



YARGI REFORMU STRATEJİSİ

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INFO PACK

Turkey's Judicial Reform Strategy Document

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Abbreviations

AB: European Union

AİHM: European Court of Human Rights

AYM: Constitutional Court

CEPEJ: European Commission for Efficiency of Justice (Council of Europe)

EJN: European Judicial Network (European Judicial Network)

EUROJUST: Judicial Cooperation Unit of the European Union

e-DEVLET: E-Government Providing electronic services to citizens by the state

CMK: Code of Criminal Procedure No. 5271

HMK: 6100 Law of Civil Procedure

HUMK: 1086 Law of Civil Procedure

HSK: Board of Judges and Prosecutors

IPA: Instrument for Pre-Accession Assistance

ÖSYM: Measurement Selection and Placement Centre

SEGBİS: Audio and Video Information System

TBMM: Parliamentary Assembly of Turkey

UNICEF: United Nations Children's Fund

The opinions expressed in this report represent the views of the author(s) and do not necessarily reflect the views of the TRT World Research Centre.

Executive Summary

President Recep Tayyip Erdogan has unveiled the new Judicial Reform Strategy document on May 30, 2019, which aims to strengthen the independent, transparent, objective and accountable features of the judiciary. The Judicial Reform Strategy Document adopts the development of a human-oriented approach to service, protection and strengthening of rights and freedoms, ensuring the independence and impartiality of the judiciary, facilitating access to justice services, observing the right to a fair trial and increasing trust in the judiciary.

The reform policies of the document, which considers compliance with European Union (EU) norms, are organized as 9 main objectives, 63 objectives and 256 activities. In line with the principle of transparency, it is planned that the Judiciary Reform Strategy Monitoring and Evaluation Board will be established and an Action Plan will be prepared within three months following the publication of the document in order to ensure public audit. This Board, which will be formed with the participation of all stakeholders, is expected to meet periodically to ensure the implementation of the judicial reforms.



(Turkish Presidency / Murat Çetinmühürdar / Handout - Anadolu Agency)

Introduction

The third of the Judicial Reform Strategy Document, which was announced by the Ministry of Justice to the public in 2015 within the framework of the European Union (EU) accession negotiations, was announced by President Recep Tayyip Erdoğan. In the document, the 2023 judicial vision has been identified as a "reassuring and accessible justice system".

The present Judicial Reform Strategy Document consists of two basic perspectives, nine targets, 63 objectives and 256 activities. The nine targets are the protection and improvement of the rights and freedoms, improvements of judicial independence, objectivity and transparency, improving both the quality and quantity of human resources, increasing performance and productivity, enabling the right of defense to be used effectively, making justice more approachable, increasing the effectiveness of the penalty justice system, simplifying civil justice

and administrative procedure and lastly, popularizing alternative mediating methods. Prepared by the Justice Ministry for the period of 2019-2023, the reform strategy envisions a "trust ensuring, approachable justice system."

President Erdogan announced the new road map in the judiciary. The highlights of Erdogan's statements are as follows: "We can see this strategy document as the beginning of further reform preparations. We support these reforms not because the EU wants them, but because our nation needs them. Where justice is shrinking, persecution is growing. The Judicial Reform Strategy Document was created by updating the old reforms. Our aim is to ensure that all our institutions are sensitive to freedom of expression and all practices that restrict freedom. We carry out studies in each field separately. This reform document will help to create a more reliable investment environment. We also express our commitment to the EU."

Judicial Reform Strategy History

Turkey's will for reform, which has become concrete with the strategy documents, emerges from the needs of the system and social demands going beyond the political objectives regarding the EU accession process. As a result, partial or comprehensive reforms have been introduced over time. In this context, the first Judicial Reform Strategy was prepared in 2009 in order to meet one of the unofficial opening criteria within the scope of the negotiations of Chapter 236. The document presented in 2009 was later updated in 2015. Since 2009, two strategy documents had been published. Some of the highlights of the 2015 Judicial

Reform Strategy Document that were implemented are compulsory mediation, legal clinic, legal service for the benefit of the community and legal protection insurance.

In this newly announced third strategy document, there are important titles such as strengthening the rule of law, more effective protection and development of rights and freedoms, increasing the transparency of the system, simplifying the judicial processes, facilitating access to justice, strengthening the right to defence and the right to a fair trial.

Why Turkey's Judicial System Needed Reform?

Although important developments have been realized, there is still a need for reform aimed at ensuring the coherent functioning of the system. The efforts performed so far have aimed to strengthen the rule of law, protect and promote rights and freedoms and form an effective and efficient criminal justice system. The first Judicial Reform Strategy was prepared in 2009. The document presented in 2009 was later updated in 2015. Nevertheless, even if some of the targets in the previous reforms were accomplished, it was seen that there was a need for another detailed study on the effectiveness and efficiency of the judicial branch in Turkey. This document is pre-

pared to observe the new needs that emerge within the framework of the same aim. For this Judicial Reform Strategy, needs have been determined based on a broad case analysis with a systematic and holistic perspective. During the announcement of judicial reform package, President Erdogan emphasized that they have made the biggest investments and the biggest reforms in the field of judiciary in the last 17 years. President Erdoğan also added that "The fact that life itself is a continuous process of change points to us that we should continue the reforms in these areas continuously. We can also see it as the beginning of the next reform preparations."

Preparation Process and Activities Carried Out During the Preparation Process of the New Judicial Reform Strategy Document

Preparations for the Judicial Reform Strategy Document began in August 2018 and the first comprehensive organisation providing data for working together was "Council of Justice" which was gathered in Ankara on 10/01/2018 and took place for two days. Twenty-eight academics, press members and practitioners delivered presentations on different subjects in the Council whose main theme was "justice and society" and which consisted of six sessions.

The budget allocated to the judicial services has increased since 2015. While the budget allocated to the judicial services in 2015 was 9.078.129.000 TRY, this figure was increased by 120% in 2019 to 19.947.534.000 TRY.

In the preparation process, certain analyses and studies based on judicial statistics have been concluded. The

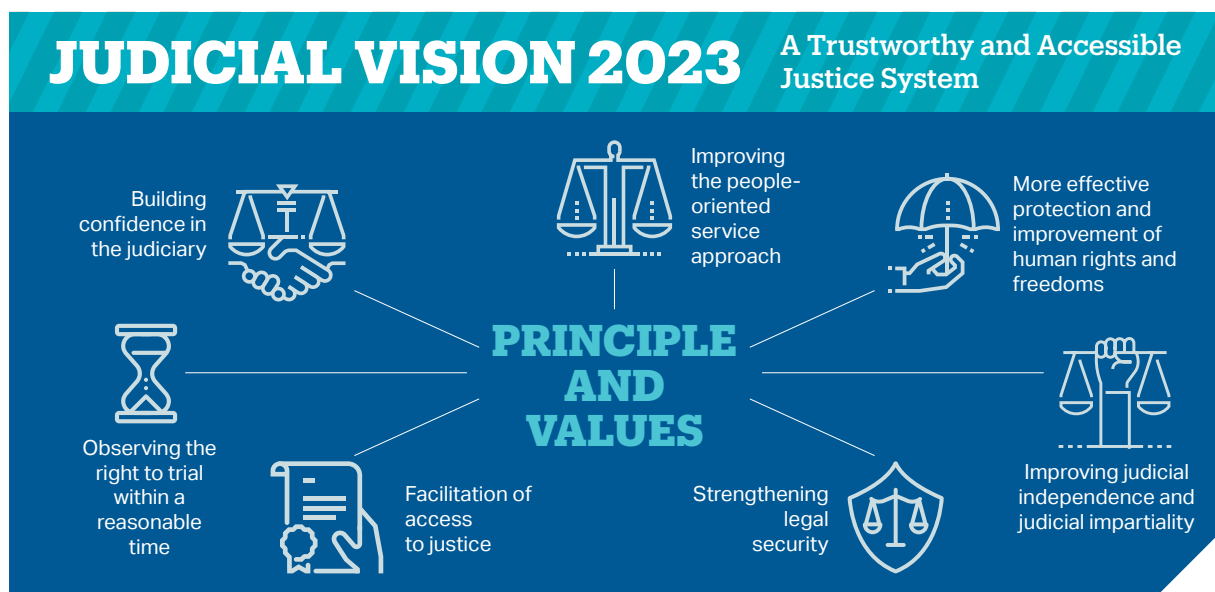
evaluations of international organisations have added depth to planning studies. Opinions of judges, prosecutors, lawyers, the staff of the Ministry of Justice, the Supreme Court, university law schools, NGOs, the Bar Association of Turkey and bar associations, journalists and relevant institutions and organisations, academics, writers, citizens were all taken into consideration.

Reports and assessments of the EU, Council of Europe, Venice Commission and the other international organisations were examined, and the case law of the European Court of Human Rights was taken into account. In addition, the evaluations made in the negotiations with the EU, Council of Europe and the ECHR representatives regarding the draft document were taken into account.

The Principles That Shaped The Judicial Reform Strategy Document

In the new Strategy Document, 2023 judicial vision is formed within the framework of a reassuring and accessible justice system. The principles of developing a human-oriented service concept, increasing confidence in the judiciary, protecting and developing rights and

freedoms more effectively, observing the right to be tried in a reasonable time, improving the independence and impartiality of the judiciary, facilitating access to justice and strengthening legal security were adopted.



Two Basic Perspectives

The first purpose of the document is to protect and promote rights and freedoms. For this purpose, it is envisaged to review the legislation and make the necessary changes in order to raise the standards of rights and freedoms. In particular, the document stressed the need for legislative change and the analysis of implementation in order to expand and effectively secure the area of freedom of expression. At this point, it is committed to preparing a new Human Rights Action Plan in order to eliminate the problems arising from the implementation.

The second main objective of the document concerns the independence, impartiality and transparency of the judiciary. One of the basic elements of the rule of law is the independence of the courts. The independence of the judiciary aims to prevent any interference with the right to a fair trial in the performance of judicial activities. The judiciary needs to have some structural guarantees in order to establish a trial environment that is safe from interventions. The guarantees given to ensure the independence of the judiciary are regulated in particular with regard to the appointment, transfer, promotion and disciplinary work of the members of the judiciary. In addition to the independence of the judiciary, the principle of impartiality has been added to the independence principle of Article 9 of the Constitution in order to strengthen impartiality. The document also sets out the objective of strengthening judicial ethics in order to secure these two principles.

1- Basic Perspective on Rights and Freedoms:

The Judicial Reform Strategy Document strongly emphasizes the strengthening of democracy, the development and expansion of rights and freedoms. The document introduces approaches to strengthen freedom of expression and new policies to actualise this will.

Within this scope, new policies were determined with a broad perspective for the first aim of the document, "Protection, development and expansion of rights and freedoms". The Document aims to review the legislation and make the necessary changes in order to raise the standards on rights and freedoms.

2- Basic Perspective on the Functioning of the Justice System:

The Judicial Reform Strategy Document is pointing to the importance of strengthening the principle of the separation of powers within the framework of the constitutional amendment and that the constitutional function of the judiciary is vital for a strong and complete democracy. The Turkish legal system is part of the Continental European legal system. Interaction between the Turkish legal system and the Anglo-Saxon legal system is gradually increasing. Therefore, traces of global trends will be seen in the document, which was prepared by taking into consideration best practices from different legal systems, particularly the principles of the Council of Europe, EU acquis and related practices.



(Turkish Presidency / Murat Çetinmühürdar / Handout - Anadolu Agency)

AIMS AND OBJECTIVES								
1	2	3	4	5	6	7	8	9
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 Efficient Use of the Right to Self-Defence	Ensuring Access to Justice and Enhancing Satisfaction from Service	Enhancing the Efficiency of the Criminal Justice System	Simplification and Enhancement of the Efficiency of Civil and Administrative Trials	Spreading of Alternative Dispute Resolution Methods
NUMBER OF ACTIVITIES								
3	5	7	15	3	11	8	7	4

AIMS, OBJECTIVES AND ACTIVITIES OF THE DOCUMENT

Aim 1: Protection and Improvement of Rights and Freedoms:

The first aim will focus particularly on reviewing the legislation and making the necessary amendments both to raise the standards on rights and freedoms as well as raising awareness and sensitivity for human rights in the judiciary. 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.
- 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.
- It will be ensured that the 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.

● A new domestic legal mechanism will be formed for examining applications for the 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:

The second 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 the scope of the activity reports in the civil and administrative judiciary. The following activities will be carried out within the scope of this aim:

- The system for the appointment, transfer and promotion of judges and public prosecutors shall be developed with objective criteria based on merits.
- Geographical guarantee shall be brought for the judges and public prosecutors with a certain professional seniority.

- The interview exam during the admission of judges and public prosecutors shall be conducted by a committee with a large participation.
- Promotion system of the judges and public prosecutors shall be restructured taking account of qualifications and performance.
- Minimum professional seniority requirements shall be redefined to be assigned to certain offices.
- The power of the Minister of Justice to assign judges to another jurisdiction in case of urgency shall be revoked.
- 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:

The third aim will focus on improving the quality of legal education, restricting the admission procedure for legal professions, improving the quality of pre-service and in-service training 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.
- "Legal Proficiency Exam" will be put into practice so that law graduates can become judge-prosecutor and notary assistant and start their law internship and those who are successful in the Legal Proficiency Exam will be allowed to take exams for becoming judge, prosecutor and 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.
- A 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.

- The 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 the recruitment of judges, prosecutors and legal staff.

Aim 4: Enhancement of Performance and Productivity:

The fourth aim will focus particularly on increasing the quality in the judicial system, the 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:

- The performance criteria in the judiciary will be redefined and a "Performance-Based Monitoring System" will be developed for long-continued investigations or cases.
- The principles and procedures will be laid down for the supervision and performance evaluation system in court expert services and the number of files to be handled by court experts in a certain period will be determined based on their fields of expertise.
- The capacity of judicial authorities to develop and implement projects regarding EU accession process will be strengthened, members of judiciary will increase their awareness on EU Law.
- 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:

The fifth aim will focus particularly on amending the procedure for admission to the attorneyship profession, active participation of defence in the proceedings and new practices enabling attorneys to fulfil 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:

The sixth 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. The following activities will be carried out within the scope of this aim:

- In the field of private law, a legal aid system consisting of offices where the legal problems of citizens can be consulted will be established

- A new model shall be established to prevent the prolongation of the proceedings due to decisions of non-jurisdiction and non-competence in the civil and administrative courts.

- The application procedure for legal aid in the field of private law shall be simplified, a standard application form shall be established, and the possibility of application through e-Government shall be introduced.

- It shall be ensured that the suspect, accused and victim rights forms prepared for foreigners will be given to those concerned in commonly used languages (such as English, Arabic, German, French, Russian).

- Satisfaction surveys will be conducted at regular intervals and regular meetings will be held with the participation of academicians and non-governmental organisations.

- Helpdesks shall be formed in all the courthouses, which are heavy penalty court centres, and the working and personnel standards of the helpdesks shall be determined.

- Students will be provided with the opportunity to do their internships at the helpdesks and volunteers will also have the opportunity to work at the helpdesks.

- In order for the judicial services to be maintained in a way to ensure the satisfaction of the beneficiaries, it will be ensured that the personnel working in the offices of chief clerk in the courts and the offices of prosecution will receive training on public relations and communication skills.

Aim 7: Enhancing the Efficiency of the Criminal Justice System:

The seventh 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:

- The application of the structures of pre-payment and suspension of initiation of the criminal case will be expanded.

- The provisions of effective remorse and the competences of the Public Prosecutor's Offices concerning effective

remorse will be extended with regard to different offence types.

- It will be ensured that the investigations concerning certain acts will be concluded by settlement between the offender and the prosecutor.

- It will be ensured that the offences, except some certain serious offences, which were committed for the first time by minors under 15 years old, are evaluated within the protective mechanisms specific to children without subjecting them to investigation and prosecution.

- New practices will be developed using the technology such as video-call of the convicts and detainees with their relatives and submission of electronic petitions and new methods will be provided such as increasing the capacity of electronic monitoring in probation services and biometric signature in the monitoring of the probationers.

- 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:

The eighth 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 the 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.

- 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:

The ninth aim will focus particularly on the dissemination of the use of alternative dispute resolution methods in criminal and civil disputes and effective implementation of settlement for public lawsuits. The following activities will be carried out within the scope of this aim:

- Scope of the provisions that stipulate conciliation will be broadened.

- A conciliation model specific to children leads to an offence will be developed.

- The regular impact analysis will be conducted on alternative dispute resolution methods.

- Through the participation of relevant institutions and organisations, professional organisations, the academic world and non-governmental organisation, the "Alternative Dispute Resolution Methods Advisory Council" will be established.

- In the disputes arising from administrative law and private law between different institutions and disputes between administration and individual, the application to the institution of peace will be made an obligation.

■ Quick Takeaways

New Model:

A new legal education model will be created. The number of years it takes to become a lawyer will be extended and student quotas and criteria for acceptance will be regulated. The curriculum will also be renewed. Additionally, an entrance exam will be introduced for the occupations related to law, and a new legal occupation (deputy of judges/prosecutors) will be introduced.

Specialized Courts:

Reconciliation-based practices will be increased in specialized courts. The courts of appeal will be strengthened.

Technology To Be Used:

Electronic monitoring capacity in probation services will be increased and methods such as the use of biometric signatures will be created.

Alternative Ways:

The scope of implementation of pre-trial institutions such as reconciliation, prepayment and postponement of the opening of public litigation will be expanded.

Important Democratization Measures Will Be Introduced In The Judiciary:

Trial without detention will be employed as the main method. When Internet access is blocked, it will be limited only to certain pages, not to an entire website.

Appeal Courts Will Strengthened:

The appeal courts will be strengthened, with four additional district courts to be added to the existing 11.

Special Practice For Children:

Alternative methods to imprisonment will be developed for children who commit crimes for the first time, with the exception of murder.

■ Monitoring and Evaluation System

In order to monitor the implementation of the document, the Ministry of Justice will issue annual monitoring reports. These reports are planned to be in English as well as Turkish and shared with the public. In order to solve the problems that may arise in the implementation of the document and to conduct the monitoring transparently, an organisational structure in which relevant institutions and organizations

apart from the ministry will participate is foreseen.

Within this scope, the Judicial Reform Strategy Monitoring and Evaluation Board will be established within a maximum of three months as of the publication of the document. The Board in which all the stakeholders will participate will organize meetings periodically and prepare monitoring and evaluation reports open to the public.

■ The new strategy proves Turkey's commitment to the EU negotiation process

With the Judicial Reform Strategy Document, Turkey underlines the importance it attaches to the European Union membership process. The negotiation process continues in 35 chapters in order to ensure harmonisation of the EU acquis. Chapter 23 entitled "Judiciary and Fundamental Rights" carries special importance in this process. In this context, the first Judicial Reform Strategy was prepared in 2009 in order to meet one of the unofficial opening criteria within the scope of the negotiations. The document presented in 2009 was later updated in 2015. This present document is the third Strategy Document. President Erdogan stated that "one of the greatest gains of the EU accession process was the ability to systematically implement reform efforts. We are implementing the reforms not because the EU wants us to, but because our nation needs it," he stressed.

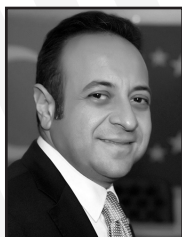
The EU published a report on Turkey the day before the announcement of the Judicial Reform Strategy, the EU accused Turkey of distancing itself from the bloc and its val-

ues, adding that it sees no reason to unfreeze the country's EU membership talks. The report underlined "further serious backsliding" on human rights, judicial independence and stable economic policy.

President Erdogan stated that "Despite everything, we believe that the completion of the EU negotiation period that has been ongoing since 2005 is as important as Europe as it is for us. With this reform document, although they do not keep their promises, we expressed our commitment to the EU membership process."

Turkey views membership to the Union as a strategic objective and remains committed to the accession process. Justice Minister Abdulhamit Gül stressed the document will contribute positively to Turkey's EU membership process.

EXPERT VIEWS



Egemen Bağış

Former Minister for EU affairs and chief negotiator of Turkey in accession to the EU.

What is the importance of the new Judicial Reform Strategy and why was it necessary?

Judicial reform strategy is very important because it will ensure a trustworthy and accessible justice system in line with the EU accession process. .

Today's Turkey is much more democratic and prosperous compared to 30 or 40 years ago but that does not mean that it is perfect. Naturally as in all other countries, there is a constant need for reform because the only constant in life is change itself. We have always argued that EU should serve as a dietitian which helps candidate countries to get rid of its excess weights and become healthier, more fit and dynamic while implementing the EU benchmarks.

What impact will the new Judicial Reform Strategy have on the judicial system, democracy, rule of law and transparency in Turkey?

This package will bring Turkey closer to our goals of increased transparency and openness. It is a very bold initiative with 9 aims, 63 goals and 256 activities proposed. It will ensure transparency and fairness in our judicial system, which was injured by the terrorist clan FETO. It will definitely increase the rights of defendants and the attorneys who represent them. It will also open the way for a new human rights action plan which will enhance the individual rights and freedoms of all citizens of Turkey.

The new judicial reforms will guarantee geographical locations for newly recruited judges and prosecutors. It will bring new prominent activities to enhance the standards of our judicial system. It proposes a new model for law education and it also brings new opportunities for judges to be specialized as either criminal judges or civil judges.

Overall it will make Turkey's justice system much more transparent, trustworthy and dependable.

How might the new Judicial Reform Strategy effect Turkey's relationship with the European Union?

We have taken many steps in order to bring Turkey to the EU standards. We probably have done a lot more than most of the current member countries when they were candidates. However, this recent package should also serve as a motivator for the EU commission to come up with the opening benchmarks of chapter 23 and 24 which are actually the chapters that Turkey receives the most number of criticisms in the progress reports. Turkey is criticized for issues that are covered by these two chapters, however Turkey has not been given a roadmap on what to do on those issues. If we had known the opening benchmarks for those chapters, it would be much convenient for us to comply with them. Despite all these, the recently announced package proves Turkey's determination to be a part of the European family.

I consider EU to be the grandest peace project in the history of mankind because not even a single bullet has been fired from one member country to another since the foundation of the union in a geography where history is full of bloodshed.

I have always argued that the EU process is more important than the end result because increasing our living standards, human rights and judicial standards is beneficial for our citizens, not any other nation.



Prof. Dr. Muharrem KILIÇ

Ankara Yıldırım Beyazıt University, Faculty of Law

What is the importance of the new Judicial Reform Strategy and why was it necessary?

The first judicial reform strategy document was introduced by the Ministry of Justice to meet informal inauguration criteria within the scope of the negotiations for the 23rd chapter after the negotiations for full membership of the EU had launched (2005). The study that aimed to update this document was completed by 2015 and published as the second strategy document within the framework of judicial reform policies. This novel document, which is publicized by the President as the third reform paper, is crucial for expressing the sustainability of Turkey's will for harmonization with the EU acquis. As per this document, Turkey expressed its will to progressively maintain its judicial policies that are being carried out since the previous reform periods. The document, which is configured on the basis of nine constitutive objectives and 63 concrete aims, designates its first objective as the 'protection and promotion of rights and liberties', thereby revealing Turkey's reform perspective. The document is predicated on a judicial vision, which would accrue 'the right to fair trial' to the largest extent. Within this framework, various essential objectives such as 'promoting judicial independence, impartiality and transparency', 'facilitating access to justice', 'increasing the quality and quantity of human resources', 'enhancing the effectiveness of criminal justice system', 'improving the performance and efficiency', 'dissemination of alternative dispute resolution methods', 'promoting the effective use of right to defence', 'simplifying and increasing the effectiveness of civil justice and administrative procedures', are supported by concrete aims and 256 activities.

What impact will the new Judicial Reform Strategy have on the judicial system, democracy, rule of law and transparency in Turkey?

The new reform strategy document designates the frame targets directed towards the objective of strengthening the independence and impartiality of Turkish judiciary, in accordance with 'right to legal remedies' and 'right to fair trial principle'. First and foremost, these aims will

strengthen the 'democratic legitimacy' of our judicial system. During the last 16-year period, numerous structural changes took place according to 'state of law' understanding and 'supremacy of law' principle, in order to fortify the democratic political system in Turkey.

This document proves that this understanding is pursued with high will and determination. With all of its content, this document is a manifestation of Turkey's self-confident consideration of a liberty-security balance without benefiting from the given situation to legitimize hard security policies, despite the security risks and terror threats posed by geopolitics and geostrategic situation it stands within. Turkey adopted the Presidential government system, as decided by a referendum along with the constitutional amendments in 2017. This document contains objectives aiming to solidify the legal framework to enable functioning judicial power as a check and balance mechanism in the new system that strengthens the separation of powers.

How might the new Judicial Reform Strategy effect Turkey's relationship with the European Union?

The new strategy document is a continuation of the reform policies that are necessary for the negotiation chapters after the start of the full accession negotiations with the European Union. Turkey preserves its full membership perspective regardless of the European Union's ambivalent stance. Indeed, on the one hand, this document comes forward as a concrete reflection of the aforementioned perspective. Nevertheless, merely evaluating the document as a step towards meeting the compelling projections of the Union will be misleading. In fact, the chequered nature of the accession negotiations of the last 15 years leads Turkey to reproduce European Union's normative values (Copenhagen Criteria) as a social dynamic and a policy. On every occasion, Turkey declares to the international community that it will enact these reforms as its political dynamics per se. Consequently, in the current situation, there is no doubt that this self-confident reform step will be a constructive move with respect to Turkey and European Union relations.



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What is the importance of the new Judicial Reform Strategy and why was it necessary?

Turkey as a dynamic country goes through important changes that require adaptations to the new social, political and economic realities. Turkey's international relations, including its efforts to become full member of the European Union, is also a significant factor that stimulate Turkey to preserve its reformist spirit and agenda. In fact, Turkey has been following a reform agenda for the last two decades despite non-democratic interventions such as a court case brought against the ruling AK Party in 2007 seeking to shut down the party and ban its leaders from participating in politics. The most recent attempt to overthrow a democratically elected government on July 15th, 2016, is a clear indication that the rule of law and democratic institutions need to be further consolidated. The recent Judicial Reform Strategy should be viewed as a new step in that direction that will strengthen democratic institutions in Turkey.

What impact will the new Judicial Reform Strategy have on the judicial system, democracy, rule of law and transparency in Turkey?

Turkish democracy has been maturing over the years despite many challenges and obstacles such as the power of the military and the bureaucratic tutelage designed to preserve the status quo and resist changes that would bring Turkey closer to the developed nations and democracies. In fact, Turkey has overcome many of the challenges mentioned here, as such, the military is no longer at the centre of Turkish politics nor can the bureaucracy defend the old-fashioned system. However, despite silent revolutions in Turkey, the country's democratic institutions such judiciary, constitution, parliament and elected government were attacked on July 15th, 2016. Before this failed coup attempt, the judiciary and military were infiltrated by FETÖ, a terrorist organization, which paralysed the functioning of democracy in Turkey. It is expected that the Judicial Reform Strategy will eradicate the legacy of FETÖ in the judicial context and inject new energy and dynamism in Turkish democracy.

How might the new Judicial Reform Strategy effect Turkey's relationship with the European Union?

Turkey has never given up its strategic objective of full membership in the EU despite challenges in the relationships between the two. Full EU membership has been a central anchor for Turkey, which introduced a number of reform packages earlier on to bring the Turkish legal system in line with the EU structures. Turkey's EU anchor stimulated the consolidation of democracy, rule of law and transparency in the country. Turkey, its institutions and the Turkish people have largely benefited from this process. It is hoped and expected that the new Judicial Reform Strategy will energize Turkey-EU relations. In this context, Turkey expects that the EU should not only support the Judicial Reform Strategy but also start a more constructive dialogue with Turkey.

Conclusion: What's Next?

The Judicial Reform Strategy Document, which will form the new roadmap of the Turkish judiciary, was announced to the public with a ceremony held at Beştepe Millet Congress and Culture Centre. The strategy, which aims to strengthen the independent, impartial, accountable and transparent nature of the judiciary, to increase citizens' confidence in justice and to facilitate access to services, includes 9 objectives, 63 objectives and 256 activities. President Erdoğan explained the 2023 vision and the regulations prepared by considering the case-law of EU, European Commission, Venice Commission and ECHR.

Justice Minister Abdulhamit Gul has said that the judicial package will be referred to Parliament first for approval

following the return of MPs from holiday. The new Judicial Reform Strategy Document provides solid solutions to the deeply-rooted structural problems in the judiciary.

A clear and measurable action plan will also be prepared following the publication of the document. The 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 the public.



(Murat Kula - Anadolu Agency)

