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

INITIAL ASSESSMENT REPORT

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INITIAL ASSESSMENT REPORT AND PROPOSALS FOR PREPARATION OF REFORM ROAD MAP

Ray Burningham

July, 2020
Ankara

This Initial 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 Turkey 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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Preface

This Initial Assessment Report is produced in the framework of the Joint Project on "Improving the Effectiveness of the Administrative Judiciary and Strengthening the Institutional Capacity of the Council of State". The report has been developed as a result of the workshops, meetings and visits organised by the Council of Europe, in cooperation with the Ministry of Justice, the Council of State, the Turkish Constitutional Court, the Council of Judges and Prosecutors, the Ombudsman Institution , Union of Turkish Bar Associations, Regional Administrative Courts, first instance administrative and tax courts and other project stakeholders. In addition to these events, the findings and outcomes of the desktop research made by the international consultant were elaborated in the preparation of this Report with support of the Project team in close cooperation with the Directorate General of Legal Affairs, the Ministry of Justice of the Republic of Turkey.

Mr. Ray Burningham, the Council of Europe Consultant, worked as lead consultant in the preparation of this Report.

This Initial Assessment Report provides a general overview of the administrative justice system in Turkey with specific findings and recommendations to be used in the development of a Roadmap for further improving the work of the administrative judiciary, including through the implementation of Project's activities, in line with the Judicial Reform Strategy of the Turkish Ministry of Justice. The complexity of the relevant reforms is such that it may take some time to achieve the intended objectives beyond the Project's lifetime, but the potential rewards for the judiciary as well as citizens of Turkey will be significant.

Following this Report, an Interim In-Depth Assessment Report (mid-way through the project) will later assess progress in the performance of the activities and a Final In-Depth Assessment Report at the conclusion of the project will be prepared in order to assess the impact of the changes and reforms introduced.

We would like to extend our gratitude to court presidents, judges and court staff, who have displayed strong commitment in all Project activities despite their heavy workload; to distinguished members of the judiciary and lawyers; representatives of the line ministries and public administration authorities, team of experts and academicians for their contribution and invaluable support.

Sources of additional information are indicated in **Annexes C and D** of the Report.

All relevant documents related to the Report can be accessed at:
http://www.coe.int/en/web/ankara

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INITIAL ASSESSMENT REPORT

Activity A.1.1. In-Depth Administrative Justice System Review

INTRODUCTION

The Project

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 is expected to achieve the following results:

> ER1: Approaches to and policies for improving the effectiveness of the administrative judiciary are agreed, evidence-based and its implementation supported.
>
> ER2: The institutional and professional capacity of the administrative judiciary is strengthened, thereby increasing public confidence in the administrative judiciary.
>
> ER3: The measures to relieve the administrative justice system and courts of their heavy workload are identified and supported, the existing pre-trial resolution mechanism are strengthened, and appropriate ADR mechanisms are introduced.
>
> ER4: 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.

The activities proposed in this Project are in line with the objectives of the EU Indicative

Strategy Paper for Turkey (2014-2020). The Indicative Strategy Paper identifies the rule of law and fundamental rights as strategic priorities. It refers to the need for Turkey to build on its previous track record for reform of the judiciary and the need to strengthen the judiciary as an independent, impartial and efficient third power, separate from the legislative and executive powers. It sets as an expected result that of "a strengthened capacity of the judiciary to exercise its powers independently and impartially". Actions to achieve this result include supporting the improvement of judicial efficiency and administration by addressing issues of court workload and fair trials, and training and awareness raising for all members of the judiciary on the case law of the European Court of Human Rights (ECtHR). The Indicative Strategy Paper also addresses the reform of the public administration, namely, the need to bring the public administration into line with the principles of public administration "to have evidence-based decision-making processes and an inclusive, effective, efficient, responsive, service-oriented, professional and accountable public administration".

The measures proposed in the Project are also relevant to several objectives contained in the third Judicial Reform Strategy for Turkey, adopted in May 2019. It sets out work towards a 'Judicial Vision 2023 - A More Trustworthy and Accessible Justice System' that includes:

- Improving the people-oriented service approach
- Facilitation of access to justice
- Strengthening legal security
- More effective protection and improvement of human rights and freedoms
- Building confidence in the judiciary
- Improving judicial independence and judicial impartiality

Supporting aims of the Strategy (and related objectives) include:

- 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

Initial Assessment Report

This Initial Assessment Report details the results of an in-depth review of the Turkish administrative justice system (Project activity A.1.1) that has been conducted between April 2019 and January 2020. It will be used to inform discussion and the preparation of a Reform Road Map (Activity A.1.2), describing a series of activities intended to deliver the expected results of the project.

The review has been supported by an evaluation of how cases and appeals are processed (Activity A.1.3) in order to identify where support or changes could improve the efficiency of procedures and quality and timeliness of decision-making.

In parallel to the in-depth review, analysis has also been taking place concerning the training requirements of the judiciary and opportunities for alternative dispute resolution in administrative justice. The results of that work will also be reflected in the Roadmap.

As indicated in the Description of Action for the Project (Paragraph 1.2.4), inclusiveness and gender mainstreaming has also been taken into consideration to promote gender-balanced participation in the Project activities. Gender equality aspects within the judiciary and in the administrative justice system generally have also been considered, and opportunities to promote gender equality in the Roadmap have been identified.

An Interim In-Depth Assessment Report (mid-way through the project) will later assess progress in the performance of the activities and a Final In-Depth Assessment Report at the conclusion of the project will assess the value of the changes and reforms introduced.

This report does not attempt to give an exhaustive account of the Turkish justice system. Instead it focuses on the most salient aspects, directly relevant to the drafting of the Reform Road Map. Sources of additional information are indicated in **Annexes C and D**.

In Depth Review & Evaluation

The in-depth review of the current administrative justice system and assessment of the recent reforms implemented, and the supporting evaluation of how cases and appeals are processed, has considered the following aspects of the system:

a. The legal framework, including relevant legislation, powers and processes to make and publicise case law; and rules or standards concerning presentation of judicial decisions
b. Public administration, including decision-making processes, participation in the judicial process and compliance with court decisions
c. Public trust in the administrative justice system and court user experience, including access to information by individual court users and openness of the system to scrutiny by the general public

d. Efficiency of the system
e. Status, competence and training of the administrative judiciary

The review and evaluation have been conducted through desk research, a series of workshops and seminars, and a series of site visits and interviews. Meeting participants have included:

- All Regional Administrative Court (RAC) presidents
- Judges and heads of chamber of RACs and first instance administrative/tax courts
- Members, Senior Rapporteur Judges and Rapporteur Judges of the Council of State
- Legal scholars
- Representatives of Ministry of Justice departments including the General Directorate of Legal Affairs, Directorate of Human Rights, General Directorate of Strategic Development, General Directorate of Criminal Records and Statistics, General Directorate of Information Technologies, Directorate General Directorate of Legislation Development
- Inspectors and Rapporteur Judges of the Council of Judges and Prosecutors (CJP)
- Rapporteurs of the Constitutional Court
- Court staff representing all 7 administrative court regions

Site visits have been conducted to:

- the Judicial Academy
- the Ombudsman Institution
- the Ministry of Justice Directorate General of Legislation
- selected Ankara first instance administrative and tax courts and shared front office
- the Union of Turkish Bar Associations
- the Ministry of Interior General Directorate of Legal Services
- the Council of State

Individual meetings have been held with:

- Mr. Esat Toklu, President of the Ankara RAC
- Mr. Hakan Oztatar, Director-General of Legal Affairs, Ministry of Justice
- Ms. Filiz Saraç, the Union of Turkish Bar Associations Executive Board Member
- Mr. Niyazi Acar, Director General of Legislation, Ministry of Justice

Documents provided in English to assist the review include are listed in **Annex C**.

CHAPTER ONE
SYSTEM OVERVIEW

1.1 Turkish Administrative Justice System: Institutional Framework

The Caseload

There were 327000 cases issued in first instance administrative and tax courts in 2018, down from a peak of 385000 in 2016 **(Annex A)**. A large proportion (60-70%) of all administrative appeals are heard in the Ankara courts as certain categories of appeal must be filed in the city where the relevant government department is situated, and most are in the capital. There are approximately. 250 types of case heard by the administrative and tax courts. These include public service and education personnel issues, student and examinations issues, municipality affairs, disputes concerning utilities, procurement, licensing, immigration and many others. Disputes concerning civil servants dominate the administrative court caseload and these have risen since the attempted coup in 2016, placing considerable workload on the administrative justice system. In 2016 civil servant cases comprised 27% of the total, and in 2017 comprised 44%. In May 2017, the Turkish authorities established a State of Emergency Commission tasked to review all complaints individually and a right of onward appeal to the administrative court. In 2018 State of Emergency Commission and Civil Service cases comprised 35% of the total and in 2019 36.6%. State of Emergency cases are heard by six specially authorised courts in Ankara. Zoning and "full judicial proceedings" (seeking an annulment of administrative action and/or compensation) cases each typically comprise around 8% of the total.

First Instance Courts

There are currently 189 administrative and tax courts sitting in Turkey in approximately 45 locations: one in almost all Turkish provinces. Tax courts comprise around 30% of the overall total. A court consists of a president, a group of judges and a registry usually comprising a registrar, a small team of administrative staff and a bailiff. This basic unit is multiplied as necessary to accommodate the volume of work in a particular location. In Ankara there are 25 administrative courts and 7 tax courts all co-located in the same building. Istanbul has 14 administrative courts and 15 tax courts, all co-located on the

European side; Izmir has 6 administrative courts and 4 tax courts. In smaller cities there are fewer administrative and tax courts, and these are usually accommodated in the same building with civil, family and criminal courts.

As of September 2019, there were 2000 administrative judges sitting, within an overall total of around 19500 judges and prosecutors in the Turkish judicial system. Administrative court judges do not specialise (other than in tax courts and citizenship, immigration and residency permit cases) but the issue of specialisation is currently under discussion. Experience levels among administrative judges are currently very low. A number of administrative judges were suspended or dismissed following the 2016 coup attempt in Turkey and there have been numerous new appointments. As a result, many administrative judges currently have less than 3 years' experience.

Decision making concerning judicial appointments and transfers between courts is the responsibility of the Council of Judges and Prosecutors (CJP). Turkey has been sorted into three "regions" based on the assignment and transfer of administrative judges. Each region is determined using a number of criteria including the geographical and economic conditions, social, health and cultural facilities, level of deprivation, and proximity to large population centres. A list of courts and their category for appointment/transfer purposes is at **Annex C**. Judges would usually start their career in category three courts and progress to category one courts, but the system is operated pragmatically in order to manage the workload. The appointments/transfer system for the judiciary is to be reviewed under the current Judicial Reform Strategy.

Regional Administrative Courts and Justice Commissions

In 2016 a new, streamlined appellate structure was introduced. Previously, 25 Regional Administrative Courts (RACs) were in existence and these were reduced to 7, located in Ankara, Istanbul, Izmir, Gaziantep, Samsun, Konya and Erzurum. Of these, the Ankara RAC is the largest. A total of 66 administrative and tax law chambers are in operation in the RACs and a total of 362 judges are in office. A map showing the geographical distribution of courts is at **Annex B**.

The RAC chambers are specialised to some extent and proposals for further specialisation are currently under discussion.

Each RAC has a Justice Commission chaired by the RAC President and comprising two regular members determined by the CJP from among the chamber presidents. The responsibilities of Justice Commissions are mainly personnel-related, including proposing the appointment of a registrar to the Ministry, identifying the areas of duty within the jurisdiction of the commission, conducting personnel affairs, identifying the courts in which the judges shall temporarily serve in emergency cases or until the authorities are determined by the CJP, and authorising casual leave for up to three days.

Council of State

The Council of State is both a review, advisory and decision-making body, and a judicial institution. It has judicial duties:

- In the capacity of the first instance court; to make decisions on actions for annulment and full remedy actions regarding cases to be filed against the resolutions of the President, regulatory procedures other than the Presidential decrees issued by the President, regulatory procedures that are issued by the Ministries and public institutions or professional organisations in the capacity of public institutions and that will be implemented throughout the country, actions and procedures implemented on the decisions made by the administrative chamber of the Council of State or the Board of Administrative Affairs, works within the jurisdiction of multiple administrative and taxation courts, the decisions of the High Disciplinary Board of the Council of State and the procedures of the Presidency of the Council of State related to the area of activity of this Board; on administrative proceedings arising from the concession agreements and contracts related to public services for which no arbitration is foreseen as well as the cases which are stipulated in certain laws to be heard by the Council of State at the first instance; and decide on demands regarding the loss of status of municipalities and special provincial administrations, which are commissioned by election, of their status as institutions.

- In the capacity of appeal authority; to perform reviews for appeal and finalise the decisions of the administrative courts regarding the disputes subject to the summary procedure as well as the judiciary procedure regarding central and joint examinations, the final decisions of the Regional Administrative Courts that can be appealed and the final decisions of the Council of State in the capacity of the first instance court.

It also has duties to review, and make decisions on or provide its opinion regarding, the following as applicable:

- Concession agreements and contracts related to Public services

- The requests for the opinions of, which the relevant Laws stipulate to be received from, the Council of State

- Disputes between the public administrations regarding the procedures for the transfer of immovable property in accordance with the provisions of the Expropriation Law

- The works assigned to the Council of State in accordance with the provisions of the Special Provincial Administration Law
- Works that are not subject to administrative cases, which are assigned to the Council of State with the municipality legislation
- Works to be performed in accordance with the legislation on the prosecution of civil servants and other public officials

The Council of State is a significant stakeholder for the project, not least in view of its role in ensuring the unity of case law - a role which has a significant impact on the work of the first instance administrative courts and the RAC's. According to the Council of State 2019 Performance Programme "it has become a priority to make the Council of State regain the title of case-law court" and it has planned a number of activities are in support of this objective. Within the organisational structure of the Council of State, a **Board of the Unification of Case-Law** is tasked with making decisions on amending or unifying case-law if it deems it necessary in the event of inconsistencies or disputes arising concerning court decisions within or between chambers. A **Classification and Publication Board** is also established to organise and classify the decisions and legislation issued by the Council of State chambers and boards, to arrange the library, and carry out the publication of the Council of State Journal.

A list of case categories and specialisations of Council of State Chambers, which also provides an overview of the workload of the administrative justice system more generally, is at **Annex B** and statistics concerning the Council of State caseload are at **Annex C**.

Council of Judges and Prosecutors

The responsibilities of the CJP include the appointment, transfer and promotion of judges and prosecutors. It is also responsible imposition of disciplinary penalties and removal from office; and takes final decisions on proposals by the Ministry of Justice concerning the abolition of a court, or changes in the territorial jurisdiction of a court.

The Minister of Justice is President of the Council and the Undersecretary to the Ministry of Justice is an *ex-officio* member. Four members are selected by the President of the Republic from among judges and public prosecutors. Other members, selected by the Grand National Assembly of Turkey include members of the Court of Cassation and the Council of State, and suitably qualified academics.

Council of Judges and Prosecutors Inspection Board

Operating within the scope of the Council of Judges and Prosecutors is responsible for the supervision of judges and public prosecutors with regard to the performance of

their duties; investigation into whether they have committed offences in connection with, or in the course of their duties, whether their behaviour and conduct are in conformity with requirement of their status and duties. It consists of a President, Deputy Presidents, Chief Inspectors and Inspectors. Inspectors are selected by the Plenary Session of the Council of Judges and Prosecutors from among those who have actively worked as a judge or prosecutor. In practice, the inspection of regional administrative, administrative and tax courts are conducted by inspectors coming from a judicial background. Inspectors are responsible for carrying out audit, research, examination and investigation procedures of judges and prosecutors.

Ministry of Justice

The Ministry of Justice is the lead institution for this project. The functions of the Ministry are:

a) Establishing and organizing the courts provided for by the laws; planning, establishing any kind of judiciary institutions in every level such as penitentiary and correction institutions, execution and bankruptcy offices and supervising, inspecting and developing these institutions with regard to their administrative duties,

b) Submitting suggestions to the Council of Judges and Prosecutors on abolishing a court or changing the jurisdiction of a court,

c) Exercising the power entitled by the laws to the Minister of Justice concerning bringing a public case before a court and carrying out the required procedures,

d) Performing the functions entitled by the Laws on Legal Profession Act and Notary Act to the Ministry,

e) Carrying out the services related to keeping criminal records,

f) Performing the functions entitled by the Turkish Trade Law and Regulation of Turkish Trade Registry to the Ministry,

g) Carrying out the procedures related to foreign countries in matters on judicial services,

h) Conducting the required studies on judicial services and making legal adjustments and expressing opinions,

i) Regulating the enforcement and corrections procedures according to the related legislation,

j) Carrying out execution and bankruptcy procedures through execution and bankruptcy offices,

k) Performing the other functions entitled by the laws**.**

The Directorate General for Legal Affairs has been identified as the end beneficiary of the project, and other Ministry of Justice General Directorates also have an active interest.

Justice Academy

The Justice Academy of Turkey, originally established in 2003, was re-opened in May 2019 after being closed during the State of Emergency in July 2018.The Academy is led by a President and has four departments. Within each department are sections focusing on themes including foreign relations, pre- service and in-service training, projects and human resources. The Academy also has a centre for measurement and evaluation of training. Judicial training is a combination of training within the Academy and an internship. There are slightly different training programmes depending on whether a candidate has previously worked as a lawyer, or whether they are an academic (in the latter case more practical training is given). Around 100 out of 1,400 trainees studying at the Academy in 2019 were intending to specialise in administrative justice.

Ombudsman Institution

The Ombudsman Institution of the Republic of Turkey was established in 2012 as a constitutional public entity affiliated with the Grand National Assembly of Turkey. Pursuant to Article 5 of the Law on the Ombudsman No. 6328, the Institution has been assigned "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 caseload of the Institution has increased to 17,585 cases in 2018 (up from 5519 in 2016). The top three categories of complaint are the public personnel regime (27%); labour and Social Security (25%); and education, youth and sports (12%).

The Ombudsman Institution published a 'Manual on Good Administration Principles' in November 2019.

Turkish Court of Accounts

The conduct of Turkish public administration is heavily influenced by the work of the Turkish Court of Accounts (TCA), which has both audit and judicial functions. The TCA carries out two types of audit function: regularity audit and performance audit. Regularity audit covers financial audit and compliance audit. Financial audit refers to the audit on reliability and accuracy of financial reports and statements in accordance with results of the assessment of accounts and transactions of public administrations as well as their financial activities, financial management and control systems.

Compliance audits take the form of an examination of the compliance of accounts and transactions related to the revenues, expenditures and assets of public administrations with laws and other legal arrangements. In performance audit, the auditors evaluate whether public resources have been used effectively, efficiently and economically.

'Judicial reports' are prepared and inquiries are initiated in case that the following are detected during the audit of the accounts and transactions of the public entities:

- A decision, transaction or action against the legislation,
- A public loss resulting from a decision, transaction or action against the legislation,
- Determination of the public officer leading to this public loss,
- A connection between the public loss and the decision, transaction or action of the determined public officer against the legislation.

Inquiries are notified to the public officers held responsible and their defence statements are taken in the legal period. Provided that the audit team maintains the same conviction on the public loss and responsibility after they assess the statements, judicial report is prepared and sent to the relevant chamber for the initiation of the trial process.

Judicial reports concerning the public losses detected in the course of audits are decided on by the chambers of trial, each of which is a court of accounts. There are eight chambers in the TCA. The final decision body of the writs issued by the chambers is the Board of Appeals of the TCA. Appeal is possible against the decisions of the chambers. Office of the Chief Prosecutor of the TCA takes part in the trial process, as well.

1.2 Legal Framework and Recent Reforms

The rules of procedure in administrative justice are contained in Law no. 2577 (1982) on the Procedure of Administrative Justice. Law no. 2577 cross-refers to Civil Procedure Code no. 6100 with regard to a wide range of procedural actions. Procedural provisions are also found in Law 2575 (1982) concerning the Council of State Act and Law no. 2576 (1982) on the Foundation and Tasks of Regional Administrative Courts, Administrative Courts and Tax Courts.

Procedural provisions related to administrative justice are also found in various other laws such as in the Act of Fees, Court of Jurisdictional Conflict Act, Constitutional Court Law, Law of Misdemeanour, Tax Procedure Law, Law of Expropriation, Public Procurement Law, and Law no. 6458 on Foreigners and International Protection.

Laws 2575, 2576 and 2577 have all been amended on a number of occasions since

they were made and in recent years major structural changes have been made to the administrative and tax jurisdiction system in order to rationalise the RAC's and reduce the workload of the CoS. The RAC's have become intermediate appeal courts and it is no longer possible to appeal direct to the CoS. Onward appeal from an RAC decision to the CoS is also no longer possible in certain circumstances. These amendments have impacted on the position of the CoS as a case-law court and created the possibility for RAC to make case law in categories of case where there is no onward appeal to the CoS. These provisions created the potential for inconsistencies within the case law of the seven RAC's to emerge, and in 2019 a further amendment created a duty for the Council of State's plenary sessions of administrative / tax law chambers to resolve such inconsistencies within 3 months after the relevant application.

1.3 Functions of Administrative Court Office Holders

President of the Regional Administrative Court

The responsibilities of the President of the Regional Administrative Court include[1]

a) Representing the court

b) Chairing the RAC Board of Presidents and the Justice Commission

d) Ensuring that the court performs duty in a consistent, efficient and orderly manner

e) Conducting the general management works of the RAC

f) Monitoring RAC civil servants and having them monitored

g) Appealing to the Board of Presidents for resolving any conflicts between definite decisions rendered by chambers in similar cases

h) In the event of a Chamber not being able to convene with its own members for legal or de facto reasons, appointing members based on seniority and order depending on relevance

i) Performing any other tasks designated by laws.

The RAC President also chairs Regional Administrative Court Board of Presidents, comprising the RAC heads of chambers. The responsibilities of this body include:

- Deciding on division of labour disputes between chambers;
- In similar situations, in the case of contradiction or conflict being present between decisions deemed definite of regional administrative court chambers or between decisions deemed definite of different regional

1 An amendment to the law in 2019 relieved RAC Presidents of their judicial role as a chamber president to enable them to focus on their managerial functions

administrative court chambers; upon the ex officio request or request by regional administrative court chambers or by those having the right to appeal to justifiably resolve this contradiction or conflict and the request being accepted, submitting it to the Council of State by including their own opinions.

RAC Chamber Presidents

The duties of Chamber Presidents are:

- Ensuring that works are conducted at the chamber in a consistent, efficient and orderly manner and are reviewed and decided on within a reasonable timeframe, taking measures to resolve differences and disputes between the chamber's own decisions
- Reviewing the case and submitting it to the member and ensuring that decisions are drawn up on time
- Ensuring the carrying out of personnel affairs and conveying their requests for leaves together with their opinions to the justice commission
- Monitoring the functioning of the registry at the chamber and imposing disciplinary penalties stipulated in the relevant law on the personnel
- Substitute for the most senior president of chamber in the absence of the president of the regional administrative court, except for the duties in the justice commission and the chamber.

First Instance Administrative and Tax Courts: Court President, Registry and Front Office

According to Article 10 of Law no. 2576 the Court President:

- Carries out the interviews and hearings, provides their opinions and views, casts their votes;
- Ensures that the public servants assigned to their courts continue their duties, works in a systematic manner, and that court transactions are executed efficiently.

In practice, the court president sits as a judge, often in a panel, and oversees the work of a small team of judges and the court registry. There are some differences in the duties of the court president according to whether the court is in the same city as an RAC.

There is no legal provision concerning the distribution of files between individual judges but in practice the distribution is made by the court president.

The court registry is overseen by a registrar, responsible to the court president. The registry staff carry out a variety of case progression functions including the maintenance of paper files, data entry on the UYAP IT system, procedures related to the process of making a case ready for decision; notification procedures, dealing with aspects of the taking and disbursement of fees; drawing up of decisions and warrants; and archiving procedures. Each registry has a bailiff who acts as a court usher and administrative assistant. The distribution of tasks between the registry staff is a matter for the discretion of the court presidents: individual staff members may be responsible for certain files throughout the life of the case or they may be responsible just for a certain part of the process.

Since 2013, front offices have been introduced in some courts and if administrative/tax courts are co-located in the same building the front office is shared between courts. The introduction of front offices resulted in the transfer of some administrative functions from the registries to front office staff. Front offices have two elements: firstly, customer service desks for personal callers where proceedings are issued, documents filed, fees taken, and enquiries dealt with; and secondly a scanning office where electronic copies of hard copy documents are made. The administrative courts operate a hybrid system in which complete paper and electronic files are created and maintained throughout the life of a case.

1.4 Administrative Court Procedure Overview

The following short description of procedures and time limits applies to most administrative cases although summary procedures with different time limits are in place for some categories of case, including cases concerning the Ministry of National Education and the Centre for Assessment, Selection and Placement arising from examinations.

Issue of Petition

Administrative proceedings are commenced by petition. The form of a petition is not prescribed by law, but some elements must be included in the content. Many disputes must be started in the court where the relevant government department, rather than the appellant, is situated so petitions are often sent by post. Lawyers can issue proceedings electronically through the UYAP Lawyer Portal. Citizens may also issue proceedings in person by attending the administrative court.

An issue fee and postal costs must be paid by the appellant, but a system of "legal aid" exists whereby an appellant may apply for exemption from fees on the grounds of hardship. The court has a wide discretion in considering these cases.

Preliminary Examination of Petition

A judge in the court receiving the petition first conducts a preliminary examination based on the criteria designated by Law using a standard checklist. Judgments are rendered in this respect if they find any illegalities. Some of these judgements could be related to the dismissal of action for not fulfilling the pre-conditions of the lawsuit (for instance, rejection of time, rejection without examination due to absence of a final and executable transaction), while some could be related to eliminating the deficiencies of the petition (such as defects in the petition, correction of adversary, issues concerning fees or eliminating shortcomings in supporting documents). The period foreseen by law for the preliminary examination is **15 days**.

Stay of Execution

In cases in which stay of execution is requested, and where no defects in the petition are found during the preliminary examination, a decision for stay of execution is made. This decision generally first entails taking the statement of the administration (although an interim decision may be taken in some circumstances.) After the statement is received, a decision of stay of execution may be made. This also usually takes nearly **2 months**. However, in certain cases, a stay of execution could be decided after various information and documents are collected or an inspection by an expert has taken place, but this prolongs the process. Since proceedings related to the stay of execution and the process of becoming ready for decision are carried out together in these kinds of cases, the case usually has already become ready for a decision on the substantive claim in the petition.

Preparing a Case for a Decision: Notification to Public Administration and Response

In case no defect is found during the preliminary examination, the case file shall be sent to the court registry for a decision to be reached. Here, the petition is notified to the administration. The **administration's response must be given within 30 days** and notified to the plaintiff. If the plaintiff replies to this response within 30 days, then this reply is also sent to the administration and the becoming ready for decision process shall be completed. The typical time taken for this preparatory phase is **6 months**.

When the exchange of documents is complete and the case ready for a decision, the court president allocates the case file to a judge to be reviewed. The maximum period for the judge to reach a judgment has been identified as **6 months**, and in practice the six-month deadline appears to be treated as a norm. **There is no regulated time period between a decision being taken and judgment being drafted**. Although it is stipulated in law that **stay of execution decisions must be drawn up within 15 days**, there is no rule for decisions regarding substantive claims. In accordance with

the practices of Inspection Board of the CJP, reasoned judgments are expected to be written within a period of 30-60 days, depending on the workload and region of the court concerned; and inspected by the inspectors.

The administrative courts use the common UYAP IT system along with other courts but use functionality which has been tailored for administrative court purposes. Court files are maintained in duplicate: all relevant documents are scanned to maintain a complete electronic file while at the same time a complete hard copy file is maintained, and the hard copy files are transported between courts as necessary e.g. when an appeal is to be heard

UYAP data entry is used to generate statistical information and the Ministry of Justice General Directorate of Criminal Records and Statistics has work in hand to raise standards of data collection, including the creation of a Data Monitoring and Evaluation Board in 2017.

UYAP has functionality enabling the electronic distribution of cases to judges but it is only partially used. In cities where courts are co-located, the distribution of files between courts is made automatically through the UYAP system and the files entering the system are distributed to courts in a certain order according to the nature of the dispute. However, within individual courts the president decides on the distribution of cases to individual judges.

CHAPTER TWO
REVIEW OF THE SYSTEM

2.1 Legal Framework: Administrative Justice Procedure

The review of the legal framework has been conducted by ascertaining the views of judges, CJP inspectors, national academic experts and other stakeholders familiar with the system.

Many interlocutors thought that Law 2577, the Procedure of Administrative Justice Act, was a major factor in generating inefficiency and delay in the administrative justice system. Although it has been updated on many occasions since 1982 it has not been consolidated, and on many issues the reader is specifically cross-referred to provisions of civil procedural law. It is also possible to encounter different views and implementations of some articles of Law 2577.

The state of the law is therefore problematic for judges, court staff, public administration decision-makers, public administration lawyers and members of the bar, especially in present circumstances when many officeholders are relatively new in post. Inevitably, these issues also raise major difficulties for appellants. It has been said that:

> *"Currently it is very difficult to file a suit or foresee the duration and what procedures it will go through by merely reading the procedure law."*

The Procedure of Administrative Justice Law has been contrasted with the more recent Civil Procedure Code no. 6100, enacted in 2011, and which is the closest judicial branch to administrative justice. While this Code consists of 452 articles, Law 2577 consists of 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 has been strongly argued that Law 2577 needs to be completely re-drafted. It has been said that:

> *"Although many amendments have been made in the Procedure of Administrative Justice Act over time, it is crucial to prepare a document that includes these amendments based on a holistic approach and will gather all procedural actions as much as it can within a single law in accordance with the principles of written proceedings. In this situation, it is possible to say that the complexity and deficiencies in procedure laws is the primary factor for the administrative justice process being prolonged."*

It has also been suggested that modernisation of the law could include greater specialisation according to the nature of the dispute. For example, given the complexity of zoning cases in terms of hearings and expert assignment, special procedure for these types of cases should be introduced and number of parties in these proceedings limited. Procedure related to tax cases could also be developed in more detail to avoid ambiguity.

While wholesale consolidation and modernisation of the law may be beyond the scope of this project, a number of priorities for amendment have been identified by the CJP inspectors. Potential areas for clarification of the law or simplification of procedure include:

- Absence of guiding texts
- Complexity of fees and costs provisions
- Rules of authority unclear
- Procedure for decisions concerning stay of execution
- Absence of time limits for writing decisions
- Lack of detail and anomalies in the operation of the new intermediate appeal system
- Need for clarification concerning objective criteria concerning allocation of cases to judges

The Judicial Reform Strategy 2019-23 identifies particular areas where administrative justice procedural reform will be prioritised: a pilot judgment procedure for group actions, creating greater capacity for reasoned judicial decisions, extending the powers of individual judges to determine cases alone; to permit the hearing of witnesses in some disputes; and simplification of some of the elements of case progression.

Also, while a strong case has been made for legislative reform, interlocutors have also stated that the courts can be doing more to improve efficiency by, for example, taking a more consistent approach to practice and procedure.

2.2 Jurisprudence

Administrative justice is more caselaw-based than other parts of the justice system in Turkey and there is need for unification of conflicting judgments. Promoting greater legal certainty through the expectation of similar decisions in similar cases, has been emphasised as a reform priority by interlocutors. At present inconsistent decisions are being made by different chambers within the Council of State and by different courts in the same location.

A 'Board of the Unification of Case-Law' exists within the Council of State under the provisions of article 18 of law 2575. The membership comprises the president, chief advocate general and vice presidents of the Council of State and the presidents and members of the divisions. The quorum is 31 members. These provisions have rendered the body unwieldy and decision-making is slow. With the creation of the RAC's a comparable body was created at regional level and each RAC President chairs a Regional Administrative Court Board of Presidents to resolve conflicts between the final decisions of RAC chambers. In October 2019 an amendment to article 3/c law No. 2576 empowered the plenary sessions of CoS administrative and tax law chambers to resolve conflicts in the case law of different RAC's. In February 2020 the CoS established a caselaw research and reporting unit to boost the effectiveness of the CoS in resolving caselaw conflicts.

There is also perceived to be a communication problem within and between the courts themselves concerning new caselaw in drawing attention to significant new decisions, and this is said to increase the number of conflicting decisions. Many attorneys and public administration lawyers use commercial software to search for jurisprudence relevant to particular cases but find difficulty if search results identify conflicting decisions.

There is also no established procedure for dealing with multiple cases concerning the same issue, which could potentially be addressed by a single decision in a 'leading' or 'pilot' case, and the current Judicial Reform Strategy includes an objective to address this issue.

2.3 Judicial Decisions

Interlocutors have 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 in the administrative courts. It has been noted that article 141/3 of the Constitution requires that "the decisions of all courts shall be written with a justification" but that decisions of courts that have no justification have been accepted as the reason for violation of rights in many decisions of the ECtHR and Constitutional Court. Apart from the impact on the right to a fair trial, the quality of reasoning also impacts on efficiency of the system,

for example by enabling the public administration to learn from previous errors and to reduce the number of unmeritorious appeals. One proposal to raise standards is the use of template judgments. The Council of State has developed a template for its own purposes, although use of the template has yet to be implemented. The UYAP IT system also has functionality enabling courts to create their own templates and various templates are in use in first instance courts and RAC's, but as yet there has been no standardisation.

The reformed appellate system has placed the RAC's in a position to influence the quality of decision-making at first instance by identifying inadequate decisions which come before them on appeal. However, Article 45 of Law 2577 which regulates the powers of RACs and the scope of appellate review should be strengthened. This article has been identified by the CJP inspectorate as a priority for amendment.

The Judicial Reform Strategy envisages reforms that will create more time for the drafting of reasoned decisions in the future.

2.4 Public Administration Decision Making

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, will be a major factor in improving the experience of citizens and reducing the volume of appeals. The principles adopted by the Council of Europe concerning relations between public authorities and the people they serve are set out in the Council of Europe Handbook *"The Administration and You"* published in October 2018. The introduction to the Handbook states that:

> *"In carrying out their functions public authorities must balance individual interests with the interests of the community they serve, in other words the "public interest". Administrative law regulates the exercise of powers by public authorities and provides for the control of their use. …Given the privileged place that public authorities have in democratic societies and the public character of their role, it is natural that the rule of law is the primary source of many of the principles in this handbook. The rule of law ensures that everyone – individuals and public authorities – is subject to the law; that there is legal certainty and that everyone knows what his or her rights and duties are under the law; that public authorities cannot act in an arbitrary manner; that proper application of the law is ensured by an independent and impartial judiciary whose judgments are enforced; and that human rights are respected, especially the principles of non-discrimination and equality of treatment."*

The Handbook sets out substantive principles concerning lawfulness and conformity with statutory purpose; equality of treatment; objectivity and impartiality;

proportionality; legal certainty; transparency; privacy and the protection of personal data. It also sets out procedural principles which deal with such matters as the need for administrative decisions to be phrased in a simple, clear and understandable manner; for information about remedies and appeal procedures, and relevant time limits to be provided where a decision adversely affects the rights or interests of an individual; and for everyone adversely affected by an administrative decision made by a public authority to be entitled to request an internal review of that decision.

In November 2019 the Ombudsman Institution also published a Manual on Good Administration Principles, providing guidance on such matters as the right to be heard and to make statements; the right to information; reasonable time limits for taking decisions; the duty to state the grounds of decisions; the indication of appeal possibilities; and the notification of the decision without delay.

As a relatively new organisation the Ombudsman Institution is making considerable efforts to promote awareness of the dispute resolution service that it offers. It is also seen as an important institution in terms of women's access to justice, and for being one of the best bridges between the public and the judiciary system. Thus, it is important to enhance their relations with public administrations closer to the citizen that will enable them to be effective in resolving many legal disputes that may be the subject for equality and discrimination.

In Turkey, departments dealing with large numbers of cases in the administrative courts include the Social Security Institution (administering social security, health insurance, pensions etc.) the Ministry of Interior, the Ministry of National Education, and the Revenue Administration, which also has a number of Regional Tax Offices. Cases also arise from the work of many other central and local government bodies.

It is noteworthy that a large proportion of the caseload of both the administrative courts and the Ombudsman Institution concern the affairs of civil servants themselves and the operation of the public administration personnel system.

As in the judiciary, there have been many dismissals of civil servants since the attempted coup in 2016 and the public administration workforce is therefore presumed to be partially relatively inexperienced. It was also suggested that a significant problem in public administration is a mind-set to defend litigation, and to appeal where judgment is given against an administrative body, as opposed to seeing litigation as an opportunity to put things right and to learn for the future.

Incorrect documentation and failure to meet time limits have also been cited as problems the courts encounter with public administration departments. Some criticism was also levelled at public administration legal departments, who are sometimes seen as needing to give stronger legal advice to officials to ensure higher standards of decision-making, and that the quality of work of public authorities as

a party to legal proceedings was of a satisfactory standard. Some restructuring of government legal services has recently taken place: under Presidential Decree Law No. 27 made in January 2019 the legal services of nine ministries were restructured into Directorates General of Legal Services. These have a legal consultancy role in addition to the provision of legal services.

Internal Review of Decisions (Appeal to Senior Authorities)

There is legal provision for internal review of administrative decisions, but internal review is not effectively used in practice. Article 11 of Law 2577 states, inter alia, that:

> *"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 administrative action, 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."*

However, interlocutors have stated that individuals are not made aware of this right to request a review, and that the circumstances in which such reviews/reconsiderations are actually conducted are arbitrary and at the discretion of public administration officials. It was also noted that administrative review processes very rarely lead to administrative authorities changing their initial decisions. If the approach to internal review is arbitrary and piecemeal, this is likely to be a factor contributing to a lack of early dispute resolution and a high caseload for the courts. As section 11 also extends the overall timescale for review and potential appeal, this is seen as affecting an individual's right to a fair determination and effective legal redress within a reasonable time.

Alternative Dispute Resolution and "Peace" Commissions

The legislative framework for disputes in which the public administration is a party is currently under review. The Judicial Reform Strategy states that:

> "*The majority of the disputes in which the administration is a party can be solved through peace. It is understood that the regulation on the method of peace in the legislation cannot be operated effectively. According to the regulation in the legislation, the administration must invite the opposing party to make peace before initiating a judicial action or enforcement procedure.*
>
> *The administration could further invite the opposing party to make peace in the case they learned that an action or enforcement procedure will be brought against them. Anyone who claims that their right was violated due to administrative actions may apply to the administration and request compensation of the damage*

incurred through peace within the time limit for bringing an action. Reregulation of the commissions formed in the administrations for the operation of this regulation and peace procedures will reduce the workload of the courts while ensuring more effective protection of the beneficiaries' rights."

New legislative provisions concerning a revised "peace" procedure are expected to be announced during the life of this project.

"Public loss": Potential Barrier to Informal Settlement

The Ombudsman Institution has noted that the concept of "public loss" contained in the Civil Servants' Act No. 657 (14 July 1965), which creates a personal liability for individual civil servants if an action by them is deemed during a Court of Accounts audit to have generated a loss, could in fact be costly for the system by generating unnecessary disputes in the courts. It has been suggested the Court of Accounts approach to this issue is not consistent so that the consequences of an action are not always foreseeable by civil servants It appears to create a barrier to the settlement of cases as the admission of an error by the public administration generates potential liability for the individual official concerned.

Execution of Decisions

Silence or non-compliance with court orders by the public administration is also experienced in practice according to interlocutors. Descriptions have also been given of techniques by the public administration 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 e.g. a zoning decision or a personnel transfer, a short time later, giving rise to repeated cases concerning the same issue. It has been pointed out that the problem of non-compliance is encountered less frequently in cases related to disputes of tax and customs and that the reason for this is the presence of legislative regulations in these areas concerning administrative procedure. Non-compliance by the public administration with recent caselaw is also an issue and this can sometimes be caused by poor publicity for the caselaw or problems with caselaw conflicts. Another factor is said to be that judicial decisions lose their applicability due to the length of the legal proceedings e.g. a disputed new development where construction is complete before judgement in the case is rendered.

Unmeritorious Appeals by the Public Administration

A general tendency by public administration departments to pursue appeals was noted by interlocutors. The tax authorities were cited as a positive example in terms of the high proportion of negotiated settlements in cases where there is a dispute, and the quality of the information provided to potential appellants which accompany tax

demands. However, on the negative side the tax authorities were said to appeal every unfavourable decision by first instance tax courts, even in cases where an appeal could not reasonably be expected to succeed.

Communication Between the Courts and Public Administration

It appears that there is currently little engagement or communication between the administrative judiciary and the public administration (e.g. Directorates General of Legal Services within public administration departments) and some interlocutors have expressed the hope that communication channels can be improved through this project. Judges have complained that the courts are unnecessarily burdened with large numbers of cases concerning an identical issue due to a failure by the public administration to address the underlying systemic issue. Others have described problems persisting notwithstanding case law having settled the issue. Improved channels of communication between the courts and the public administration concerning systemic issues appear to have considerable potential to reduce the volume of cases, improve efficiency and improve the experience for citizens.

2.5 Public Awareness, Public Trust and Treatment of Court Users

The Ministry of Justice General Directorate of Criminal Records and Statistics publishes annual judicial statistics for all courts, including statistics concerning the administrative courts.

Each of the 7 RAC's maintains a website. The websites use a broadly similar template but the information available for users is not standard. The website for the Istanbul RAC contains the most extensive information, including some guidance for potential appellants and petition templates. The RAC websites also contain links to some basic information about the first instance courts within the region, such as maps showing the location or the membership of the courts. Again, the quality of information is not standard.

All the websites contain links to the UYAP Citizen portal which enables users to calculate the fees they will pay; access the telephone and fax numbers of the judicial units; and check the status of cases. There is also an UYAP electronic notification system which parties to proceedings can register for and receive electronic notifications about the progress of their case; and an UYAP SMS system enabling them to receive court orders and notifications on their mobile phone.

It has not been possible to survey court users for the purposes of the in-depth review although it is hoped that training provided through the project will the administrative courts to conduct court user surveys in due course. Public trust in the administrative courts is said to be relatively low, and decision making is often believed by citizens to be weighted in favour of the public administration. Attorneys have also stated

that access by attorneys representing citizens to court files is often restricted on the grounds of confidentiality without good reason.

It was clear from the views expressed by court staff working in front offices that the very limited information for court users about administrative court procedure is frustrating for citizens and very time-consuming for court staff who are repetitively asked for the same information. Many staff are relatively recently appointed and have limited knowledge of procedures themselves, so they are not always well placed to give accurate information. No brochures, posters or template documents to assist court users are available in front offices. Also, no information is available to provide an overview of the administrative court procedure, so it is difficult for citizens to understand the stage their case has reached.

Quite a high proportion of petitions are issued by attorneys, but their knowledge of administrative procedures is often relatively low, as few attorneys specialise in administrative law. Around 20% of petitions issued by attorneys contain defects and are rejected, and better training for attorneys in administrative procedure was recommended by some interlocutors.

2.6 Efficiency of the System

Workflow Errors and Delays

The following is a list of examples of typical causes of error and delay in the progression of cases:

- Provisions on notice of proceedings and intervention in a case not available in administrative justice cases
- Missing power of attorney and representation documents
- The rules of duty and authority not being clear, and a consistent judicial opinion not being provided in this respect
- The time limit for initiation of suits being regulated differently in different laws
- Difficulties in identifying the administration towards which the action will be directed and the Decree Law no. 659 being insufficient in this respect
- The complexity of the procedure to be followed in the event of changes or death of the parties
- Complexities concerning notification procedure, performance of the PTT postal service, and rules to be applied when notification is not made
- Incorrect documents being provided by the public administration

- Failure by the parties to fulfil their responsibilities in response to interlocutory decisions
- Quality of work of attorneys

The root cause of many of these is the complexity of the procedural regulations. Some issues can be addressed through training, and a training programme for postal workers is currently taking place, but training requirements would be reduced if procedures were rationalised and clearer guidance provided.

Workload Measurement

According to the Description of Action for this project one of the underlying assumptions has been that the Turkish administrative courts are having difficulty coping with a heavy workload. It does not appear that this is a problem in all courts: some interlocutors have stated that additional resources are required but the visits that have taken place in Ankara indicate that the judiciary are generally content that adequate resources are available, although there is a backlog of cases in the small number of courts authorised to hear cases filed against decisions reached by the State of Emergency Commission. Examples have been cited of small courts in provincial locations that are in fact over resourced for the workload that they are managing. However, pressures in the system currently appear to arise from the number of relatively new judges and court staff, and the consequential lack of knowledge and experience in the system.

Evidence about the workload is anecdotal because there is no accurate scoring system to inform the distribution of work between courts and between judges. Currently cases are distributed between courts automatically using the UYAP system in order according to the matter in dispute. It does not reflect the amount of work in a case, taking into account such matters as investigation by experts or the work associated with an application for a stay of execution.

An absence of accurate workload measurement and norms for judges and staff also magnifies the risk of crises occurring in particular courts due to an absence of early warning of emerging backlogs, due to sudden rises in workload or a sudden loss of judges and staff.

Statistics and Time Management

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

Work is underway to improve data collection and a Data Monitoring and Evaluation Board was established in June 2017 to determine the main application principles on ensuring the correct, complete and timely entry of data that is the basis for production of judicial statistics to UYAP and to develop suggestions for the solution of problems.

A model regarding Time Management in the Judiciary, which was developed for the protection of the right to have a fair trial by the Council of Europe European Commission for the Efficiency of Justice (CEPEJ), was included in the previous Judicial Reform Strategy Document and put into practice, but it has not been possible to establish the latest position regarding this model in the administrative courts during the course of the in-depth review.

UYAP System

Some problems with the collection of statistics are associated with the UYAP IT system and court staff have been exhorted to raise standards of data entry. Problems which have occurred have included the recording of a large proportion of appeals in the RAC's in an "other" category, so the actual appeal type is not known. The large numbers of newly appointed court staff mean that there are relatively low levels of familiarity with the IT system and unmet training needs, but some issues have been highlighted concerning the system itself. It has been stated that the structure of the system does not follow the workflow of cases so that it is not intuitive, and not all relevant steps of cases becoming ready for a decision are reflected on the system, so information cannot be collected or analysed. It has also been suggested that the margin for error on the part of court staff could generally be reduced by more thorough automation of the system in relation to e.g. notification.

It has not been possible during the in-depth review to explore the UYAP system or its maintenance arrangements in any detail, but some users have suggested that updates to the system could benefit from greater user input as sometimes update the

system solve some problems but create others, and that communication of updates to the system could be improved. There is a desire for greater user involvement in the development of the system and a more structured approach to implementing updates to the system.

There also appears to be potential to promote wider use of the UYAP citizen and lawyer portals, and the SMS and email notification systems, and increase both functionality and user information.

Inconsistency of Practice

As previously discussed, the regulations concerning administrative justice procedure are confusing for the public administration, for attorneys, for court staff and judges and for citizens. The absence of clear guidance in the regulations has resulted in inconsistencies of practice and procedure across the administrative courts. The introduction of clearer guidance for court staff does not necessarily depend on legislative reform but could be provided through no-statutory processes e.g. existing system of issuing circular letters. These would be particularly helpful to the workforce lacking experience

Experts

Experts are used in a large proportion of administrative cases and the system for payment of experts generates complications and delay. It can also be difficult to find experts with the relevant expertise, although this tends to be more of an issue in the provinces than in the larger cities. The slow operation of the Forensic Medicine Institute also create delay in legal proceedings, especially in cases related to neglect of duty, and at present the Institute is the sole provider of expert advice in certain categories of case. Reform of the system for using experts is included in the Judicial Reform Strategy

2.7 Administrative Judiciary

Appointments and Pre-Vocational Training

Criticism has been made of the level of qualifications of the large, recently appointed cadre of judges. 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. The appointments process concerns a law-based examination so all successful candidates have some knowledge of the law, but critics point out that preparation for the examination cannot replicate the preparation for a career in law that a legal education provides. However, law degree courses do not typically contain compulsory administrative law elements, so specialist pre-service training and in-service continuous professional development are likely to remain important for all new judges in the administrative courts.

It is understood that female judges constitute about 30% of the judges in the Turkish administrative judiciary. In the Council of State, the number of female and male rapporteur judges are equal.

After the Judicial Academy reopened in 2019 it established a modular programme for administrative judges comprising trial procedure (11 courses, 108 hours); justice management (seven courses, 52 hours); and personal development (two courses, 12 hours). A number of trainers, selected from judges in the CJP, MoJ and the courts, contribute to the programme. A cohort of 127 students) undertook the programme in 2019. Around 30% of this cohort were female, in comparison to a proportion of 60% of female candidate judges within the judiciary as a whole. The training is supplemented by a 15-day internship in an administrative court.

It is a welcome development that the Judicial Academy has now reopened and that introductory training for administrative judges is now being provided, but interlocutors have pointed out that the current internship in the courts is too short and needs to be extended. The availability of continuous professional development opportunities for judges already in post will also be important.

Appraisal / Promotion of Judges

CJP Inspectors are responsible for carrying out audit, research, examination and investigation procedures of judges and prosecutors and preparing an audit report, certificates of good conduct, and recommendations concerning any weaknesses.

A scoring system for judges operates according to the evaluation criteria indicated a "Certificate of Good Conduct". These have been classified under two main headings as the judge's Personal and Social Characteristics and Professional Knowledge and Work. The section on Personal and Social Characteristics consists of 9 sub-headings. The section on Occupational Knowledge and Work consists of 10 sub-headings, which can be summarized as criteria on time management and criteria on conformity with procedural provisions.

In order to identify the conformity of the work of individuals with the legislation or any flaws and corruption during the audits, and to form a view about the level of knowledge, work and output of those under review, a selection of documents and files are examined either physically or by using UYAP records in regards to the certificate of good conduct related to the professional knowledge and work section. The selection of the documents to be examined also takes the workload and range of cases of the audited department into account.

The CJP is also responsible for the promotion and discipline of judges. Two significant decisions of the CJP were published on 15 January 2020, to support the raising of standards and protection of human rights. As a result of those decisions, promotion

criteria now include in-service training activities and specialisation programmes attended; and assessment criteria for first class judges now takes account of judgments found to be in violation of constitutional and convention rights by the Turkish Constitutional Court or the ECtHR.

Specialisation and Transfer of Judges

A lack of specialisation in the Turkish judiciary is perceived as a weakness, and the introduction of greater specialisation across the judiciary as a whole is one of the aims of the current Judicial Reform Strategy. Policy on specialisation of the administrative Judiciary is currently under consideration by the CJP and work is initially being focused on the RAC's. It is anticipated that some specialisation will be introduced into the RAC's in larger cities in the near future. Work has not yet begun on consideration of the potential for specialisation in the first instance courts.

Differences of view have been expressed about specialisation: some see the potential for specialised courts and others would prefer to see greater specialisation of individual judges. It is recognised that any plans concerning specialisation would need to be compatible with the regional structure for the appointment and transfer of judges, which is itself under review. At present, there is a relatively high turnover of judges in second and third region courts and this can give rise to delay in cases if judges awaiting transfer defer dealing with more difficult cases and leave them for their successor.

CHAPTER THREE
CONCLUSION AND NEXT STEPS

This Initial Assessment Report outlines the findings of the in-depth review of the Turkish administrative justice system that has been carried out within the scope of this project. The assessment process will continue during the course of the project with a view to making final recommendations at its conclusion. The findings of the assessment will now be used in the development of a Roadmap for an Improved Administrative Justice (Activity A .1 .2).

The purpose of the Roadmap is to provide a shared understanding between the stakeholders and the project team of the actions identified as necessary to implement the project activities. The Roadmap will provide the framework to enable the implementation of solutions identified to address the issues in the administrative justice system, setting the priorities and the timelines in relation to the different elements of the project. The Roadmap will be a living document, adjusted as ongoing assessments identify further issues and priorities. The project stakeholders and beneficiaries will be fully involved in developing the Roadmap. The Roadmap will also be informed by other analysis that has simultaneously been carried out i.e. a training needs analysis, an analysis to inform a gender strategy, and an analysis to inform recommendations for introducing alternative dispute resolution mechanisms.

While the in-depth review has been underway, reform activity in Turkey in accordance with the Judicial Reform Strategy 2019-23 has been taking place and recent reforms have included further legislative amendments and work by the Council of State to reduce conflicts in case law. The Ombudsman Institution has also recently published valuable guidance to promote good administration. The project team will continue to liaise with Turkish stakeholders to ensure that Roadmap content is aligned with initiatives which the Turkish authorities already have in hand. An indicative list of potential topics for inclusion in the Roadmap are set out at **Annex A**. These are likely to be adjusted as discussions concerning the Roadmap progress.

Part of the reform activity to be included in the Roadmap concerns work to improve efficiency that is to be conducted in pilot courts. A team in each of the pilot courts will be tasked with designing and implementing procedures and practices to support implementation of certain Roadmap measures, particularly focused on improving efficiency. Six pilot courts have now been identified and provisional proposals concerning the activities to be conducted by the pilot courts are at **Annex B**. These focus on improving analytical capacity within the administrative courts, improving the quality of resources available for court users, and improving efficiency of procedures and quality of output.

Work on the Roadmap for an Improved Administrative Justice is now underway, and this document will describe planned reform activities in further detail. An Interim In-Depth Assessment Report will be produced later in the project to assess progress in the performance of the activities and report on feedback received from participants in the activities, the project stakeholders and beneficiaries.

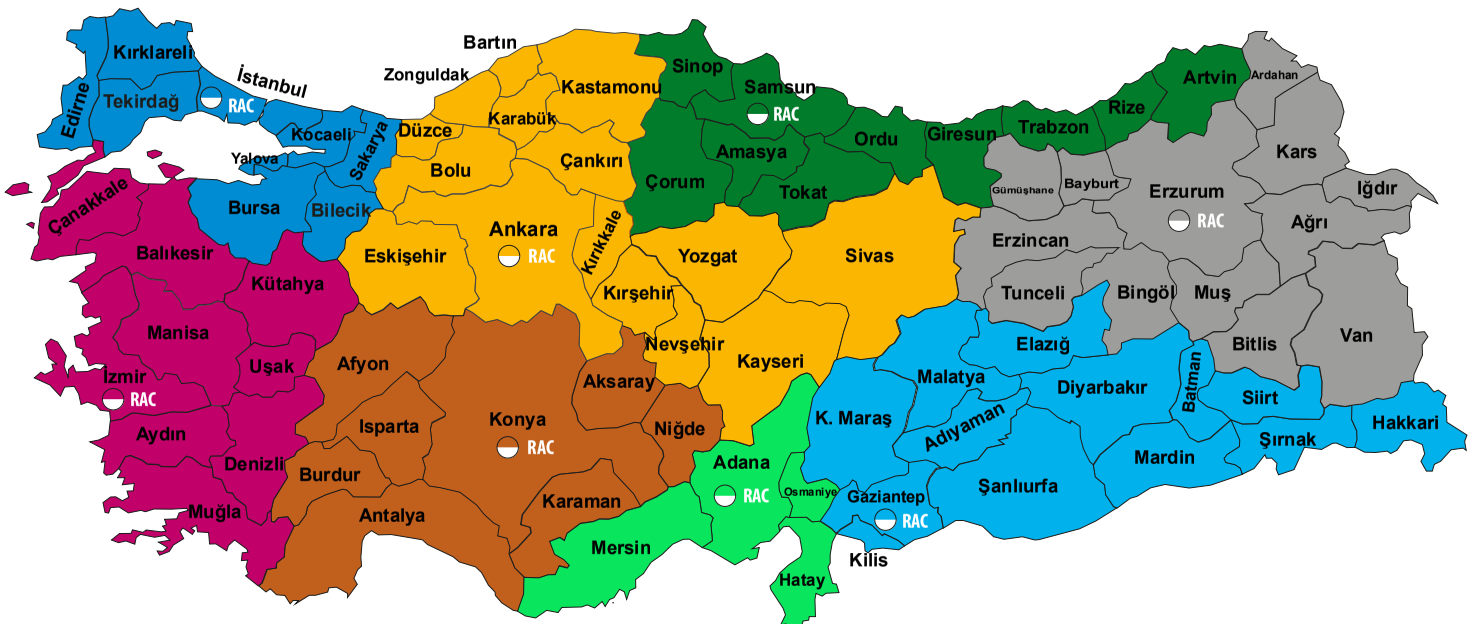
ANNEXES

ANNEX A - First Instance Administrative Court and Tax Court Caseload 2015 – 4 November 2019[2]

Court Type	Years	Incoming				Resolved within the Year	Transferred to Next Year	Ratio of the resolved case to incoming cases (%)	Average Time (Day)
		Transferred from the previous year	Filed within the year	Reversal - Incoming	Total				
Administrative Court	**2015**	92 271	183 983	22 772	**299 026**	190 525	108 501	63,7	182
	2016	108 510	258 072	18 005	**384 587**	270 434	114 153	70,3	147
	2017	114 151	223 710	17 308	**355 169**	257 301	97 868	72,4	153
	2018	97 862	211 455	17 476	**326 793**	207 237	119 556	63,4	179
	2019	121 828	198 737	13 112	**333 677**	176 545	145 867	52,9	259
Tax Court	**2015**	46 531	98 667	5 476	**150 674**	108 242	42 432	71,8	151
	2016	42 432	104 410	5 729	**152 571**	110 519	42 052	72,4	138
	2017	42 053	95 749	5 345	**143 147**	94 112	49 035	65,7	168
	2018	49 034	90 973	7 483	**147 490**	116 042	31 448	78,7	135
	2019	32 779	79 771	6 979	**119 529**	78 600	36 523	65,8	160

2 Source: Ministry of Justice General Directorate of Criminal Records and Statistics: Judicial Statistics 2018

ANNEX B - Turkish Administrative Court Regions Map



Adana Regional Administrative Court has been established by the Ministry of Justice Approval (01/06/2020 date - 949 No.) and will be operational starting from 01/09/2020

ANNEX C - Case Categories and Specialization of Council of State Chambers

Cases Resolved in Council of State as a First Instance Court

Action for nullity and Full remedy actions started against;

- Presidency decrees,
- Other regulatory decrees and decisions given by the Presidency,
- Country-wide applied regulatory decisions and decrees given by the Ministries, Public Institutions and Public Professional Organizations,
- Acts and procedures arising from decisions given by the first chamber or by the CoS Administrative Affairs Board,
- Cases that fall under the jurisdiction of more than one administrative or tax court,
- Decisions of High Disciplinary Board of Council of State and affiliated disciplinary decisions given by the Council of State Presidency,
- Cases regarding title losses of organs of local administrations which were selected by elections.

Cases Resolved in Council of State as an Appeals Court

1st Chamber (Article 42 of the Law on Council of State)

1st chamber resolves or gives opinions on the below cases;

- Public service concession agreements,
- Opinion Requests from the Council of State, required by other laws,
- Cases arising from Article 30 of the Land Acquisition Act,
- Cases arising from Law on Special Provincial Administration,
- Cases given to CoS's jurisdiction by the articles of Law on Municipality (Excluding regular administrative cases arising from Municipality Law),
- Suggestions for Associations to be accepted as Public Benefit Associations,
- Trials regarding Civil servants and other State Employees.

2nd Chamber (CoS Decision No: 2016/72)

- Appeals arising from Legislation regarding Family Physicians,
- Cases regarding civil servants working in Ministries (and their subsidiaries) and cases regarding state employees working in higher education institutions (excluding instructors / professors), on the condition that the case is out of the jurisdiction of 5th, 11th or 12th Chambers.

3rd Chamber (CoS Decision No: 2016/72)

- Regarding Income Tax, Company Tax and VAT; Appeals regarding tax law judgments given by Gaziantep Regional Administrative Court, Appeals regarding tax conflicts which Istanbul (Asian side) Tax Offices are a party of, Appeals regarding tax law judgments given by Istanbul Regional Administrative Courts covering Bursa, Edirne, Kocaeli, Sakarya and Tekirdağ tax court decisions,
- Cases regarding financial obligations such as taxes, charges and fees and which are not in jurisdiction of other tax law chambers.

4th Chamber (CoS Decision No: 2016/72)

- Cases filed against decisions and presidential decrees regarding income tax, company tax and VAT,
- Regarding Income Tax, Company Tax and VAT; Appeals regarding tax law judgments given by Ankara Regional Administrative Court, Appeals regarding tax conflicts which Istanbul (European Side) Tax Offices were a party of and resolved by Istanbul Regional Administrative Court.

5th Chamber (CoS Decision No: 2019/25)

5th chamber resolves cases and appeals arising from;

- Cases regarding appointment, transfer, discipline, record, performance, success, outstanding success, reward, dismissal due to losing one of the acceptance conditions to public service; for civil servants working in Presidency, Ministry of Justice, Ministry of Interior and in subsidiaries of these institutions. This excludes promotion and change of title cases,
- Cases regarding ranks and promotions of Police and Gendarmerie personnel.
- Obligatory retirement cases of civil servants.,
- Cases regarding acts and decisions arising from Law on the Council of Judges and Prosecutors (No: 6087),

- Cases arising from State of Emergency statutory decrees enacted as a result of the State of Emergency decision given by the Council of Ministers. Cases regarding the acts and procedures arising from the provisional 35th article of the Statutory Decree No: 375.

6th Chamber (CoS Decision No: 2019/25)

- Cases regarding preparations and bringing into force of zoning plans of any size according to construction zoning law and other laws, cases regarding land and plot arrangements, parceling cases, zoning status cases, construction license, expropriation and confiscation cases,
- Cases regarding legislations of Environment (including project process), Bosporus, historical buildings, slums (unlicensed buildings), coasts and tourism,
- Cases against money fines, demolition decisions, suspension decisions and sealing decisions arising from construction and zoning legislations,
- Cases arising from legislation on disaster affairs,
- Cases regarding compensation demands due to earthquakes, landslides and other disasters, in the scope of neglect of duty and absolute liability under laws.

7th Chamber (CoS Decision No: 2016/72)

- Cases and appeals regarding customs and import taxes, expenditure taxes, motor vehicle taxes, inheritance and succession taxes,
- Cases and appeals regarding private consumption tax.

8th Chamber (CoS Decision No: 2019/25)

- Cases arising from legislations regarding villages, municipalities and local administrations,
- Cases regarding title losses of organs of local administrations which were selected by elections,
- Cases regarding settlement law and affiliated legislations,
- Cases regarding legislation on Forests, Quarries and Mining law. (Including geothermal resources and natural mineral waters),
- Cases regarding legislation on professional organizations with public institution status,
- Cases on education and students,

- Cases arising from legislation on higher education institutions (including dismissal, discipline and personnel affairs of instructors / professors),

- Cases arising from 278 numbered law on the Scientific and Technological Research Council of Turkey (TUBITAK),

- Cases arising from Highway Traffic Law and Highway Transportation Laws. (Including laws regarding driving schools and courses).

9th Chamber (CoS Decision No: 2016/72)

- Regarding Income Tax, Company Tax and VAT; Appeals regarding tax law judgments given by Erzurum, İzmir, Konya and Samsun Regional Administrative Courts,

- Cases and appeals arising from Act of Fees, cases regarding stamp duties, cases regarding real estate taxes, cases regarding fees, charges, incomes and tariffs of villages, municipalities and local authorities.

10th Chamber (CoS Decision No: 2019/25)

- Cases regarding evacuations and adequate pays arising from Public Procurement Law,

- Cases arising from 3093 numbered Law on the Income of Turkish Radio and Television Corporation,

- Cases arising from Legislation on Business Licenses, Law of Police Powers, Statutory decree on Inspection, Production and Consumption of Foods, Law on Veterinary Services / Phytosanitary / Food and Feed, Law of Metropolitan Municipalities, Statutory Decree on Municipalities, Law on Wholesale Markets for Fresh Fruits and Vegetables, Law on the Regulation of Commerce for Fruits and Vegetables and Other goods with sufficient depth of supply and demand, Decisions regarding business openings, business licenses, money fines, business inspections, evacuations, cease and desist orders, temporal or indefinite closures of businesses arising from the Law on Municipal Revenues.

- Cases arising from Public Health Law,

- Cases arising from the Law on the Preparation of technical legislation regarding goods,

- Cases arising from Law on Financial Leasing, Statutory Decree on Loans and Law on Financial Leasing, Factoring and Finance Companies,

- Cases arising from Legislation on Borders and Land Ownership (including foreign companies ownership and buying of immovable properties),

- Cases arising from the Law on the Reimbursement of Damages arising from Terror and Counterterrorism,
- Cases arising from Health Legislation, which do not fall in the jurisdiction of other chambers,
- Full remedy actions arising from Health Services,
- Cases arising from Social Security and General Health Insurance Law (Excluding the legislation on retirement and civil servants' retirements),
- Cases arising from Bank Promotion Payments,
- Cases arising from Consumer Protection Law and affiliated legislations,
- Cases arising from Legislation on Guns and Knives,
- Cases arising from decisions and procedures given on Customs Brokers and Assistant Customs Brokers according to Customs Legislation,
- All other cases which do not fall within the jurisdiction of other administrative law chambers (Excluding tax law chambers).

11th Chamber

11th chamber has been closed on 13th September 2018, by the CoS decision numbered 2018/31.

12th Chamber (CoS Decision No: 2019/25)

- Cases regarding appointment and acceptance of civil servants into the service, dismissal of civil servants due to losing one of the acceptance conditions to public service, level and steps, term of office, educational background, other adaptation procedures and procedures on monetary conflicts,
- Cases arising from the procedures regarding the candidate status of civil servants and connected procedures such as dismissal, discipline, success etc. during this period),
- Cases arising from non-renewal and cancellation of contracts of Civil servants, retirements from the office, dismissal due to losing one of the acceptance conditions to public service (excluding cases which fall in the jurisdiction of 5th Chamber),
- Cases arising from Article 4/C of 657 numbered Civil Servants Law, including signing and cancellation of contracts and monetary issues,

- Cases arising from the Legislation on Civil Servants' Retirements, excluding obligatory retirements,
- Cases arising from Legislation regarding civil servants working in privatizations. (Including rehiring of civil servants who lost their jobs due to privatizations of their institutions.),
- Cases arising from working hours, leave rights and social rights / aids of civil servants,
- Cases arising from Legislation on Elementary School Teachers' Health and Social Aid Rights,
- Cases arising from legislation on Public Housing and Subsistence,
- Cases arising from the Legislation on Encouraged Savings for Workers and its connected bi-laws and legislations,
- Cases arising from the Law numbered 2330 on Monetary Compensations and Monthly Payments for some civil servants.

13th Chamber (CoS Decision No: 2016/72)

- Cases arising from the Law on the Protection of Competition,
- Cases arising from the Law on Privatization,
- Cases arising from the Law on Tobacco and Alcohol Market Regulatory Authority.
- Cases arising from Sugar Law,
- Cases arising from Wireless Law, Cases arising from Wire and Telephone Law, Cases arising from Electronic Communication Law,
- Cases arising from Universal Service Law,
- Cases arising from Build-Operate and Transfer Laws,
- Cases arising from Legislation on Build-Operate and Transfer Modeled Electric Energy Generating Plants. Cases arising from Energy Sales Law,
- Cases arising from the Legislation on Electric generating, transferring and distributing companies other than Turkish Electricity Administration,
- Cases arising from Electricity Market Law, Natural Gas Market Law, Petroleum Market Law, LPG Market Law and Electricity Market Law,
- Cases arising from Capital Market Law,

- Cases arising from the Protection of the Value of Turkish Currency Law,
- Cases arising from Banking law and Banks Law (Obsolete),
- Cases arising from the Law on Restructuring of Debts to Financial Sector,
- Cases arising from Law on the Establishment of Radio and Televisions and Broadcasting,
- Cases arising from public tenders done through Public Tender Act, Public Tender Agreements Act and Public Procurement Act. Also, cases arising from public tenders done not through the above laws and any other public tenders done by any public institution,
- Cases arising from Law on the Use of Renewable Energy Sources for Electricity Production,
- Cases arising from Law on Energy Efficiency,
- Cases arising from Law on Regulation of Publications on the Internet and Suppression of Crimes Committed by means of Such Publications,
- Cases arising from statutory decree on Public Oversight and statutory decree on Establishment and Duties of Accounting and Auditing Standards Authority.

14th Chamber

14th chamber has been closed on 7th March 2019, by the CoS decision numbered 2019/24.

15th Chamber

14th chamber has been closed on 7th March 2019, by the CoS decision numbered 2019/24.

Plenary Session of Administrative Law Chambers (IDDK)

Appeals regarding;

- Decisions of persistence given by administrative (first instance) courts,
- Decisions given by administrative law chambers as first instance courts.

Plenary Session of Tax Law Chambers (IDDK)

Appeals regarding;

- Decisions of persistence given by tax (first instance) courts,
- Decisions given by tax law chambers as first instance courts.

ANNEX D - Chambers and Boards of the Council of State: Caseload 2014-2018[3]

Years	Incoming			Resolved within the Year	Transferred to Next Year	Ratio of the resolved case to incoming cases (%)	Average Time (Days)
	Transferred from the previous year	Filed within the year	Total				
2014	190 047	140 885	**330 932**	140 815	190 117	**42,6**	**486**
2015	190 117	185 729	**375 846**	182 141	193 705	**48,5**	**376**
2016	193 705	267 831	**461 536**	197 382	264 154	**42,8**	**354**
2017	264 154	85 438	**349 592**	143 604	205 988	**41,1**	**739**
2018	206 030	96 346	**302 376**	137 430	164 946	**45,5**	**571**

3 Source: Ministry of Justice General Directorate of Criminal Records and Statistics: Judicial Statistics 2018

ANNEX E - Reform Roadmap: Indicative List of Topics

1. Promoting good administrative decision making
2. Promoting effective internal review of decisions
3. Consultation between administrative courts and public administration (as a court user) to promote efficiency
4. Simplification and enhancing efficiency of administrative trial procedure
5. Improving efficiency and quality through changes to systems and processes
6. Promoting legal certainty: consistent and influential jurisprudence
7. Promoting improved management of serial cases
8. Promoting good practice in judicial decision making and decision writing
9. Measuring court user satisfaction
10. Promoting public trust and awareness/ improving user information
11. Improving analytical capacity
12. Time management
13. Promoting alternative dispute resolution in administrative justice
14. Improving professional capacity of judiciary and court staff
15. Enhancing the role of the Ombudsman Institution

ANNEX F - Proposed Activities for Pilot Courts

Investment In Human Resources

- Judges and staff of the pilot courts will be enrolled first in the training programme developed as a result on the training needs analysis conducted for the project
- Training for court staff will include plaintiff-defendant/ interpersonal skills training
- Training will be provided to support the formulation of court user satisfaction survey suitable for administrative courts as envisaged in the Judicial Reform Strategy (JRS Objective 6.8)

Improving Analytical Capacity

- The quality of statistical data and management information will be reviewed, and enhancements identified in order to achieve better information for the public, more precise resource allocation; more accurate workload measurement and more equitable case distribution; more reliable advance warning of risks of backlogs in individual courts. Issues to be considered will include case numbering methodology, statistical treatment of serial cases; promoting accuracy of data entry and possible revisions to UYAP functionality
- Processes to manage judicial timeframes to prevent violations of the right for a fair trial within a reasonable time will be reviewed and enhanced

Improving Relations Between Individuals and the Public Administration

- Meetings will be held with public administration stakeholders e.g. Directors of Legal Services to explore systemic quality and efficiency issues
- Reducing automatic appeals

Promoting Public Trust and Awareness/ Improving User Information

- Best practice concerning media and public relations plans will be identified and shared. Plans will include engagement with local Bar Associations
- Brochures (also available online) will be prepared on administrative court

procedures. These will include e.g.an overview of the process to enable citizens to have a better understanding of the stage their case has reached; a basic checklist of essential requirements for new petitions; information concerning the services available via the UYAP citizen portal; and Frequently Asked Questions (Objective 6.10)

Improving Efficiency of Procedures and Quality of Output

- Standard operating procedures for registry and front office staff will be developed and guidelines drafted
- Guidelines for court staff concerning notification procedure will be incorporated with outputs of the new Twinning Project on Judicial Notifications
- Standard template documents will be created and trialled where appropriate, including a petition template
- Existing template judgments created by individual courts using UYAP will be collected and reviewed with a view to creating a standard set
- Guidance on good practices in judicial decision making will be produced

ANNEX G - Selected Council of Europe Guidance Materials

	NAME	Web Link
1	Compilation of CEPEJ Guidelines 2016	https://rm.coe.int/commission-europeenne-pour-l-efficacite-de-la-justice-cepej-cepej-guid/1680788300
2	CDJC Technical Study on Online Dispute Mechanisms CDCJ(2018)5	https://rm.coe.int/cdcj-2018-5e-technical-study-odr/1680913249
3	Recommendation CM/Rec(2007)7 of the Committee of Ministers to member states on Good Administration	https://rm.coe.int/16807096b9
4	CM/Rec(2010)12 Judges: independence, efficiency and responsibilities	https://rm.coe.int/16807096c1
5	Council of Europe Action Plan on strengthening judicial independence and impartiality CM(2016)36	https://rm.coe.int/1680700285
6	Consultative Council of European Judges (CCJE)'Magna Carta of Judges (Fundamental Principles)' CCJE(2010)3 Final	https://rm.coe.int/16807482c6
7	CCJE Opinion n°15 (2012) on the specialisation of Judges	https://rm.coe.int/16807477d9
8	Casebook on European Fair Trial Standards on Administrative Justice (Arman Zrvandyan)	https://rm.coe.int/16807001c6
9	Council of Europe Handbook: "The Administration and You: principles of law concerning relations between individuals and public authorities"	https://rm.coe.int/the-administration-and-you/16808eb47e

ANNEX H - Source Materials

	NAME	Web Link/Paper Copy
1	Law 2575 on Council of State	(*) Source materials provided in English translation are uploaded separately on the web
2	Law 2576 Act on The Establishment and Duties of Regional Administrative Courts, Administrative Courts and Tax Courts	(*) Source materials provided in English translation are uploaded separately on the web
3	Law 2577 Procedure of Administrative Justice Act	(*) Source materials provided in English translation are uploaded separately on the web
4	Judicial Reform Strategy 2019 -23	http://www.sgb.adalet.gov.tr/Resimler/SayfaDokuman/23122019162949YRS_ENG.pdf
5	Council of State Strategic Plan 2019-23	(*) Source materials provided in English translation are uploaded separately on the web
6	Council of State Performance Plan 2019-23	(*) Source materials provided in English translation are uploaded separately on the web

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This Initial Assessment Report is produced in the framework of the Joint Project on "Improving the Effectiveness of the Administrative Judiciary and Strengthening the Institutional Capacity of the Council of State". The report is the first out of three reports to be drafted as envisaged within the framework of the project in order for the in-depth review of the current administrative judiciary system and to assess the effects of implemented reforms.

The report addresses many subjects such as the roles of public administrations, including the internal decision making processes, involvement in the judicial process and compliance with the court decisions; as well as efficiency of the system, overall status of the administrative judiciary, potential improvement areas, training needs in administrative judiciary and experiences of court users, taking into account the legal framework including current status of the administrative judiciary, case-laws, legislation and practices.

The report also includes assessments on how the cases and appeals are processed in order to identify the areas for possible improvement or support on issues related to evaluation, procedures, writing of judgments, case flow, efficiency of the court registry and time limits. These assessments will also contribute to the Roadmap for an Improved Administrative Judiciary that is to be developed within the framework of the project.

The issues addressed in the report are linked with various objectives defined in the third Judicial Reform Strategy of Turkey (JRS), ratified in May 2019.

During the drafting the report, many resources in Turkish were translated into English and Council of Europe Guidance Materials were used of. The resources are provided in the following web page: www.coe.int/en/web/ankara

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The Council of Europe is the continent's leading human rights organisation. It comprises 47 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.