Standard Summary Project Fiche

Project number: TR 05 01.04

1. BASIC INFORMATION

1.1 CRIS No:

Title: Cascaded Training of Turkish lawyers on European Convention on Human Rights
Sector: JHA
Place: Turkey (countrywide, with pilot implementation in selected provinces)
Duration: 2 years (Phase 1: Training of one hundred lawyers, future trainers during six months / Phase II: Training of ten thousand five hundred lawyers in eighteen months.)

2. OBJECTIVES

2.1 Overall Objective

The overall objective is to promote better functioning of the Turkish judiciary system with respect for human rights and fundamental freedoms.

2.2 Project purpose

To enhance the effective application of the European Convention on Human Rights (ECHR) by lawyers throughout proceedings before the courts, by increasing their knowledge related to human rights concepts and the jurisprudence of the European Court of Human Rights (ECtHR).

2.3 Accession Partnership (AP) and National Programme for the Adoption of the Acquis (NPAA) priority

While developing this project proposal, various policy documents were reviewed including the Action Plan for the Accession Partnership and the National Programme for the Adoption of the Acquis. These documents were carefully analyzed to ensure that the overall objective and the project purpose are in line with the expected results outlined in the above-mentioned policy documents.
2.3.1 Accession Partnership

The project addresses both short and medium term priorities defined in the Accession Partnership 2000:

**Short term**
- Strengthen opportunities for legal redress against all violations of human rights

**Medium Term**
- Guarantee full enjoyment by all individuals without any discrimination and irrespective of their language race, colour, sex, political opinion, philosophical belief or religion of all human rights and fundamental freedoms.

In addition, it is concentrated on following priorities defined in the Accession Partnership 2003:

- Guarantee in law and in practice the full enjoyment of human rights and fundamental freedoms by all individuals without any discrimination and irrespective of their language race, colour, sex, political opinion, religion or belief in line with relevant international and European instruments to which Turkey is a party.

2.3.2 The National Programme of Turkey

The Turkey National Programme for 2003 suggests the achievement of the following goals. The project targets to support these goals, taking into account that the advocacy is a civil service and the lawyers represent the independent defence, a fundamental component of the judiciary.

- The Government attaches importance and priority to both the continuation and the expansion of freedom of expression. Support for the development of civil society and its participation in democratic life will be continued. In this vein, the relevant legislation will continue to be reviewed in the light of the European Convention on Human Rights. Torture and maltreatment will be prevented and zero tolerance will be shown in this matter. The legislative and administrative measures adopted for this purpose will be implemented strictly. Human rights training for public officials will be expanded and intensified.

- The Government is convinced that ensuring the full and equal enjoyment of all fundamental rights and freedoms and cultural rights by all individuals without discrimination is its fundamental duty.

In addition, the National Programme states also commitments in order to establish an effective judicial system by upgrading the function capacity of the judiciary (24.14).
• 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 ECHR on human rights and fundamental freedoms, ensuring precautions for making all judicial authorities take into consideration the judgements of ECtHR, 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

**2.4 Cross Border Impact**

N/A

**3. DESCRIPTION**

**3.1.1 Background and justification**

The Turkish Government in the course of progress towards accession the European Union and in response to the obligations of the Acquis of the EU is actively following the National Programme for the Adoption of the Acquis and undertaking deeds in order to promote better functioning of the Turkish judiciary system with respect for human rights and fundamental freedoms.

Given that the European Convention for the Protection of Human Rights and Fundamental Freedoms is the primary European instrument for the protection of human rights, better application of the ECHR within the Turkish domestic legal system is a common objective of the EU and the Turkish Government who has recognized the right of individual petition before the ECtHR since 28 January 1987.

In other words, resolution of complaints related to human rights defiance before the Turkish tribunals is the most rapid way to guarantee human rights in question of complaining individuals and the most confident way of establishing an internal judicial system with respect for human rights.

In this respect, Turkey completed the enacting of a large number of all basic legislation, namely Turkish Penal Code and Turkish Code on Criminal Procedures among others, in order to ensure the full enjoyment of all fundamental rights and freedoms. A place beyond national laws recognized to the “international conventions on fundamental rights and freedoms” by the amendment of the Constitution (Law no 5170, Date of approval: 7.5.2004).
Furthermore, training opportunities of law enforcement officials has been enhanced by training all of 9000 judges and prosecutors across Turkey on ECHR principals in the framework of a Joint European Commission (EC) and the Council of Europe (CoE) Initiative with Turkey on democratisation and human rights.

“Lawyers represents independently the defence which is one of the fundamental components of the judiciary” according to article 1 of the Advocacy Law in force since 19 March 1969. Therefore, they are playing a key role in ensuring that the ECHR is properly applied in the judicial system.

Nevertheless, the training opportunities for lawyers, especially on human rights issues are limited. Human rights courses have become recently a part of the law school programmes. Many lawyers practicing need assistance to increase their knowledge. This was also emphasized during the four pilot training seminars for one hundred lawyers in the framework of a Joint EC/CoE Initiative with Turkey on democratisation and human rights.

In order to establish a balance, which is crucial for the effective functioning of the judiciary, between the lawyers on one hand and the judges and the prosecutors on the other hand and following feedback obtained from the above mentioned training sessions, the Union of Turkish Bar Associations (TBB) is persuaded of the necessity to pursue the training opportunities on ECHR for lawyers across Turkey.

In addition, the TBB has also noted that, inter alia due to a lack of materials, Turkish lawyers do not have sufficient knowledge of human rights issues. Considering that one of the most confident and long-range way for an effective application of the ECHR in Turkey will be the production of relevant materials, the adoption process of the new Code on Criminal Procedures presents an outstanding opportunity for promoting the case-law of the ECtHR by creating an annotated version of the Code on Criminal Procedures with the extracts of ECtHR judgements.

Concerning the operational aspects, in view of previous experiences, the TBB is convinced that it will be constructive to implement the project through a grant to the Council of Europe (CoE), which had implemented the training of 225 Turkish judges and prosecutors and which is also the main organisation carrying out human rights trainings all over its member States.

3.2 Sectoral rationale

N/A

3.3 Results

There are following key results are expected:
• Creation of a pool of lawyers experts on human rights who will be able to pass their knowledge to the junior lawyers of their bar associations and also to provide guidance services to the lawyers in their locality.
• Creation of a significant number of Turkish lawyers who will have the necessary understanding and practical experience of European human rights standards to be able to incorporate them more effectively into their work.
• Creation of an annotated version of the new Turkish Code on Criminal Procedures with the judgements of the ECtHR
• Turkish lawyers will acquire the necessary professional tools to represent clients before national courts and the ECtHR.
• Practicing human rights law will become more appealing to a larger number of lawyers.

3.4 Activities

3.4.1 Preparation phase

For the confident accomplishment of the training sessions, the TBB and the CoE will identify the selecting jury and specify the selection criteria of future trainers. The EC Delegation will have observer status in the selection jury. Before starting the training programme, the TBB will request to one hundred selected lawyers to sign commitments indicating that they will act as trainers until the end of the project in order to guarantee their participation at least to six, three days seminars as trainers. In the meantime, the TBB and the CoE will prepare the training agenda, select the international/local experts and produce the necessary training materials.

In the late preparation phase, the locations for the regional study sessions will be selected and the training agenda of the second phase will be prepared. Regional study sessions will be organized in big cities like Ankara, Istanbul, Izmir, Adana, Antalya, Bursa, Konya where the number of lawyers is remarkably high (more than one thousand lawyers - Istanbul 18000 lawyers, Ankara 7800 lawyers) as well as in small city like Gümüşhane, Siirt, Niğde, Bingöl where the number of lawyers is less than one hundred.

3.4.2 Training of future trainers

The training programme for future trainers will be composed of eight training sessions divided into two parts: four (seven days) training sessions on the ECHR and four (two days) sessions on training methodology. Twenty five lawyers will participate to each session, which will be organised in Ankara or/and Istanbul.

During the second phase, the TBB will request especially to the local bar associations to inform their members of the study sessions and to send to the TBB the list of participants. The local bar associations will also assist the project by sending training materials to its members before the sessions, by finding appropriate venue and carrying out the reception for the local/ international experts and the representatives form the EC, the CoE and the TBB.

Training sessions on the ECHR
The seven days training sessions will aim to provide participants with solid knowledge on all substantive articles of the ECHR and the case law of ECtHR as well as the ECHR main principles and approaches and admissibility criteria. They will consist of lectures, practical sessions including short scenarios and case studies, during which participants get to apply the theoretical knowledge of the ECHR to fictional scenarios. Each ECHR session will be concluded by a moot court where future trainers will discuss a complex case study.

**Training sessions on methodology**

Two days training sessions on the methodology of training will follow the ECHR sessions. Participants will be asked to present on subjects related to the ECHR under supervision of the international and national experts.

Trained lawyers will subsequently convey their knowledge to lawyers across Turkey.

### 3.4.3 Regional study sessions

Fifty groups of two trained lawyers will undertake the training of 10,500 lawyers across Turkey (2 lawyers will train 210 lawyers). The TBB will co-operate with the local bar associations in order to organize 300 three days regional study sessions with 15-20 sessions in a month. Each study session will be held with approximately 35 participants and will be organized towards the end of the week.

Certain Regional Bar Associations such as Istanbul, Ankara, Antalya, Konya and Bursa have significantly more members than the other bar associations in Turkey. These five associations represent together 60% of the number of the lawyers of Turkey. They would therefore warrant a higher number of cascade study sessions.

Regional study session will focus particularly on articles of the ECHR and its interpretation by the ECtHR. The programme will also include lectures on relevant domestic legislation and practice as well as practical sessions such as short scenarios, case studies and moot courts. Practical sessions together with panel discussions will be dominant features of the study sessions. The methodology will be adapted to the objectives of the training following the experiences gained under the EC/CoE Joint Initiative (JI) with Turkey.

Evaluation questionnaires conducted at the end of each study session will provide the TBB and the CoE with constant feedback so that the methodology can be adjusted according to the needs of the legal professionals.

At the end of the regional study sessions the %21, 4 of the lawyers in Turkey will be trained on ECHR and the jurisprudence of the ECtHR.

### 3.4.4 Creation of the annotated version of the new Turkish Code on Criminal Procedures
The creation of the annotated Code on Criminal Procedures will be carried out by a committee of four lawyers/experts and two international experts. A national expert on human rights and criminal procedural law and two international experts on human rights will supervise the group of three lawyers/experts. The committee will indicate the articles of the Code on Criminal Procedures which will be annotated and the relevant extracts of the judgements of the ECtHR which will be cited.

The extracts will be translated by professional translators and the translations will be edited by the committee. During the production period of the material, two days workshops will be organized every two months in order to assess the improvement and the deeds. Ultimately, the committee will produce the annotated version of the Turkish Code on Criminal Procedures with the extracts of judgments of the ECtHR.

Approximately 20 000 copies of the annotated version of the Turkish Code on Criminal Procedures will be produced under the project. 9 300 copies will be sent to all judges and prosecutors across Turkey and 10,500 copies to lawyers trained under the project. The rest of the copies will be sent to the local bar associations and the libraries of law schools.

3.5 Linked Activities

Within the area of human rights the following programmes are linked to this area:


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 was launched in 2004.

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. The programme also aims to improve the application of the Alternative Dispute Resolution systems by training the lawyers and there will also be a component aiming to improve the technical structure of the Ministry of Justice.

3.6 Lessons Learned

The design of this project has been greatly assisted by specialists, who had participated to the work of the Joint EC/ CoE Initiative with Turkey on democratisation and human rights-Project I: ECHR training strategies for judges and other legal professionals-, from the EC, the CoE and the TBB. Positive effects of that project had been observed towards the end of the training of judges and prosecutors in the courts decision applying the ECHR and referring to the case-law of the ECtHR.
On the other hand, the training of a pilot group of one hundred lawyers around Turkey during the Joint EC/CoE Initiative has helped identify the special needs of lawyers practicing.

4. Institutional Framework
The beneficiary of the project will be the TBB.

The CoE will undertake the implementation of the project in cooperation with the TBB.

A Project Steering Committee (PSC) will be formed by representatives from the EC, the CoE, the TBB and the Central Financing Contracting Unit (CFCU). The Committee will include representatives from the TBB the EC the CoE and the CFCU.

The PSC will monitor, supervise and co-ordinate the overall progress and implementation of the project. The PSC will also provide guidance for the different activities of the project, define priorities, approve and monitor the budgets and assess the results. The PSC will meet every four months in Ankara and/or in Istanbul. The committee will have total six meetings during the project. The secretariat will be provided by TBB.

For the sound and solid implementation this project, a Project Implementation Unit (PIU) will be set up within the TBB. The role of the PIU will be to manage and solve all issues concerning the implementation of the project including planning and identification of tasks. The PIU will also collect evaluation reports which will be drafted by the contact persons of the local bar associations during the regional study sessions.

The PIU will report to the PSC.

5. Detailed Budget

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<tr>
<th>Year 2005 - Investment support jointly co funded</th>
<th>Phare/Pre-Accession Instrument support</th>
<th>Co-financing</th>
<th>Total Co-financing of Project</th>
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<tr>
<td>Investment support –</td>
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1. All investment sub-projects supported by the pre-accession fund must receive co-financing from national public funds. Minimum requirement for co-financing from national public funds is 25% of the combined PHARE and national contributions to the overall investment support.

2. Many Institution building projects will also have a degree of co-financing – this should be quantified and included wherever possible.

3. Expenditure related to equipment (regulatory infrastructure or ESC-related) and to Technical Assistance supporting investment (e.g. pre-feasibility study / supervision of works / technical specifications) should be considered as Investment support in the project fiche.

4. All co-financing must be provided on a joint basis. Parallel co-financing will, in a principle, not be accepted. Exceptions to this rule have to be agreed with the Commission in advance.

5. All co-financing should be clearly quantified, also the degree of certainty of such co-financing (i.e. for National Public Funds: is it already earmarked in local or national budget, for FI Loans, private funds: are they already approved/under appraisal, etc.).

6. Where parallel co-financing is accepted and justified per exception to the normal rule it should be provided in monetary form. If this is not possible there should be clear criteria set out for the valuation of any non-monetary contributions (that should be quantified in the table).

7. If twinning is involved, clearly state the expected budget of the twinning covenant.

8. The financial engineering of the project should be closely monitored against actual delivery during implementation and against the objectives that were set in the project fiche so that corrective actions may be taken where required.
6. Implementation Arrangements

The beneficiary of the project is the Union of Turkish Bar Associations.

Union of Turkish Bar Associations
Karanfil Sok. 5/62 Kızılay
Ankara-TURKEY
Tel: +90 312 418 05 12
Fax: +90 312 418 78 57

Contact persons of the beneficiary are:

Tülay Yılmaz
Legal Consultant
E-mail: tulay.yilmaz@barobirlik.org.tr

Ebru Dabbagh
Consultant, International Relations
E-mail: ebrudabbagh@hotmail.com

6.1 Implementing Agency

The Central Financing Contracting Unit (CFCU) will be the Implementing Agency and will be responsible for all procedural aspects of the contracting and financial management (including accounting and payments) of the project activities.

Contracting Authority:
Mr. Ercan Tortop
ercan.tortop@cfcu.gov.tr
(312) 472 37 42
Central Financing Contracting Unit
Ehlibeyt Mahallesi 6. Sokak No 18/8 Ekşioğlu İş Merkezi
06520 Balgat, Ankara-TURKEY

6.2 Twinning

N/A

6.3 Non-standard Aspects

A direct grant agreement will be signed with the CoE for the implementation of the Project.

The CoE is the ‘guardian of European values and principles’. Indeed, all EU countries and Turkey are already member States of the CoE. Joint projects therefore present a
significant opportunity for Turkey to work together with the CoE and the EU closely to promote Turkish and European standards and consolidate democratic reforms.

More than a decade of effective co-operation between the EC and the CoE under the numerous Joint Programmes has proven that solid results in support of the rule of law, better protection of human rights, and stronger democratic institutions can be achieved when the two organisations combine their respective strengths.

Under one roof, the CoE elaborates clear common European standards and offers a wide variety of legally binding instruments in particular fields, with effective mechanisms to ensure compliance. Whether it be the ECHR and the judgements of the ECtHR, the European Social Charter and its collective complaints procedure, state reports to the European Commission against Racism and Intolerance (ECRI), under the Framework Convention for the rights of National Minorities, or to the Group of States against Corruption (GRECO), the recommendations of the European Commission for Democracy through Law (Venice Commission), or indeed the visits of the CoE Commissioner for Human Rights and the European Committee for the Prevention of Torture, the CoE has a legal and practical approach to strengthen and protect all major aspects of human rights and democracy in Europe.

The standards that the CoE develops form the very basis of wider European integration. Compliance with CoE commitments are a specific and important precondition for further progress in drawing closer to the EU.

Taking into consideration above mentioned aspects and the well functioning of joint EC/CoE projects, it was decided by the beneficiary that the project can only be handled successfully by the technical assistance the CoE.

7. Implementation Schedule (Indicative)

Start of the preparation of the grant application and TAPs: August 2005
Signature of the Grant Agreement: March 2006
Technical Assistance (TA) on ground: April 2006
Project activities start: April 2006
Disbursement deadline: January 2009
Project Completion: April 2008

8. Equal opportunity

The proposed Programme will comply with EU and the CoE equal opportunity policies. Equal treatment of men and women in project implementation at all levels will be one of the most important principles in project management and implementation. The beneficiaries are employers of equal opportunity. Appropriate professional qualifications and experience will be the main decisive factors in selection 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
N/A

10. Rates of return
N/A

11. Investment criteria
N/A

12-Conditions and Sequencing

There is no pre-condition for the preparation of the project.

**ANNEXES TO PROJECT FICHE**

1. Logical framework matrix in a standard format
2. Detailed indicative implementation chart
3. Indicative Contracting And Disbursement Schedule
4. Joint EC/CoE Initiative with Turkey on democratisation and human rights, the final report of Training for Judges and Prosecutors Project 

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1 Given that the *Final Report of Training for Judges and Prosecutors Project* is not ready at present, it will be communicated afterwards by Mr. Jeremy MOAKES, the Project Coordinator from the CoE (Jeremy.MOAKES@coe.int).
ANNEX I : Logical Framework matrix

European Commission/Council of Europe/Union of the Turkish Bar Associations Joint Programme for Turkey 2006 – 2008

**Project fiche:** CASCADED TRAINING OF TURKISH LAWYERS ON EUROPEAN CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (ECHR)

<table>
<thead>
<tr>
<th>Intervention logic</th>
<th>Performance Indicators</th>
<th>Source of Verification</th>
<th>Assumptions</th>
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<tr>
<td><strong>2006-2008 Overall objective</strong></td>
<td>To increase knowledge and skills as regards European human rights standards among lawyers through training activities leading to effective application of these standards at national level.</td>
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<td><strong>Specific Objective</strong></td>
<td>Knowledge of and practical skills as regards European human rights standards, in particular the ECHR, among lawyers are improved in Turkey</td>
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<td>Lawyers attend study sessions. Arguments making reference to the ECHR in pleadings and domestic court judgments increase. In the long run, cases brought to the European Court of Human Rights (ECtHR) decrease</td>
<td>The Union of Turkish Bar Associations (TBB) reports and Council of Europe (CoE) mission reports. Case law of domestic courts. Number and quality of applications to the ECtHR. Evaluation questionnaires filled in by lawyers Evaluation by local bar associations</td>
<td>Support from local bar associations Required financial and project staff resources. Lawyers’ professional behaviour Effective co-operation between TBB and CoE</td>
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<tr>
<td><strong>Expected results 1</strong></td>
<td>Creation of a pool of lawyers experts on human rights, who will train a significant number of lawyers (refer to expected result 2, below) Training on the ECHR and training of methodology</td>
<td>A number of experienced and motivated national trainers are selected by TBB Eight training sessions on the ECHR and the methodology of trainings are organized 100 national trainers are trained on the ECHR and the methodology of trainings</td>
<td>TBB reports and CoE mission reports. Evaluation by local bar associations Performance and skills of national trainers in follow-up study sessions for lawyers</td>
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<td><strong>Expected results 2</strong></td>
<td><strong>Activities</strong></td>
<td><strong>Expected results 3</strong></td>
<td><strong>Activities</strong></td>
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<td>Creation of a significant number of Turkish lawyers – who will be trained by a pool of lawyers, experts on human rights – as stated above (refer to expected result 1)</td>
<td>Four “Training of future trainers” sessions on the ECHR  Four “Training of future trainers” sessions on methodology of trainings  300 regional study sessions in cascade for 10,500 lawyers  Creation of annotated Penal Procedural Code with ECtHR case-law  Human rights training materials</td>
<td>Creation of an annotated version of the new Turkish Code on Criminal Procedures  Access to relevant case law and relevant human rights training materials</td>
<td>Experienced and motivated national trainers are selected by TBB  3-day human rights study sessions are organised for lawyers across Turkey  Human rights training materials are developed, translated and published</td>
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<td>A number of 3 day human rights study sessions on the ECHR are organised for lawyers across Turkey  In total 10,500 lawyers are trained on the ECHR (35 lawyers in each study session)</td>
<td>TBB reports and CoE mission reports.  Evaluation by local bar associations  Evaluation questionnaires from participants</td>
<td>CoE, TBB reports and CoE mission reports  Evaluation of the use of publications</td>
<td>TBB reports and CoE mission reports.  Evaluation questionnaires filled in by lawyers.  Evaluation by local bar associations</td>
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<td>TBB reports and CoE mission reports.  Evaluation by local bar associations  Evaluation questionnaires from participants</td>
<td>Availability of experts  Lawyers apply knowledge and skills in daily work  Lawyers are willing to co-operate with the TBB  Lawyers use updated human rights materials  Effective co-operation between TBB and CoE</td>
<td>Availability of experts, including national experts, and translators  Effective co-operation between TBB and CoE</td>
<td>Availability of experts and national trainers  Effective co-operation between TBB and CoE</td>
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# ANNEX 2 INDICATIVE IMPLEMENTATION CHART

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ANNEX 3: Contracting and disbursement schedule by quarter for full duration of programme (in million euro)

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