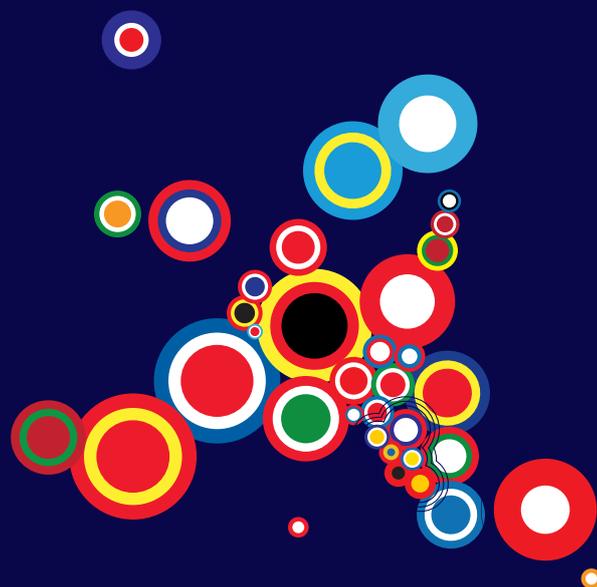




INSTRUMENT FOR PRE-ACCESSION ASSISTANCE (IPA II) 2014-2020

TURKEY

Judiciary Action Document 2015



Action Summary

This Action aims to support Turkey's efforts to secure rule of law and increase the level of standards concerning fundamental rights through activities that shall contribute to strengthening independence, impartiality and accountability of the judiciary along with improving the professional competence and increasing efficiency and effectiveness of the judiciary. The Action also covers activities to further improve the penitentiary system through modern imprisonment execution regimes.

Action Identification	
Action Programme Title	Annual Action Programme for Turkey 2015
Action Title	Judiciary
Action ID	IPA 2015/038-404/3/Turkey/Judiciary
Sector Information	
IPA II Sector	Rule of Law and Fundamental Rights
DAC Sector	15130 - Legal and judicial development
Budget	
Total cost	17.900.000 €
EU contribution	17.900.000 €
Management and Implementation	
Method of implementation	Indirect Management
<i>Indirect management:</i> National authority or other entrusted entity	Central Finance and Contracts Unit Ms. Emine Döğer Acting PAO-CFCU Director Eskişehir Yolu 4. Km 2180 Cad. (Halkbank Kampüsü) No: 63 C-Blok 06510 Söğütözü - Ankara / TURKEY
Implementation responsibilities	Turkish Ministry of Justice Directorate General for EU Affairs, EU Project Department Canan Kaya Head of Department Vekaletler Caddesi No:6 Kızılay/Ankara
Location	
Zone benefiting from the action	Turkey
Specific implementation area(s)	N/A
Timeline	
Deadline for conclusion of the Financing Agreement	At the latest by 31 December 2016
Contracting deadline	3 years following the date of conclusion of the Financing agreement
End of operational implementation period	6 years following the date of conclusion of the Financing agreement.

1. RATIONALE

PROBLEM AND STAKEHOLDER ANALYSIS

Right after declaration of its candidacy status for full-membership to EU in the Helsinki Summit of 1999, Turkey has undergone considerable reforms in the fields of fundamental rights and judiciary, including both structural and legislative changes. Particularly, strengthening the independence, impartiality and efficiency of the justice system have been the core targets. In recent years, through a number of reform and democratization packages that have been put into practice in Turkey, much has been done for harmonizing the Turkish judicial system in line with the EU standards. However, there is still room for improvement with regard to existing shortcomings. In this scope, IPA II programming will provide an important opportunity to gain knowledge about the EU rules and implementations regarding the problematic areas in Turkish judicial sector and this will contribute to create solutions in compliance with the EU acquis.

Under the IPA II period, the Ministry of Justice has taken the lead role in overlooking the justice sector as a whole, determining problems and proposing solutions through IPA activities in strong consultation with all stakeholders in this sector. As in the 2014 IPA II programming, the Ministry of Justice has consulted the High Council of Judges and Prosecutors, the Justice Academy, the Constitutional Court, the Court of Cassation, the Council of State and first instance civil, criminal and administrative courts. As a result of these consultations and in line with the objectives laid down in the Country Strategy Paper, 7 activities have been proposed to overcome the current problems in the sector.

Judicial independence is a pre-requisite for the state of law and also a guarantee for the right to fair trial. The existence of a strong High Council of Judges and Prosecutors (HCJP) is the guarantor of the existence of an impartial and independent judiciary. The HCJP has major role here with its important responsibilities in appointment and transfer of judges and prosecutors as well as conducting disciplinary and promotion-related actions. Therefore, constant revisions on the structure and functioning of the High Council are necessary, in particular through revision of promotion system and appointment and transfer system of judges and prosecutors, and in general through revision of the functioning of the Council in line with EU standards.

Although the number of ECHR violations tends to decrease, Turkey is still facing serious violation decisions by the European Court especially on right to liberty & security, long trial periods, lack of effective investigation, prohibition of ill-treatment and inability to undertake effective investigations. There is an urgent need to revise the strategy on the prevention of the ECtHR violations in light of the many legislative amendments carried out in Turkey since 2005; to ensure that contradiction with ECtHR decisions is regarded as a justification for overruling by the Supreme Courts; raising awareness on ECtHR case law, to make sure that judges and prosecutors as well as candidate judges and prosecutors are more informed and fully competent in terms of training, have improved awareness on ECtHR case law and enhanced capacity for the execution of judgments, and are more sensitive about fundamental rights and freedoms; to ensure the availability of ECtHR case law and court decisions of other countries as well as international documents concerning the judiciary and leading international works produced in the field of law. These will be secured by improving the quality of the training offered to the members of the judiciary, making a direct contribution to efficient and rapid functioning of the judiciary.

Complimentary to these comprehensive trainings, areas for which further progress is needed in the criminal justice system will be touched upon. For example, there is still a challenge in the criminal justice system with regard to the enforcement of the protective measures in compliance with EU

standards. To this end, criminal judges of peace were created. The awareness of judges should be raised with respect to the justification of their decisions on protective measures and detention. There is a need for several activities in such areas as hearing the witnesses and anonymous witnesses; allowing the lawyers, victims and witnesses to speak during the hearing, and recording the hearings. The fast-developing electronic media lead to the diversified type and increased complexity of the crimes committed in such media, which necessitates the training of the judges and prosecutors regarding the cybercrimes.

Although the number of the chambers of the Court of Cassation, the number of members, rapporteur judges employed at such chambers and the number of judges/prosecutors appointed to the first degree courts has increased in recent years, the backlog and the trial time could not be reduced to the desired levels. Moreover, there are now concerns as to the risk of inconsistency of the case-law of the High Court due to this increased number of chambers and members. For that reason, solutions need to be provided by strengthening the institutional capacity of the Court of Cassation. In addition, more efforts will be taken to promote Alternative Dispute Resolution (ADR) practices in ordinary, administrative and criminal justice.

It is a well-known fact that the traineeship period of the candidate judges/prosecutors is not utilized efficiently enough; they are not well prepared enough to face challenges at the courthouses they are appointed in relation to professional competence, communication with public and communication with the other institutions. Therefore, it is aimed to develop a model that will render the traineeship period more active and efficient by observing the good practices in EU Member States in order to take necessary actions including the legislative amendment with a view to ensuring the active involvement of the trainees in the professional activities during their internship period at courts.

To improve the efficiency of the judiciary, two more problematic areas are chosen to be tackled under this Action Document. One is the judicial storages and the other is the court experts. There is no uniformity in practice of storage of criminal evidence and seized materials and no standards in preserving these. Revision and improvement of the structure of the judicial storages and the related legislation in line with EU best practices will be performed. The problematic court experts system was touched upon under IPA I period and the gaps have been identified. Now with a follow-up activity the system will be improved.

By virtue of the investments in the last decade, remarkable achievements have been made regarding the physical conditions in prisons and detention houses. Besides, there have been developments in enforcement practices thanks to EU-funded projects. However, further efforts are needed for settling the European standards in the penal system. Another problematic area in penitentiary system is the lack of effective methods of intervention and approach to prevent radicalisation of terrorist offenders in penitentiary houses. Some of the prisoners who are sentenced and placed in prisons due to terror crimes are observed to be unable to change with respect to their motive to commit crime and become more radical at prisons and also have a negative interaction with the other prisoners who are sentenced due to similar offences or share the same environment. This challenges the rehabilitation efforts. In particular, this is a serious problem in countries like Turkey which faces issues such as overcrowding and passage of foreign fighters.

The activities for the abovementioned priorities are presented in this 2015 Action Document. The MoJ – EU Project Department will be the main responsible institution to propose and find solutions to mentioned problems. Besides, the competent Units of MoJ, HCJP, Justice Academy and Court of Cassation will be the main stakeholders for activities under this action.

RELEVANCE WITH THE IPA II STRATEGY PAPER AND OTHER KEY REFERENCES

As part of the accession process, Turkey needs to focus on meeting the Copenhagen criteria for EU membership. The rule of law is at the heart of accession process and is a key pillar of the Copenhagen political criteria.

The Country Strategy Paper for Turkey (2014-2020) sets out the objectives for the judiciary sector as to further strengthen and make more concrete and visible the independence, impartiality, efficiency and administration of the judiciary as well as to enhance respect for fundamental rights and freedoms in the key areas of freedoms of expression (including freedom of the media).

According to the Strategy paper expected results are:

- Increased independence of the judiciary;
- Improved impartiality of the judiciary;
- Increased awareness on human rights among members of the judiciary;
- Enhanced efficiency and effectiveness of the judiciary (including the criminal justice system; juvenile courts; the military justice system and the penitentiary system).

The actions to achieve these results that are mentioned in the Strategy paper include:

- Raising the level of independence of the judiciary by guaranteeing the achievements of the 2010 constitutional reform, mostly by strengthening the capacity and role of the High Council of Judges and Prosecutors;
- Increasing judicial impartiality by strengthening the role of the Constitutional Court in guaranteeing fundamental rights in judicial proceedings;
- Training and raising awareness for all members of the judiciary on human rights and, in particular, of European Court of Human Rights case-law; supporting the establishment of a judicial police that meets EU standards;
- Increasing judicial efficiency and improving administration, by addressing the issues of court workload and fair trials, within the meaning of Article 6 of the European Convention for Human Rights; improving the criminal justice system; developing capacity in juvenile courts; continuing with reforms to the military justice system and the penitentiary system;
- Improving access to justice in both criminal and civil cases and increasing equality of arms between the prosecution and the defense in court.

The revised Judicial Reform Strategy has also embraced these priorities of the IPA II Strategy Paper as Turkey's general strategic framework in reaching the overall aim.

This IPA 2015 Action Document will address the priority of independence of the judiciary through an activity on High Council; the priority of impartiality through an activity on further improving the criminal justice system and training of all justice professionals on ECHR; the priority of effectiveness and efficiency through activities on improving the capacity of Court of Cassation, pre-service trainings of candidate judges/prosecutors, court experts, judicial storages and ADR methods.

SECTOR APPROACH ASSESSMENT

According to Turkey's **10th National Development Plan** (2014-2018), the main priorities in the field of judiciary are to maintain improved quality of judicial proceedings, to continue to carry out legal and institutional measures in the context of principal of rule of law, to further improve the judicial system in line with international standards and to ensure the full enjoyment of all fundamental rights and freedoms by all individuals without discrimination.

Judicial Reform Strategy (JRS) is the document which has a general sector strategic framework. The JRS adopted by the Council of Ministers in 2009 is the first official document which analyzed the problems and proposed remedies for the justice sector. It was prepared by a common understanding with the participation of all stakeholders including professional organizations and NGOs. Having seen the level of implementation, the Ministry of Justice decided to revise this Strategy and its Action Plan. Necessary consultations with the stakeholders have been done and the revised JRS has been adopted on 08.04.2015.

The objectives of the revised Judicial Reform Strategy are as follows:

- Strengthening the Independence and Impartiality of Judiciary,
- Raising the accountability and the transparency of judiciary,
- Improving the civil and penal justice systems,
- Improving the Alternative Methods of Dispute Resolution and Raising the Effectiveness in Practice.
- Improving the International Collaboration in Justice and Raising the Effectiveness of EU Membership Process
- Improving the Law Education, Prevocational and Vocational Education
- Improving the Practices regarding the Disadvantageous Groups Like Women, Children and the Disabled
- Strengthening the Access to Justice
- Preventing the Violation of Human Rights regarding the Judicial Practices and Strengthening the Standards of Human Rights
- Improving the Penal Institution System

The JRS includes objectives and goals pertaining to the whole justice system. The Action Plan, which is a supplementary document of the Reform Strategy, includes comments about the objectives and goals and indicates relevant activities with their time scale, responsible bodies and financial resources.

Along with the JRS, the Ministry of Justice, the High Council of Judges and Prosecutors and Justice Academy of Turkey, which are the key institutions in the field of judiciary, have prepared and published their strategic plans in line with requirements of the Public Financial Management and Control (PFMC) Law 5018. These plans are prepared in a multi-annual perspective and reflect the needs and remedies for problems in a systematic way. Objectives of these strategies are coherent with those in the Judicial Reform Strategy and the 10th National Development Plan.

Due to the structure of judiciary, there are a number of key actors in the sector. In this scope, as a policy maker and political institution in the executive branch of the State, the Ministry of Justice is the sector lead institution for the IPA II process as indicated in the IPA II Indicative Strategy Paper. Other key institutions are the High Council of Judges and Prosecutors, and the Justice

Academy of Turkey. The Constitutional Court, the Court of Cassation, the Council of State, the Military Court of Cassation, the Military High Administrative Court, first instance courts in the civil, administrative and military judiciary, the Turkish Bar Association and Association of Notaries are stakeholders in this sector.

In order to fulfill its lead institution role for the judiciary, the Ministry of Justice has set up the “EU Project Department” within the Directorate General for EU Affairs in November 2013. This unit is responsible for coordinating EU-funded actions under IPA II programming. The Ministry has arranged informative meetings for the stakeholders and paid special visits to the institutions within the sector. In these meetings, the stakeholders were informed about IPA II concept and invited to prepare their activities to be supported under IPA II. Proposals were discussed and evaluated by the “Project Coordination Board” of the Ministry of Justice chaired by the Deputy Undersecretary.

In this period, Ministry of Justice held meetings with EU Ministry and EU Delegation to consult and discuss the new IPA II documents and procedures. Apart from governmental and judicial institutions in the judiciary sub-field the Turkish Bar Association and the Turkish Notaries Association were informed about the IPA II programming and invited to submit proposals for financing.

In addition to meetings with the key actors in the IPA II period and stakeholders in the justice sub-field, Ministry of Justice consulted with some of EU member states’ institutions and the Council of Europe to discuss prospective activities for the coming years. In the framework of the IPA II sectoral approach, the Ministry of Justice will undertake authority and responsibility on the issues of programming actions, identification and formulation of proposals to be included in action documents, ensuring adoption by the EU authorities, monitoring and evaluating implementation of actions, providing coordination between actions and preparing reports.

Strategic plans, which are regulated by the PFMC Law No: 5018 and its secondary legislation to help administrations to implement the basic concepts of the new public management and ensure that their activities are run accordingly, requires production of a performance programme and activity reports and making them public.

The performance programme and activity reports are produced each year to ensure the feasibility of five-year strategic plans, determination of resources needed, establishment and observation of plan – budget relations. Performance indicators are set to measure the achievement of performance goals indicated in the performance programme.

Activity reports describe the outcomes of goals indicated in the performance programme along with the activities performed to achieve those goals. Thus, progress against the strategies is followed to inform the public.

LESSONS LEARNED AND LINK TO PREVIOUS FINANCIAL ASSISTANCE

As part of Turkey's goal to join the EU, with a view to ensuring full realization of the rule of law, strengthening human rights and introducing an effective, efficient and impartial judiciary, a great deal of projects have been implemented during IPA I period.

IPA I and previous financial assistance have affected the judicial reform process in a positive manner and contributed to the transformation of the Turkish Judicial System. They have supported

internalization of changes by members of the judiciary, especially by changing minds and perceptions. It is apparent that reforms can only reach their objectives as much as they are internalized by the practitioners. Even less successful projects implemented under previous EU programmes served for discussion of the problem and finding solutions in the long term. EU-funded projects also paved the way for members of judiciary, who are the most conservative professions in the society, to get acquainted with other judicial systems and colleagues. This helped to better implementation of recent reforms.

Experience has shown that projects should be prepared in a more cooperative manner by all relevant stakeholders. Failures in ownership of project activities and some of the components resulted in overall objectives not being reached. Therefore, stakeholders and relevant institutions should be in close cooperation in the drafting phase of the actions.

In the IPA I term, EU support focused on more general and urgent needs of the judiciary, such as court management, criminal justice system and establishment of regional courts of appeal. In the field of judiciary more should be done in specific areas where no projects were funded under IPA I or in the areas that the desired level of success could not be achieved.

Moreover, it was seen that changes in project teams negatively affect the success and effectiveness of the activities. In order to eliminate this negative effect, project teams should be composed of stable personnel having the adequate linguistic skills. Additionally, personnel assigned to the projects still required performing their routine work, thus they could allocate little time to the project. Therefore, measures should be taken to assign personnel in project teams who will concentrate solely to project activities. Therefore a separate Project Department has been established under DG for EU Affairs. Job descriptions, work flow, organization structure has been defined and official application was made to the Undersecretary of Treasury on 27 April 2015 for entrustment procedure.

2. INTERVENTION LOGIC

LOGICAL FRAMEWORK MATRIX

OVERALL OBJECTIVE	OBJECTIVELY VERIFIABLE INDICATORS (OVI)	SOURCES OF VERIFICATION	
To ensure rule of law and fundamental rights in Turkey fully in line with international and European standards.	Level of progress achieved towards meeting accession criteria.	EU Regular Reports on Turkey's Progress towards accession.	
SPECIFIC OBJECTIVE	OBJECTIVELY VERIFIABLE INDICATORS (OVI)	SOURCES OF VERIFICATION	ASSUMPTIONS
To further strengthen and make more concrete and visible the independence, impartiality, efficiency and administration of the judiciary; to continue with the reform of the penitentiary system.	Number of infringement judgments by the European Court of Human Rights (ECHR) as well as follow up given Clearance rate for backlog in courts	Judgments and statistics of ECtHR. Statistics released by MoJ, CEPEJ and World Bank	Close cooperation and full commitment of all stakeholders.
RESULTS	OBJECTIVELY VERIFIABLE INDICATORS (OVI)	SOURCES OF VERIFICATION	ASSUMPTIONS
Strengthening Independence, Impartiality & Accountability of the Judiciary Result 1: Strengthened independence, impartiality and accountability of High Council of Judges and Prosecutors	Result 1: 1- Number of applications for review and appeals as a result of efforts for the promotion of judges and prosecutors, 2- Percentages of voluntary transfer of judges and prosecutors 3- Shorter decision making process in HCJP Chambers ,	Result 1: Statistics released by HCJP	Close cooperation and full commitment of all stakeholders.

<p>Improving Professionalism and Competence of the Members of the judiciary and Auxiliary personnel</p> <p>Result 2:</p> <p>Improved criminal justice system, in line with EU standards, both in terms of expertise of judges, prosecutors and of criminal proceedings including as sub-categories:- criminal judges of peace, witness system and fight against cybercrimes.</p>	<p>Result 2:</p> <p>1- Number of trained judges and prosecutors on criminal justice system, cybercrime and human rights, including as sub-categories: -criminal judges of peace,</p> <p>2- Number of individual applications made to the Constitutional Court regarding the unjustified decisions on protection measures and detention taken by criminal judges of peace</p> <p>3- Number of cases opened for cybercrimes due to strong evidence obtained during the investigation process</p> <p>4- Number of Cybercrime Investigation Bureaus</p> <p>5-Number of ECtHR infringement judgements</p>	<p>Result 2:</p> <p>1- Statistics released by MoJ</p> <p>2- Statistics of the Constitutional Court</p> <p>3-Data provided by National Judicial Network (UYAP) system</p> <p>4- Statistics released by MoJ</p> <p>5- Statistics released by ECtHR</p>	<p>Close cooperation and full commitment of all stakeholders.</p>
<p>Improving Efficiency and Effectiveness of the Judiciary</p> <p>Result 3:</p> <p>Enhanced institutional capacity of the Court of Cassation</p>	<p>Result 3:</p> <p>Trial periods in the Court of Cassation</p>	<p>Result 3:</p> <p>Statistics released by the Court of Cassation</p>	<p>Close cooperation and full commitment of all stakeholders.</p>
<p>Result 4:</p> <p>Improved structure of judicial storages for criminal evidence and seized materials.</p>	<p>Result 4</p> <p>1- Number of the evidences secured with the new barcoding system</p> <p>2- Number of trained property and evidence officers</p> <p>3- Dedicated property and evidence units are provided in pilot court houses for keeping digital and biological evidence.</p>	<p>Result 4:</p> <p>1-Statistics released by MoJ.</p> <p>2-Statistics released by MoJ.</p> <p>3- Statistics released by MoJ.</p>	<p>Close cooperation and full commitment of all stakeholders.</p>

Result 5: Strengthened effectiveness and efficiency of court experts system	Result 5: 1- Trial period in the first instance courts	Result 5: 1- Statistics released by CEPEJ and MoJ	Close cooperation and full commitment of all stakeholders.
Result 6: Enhanced professionalism of candidate judges and prosecutors	Result 6: 1- Number of judges and prosecutors obtained positive scores during senior colleague assessments and inspections	Result 6: 1- Statistics released by High Council of Judges and Prosecutors.	Close cooperation and full commitment of all stakeholders.
Improving Conditions of Prisons and Execution Regime Result 7: Improved prevention of radicalisation in prisons	Result 7: 1- Number of terrorist offenders attending socio-cultural or educational activities 2- Number of terrorist offenders communicating with their families	Result 7: Statistics released by Directorate General for Prisons and Detention Houses	
ACTIVITIES	MEANS	OVERALL COST	ASSUMPTIONS
		Total Cost 17.900.000 € EU Contribution 17.900.000 €	
Activities to achieve Result 1 <i>Activity 1.1 Strengthening the Effectiveness of the HCJP for an Impartial and Independent Judiciary</i>	Activity 1.1 Direct Grant		-Stakeholders' dedication to participate and cooperate throughout process
Activities to achieve Result 2 <i>Activity 2.1 Strengthening the Criminal Justice System and the Capacity of Justice Professionals on prevention of the European Convention on Human Rights Violations in Turkey</i>	Activity 2.1 Direct Grant		- Stakeholders' dedication to participate and cooperate throughout process

<p>Activities to achieve Result 3</p> <p>Activity 3.1 <i>Activity on Strengthening the Institutional Capacity of Court of Cassation</i></p>	<p>Activity 3.1 Direct Grant</p>		<p>-Stakeholders' dedication to participate and cooperate throughout process</p>
<p>Activity 3.2. <i>Activity on revising and improving the structure of judicial storages for criminal evidences and seized materials and related legislation in line with EU best practices</i></p>	<p>Activity 3.2 Twinning</p>		<p>-Stakeholders' dedication to participate and cooperate throughout process</p>
<p>Activity 3.3. <i>Activity on strengthening the institutional capacity of court experts</i></p>	<p>Activity 3.3 Twinning</p>		<p>-Stakeholders' dedication to participate and cooperate throughout process</p>
<p>Activity 3.4 <i>Activity on Improvement of the Efficiency of Pre-service trainings for Candidate Judges and Prosecutors</i></p>	<p>Activity 3.4 Twinning</p>		<p>-Dedication to participate and cooperate throughout process</p>
<p>Activities to achieve Result 4</p> <p>Activity 4.1 <i>Activity on Better Management of Terrorists and Dangerous Offenders in Prisons and Prevention of Radicalization</i></p>	<p>Activity 4.1 Twinning</p>		<p>-Continuation of political commitment of the Turkish Government to progress on prisons and detention conditions in line with EU standards</p>

ADDITIONAL DESCRIPTION

RESULT I: STRENGTHENING INDEPENDENCE, IMPARTIALITY AND ACCOUNTABILITY OF THE JUDICIARY

Activity 1.1 Strengthening the Effectiveness of the HCJP for an Impartial and Independent Judiciary

The existence of an impartial and independent judiciary depends on the existence of impartial and independent but, at the same time, strong high judicial councils. Therefore, constant revisions on the structure and functioning of high councils are necessary in order to strengthen the independence of the judiciary, improve its impartiality, and boost its efficiency. In Turkey, important responsibilities, such as appointment and transfer of judges and prosecutors as well as conducting disciplinary and promotion-related actions thereof, rest with the High Council of Judges and Prosecutors (HCJP).

In this context, there is the need to consider the linkage between the *strengthening of the effectiveness of the high council* and *the improving of the quality of the judiciary*. The higher the quality of the judiciary, the higher the confidence therein would be. As such, the accountability of the judiciary, too, will grow stronger.

Strengthening the independence, impartiality and effectiveness of judiciary has already been foreseen as major priorities of the justice sector by the Turkish authorities. The Revised Judicial Reform Strategy Document indicates improving the promotion system and revision of the appointment and transfer of judges and prosecutors as the objectives under strengthening the independence and impartiality of judiciary. The HCJP's 2012-2016 Strategic Plan also lists these objectives in addition to increasing the confidence in the judiciary and the strengthening of institutional capacity of the HCJP. Furthermore the EU Peer Review Reports on the High Council of Judges and Prosecutors recommend that the aims, objectives and activities foreseen in the Strategic Plan in terms of the independence, impartiality and effectiveness of the judiciary, be implemented with determination.

In order to attain the overall objective of strengthening the institutional capacity of the High Council, the activity foresees revision of the institutional structure and the functioning of the HCJP in line with EU standards; increasing the time- and process-management efficiency of the HCJP with respect to its internal functioning; and improving of the professional capacity of rapporteur judges and inspectors of the HCJP.

The expected results will include:

- 1) To increase objective criteria applicable to promotions of judges and prosecutors, through a review of the evaluation criteria adopted by the EU countries.
- 2) To improve standards concerning the appointment and transfer of judges and prosecutors in view of reinforcing security of tenure of judges as well as location during appointments (revision of the national legislation in line with the EU standards).
- 3) To increase efficiency and effectiveness of the HCJP bureaus, to improve time and process management in internal operation of the Council to this end, and to revise the national legislation related to the modus operandi of the General Assembly and the

secretariat. In this mainframe, it is foreseen to examine how and by whom relations with the media are being carried out at the high judicial councils in Europe and to explore the possibility of establishing a similar position such as a judicial media spokesperson within the HCJP. It is also foreseen to make a comparison of the activities carried out by information bureaus of the HCJP with similar activities carried out at the European High Judicial Councils.

- 4) To re-assess in line with the EU standards, the current legislation in view of ensuring that the internal appeal system -foreseen for decisions of the Council other than expulsion from profession, which is open to legal remedies-, operates more effectively for judges and prosecutors.
- 5) To improve the professional capacity of rapporteur judges and inspectors through short term internships in EU countries on topics such as appointment, promotion, inspection, and/or through organisation of visits for in situ observation of country examples, in view of ensuring that rapporteur judges and inspectors of the Council learn about the best practices in EU countries.

RESULT II: IMPROVING PROFESSIONALISM AND COMPETENCE OF THE MEMBERS OF THE JUDICIARY AND AUXILIARY PERSONNEL

Activity 2.1 Strengthening the Criminal Justice System and the Capacity of Justice Professionals on prevention of the European Convention on Human Rights Violations in Turkey

This Activity is composed of two main components. The first component aims to strengthen Turkish criminal justice system. The second component aims to increase the capacity of judges and prosecutors on prevention of the European Convention on Human Rights.

The first component of the Activity on Strengthening the Turkish Criminal Justice System will be conducted as a follow-up activity of a project funded under IPA I. This new activity will address some specific issues that were not handled in the 1st project. In particular, the Criminal Judges of Peace who were criticised due to their decisions on protection measures and detention will be trained on how to justify their decisions. It is a priority to enable these judges to serve in the best way to provide the best protection to the fundamental rights and freedoms, including primarily the right to liberty and security with a view to restoring trust in the judiciary and improving access to justice.

Therefore, the activity will aim at increasing the capacity of the criminal judges of peace, that are in charge of enforcing the protection measures, through organizing extensive trainings in line with EU Standards. The training programmes will focus on whether the decisions issued by the peace court judges are given in accordance with the ECtHR criteria. It will also focus on the imposition of judicial review on the actual enforcement of the full period of pre-trial detention and raising awareness of the judiciary/media regarding the presumption of innocence and the right against self-incrimination, in the light of the European Convention on Human Rights and rulings of the European Court of Human Rights. Furthermore, the activity will also contribute to promoting the use of witnesses in criminal proceedings; improving “cross-examination” mechanism to the desired level in criminal procedures; and implementing measures for the effective application of such principles as "conflicting evidence" and "face-to-face interaction".

Although cybercrime was tackled under the previous IPA project by identification of the training needs of the law enforcement units and judicial authorities in combating cybercrime and development of the necessary training modules, it is still necessary to address this issue once again, since the classic crimes can be committed more often through information systems as also highlighted by the national and international experts. Under this activity, it is aimed to update/improve the training module developed under the previous project. It is also planned to convert the widely admired training material prepared for Cybercrimes into an “online training module” considering the emergence of the new techniques of committing crime and make it available to the judges and prosecutors.

The Justice Academy will both organise pre-service and in-service training for judges and public prosecutors who adjudicate cybercrime cases to share their experience, which is considered to be useful. Moreover, it is envisaged to establish “Cybercrime Investigation Bureaus” in various pilot provinces for more effective investigation of the cybercrimes, to make the courts specialized in cybercrimes operational, and organize training courses for the judges and prosecutors who will be assigned to such courts. Finally through the activity, information days will be organised in the courthouses in which the judges and prosecutors will be able to inform different segments of the society about their activities and answer the possible questions with a view to raising the awareness of the public about the judicial matters and demonstrating the image of criminal justice in a better way.

The second component of the Activity aims to reduce the number of violations by the European Court of Human Rights through improved trainings. This component will target raising the awareness of judges and public prosecutors as well as candidate judges and prosecutors in relation to the articles of the Convention for which most of the violation decisions are ruled against Turkey. Additionally, building up the judges and public prosecutors’ capacity for the implementation of decisions of the ECtHR, enabling them to be more sensitive to the fundamental rights and freedoms; ensuring the use of international documents related to the ECtHR are the other targets of the component.

Revising the training curriculum related to Right to Liberty and Security, Long Trial Periods, Lack of Effective Investigation, Prohibition of ill-Treatment, Inability to Undertake Effective Investigations for which violation decisions are most frequently ruled against Turkey will be dealt with in the Activity. In this regard, improving the quality of pre-service training as well as in-service training in such areas; improving the judgment capability, widening the perspective and increasing the intellectual knowledge etc. of the judges-prosecutors as well as candidate judges-prosecutors in order to enable them to internalize human rights and thus increasing their professional competence constitute the priority areas.

Another sub-component of the Activity will be providing technical assistance to the impact assessment unit of the Justice Academy with a view to improving and safeguarding the quality of the training of the judges-prosecutors as well as candidate judges-prosecutors, and supporting the effective use of this system at the Justice Academy of Turkey and thus contributing to the quality and effectiveness of pre-professional and in-service training courses; and analyzing the best practices in the EU Member States.

RESULT III: IMPROVING EFFICIENCY AND EFFECTIVENESS OF THE JUDICIARY

Activity 3.1 Project on Strengthening the Effectiveness and Efficiency Capacity of the Court of the Cassation

One of the main and long standing problems of the Turkish judiciary is the heavy workload of the first instance courts and the Court of Cassation. The Court of Cassation stands as the highest judicial institution in the civil and criminal judiciary. This High Court has a crucial role in ensuring the rule of law and protecting individuals' rights.

Despite constitutional and legal reforms, the desired targets and outcomes have not been achieved in the judicial field, especially in decreasing the workload of the courts. The workload leads to excessively lengthy judicial processes and the risks pertaining to the rights violations induced by excessively long detention periods. The prevalence of such problems, followed closely by the public opinion, shakes the confidence in the judiciary and raises suspicions on the independence and impartiality of the judiciary.

In the recent reform process, Article 11 of the Law dated 9.2.2011 and No. 6110 added to the existing cadre 6 Chamber Heads and 131 Members (6+131=137), thereby increasing the number of members to 387. After 4 years, Article 49 of the Law dated 2.12.2014 and No. 6572 on the Amendment of the Law on Judges and Prosecutors and Certain Laws and Statutory Decrees added 8 Chamber Heads and 121 members to the existing cadre, thereby increasing the number of members of the Supreme Court to 516. The heavy workload of the Supreme Court is not resolved through the increases in the number of chambers and members. In addition, there are concerns as to the potential of the increased number of chamber heads and members to cause problems in other areas including the consistency of case-law.

Additionally, under the heavy workload of the Court of Cassation lie the low rates of approval, high rates of reversal and high rates of decisions of refusal and referral, which constitute an obstacle to the examination of cases in merit. The elimination of these problems will allow for reductions in the average duration of trials, institution of confidence in the judiciary and improvement of the protection extended to the right to a fair trial. The magnitude of the problems in question is induced by the spread of a series of problems starting from local courts to the Court of Cassation in a rising avalanche. Problems arise in the form of shortcomings in working processes, follow-up and inspection systems and in training and motivation lead to blockage at the Court of Cassation and an uncontrolled increase in its workload. This observation indicates the necessity of addressing the problem with an integrated perspective extending from local courts to the Court of Cassation.

Specifically the rate of reversal at certain labour chambers being 31% points out to the fact that the awarding of a large number of decisions has not been sufficient to resolve the problem and there is a need to improve the quality of the decisions, as well. Problems relating to the consumer law are also based upon similar causes. The intensive workload of the consumer courts is threatening the effectiveness of consumer courts to protect consumers' rights. The underlying reason behind these initially observed problems is the bundle of problems that must be expressed in a more complex and detailed manner extending from the training of judges to the division of labour before civil chambers.

The abolishment of an inspection mechanism for the quality of decisions awarded by judges caused an increase in the rates of reversal and an increase in the decisions of persistence, thereby leading to a blockage in the workload of the Legal Plenary Board of the Court of Cassation in charge of examining decisions of persistence.

As can be gathered from the graphs, the mistakes induced by the poor functioning of the judicial system causes approximately 1/3 of human, financial and other resources to be wasted. The problem should be handled for two areas, namely legal and penal chambers, with a view to assessing the issues addressed by the project (notably the workload) in a more detailed manner.

In order to eliminate these problems the following activities will be carried out:

- 1) An assessment system will be established to measure the quality of decision-making efforts and other activities of judges and prosecutors in the Court of Cassation.
- 2) The increasing number of chambers at the Supreme Court leads to the emergence of concerns on the consistency of case-law. The Activity aims to manage this risk effectively.
- 3) Training policy of the Court of Cassation will be revised.
- 4) The institutional capacity of the Court of the Cassation in implementing human rights will be strengthened.

Activity 3.2 Activity on revising and improving the structure of judicial storages for criminal evidences and seized materials and related legislation in line with EU best practices

In the Turkish criminal justice system, a criminal object is defined by the Regulation on Criminal Items as “any item that is considered to be useful as proof, used in the commission of a crime or assigned for the commission of a crime or prepared to be used in the commission of a crime; that results from the commission of a crime; the production, making available, use, transport, purchasing and sales of which constitute a crime ...”. Article 132 of the Criminal Procedure Code stipulates a general provision for the protection of the seized items or liquidation thereof.

In practice, however, there are challenges faced by the judicial storages considering their workload, human resources, physical and technical infrastructure; there exists no uniform practice and there is a lack of security standards depending on the nature of the evidence. This leads to challenges in the criminal justice system with respect to the securing of the fire arms, narcotic drugs and digital data. Therefore, a situation analysis should be performed to identify the challenges faced in the judicial storage system and activities will be carried out to suggest legal amendments and improve the capacity for the solution of the issues.

The activities proposed under this scope are as follows:

- 1) The workload, human resources, physical and technical infrastructure of the existing judicial storages will be analysed, and the changes needed to overcome the challenges will be identified,
- 2) Study visits will be organized to four EU Member States that have the best practices regarding the judicial storage system in order to observe their judicial storage system,

- 3) Study visits will be organized to four judicial storages that will be designated as pilot storages, and the most common problems faced in practice will be identified through a survey conducted on the employees, lawyers and citizens,
- 4) The areas in the judicial storage system that require legislative amendment will be identified and amendments will be proposed,
- 5) The changes that do not require legislative amendment in the judicial storage system will be identified and a report will be prepared to indicate the timetable for such changes,
- 6) The necessary training materials will be produced in line with the outcomes of the project activities,
- 7) The staff of 4 pilot judicial storage will be trained on the changes that can be achieved through administrative measures and such changes will be implemented in 4 pilot judicial storages,
- 8) A seminar on project outcomes will be organized for 400 storage officers across Turkey.

Activity 3.3 Activity on strengthening the institutional capacity of court experts

The principles of reasonable trial period and the right to a fair trial are emphasized under article 6 of ECHR. The malfunctioning of court experts system is a challenge for these rights affecting negatively the efficiency and effectiveness of the judiciary.

Under IPA I, a project on the court experts system had been conducted (to be finalised in June 2015). Following the assessment phase of the project, it had occurred that the reasons for the extensive use of court experts were more complicated than expected. Not only the low quality of the reports of the court experts was a challenge to be tackled, but also serious behaviour changes of judges and prosecutors were necessary in order to improve the court expert use in Turkey. Therefore instead of dealing with all of the areas for which opinions of court experts were being asked, the intervention area of the project had to be narrowed down to major problematic areas where results could be obtained. In this regard, 4 major problematic areas were identified: labour law (accidents) cases in civil justice, traffic accident cases and malpractice cases in criminal justice and public works/construction cases in administrative justice. By this way the results of these activities paved way to corrective actions by the Ministry of Justice for the other areas of concern by establishing a Scientific Committee to draft a new Law on Court Experts.

The Law on Court Experts is now drafted and is expected to be adopted in 2015. The law is a novelty in this area as it foresees institutionalization of the profession. It foresees establishment of a "Court Experts Higher Board" comprising all the stakeholders and be responsible from determination of the basic qualifications of experts, exams, certification, ethic codes, reporting standards etc among other improvements to the system.

Within this framework, this new activity will be complementary to the previous project carried out in the same area. Independent from the adoption of the draft law, the activity is designed to improve the current deficiencies of the system which are already stated as priorities in the revised Judicial Reform Strategy.

In order to establish certain standards in the court experts practice at the court houses, a text was adopted in December 2014 at the CPEJ General Assembly, which is planned to evolve into a recommendation by the Council of Europe. The activity will take into consideration the recommendations of the CoE and use them in the trainings thereof.

Major outputs of the activity will be as follows:

- 1) Building on international principles and EU standards, a compulsory Basic Court Expert Training Curriculum will be devised, comprising basic principles of law and procedural law, reporting techniques as well as inspection principles and ethic codes. The content will be developed/improved in accordance with the needs of the judges and prosecutors,
- 2) To provide 10-days training in an EU MS primarily for the 15 trainers (from various judicial actors including judges, prosecutors, court experts and lawyers), who had received training in the scope of the previous project, as well as for those who will be giving such trainings within the scope of this new activity (internship for trainers),
- 3) To provide cascaded training of 1000 lawyers, judges, prosecutors, and court experts,
- 4) To prepare training material for implementers to be used in promotional works with the aim of enhancing the efficiency of the new institutional structure (selection and assignment of court experts, distinction between technical and legal matters and sanctions for non-compliance with fundamental principles),
- 5) To produce materials and publications in order to present to the implementers and use in training activities on the violation judgements of ECtHR related to this area, the Court Expert Principles of CPEJ (December 2014), the exemplary court decisions of EU countries, as well as the rulings of the Court of Cassation and Council of State which may encourage local courts,
- 6) To lay down supervision principles according to EU standards in order to supervise and monitor the performances of court experts,
- 7) To organise study visits and develop a training curriculum in order to build the administrative capacity needed by members taking part in the new institutional structure,
- 8) To identify and develop the main and auxiliary expertise areas of court experts as well as the main qualifications of court experts to be employed in these areas, by taking into consideration the EU practices,
- 9) To identify the standards for remuneration of court experts by availing from the best practices in EU MSs.

Activity 3.4 Activity on Improvement of the Efficiency of Pre-service trainings for Candidate Judges and Prosecutors

The preamble of the Constitution dated 1982 sets forth the principle of separation of powers comprising legislative, executive and judicial powers, while it also stipulates that the judicial

power shall be exercised by means of judges and prosecutors at independent courts who are independent from the legislative and executive powers.

After the candidacy of judges start following a competitive exam performed according to the procedure that is laid down in the Law no 2802 on High Council of Judges and Prosecutors, the candidate judges and prosecutors receive pre-service training at courts in civil and criminal justice. According to article 9 of the Regulation on the Pre-Service Training and Pre-Service courts for Candidate Judges and Prosecutors in Civil and Criminal Justice, candidates shall receive a preparatory training of 3 months in the Justice Academy of Turkey in the beginning of their pre-service training. After completing this training, they are assigned to work in courts and prosecution offices for 3 months.

After completing this period, candidate prosecutors are assigned to Chief Public Prosecutors Office and Criminal Courts for 12 months, while candidate judges are assigned to Civil Courts for 6 months and Criminal Courts for 6 months, which means 12 months in total. All candidates must also complete their training in the Court of Cassation for two months, and after that they go back to the Justice Academy of Turkey to complete the final training for 4 months. As indicated above, candidate judges and prosecutors spend 7 months in the Justice Academy of Turkey and 17 months in several courthouses during their traineeship.

Those who pass the proficiency test that is performed by the end of two-year candidacy period are admitted to the profession by the High Council of Judges and Prosecutors and assigned with the titles of “Judge” and “Prosecutor”.

The profession of judges and prosecutors is a professional career, which therefore necessitates extensive theoretical and practical knowledge. As per the applicable legislation, the candidate judges and prosecutors cannot actively pursue their profession during their traineeship period, whereas they receive preparatory training to exercise the profession of judges and prosecutors through observation. The proposal is aimed to develop a model that will render the traineeship period more active and efficient by observing the good practices in EU Member States, in order to take necessary actions including the legislative amendment with a view to ensuring the active involvement of the trainees in the professional activities. The goal is to contribute to the objective of ensuring access to justice through improving the professional knowledge and qualifications of the judges and prosecutors who just start exercising their profession. In this way, contributions will be provided to more effective establishment of justice.

Activities Planned to be conducted within the Scope of the Activity:

- 1) Conducting problem analysis and determining the issues required to be worked over with the purpose of increasing the internship efficiency of candidate judges and prosecutors,
- 2) Holding a workshop on the determined problems and solution offers with the national and international participants,
- 3) Translating the evaluations produced after the workshop into a final report,
- 4) Organising 4-day daily working visits to EU MS for having the best practice examples, in groups consisting of 12 people as part of the Activity,

- 5) Establishing a board with the participation of the relevant units, determining necessary issues to establish legislative infrastructure of the board and conducting study on this issue,

RESULT IV: IMPROVING CONDITIONS OF PRISONS AND DETENTION HOUSES AND EXECUTION REGIME

Activity 4.1 Improving Management of Terrorist Offenders for Prevention of Radicalization in Penitentiary Institutions

It has been observed that most inmates convicted of terror offences do not change in terms of their criminal motives and get more radical in penitentiary institutions; furthermore, they are subject to mutual unfavourable influence by inmates with a similar criminal history or inmates they spend time with. This situation further complicates rehabilitation efforts.

The Committee of Ministers of the Council of Europe pointed out terrorist offenders and underlined the development of a special risk assessment programme for such offenders in its recommendation on Dangerous Offenders no 2014/3. Another norm to consider in this respect is the Committee of Ministers of the Council of Europe recommendation on Foreigner Inmates no 2012/12.

Turkey has been exposed to terrorist acts, which were both spread over a long period of time and ongoing. Furthermore, it is known that fundamentalist and radicalized terrorist groups with a religious motive are also involved in terrorist activities in Turkey.

Turkey adopted the resolution on the freezing of the assets of persons and organizations designated by UN Security Council under Resolutions 1267(1999), 1988 (2011) and 1989 (2011) and published the relevant resolution and the annexed list on its Official Gazette dated 10 October 2013. This list includes, among others, the terrorist organization internationally known as ISIL (Islamic State of Iraq and the Levant) (known as IŞİD in Turkey). This terrorist organization is also involved in terrorist acts in Turkey and members of this terrorist organization are kept either as detainees or convicts in prisons located in provinces bordering Syria (Gaziantep, Kilis, Hatay, Şanlıurfa etc...).

There is neither a special risk assessment programme aimed at members of such a perilous terrorist organization, nor permanent tenure for enforcement staff with raised awareness on enforcement services meant for such groups. Interventions made through classical enforcement services will not only be in vain for the rehabilitation of such convicts, but also contribute to any propaganda pursued by these convicts leading to an inevitable outcome, which is enrolment of new members to the organization. These constitute a serious problem in countries like Turkey, which face problems such as overcrowding and being a foreign fighter route.

Within the Activity, the following outcomes will be achieved:

- a) Effective methods of intervention and approach for managers and staff to prevent radicalisation of terrorist offenders will be developed,
- b) Training penitentiary staff on these methods will be performed,

- c) Turkish Execution of Sentences System will be aligned with relevant international standards in this area.

The following activities will be conducted in order to achieve abovementioned outputs:

- 1) A training needs assessment will be conducted to discover the needs of penitentiary staff in approaching terrorist offenders.
- 2) A staff manual will be developed on terrorist offenders in penitentiary institutions and prevention of radicalization, and models of approach.
- 3) Staff will receive training of trainers on the manual.
- 4) Training sessions will be organized for penitentiary staff for the dissemination of the manual and approaches to terrorist offenders.
- 5) Cooperation approach will be developed for collaborating with relevant institutions.
- 6) International study visits will be organized to observe best practices in-situ.

3. IMPLEMENTATION ARRANGEMENTS

ROLES AND RESPONSIBILITIES

The **leading institution** in the judiciary sub-field is the *Ministry of Justice*. Besides, the *High Council of Judges and Prosecutors*, the *Justice Academy*, *High Courts*, *Turkish Bar Association* will be other **key institutions** in IPA II period.

The Ministry of Justice is given important responsibilities and powers to ensure well-functioning of the justice system. It is the main responsible executive institution for forming the justice policy and carry out the administrative duties for better serving of the justice system. In this regard, opening and organizing courts which have already been established by law, planning, establishing and improving all levels and types of judicial institutions such as prisons and correctional facilities, enforcement and bankruptcy offices are among the duties of the Ministry of Justice. Additionally, drafting and delivering legislation concerning justice services, conducting researches for better functioning of the justice system are some of other important functions.

The role of the High Council is particularly important since it is responsible for procedures regarding the promotion and classification, appointing or transferring to another locality and inspecting whether judges and prosecutors perform their duties in compliance with laws. Therefore, the High Council has unique responsibility in ensuring not only the independence and impartiality, but also efficiency and effectiveness of the judiciary.

The Justice Academy has a central role in training of civil, administrative and military judges and prosecutors. It can also organize training programmes for lawyers, notaries upon their demand. The Academy also organizes special programs in various fields, seminars, symposia, conferences and similar events.

The Turkish Bar Association is a professional organization established by law representing local bars and their members.

Other than the counted institutions, there exist several judicial, administrative and professional institutions. The Constitutional Court, the Court of Cassation, Council of State, the Military Court of Cassation, the High Military Administrative Court, the Department of

Military Justice Affairs of the Ministry of Defence and local courts are stakeholders and probable beneficiaries of actions supported by IPA II programming. In addition to Turkish Bar Association, the Turkish Notaries Association serves as a professional organization in the justice sector. Besides, a few numbers of NGOs have been established in the justice sector in recent years like YARSAV, Demokrat Yargı etc.

During the IPA I period, the Project Coordination Board, which meets under the chairmanship of Deputy Undersecretary periodically, acted as a coordinating mechanism for the projects conducted by MoJ. In these meetings, high level representatives from different departments of MoJ are able to table the new project ideas and the problems regarding their ongoing projects so that duplications are prevented and solutions can be produced in the first place.

For the IPA II period, considering the new leading role of MoJ in judiciary sub-field, the scope of Project Coordination Board will be extended and stakeholders other than the department of MoJ such as High Courts and Turkish Bar Associations will be included.

In addition to Project Coordination Board meetings, regular visits by “EU Project Department” to the relevant institutions will be paid when it is deemed necessary. In addition, since there are a lot of key actors which have the mandate to represent different parts of judiciary, some actors will have active roles in the action. The HCJP, the Court of Cassation, the Council of State, the Constitutional Court, the Justice Academy, and Turkish Bar Association will act as main beneficiary for the activities they had propose and the MoJ will do her coordination duty as a leading institution in this field.

In relation to IPA II Implementing Regulation (IR Article18), IPA II Monitoring committee has been set up. The IPA II monitoring committee shall satisfy itself as to the overall effectiveness, quality and coherence of the implementation of all programmes and operations towards meeting the objectives set out in the financing agreements as well as in the multi-annual indicative planning documents. For this purpose, it shall base itself on the elements given by the sectorial monitoring committees. Participation to these committee meetings will be provided and information about the state of play in the implementation and progress of the Judicial Operating Programme will be submitted.

As requested in IPA II IR Article19 and in order to support IPA II Monitoring committee a Sectorial Monitoring Committee (SMC) for Judicial OP is established. The functions of Sectorial Monitoring Committee are as follows:

- Consider and approve the general criteria for selecting the operations, and approve any revision of those criteria in accordance with programming needs;
- Review at each meeting progress made towards achieving the specific targets of the Programme on the basic documents
- Examine at each meeting the results of implementation, particularly the achievement of the targets set for each priority axis and measures and interim evaluations;
- Examine the sectorial annual and final reports on implementation.
- Is informed of the annual activity report referring to the operational programme concerned, and of any relevant comments the Commission may make after examining that report or relating to that part of the report;

Additionally, the sector monitoring meetings will be held two times in a year with the participation of EU Commission, Ministry of EU Affairs, and other relevant key institutions.

The Judiciary Sub-Field Monitoring and Evaluation Committee will be formed to plan actions under IPA II programming and evaluate ongoing actions. High Council of Judges and Prosecutors, Justice Academy of Turkey, High Courts, Turkish Bar Association will be invited to Monitoring and Evaluation Committee Meetings along with the Ministry of EU Affairs and the Ministry of Development. The Evaluation and Monitoring Meetings will be held regularly in every three months but when needed extraordinary meetings can be held. These meetings will also be a platform to measure the level of progress reached. SMC meets at least twice a year, at the initiative of MoJ, EU Project Department or the EU. The issues to be followed-up are tracked in the period between two Committee meetings and the Committee Members are informed about the current situation with regards to those issues.

IMPLEMENTATION METHOD(S) AND TYPE(S) OF FINANCING

Below is a table summarizing the types of financing for each activity:

<p>Activity 1.1 <i>Strengthening the Effectiveness of the HCJP for an Impartial and Independent Judiciary</i></p>	<p>Direct Grant to Council of Europe:</p> <p><i>Justification:</i></p> <p>The CoE's technical competence and high degree of specialization on securing the impartiality and independence of the judiciary based on its already developed significant corpus juris dedicated to accountability in the judicial field.</p> <p>Having 47 Members which include all of the EU Member States, the Council of Europe is in a unique position to draw on the expertise and lessons learnt from a wide spectrum of legal traditions in this field.</p> <p>The proposed project will benefit from the unique expertise of the CoE, through its different bodies (European Court of Human Rights (ECtHR), Department for the Execution of ECtHR Judgments, Office of the Commissioner for Human Rights, European Commission for Democracy through Law (Venice Commission), Consultative Council of European Judges (CCEJ), etc.</p> <p>The CoE is in a position to offer tailor-made support in this process combining a unique substantive expertise with experience of implementing cooperation programmes through which European standards are consolidated in Turkey.</p>
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Activity 2.1 *Strengthening the Criminal Justice System and the Capacity of Justice Professionals on prevention of the European Convention on Human Rights Violations in Turkey*

Direct Grant to Council of Europe:

Justification:

The proposed project will benefit from the unique expertise of the CoE, through its different bodies (European Court of Human Rights (ECtHR), Department for the Execution of ECtHR Judgments, Office of the Commissioner for Human Rights, European Commission for Democracy through Law (Venice Commission), Consultative Council of European Judges (CCEJ), etc.

The number of pending application before the ECtHR, in particular the violations found as regards numerous Articles of the European Convention on Human Rights (ECHR) indicates that Turkey needs to pursue and intensify its effort to address the shortcoming of its justice system¹.

The CoE is in a position to offer tailor-made support in this process combining a unique substantive expertise with experience of implementing cooperation programmes through which European standards are consolidated in Turkey. The Department for the Execution of Judgments, which closely monitors the execution of the judgments against the member states on behalf of the CoE Committee of Ministers, provides support with sharing its expertise and contributes generally in raising awareness on the issues which still require general measures.

The CoE's monitoring bodies provide substantive input on human rights reporting and raising awareness in all member states, including Turkey. The Commissioner of Human Rights has mandate to observe human rights implementation and to report on

¹*Demirel v. Turkey*, no.39324/98, judgment of 28 January 2003 as a leading case concerning violation of Article 5 §§ 3, 4 and 5 of the ECHR. It is under enhanced supervision of the Committee of Ministers, see on: http://www.coe.int/t/dghl/monitoring/execution/Reports/pendingCases_en.asp?CaseTitleOrNumber=&StateCode=TUR&SectionCode=; *Sayik and Others v. Turkey*, no.1966/07; *Kaplan v. Turkey*, no.24240/07 pilot judgment of 20 March 2012 concerning the length of proceedings in Turkey.

	<p>shortcoming concerning particular legislation and violation of human rights. In his 2012 report, the CoE Commissioner for Human Rights, found many shortcomings, inter alia, concerning the criminal justice system and human rights implementation.² Furthermore, the Cybercrime Convention Committee (T-CY), representing the State Parties to the Budapest Convention on Cybercrime assists member states in enhancing international co-operation on cybercrime.³</p> <p>Last but not least, Turkey will benefit from the methodology and tools developed under the European Programme for Human Rights Education for Legal Professionals (HELP), which will ensure that high-quality training is provided to judges, prosecutors and lawyers.</p>
<p>Activity 3.1 <i>Activity on Strengthening the Institutional Capacity of Court of Cassation</i></p>	<p>Direct Grant to Council of Europe:</p> <p><i>Justification:</i></p> <p>The Council of Europe is the primary standard-setting body in matters related to the functioning of judicial systems and the quality of justice. Through its intergovernmental European Committee on Legal Co-operation (CDCJ), it has developed and evaluated, the implementation of relevant legal standards providing a substantial and consolidated framework of principles and measures contributing to strengthening the institutional capacity of courts as an inherent element of the rule of law and human rights protection.</p> <p>The Council represents also a unique depository of expertise in assisting member states in developing legislation, institutional frameworks and judicial practice to ensure the effective and efficient functioning of courts. Through its network of experts, the Council of Europe follows closely the legislative developments in this area in its member states and draws upon it to facilitate</p>

² Report of the Commissioner for Human Rights on Turkey of January 2012, CommDH(2012)2

³Budapest Convention on Cybercrime has entered into force in Turkey on 1 January 2015 but has not been ratified yet

	<p>the transfer of good practice from one jurisdiction to another.</p> <p>The work of other bodies such as the Venice Commission, the European Commission for the Efficiency of Justice (CEPEJ) and the Consultative Council of European Judges (CCJE) provide additional significant inputs, such as the CEPEJ's "Checklist for promoting the quality of justice and the courts" and the CCJE's Opinion n°11 (2008) on "the quality of judicial decisions".</p> <p>Furthermore, the Council has proven experience of implementing large-scale capacity building projects on justice sector reform in a number of countries in Europe and in the Neighbourhood. Since 2004, the Council of Europe has gained experience of managing projects in the field of justice and court administration in Turkey within the framework of large-scale Joint Programmes with the European Union. The Council of Europe can rely on experienced staff and a wide network of committed national experts with specialist knowledge.</p>
<p><i>Activity 3.2. Activity on revising and improving the structure of judicial storages for criminal evidences and seized materials and related legislation in line with EU best practices</i></p>	<p>Twinning</p>
<p><i>Activity 3.3. Activity on strengthening the institutional capacity of court experts</i></p>	<p>Twinning</p>
<p><i>Activity 3.4 Activity on Improvement of the Efficiency of Pre-service trainings for Candidate Judges and Prosecutors</i></p>	<p>Twinning</p>
<p><i>Activity 4.1 Activity on Better Management of Terrorists and Dangerous Offenders in Prisons and Prevention of Radicalization</i></p>	<p>Twinning</p>

4. PERFORMANCE MEASUREMENT

METHODOLOGY FOR MONITORING (AND EVALUATION)

In line with the IPA II Implementing Regulation 447/2014, an IPA II beneficiary who has been entrusted budget implementation tasks of IPA II assistance shall be responsible for conducting evaluations of the programmes it manages.

The Commission may carry out a mid-term, a final or an ex-post evaluation for this Action or its components via independent consultants, through a joint mission or via an implementing partner. In case a mid-term or final evaluation is not foreseen, the Commission may, during implementation, decide to undertake such an evaluation for duly justified reasons either on its own decision or on the initiative of the partner. The evaluations will be carried out as prescribed by the DG NEAR guidelines for evaluations. In addition, the Action might be subject to external monitoring in line with the EC rules and procedures set in the Financing Agreement.

The Beneficiary will monitor closely the activities under this Action. Interim reports, mid-term reports (every 3 months) and final reports will be prepared by the contractors.

Furthermore, the NIPAC is undertaking monitoring missions and using ROM experts. The Contracting Authority is also undertaking random monitoring missions.

The EU Delegation might initiate also on the spot check missions at any time and/or launch evaluations, if deemed necessary.

The IPA Monitoring Committee and the Sectoral Monitoring Committees shall be set up twice a year in order to review the overall effectiveness, efficiency, quality, coherence, coordination and compliance of the implementation of all actions towards meeting their objectives with the participation of EU Commission, Ministry of EU Affairs, Ministry of Justice and other relevant key institutions.

The Ministry of Justice as the lead institution in the judiciary sub-field will invite all stakeholders in the sector and Ministry of EU Affairs, to evaluation and monitoring meetings in every three months.

A system of monitoring and evaluation has been devised for observing the implementation of the objectives and goals in line with the Justice Reform Strategy. This system of monitoring and evaluation ensures that necessary action is taken to eliminate problems. Monitoring and Performance Assessment of the Justice Reform Strategy are undertaken by the Department of Information Technologies, General Directorate of Criminal Records and Statistics and Presidency of Strategy Development under the Ministry of Justice. The reports prepared by Internal Audit Unit, the statistics of DG of Criminal Records and Statistics, the data provided from IT Unit will be used to monitor performance recorded.

There is a need for more comprehensive and coherent common framework for the performance of the judiciary. As regards this matter, Judicial Reform Strategy is pointed out (Objective 1.3). Several models regarding the performance of judicial system and quality of justice have been recently elaborated and developed by European countries in a more comprehensive way to involve all actors. 360-degree feedback system, user surveys and

SATURN time management are the tools used by the European judicial systems and developed for performance appraisal. In measuring the performance of judges and prosecutors; the average length of trials should be taken into consideration for their promotion, the average length of trials for each case type should be determined for judges and prosecutors and made public; besides, another objective is to establish mechanisms that can have an effect on the promotion system for judges and prosecutors at supreme courts.

Furthermore; Objective 3.5 of the Draft Strategy Plan of the Ministry of Justice is “Developing a More Effective Supervision Mechanism based on Performance”. Under this objective, the following strategies are proposed:

- The supervision system will focus on the performance and system and be restructured in a way to facilitate guiding practices.
- It will be possible to perform supervision through UYAP.
- The execution and bankruptcy offices as well as the notaries will be supervised by means of the supervisors of the supervisory board (experts).

INDICATOR MEASUREMENT

Indicator	Baseline	Milestone 2017	Final 2020	Target	Source of information
<i>CSP indicator(s)</i>					
<i>Level of progress achieved towards meeting accession criteria.</i>					<i>EU Progress Reports</i>
Action outcome indicator 1 <i>Number of infringement judgments by the European Court of Human Rights (ECHR) as well as follow up given</i>	(2013) 508	175	150		<i>Statistics released by ECtHR.</i>
Action outcome indicator 2 <i>Clearance rate for backlog in courts</i>	(2010) 58.09	65	70		<i>Statistics released by CEPEJ</i>
Action output indicator 1 Related to the Activity 1.1 1- Number of applications for review and appeals to the HCJP for promotion of judges and prosecutors	(2014) 877	(2017) 865	(2020) 865		<i>HCJP Statistics</i>
2- Percentages of voluntary transfer of judges and prosecutors	(2014) <i>Administrative Justice 77% Civil and Criminal Justice 87%</i>	(2017) <i>Administrative Justice 80% Civil and Criminal Justice 92%</i>	(2020) <i>Administrative Justice 84% Civil and Criminal Justice 94%</i>		<i>Statistics released by HCJP</i>
3- Shorter decision making process in HCJP Chambers, reduction in the backlog	(2014) <i>17.495 pending files at the 3rd Chamber. In 2014, the total number received by the 2nd Chamber was 727; 361 of them were decided and finalized; 366 were transferred to 2015.</i>	(2017) <i>The number of files transferred to following years at the 3rd Chamber will be reduced by 20%. The number of files transferred to following years at the 2nd</i>	(2020) <i>The number of files transferred to following years at the 3rd Chamber will be reduced by 30%. The number of files transferred to following years at the 2nd</i>		<i>Statistics released by HCJP</i>

Indicator	Baseline	Milestone 2017	Final Target 2020	Source of information
		<i>Chamber will be reduced by 10%</i>	<i>Chamber will be reduced by 20%</i>	
Action output indicator 2 Related to the Activity 2.2	(2014)	(2017)	(2020)	<i>Statistics of MoJ.</i>
1- Number of trained judges and prosecutors on criminal justice system, cybercrime and human rights, included as sub-categories judges of peace within the Activity	0	100	200	
2- Number of individual applications made to the Constitutional Court regarding the unjustified decisions taken by criminal judges of peace	<i>Baseline data for the number of applications to be constructed through the Activity itself.</i>		<i>%10 decrease in the number of individual applications made to the Constitutional Court regarding the unjustified decisions taken by criminal judges of peace</i>	<i>Statistics released by the Constitutional Court</i>
3- Number of cases opened for cybercrimes due to the strong evidence obtained	<i>Baseline data to be constructed by the Activity itself.</i>	<i>Increase in the numbers by % 5</i>	<i>Increase in the numbers by %10</i>	<i>Statistics released by UYAP.</i>
4- Cybercrime Investigation Bureaus are established	0 (number of bureaus)	3 (number of bureaus)	5 (number of bureaus)	<i>Statistics released by MoJ.</i>
5-Number of ECtHR infringement judgements	200	170	150	<i>5-Statistics released by ECtHR</i>
Action output indicator 3 Related to the Activity 3.1	2014	2017	2020	<i>Statistics of the Department of Information Technologies Statistics of the Court of Cassation</i>
1-Trial period in the Court of Cassation	<i>Criminal Cases: 370 days</i>	<i>Criminal Cases:</i>	<i>Criminal</i>	

Indicator	Baseline	Milestone 2017	Final 2020	Target	Source of information
	<i>Civil Cases: 160</i>	<i>360</i> <i>Civil Cases:152</i>	<i>Cases:348 days</i> <i>Civil Cases:148 days</i>		
Related to the Activity 3.2	<i>(2014)</i>	<i>(2017)</i>	<i>(2020)</i>		<i>Statistics released by MoJ</i>
1- Number of the evidences secured with the new barcoding system	<i>0</i>	<i>100</i>	<i>200</i>		
2- Number of trained property and evidence officers	<i>0</i>	<i>100</i>	<i>200</i>		<i>Statistics released by MoJ</i>
3- Dedicated property and evidence units established in the pilot court houses for keeping digital and biological evidence	<i>0</i>	<i>3</i>	<i>5</i>		<i>Statistics released by MoJ</i>
Related to the Activity 3.3	<i>246 days</i>	<i>240 days</i>	<i>230 days</i>		<i>Statistics released by CEPEJ, MoJ</i>
1- Trial period in the first instance courts					
Related to the Activity 3.4	<i>Baseline data to be constructed through the Activity itself</i>				<i>Statistics released by MoJ and HCJP</i>
1-Number of judges and Prosecutors obtained positive scores during senior colleague assessments and inspections					
Action output indicator 4 Related to the Activity 4.1	<i>Baseline data to be constructed through the Activity itself</i>				<i>Statistics of the General Directorate of Prisons and Detention Houses</i>
1-Number of terrorist offenders attending socio-cultural and education activities			<i>Increase by 5% in the number of terrorist offenders attending social, cultural and educational activities at the end of Activity</i>		

Indicator	Baseline	Milestone 2017	Final Target 2020	Source of information
2-Number of terrorist offenders communicating with their families	<i>Baseline data to be constructed through the Activity itself</i>		<i>Increase by 5% in the number e of terrorist offenders communicating with their families.</i>	<i>Statistics of the General Directorate of Prisons and Detention Houses</i>

5. CROSS-CUTTING ISSUES

EQUAL OPPORTUNITIES AND GENDER MAINSTREAMING

The principle of equal opportunity will be integrated into all stages of the project implementation. The beneficiary respects the rights of equal opportunity of all genders, groups (i.e. disabled persons) and ages for employment. Appropriate professional qualifications and experience will be the main factors of personnel recruitment and evaluation. Both women and men have identical prospects. Nevertheless, all periodical progress review reports and other interim reports will include a specific explanation on measures and policies taken with respect to participation of women and equal opportunity for women and men and will provide measurements of achievement of this goal.

Equal participation of women and men is secured in the design of the operations and implementation stage in order to ensure that the services are provided on rights-based approach.

Based on fundamental principles of promoting equality and combating discrimination, participation to the activities will be guaranteed on the basis of equal access.

Principles and practice of equal opportunity will be guaranteed to ensure equitable gender participation in all activities.

ENVIRONMENT AND CLIMATE CHANGE (AND IF RELEVANT DISASTER RESILIENCE)

According to the OECD-DAC's methodology, in the activities foreseen, environment and climate change (mitigation and/or adaptation) should be classified as "not targeted" (Rio markers), as these issues are not relevant in the context of this action. The activities on this Action Programme are envisaged not to have any negative effect to climate change.

ENGAGEMENT WITH CIVIL SOCIETY (AND IF RELEVANT OTHER NON-STATE STAKEHOLDERS)

The actions will be conducted in close cooperation with the civil society organizations. In the scope of the preparation of the Action Document-2015 under IPA II term, professional organisations such as the Turkish Bar Association and the Turkish Notaries Association were visited and informed about the EU Funding opportunities under IPA II. They were also invited to submit their activity proposals and their opinion was demanded.

All relevant national and international NGOs working on judiciary and related CSOs will actively participate in the activities of this Action Programme.

MINORITIES AND VULNERABLE GROUPS

According to the Turkish Constitutional System, the word minorities encompass only groups of persons defined and recognized as such on the basis of multilateral or bilateral instruments to which Turkey is a party. The action will apply the policy of equal opportunities for all groups, including vulnerable groups. This action has no negative impact on minority and vulnerable groups.

6. SUSTAINABILITY

Right after declaration of its candidacy status for full-membership to EU in the Helsinki Summit of 1999, Turkey has undergone considerable reforms in the field of judiciary including both structural and legislative changes. Turkey has spent significant amount of efforts to internalize EU values because all the governments in power in this period have the belief that internalizing these values are beneficial for citizens in order to live in a more democratic and free country. In this scope, the commitment that has been made by Turkey is the key factor for the future sustainability of the action results.

Ministry of Justice has a huge experience in the field of EU financed projects. In the IPA I period MoJ conducted important projects and with this support important reforms were realized. As a leading institution in the IPA II programming, MoJ will use this experience to assist other judicial institution for ensuring the sustainability of the results of the action.

Within the IPA II term, Ministry of Justice, as the lead institution in judicial sector, has undertaken responsibility on taking project ideas, evaluating their priorities, transferring them to relevant main documents and implementing the activities considered acceptable and monitoring their implementation by way of controlling the alignment of project ideas with national strategies and EU acquis and priorities. As required by this responsibility, EU Project Department established within the DG for EU Affairs has been strengthened in terms of human resources and it will be further developed based on needs.

Project Coordination Meeting convenes every two months under the presidency of Deputy Undersecretary and with the participation of heads of units so as to monitor the performances of the projects implemented within the Ministry of Justice and ensure sustainability. These meetings are mostly attended by representatives from HCJP, Justice Academy, Council of State and Court of Cassation.

Judicial Sector Monitoring and Evaluation Meetings are held and information is exchanged between stakeholders as regards the developments in IPA II process. Further, it is ensured to obtain views through official correspondences and they are ensured to be transferred to main texts. Additionally, a Monitoring and Quality Control Unit was established under the EU Project Department. There are on-going studies for this sub-unit to be developed by means of getting the support of Strategy Development Department, DG for Criminal Records and Statistics, IT Department as well as the units concerned.

Wide-range activities under this Action Document will serve overall strengthening the sub field judiciary and help further alignment with the EU acquis and standards in this field. The sustainability of the results will be ensured by the improved administrative structure. Turkey is committed to carrying out and furthering political and judicial reforms, as reflected on strategy documents. In this respect, sustainability will also be ensured through the regular and periodical revision of the strategies and action plans which have been implemented in the judiciary sub-field in Turkey.

7. COMMUNICATION AND VISIBILITY

Communication and visibility will be given high importance during the implementation of the Action. The implementation of the communication activities shall be the responsibility of the beneficiary, and shall be funded from the amounts allocated to the Action.

All necessary measures will be taken to publicize the fact that the Action has received funding from the EU in line with the Communication and Visibility Manual for EU External Actions. Additional Visibility Guidelines developed by the Commission (DG NEAR) will have to be followed.

Visibility and communication actions shall demonstrate how the intervention contributes to the agreed programme objectives and the accession process. Actions shall be aimed at strengthening general public awareness and support of interventions financed and the objectives pursued. The actions shall aim at highlighting to the relevant target audiences the added value and impact of the EU's interventions and will promote transparency and accountability on the use of funds.

It is the responsibility of the beneficiary to keep the EU delegation and the Commission fully informed of the planning and implementation of the specific visibility and communication activities.

The beneficiary shall report on its visibility and communication actions in the report submitted to the IPA monitoring committee and the sectorial monitoring committee.

All projects /contract implemented under this programme shall comply with the Visibility Guidelines for European Commission Projects in Turkey published by the EUD to Turkey, at http://www.avrupa.info.tr/AB_Mali_Destegi/Gorunurluk,Visi.html

All communication and visibility activities should be carried out in close co-operation with the CFCU and the EUD to Ankara. The CFCU and the EUD are the main authorities in charge of reviewing and approving visibility-related materials and activities.

The EU-Turkey cooperation logo should be accompanied by the following text:

“This project is co-funded by the European Union.”

Whether used in the form of the EU-Turkey cooperation logo for information materials or separately at events, the EU and Turkish flag have to enjoy at least double prominence each, both in terms of size and placement in relation to other displayed logos and should appear on all materials and at all events as per the Communication and Visibility Manual for European Union External Actions. At visibility events, the Turkish and the EU flag have to be displayed prominently and separately from any logos.

Logos of the beneficiary institution and the CFCU should be clearly separated from the EU-Turkey partnership logo and be maximum half the size of each flag. The logos will not be accompanied by any text. The CFCU and beneficiary logo will be on the lower left-hand corner and lower right-hand corner respectively. The consultant logo with the same size will be in the middle of the CFCU and beneficiary logo. If the consultant is a consortium, only the logo of the consortium leader will be displayed.

Any publication by the Supplier, in whatever form and by whatever medium, including the Internet, shall carry the following or a similar mention: “This document has been produced with the financial assistance of the European Union”. In addition, the back cover of any such publications by the Supplier should also contain the following disclaimer: “The contents of this publication is the sole responsibility of name of the author/Supplier/implementing partner – and can in no way be taken to reflect the views of the European Union”. Communication and visibility will be given high importance during the implementation of the Action. The

implementation of the communication activities shall be the responsibility of the beneficiary, and shall be funded from the amounts allocated to the Action.

The visibility of activities conducted under 2015 AD will be ensured by:

- Media – press releases, press events, interviews, background papers, project visits
- Events – forums, information days, workshops, professional debates, seminars, conferences, project presentations, other regional events
- Publications – newsletters, brochures, leaflets, project information sheets, reports, studies, programme presentation summaries
- Internet pages
- Others e.g. billboards, plaques, stickers, flags, maps, posters and gadgets.

MoJ will ensure the visibility of activities covered by this Action Document to public through its official website. Additionally, all stakeholders in the sector and professional organisations and NGOs will be informed about activities in accordance to their relevance with the topic of the activity. EU contribution to each activity will be made visible through their products.

