administrative judiciary by further strengthening its independence, impartiality and effectiveness and increasing public awareness of it. Expected Result 3 of the project was to strengthen institutional and professional capacity of the administrative judiciary, thereby increasing public confidence.

Public attitudes towards the administrative judiciary were explored in the court user survey. In the quantitative element of the survey, lawyers who are court users were asked for their opinions about the professional competencies of judges and court staff in administrative justice, and a dissatisfaction rate of over 20% and only an average satisfaction rate of 30% was determined for both groups. 45.5% of interviewees considered the number of judges and court employees to be insufficient or very insufficient and this percentage rose to 58.5% in Ankara.

The independence of the administrative judiciary and impartiality in decision making were regarded as important principles and the general opinion of survey participants concerning these issues was positive. However it was noted in the qualitative research that judges were perceived to be potentially vulnerable to internalised psychological pressures if their security is felt to be at risk and that "many participants wanted to emphasize that even a few decisions taken under such internal pressure, with the 'butterfly effect', quickly affect the perception of the independence of the administrative justice in the eyes of both other judges and citizens." The appointment of former officials with many years' experience in the public administration to judicial posts was also mentioned as an issue with the potential to undermine perceptions of independence of the judiciary. Transparency in the work of judiciary was also considered to be an important factor in promoting and maintaining public trust.

Against this background, it is apparent that the emphasis in the Judicial Reform Strategy (Aim 2) on improving the independence, impartiality and transparency of the judiciary and the various supporting activities is recognised as valuable.

Participants in the qualitative analysis were asked about the human rights sensitivity of administrative judges and the general view was that such sensitivity is not internalised by the judges, particularly in the first instance courts. It was considered that continuous professional development for the judiciary concerning human rights issues was important. One participant commented as follows:

"In the field of human rights, I see that projects are being carried out by the Ministry of Justice in Türkiye to increase the competence in human rights (especially for the justice personnel). I can follow the organisation of seminars, books and online meetings in these projects on the website of the Ministry of Justice. Through these means, I know that the up-to-date information flow on human rights is delivered to the judges and court personnel by the Ministry of Justice. On the other hand, I believe that the most important tool to increase professional competence regarding human rights will be through the translation of European court decisions, especially the ECtHR, into Turkish, and by informing the judges (in this way, by ensuring a case-law flow) and by providing an up-to-date information flow in this way. Human rights is a growing and developing field that grows as we discuss and talk about it. Therefore, I can suggest that it is a field that can be expanded by discussing and disseminating these decisions and using the concepts frequently."

The need for improvement and capacity building in terms of the competence of judges and personnel in the administrative justice stood out as one of the points emphasized by survey participants from each province. The issues highlighted by participants were:

Preservice and *in-service training for judges* - while emphasising the importance of the Justice Academy training for judges there was a widespread opinion (with some exceptions) that judges should be law graduates in the quality of the academic curriculum and qualifications of law teachers were also important factors

In service training - the importance of regular in-service training for judges to to supplement respond to ("Today, there are serious conflicts regarding immigration, human rights, food law, water law, cultural assets, and zoning law. These were not taught in the lessons before, so when such conflicts arise, the judges may have difficulties.")

UYAP training - it was emphasised that effective use of technology is now an important aspect of professional competence and the practitioners sometimes experience problems that have directly arisen from lack of judicial knowledge of UYAP

The importance of experience - Some participants expressed grievances caused by the work of experienced judges, especially those working under intense workload. It was suggested that capacity strengthening activities about the professional competence of young judges recruited based on the urgent need which had arisen under special conditions of recent years. A substantial proportion of recent appointees do not have a law degree although recent

legislative changes mean that in future non-law graduates cannot exceed 20% of the total number of judges appointed annually.

"Although there were participants who saw an increase in the number of judges as necessary, it was mostly answered that there was a need to improve the professional competence of the existing human resources rather than the number of judges. Concerns were also shared that the policy of increasing the number of judges to reduce the workload is an approach that hinders the development of policies for systemic improvement."

Court User Survey

Judicial selection methods – Participants stated that the perceived adequacy of the examination and selection methods applied for candidate judges was also a significant factor which impacted upon levels of public confidence in the competence of the judiciary

The project has put considerable resources into developing and implementing an in-service training programme for administrative court judges and court staff. A training needs analysis was conducted and a Training Needs Assessment Report was published in September 2020. The report recommended the development of four 2-day in-service training modules:

Module 1 (for judges): Legal Reasoning and Judgment Drafting, focused on judgments and judgment drafting procedures, reasoning in administrative judiciary judgments, and reasoning within the right to a fair trial and reasoned judgments, followed by practical exercises.

Module 2 (for judges): ECtHR and TCC caselaw, focused on the role of the Constitutional Court in the qualification of rights in the resolution of judgments, retrial after the judgments on violation of the Constitutional Court, right to property, administrative sanctions, rights and standards to be considered in disciplinary law, cases on the right to protection of material and spiritual assets and the law on the protection of personal data.

Module 3 (for judges): Fair Trial and Reasonable Time in Administrative Justice, focused on judgment drafting procedures, reasoning and interpretation in administrative judgments, and reasoning within the scope of the right to a fair trial.

Module 4 (for court staff): Case and Time Management, focused on time management, trial process time management in administrative judiciary, principles and procedures in official correspondences, teamwork and Council of Europe, CEPEJ SATURN (Study and Analysis of Judicial Time Use Research Network) Guidelines, statistics in judiciary and data security.

After the initial design of the materials four pilot training sessions were organised in Istanbul and Ankara in November-December 2021, to enable the module writers to

deliver a two-day training programme and test the training methodology. A series of trainer training events were then held between December 2021 and February 2022. These provided training on the presentation of the new modules and the wider set of knowledge, skills and competencies with a particular focus on human rights law. A total of 78 trainers participated in the trainer training events.

The table below sets out the projected final number of judges and court staff who will have been trained before the conclusion of the project. Training participants were all nominated by the Ministry of Justice.

Projected final number of training participants

	Module 1	Module 2	Module 3	Module 4
Training programme December 2021-15 November 2022	Legal reasoning and judgment drafting for judges	ECtHR and Turkish Constitutional Court rulings in the caselaw of administrative justice (for judges)	Right to a Fair Trial; Reasonable Time (for judges)	Case and Time Management for Court Staff
Pilot training	22	21	20	25
Training of trainers	19	20	20	19
Cascade training	201	65	149	148
Total	242	106	189	192
General total	729			

A gender equality perspective was included in the training needs assessment process and a gender consultant contributed to the development of the training curriculum. In the trainer training events, a total of 15 participants completed a "Scale for Gender Equality Awareness in Law" survey, which was presented in an online form. The scale was revised and standardised afterwards and the standardised version, comprising 11 items, was used in subsequent cascade training sessions. The standardised version of the scale was used in the cascade training sessions. The percentages of awareness of the participants about gender equality in law in all trainings are presented below:

Percentages of awareness of Gender Equality in Law

Training Group	%	Training Group	%
Ankara	39,16	Gaziantep	31,24
Antalya Group 1	35,09	İzmir	37,36
Antalya Group 2	38,07		

The level of awareness were found to be quite low in all groups, although the awareness of female participants in all groups was found to be higher than that of male participants.

It is recommended that additional guidance be provided to promote greater awareness of gender equality in law among the administrative judiciary.

As a project legacy a trained pool of trainers (some of whom are also existing trainers for the Justice Academy) will be available to contribute to further training arranged by the Turkish authorities under project sustainability plans and all the training materials have been shared and published on the project website.

Gender equality - The project has analysed available data concerning gender balance of administrative judiciary and court staff in the Council of State and in pilot regions;

The project has sought to support the Judicial Reform Strategy Activity 3.7 b) which states that "the principle of gender equality will continue to be observed in the recruitment of judges." Appointments to the administrative and tax courts, RACs and the judges and prosecutors of the Council of State are made by the CJP. Three quarters of the members of the Council of State are also appointed by the CJP and the remaining quarter are appointed by the President of the Republic.

The overall gender ratio of judges and prosecutors in the CoS, RACs, and Administrative Courts (administrative and tax courts combined) was shown in the Judicial Statistics for 2019 published by the Ministry of Justice but this information did not appear in the 2020 Judicial Statistics.

The Interim Report set out a summary of gender balance data extracted from recent RAC activity reports and included a table showing the gender distribution of Council of State members, prosecutors and rapporteur judges 2018-2021. That report noted that in relation to the Council of State "there is a substantial gender imbalance in more senior roles: in 2021 there were 97 Council of State members and of these 21 were women and 76 men. This imbalance has been relatively consistent in each of the

years shown in the table (2018 31/82; 2019 29/81; 2020 25/76)." Data is not currently collected concerning the gender ratio in senior positions in the first instance courts and RACs i.e. Court Presidents, Litigation Chamber President, RAC Presidents but it is known that of the nine current RAC Presidents all are male.

It is recommended that:

- All RAC annual activity reports should include gender disaggregated data for all courts within the region.
- Publication of overall gender ratio of judges and prosecutors in the CoS, RACs, and Administrative Courts (administrative and tax courts combined) in Judicial Statistics be restored.
- That consideration be given to the creation of quotas to ensure equality in numbers for positions and titles where women are represented less and to support these with a gender action plan .

***Human rights and fair trial standards** - the project has promoted greater awareness of the application of the ECHR, the case law of the ECtHR, TCC and CoS through the publication of new materials in Turkish*

To supplement Module 2, the "Casebook on European Fair Trial Standards in Administrative Justice", originally published by the CoE and the Folke Bernadotte Academy (Sweden) in 2016, was published in Turkish in September 2020. To supplement this, a second document commissioned by the project and tailored to the Turkish context, the "Casebook on the Right to a Fair Trial in Administrative Justice", was published in September 2022. This publication includes basic and updated case law of the European Court of Human Rights, the Turkish Constitutional Court and the Council of State. These materials have been shared with the Turkish administrative justice community, judges attending the cascade training and the project's stakeholders.

As was noted in the Interim Report, within the scope of the project a round table meeting for administrative court judges on the case-law of the ECtHR and the application of the ECHR was held and suggested methods of raising awareness of human rights issues that emerged from discussions were:

- More translation of selected decisions into Turkish
- More regular peer to peer practitioner discussions on human rights and related issues
- Improved accessibility of precedent decisions for judges
- The creation and regular updating of thematic information notes/fact sheets

- The continuation of work to achieve greater consistency in Turkish administrative court decision making

Delegates highlighted the potential value of the existing Human Rights Commission, which operates within the Council of State was also recognised by delegates. The Commission" was established in accordance with the "Directive on the Establishment and Duties of the Council of State Human Rights Commission", which came into force with the Presidency Approval no. 7556 dated 28/11/2013. Its purpose is to raise awareness and internalize the provisions of the ECHR, the decisions of the ECtHR and the decisions made by the Turkish Constitutional Court. Its working procedure is regulated by article 34/B of the Bylaw amended with the Official Gazette dated 06/03/2020, numbered 31060. It is convened under the Chairmanship of the Council of State; and consists of at least six council members to be appointed for a one-year period.

The work of the Commission was interrupted by the pandemic, but it is planned that from January 2023 its work would restart. Meetings would be held every month and will be attended by rapporteur judges from each litigation chamber in addition to Council of State members. Representatives from the RACs will also be invited. It is intended that a different topic would be selected for every meeting and that presentations given would be published as articles which would then be compiled into books to be shared with the Regional Administrative Courts, the Ombudsman Institution, universities, and other relevant institutions.

Court staff training - the project has developed training materials for court staff and provided training for approximately 200 staff; and developed guides and job cards as reference materials to be available in courthouses.

Objective 3.5 of the Judicial Reform Strategy "Training activities for judicial personnel will be strengthened" was strongly supported by the court user survey and survey participants emphasised the centrality of the knowledge and skills of court staff to the proper functioning of administrative justice. The importance of an appropriate curriculum and trainer quality in pre-service education, and a well-constructed internship period, were emphasised.

> *"many participants… Stated that the communication competence of the staff working in administrative justice is higher than in ordinary justice and such a comparison increases their satisfaction"*
>
> Court User Survey

The problems concerning the performance of court staff that participants emphasised most were delays in uploading documents to UYAP, being unable to get an answer to phone calls, a resistance to giving access to court files, and mis- communication

with court staff either face-to-face or over the phone e.g. not being understood or not getting an answer to the question posed.

However, judges and court staff have emphasised that there is often a gap between the expectations of court users and the level of information that court staff are either authorised or qualified to give. This was also reflected in the experience of some survey participants who observed the stress experienced by court staff when faced with court user dissatisfaction concerning an issue over which they had no control e.g. the rejection by a judge of a court user's request for a meeting

A series of cascade training events for Case and Time Management for Court Staff (Module 4) have taken place and it is expected that the training of around 200 court staff, including administrators at the Council of State, will have received training by the end of the project.

It is the first time the CEPEJ-SATURN guidelines for judicial time management were introduced to court staff to implement policies aiming to prevent violations of the right to a fair trial within a reasonable time protected by Article 6 of the European Convention on Human Rights.

The following materials have been developed by the module writers and have been published on the project website:

- Methodology Handbook for Adult Training and Techniques
- Training Agenda/Programme for trainer training
- Trainer's Book/Manual
- Training Agenda /Programme for the cascade training
- Trainee's book (participant guidebook)
- Cascade Training Power Point Presentations

Guides, workflow charts and job cards have also been developed for the assistance of court staff and these are described more fully later in this report. These materials have been made available on the project website and distributed in hardcopy to RACs.

Enhancement of Quality, Performance and Productivity

International collaboration - through study visits to France (Paris and Strasbourg) and Germany the project has provided opportunities for the Turkish authorities to raise their awareness of international standards and alternative policy approaches to commonly experienced administrative justice challenges.

The first of these studies was organised in France in December 2021 to explore the administrative justice system. The study visit provided the opportunity for exchanges

with the members of administrative judiciary dealing with studies on the functioning of administrative judiciary, challenges encountered, group cases and the impacts of the recent reforms on administrative cases; and to explore the present position in France concerning the development of alternative dispute resolution mechanisms in the field of the administrative judiciary.

A second study visit was carried out in June 2022 to explore the administrative justice system in Germany. This study visit was particularly focused on procedural rules, functioning of administrative courts, jurisdiction, first instance and appeal stages, hearings in administrative judiciary and the mediation model applied in the German administrative judiciary.

The third study took place in October 2022 to Strasbourg, where working meetings were held with the European Court of Human Rights, Venice Commission and Co-operation Programmes Unit of the Council of Europe and the issues were explored concerning Execution of Judgments of the European Court of Human Rights, Right to a Fair Trial in the European Convention on Human Rights, ways to increase the effectiveness of the administrative justice system within the scope of the Right to Property and the authority of Venice Commission.

Particular attention has been given to the French system, upon which the Turkish administrative justice system was originally based. The report prepared for Turkish stakeholders referred to earlier in this report[19]in relation to ADR also described various recent innovations in French procedure which have included:

- Codification of public administration procedure through the Code on the relations of the public and public administration
- Extension of cases where a single judge may issue a decision (in first instance courts this is either the president or a senior judge of the competent court)
- Extension of the functions of registrars
- Electronic filing of cases (first introduced in 2005)
- Good practice guidance issued by the Conseil d'Etat on drafting of court decisions

A workshop entitled "Solution Proposals for the Turkish Administrative Justice System and International Practices" was held in December 2022 for participants of the study visits and administrative justice stakeholders, to discuss these experiences and possible solutions relevant to the Turkish system. A full list of the reform recommendations made by representatives of the Council of State administrative Justice at the meeting are listed at **Annex C.**

19 Reforms in the French Administrative Justice System and Alternative Dispute Resolution (ADR) Methods' Assoc. Prof. Karine Gilberg, December 2020

The workshop report noted that:

> "The study visits, which formed the background of the workshop, were extremely effective both in shaping the concrete recommendations developed by the Council of State and the Ministry of Justice and in the discussion of these recommendations. Indicators of the said impact are as follows:
>
> - The example of an effective hearing observed during the visit to Germany guided the recommendations of both the Council of State and the Ministry of Justice, and thus the idea of making the hearings in the administrative judiciary more interactive by listening to witnesses or keeping minutes/recording was generally accepted at the Workshop.
> - Thanks to the visit to France, more detailed information about the summary proceedings (les procédures d'urgence) was obtained. On this occasion, the issue of improving the existing summary procedure in Türkiye in a way to provide active protection to individuals / those administered, especially in disputes regarding fundamental rights, was included in both the study visit report prepared by the Ministry of Justice and the list of recommendations prepared by the Council of State to be presented at the Workshop. These recommendations were accepted at the Workshop without any objection
> - The group (pilot) case implementation observed during the visits to Germany and France was included as a recommendation in the study visit report of the Ministry of Justice and in the text prepared by the Council of State to be presented at the Workshop. The recommendation of the Council of State based on the German model, was adopted without any objection at the Workshop.
> - The implementation of the decision of inadmissibility, about which more detailed information was obtained with the study visit to France, was included as a recommendation in the study visit report of the Ministry of Justice and was generally accepted by the workshop participants.
> - Although it was not included among the recommendations of the Ministry of Justice or the Council of State, the issue of internships in various public institutions and organizations (in the administration) of the administrative judge candidates was brought to the agenda in the Workshop with reference to the impressions taken during the visit to Germany and all participants agreed that a similar practice should be introduced in Türkiye as well."

Some issues discussed at the workshop were further explored at an international symposium "Administrative Justice in Türkiye: best international practices and reform of the Turkish system" held in Ankara on 30 - 31 January 2023, which is referred to in more detail later in this report.

Administrative court procedures and workflow - the project has undertaken an evaluation of the administrative court procedure (IYUK); produced guidance material regarding job descriptions and workflow for court staff; and a series of petition templates for both the administrative courts and tax courts.

Expected Result 4 of the Description of Action was that "the length of appellate proceedings is reduced by more efficient and effective case management by the RACs and Council of State and any necessary changes to the systems and processes are introduced." The Road Map Includes an Activity to introduce greater standardisation of workflow in administrative and tax court/RAC registries and front offices.

As described earlier in this report the administrative court procedure is set out in Law 2577 (IYUK), which has become vague and incoherent. This lack of clarity in the law creates a barrier to efforts to standardise or systematise workflow. After conducting a training module for court staff as part of the project activities a trainer noted that:

> ***"it was observed that through the explanations of the personnel regarding the stages of various cases that there was no standardisation in the functioning of the court registry and that there were very different practices among courts in very basic issues."***

The absence of a standard procedure has also hampered the scope for the project to clarify procedure with guidance materials. In addition to detailed procedural guides and a FAQ aimed at professional court users and newly appointed judges (referred to in more detail later in this report), the following documents for court staff have been prepared and published on the project website:

- Job Description and Workflow of Court Staff in First Instance Administrative Judiciary
- Job description and workflow of court staff in regional administrative judiciary
- Job Cards for Administrative Judiciary Court Staff

These are valuable documents to provide general guidance, but they are unable to provide clarity concerning issues where the law itself is not clear. Consultation with stakeholders on draft materials highlighted these differences of understanding and impacted upon the level of detail any standard guidance could contain. The CJP Inspectors of administrative courts are a particularly valuable source of expertise and advice in identifying problematic areas where clarification of the procedure is needed.

Brief standard job descriptions for registry staff are contained in Law 2577 (IYUK), and these have been included in the guidance materials, but in practice the organisation of the various registry roles varies according to the preference of the court president. According to feedback from registry staff, greater clarity of job descriptions and of the

boundaries between different roles would improve efficiency. There is also the potential to increase the responsibilities of registry staff to achieve efficiency improvement.

In the advice paper concerning recent reforms in the French system referred to previously it was noted that in a 2016 decree to improve efficiency in the administrative courts, the role of registrars to assist the judiciary was extended at all levels, including the Conseil d'etat: the registrar may assist the president of the court or chamber in the pre-trial phase to prepare the case for judgement and proposes, if required, all measures to prepare the case. The registrar also ensures a follow-up of the implementation of orders issued by the court and is entitled to sign notifications to the parties. This may be a measure that will also be beneficial in the Turkish context.

Law 2577 (IYUK) lists the basic requirements of an administrative and tax court petition but does not prescribe an overall format. Court users acting without an attorney often find the absence of a template problematic, and the courts find it necessary to reject a substantial proportion of petitions issued both by attorneys and by citizens upon preliminary examination due to procedural shortcomings. The time of front office staff is also often wasted due to repetitive enquiries from members of the public concerning procedure and the absence of guidance materials to provide to them. Delay is also caused when essential information, such as contact details for the parties, is missing from the petitions which are submitted. In an attempt to mitigate these problems and increase efficiency, a series of petition templates were created by the judges of pilot courts for various categories of case which were to be made available to court users. However, the Union of Turkish Bar Associations has expressed concerns about the introduction of these templates and this issue will need to be the subject of further discussions between the MoJ and the UTBA.

The project has therefore only been partially successful in enabling greater standardisation and greater efficiency in administrative and tax court workflow. Analysis has been conducted and guidance materials have been produced but significant efficiency gains will be dependent upon a holistic reform of the administrative court procedure (IYUK) recommended earlier in this report. This reform has the strong support of many Turkish stakeholders. In the meantime, the guidance materials and job cards developed by the project will assist in clarifying the current procedure for court staff as far as possible.

It is recommended that the MoJ continue to explore options for the implementation of the petition templates developed by the project to improve the quality of guidance available for court users and to reduce the delay and inefficiency generated by the rejection of defective administrative and tax court petitions.

Enhancing the method of decision writing and strengthening the justifications for decisions

The issue of the quality of decision writing and the need for justification for decisions was emphasised by participants in the court user survey. Regarding drafting style one participant commented:

> "As the writing technique of decisions, there is something that has been developed for many years, an established writing technique. Very long sentences, a single sentence of 1-2 pages, sentences connected by commas... There is no paragraphing technique, no numbering or titling technique. Therefore, even as a lawyer, we have difficulty understanding what he is saying when we read the decision. It is not easy for ordinary citizens to understand this. Therefore, an improvement should be made in the writing technique of the decision."

Giving reasoned decisions was considered by participants to be as an important issue in promoting confidence in judicial decisions and in the competence of judicial decision makers.

"If you can see justifications in the decisions you can at least say the following:' the decisions are made by people who have a very high capacity in terms of justifying their decisions, etc., who make good evaluations and synthesis and this is reflected in their reasoning."

Court user survey participant

Other project stakeholders also identified inconsistency in the quality of judicial decisions in the administrative courts and the absence of a fully reasoned judgments made publicly available in some cases as a key area for improvement.

The project has sought to address this issue by the development of the training Module 1: "Legal Reasoning and Judgment Drafting" for judges. Over 240 judges have already received training in this module and there is the potential for the Turkish authorities to continue offering this module.

The Council of State introduced an Advisory Decision Writing Guide in all its litigation departments and boards in January 2019 and published the guide in 2020. The Guide comprises guidance on the style and format of written judgments and on good drafting practice, and it provides a variety of examples for different categories of case. The aim of the Guide is to establish a common standard of decision writing and to increase the quality of the decisions. The guide was finalised after careful internal consultation within the Council of State and is intended to be a living document, to be revised from time to time as necessary. As such it is intended as an internal Council of State document. However, there are no immediate plans for a comparable guide for the first instance courts or RACs.

It is recommended that the Turkish authorities consider the introduction of a decision writing guide for RACs and first instance courts (using the existing Council of State guide as an example) or introduce minimum standards for decision writing.

Court statistics, monitoring of interlocutory trial process target times and case codes

The issues of the availability of performance data concerning the administrative and tax courts was explored during the in-depth review at the start of the project and the Initial Assessment Report noted that:

> "The MoJ and CJP Inspectorate have both also identified that shortcomings in statistical information mean that it is not clear how well case time frames are being managed. The present system of numbering cases leads to some cases being counted multiple times and does not accurately identify multiple cases all concerned with an identical issue and which therefore take less time. There is also not enough published statistical data on the trial process. Statistics not currently available include:
>
> - The average completion time of the files
> - The average period before a case is allocated to a judge
> - The average period of handling after being referred to the judge
> - The period of fulfilment of interim decisions
> - The proportion of files with multiple interim decisions
> - The average completion time of operations, such as investigation and expert examination
> - Number of files with a hearing
> - Average decision writing times[20]."

The Initial Report noted that work was underway within the Ministry of Justice to improve data collection and a Data Monitoring and Evaluation Board had been established in June 2017 to analyse and develop proposals for the solution of problems. It also noted that the Council of State was also working to improve systems and processes and in 2020 had established a new Case Law Reporting and Statistics Unit with functions that included "obtaining statistical data on the judicial activities of the Council of State and ensuring that such data are published at regular intervals." There many issues of common interest between the Ministry of Justice and the Council of State regarding these issues and on 17 July 2020 a Protocol on the principles of data sharing and use was concluded between the MoJ General Directorate of Criminal Records and Statistics and the Council of State.

20 a legislative requirement for a reasoned judgment to be given within 30 days of an administrative court decision has since been introduced.

More recently, a new unit to achieve improved performance monitoring has been established by the Council of Judges and Prosecutors. A Circular issued by the Secretary General dated 22 September 2022 entitled "Performance Based Monitoring and Assessment System" announced the establishment of a new office named the "Office of Efficiency of Judiciary." The goals of the new unit are:

- To strengthen the right to a fair trial by making use of the opportunities presented by technology,
- To ensure early identification of processes regarding long-lasting litigations and investigations and prevention of delays,
- To support the implementation of target time,
- To ensure promotion of positive performances,
- To develop practices to solve extraordinary workload accumulation,
- To enhance the confidence in judiciary and increase judicial quality by increasing the efficiency of justice through these means

It is intended that the new unit will monitor general performance using prescribed CEPEJ criteria (e.g. clearance rate, file closure time, number of pending files, number of incoming files, number of decisions made etc.) and will carry out assessments of extraordinary workload issues that may arise concerning particular subject matter or a particular geographical location.

The project has provided support to enable the development of a common set of case and decision codes to be used by the first instance courts, RACs and Council of State to underpin improvements to the availability of management information and statistics and to provide the foundations for the development of a new caselaw database with increased search functionality.

The work to improve data collection and the quality of statistics in all Turkish courts is being supported by other projects but during the course of the project it was identified that a valuable contribution could be made by the project in relation to the issue of case codes (a case code is a specific descriptive code that enables the classification of case files). The issue was first highlighted in relation to plans to improve access to case law to the development of a searchable caselaw database. A common system of codes shared by the first instance courts, RACs and Council of State is an essential prerequisite to achieve this but was also recognised as essential for the improvement of systems of case distribution, monitoring of target times and producing healthy statistical data for use both at a regional and national level.

The case codes currently use by the Council of State are a legacy of a card index system introduced in 1964 and in operation until the early 1980s. Case classifications were

made according to "subject" and "legislation" i.e. the Article(s) of the law upon which the case was based. A list of codes for use within an information technology system (i.e. by selecting the relevant code from a list) was introduced in 2003-4. These codes were redefined in 2012-2013 and, subject to occasional further updates, remain in current use.

In 2015 the Council of State collaborated with Ankara RAC and the MoJ in a project on the "UYAP Case Codes." The codes developed at this time are currently in use by the first instance administrative and tax courts and the RACs but they were not adopted by the Council of Stat. AEach Council of State litigation chamber has continued to determine their own case codes.

National consultants were contracted through the project to produce a rationalised, simplified, common system of codes. A workshop for all key stakeholders to discuss the system of codes and related issues was held in June 2022. In addition to delegates from the Council of State, RACs and first instance courts, all the Ministry of Justice departments with an interest in issue were represented i.e. Directorate General of Legal Affairs, Directorate General of Information Technologies, Directorate General of Judicial Records and Statistics, Directorate General of Strategy Development.

Following the workshop, the national consultants then held an intensive series of meetings with different groups of practitioners to develop a potentially "implementable" draft set of integrated codes. The following table shows a comparison between the number of existing codes in the Council of State and RACs and the number of proposed codes.

	Main Code			Sub Code		
	Admin	Tax	Total	Admin	Tax	Total
RAC (current)	126	41	167	238	57	295
CoS (current)	177	42	219	1000	622	1622
Proposed	99	22	121	327	207	534

Consultation on the proposed codes commenced in November 2022 and the final codes were agreed at a second workshop held in March 2023, during the final project extension period. The following steps were agreed to complete implementation and ensure the sustainability of the work.

- Immediately implement the new codes within the CoS, RACs and administrative/ tax courts as far as possible within the existing technical infrastructure of information technology system (UYAP);
- complete work on the technical infrastructure to achieve full implementation of the new system of both case and decision codes;

- establish a commission comprising the representatives of the Council of State, Regional Administrative Court and Ministry of Justice to make joint decisions concerning future updates to the codes, ensuring that they will be applied in all administrative jurisdictions
- design and implement a training programmes to increase awareness on the application of the code system and improve the efficiency of its application.

Ensuring Access to Justice and Enhancing Satisfaction from Service

The project has conducted a court user satisfaction survey using CEPEJ methodology in Ankara, Istanbul, Izmir and Gaziantep regions.

The Road Map includes an activity to introduce a court user satisfaction survey tailored for use by the administrative courts, reflecting a JRS (Objective 6.8) objective to introduce regular surveys in all courts. As described in the Interim Report, a survey format and methodology were developed within the framework of the project, informed by the CEPEJ 'Handbook for Conducting Satisfaction Surveys Aimed at Court Users in The Council of Europe's Member States. [21]

The survey comprised a quantitative element and a qualitative element. The quantitative element was piloted in Ankara, Istanbul, Izmir and Gaziantep in July and August 2021 and comprised a series of interviews conducted in courthouses. A total of 614 lawyers and 390 citizens attending courthouses were interviewed. 45.9% of the lawyers and 30% of citizens interviewed were female. This proportion of female citizens attending courthouses was considered to be typical of normal footfall.

The survey questionnaire was designed to enable measurement of both expectation and satisfaction levels of certain aspects of the service provided. These were evaluated together, and the expectation fulfilment rates of the participants were calculated. The low satisfaction level detected in the areas attributed to high importance were examined as the priority areas for improvement and the high satisfaction levels attributed high importance were examined as areas to be followed carefully in terms of maintaining and sustaining the satisfaction.

The interviews represented the "quantitative" element of the exercise and were supplemented by a "qualitative" element. This comprised a focus group held in September 2021 and a series of in-depth interviews with a targeted group of stakeholders comprising retired judges from administrative courts, non-governmental organizations, bar associations, and academics from law faculties. The findings of the qualitative element of the survey have been referred to throughout this report.

21 CEPEJ-CoE (2016) Handbook For Conducting Satisfaction Surveys Aimed At Court Users In The Council Of Europe's Member States - CEPEJ Studies No. 25 https://rm.coe.int/168074816f

The full survey report has been provided to the MoJ DG Legal Affairs, MoJ DG Strategic Affairs and the Council of State.

According to the results, the satisfaction level of the citizens and lawyers with the services in general, is predominantly high and at the average level of satisfaction, although the dissatisfaction rate of the lawyers is higher.

> *"The satisfaction level of the citizens and lawyers with the services in general, is predominantly high and at the average level of satisfaction, although dissatisfaction rate of the lawyers is higher"*
>
> Court user survey

Within the scope of the question of "In your opinion, which of the following principles should be most important when administrative and tax courts provide services to citizens?" participant citizens were asked to indicate a maximum of 5 principles they deemed the most important among the 19 principles listed. The top six principles were:

1. Justice %61,6
2. Impartiality %59,8
3. Compliance with laws and constitution %50,3
4. Transparency %49,2
5. Equality and prevention of discrimination %48,7
6. Independence %44,6

A graph summarising the findings of the quantitative element of the survey concerning the expectation and satisfaction levels of both groups, citizens and lawyers, is at **Annex D.**

The areas of lowest satisfaction are listed below. However, when findings are analysed in a way that "1" shows the lowest and "5" the highest satisfaction, it is notable that the satisfaction of the citizens does not fall below 3, although itdoes not reach 4 either in relation to the following issues:

- Overall court building conditions
- Convenience of court location
- Conditions of access to the court
- Signposting in the court building
- Waiting conditions
- Conveniences for elderly people/people with disabilites

- Attitude/ courtesy, level of knowledge of court staff and language used by court staff

Regarding administrative courthouse design generally (where administrative courts are in stand-alone accommodation and not co-located with other courts,) one participant in the qualitative element of the survey commented:

> "According to my observations, the ordinary courts actually looks more like a gate of law where the citizens feel closer and warmer, while the administrative courts may often be seen as a part of the administration and/or as a representative of the administration. This can cause users to approach them colder and more distant. I think there is a need to be careful about this."

Objective 4.15 of the JRS states that "a new understanding of courthouse architecture will be developed." In view of these findings of the survey it will be helpful if work on courthouse architecture standards give particular consideration to the requirements of the administrative courts.

The physical location of the courthouse is also significant factor and this was identified as a particular issue in Istanbul, where the administrative courts are all located in the western parts of the European side of the city. The survey report noted that:

> "it is stated that the court buildings are so far from the centre especially in Istanbul that no other work can be done on the day of the court, and that court users who use public transportation from different districts of Istanbul might have to change 6 vehicles."

There is also an issue of affordability for lower income groups not only in relation to court fees but in transport costs and the cost of food and beverages within the cou. rthouse, particularly where the courthouse is located in a higher income area.

Quantitative research participants, both lawyers and citizens, showed a high level of sensitivity to the importance of appropriate physical conditions for the elderly and disabled in court buildings, but few elderly people and no disabled people appeared in the survey sample on the days the interviews were conducted. This may be indicative of barriers encountered by these groups in attending the courthouse and there is therefore the potential for further research concerning the needs of these groups.

Although "Attitude/ courtesy, level of knowledge of court staff and language used by court staff" appears on the list of areas of lowest satisfaction, the rating of the citizens does not fall below 3 i.e. an average level rating. The survey report noted that "the majority of citizens seem to be satisfied with the court staff's attitude and courtesy, their level of knowledge and the language they use. The rate of those who are unsatisfied with these issues is low." However, "lawyers' dissatisfaction rate with court

staff is much higher than that of citizens. The highest rate of unsatisfaction in lawyers is seen with the approachability and availability of court staff and quality and reliability of registry's responses."

A prominent finding that emerged from the survey was that women need guidance and information services in the courts more than men. Among citizens who complain about the difficulty and complexity of following up files in administrative courts in general, women indicate the need for guidance more than men:

- According to replies given to the question of "What can be done to inform and guide citizens more about their cases at the front office?" the rate of males who find the services provided in the front offices sufficient is approximately 3 times that of females (35.2% vs. 12.3%),
- the rate of females who support an increase in the number of personnel and time allocated to citizens is 23% higher than males
- women generally state that they need information about personal rights and judicial procedures by 20% more than men

"It can be said that effective guidance will make significant contributions to women›s access to administrative justice»

Some of the difficulties faced by court staff, and the constraints upon their ability to provide information, have already been referred to earlier in this report. Court staff have also not previously had access to official guidance materials which they are able to provide for citizens. The project has sought to rectify this and details about the materials that have now been produced are given later in this report.

Another potential barrier to access to justice is cost. More than half of citizens participating in the survey considered the costs of accessing justice, excluding attorney fees, to be high. It was observed that the regional variable and the age variable were important in the level of satisfaction in this regard: younger people and citizens in the east of Türkiye expressed higher levels of dissatisfaction. It was observed in the comparative analysis with the French system, upon which the Turkish system is based, that's no court fees are charged in the French administrative courts.

In May 2022 the project team visited the RACs which had participated in the survey to present discuss an overview of the results. They were subsequently asked to respond to a short questionnaire asking about their experience of participating in the survey and about actions intended to take in the light of the findings.

In general the pilot courts found the court user survey results instructive and useful, providing guidance on issues where action planning was required to improve levels of

user satisfaction. It was suggested that regular surveys would be helpful so that results could be compared and progress could be monitored.

As a result of the survey the pilot courts were able to identify certain changes they could make on issues that were within their control, such as improving the quality of websites, internal signage, waiting conditions and furnishing. Some areas of criticism were beyond the control of the courts themselves to address, such as the location of the courthouse in relation to the city centre, or the physical layout of the courthouse (e.g. within a tower block). Some courts also identified a need for further training of court staff.

The following recommendations are made concerning the pilot court user survey report and wider implementation of the survey methodology Conduct a full review of the project court user survey report findings and recommendations to inform future improvements to service quality

- Introduce a court user survey methodology for all administrative courts and RACs in accordance with JRS Objective 6.5

The following selected recommendations are made arising from the court user survey findings (additional recommendations are contained in the court user survey report):

- Develop a methodology for improved understanding of needs of currently excluded potential court users e.g. elderly, those with disabilities, who are not able to visit courthouses and may be excluded from existing survey methodologies
- Give consideration to the specific requirements of administrative court architecture as part of JRS Objective 4.15 to develop a new understanding of courthouse architecture
- Review existing courthouse accessibility and on-site facilities e.g. waiting, refreshments for elderly court users and court users with disabilities
- Develop strategies to mitigate accessibility issues where courthouse location is identified by users as a barrier to access to justice
- Increase data collection concerning the gender distribution of administrative court users to inform service planning and implementation
- Use court user survey data concerning differing requirements between men and women concerning information materials and front office services to inform service planning and implementation
- Review affordability of administrative court costs and fees and potential impact on access to justice

- Review the conditions for access to legal aid and opportunities to improve guidance on legal aid.

Within the scope of the project an analysis has been conducted and a Media and Public Relations Action Plan has been produced to promote public awareness of the administrative courts, raise levels of public trust and increase the availability of information about procedure for court users.

The JRS places emphasis on the availability of information for court users and JRS activity 6.10 states that "Brochures will be prepared on the judicial system and the processes contained, and this information will be made available via the Internet." This strategic objective has been supported by the project and is reflected in the Road Map.

> *"There is a strong link between the rule of law and the right of public information. It is important to establish effe¬ctive communication over media with the commu¬nity directly affected by judicial activities"*
>
> Judicial Reform Strategy

In order to produce recommendations concerning media, public relations and community outreach in the administrative courts, a specialist consultant was appointed to carry out an analysis and develop an Action Plan. A fuller account of the analysis and findings are contained in the Interim Report. This report provides an update on the latest position.

The analysis has indicated that the very limited information for court users about administrative court procedure available in courthouse front offices and on RAC websites is frustrating for citizens and very time-consuming for court staff who are repetitively asked for the same information. Many members of staff are relatively recently appointed and have limited knowledge of procedures themselves, so they are not always well placed to provide accurate information. It is also difficult for citizens to understand the stage their case has reached as they don't understand the procedure overall, and court staff receive many phone calls from citizens to follow up their case and establish the latest position.

It is possible to issue a petition in the administrative courts online. An information technology system known as UYAP provides separate portals for citizens and for attorneys and a certain amount of information is available for court users in these. The court user survey found that approximately 70% of citizen respondents had used the UYAP citizen portal, although the rate decreased in groups over 55 years old and with lower levels of education. Some information is available on websites maintained by each RAC. The websites use a standard template provided by the Ministry of Justice but the nature and quality of information on the site varies from region to region. The court user survey established that relatively little use was made of RAC websites as a source of information and citizens were more likely to use other websites to obtain information.

"It has been determined that the use of the courts› websites is very low and is generally related to case law or finding phone numbers."

Court User Survey

Around 40% of respondents with an educational level of secondary school or below had not used any online resources.

There is also an UYAP electronic notification system which parties to proceedings can register for, enabling them to receive SMS notifications about steps taken in the progress of their case. Pursuant to Article 7/a of Notification Law No. 7201 entitled "Electronic Notification", registered lawyers are among those to whom the notification must be served electronically. This system seeks to mitigate problems which have existed concerning unreliable postal notification.

For citizens seeking information about the operation of the system more generally, the Ministry of Justice General Directorate of Criminal Records and Statistics publishes an annual Judicial Statistics report for all the courts, in which statistics concerning the administrative courts are included.

Each RAC also produces an annual Activity Report providing regional information about workload and resources. The reports are produced pursuant to a "Civil and Administrative Judicial Activity Reports Circular" published in 2016. THE JRS states that "this practice has been a significant step in displaying judiciary's performance to the public and improving the accountability and transparency in judicial services." Objective 2.5 of the JRS states that "The scope of the activity reports in civil and administrative judiciary shall be extended and the public awareness shall be raised."

The Media and Public Relations Action Plan made a number of recommendations in support of two strategic aims:

- To facilitate access to justice and to raise awareness of and trust of the public in the administrative judiciary system
- To enhance the quality of reporting on administrative judiciary and of the relations between the media and the administrative judiciary.

Recommendations made in the Action Plan included the following:

- Increased availability of guides, brochures and templates both in hard copy and online with alternative formats for those with special needs (e.g. special versions for people with visual impairments and in different languages for migrants/refugees)
- Increased publicity e.g. posters and front offices to promote the benefits of online services such as the UYAP Citizen Portal and SMS e-notification service

- Possible use of 2D animated movies with infographics and short videos available online or on digital screens available in courthouses
- Reorganisation of RAC websites with a view to providing more information for the public and generally achieving a more court-user oriented approach.
- Improvements to the content and accessibility of annual Activity Reports

The position at the conclusion of the project concerning each of these topics is as follows:

Guides, brochures and templates

As a result, a series of handbooks was developed by judges of pilot courts and finalised after consultation with stakeholders. These handbooks were published in September 2022 and comprised the following:

- A series of Administrative Trial Procedures Handbooks
  - Handbook No.1: Jurisdiction
  - Handbook No.2: Territorial Jurisdiction
  - Handbook No.3: Capacity
  - Handbook No.4: Duration
  - Handbook No.5: Final and Mandatory Procedures in the Administrative Courts
  - Handbook No.6: Other Party
- A Tax Trial Guide Handbook
- 'Frequently Asked Questions' for administrative courts
- Frequently Asked Questions' for tax courts

A series of simpler brochures have also been developed and printed. It is anticipated that both the guides and brochures will also be made available as downloadable files on RAC websites. Animations/ infographics have also been developed for use on websites and on courthouse screens. The current standard template produced by the MoJ for RAC annual Activity Reports has also been reviewed and recommendations have been made for revisions to the template to increase the accessibility of the reports for the general public. These recommendations have included a stronger focus on initiatives to promote access to justice and enhanced satisfaction of court users, more narrative about court performance to supplement tabulated data and a glossary to clarify the terminology used.

Community Outreach Activities - pilot courts have positive past experience of community outreach activities although the pandemic has inevitably curtailed these for a period. Ankara and Istanbul RAC's have both hosted student visits from universities and high schools in the past and all RACs are planning internship programs for students of law faculties.

Institutional Capacity of Council of State

Access to Case-law

The issue of access to case-law was identified by judges at the start of the project as a significant problem area requiring rapid improvement. The issue was subsequently raised by both lawyers and citizens in the quantitative element of the court user survey and the topic was therefore included in the qualitative element for further analysis. Although most participants in the qualitative research used commercial databases, they underlined the high membership fees and the inability to access all decisions even with a paid membership. It was emphasised that although the Council of State has on many previous occasions created an expectation that it will take quick steps in improving access to decisions, no serious step had been taken in this regard so far and the expectations and needs continued to increase. The issues raised by the participants regarding access to case-law were:

- The case law search engine on the website of the Council of State being not functionally planned and not suitable for effective search.
- Loss of rights and reputation that may be experienced due to the late publication of decisions and the resulting problems in accessing recent case law.
- The decisions of the Regional Administrative Courts being not accessible on their website.
- During case-law search process, problems in accessing the files in the courts and a protective approach against the files that should be public.

Participants made several suggestions to help resolve these issues: participation of users in the re-design of the caselaw search engine, establishing a 'caselaw unit' in RACs, improving in-service training to judges concerning accessing caselaw and using it in their decisions, and providing free of charge access to case law to the public.

In a welcome development, as described in the Interim Report, significant progress in relation to case law has been achieved since the commencement of this project. The CoS established a new Case Law Reporting and Statistics Unit (CLRSU) which became effectively operational on 1 October 2020. The unit produced the annual Report of the Council of State 2020 containing, in addition to statistics, the recent principal decisions of the Council of State departments and boards in the most encountered cases and

other decisions from previous years which were considered to be particularly useful to include. The CLRSU has since produced the annual report for 2021 and is working on the report for 2022. These reports continue to publish principal decisions in addition to narrative and statistics concerning the activities of the Council of State

The CLRSU also works on increasing the availability of Council of State decisions on the website and in accordance with a Council of State "Directive on the Publication of Council Decisions." The rate of progress since the unit was established as set out in the table below.

Number of decisions published	
İBefore establishment of the CLRSU	24264
2020	4438
2021	60000
2022	52079

With the support of the CLRSU, the Council of State has also been proactive in liaison with the RACs concerning caselaw issues. The following series of meetings have taken place (and reports of the meetings subsequently sent to all RACs in first instance administrative and tax courts):

- November 2021 (Istanbul): disputes arising from zoning legislation and customs taxes
- May 2022 (Erzurum): Full Remedy Actions; Disputes Arising from the Law on Stamp Duty and Fees
- October 2022 (Ankara): disputes arising from decree laws regarding the measures taken within the scope of the state of emergency and the laws regarding the adoption of these decree laws verbatim or with amendments, and from the transactions carried out within the scope of the provisional article 35 of decree law number 375

A series of six thematic decision bulletins have also been published over 2021-2022 concerning the following topics:

- Customs duties
- Decisions of the Board of Unification of Caselaw
- Decisions of the Board of Administrative Litigation Chambers in Response to Requests for Elimination of Conflicts among the Decisions of the RACs

- Decisions of the Board of Tax Litigation Chambers in Response to Requests for Elimination of Conflicts among the Decisions of the RACs
- Stamp law duty
- Disputes arising from the Law on Fees

Discussions were held between the project team and the Council of State concerning the potential for support to improve the functionality of the caselaw database to help resolve the problems identified by judges and practitioners. However, preliminary analysis identified a need for the rationalisation of case and decision codes between the first instance courts, the RACs and individual litigation chambers of the Council of State for database search functions to operate effectively. A description of the progress of that work is contained elsewhere in this report and is expected to be complete before the end of the project, providing a sound basis for work on a database to proceed thereafter.

Institutional capacity of the Council of State and institutional communication and collaboration

Strengthening the institutional capacity of the Council of State was one of the original aims of the project and the project team has closely collaborated with the Council of State to identify opportunities to provide support. As will be seen from the description of the work of the Case Law, Statistics and Reporting Unit the project has coincided with a significant period of reform activity and progress within the Council of State.

In addition to the progress made concerning caselaw, the Council of State is also working on improvements to the collection and publication of statistics. An important development in this respect was the signing of data sharing protocol with the Ministry of Justice General Directorate of Criminal Records and Statistics and the introduction of live statistics screens on the UYAP system where shared data can be queried.

Reference has also been made in earlier reports to the introduction of a Guidebook on Decision Writing in the Administrative and Tax Litigation Chambers in January 2019. This has been reported to have had a significant impact on Council of State decision writing standards.

The project has also provided opportunities for representatives of the Council of State to participate in study visits to Germany with a view to obtaining information about the Administrative Judicial System of the Federal Republic of Germany, and to Strasbourg for the purpose of on-site examination of the studies on the "Execution of ECtHR judgments, Right to a Fair Trial Relating to the European Convention on Human Rights, Ways of Increasing the Efficiency of the Administrative Judicial System within the Scope of Property Rights, Authority of the Venice Commission." Participants

attended the 14th Congress of the International Association of Supreme Administrative Jurisdictions (IASAJ) in June 2022 in Brussels and participated in events arranged by the Court of Cassation with the Support of the Council of Europe to evaluate good practices in comparative law systems.

With the support of the project the CoS kindly hosted an international symposium "Administrative Justice in Türkiye: best international practices and reform of the Turkish system" held in Ankara on 30 - 31 January 2023, and attended by 500 delegates.

The objectives of the symposium were to provide delegates with the opportunity to exchange experiences of the reforms and procedures in the administrative courts and issues of relevance to the implementation of project; and to provide delegates with the opportunity to explore and contribute their views on priorities for an improved administrative Justice system in Türkiye.

A panel exploring international and national practices in relation to consistency of judicial decisions included contributions from German and French judges about practices in their respective jurisdictions. In a panel focused on reducing the workload of the administrative judiciary, speakers explored the need for an administrative procedural Law in Türkiye and refrom priorities concerning alternative dispute resolution in Turkish administrative justice. In a panel focused on specialisation of the administrative judiciary, speakers from England and Wales and from Spain described practices in their respective jurisdictions. A report of the symposium has been made available on the project website.

It is recommended that the Council of State:

Continue to strengthen communication and cooperation with RACs and national judicial institutions and universities.

Continue to strengthen communication and collaboration with international and foreign judicial institutions.

Continue to share information about ECtHR's rulings, international reports, guides and similar documents with the relevant institutions in support of HRAP Activity 9.6.f.

Improve availability of gender disaggregated data concerning CoS appointments in Annual Reports, to include CoS members and leadership roles.

Use unified case/ decision code system to make improvements to case law database search functions, consulting with database users to clarify user needs and expectations.

Continue work towards Improvement the search capability of the CoS caselaw database.

PART 4

UPDATED ROAD MAP AND SUMMARY OF RECOMMENDATIONS

As explained at the beginning of this report, it is being published alongside an updated Road Map for an Improved Administrative Justice System which looks ahead to the 2023-2026 strategic planning period.

The updated Road Map comprises three elements:

- 'Current reform objectives': reform objectives which already appear in the JRS or HRAP which have not been achieved during the current planning period and may therefore be carried forward into updated strategic plans
- 'Project policy recommendations': reform recommendations for future strategic plans which do not appear in current planning documents
- 'Project sustainability activities': recommended activities which directly relates to the continuation and maintenance of progress achieved through the activities conducted within the project

The main policy recommendations have already been referred to in this report. In summary they are as follows:

Good Public Administration and Internal Review

The project has indirectly considered the issue of good administration, mainly from the perspective of the impact of administrative practices on the volume of cases reaching the administrative courts. Guidance has been produced concerning good practice regarding internal review procedures and raising awareness of European standards concerning good administration generally.

The updated Road Map contains the following recommendations as priority areas for future reform:

- The introduction of a code of administrative procedure to ensure the consistent application of good practice principles across public administration organisations. This can be expected to increase public confidence in the public administration and reduce the workload of the administrative judiciary.

- Piloting of a "deemed acceptance" principle in a selected number of administrative acts to enable an assessment of the suitability of this reform adopted in the French system (upon which the Turkish administrative justice system is based) for Turkiye. This initiative also has the potential to reduce the workload of the administrative judiciary.

Promoting Alternative Dispute Resolution

The Turkish authorities have identified that more comprehensive regulation of "peace commissions' referred to in Decree Law 659 through another laws has the potential to reduce the workload of the administrative judiciary by achieving a more frequent resolution of disputes before litigation is started. Further announcements regarding plans in this respect are awaited and these plans will presumably be carried forward into the new planning period.

In addition, it is recommended that:

- The practical operation of the existing internal review (administrative objection) procedure be further analysed to increase its effectiveness and reduce the workload of the administrative judiciary
- The quality and consistency of information and guidance for citizens concerning the internal review procedure be improved
- That additional guidance for public servants be introduced or, if necessary, the relevant law clarified to overcome the barriers to prelitigation dispute resolution created by current perceptions of the operation of "public loss" regulations
- The Turkish authorities conduct further analysis of the suitability for the Turkish system of judicial alternative dispute resolution models identified during the course of the project during study visits, the international symposium and expert reports
- The Turkish authorities give consideration to the recommendations made in the project ADR reference report "Alternative Dispute Resolution In Turkish Administrative Justice And Learning From Other Legal Jurisdictions"
- The recommendations made by project consultants to increase the powers and promote the independence of the Ombudsman Institution be implemented

Simplification and Enhancing the Efficiency of Administrative Trial Procedure (IYUK)

Enquiries undertaken during the project has identified that holistic reform of the administrative trial procedure has the potential to have a major impact on the efficiency

of the administrative courts, consistency of practice and expedition in the processing of cases. It also has the potential to improve access to justice through improving the comprehensibility of the procedure. The project has generated proposals for changes to the procedure but substantial improvements could be achieved simply through clarification and rationalisation of the existing procedure. Many of these also been identified by project consultants.

It is recommended that:

- A holistic review and reregulation of the IYUK be implemented, informed by advice from the committee of experienced members of the judiciary representing all key stakeholders.
- A pre-legislative impact assessment procedure be introduced, including consultation with the judiciary, in advance of all future amendments to the IYUK.

The following specific recommendations for reform of the procedure are made:

- Review opportunities to increase the efficiency of administrative court hearings, to include hearing witness evidence at the request of the parties or ex officio in categories of case where oral evidence will assist the court in establishing the material facts.
- Make improvements to record keeping for court hearings e.g. keeping minutes; use of audio/ video recording.
- Review operation of current provisions concerning a range of disputes which may be decided by single judge and impact on right to a fair trial.
- Consider introduction of urgent trial procedure for categories of case related to fundamental rights, which should be decided without delay e.g. deportation, demolition decisions.

Improving Professional Capacity of the Administrative Judiciary

The project has developed a range of training materials and provided training for around 800 members of the administrative judiciary and court staff. The court user survey also considered professional development issues from a strategic perspective and this found that there is strong support for the reform plans already set out in the JRS. These include reform of the arrangements for the appointment transfer and promotion of administrative judges; reforms eligibility requirements for senior roles; the introduction of a compulsory continuous professional development model; and improvements to preservice and in-service training, especially in relation to human rights.

It now seems unlikely that the planned reforms in the JRS and HRAP in relation to human resources will be complete within the originally anticipated timeframes and it is therefore hoped that work on these valuable reforms is continued and carried forward into the new JRS.

The principle of gender equality in the appointment of judges, prosecutors and staff.is recognised by the Turkish authorities as important, and is emphasised in the JRS. The project has identified some underrepresentation of women in more senior positions.

The updated Road Map, in addition to reflecting existing reform priorities recommends:

- Improvements in publicly available data concerning the gender distribution of judicial appointments
- Consideration of introduction of quotas and supporting action plans to address significant areas of inequality

Enhancement of Quality, Performance and Productivity

The JRS emphasises the importance of initiatives to enhance the quality, performance and productivity of the courts and lists a number of activities in support of these goals. These include strengthen tools for measuring performance, work on target times to strengthen the processing of cases within a reasonable time, addressing problems concerning notification and improving the quality and efficiency of the system of experts which supports work of the courts. Towards the end of the project a new "Office of Efficiency of the judiciary" was established within the CJP and this has the potential to make a valuable contribution regarding these issues.

The main impact of the project has been made through establish a common set of case and decision codes for use by the first instance courts, RACs and CoS. This work was concluded in the final weeks of the project and the Road Map sets out a number of activities which need to be undertaken to complete full implementation of these revised codes and to ensure sustainability of the work. These unified codes provide essential building blocks for a range of improvements concerning performance monitoring, the quality of statistics and access to relevant case law.

In addition to various detailed recommendations concerning the implementation of the new case code system (contained in the Road Map) it is recommended that:

- The case codes be used to underpin a standard workload measurement methodology (case 'scoring' system) to support fair resource allocation; early identification of extraordinary workload accumulation; and refined case distribution system with the potential to support the establishment of specialised courts.

The quality of judicial decision writing is another aspect of performance that has been explored during the project and since the project started the CoS has introduced a decision writing guide for internal use. The training materials developed by the project has provided some guidance for decision writing in first instance courts and RACs but there are as yet no agreed common standards in the courts.

It is therefore recommended that the Turkish judiciary:

- Consider the introduction of a decision writing guide for RACs and first instance courts (to complement the existing Council of State guide) or the introduction of minimum decision writing standards

Ensuring Access to Justice and Enhancing Satisfaction from Service

The project has conducted a court user survey in pilot regions using a methodology tailored for use in the administrative courts, produced a range of new guidance materials about administrative court procedure and provided advice for the improvement of annual RAC Activity Reports to improve the transparency of the work of the courts for the general public. The Road Map contains a number of activities to ensure the sustainability of this work.

In addition the following recommendations, which arise from issues identified by the court user survey, are made for possible inclusion in a future strategic plans:

- Review administrative courthouse location/ design criteria to improve accessibility for court users
- Review potential impacts on access to justice of the current administrative court costs and fees structure
- Consider mitigating measures where barriers to physical access to the courthouse have been identified by court users e.g. introduction of online court hearings or the use of satellite courtrooms/front offices

ANNEXES

EK A - Administrative Justice System in Türkiye : Historical Overview[1]

1. Absolutist Era

In this period, there was no distinction between private law and public law, and there was no question of supervision of the administration by the judicial authorities.

A. Documents of a Constitutional Character

In the Deed of Agreement (Sened-i İttifak) dated November 1808, in the Imperial Edict of Reorganization (Tanzimat Fermanı) prepared by Mustafa Reşit Pasha in line with the order of Sultan Abdülmecit and declared on 3 November 1839, in the Royal Edict of Reform (Islahat Fermanı) dated 28 February 1856, and in the Royal Edict of Justice (Adalet Fermanı) dated 11 December 1875, which were the first constitutional documents of the Ottoman Empire, there was no innovation regarding the control of the actions and transactions of the administration by the judicial organs. Despite this, the documents in question are important in that they had prepared the opportunity to open up to the legal system of the West, and that they had indirectly influenced the establishment of the first Council of State by including concepts such as human rights and equality.

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1 KARAHANOĞULLARI, Onur: History of Administrative Jurisdiction in Turkey, pp.51-259; ALAN, Nuri: "The Past and Present of Administrative Judiciary, Problems and Solution", Journal of the Union of Turkish Bar Associations, Year:1998, Issue:2, pp.517-560; AKYILMAZ, Bahtiyar-SEZGİNER, Murat-KAYA, Cemil: ibid., pp.79-80; ÇAĞLAYAN, Ramazan: Administrative Jurisdiction, p. 54-75; ÖZDEŞ, Orhan: "History of the Council of State", Council of State for a Century 1868-1968, Ankara, 1968, pp.42-224; EROĞLU, Hamza: ibid.p.364-366; ARAL, Rüştü: "The Council of State as a Judicial Branch", Council of State for a Century 1868-1968, Ankara, 1968, pp.225-300; DERBİL, Süheyl, Administrative Law I (Administrative Jurisdiction-Administrative Organization), 4th Edition, Ankara 1955, pp.182-235; GÖZÜBÜYÜK, A. Şeref: ibid., p. 13-17; GÖZÜBÜYÜK A., Şeref-TAN, Turgut: ibid., pp.31-35; GÜZEL, Oğuzhan: ibid., pp.1490-1492; KALABALIK, Halil: ibid., p. 36-38; KAPLAN, Gürsel: ibid., pp.116-118; KAPLAN, Onur: "Judicial Power in the 1924 Constitution and the Function of the Council of State", Ankara Hacı Bayram Veli University, Faculty of Law Journal, Vol:22, Year:2018, Issue:1, pp.171-198; ODYAKMAZ, Zehra: Remedies Against Decisions in Turkish Administrative Trial Procedure, 1st Edition, Istanbul, May 1993, pp.1-3; ODYAKMAZ, Zehra-KAYMAK, Ümit-ERCAN, İsmail: Administrative Jurisdiction, Extended and Updated 16th Edition, Ankara, March 2021, pp.25-27; ONAR, Sıddık Sami: ibid., pp.83-92, ULUSOY, Ali D.: Administrative Jurisdiction, Revised 2nd Edition, Ankara, 2020, pp.28-35.

B. Establishment of Council of State in 1868

The Council of State was established during the reign of Sultan Abdulaziz, with the Charter of Council of State prepared during the time of Grand Vizier Ali Pasha.

According to the regulation, the primary task of the Council of State was examining laws and regulations and preparing their drafts, resolving the cases between the administration and the citizens, expressing its opinion on all kinds of issues asked by the government and various government departments, and dealing with the prosecution of civil servants. However, in the first years, the trial was carried out according to the "retained justice (tutuk adalet)" procedure.

We see that with the General Administrative Province Regulation (İdare-i Umumiye-i Vilâyat Nizamnamesi) of 1871, the administrative justice was expanded, the provincial administration boards were given the authority of jurisdiction, and their decisions were carried out without the need for any approval. Thus, the "most extreme administrative regime" (en aşırı idare rejimi) was established in Turkey.

2. Constitutional Monarchy Era and the Constitution of 1876 (1293 Kanun-U Esasîsi)

The first Turkish Constitution, dated December 23, 1876, came into force in this period. There was a decrease in the duties of the Council of State regarding administrative justice, and in this period, the Council of State mostly dealt with the "trial of the civil servants". Administrative justice continued in this period, albeit to a lesser extent.

In 1886, the 3rd article of the Internal Regulations of the Council of State was amended, and the authority of the Council of State was narrowed and limited to the trial of civil servants. This situation continued until the Ottoman Empire disappeared in 1922.

3. Republican Era

A. Law on the Procedure for the Performance of the Duties of the Council of State Regarding the Trial of Civil Servants numbered 131, dated July 4, 1337 (1921)

Before the establishment of the Republican period Council of State and during the years of War of Independence, the duty of the Council of State was being carried out by the Civil Servants Trial Council and Committee of the Turkish Grand National Assembly.

B. 1921 Constitution

It does not contain any provisions related to our subject. However, in this period, on 19 August 1923, the Council of Ministers decided to re-establish the Council of State.

C. 1924 Constitution

Article 51 of the Constitution dated April 20, 1924, and numbered 491 was related to the establishment of a Council of State to deal with and settle administrative cases and disputes.

D. Law on the Council of State numbered 669, dated 1925

The Council of State Law No. 669 was adopted on November 23, 1925, and entered into force after it was promulgated in December 1925. In accordance with the law, its members were elected by the Grand National Assembly of Turkey on June 23, 1927, and the Council of State of the Republic took office on July 6, 1927.

According to Article 51 of the 1924 Constitution, the Council of State was established to be a competent court for the resolution of administrative cases and disputes to supervise the legality of administrative acts and actions. According to the provisions of both the Council of State Law No. 669 and the Law No. 3546 of the State Council, which entered into force in 1938, the Council of State had judicial duties such as resolving disputes arising from actions and transactions established by the administration, as well as administrative duties such as expressing opinions on laws and regulations and giving opinions on the issues asked by the government.

E. Law on the Council of State numbered 3546, dated 21 December 1938

- The State Council was subordinate to the prime ministry. However, it was an independent organization outside the central administration, and its members were not hierarchically affiliated with the central administration.
- Judicial chambers and plenary sessions of administrative law divisions were qualified as independent courts, and their members also benefited from the tenure of judges.
- Although there was a different procedure other than the civil procedure, due to the reference made in Article 44 of Law No. 3546, the general provisions of the Code of Civil Procedure dated 18.6.1927 were applied in many procedural proceedings.

In this period, the administrative jurisdiction regarding "personnel matters of military persons", which was given to the Military Court of Cassation with Law No. 3410 dated 30.5.1938, was abolished with Law No. 6142 dated 13.7.1953 and returned to the Council of State.

F. 1961 Constitution

With the 114th article of the 1961 Constitution, some innovations were brought to the administrative law. In line with this provision, the category of "acts of government" which was excluded from the judicial review had been abolished, the actions for annulment of the by-laws had entered the jurisdiction of the Council of State, the prescriptions in

administrative lawsuits has been stipulated to start from the date of written notification, and the principle that the administration is liable to pay the damages arising from its actions and transactions adopted, and thus a constitutional basis was established for pecuniary damages cases.

G. Law on the Council of State numbered 521, dated December 31, 1964

In accordance with the 140th article of the 1961 Constitution, the Law on the Council of State numbered 521 was prepared. The Council of State was a supreme administrative court, advisory and review body, and was independent. The Council of State is the court of first instance and generally the highest instance in matters that are not left to other administrative jurisdictions by law.

H. 1971 Amendment to the 1961 Constitution

With the paragraph added to the end of Article 140 of the Constitution, the Supreme Military Administrative Court was established to conduct judicial review of administrative actions and transactions related to military personnel.

I. Law on the Supreme Military Administrative Court, numbered 1602, dated 4 July 1972

Article 140 of the 1961 Constitution did not contain clear statements and it was amended in Law No.1602, which came into force right after the amendment, so that the Supreme Military Administrative Court was organized as a single degree court, and that no appeal could be made to other places or the Council of State against its decisions.

J. Period of September 12, 1980: Laws Numbered 2575, 2576, 2577, dated January 6, 1982

With the Law on the Council of State dated 6.1.1982 and numbered 2575, the establishment and structure of the Council of State were reconsidered. In addition, administrative courts, tax courts, and regional administrative courts were established with the Law numbered 2576 and dated 6.1.1982. Thus, the authorities and duties of the Council of State were rearranged.

Provisions regarding the administrative trial procedure, which were included in the laws regulating the Council of State until this date, were also regulated by a separate procedural law, so the Law on Administrative Jurisdiction Procedures numbered 2577 and dated 6.1.1982 entered into the Turkish administrative justice.

K. 1982 Constitution

The provisions in the Law on Council of State numbered 2575 and the Law on Administrative Jurisdiction Procedures numbered 2577, both of which are dated 6.1.1982, formed the basis of the 1982 Constitution dated 7.11.1982 and numbered 2709, which entered into force after these laws.

L. Amendments Made or Affecting the Administrative Jurisdiction Legislation during the Period of 1982 Constitution

a. Constitutional Changes

The reform efforts carried out in Turkey during this period were guided by the relations between Turkey, the Council of Europe and the European Union. Considered among the founding members of the Council of Europe, Turkey became a party to the European Convention on Human Rights (ECHR) in 1954.[2] The European Court of Human Rights (ECHR) was established in 1959 to oversee the compliance of the parties to the ECHR. Turkey accepted the individual application to the ECtHR in 1987 and the mandatory jurisdiction of the ECtHR in 1990.[3]

With a provision added to the Constitution in 2001, the state was obliged to specify in its proceedings the legal remedies and authorities which would apply to the relevant persons and their duration. With this change, the aim was ensuring transparent administration. Thanks to this provision, aggrievements that might have arisen due to not knowing the legal remedies, authorities and application deadlines were to be eliminated in advance.[4] After this change, the precedent of the Council of State that "the time to file a lawsuit will not start unless the authority to apply and the time to file a lawsuit in the administrative action are specified" was created. [5] However, there is no consensus on this issue between the Board of Administrative Litigation Chambers[6] and the Board of Tax Litigation Chambers.[7]

2 ODYAKMAZ, Zehra- KESKİN, Bayram- GÜZEL, Oğuzhan: "The European Union's Human Rights Policy and Its Reflection on the Decisions of the Constitutional Court", Mevlana University Journal of the Faculty of Law, Vol:3, Issue:1, June 2015, p.16.

3 ALADAĞ GÖRENTAŞ, Itır: "Human Rights in Turkey: The European Court of Human Rights and the Half-Century Test", Kocaeli University Journal of Social Sciences, June 2015, Issue: 29, p.58.

4 AKYILMAZ, Bahtiyar, "Good Administrative and The European Code of Good Administrative Behaviour", Journal of Gazi University Faculty of Law, Vol:7, No:1-2, June-December 2003, p.146.

5 ODYAKMAZ, Zehra- GÜZEL, Oğuzhan: "The Right to Good Administration", Akdeniz University Faculty of Law Journal, Vol:VII, Issue:II, Year:December 2017, Ankara, January 2018, pp.27-28.

6 Contrary to the provision of the second paragraph of Article 40 of the Constitution, the fact that the legal remedy, the authority of application and its duration are not specified in the transaction does not give the right to commence an action for an indefinite period. For the decision of the Plenary Session of Administrative Law Chambers dated 26.02.2020 and numbered E. 2019/1839, K. 2020/513, see ÇINARLI, Serkan- DEMİRKOL, Selami- GÜZEL, Oğuzhan- AĞAR, Serkan- AZAK, Kerim: Precedent Decisions of the Council of State Administrative Case Divisions 2020, Ankara, 2021, p. 705-709.

7 "… in the proceedings established by the administrative authorities, in which legal remedies, authorities to apply and the application periods are not specified, term of litigation will not start with the notification, and it cannot be claimed that the lawsuit was not filed within the time limit." For the decision of the Board of Tax Litigation Chambers dated 27.01.2021 and numbered E.2020/11, K.2021/11, see BALCI, Mustafa: "The Implementation of Article 40 of the Constitution in Payment Orders and the Need for a Decision to Unify Jurisprudence", https://vergialgi.net/odeme-emirlerinde-anayasanin-40-maddesi-uygulamasi-ve-ictihadin-birlestirilmesi-karari-ihtiyaci (Access Date: 21.09.2021).

In 2004, it was accepted that the provisions of international conventions would be valid in case of conflicts that may arise due to the fact that international conventions on fundamental rights and freedoms such as the ECHR and domestic laws contain different provisions on the same subject.[8] After this process, for the Turkish judicial authorities, the decisions of the ECHR are to be predicated on. In 2010, "right to information"[9], " , "right to apply to ombudsman", "right to request protection of personal data", and "right to individual application to the Constitutional Court" were added to the Constitution.[10] With the right of individual application to the Constitutional Court, it can be audited by the Constitutional Court whether administrative judicial decisions violate fundamental rights and freedoms.

Establishment of the Ombudsman Institution (Ombudsman) affiliated to the Presidency of the Turkish Grand National Assembly and the election procedure of the Chief Ombudsman were also included in the constitutional amendment made in 2010, . In line with this constitutional amendment, a Law which was adopted in 2012 regulates the details of the Ombudsman Institution and the right to apply to the ombudsman.[11] The Ombudsman Institution examines all kinds of actions, transactions, attitudes and behaviours of the administrations upon application: if it finds the applicant to be right, it makes recommendations to the administration but cannot take a binding decision. Application to the institution suspends the period of commencing an action.[12] The details of the right to request the protection of personal data are regulated by the Law enacted in 2016.[13] This Law provides the establishment of the Personal Data Protection Authority, which is a public legal entity with administrative and financial autonomy, in order to fulfil the rules regarding the protection of personal data.

Following the constitutional amendments made in 2017 and adopted by referendum in 2018, the presidential government system was adopted.[14] With this amendment, the

8 For the Law on Amending Some Articles of the Constitution of the Republic of Turkey, dated 7/5/2004 and numbered 5170, see Official Gazette dated May 22, 2004 and numbered 25469.

9 The "right to information" was taking place in the Law on the Right to Information, dated 09/10/2003 and numbered 4982. ÖZKAN, Gürsel: Right to Information; the First Step of Democratic Administration, Ankara August 2004, p. V.

10 For the Law on Amending Some Articles of the Constitution of the Republic of Turkey, dated 7/5/2010 and numbered 5982, see Official Gazette dated 13 May 2010 and numbered 27580. KARAMAN, Ebru: Individual Application in Comparative Constitutional Jurisdiction, 1st Edition, Istanbul, April 2013, p.111.

11 For the Law on Ombudsman Institution dated 14/06/2012 and numbered 6328, see Official Gazette dated 29 June 2012 and numbered 28338.

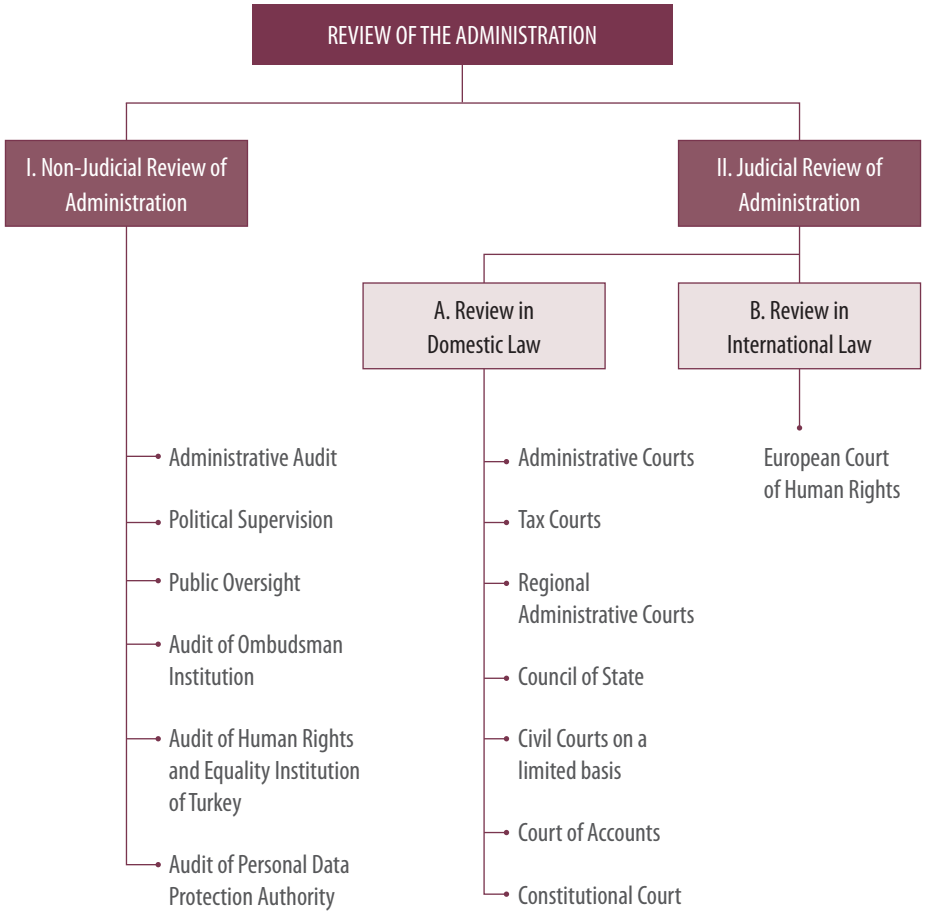
12 ODYAKMAZ, Zehra- ÇINARLI, Serkan-AVCIOĞLU AKSOY, Ezgi: Pre-judicial Dispute Resolution Procedures in Administrative Law, Updated and Revised 2nd Edition, Ankara February 2018, pp.53,54,56-57; ODYAKMAZ, Zehra-DENİZ, Yusuf-KESKİN, Bayram: "The Interpretation of the Concept of 'Decisions on the Use of Judicial Power' in terms of Determining the Limits of the Powers of the Republic of Turkey Ombudsman Institution (Ombudsman)", Ombudsman Academic Journal, Year:2, Issue:4, December July 2016, p.86.

13 For the Law on the Protection of Personal Data dated 24/03/2016 and numbered 6698, see Official Gazette dated April 7, 2016 and numbered 29677.

14 For the Law on Amending the Constitution of the Republic of Turkey, dated 27/01/2017 and numbered 6771, see Official Gazette dated 11 February 2017 and numbered 29976.

Military High Administrative Court, which became operational in 1972, was abolished. In the new governmental system, the Constitutional Court carries out the judicial review of the Presidential Decrees. In cases to be filed against the President's decisions and other regulatory actions taken by the President, the Council of State is in charge as the court of first instance.[15] In the light of all these explanations, the reviewing of the administration in the Turkish legal system is possible in two ways: non-judicial (pre-judicial) and judicial way.[16] Details are given in the graph below.

Graph 1.1. Review of the Administration in the Turkish Legal System



15 For the Decree-Law on Making Amendments to Certain Laws and Decrees in order to Adapt to the Amendments Made in the Constitution dated 2/7/2018 and numbered 703, see 3rd reiterated Official Gazette dated 9 July 2018 and numbered 30473.

16 ODYAKMAZ, Zehra-KAYMAK, Ümit-ERCAN, İsmail: ibid., pp.309-321.

b. Recent Reforms in Administrative Justice Codes

Amendments were made in the Laws numbered 2575, 2576 and 2577 on various dates. In this section, we will briefly explain not all of these amendments, but especially the recent ones that are important in terms of Turkish administrative law.

aa. Changes made on the capacity to sue in an annulment action

In the first version of the Law No. 2577, it was regulated that the action for annulment could be filed by those whose interests were violated. With an amendment made in 1994[17] , it was foreseen that the action for annulment would be filed by those whose personal rights were violated, except for matters closely related to the public interest, such as the protection of the environment, historical and cultural values, and zoning practices. The Constitutional Court decided to annul the said regulation, stating that it was incompatible with the principle of the rule of law, as it limited the administrative judicial review[18] Following this decision, an amendment was made in 2000[19], which deemed the violation of personal interest sufficient for the action for annulment to be filed, and the law was returned to its original state. [20]

bb. Increasing the amount in dispute in full remedy actions

Pursuant to the Law No. 2577, it is obligatory to specify the amount in dispute in the lawsuit petitions in full remedy actions. This amount is important in terms of determining the litigation expenses (duties and attorney fees for the other party). However, in some disputes, it is not possible to know the amount in advance. For this reason, those who want to commence an action have lost their rights by commencing an action over a lower or higher amount according to the dispute. Thereupon, in accordance with the amendment made in the Law in 2013[21], the amount specified in the petition in full remedy actions would be increased for once by paying the fee.[22]

17 For the Law on Amending Some Articles of the Administrative Procedure Law dated 10/6/1994 and numbered 4001, see the Official Gazette dated 18 June 1994 and numbered 21964.

18 For the decision of the Constitutional Court dated 21/9/1995 and numbered E.1995/27, K.1995/47, see the Official Gazette dated 10 April 1996 and numbered 22607.

19 For the Law on the Establishment and Duties of Regional Administrative Courts, Administrative Courts and Tax Courts dated 8/6/2000 and numbered 4577, and the Law on Amending the Administrative Procedure Law, see the Official Gazette dated 15 June 2000 and numbered 24080.

20 YOLAL, Halil: Capacity to Sue in Action for Annulment in the Light of the Council of State Decisions, 1st Edition, Istanbul, September 2019, pp.71-72.

21 For the Law on the Amendment of Certain Laws in the Context of Human Rights and Freedom of Expression, dated 11/4/2013 and numbered 6459, see Official Gazette dated April 30, 2013 and numbered 28633.

22 ŞEN, Ömer: The Concept of Damage and Compensation Calculation in Full Remedy Action, Ankara, June 2021, p.135

cc. Changes made regarding stay of execution

Article 27 of the Law No. 2577, which regulates the issue of "stay of execution", is a provision on which many changes have been made. With the amendment made in 2012[23] it was obligatory to take the defence of the administration or to pass the defence period in order to make a stay of execution decision. Again, with this regulation, the term "administrative action whose effect will be exhausted by being implemented" has entered the Turkish administrative justice. Pursuant to the said regulation, the execution of administrative acts of this nature may be stayed without the administration's defence, in order to be re-decided after the defence is received. With an amendment made in 2014[24], it has been accepted that the procedures regarding the appointment and assignment of public officials cannot be considered as "administrative actions whose effect will be exhausted by being implemented". With this amendment, it became obligatory to specify the reasons for the stay of execution decisions. In addition, it has been added to the relevant article that a stay of execution decision cannot be given on the grounds that an application has been made to the Constitutional Court for the annulment of the provision of the law or the Presidential Decree regarding the dispute. It is stated that all these amendments made on the subject of "stay of execution" limit the administrative judicial authorities to issue a stay of execution decision.[25]

23 For the "Law on the Amendment of Certain Laws for the Efficiency of Judicial Services and the Postponement of Actions and Penalties for Crimes Committed through Media" dated 2/7/2012 and numbered 6352, see the Official Gazette dated 5 July 2012 and numbered 28344.

24 For the "Law on the Amendment of the Anti-Terror Law, Criminal Procedure Law and Certain Laws" dated 21/02/2014 and numbered 6526, see the reiterated Official Gazette dated 6 March 2014 and numbered 6526.

25 TEKİNSOY, Ayhan: Suspension of Execution in the Administrative Jurisdiction, 1st Edition, Ankara, 2013, p. 95; CANDAN, Turgut: the Annotated Administrative Jurisdiction Procedures Law, 8th Edition Updated According to Recent Amendments and Judicial Decisions, Ankara, 2020, pp.782-783.

dd. Changes regarding legal remedies

Other changes were made in 2014[26] in order to reduce the workload of the Council of State, to make it a court of precedent and to resolve certain disputes quickly due to their nature. With these amendments, the legal remedy for objection and decision correction was abolished in the Turkish administrative law, the remedy of appeal, the procedure for urgent proceedings and the procedure for central and joint examinations were introduced, and the Regional Administrative Courts were transformed into courts of appeal.[27] Accordingly, as a rule, an appeal can be made against the decisions of the administrative and tax courts. However, the decisions of the administrative and tax courts on tax cases the subject of which does not exceed a certain amount[28] , full remedy actions and actions for annulment are final. There will be no remedy of appealing against these decisions.[29] In addition, the remedy for appeal was reorganised. It is possible to request for appeal for disputes specified in Article 46 of the Law No. 2577, disputes subject to urgent proceedings, and disputes subject to judgment procedure regarding central and joint examinations.[30] The limited number of disputes specified in Article 46 of the Law No. 2577 are subject to three-stage proceedings. Disputes other than these are subject to two-stage proceedings, except for those that are definitive due to the amount of action. The amendments regarding the legal remedy entered into force on 20 July 2016, when the regional administrative courts became operational throughout the country.[31] Later, since many cases would be finalized in the appeal examinatione[32], an arrangement has been made in the Council of State that the number of chambers will be reduced to ten within six years at the latest[33] Following these changes, the legal remedies in Turkish administrative jurisdiction are as follows.

26 For the Law on the Amendment of the Turkish Penal Code and Certain Laws, dated 18/6/2014 and numbered 6545, see Official Gazette dated 28 June 2014 and numbered 29044; For the "Law on the Amendment of the Labor Law and Certain Laws and Decree Laws and the Restructuring of Certain Receivables" dated 10/9/2014 and numbered 6552, see the Official Gazette dated 11 September 2014 and numbered 29116.

27 ÇAĞLAYAN, Ramazan: Application Procedures Against Administrative Judgments (A Comparative Trial between France and Turkey), Ankara, December 2017, p. 238; AVCI, Mustafa: Recent Innovations in Administrative Trial Procedure and the Law of Appeal in Administrative Jurisdiction, Ankara, 2017, p.92; HASBUTCU, Sebahattin Taha: Law of Appeal in Administrative Jurisdiction, Ankara, June 2016, p. 27.

28 As of 2021, this amount is 7630 TL.

29 CINARLI; Serkan: Appeal and Regional Administrative Courts in Administrative Trial, Third Edition, Ankara, February 2020, p.71.

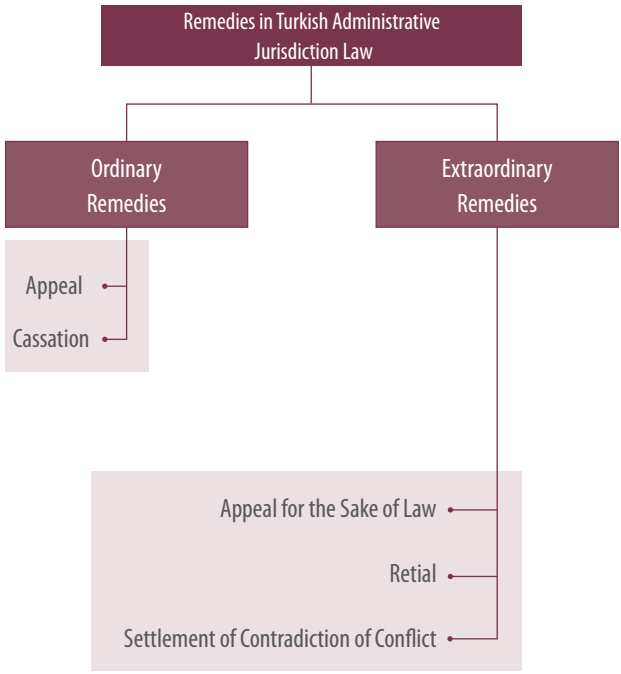
30 BOZ, Selman Sacit-TETİK, Ahmet Talha-BOLUKBAŞI, Mustafa Oğuzhan- Nacak, Mehmet: Appeal in Turkish Administrative Law, Ankara, March 2021, p.73.

31 ÇAĞLAYAN, Ramazan: Application Procedures Against Administrative Judgments (A Comparative Trial between France and Turkey), ibid., p.238.

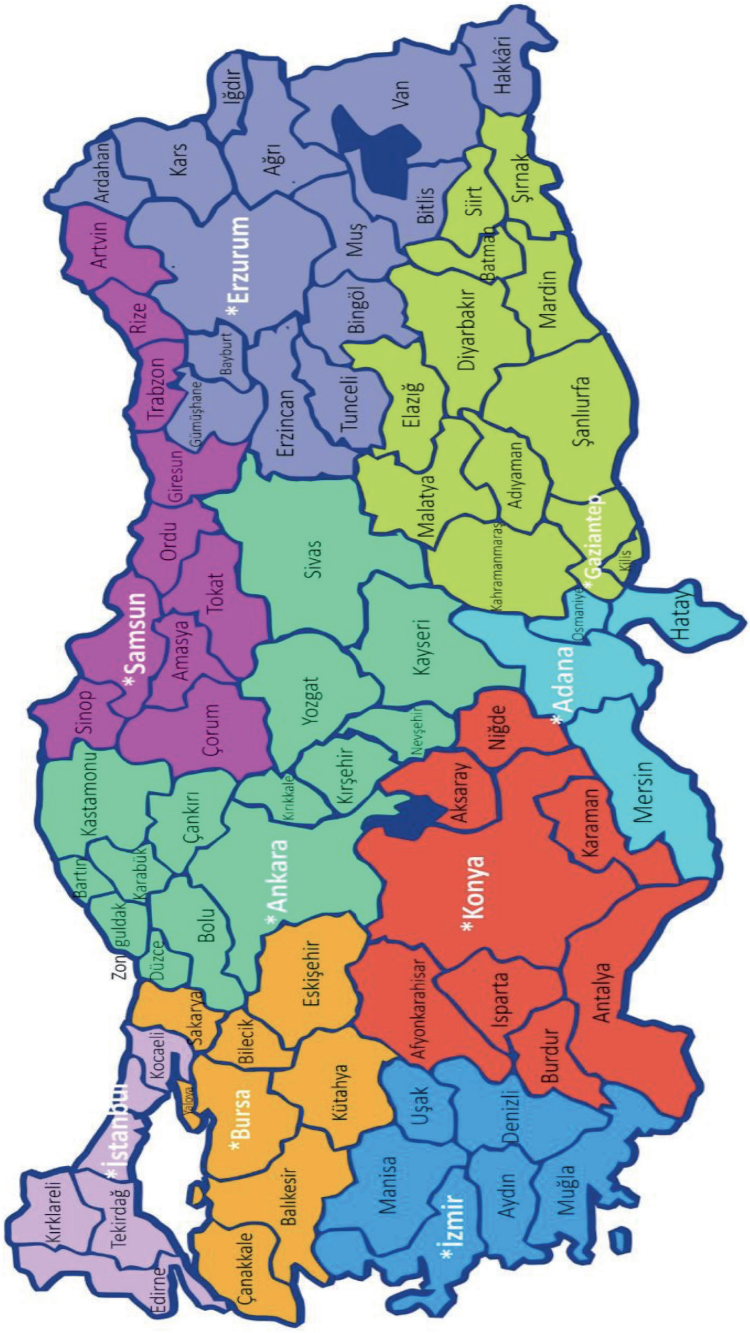
32 BİLGİN, Hüseyin: Administrative Actions and Solutions, Updated 2nd Edition, Ankara July 2020, p. 61-62.

33 For the "Law on the Amendment of the Law on the Council of State and Some Laws" dated 1/7/2016 and numbered 6723, see the Official Gazette dated 23 July 2016 and numbered 29779.

Graph 1.2. Remedies in Turkish Administrative Jurisdiction Law



ANNEX B - Administrative Courts Map



ANNEX C - "Solution Proposals for the Turkish Administrative Justice System and International Practices" (*In Workshop, December 2022)*

Recommendations made by the Council of State and Ministry of Justice

RECOMMENDATIONS MADE BY THE COUNCIL OF STATE

The reform recommendations made by the **Council of State** at the meeting were:

1. *Revision of the Administrative Procedure Law No. 2577*. It was emphasized that the Law, which was amended twenty-six times and grew difficult to meet the needs of the day, should be reconsidered in a holistic way. In this context, the points brought to the attention of the participants are as follows:

   - Separately arrange the matters in Article 31 of the Administrative Procedure Law No. 2577 (APL), which refer to the Civil Procedure Code (CPC), considering the characteristics of administrative procedure law.
   - Expand the existing summary procedure to provide adequate judicial protection in matters related to fundamental rights (such as deportation, demolition order).
   - Render the hearings more effective by means of keeping minutes and video/ audio recording.
   - Provide the judge with the opportunity to refer to witness evidence ex officio, especially in cases where the determination of the material fact is important.
   - Foresee that the first examination will be completed with a decision by turning it into a judicial stage and proceed with the maturation phase after this decision to be granted.

2. P*repare the Administrative Procedure Law* In this context, the need to introduce a reasoning requirement, especially in administrative proceedings, was emphasized, with reference to the benefits of a law that would implement the principles of administrative procedure in the "Resolution on the Protection of the Individual in Relation to the Acts of Administrative Authorities" No. 77-31 dated 28 September 1977 of the Committee of Ministers of the Council of Europe. It was also noted that the principle of tacit acceptance rather than tacit rejection was adopted in France.

3. *Develop alternative dispute resolution methods*. Provided that specific structure of public law relations and the function of the administrative judiciary, which audits compliance with the law, to achieve public interest were taken into account, the following recommendations were made by drawing attention to the need to

develop alternative dispute resolution methods:

- Make existing administrative remedies (APL articles 10, 11 and 13) operational.
- Amend the Decree-Law No. 659, which regulates the issue of peace in full remedy actions, to ensure that the commissions adopt decisions more comfortably and in line with judicial case law.
- Adopt mediation implementation taking the mediation judge practice in Germany as a model in terms of administrative disputes.

4. *Introduce group case implementation*. It was stated that the implementation of group case should be established as a method that reduced the workload, contributed to the procedural economy and ensured the unity of case law. In this respect, it was stated that the example of Germany, which left the implementation of group case to the discretion of the court, and imposed the requirement that there must be at least twenty-one lawsuits filed with the claim of unlawfulness of the same administrative act, demanding the same legal protection, falling under the jurisdiction/authority of the same court and subject to the same trial procedure, would be more appropriate.

5. *Prevent case law violations*. In terms of the realization of the principle of legal security, it was emphasized that it was necessary to prevent, as much as possible, granting contradictory decisions in cases arising from similar material incidents and legal situations. For this purpose, examples from case law sharing meetings initiated within the administrative judiciary were given.

6. *Other matters*. The Council of State also drew attention to the importance of specialization in administrative judiciary, the necessity of encouraging judges to participate in in-service trainings, and the need to re-extend the provision of the Law on the Council of State (Provisional Article 21), which stated that the term of service would not be sought for appointments to be made as rapporteur judges.

RECOMMENDATIONS MADE BY THE MINISTRY OF JUSTICE

The reform recommendations made by the **Ministry of Justice** at the meeting were:

1. Reduce the response times of second response petition of the defendant in administrative cases from thirty days to fifteen days, amending the provision 16 of the APL.

2. Reduce this period to fifteen days, amending the provision of Article 17/5 of the APL, which stipulates that the summons to the hearing be sent to the parties at least thirty days before the hearing date.

3. *Recommendations on the role of the Forensic Medicine Institution in full remedy actionsr.* In this context, it was suggested to increase the number of forensic medicine specialists in the Forensic Medicine Institution, to open the registered information or databases of the hospitals to the Forensic Medicine Institution, and to grant the official expert status to the medical faculty hospitals of the universities.

4. Perform the court internships of the administrative judiciary judge candidates by distinguishing between "administrative court judge candidate" and "tax court judge candidate".

5. *Make legal regulations to qualify the hearings in the administrative judiciary by means of keeping records and recording.*

6. *Regarding the hearings held in a non-jurisdiction or unauthorized court, eliminate differences in practice by writing in the legislation whether a hearing will be held again after the case file is brought to the authorized and competent court.*

7. In the provision of Article 26/3 of the APL, reduce the one-year waiting period to six months to decide to assume that the case was not filed.

8. In the provision of Article 45/5 of the APL, clarify the issue in which cases the Regional Administrative Courts may grant a decision of referral / remission to the court of first instance.

9. Provide a legal basis for the first examination of the case files submitted to the Chamber of Appeals.

10. *Provide a legal basis for the priority examination of the court's procedural decisions by the Chamber of Appeals.*

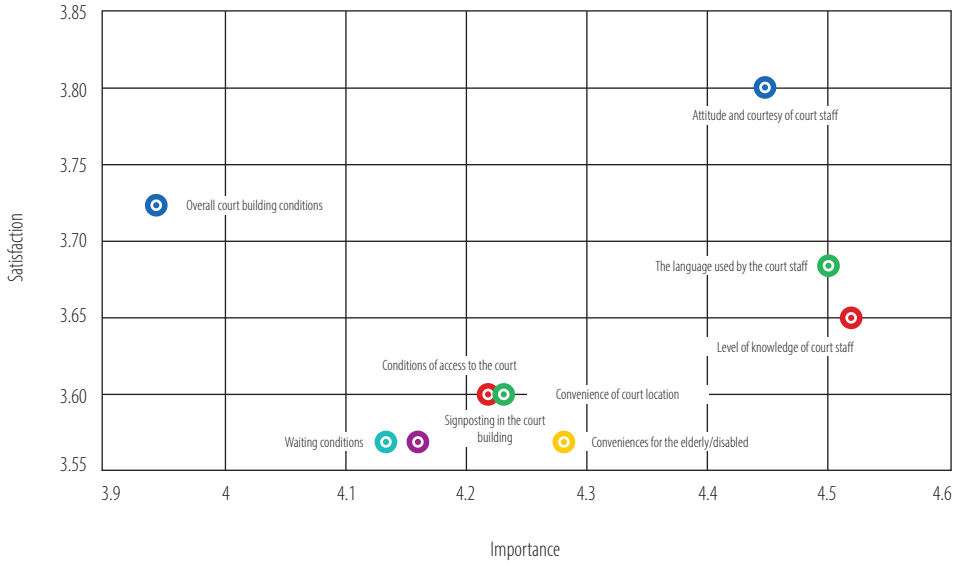
11. *Make legal regulations to eliminate the problems caused by different legal remedies and certainty limits applied to linked files.*

12. *Make legal regulations as to whether the objection to the decisions regarding the stay of execution ruled by the judge is obligatory to be examined by the regional administrative courts in the cases that are heard by a single judge and are within the limit of the final verdict.*

13. Resolve the issue of whether the regional administrative courts may return the file due to incomplete examination of the objection files against the decisions regarding the request for stay of execution through legal regulation.

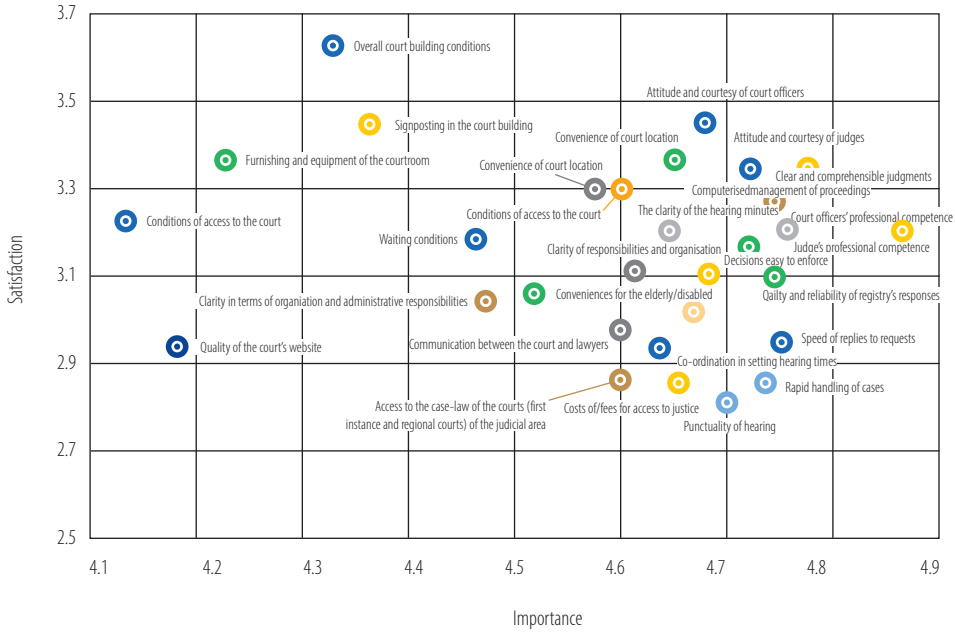
ANNEX D - Court User Survey: *Expectation and Satisfaction Levels of Court Users*

Court User Survey:
The Expection and Satisfaction Levels of Administrative Court Users- Citizens



Court User Survey:

The Expection and Satisfaction Levels of Administrative Court Users-Lawyers



Translated Materials/ Books (to English)

Title	Status
Law No. 2575 on the Council of State	Completed: 17 June 2019
Law No. 2576 on the Establishment and Duties of Regional Administrative Courts, Administrative Courts and Tax Courts	Completed: 17 June 2019
Law No. 2577 on Administrative Justice Trial Procedure	Completed: 17 June 2019
Strategic Plan of the Council of State 2019-2023	Completed: 01 August 2019
Council of State Annual Performance Report (2019)	Completed: 01 August 2019
Distribution of work of RACs	Completed: 17 June 2019
Case Categories & Specialisation in the Council of State Chambers	Completed: 17 June 2019
Report on UYAP Changes in the IT System of Administrative Judiciary	Completed: 17 July 2020
Specialisation in Administrative Judiciary	Completed: 17 July 2020
Gaziantep Audit Report	Completed: 14 August 2020
Baseline Data from the Pilot Courts	Completed: 25 August 2020
Article on "Permission to Appeal"	Completed: 22 September 2020
Article of Administrative Justice Commission on Non-Legal Resolution Methods	Completed: 10 November 2020
Guidance Materials from Gaziantep	Completed: 28 October 2020
Izmir Job Cards and Workflow Charts	Completed: December 2020
Training Module Templates 1 to 4	Tamamlandı: 02 Şubat 2021
Ombudsman in 40 Questions	Completed: January 2021
Report on the Council of State Case Law and Statistics Unit	Completed: 04 January 2021
Amendment Proposals in Decree Law No. 659	Completed: 16 February 2021
CJP Comments on Pilot Materials	Completed: 26 February 2021
CJP Comments on the Road Map	Completed: 01 March 2021

Title	Status
Legal amendment proposals submitted to the Minister	Completed: 02 March 2021
Articles on CoS Administrative Justice Commission	Completed: 09 April 2021
Legal Amendment Proposals of Local Consultants	Completed: 02 February 2021
2021 Baseline Data from the Pilot Courts	Completed: 17 February 2021
Questions to the French Council of State	Completed: 26 April 2021
Training modules and relevant materials	Completed: 25 May 2021
Law provisions and legal assessments for ADR	Completed: 15 June 2021
Pilot Practice Assessment Form	Completed: 15 June 2021
Council of State statistics	Completed: 15 June 2021
Procedure of elimination and removal of case law discrepancies	Completed: 17 July 2020
Training module sessions	Completed: 26 July 2021
2021 Annual Report of the Council of State	Completed: September 2021
Report on Turkish Social Security Institution	Completed: 22 April 2022
Workshop Report on Unification of the Case Codes of the Council of State	Completed: June 2022
Activity Reports of A.3.1 and A.3.5	Completed: 10 August 2022
5th Chapter of France Study Visit	Completed: 26 August 2022
Modules 1-2-3-4 Pre-tests	Completed: 25 October 2022
Questions and Answers in the Consultation Meeting with the Court of Accounts	Completed: 01 September 2022
Presentation of Case Law Reporting and Statistics Unit	Completed: 09 November 2022
Administrative Law Experts - Consultants Group Information Note	Completed: 24 November 2022
Comment of the UTBA on the Road Map for an Improved Administrative Judiciary	Completed: 24 November 2022
Comment of the UTBA on the Interim Progress and Assessment Report	Completed: 24 November 2022

Translated Materials/Books (to Turkish)

Title	Status
Administration and You	Completed: 9 April 2020
CCJE Opinion No.15 on Specialisation of Judges (2012)	Completed: 15 April 2020
France Study Visit Report	Completed: 14 August 2020
Training Needs Analysis Report	Completed: 31 May 2020
Report on Gender Equality	Completed: 31 May 2020
Casebook on European Fair Trial Standards in Administrative Judiciary	Completed: 1 June 2020
ADR Report prepared by the local consultant	Completed: 27 July 2020
French Administrative Judiciary and ADR Reports	Completed: 22 September 2020
French ADR Articles	Completed: 23 September 2020
CEPEJ Court User Satisfaction Surveys	Completed: 28 September 2020
CoE Publication on Ombudsman Institutions	Completed: 07 October 2020
Comparative Study on Ombudsman Institutions	Completed: 15 October 2020
French Administrative Judiciary Statistics	Completed: 26 October 2020
Mediation in Urbanisation in France	Completed: 18 January 2021
Administrative Judiciary of Tomorrow	Completed: 25 January 2021
Draft Comparative Report on Ombudsman Institutions	Completed: 25 January 2021
Draft Recommendation Report on Enhancing the Role of Turkish Ombudsman Institution	Completed: 25 February 2021
ADR Webinar Report	Completed: 06 March 2021
CEPEJ - Saturn Guidelines	Completed: 12 March 2021
CEPEJ Guide on Communication with the Media and the Public for courts and Prosecution Authorities	Completed: 14 June 2021
CEPEJ Guidelines on Judicial Statistics (GOJUST)	Completed: 14 June 2021
Training Methodology Handbook	Completed: 14 June 2021
Pilot cases in French Administrative Judiciary	Completed: 14 June 2021

Title	Status
Conseil d'Etat decisions	Completed: 26 May 2021
Relevant judgments and materials in French administrative judiciary	Completed: 15 June 2021
ADR in Bavaria	Completed: 01 September 2022
CEPEJ - Saturn Guidelines	Completed: 15 September 2021
Environment Guide	Completed: 15 September 2021
France Study Visit Completion Materials	Completed: 14 January 2022
Needs Analysis Report for the Council of State	Completed: 21 February 2022
Presentations for the Study Visit to Germany	Completed: 10 March 2022
Documents for the Study Visit to Germany	Completed: 30 May 2022
Conciliation Procedures in Germany	Completed: 26 May 2022
Internal Review Info Note	Completed: 27 May 2022
Court Fees in Germany	Completed: 12 June 2022
Administrative Affairs Department of the Presidency - Time limits for filing cases	Completed: 02 September 2022
Training of Trainers Assessment Report	Completed: 02 September 2022
Cascade Training Evaluation Report	Completed: 02 September 2022
Questions to the Court of Accounts - A.3.1	Completed: 04 October 2022
Trainer's Report	Completed: 07 October 2022
Istanbul RAC activity reports and requirements for websites	Completed: 07 October 2022
HREI - Human Rights Guide for administrators – Content only	Completed: 08 November 2022

List of Outputs

No	Description	Drafted by	Type/format	Completion Date
I	Administrative Courts Guides (Turkish only) (A.4.2)			
1	Administrative Courts Petition Samples	Ankara Regional Administrative Court- First Administrative Litigation Chamber, Judge Bülent KÜFÜDÜR	E-publishing-court web sites	June 2022
2	Handbook No.1: Jurisdiction (El Kitabı No.1: Görev	Ankara Second Administrative Court, Judge Harun ÇEVİK and members of the Court	Printing -handbook	June 2022
3	Handbook No.2: Territorial Jurisdiction (El Kitabı No.2: Yetki)	Ankara Second Administrative Court, Judge Harun ÇEVİK and members of the Court	Printing -handbook	June 2022
4	Handbook No.3: Capacity (El Kitabı No.3: Ehliyet)	Ankara Second Administrative Court, Judge Harun ÇEVİK and members of the Court	Printing -handbook	June 2022
5	Handbook No.4: Duration (El Kitabı No.4: Süre)	Ankara Second Administrative Court, Judge Harun ÇEVİK and members of the Court	Printing -handbook	June 2022
6	Handbook No.5: Final and Mandatory Procedures in the administrative courts (El Kitabı No.5: İdare Mahkemelerinde Kesin ve Yürütülmesi Zorunlu İşlemler)	Ankara Second Administrative Court, Judge Harun ÇEVİK and members of the Court	Printing -handbook	June 2022
7	Handbook No.6: Other Party (El Kitabı No.6: Husumet)	Ankara Second Administrative Court, Judge Harun ÇEVİK and members of the Court	Printing -handbook	June 2022
8	Frequently Asked Questions (FAQs) Handbook	Ankara Regional Administrative Court - First Administrative Litigation Chamber, Judge Bülent KÜFÜDÜR	Printing -handbook	June 2022

No	Description	Drafted by	Type/format	Completion Date
II	Tax Court Guides (Turkish only) (A.4.2)			
9	Tax Court Petition Samples	İstanbul Regional Administrative Court Second Tax Litigation Chamber, Judge Abidin ŞAHİN	E-publishing- court web sites	June 2022
10	Tax Court Guide (Vergi Mahkemeleri Rehberi)	İstanbul Fifth Tax Court, Judge Yasin ÇETİN	Printing handbook	June 2022
11	Frequently Asked Questions (FAQs) Handbook	İstanbul Fifth Tax Court, Judge Yasin ÇETİN	Printing handbook	June 2022
III	Court Staff Guides (Turkish only) (A.4.2)			
12	Job Description and Workflow of the Administrative Court Staff (İlk Derece İdari Yargı Kalem Personelinin Görev Tanımı ve İş Akışı)	Gaziantep, First Administrative Court, Judge Davut TAŞGIT	Printing handbook	June 2022
13	Job Description and Workflow of the Administrative Court Staff (İstinaf -İdari Yargı Kalem Personelinin Görev Tanımı ve İş Akışı)	İzmir Regional Administrative Court Third Administrative Litigation Chamber, Judge Leyla KODAKOĞLU	Printing handbook	June 2022
14	Court Staff Job Cards /The First and Second Instance Courts (Kalem Personeli İş Kartları Şeması)	Ankara Regional Administrative Court Nineth Administrative Litigation Chamber, Judge Ayşe BAYRAK	Printing handbook	June 2022

No	Description	Drafted by		Type/format	Completion Date
IV	Training Materials (Turkish only) (A.4.2)				
15 16	**Module 1** Legal Reasoning and Judgement Drafting (for judges) - Trainer's Guidebook - Trainee's Book (participant book)	**Content** Prof Dr Bahtiyar AKYILMAZ Assoc. Prof Dr Tolga ŞİRİN Dr Erkan DUYMAZ	**Educational /Legal Teaching Methodology** Prof Dr Cennet ENGİN DEMİR Marina NAUMOVSKA **Testing and Evaluation** Prof Dr Hasan ATAK **Gender Aspect** Assoc. Prof Burcu HATIBOĞLU KISAT	Printing E-publishing	January-June 2022
17 18	**Module 2:** European Court of Human Rights and Turkish Constitutional Court Rulings in the Case-Law of Administrative Justice (for judges) - Trainer's Guidebook - Trainee's Book (participant book)	Prof Dr Burak GEMALMAZ Dr Serkan YOLCU Dr Erkan DUYMAZ	**Educational /Legal Teaching Methodology** Prof Dr Cennet ENGİN DEMİR Marina NAUMOVSKA **Testing and Evaluation** Prof Dr Hasan ATAK **Gender Aspect** Assoc. Prof Burcu HATIBOĞLU KISAT	Printing E-publishing	January-June 2022

No	Description	Drafted by		Type/format	Completion Date
19 20	**Module 3:** Right to a Fair Trial – Reasonable Time (for judges) - Trainer's Guidebook - Trainee's Book (participant book)	Prf. Dr. Sibel INCEOĞLU Dr Erkan DUYMAZ Dr. Yusuf Sertaç SERTER	**Educational /Legal Teaching Methodology** Prof Dr Cennet ENGİN DEMİR Marina NAUMOVSKA **Testing and Evaluation** Prof Dr Hasan ATAK **Gender Aspect** Assoc. Prof Burcu HATIBOĞLU KISAT	Printing E-publishing	January-June 2022
21 22	**Module 4**: Case and Time Management for Court Staff - Trainer's Guidebook - Trainee's Book (participant book)	Prof Dr Bahtiyar AKYILMAZ Prof Dr Serkan ÇINARLI Uğur Cem TÜRKER F. Betül DAMAR ÇITAK	**Educational /Legal Teaching Methodology** Prof Dr Cennet ENGİN DEMİR Marina NAUMOVSKA **Testing and Evaluation** Prof Dr Hasan ATAK **Gender Aspect** Assoc. Prof Burcu HATIBOĞLU KISAT	Printing E-publishing	January-June 2022
23	Training Methodology Handbook	**Educational /Legal Teaching Methodology** Prof Dr Cennet ENGIN DEMIR Marina Naumovska **Testing and Evaluation** Prof Dr Hasan Atak **Gender Aspect** Assoc. Prof Burcu HATİBOĞLU KISAT		Printing E-publishing	January 2022

No	Description	Drafted by	Type/format	Completion Date
V	**BOOKS-REPORTS**			
24	Report on Legal Amendment Proposals of Local Consultants(A.1.1) for amendments on law no 2577 on administrative adjudication procedure– law no 2576 on establishment and duties of regional administrative courts, administrative courts and tax courts – law no 2575 on the Council of Stat	Prof Dr. Cemil KAYA Assoc. Prof Dr. Dilşat YILMAZ Assoc Prof Dr Fatma Ebru GÜNDÜZ	E-publishing	October 2021
25	Initial Assessment Report (A.1.1) (IAE)	Ray BURNINGHAM	Printing E-publishing	December 2021
26	Training Needs Assessment Report (A.2.1)	Marina NAUMOVSKA	Printing E-publishing	September 2021
27	A Comparative Review on Ombuds: Recommendations of Action for the Turkish Ombudsman and Guidelines for the Ombudsman and Public Authorities (A.3.4)	Dr Nicholas O'BRIEN Marek A. NOWICKI Dr Naomi CREUTZFELDT	Printing E-publishing	November 2021
28	Road Map for an improved Administrative Justice System 2020– 2023 (A.1.2)	Ray BURNINGHAM	Printing E-publishing	April 2022
29	Casebook on the Right to a Fair Trial in Administrative Judiciary (Turkish only) (A.2.6)	Prof. Sibel İNCEOĞU Assoc. Prof Dr Nilay ARAT Dr. Erkan DUYMAZ	Printing E-publishing	July 2022
30	Report on "Reforms in the French Administrative Justice System and Alternative Dispute Resolution (ADR) Methods" (A.3.2)	Karine GILBERG	E-publishing	March 2021-2022
31	Interim Assessment and Progress Report (A.1.1)	Ray BURNINGHAM	Printing	October 2022

No	Description	Drafted by	Type/format	Completion Date
VI	**TRANSLATED BOOKS (From English/French to Turkish)**	**Author /Institution**		
32	CoE publication: Administration and You (A.3.5)	CoE publication:	Printing E-publishing	2021
33	CoE & FBA Publication : Casebook on European Fair Trial Standards in Administrative Justice (A.2.6)	CoE FBA Joint publication:	Printing E-publishing	2021
34	CoE Publication: The Protection, Promotion and Development of the Ombudsman Institution (A.3.4)	CoE publication:	Printing E-publishing	2021
35	ECtHR Publication: Guide to the case-law of the European Court of Human Rights on Environment (A.2.5)	ECtHR Publication	E-publishing	March 2022

No	Description	Drafted by	Type/format	Completion Date
36	CM Decisions (23 decisions)	1. CM/Rec (2015)5 _ on the processing of personal data in the context of employment 2. CM/Rec(2010)13_ on the protection of individuals with regard to automatic processing of personal data in the context of profiling 3. CM/Rec(2007)4_ on local and regional public services 4. CM/Rec(2004)20_on judicial review of administrative acts 5. CM/Rec(2000)6_on the status of public officials in Europe 6. CM/Rec(97)18_Concerning the protection of personal data collected and processed for statistical purposes 7. CM/Rec(97) 7_On local public services and rights of their users 8. CM/Rec(95) 4_On the protection of personal data in the area of telecommunication services, with particular reference to telephone services 9. CM/Rec(89) 8_ On provisional court protection in administrative matters 10. CM/Rec(87) 16_On administrative procedures affecting a large number of persons 11. CM/Rec(87) 15_Regulating the use of personal data in the police sector 12. CM/Rec(84) 15_Relating to public liability 13- Resolution (77) 31_On the protection of the individual in relation to the acts of the administrative authorities 14. CM/Rec(91)10_On the communication to third parties of personal data held by public bodies 15. CM/Rec(91)1_ On administrative sanctions 16. CM/Rec(86)12_ Concerning measures to prevent and reduce the excessive workload in the courts 17. CM/Rec(86)1_ On the protection of personal data used for social security purposes 18.CM/Rec(85)13_ On the institution of the ombudsman 19. CM/Rec(80)2_ Concerning the exercise of discretionary powers by administrative authorities 20. Resolution(85)5_ In co-operation between the ombudsmen of member states and between them and the Council of Europe 21. Resolution(78)8_On legal aid and advice 22. Resolution(76)5_ On legal aid in civil, commercial and administrative matters 23. CM/Rec(97) 5_On the protection of medical data	E-publishing	February 2021

No	Description	Drafted by	Type/format	Completion Date
VII	**VIDEOS**	**Prepared by**		
1	Administration and You	Project Team	https://vimeo.com/491293585)	June 2021
2	Road Map	Project Team	https://vimeo.com/713684626	April 2022
VIII	**Project Bulletin**	**Prepared by**		
3	Project Activities Biennial Bulletin (2019-2021) (Turkish only)	Project Team	Printing E-publishing	April 2022
IX	**Brochures (Turkish only)**	**Prepared by**		
1	The Process of Filing A Lawsuit Against An Administrative Act	Assoc. Prof Dr Nilay Arat (input by Judge Ayşe Bayrak and UTBA)	Printing E-publishing	March 2023
2	Legal Aid in Administrative Law	Assoc. Prof Dr Nilay Arat (input by Judge Ayşe Bayrak and UTBA)	Printing E-publishing	March 2023
3	Steps And Result of An Administrative Case in the Administrative Judiciary	Assoc. Prof Dr Nilay Arat (input by Judge Ayşe Bayrak and UTBA)	Printing E-publishing	March 2023
4	Legal Remedies in Administrative Judiciary	Assoc. Prof Dr Nilay Arat (input by Judge Ayşe Bayrak and UTBA)	Printing E-publishing	March 2023
5	The Purpose of the Administrative Judiciary and The Organisation of the Administrative Judiciary	Assoc. Prof Dr Nilay Arat (input by Judge Ayşe Bayrak and UTBA)	Printing E-publishing	March 2023

No	Description	Drafted by	Type/format	Completion Date
X	**VIDEOS (Turkish only)**		**Video**	
1	5-Minute Informative Video on Administrative Judiciary	Project Team and Media Company	https://vimeo.com/830219747?share=copy	April 2023
XI	**Animations (2-D) English subtitle**		**Animated Video**	
1	How to File a Case Against An Administrative Act	Assoc. Prof Dr Nilay Arat (input by Judge Ayşe Bayrak)	https://vimeo.com/829422151	April 2023
2	Steps and Result of a Case in Administrative Judiciary	Assoc. Prof Dr Nilay Arat (input by Judge Ayşe Bayrak)	https://vimeo.com/829431763	April 2023

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The Final Assessment Report has been prepared in the framework of the Joint Project on Improving the Effectiveness of Administrative Judiciary and Strengthening the Institutional Capacity of the Council of State in Türkiye, implemented between October 2018 and May 31, 2023. The overall objective of the project is to increase public confidence in the administrative judiciary through strengthening the independence, impartiality and effectiveness of the administrative judiciary and raising public awareness.

This Final Assessment Report is one of the series of reports drafted and published for the purposes of the Project; It is the third and final report after the 'Initial Assessment Report in July 2020 and the Interim Progress and Assessment Report in April 2022. From the beginning of the project, an in-depth analysis of the Turkish administrative justice system continued throughout the entire process and reflected in all reports prepared. This report also takes into account interviews with stakeholders in Turkey, various reports prepared by national and international experts assigned within the framework of the project, and reports of studies conducted within the scope of international cooperation.

The Final Assessment Report provides an overview of:

- Feedback from stakeholders during the initial observations of the system and the in-depth study carried out in the early stages of the project.
- Statements on relevant reforms introduced by Turkish authorities while the project is going on.
- An overview of project activities and project outputs.
- Support for the work 'Roadmap for an Improved Administrative Justice System' launched in April 2022 and views on the progress made and the updated Roadmap published as a document that will remain after the project.
- Recommendations on the sustainability of reform and project activities

The Project for Improving the Effectiveness of Administrative Judiciary and Strengthening the Institutional Capacity of the Council of State is co-financed by the European Union, the Republic of Türkiye and the Council of Europe and implemented by the Council of Europe. The Turkish Ministry of Justice – Directorate General for Legal Affairs is the final beneficiary of the Project. The Central Finance and Contracts Unit is the contracting authority of this Project.

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The Council of Europe is the continent's leading human rights organisation. It comprises 46 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.