1. **Basic Information**

1.1 Title  
Support to the Establishment of Courts of Appeal in Turkey

1.2 Sector

1.3 Location  
Ankara, Turkey

1.4 Duration  
21 months (overall duration: 21 months, duration of activities: 18 months)

2. **Objectives**

2.1 **Overall Objective**

The overall objective of the project is to establish Courts of Appeal in Turkey in order to align the functioning and effectiveness of judiciary with EU standards.

2.2 **Project Purpose**

The purpose of the project is to provide that the Court of Appeals are functioning effectively under the new Turkish legislation by creating and accomplishing training programs for forthcoming judges, prosecutors and auxiliary staff.

2.3 **Accession Partnership and Turkish National Programme for the Adoption of the Acquis**

In developing this Project, the Accession Partnership and the National Programme of Turkey have been examined critically to establish the priorities that will have a direct or indirect impact on the effective functioning of the judiciary. Thus the project addresses the areas defined in the Accession Partnership (AP) and the National Programme for the Adoption of the Acquis (NPAA), as follows;

- **Accession Partnership 2003**

**Short-term priorities**

Prepare the establishment of intermediate courts of appeal.

- **National Programme for the Adoption of the Acquis (NPAA)**

In addition to the Accession Partnership, the NPAA of Turkey for 2003 suggests the achievement of the following goals and taking of the following measures aimed at judiciary. The project in question aims to support these goals and measures.
PRIORITY 24.14 Functioning of the Judiciary and Capacity Building for the Establishment of an Effective Judicial System

Task 24.14.1 Strengthening the functioning of the judiciary and capacity building for judicial and administrative services

1- Priority Description

2003 Accession Partnership paragraph No. 12 foresees strengthening judicial independence and effectiveness, assuring coherent interpretation of decisions in line with the European Convention on Human Rights and Fundamental Freedoms, ensuring precautions for making all judicial authorities take into consideration the judgments of European Court of Human Rights, bringing the functioning of the State Security Courts in line with European standards and making necessary preparations to establish courts of appeal.

2.4 Contribution to the National Development Plan N/A

2.5 Transboundary Impact N/A

3. Description

3.1. Background/Justification

The Turkish Government, in the course of progress towards accession to the European Union and in response to the obligations of the acquis of the EU and its Member States, is pursuing a National Programme for the Adoption of the Acquis. This inevitably requires substantial efforts by Turkey not only in harmonization of its legislation with the EU Acquis but also for the functioning of the judiciary and capacity building for the establishment of an effective judicial system in order to properly implement the legislation in place. In this context, the priorities set forth in the Accession Partnership and NPAA constitute the fundamental basis in identifying the areas of urgent attention and in designing programs to support the efforts of the Turkish authorities.

The Accession Partnership with Turkey was adopted on 8 March 2000 and the Government of Turkey prepared the NPAA and than revised it to achieve the objectives stated in the Accession Partnership.

Establishment of the Courts of Appeal is included as a fundamental priority in the Accession Partnership and in the NPAA.

The second objective stated in the Accession Partnership and to which the present program aims to contribute is strengthening of the independence and efficiency of the judiciary, assuring coherent interpretation in the decisions in line with the European Convention on Human Rights (ECHR), ensuring safeguards in making all judicial authorities to take into consideration the judgments of European Court of Human Rights and making necessary preparations for the establishment of the Courts of Appeal.

In addition to AP and NPAA, Regular Reports on Turkey’s accession Process to the EU emphasizes the requirement of court of appeal. Particularly 2003 Regular Report on Turkey’s Accession Process to the European Union state as follows:

“...there has been no progress with regard to the establishment of intermediate courts of appeal, although legislative preparations are underway. The Supreme Court still performs the functions of court of second instance. The Supreme Court deals with an average of 500 000 cases a year which would otherwise be dealt with by courts of appeal. The establishment of courts of appeal would not only increase the speed and efficiency of the judiciary, but it would also be an important step forward in ensuring the right to a fair trial. At the same time, the establishment of courts of appeal
would relieve the Supreme Court from its excessive workload and allow it to concentrate on its function of unifying and clarifying the Turkish case law. …”

The Turkish judicial system comprises of a Constitutional Court, a Council of State, a Court of Cassation, a Court of Jurisdictional Disputes and a general system of courts of first instance. The Court of Cassation is the appellate court. However there are no intermediate courts of appeal between the Court of Cassation and the courts of first instance. The problems faced by the judiciary in Turkey are complex, ranging from enormous workload to inadequate training and lack of technical equipments.

The increasing number of appeals has created a situation hard to master, as the Court of Cassation has a dual role, on one hand creating case law binding or serving as guidelines for the basic courts in their interpretation of Turkish law, which has become immense, widespread and difficult to grasp, on the other hand reviewing all appeals against decisions by the more than 10,000 courts in Turkey.

Due to the lack of the intermediate courts of appeal the Court of Cassation reviews not only legal questions but also the factual determinations. The problem of the efficiency of court proceedings and the overburdening of courts are widely recognized in Turkey (as is the case in many other countries). The lack of intermediate courts of appeal has caused backlogs and delays in court proceedings and has an apparent and negative effect on the law enforcement and prosecutorial services which leads to corruption in the social and state systems and promotes violent resolution of disputes in the system.

One of the most important roles for the court of last instance, the Court of Cassation, is to contribute to the unification and harmonization of the interpretation of domestic legislation, taking international standards on human rights and rule of law into consideration, and to lead the development of justice. Overburdening of the Court of Cassation has a negative effect on its functions just mentioned as it uses most of its resources to review both the factual determinations and legal questions due to the lack of intermediate courts of appeal.

In order to uphold the utmost important role of the Court of Cassation, namely to create a unified and clear case law for the judiciary to follow, the amount of cases and number of judges in the Court of Cassation is to be reduced and the work to be concentrated to cases of importance for the development of a single and clear praxis based on domestic law and international standards.

The Turkish government is implementing various measures in order to solve these problems. As measures to be taken for implementing the necessary amendments in the Turkish legislation, the Ministry of Justice is making various kinds of effort to speed up the judicial reform process at the legislative level, concentrating its action on drafting new laws. The Ministry of Justice has prepared a number of laws some of which have already been enacted with the aim of strengthening the functioning of the judiciary and capacity building for the establishment of an effective judicial system. The National Plan also provides for drafting a new Code of Penal and Civil Procedures which are both under consideration of Turkish Grand National Assembly.

Furthermore the Ministry of Justice prepared a draft law on the establishment of Courts of Appeal; The Draft Law on the Establishment, Duties and Powers of the Ordinary Courts of First Instance and Regional Courts of Appeal. Both this law and the Draft Civil Procedural Code are in the General Board of Turkish Grand National Assembly. The said laws are expected to be enacted until the end of this year.

The Draft Penal Procedural Code, the Draft Bankruptcy Law, the Draft Labor Law and the Draft Penal Code are all in the Justice Commission of the Turkish Legislature. These new codes, which are a result of the current justice reforms program related to forthcoming Court of Appeal in Turkey, will provide the statutory framework for the work of the said courts, for the appointment of required judges and prosecutors and recruitment of needed staff to be employed at these courts.
According to official figures, in 2002 and 2003 132 judges and prosecutors were trained on the implementation of the new Civil Code adopted in November 2001, 731 on the harmonization of laws with EU law, 4,594 on human rights, 350 on forensic medicine applications and 519 on criminal matters and human rights, as well as numerous smaller training activities in other specialized areas such as international asylum law. Following the enactment of the “Law on the Justice Academy of Turkey” in July 2003, the Justice Academy became operational by starting with the education of 75 students in January 2004. The Academy aims to train judges and prosecutors as well as other judicial officers such as notaries and will also contribute to this project by providing facilities for the training of the judges and auxiliary staff.

The proposed project will consist of two phases:

The first phase of the project is to support the establishment of Turkish Courts of Appeal under the new Turkish legislation and in accordance with the standards and practices of EU Member States by creating and accomplishing training programs for forthcoming judges, prosecutors and auxiliary staff, in order to ensure an efficient and unified implementation of the legislation on the new appellate system in the Turkish judiciary in line with the Acquis and safeguard the alignment of the new system with international human rights/ Rule of Law standards in the implementation of the legislation.

The second phase of the project will be concerning the infrastructural support to be given to the establishment of three Court of Appeal houses in addition to providing some of the hardware and required software. This phase of the project will be carried out during the 2005 programming and the detailed project fiche concerning this component will be submitted during next years programming.

3.2 Linked Activities

There has been no previous project within the framework of the pre-accession programme dealing with the establishment of Court of Appeals in the Republic of Turkey.

Within the area of judicial reform the following programmes are linked to this area:

3.2.1 Judicial Modernization and Penal Reform Programme, programmed to begin 2004.

The Turkish government has started planning and implementing various measures on penal reform and judicial modernization. The programme will provide support to enhance these efforts in certain areas and will also seek to contribute more generally to increasing the capacity of the Ministry of Justice to design and implement broader reform strategies for the future, drawing on good practice in the EU. The overall objective is to advance penal reform and modernization of the judiciary in Turkey as foreseen in the Accession Partnership and the National Programme for the Adoption of the Acquis. The programme will be launched this year.

There are also different projects proposals from beneficiaries which are planned to be included in the 2004 programming under the political criteria. Although the components of these projects are indicative and not finalized they may be summarized as follows:


The programme aims to develop common strategies and implementation methods with technical support by UNICEF for the protection of children from negligence, abuse, being victims of crime and forced to commit crime. It is a continuance of the Upgrading of the Juvenile System in Turkey programme (2001-2005) again supported by UNICEF which deals with the upgrading of the Juvenile Justice System, particularly in relation to the development of a juvenile justice code, the improvements to juvenile institutions and the better functioning of juvenile courts.

3.2.3 Improving access to justice
The project shall be focused to concentrate on ways of improving access to legal aid and of ensuring that the less-educated have full access to the legal system. As part of the Access to Justice Project, the Ministry of Justice will also be developing a programme for the encrypted electronic linkage between all agencies of the justice sector. The project is likely to be postponed to 2005.

### 3.2.4 Joint EC/Council of Europe Initiative with Turkey

The project’s overall objective is to enhance the ability of the Turkish authorities to implement the National Programme for the adoption of the *Community acquis* (NPAA) in the Accession Partnership priority area of human rights and democratization (Copenhagen Criteria). It was envisaged that this will be achieved by:

- developing training capacities on ECHR case-law standards
- promoting education and awareness-raising on Human Rights, in particular on ECHR standards
- providing legal expertise on draft laws to align the national rule of law and human rights framework with European standards.

In line with the objectives the project was designed with three subcomponents, namely:

**Project 1:** ECHR training strategies for judges and other legal professionals

**Project 2:** Human rights public awareness raising campaign

**Project 3:** European standards in legislation

### 3.3 Results/Outputs

The following results are expected.

- Judges and prosecutors appointed to the Courts of Appeal trained on the role of Courts of Appeal in a legal system
- Judges and prosecutors appointed to the Courts of Appeal capable of effectively dealing with procedures and working methods in the Courts of Appeal under the Acquis
- Judges and prosecutors appointed to the Courts of Appeal provided with necessary tools to tackle legal and practical questions which will arise when working in the Courts of Appeal and applying the new regulation.
- Case law in the procedure and in the working methods in all new established Courts of Appeal unified from the first day they start functioning.
- A basis and mechanisms for future contacts and collaboration with similar courts in EU member states (including study visits) established in order to improve, develop and create solutions within the system
- The auxiliary staff appointed to the Courts of Appeal prepared to handle their somewhat new duties and responsibilities in the Court of Appeals.
- Judges and prosecutors of the Court of Cassation trained with the function of the Court of Cassation in a legal system with second instance courts.

### 3.4 Activities/Inputs

The project will be delivered through a twinning mechanism.

The following levels of intervention are considered.

- Arranging of conferences for judges and prosecutors in the Court of Cassation on the subject matter of Courts of Appeals in a comparative context
- Training of judges and prosecutors on the new legal system of appeals in Turkey under the new legislation in accordance with international standards of Human Rights and Rule of Law as in the EU member states.
- Upgrading the auxiliary personnel on effective use of computer and performing additional training for them to meet demands under the new structure of the Turkish judiciary
- Creation hand-books for judges/prosecutors and for auxiliary personnel

3.4.1 Preparation of handbooks on the new legislation and its interpretation in a comparative context

In order to support the training of the judges and prosecutors who will be assigned to the new Courts of Appeal, preparation of comparative handbooks for judges and prosecutors based on the experience of two or three member states is essential. Scope of the handbooks shall not only cover sample of case law of those states but relevant legislation concerning the appeal courts as well.

The handbooks shall preferably contain information on the new legislation, the proposals and discussions which took place before the legislation was adopted by the Parliament. In relevant parts of the handbook references to the existing case law of the Court of Cassation shall be given.

The handbooks should also contain information about the EU countries with similar appeals systems, covering samples of legislation and case-law, and should aim to align the Turkish system with the acquis.

Considering that the implementation as well as the procedural problems that arise in criminal and civil cases tends to differ considerably in nature, there should preferably be one hand-book for each of the two areas mentioned.

As the auxiliary staff also will be encountered with new regulations and routines in their new role, a certain handbook covering their needs should be prepared as well.

3.4.2 Conferences for judges and prosecutors of the Court of Cassation

Judges and prosecutors in the Court of Cassation (indicative number is 500) will have a central role for creation of case law guiding the Courts of Appeal. Therefore the conferences for judges and prosecutors of the Court of Cassation on the functioning of Courts of Appeals in a comparative context will have the purpose of refining the understanding among the judges and prosecutors in last instance of the legal mechanisms under the new Turkish legislation and the Acquis, giving examples of solutions etc. of different procedural questions and their solution in EU-countries with similar systems.

Following the conferences the speeches delivered by experts shall be published and distributed to all judges and prosecutors.

3.4.3 Training of judges and prosecutors for the new Courts of Appeal and the auxiliary staff

The proposed activities are as follows:
- Development of a new training curriculum for the new judges and prosecutors to be assigned to the new Courts of Appeals using examples of best practice from EU Member States
- Development of a new training curriculum for the auxiliary staff to be assigned to the new Courts of Appeals.
- Design of an in-service training provision
- Delivery (by use of Short Time Experts) of a programme to train the future auxiliary staff and the judges and prosecutors of the Turkish Courts of Appeals

3.4.3.1 Training of judges and prosecutors:

The purpose of this major part of the project is to provide adequate training for all judges and prosecutors who will be appointed to the new Courts of Appeal on the judicial system of Courts of Appeal. The key element in the establishment
of the Courts of Appeal is the training of judges and prosecutors who are going to be appointed to these courts in the relevant legal issues within the competence of the Courts of Appeal. As Turkey is not familiar with the appeal court system in its judicial organization, there is lack of expertise in this field. At this point Turkey needs expertise on Court of Appeal systems with comparative approach to EU member states’ legislation.

The training will have emphasis on theoretical knowledge of the elements of the new system combined with practical training on the procedure with a comparative approach. Additionally effective use of computer training shall be provided where it is required. The training will be carried out by training seminars

The number of judges and prosecutors to be trained for positions in the new Courts of Appeal is estimated to be 1000.

**3.4.3.2 Training of auxiliary staff**

The draft law on Courts of Appeals states that a secretariat shall be established in each regional court of appeal president’s office, division, chief public prosecutor’s office and judicial commission. An administrative directorate shall moreover be established in each chief public prosecutor’s office, together with any other directorates that may be deemed necessary. Each secretariat or directorate shall have a director and an adequate number of staff.

By training, auxiliary personnel (indicative number is 1200) are to be upgraded on quality in effective use of computer, with particular emphasis on training in connection with the forthcoming National Judicial Network. They will also be given additional training in order to facilitate them in meeting demands under the new structure of the Turkish judiciary.

**3.4.4 Study Visits:**

Study visits are proposed to study the systems of EU countries to on the structure and the working methods of the court of Appeals. The study visits shall take place in two groups depending on the needs on each group.

The purpose and objective of the first group is the detailed examination of courts of appeal legislations, practices and problems and to make immediate amendments if necessary, successful implementation of the new legislations and project. (See 6.2.2 for detailed information on study visits)

The purpose and objective of the second visit group is the adoption of standards and best practices of courts of appeal activities according to the system of the EU countries

**3.5 Lessons learned**

This area has not been covered by Audit Reports in the Republic of Turkey as yet.

However the design of this project has been greatly assisted by a court of appeal Judge from Sweden. The lessons learned in tackling with court of appeal issues in other candidate countries particularly through institution building, have been incorporated into the design of this project.

**4. Institutional framework**

The Twinning Project will be implemented by the Ministry of Justice and under the coordination of General Directorate for EU Affairs of the Ministry of Justice and the Turkish Justice Academy for Judges and Prosecutors.

A Project Steering Committee (PSC) will be set up, consisting of the above mentioned institutions, the CFCU as well as representatives of the European Commission and member states delivering the twinning inputs.
The Ministry of Justice will be responsible for the provision of the necessary resources to enable the RTA to function properly.

4.1 Twinning

4.1.1 Twinning contact person

Contact person at the Ministry of Justice and contact details:
Mr. Bahadir Yakut
Judge at the General Directorate for European Union Affairs of the Ministry of Justice
Adalet Bakanlığı Ek Bina 9.kat no.22 Bakanlıklar ANKARA/TURKEY
Tel:+0090-3124195733
Fax:+0090-3124191163
E-mail:byakut@adalet.gov.tr

4.1.2 Introduction/Background on the Twinning and Training Package

The project will be implemented in the form of a Twinning contract between Turkey and a Member State/Member States. The overall duration of the project is envisaged to be 21 months with activities to take place during the 18 months. The Twinning partner(s) will manage all aspects of execution in close cooperation with the Ministry of Justice.

The Twinning partner(s) will provide a Resident Twinning Advisor (RTA) and also secure a pool of short-term experts, who will be called upon whenever necessary to contribute to the achievement of the mandatory results and especially for the purpose of advisory services and training according to the work plan that will be prepared as part of the corresponding contract.

The EU Twinning advisors will work together with the staff of the beneficiary institution under the overall direction of the beneficiary institution and the Project Steering Committee. In addition to providing the twinning partner with adequate staff and other resources to operate effectively, the senior management of the beneficiary institution is expected to be involved in the development and implementation of policies and institutional change required to deliver the project results.

The EU Twinning partner will be a Member State institution directly involved in judiciary. Member States may also form a consortium which could result in a wide range of qualified senior experts gathered from public administrations or mandated bodies from up to two Member State, provided that national approaches can be harmonized within this consortium.

4.1.2.1 Expert input:

1. PL (Project Leader):

The PL should be a high ranking official with broad knowledge of all processes in the area of Justice and Home Affairs that the project deals with, who will continue to work at his/her Member State (MS) administration but devote some of his/her time to conceive, supervise and co-ordinate the overall thrust of the Twinning project.

The PL will allocate a minimum of 3 days per month including one visit every 3 months (more for complex projects) to Turkey as long the project lasts.

a) Qualifications:

- Broad long-term knowledge of all processes in the area of acquis that the project is dealing with;
- High-ranking official, commensurate with an operational dialogue at vice-ministerial level;
- Overall appreciation of the problems and solutions in the sector;
- Capable of unblocking any problems at highest level;
- Good leadership skills.

b) Tasks:
- Overall project co-ordination;
- Co-chairing, with the Turkish PL, the regular project implementation steering committee meetings;
- Mobilizing short term experts;
- Executing administrative issues (i.e. signing reports, administrative order etc.).

2. Resident Twinning Advisor (RTE):

a) RTA background
RTA expert on Courts of Appeal systems will provide advice and technical assistance to the Ministry of Justice in the training of the staff of the Courts of Appeals for 18 months. The RTA is expected to co-ordinate all training activities of the project. He will be located at the Ministry of Justice Ankara, General Directorate for EU Affairs. He/she has to be a person with significant experience as a manager and should have a capacity for initiating new projects. Experience of working outside of the home country administration would be an advantage. In addition to the short term experts, he/she will also occasionally work together with Ministry of Justice to provide inputs focused on:
- Advice to the Ministry of Justice in the design and establishment of a training system for the new Courts of Appeals which will be established following the enactment of the relevant code.
- The co-ordination, together with Ministry of Justice in Ankara, of the organization of training and lecturers.
- Facilitation of EU member states best practices and potential for their implementation in the new courts of appeals in Turkey.

The RTA must be highly qualified in public affairs and the field of appeal courts covered by the twinning contract, and must possess good management skills. Experience with the operation of pre-accession programmes would be a comparative advantage.

b) RTA qualifications
- Minimum of 5 years experience in the organization of the Courts of appeals at managerial/expert etc. level;
- Long term experience in the procedure of the courts of appeal, the problems they have faced, the relations between the court of appeal, supreme courts and courts of first instance in EU Members States.
- Familiar with courts of appeals systems field in a European Union Member State with particular emphasis on institutional set-up and implementation;
- Preferably a comparative knowledge of other Member States systems;
- Experience in project management;
- Experience in the participation of a legislative process/law drafting;
- Broad international contacts/exposure will be an asset;
• Advanced university degree;
• Strong written, oral and inter-personal communication skills in English;
• Good communication skills and experience in developing, co-coordinating and conducting training programmes;
• Experience in managing a large team of experts;
• Experience in working in a different cultural environment an advantage.

c) RTA tasks
• To design a work plan for the implementation of the programme and to assist the process of drawing up a contract;
• Assist in the preparation of all strategic project documents [inception study, sector strategy/policy/plan, quarterly monitoring reports, final project report, training manuals etc.]
• To ensure continuity of implementation through: the execution of the day to day management; working on a daily basis with the Ministry of Justice staff to implement the project;
• To plan and coordinate outputs;
• Together with the Project Leader: to nominate and mobilize the short term experts;
• To supervise the short term experts
• To coordinate and organize study visits, training activities, workshops and public awareness activities;
• To ensure proper quality of outputs;
• To provide detailed reports on the impact of the project.

3. Short-term experts
a) Experts’ qualifications
Minimum of 3 years professional experience in their respective field,
• Advanced university degree in a relevant subject;
• They should be professionally qualified and have the appropriate experience in the area and subjects that they are selected for.
• Previous experience of working in other cultures and countries will be an advantage.
• Good written and oral command of English (or other community language);
• Proven contractual relation to public administration or mandated body;
• Capacity to integrate into a large expert team;
• Willingness to work in a different cultural environment.

b) Experts’ tasks
• To contribute to the project with specialist knowledge in the area of judiciary;
• To provide specialist support services [e.g. providing Turkey with access to databases];
• To prepare training course modules;
• Delivery of selected training modules to the probation officers.
• Advice and backstopping from a national EU Ministry of Justice.

4.1.2 Any other relevant information on twinning activities:

STUDY VISITS (numbers are indicative)

Study visits to member states are proposed in two groups: One group is the project team and the other is some of the new judges and prosecutors of Courts of Appeal:

Study visits for members of the project group and senior managers

After the enactment of related legislation, the 15 officials from the Ministry of Justice and the Justice Academy will assume duties to organize design and provide all requirements of (approximately) 20 regional Courts of Appeal. Due to lack of courts of appeal experience in Turkey, for successful implementation, this study visit is very important to compare and contrast how they work, their procedures, organizations and strategic designs, and the problems they have faced.

Indicative topics of the study visits: 
Organisation of courts of appeal in EU Member States
The work of courts of appeal
The problems they have faced
The training of judges and prosecutors of courts of appeal in EU Member States
Civil and Penal Procedure of courts of appeal in EU Member States

Study visits for newly appointed judges and prosecutors to see the day to day work of the courts of appeal in a EU Member State for 5 days

15 judges and prosecutors who will be selected by the way of examination at the end of the seminars will participate in the study visits.

Indicative topics of the study visits: 
Civil and Penal procedure of courts of appeal; 
How the relationships are between the courts of appeal and supreme court-courts of first instance; 
How their methodologies are when they are working;

2. Operating environment for Twinning:

The RTA will be placed at the beneficiary, Ministry of Justice, General Directorate of EU Affairs. The provision of the operating environment for the RTA and the experts is part of the Twinning co-financing responsibility of the beneficiary.

The EU Twinning advisors will work together with the staff of the Ministry of Justice under the overall direction of the Ministry of Justice and the Project Steering Committee.

The EU Twinning partner will be a Member State institution directly involved in judiciary. Member States may also form a consortium which could result in a wide range of qualified senior experts gathered from public administrations or mandated bodies from up to two Member State, provided that national approaches can be harmonized within this consortium.

4.2 Contracts
The twinning contract is in the focus of the project (estimated value is Euro 1,400,000)

5. **Budget (Indicative)**

<table>
<thead>
<tr>
<th>Project Components</th>
<th>Investment</th>
<th>Institution Building</th>
<th>Total EU financing (I+IB)</th>
<th>National co-financing</th>
<th>IFI</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Twinning</td>
<td>1,400,000€</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1,400,000€</td>
</tr>
</tbody>
</table>

“Turkey’s contribution to the project to fulfill the Twinning co-financing requirements will cover provision of adequate office space and equipment for the Resident Twinning Advisor (RTA), organizational costs of trainings, seminars and workshops (rental fees for training and seminar venues, interpretation equipment, catering as well as international travel of trainees in the framework of study visits and traineeships) and other costs non-eligible for pre-accession funding, as specified in the “Reference Manual on Twinning Projects”.

6. **Implementation Arrangements**

**Implementing Agency**

The Central Financing and Contracting Unit (CFCU) will be the Implementing Agency responsible for contracting and accounting. Responsibility for technical aspects related to preparation, implementation and control will rest with the Directorate General of EU Affairs of the Ministry of Justice as the beneficiary institution.

**Contracting Authority:**

Central Finance and Contracts Unit  
Mr. Ercan Tortop  
Tel No. (+90 312) 285 4620-21  
Fax No. (+90 312) 285 96 24  
Ehlibeyt Mahallesi 6. Sokak No:18/8  Ekşioğlu İş Merkezi 06520 Balgat/Ankara, TURKEY

7. **Implementing Schedule (Indicative)**

The twinning project is scheduled for 21 months.  
Start of twinning selection 3rd quarter /04 (A pre-condition is the adoption of all relevant new legislation)  
Start of twinning activity 3rd/4th quarter /05  
Project completion 3rd/4th quarter /07

The signature and endorsement of the twinning contract will be conditional upon the adoption of the Draft Law on the Establishment, Duties and Powers of the Ordinary Courts of First Instance and Regional Courts of Appeal and the Draft Civil and Penal Procedure Codes are in the General Board of Turkish Grand National Assembly.

8. **Equal Opportunity**

The beneficiary is an equal opportunity employer. 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.

9. **Environment**
10. **Rates of Return**  
Not applicable

11. **Investment Criteria**  
Not applicable

12. **Conditionality and Sequencing**

As stated above the Ministry of Justice prepared a draft law on the establishment of Courts of Appeal namely, the Draft Law on the Establishment, Duties and Powers of the Ordinary Courts of First Instance and Regional Courts of Appeal. Both this law and the Draft Civil Procedure Code are in the General Board of Turkish Grand National Assembly. The said law is expected to be enacted until the end of this year. The realization of the project is conditional upon the adoption of the said law.

**ANNEXES TO PROJECT FICHE**

1. Logical framework matrix in standard format  
2. Indicative implementation chart  
3. Indicative contracting and disbursement schedule by quarter for full duration of programme  
4. List of all primary legislation relevant to the project  
5. Indicative budget
## ANNEX 1 LOGFRAME PLANNING MATRIX FOR PROJECT FISCHE

<table>
<thead>
<tr>
<th>PROJECT: Support to the Establishment of Courts of Appeal in Turkey</th>
<th>Programme number:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Contracting period expires:</strong></td>
<td><strong>Disbursement period expires:</strong></td>
</tr>
<tr>
<td><strong>Total budget 1.400.000 EURO</strong></td>
<td><strong>TWINNING 1.400.000 EURO</strong></td>
</tr>
</tbody>
</table>

### Overall Objective

The overall objective of the project is to establish Courts of Appeal in Turkey in order to align the functioning and effectiveness of judiciary with EU standards.

<table>
<thead>
<tr>
<th>Objectively Verifiable Indicators</th>
<th>Sources of Verification</th>
<th>Assumptions /Risks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full working capacity of the Courts of Appeal</td>
<td>Evaluation of the EU Regular Report on Turkey’s progress towards accession Evaluation of the progress in the implementation of the Turkish National Programme for the adoption of the Acquis</td>
<td>Lack of financial resources to cover all needs of the Courts of Appeals.</td>
</tr>
</tbody>
</table>

### Project Purpose

The purpose of the project is to provide that the Court of Appeals are functioning effectively under the new Turkish legislation by creating and accomplishing training programs for forthcoming judges, prosecutors and auxiliary staff.

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<tbody>
<tr>
<td>The following results are expected by end of the project: • Judges and prosecutors trained on the role of Courts of Appeal in a legal system • Judges and prosecutors trained on the procedures and working methods in the Courts of Appeal under the Acquis • Judges and prosecutors trained on foreseeable legal and practical questions and provided with necessary tools for their solution when working in the Courts of Appeal and applying the new regulation. • The case law in the procedure and in the working methods unified in all new established Courts of Appeal from the first day they when they start their activities. • A basis and mechanisms for future contacts and collaboration with similar courts in EU member states established (including study visits) in order to improve, develop and create solutions within the system • The auxiliary staff trained to handle their partly new duties and responsibilities</td>
<td>Evaluation and expert mission reports Reports from working committees and groups EC Representation monitoring reports.</td>
<td>Continued political support for the reforms to the justice systems of the Republic of Turkey particularly with regard to the ratification of the new Code on Courts of Appeals Continued support from the Director General of EU Affairs</td>
</tr>
<tr>
<td>Results</td>
<td>Objectively Verifiable Indicators</td>
<td>Sources of Verification</td>
</tr>
<tr>
<td>---------</td>
<td>---------------------------------</td>
<td>------------------------</td>
</tr>
<tr>
<td>• Judges and prosecutors appointed to the Courts of Appeal trained on the role of Courts of Appeal in a legal system</td>
<td>Handbooks created for judges and prosecutors appointed to the Courts of Appeal by August 2006</td>
<td>Reports from the RTA</td>
</tr>
<tr>
<td>• Judges and prosecutors appointed to the Courts of Appeal capable of effectively dealing with procedures and working methods in the Courts of Appeal under the Acquis</td>
<td>Handbooks created for auxiliary staff appointed to the Courts of Appeal by August 2006</td>
<td>Project reports</td>
</tr>
<tr>
<td>• Judges and prosecutors appointed to the Courts of Appeal provided with necessary tools to tackle legal and practical questions which will arise when working in the Courts of Appeal and applying the new regulation.</td>
<td>Training materials and curriculum prepared by August 2006</td>
<td>Monitoring and interim evaluation reports</td>
</tr>
<tr>
<td>• Case law in the procedure and in the working methods in all new established Courts of Appeal unified from the first day they start functioning.</td>
<td>1000 judges and prosecutors appointed to the Courts of Appeal trained on all elements of the new legislation and its effects on handling cases in the courts in line with EU acquis and best practices by May 2007</td>
<td>Quarterly Reports to Steering Group</td>
</tr>
<tr>
<td>• A basis and mechanisms for future contacts and collaboration with similar courts in EU member states (including study visits) established in order to improve, develop and create solutions within the system</td>
<td>Study visits completed by January 2006</td>
<td>Internal Ministry of Justice reports</td>
</tr>
<tr>
<td>• The auxiliary staff prepared to handle their somewhat new duties and responsibilities in the Court of Appeals.</td>
<td>1200 auxiliary staff appointed to the Courts of Appeal trained by May 2007</td>
<td>Continuous evaluation on basis of complex analysis of operation of judiciary as whole.</td>
</tr>
<tr>
<td>• Judges and prosecutors of the Court of Cassation trained with the function of the Court of Cassation in a legal system with second instance courts.</td>
<td>500 judges and prosecutors of the Court of Cassation trained on the function of the Court of Cassation in a judicial system with second instance courts by December 2007</td>
<td>Statistical data on judges trained.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Activities</th>
<th>Means</th>
<th>Assumptions/ Risks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arranging of conferences for judges and prosecutors in the Court of Cassation on the subject matter of Courts of Appeals in a comparative context</td>
<td>Twinning 1.400.000 Euro</td>
<td>Full commitment of the involved authorities</td>
</tr>
<tr>
<td>Training of judges and prosecutors on the new legal system of appeals in Turkey under the Acquis</td>
<td>Training materials and and curriculum which will be obtained from the identification of training needs, the reports of the evaluation and assessment and the outputs of the assistance</td>
<td>Twinning assistance from an appropriate agency/ies in EU Member State/s and in line with EU acquis on courts of appeal</td>
</tr>
<tr>
<td>Organisation and delivery of training, including study tours</td>
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</tbody>
</table>
the new legislation in accordance with international standards of Human Rights and Rule of Law as in the EU member states.

Upgrading the auxiliary personnel on effective use of computer and performing additional training for them to meet demands under the new structure of the Turkish judiciary

Creation hand-books for judges/prosecutors and for auxiliary personnel

Organizing study visits

<table>
<thead>
<tr>
<th>Beneficiary’s own resources</th>
<th>Effective monitoring of project implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Timely availability of adequate resources</td>
</tr>
<tr>
<td></td>
<td>Staff will be released for training</td>
</tr>
<tr>
<td></td>
<td>Staff will be able to absorb the training</td>
</tr>
</tbody>
</table>

**PRECONDITIONS**

The draft code for the establishment of courts of Appeal in Turkey is currently with the Law Commission of the Legislature. Following On completion, this code should be ratified by Parliament and become law. As part of the law reform subsequent amendments will be possible within a relatively short space of time because of the priority that the Government of Turkey is giving to justice reform.

Thus the adoption of the mentioned law is a precondition for the signature/endorsement of the twinning contract. Additionally appointment of judges and prosecutors of Court of Appeals is another precondition in order to start training activities.
### ANNEX 2 INDICATIVE IMPLEMENTATION CHART (COMPULSORY)

<table>
<thead>
<tr>
<th>Action</th>
<th>Year 2004</th>
<th>Year 2005</th>
<th>Year 2006</th>
<th>Year 2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project fiche approved by Brussels</td>
<td></td>
<td></td>
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<td>X</td>
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<tr>
<td>Launch Twinning request to Member States</td>
<td>X</td>
<td></td>
<td></td>
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<tr>
<td>Selection of MS(s) for twinning</td>
<td>X</td>
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<tr>
<td>Elaboration of Twinning covenant</td>
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<td>XX X X X</td>
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<tr>
<td>Submit Twinning contract to Commission Steering Committee for approval</td>
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<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Twinning package commences</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Project implementation</td>
<td></td>
<td></td>
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<td>XXX X X X</td>
</tr>
</tbody>
</table>

The Ministry of Justice prepared a draft law on the establishment of Courts of Appeal; The Draft Law on the Establishment, Duties and Powers of the Ordinary Courts of First Instance and Regional Courts of Appeal and the Draft Civil Procedure Code. Both are in the General Board of Turkish Grand National Assembly. The said laws are expected to be enacted until the end of this year. For that reason both the signature and the endorsement of the twinning contracts are conditional upon the adoption of the said draft law.
ANNEX 3. INDICATIVE CONTRACTING AND DISBURSEMENT SCHEDULE BY QUARTER FOR FULL DURATION OF PROGRAMME (COMPULSORY FOR YEAR 1)

<table>
<thead>
<tr>
<th>Date</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
</tr>
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<tbody>
<tr>
<td>30/06</td>
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<td>30/09</td>
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<td>31/12</td>
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<td>31/03</td>
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<td>30/06</td>
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<td>31/12</td>
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<tr>
<td>31/03</td>
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</tbody>
</table>

**Contracting**
- Twinning
  - Total contracting (cumulative) 1,400

**Disbursement**
- Twinning
  - Total disbursement (cumulative)

ANNEX 5  LIST OF ALL PRIMARY LEGISLATION RELEVANT TO THE PROJECT

1. The Draft Law on the Establishment, Duties and Powers of the Ordinary Courts of First Instance and Regional Courts of Appeal
2. The Draft Civil Procedure Code
3. The Draft Penal Procedural Code,
4. The Draft Bankruptcy Code,
5. The Draft Labor Law
### ANNEX 6: INDICATIVE BUDGET BREAKDOWN (EURO)

- **MS - Project Leader**
  - (Including costs of visits to Turkey) 40,000
- **RTA – Costs**
  - 200,000
- **Linguistic Assistant**
  - 24,000
- **Short–time experts (incl. seminars, training of Trainers and etc.)**
  - 581,000
- **Organization of seminars**
  - 300,000
- **Study visit to MS (5 days for 16 persons)**
  - 175,000
- **Documentation, publications**
  - 30,000
- **Contingency**
  - 50,000

**Grand total** 1,400,000