



Turkey Announces New Judicial Reform Strategy

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On May 30, 2019, Ministry of Justice (“**Ministry**”) prepared the judicial reform strategy document (“**Strategy Document**”) which introduces comprehensive changes and improvements to the Turkish judicial system. Recep Tayyip Erdogan, the President of Turkey announced and presented the new reforms brought by the Strategy Document to the attendees of a conference on judicial reform strategy.

The Strategy Document is not legally binding and might only be considered as a road map for the government that merely serves to set the general framework and objectives of the new legal reforms, which are expected to come into effect in the coming years. The timeline of implementation of the reforms are not determined and it is likely to become clearer when an action plan is published, which is also explained in the Strategy Document.

The Strategy Document mainly touches upon the following issues: strengthening the rule of law and the independence of the judiciary and improving impartiality, protecting and promoting rights and freedoms more effectively, increasing the transparency of the legal system, simplifying judicial processes, facilitating access to justice, strengthening the right of defense and efficiently protecting the right to trial in a reasonable time. The Strategy Document focuses on the nine (9) aims which have been broken down to sixty three (63) objectives and two hundred and fifty six (256) activities.

Action Plan will cover the budget allocated for the identified objectives and targets, the competent/relevant institutions and the calendar to be adhered to within the framework of the relevant objectives. In order to monitor the implementation of the Strategy Document, the Ministry will issue annual Monitoring Reports. These reports will be prepared in both English and Turkish and they will be made available to public.

The Ministry will also be setting up an organizational structure, Judicial Reform Strategy Monitoring and Evaluation Board (“**Board**”), with the participation of relevant institutions

and organizations to resolve the problems that may arise in the implementation of the Strategy Document and to monitor the implementation process transparently. The Board is to be established within a maximum three months as of the publication of the Strategy Document. The Board is expected to organize meetings periodically and prepare monitoring and evaluation reports, which will be available for public access.

The objectives of the Strategy Document and brief explanations regarding these aims are as follows:

Aim 1: Protection and Improvement of Rights and Freedoms

Efforts under this aim will focus particularly on *freedom of expression and press, right to assembly and demonstration* and *reasonable application of the arrest measures*. Detailed provisions on rights and freedoms will be included in the Human Rights Action Plan, which will be published later on. The following activities will be carried out within the scope of this aim:

- Legislation on and practice of freedom of expression will be analyzed to introduce provisions that expand the rights and freedoms of individuals.
- The assurances for legal remedies will be increased against judicial decisions concerning freedom of expression. The ways in which Regional Courts of Appeal's decisions become final and binding after appellate reviews will be revisited in terms of the provisions concerning the freedom of expression with the aim of bringing an additional guarantee for the individuals by ensuring that the Supreme Court also reviews the decisions.
- Legislation and the application regarding custody, detention and other protection measures, affecting the right to freedom and security will be reviewed and measures will be introduced to ensure proportionate implementation of security measures.
- Law No. 5651 on Regulation of Broadcasts via Internet and Prevention of Crimes Committed Through Such Broadcasts and other related legislation will be reviewed and

revised as necessary, particularly with a focus on freedom of expression and the methods of blocking access on the internet.

- It will be ensured that Constitutional Court's decisions, rendered upon individual applications, concluding that there has been a violation can be used as a ground for retrial under procedural laws.

- Law No. 6698 on Protection of Personal Data will be reviewed in light of the EU acquis and works on harmonization will be completed.

- A new domestic legal mechanism will be formed for examining applications for right to trial violations within a reasonable time and to award compensation, if necessary.

- To raise awareness and sensitivity for human rights in the judiciary, the compliance of the decisions, rendered by judges and prosecutors, with the decisions of the Constitutional Court and the European Court Human Rights will be monitored and taken into account in their inspection and promotion. Training courses on human rights and reasoning of judgments for arrest will be provided.

Aim 2: Improving Independence, Impartiality and Transparency of the Judiciary

Efforts under this aim will focus particularly on *appointment, transfer and promotion of judges and public prosecutors, restructuring disciplinary procedures regarding the judges and public prosecutors, strengthening judicial conduct and expansion of scope of the activity reports in civil and administrative judiciary*. Within the scope of this aim, judges and public prosecutors will not be relocated against their will and an interview exam during the admission of judges and public prosecutors will be conducted by a committee. Besides, disciplinary penalties will be redefined based on more objective criteria. Judges and public prosecutors will be given more extensive rights in disciplinary processes

Aim 3: Increasing the Quality and Quantity of Human Resources

Improving the quality of legal education, restricting the admission procedure for legal professions, improving the quality of pre-service and in-service trainings and increasing the number of judges, public prosecutors and judicial personnel in proportion to the workload are the main efforts which this aim will focus on. The following activities will be carried out within the scope of this aim:

- Duration of study and quotas in law schools, the success criteria required for admission, fundamental principles regarding the quantity and quality of the existing academic staff in law schools will be reviewed and revised, as necessary.
- Law school graduates will be subject to “*Legal Proficiency Exam*”, prior to becoming judge, prosecutor or notary assistant and start their legal internship. Those who succeed in the proficiency exam will then be allowed to take exams to become judge, prosecutor or notary assistant.
- Judge and prosecutor assistantship will be introduced to the Turkish judicial system as a new legal profession. Judge and prosecutor assistants will be allowed to participate in judicial services so that they can better prepare for the profession.
- Justice Academy of Turkey will be established to develop a new institutional structure for the pre-service and in-service training of judges and prosecutors with an academic approach. Human rights law will be included as a part of pre-service and in-service training programs along with legal methodology and legal argumentation programs. The number of judges and prosecutors receiving foreign language and postgraduate education abroad will be increased.
- Number of judges, prosecutors and judicial personnel, along with other professionals such as psychologists, sociologists and experts working in courthouses, will be increased taking into consideration the workload of these offices in the Council of Europe Member States. Attention will be paid to the principle of gender equality in recruitment of judges, prosecutors and legal staff.

Aim 4: Enhancement of Performance and Productivity

Efforts under this aim will focus particularly on *increasing the quality in the judicial system, right to be tried in a reasonable time, specialization in the court system, strengthening the Courts of Appeal, improving effectiveness and efficiency of court experts system, notification and service of judicial documents, use of technology in judicial system in a citizen-oriented manner, regulation of hearing times to ensure proper handling of each case by judges and public prosecutors, provision of forensic services and development of international mutual legal assistance and cooperation*. The following activities will be carried out within the scope of this aim:

- Electronic notification system will be broadly used. Notification officials will be obliged to have training on site in order to prevent problems related to notification.
- Procedures will be developed for dispute resolution without hearings. In order to ensure foreseeability, hearing timelines will be prepared and implemented. Steps will be taken to ensure cases are concluded in one session.
- The procedures concerning the recognition of the decisions rendered by foreign courts will be reviewed and simplified. International cooperation will be formed for cross border organized crimes, terrorism, financing of terrorism, cybercrimes, human trafficking, laundering of proceeds of crime and trafficking of narcotic drugs.

Aim 5: Ensuring Efficient Use of the Right to Self-Defense

Efforts under this aim will focus particularly on *amending the procedure for admission to the attorneyship profession, active participation of defense in the proceedings and new practices enabling attorneys to fulfill their duties more easily*. The following activities will be carried out within the scope of this aim:

- In order to start the attorney internship, individuals will be required to succeed in the “*Legal Proficiency Exam*”. The duration and productivity of the internship will be revisited. Regulations will be introduced to make sure that attorneys are able to work and be covered by insurance during their internship.

- Attorneys rights on accessing information and documents will be extended. Some proceedings and actions, such as land registry and some rental agreements, will be conducted through attorneys in order to increase legal security. Mandatory legal representation for certain cases will be discussed in the judiciary. Regulations will be made requiring that documents presented by attorneys should be trustworthy and in the event of an objection by a party on appropriate grounds, the document will be subject to review. The tax burden on attorneyship services will be re-evaluated in order to strengthen the citizens’ right to access to justice. Rights of attorneys, such as receiving a special stamped passport, will be improved.

Aim 6: Ensuring Access to Justice and Enhancing Satisfaction from Service

Efforts under this aim will focus particularly on *re-arrangement of application deadlines for legal remedies, strengthening the legal aid system, introducing disabled-friendly practices, practices related to women's rights and measures facilitating access of the elderly and foreigners to justice, institutionalization of media and public relations in the judiciary and elimination of practices and approaches hindering court testimony.*

Aim 7: Enhancing the Efficiency of the Criminal Justice System

Efforts under this aim will focus particularly on *strengthening the means for settlement before the prosecution and the investigation phases, review of balance between offence and the sanction by observing the principle of protection of rights and freedoms primarily the right to a fair trial, restructuring of the juvenile justice system, renewal of inconvenient general enforcement procedures in criminal enforcement field with the integration of modern technologies, correctional measures for the social reintegration of the persons and efficiency of the investigations and prosecutions concerning cybercrimes.* The following activities will be carried out within the scope of this aim:

- Scope of the sanctions alternative to short term imprisonment sentences will be extended in terms of duration and type. Acts that are criminalized by the legislation will be revisited and those which could be converted to administrative sanctions will be defined and decriminalized.

- Judicial registry archive records will be deleted without requiring a separate court decision and the duration for deleting will be shortened. The judicial statistics will be deepened with a multi-directional understanding for impact analysis of the new legal regulations and instant follow-up of the data on offences and criminality.

Aim 8: Simplification and Enhancement of the Efficiency of Civil and Administrative Trials

Efforts under this aim will focus particularly on *simplification of civil proceedings and procedural provisions, prevention of misuse of right to access to justice, removal of applications deepening the disputes during the judicial resolution of disputes arising from family law, redefining the job allocation between notary publics and courts, strengthening enforcement and bankruptcy system, renewal of enforcement sale system by observing the balance between creditor and debtor and reducing the costs imposed on the citizens in the proceedings and simplification of administrative trial procedure*. The following activities will be carried out within the scope of this aim:

- Separation of duties between the civil courts of first instance and civil courts of peace will be re-identified. New regulations will be introduced to solve claims and actions for a small amount with a simplified and expeditious trial procedure, to simplify the preliminary examination stage and written trial procedure and simplified trial procedure will be applied in all proceedings of which the subject can be measured with money and is below a certain monetary amount. Scope of consumer courts' duties of will be identified again in proportion with the workload.

- Notary publics will be allowed to carry out some non-contentious proceedings and taking of evidence that is limited to the period when the action has not been initiated yet.

- A new legislation will be introduced to regulate the management, personnel and organizational structure of the enforcement and bankruptcy offices. Virtual enforcement office application will be launched. The institution of trusteeship will be reformed through launching the licensed trustee practice and re-regulating the liquidation procedure.

Aim 9: Expansion of Alternative Dispute Resolution Methods

Efforts under this aim will focus particularly on *expansion of use of alternative dispute resolution methods in criminal and civil disputes* and *effective implementation of settlement for public lawsuits*.

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