

LAW SCIENCES

NEW JUDICIAL REFORM STRATEGY IN TURKEY-MAIN AIMS, OBJECTIVES AND ACTIVITIES

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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 targets, 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 and declared that the Reform's targets will protect and improve the rights and freedoms, judicial independence, objectivity and transparency both the quality and quantity of human resources and make justice more approachable.

The issue of the Turkey's Judicial Reform Strategy is very important because the 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 and it will ensure a trustworthy and accessible justice system in line with the EU accession process and.

The nine targets prepared by the Justice Ministry for the period of 2019-2023, the reform strategy envisions a «trust ensuring, approachable justice system».

The author believes it is important to write about the two Basic Perspectives of the Reform Strategy which are as follows:

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

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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.

It is mentioned in the Document that the Turkish legal system is part of the Continental European legal system and interaction between the Turkish legal system and the Anglo-Saxon legal system is gradually increasing. Therefore, traces of global trends will be also 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.

The author pays special attention to the explanation of the aims and objectives 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. *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. *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. *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. *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. *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. *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. *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. *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.

It is also stipulated that the new strategy proves Turkey's commitment to the EU negotiation process. Turkey underlines the importance it attaches to the European Union membership process. The negotiation process continues in 35 chapters in order to ensure harmonization of the EU acquis. Chapter 23 entitled «Judiciary and Fundamental Rights» carries special importance in this process. President Erdogan stated that one of the greatest gains of the EU accession process was the ability to systematically implement reform efforts. 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. Turkey still 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.

In conclusion it should be said that:

– 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;

– 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.

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CIVIL LAW TRANSACTIONS ON THE INTERNET

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The implementation of civil transactions on the Internet is already a phenomenon that is constantly evolving and changing. An important step for the domestic e-commerce market was the adoption by the Verkhovna Rada of the Law of Ukraine «On Electronic Commerce» dated 30.09.2015 which was

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