1. **Basic Information**

1.1 CRIS Number (Year 1):

1.2 Title: **Support to the Establishment of Courts of Appeal in Turkey (Construction)**

1.3 Sector: Justice and Home Affairs

1.4 Location: Ankara, Erzurum, Diyarbakır, Turkey

1.5 Duration: Total Duration of Activities 12 Months

2. **Objectives**

2.1 Overall Objective(s):

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 this project is the construction of three model new Turkish Courts of Appeal Houses, designed in Line with EU member state standards and practices.

2.3 Accession Partnership (AP) and NPAA priority

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 National Development Plan

8.5 National Development Plan foresees the Establishment of Regional Courts of Appeal

2.5 Cross Border Impact

"Not applicable".

3. Description

3.1 Background and 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 then revised it to achieve the objectives stated in the Accession Partnership.

Establishment of the Courts of Appeal was 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 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 NPPA, Regular Reports on Turkey’s accession Process to the EU emphasizes the requirement of courts 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. …”

1. The law on the establishment duties and powers of the ordinary courts of first instance and regional courts of appeal (Law no: 5235), 2. The law amending the code of civil procedures (Law no: 5236), 3. Penal Procedural Law (Law no: 5271):

Turkish Grand National Assembly adopted the law on the establishment duties and powers of the ordinary courts of first instance and regional courts of appeal and the law amending the code of civil procedures on 26 September 2004 and Penal Procedural Codes on 4 December 2004. The said laws were adopted by the Turkish Parliament and were published in the Official Gazette.

The purpose of the three laws is to establish a second instance ordinary court for civil and criminal matters and therefore clarify the role and function of the Court of Cassation (also referred to as the High Court of Appeals) as a law court. These three laws entered into force on 1 June 2005.

Present system in Turkey

Currently, until the entry into force of the new laws the court system in Turkey may be viewed as being comprised of five sections: the Constitutional Court, the Court of Jurisdictional Disputes, the General Courts (which include the Court of Cassation as a court of last instance and various specialized and general courts of first instance, both criminal and civil), the Administrative Courts (which include the Council of State as a court of last instance, Regional Administrative Courts as a second instance and first instance Administrative Courts and Tax Courts) and Military Courts (which include a Military High Court of Appeals, Military courts of first instance and a High Military Administrative Court of Appeals).

As can be seen above, before the adoption of the law on RCoA the basic structure of the court system for criminal and civil cases in Turkey was a two-tier system, with
courts of first instance throughout the country and a single court of last instance (the Court of Cassation) situated in Ankara. There were no regional intermediate appellate courts to hear appeals in criminal and civil cases, as is found in the administrative court system in Turkey and as is common in many other jurisdictions. The need for the establishment of RCoA arose due to the increasing backlog of the Court of Cassation. The average duration of appellate proceedings in the Court of Cassation remained too long. Moreover, what official statistics revealed was that the Court of Cassation was faced with a backlog with the 450,000 cases received each year.

The idea of establishing regional courts of appeal as a second instance in order to ease the workload of the Court of Cassation has been mooted for some time. It was proposed that the second instance court would hear appeals on the merits and on the law, thereby allowing the Court of Cassation to act as a final appellate court to determine appeals on points of law only.

The comments of the Advisory Mission on the establishment of the RCoA

The Advisory Mission sent by the DG for Justice and Home Affairs and the DG for Enlargement to Turkey supported such a proposition. They commented that increasing the number of members of the Court of Cassation from the 250 judges who presently sit is not a viable solution because this would create additional potential for differences in decisions reached by different chambers in cases involving substantially similar facts.

They stated the following:
1. Recommendation:
“The establishment of an intermediate court of appeal however would not only decrease the workload of the High Court of Appeals (Court of Cassation), but it would enable the High Court of Appeals to fulfil its main function, which is to ensure a unity of legal practice and to enlighten the interpretation of provisions of legal codes. In our opinion, the introduction of a court of second instance to the judicial system would be an important step forward in both ensuring the right to a fair trial and in increasing the speed and efficiency of the judiciary. A reduced number of decisions by the High Court of Appeals would also contribute to giving the decisions of this last instance an even more pervasive force than today.”

The establishment of an intermediate court of appeal was one of their recommendations.

2. Recommendation 18 the position of the prosecutors’ offices in the court houses:
“Public prosecutors either be required to have their offices outside of the courthouse or, if this is not practicable, then public prosecutors have their offices located in a completely separate part of the courthouse from that occupied by judges”.

This recommendation has been taken into consideration in the design phase and prosecutors’ offices have located in a completely different part of the courthouse.

3. Recommendation 29 the provision of facilities to allow lawyers to receive instructions from their clients in confidence:
“We recommend that lawyers and their clients be provided with adequate facilities to be able to communicate in confidence within the detention facilities of all criminal
courthouses throughout Turkey. Where the possibility of such confidential communication does not already exist, we recommend that consultation rooms be constructed outside of the communal cell area in court buildings but within the secure facility”.
This recommendation already has been taken into consideration in the design phase of three courts of appeal houses. The meeting rooms adjacent to court room have been designed for meeting of defendant and lawyer.

4. Recommendation 33 Advisory Visit Report on Functioning of the Judicial System in Turkey, regarding the position of the prosecutor in the courtroom
“In the courtroom, the public prosecutor should not sit at the same bench as the judge but should instead sit in a position equivalent to the defence lawyer.”
This recommendation will be implemented when those courts start functioning. During the implementation of this recommendation, the sitting position of defence lawyer shall be equalized with the prosecutors’ in the bench.

The need for the establishment of the RCoA

The judicial process is a system which entails numerous phases until the judgment concerning the conflict or dispute becomes final. One of the phases is "judicial review", known as a "legal remedy". Basically, in appeal on points of law, there can be no trial based on directly finding out the facts. The judgment to be given as a result of appeal on points of law solely ensures that no aspect of the case is contrary to the law.

Thus, in order to arrive at the material and legal truth and to remedy mistakes and miscarriages of justice, it is apparent that there is a need for a separate legal remedy that precedes appeal on points of law, ascertaining that the conflict or dispute has been brought to an appropriate conclusion as regards the material facts, i.e. proof, and conformity with the law.

The higher courts responsible for ascertaining that the decisions given by courts of first instance conform to the facts, to the law and to statutory procedure function at two levels in some countries and at three in others. In Turkey, as stated above, the two-tier system was in use.

Regional Courts of Appeal

Article 3 of the new law on RCoA describes these courts as ordinary courts at the second level of jurisdiction. These courts are named as “regional courts of appeal” in order to harmonize it with the names of Regional Administrative Courts which works as a second instance court for Administrative Courts and Tax Courts.

RCoA shall be composed of civil and criminal divisions. Each RCoA shall include at least three civil and at least two criminal divisions. If necessary, the High Council of Judges and Prosecutors may increase or reduce the number of divisions on the recommendation of the Ministry of Justice.

According to Article 25 on the “Establishment and area of jurisdiction of RCoA” these courts shall be established according to the geographical situation and workload
of the province and region by the High Council of Judges and Prosecutors on the recommendation of the Ministry of Justice. The determination of jurisdiction of these courts and the changes shall be made by the High Council of Judges and Prosecutors on the recommendation of the Ministry of Justice. These decisions shall be published in the Official Gazette.”

According to the Provisional Article 3 the needs of the RCoA (buildings etc) will be completed within 2 years after the entry into force of the said law.

RCoA shall be composed of a president’s office, a board of presidents, divisions, a chief public prosecutor’s office, an RCoA judicial commission and a registry, secretariats and directorates. Each RCoA shall have its president. The president’s office shall be composed of the president and the registry. The board of presidents of an RCoA shall be constituted by the president of the RCoA and the heads of division.

A chief public prosecutor’s office shall be appointed to each regional court of appeal. The chief public prosecutor’s office at the regional court of appeal shall be composed of a chief public prosecutor and an adequate number of public prosecutors. The most senior public prosecutor shall act as deputy chief public prosecutor. These provisions (Articles 16-22) are very descriptive about the general organization and the tasks of the different public prosecutors’ offices and their members.

There is a twinning project on support to the establishment of Courts of Appeal in Turkey which foresees training for the judges, public prosecutors and the auxiliary staff to be appointed to these courts. (TR/2004/IB/JH/01)

This project proposal was foreseen as the second phase of the project and it will be concerning the infrastructural support to be given to the establishment of three Court of Appeal houses. Concerning the buildings of these courts, the challenges include managing the transition from new inadequate court building systems to a modern system designed according to the model of contemporary European courts with large court rooms, working units, waiting rooms complemented by vocational and recreation facilities.

The Bar Association will involve the Steering Committee in all development stages.

3.2 Sector rationale
N/A

3.3 Results

The following results are expected:
· As there are no standards identified for a court of appeal house in Turkey this project will improve the standards to design the architecture of new court houses and improve the awareness on EU standards and best practice in the field of court house architecture;
· Development of guidelines for design and adoption of the architecture of new court houses;

· Construction of 3 new courts of appeal houses during the project period in line with EU standards and practices. 3.4 Activities

The following levels of intervention are considered.


● Service contract: Supervision of construction of three model courts of appeal houses.

3.4.1 Construction of Three Model Courts of Appeal House:

In order to increase the efficiency and functioning of the judiciary and particularly courts of appeal which will start working at the beginning of the 2007, it is necessary to provide good working conditions for judges and prosecutors who will be appointed to the new Courts of Appeal. Preparation of enough court rooms and working units for judges and prosecutors and auxiliary staffs based on the experience of two or three member states is essential. Type of courts shall not only be based on sample of court house of those states but needs which will be identified according to the relevant Turkish legislation concerning the appeal courts as well.

It is aimed with those new court houses to create facilities which will reflect the newness of such facilities for Turkey as well as the easy access for the population and it will provide the transparency of the judicial system.

This is intended to be done through:

● using modern construction materials and methods.

● splitting up the various elements of the appeal courts into small modular units which could be extended if needs arise or when applying it to other locations.

● Constructing visible working locations by the office partitioning materials to make the auxiliary staff visible by all citizens.

The court houses will be adjusted to meet the needs of Ankara, Erzurum and Diyarbakır which was identified according to the 2002 and 2003 court statistics. According to Criteria of Supreme Board of Judges and Prosecutors, annual workload of average court should be 500-600 cases. While defining the need analysis of regional Court of Appeal houses, official court statistics were taken into consideration, 900-1000 cases for each division of regional court. So need analysis is very realistic. In each division of court of appeal 1 head of division and 4 members and required prosecutors and auxiliary staff will be appointed. Court’s requirements were identified according to official statistics which the regional courts of appeal will hear. It was specified by MoJ in the room programmes that the Courts in Erzurum and Diyarbakır were of similar size, whereas for Ankara, it will double the size.

Being a new type of court for the Turkish Judicial System, in the hierarchy of Court facilities of the Country it is positioned above the 1st Instance Court and below
the Supreme Court. It has been attempted to reflect this legal innovation in the architecture of the building, both externally as in respect to the room distribution.

The documents provided by MoJ included a schedule of rooms needs as well as an organisation chart showing the relationship between the judicial staff working within the facilities were taken into consideration as well as related law which will support the establishment of these facilities within the existing judicial system and an overview of the number of court cases dealt with per court on an annual basis.

In Ankara, Diyarbakir and Erzurum, It was noted that Court Houses were large buildings with monumental character. Although most room are fully utilised in these facilities, It was not noted that all courts that Frame Work contractor visited had very large circulation areas. It was attempted to economize on the size of the facilities by grouping rooms together which had a logical working relationship to each other. This caused to the idea of creating modules for the different sectors of the facility and arranging them, not unlike building blocks, to suite the room needs in each location. As the facility in Ankara was expected to be twice that of Diyarbakir and Erzurum, supported through the provided statistics of cases, It was come up with a design proposal that could be multiplied in size by applying a mirror image of the base concept.

This modular approach will allow to prepare the required drawings with the available resources as well as thereby creating a flexible system that can be adapted by the MoJ to be built further facilities anywhere in Turkey, as foreseen in the Appeal Court Law.

Description of works:

(1) Central Corridor – the spine of the facility
Design concept features a central corridor which may be understood as the Spine of the facility. Similarly to a spine, all major facilities of the court are joined to it or can be accessed from it. At either ends of the spine It has placed the bulk heads of the facility that will accommodate the main stairs, elevators, public toilets, reception and security and is also used as vertical distribution of the main technical infrastructure of the building. Along the length of the spine, It has been equally distributed offices that may be used for the prosecutors as well as other offices required for the running and administration of the building.
From this central corridor, the court units are reached via transparent glass bridges. The prosecutors who are not bound to the different court divisions move between the court divisions, eased through the central corridor.

(2) Design Idea – Modular System
In attempting to create a design that appears modern, transparent and new to achieve these attributes through the choice of materials, being fair finished concrete, granite, stainless steel and glass. But it is important that the floor plan distribution will reflect a new era. Smaller room sizes will be easier to manage and operate and assist in reducing running costs. All rooms will however be sufficiently dimensioned to provide improved working conditions for the staff working within them.
As base module, on the rooms that are the main feature of every Court House Facility was taken into consideration, being the Court Room with all connecting work spaces. In general a Court Division is made up of a court room, the judges’ chambers (four in
total; 1 Head Judge and 4 Judges), an auxiliary room containing the case files and the required circulation space. Two divisions have been grouped to one Unit. To meet EU criteria, the court room is accessible to the judges from one side and the public as well as the Prosecutors and Lawyers from another. The judges chambers will only be accessible to the judges through means of electronic access controls a central idea to guarantee increased security demands for such a facility as well as those required due to current global developments.

With these considerations in mind, It was developed for design concept using a 4 meter grid system, along which load bearing walls and columns are positioned without having a negative influence on the quality of the rooms. The same distance is used for the floor heights which considering sufficient to accommodate the ducting for AC, Ventilation and other vital technical infrastructure within the suspended ceiling.

(3) Operational Aspect of the Design Proposal
From an operational point of view It was foreseen the defendants, their visitors and lawyers to sit along the corridor, from where they will have the opportunity to look through the wall high glass windows into the greened court yards defined by the court units to either side of them. Plasma screen bill boards are planned to be hung from the ceilings at the locations of the bridges which will show which party is expected at which court room at a specified time. The numbers are distributed to the defending parties at a central reception desk at the ground floor at the time the defendant/party arrives to the building. This way people will not need to freely circulate throughout the building not knowing in which court they are expected. Certain areas should be closed through glass doors requiring electronic access passes to open them. This way the building will be a safe facility, regulating access in an invisible manner.

(4) Handicapped
The facilities will fulfil all EU requirements for handicapped both for the visitors as well as staff working within it in respect to;
- Access into building (ramps)
- Providing accessories in the handicapped toilets to assist eased access and exit for handicapped and lower wash basins to assist wheelchair users to wash their hands
- Elevator access and controls lowered to ease manipulation from a wheelchair
- Visibility through doors by the use of glass to assist wheelchair users to see possible obstructions, for main access and corridor doors
- Signage to assist handicapped to manoeuvre around the facility
- All floors will be connected by elevators

(5) Metal detectors – security personnel
At the entrance metal detectors will be positioned together with baggage scanners through which visitors will need to pass prior to entering the facilities. Near to the entrance area guaranteeing visibility of all entering persons, a guard office is located in which the access control and CCTV camera stations run together and may be monitored by the security staff.
(6) General Safety Considerations
The facility will have a centrally monitored fire alarm system reacting to smoke in offices, toilets, stores and achieves and rooms where large amount of people will meet.

Each floor will receive a fire hydrant system with signage indicating these as well as manual fire hydrants that may be taken in case of an emergency in isolated areas.

The facility is proposed to be a non smoking area, the Beneficiary may however decide to create smoking rooms per floor which would not be connected to the smoke detectors, will in that case however require an additional mobile fire hydrant.

(7) Grid Design

Civil Courts
The design grid measures 4 by 4 meters and 4,5 meters vertically. Alternatively to this measurement It was also created variations to this grid measurement for rooms requiring smaller dimensions or a multiple of it for larger rooms. Using this grid system It was planned to reach court sizes as requested in the Beneficiaries Brief being; 48m² (8 x 6), 56m² (8 x 7), 64m² (8 x 8) in size. Standard office will measure 16m² (4 x 4), 24m² (4 x 6), although smaller sizes of 8m² (4 x 2) and 12m² (4 x 3) are also achievable.

Criminal courts
In the cases where courts are to be utilised for criminal proceedings It has been incorporated an additional separated access for defendants that are in custody, and arrive from outside the facility. Such transports will arrive to the basement where locating a holding room, as well as rooms for the security officers (local police). From the basement the defendant together with the security personnel will access a spiral stair case which in an emergency may also be used as fire escape stair which will “opened” automatically by the centralized fire alarm system in case of an emergency.

(8) Technical considerations

Mechanical Ventilation: The facility will be fully ventilated through a forced mechanical ventilation system, bringing fresh cleaned air into the offices and drawing off used air from the Public Toilets. To reduce the subjective feeling of draft, the air movement will be maximised at 3 m/sec.

Cooling/Heating and energy saving considerations: The mechanical ventilation system will receive incoming air from air handling units to guarantee cleaned air which may be could by chillers or heated both by electricity/gas but should ideally also be solar supported. Energy recuperation through heat exchangers will keep energy losses to a minimum. Alternatively cooling could also be done through absorption cooling machines energized by gas or oil at times when the solar coverage is not sufficient (rainy weather). This system which is costlier to electrical chillers will save operational costs and pay itself back in the long run. Needles to mention that such systems contribute towards reducing CO₂ emissions

Electronic Building Management System: An intelligent building management system is to be installed that will assist maintenance staff to maintain the building efficiently and remind them electronically which items need to be services well before break downs in systems occur. Such system will also assist to keep operational costs
at an economically sustainable level switching cooling and heating needs on and off automatically to suite the current needs defined by the number of people working within the facility.

**Stand by Power:**
To facilitate the above the facilities need to be energized through electrical powered 24 hours a day throughout the year upheld by stand by generators and electronic stand by modes which guarantees the uninterrupted security of the facility through use of an electronic rooms access system.

**9) Beneficiary’s Requirements**
In the Annex following sections the detailed Architectural, Structural, Mechanical and Electrical items are described to understand what the facility will contain. It will form the bases for the Contractor to prepare his offer in the tender documents as it will become an integral part of the Construction Contract. The Beneficiary’s Requirements are divided into;

- Architectural Works
- Structural works
- Mechanical Works
- Electrical Works

**3.4.2 Management and supervision and the quality control of the construction of three model court of appeal house.**

Supervision Company will have an important role for creation of good quality courts of appeal house during the construction process. Therefore the supervision and management of the Courts of Appeal Houses will be based on the standards identified in service contract and full tender dossier will contain whether these standards were met or not.

In order to implement the management and supervision services, tendering of supervision (TAC) company will be made according to service contract and Terms of Reference. TAC undertakes the duties and responsibilities set forth in this service contract which generally describes the services required for building of these court houses. Construction will be done by one or more construction companies governed under a separate contract, however contracted by the same Contracting Authority

**3.5 Linked Activities:**

The current project is the second part of a project to support the establishment of Courts of Appeal in Turkey. The first part (TR0401.02) is a twinning project which foresees training for the judges, public prosecutors and the auxiliary staff to be appointed to these courts.

There has been no other 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:
3.5.1 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 modernisation. 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 modernisation of the judiciary in Turkey as foreseen in the Accession Partnership and the National Programme for the Adoption of the Acquis.

The project started in 2004.

3.5.2 Enhancement of Child Protection System and Practices Programme (TR0403.04)

Within the context of accession to the EU, the overall objective of this project is to enhance the protective environment for children in Turkey as outlined by the Convention on the Rights of the Child.

In line with the objectives the project was designed with the following sub-components from the stakeholders’ point of interest:

- To establish baseline data and empirical evidence that informs stakeholder institutions in the context of child protection measures.

Inline with the objective the project was designed with the following activities.

- Research
- Development of child centred pilot projects:
- Interventions aimed at the improving communications within vulnerable families
- Skills development for at-risk adolescents
- The development of child-sensitive models in selected provinces
- Support to the establishment of an Independent Ombudsman for Children with statutory powers

The legal duration of the project is 2 years and within the framework of 2004 Financial Programming of the EU Pre-accession Aid Programme, the project’s activities were launched in February 2005.

3.5.3 Improving access to justice (TR0501.01)

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 overall objective is strengthening rule of law in Turkey by improving access to justice system to implement the National Programme for the adoption of the
Community acquis (NPAA) in the Accession Partnership priority area of human rights and democratisation.

The immediate objective of the project is:

- Providing adequate training, implementation, and awareness raising system on ADR established;
- Rights and freedoms of parties to a case before a court guaranteed
- Necessary infrastructure for better access to justice established
- Capacity of ministry of justice in terms of providing legal assistance promoted

3.5.4 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) 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

The project activities have been concluded.

3.6 Lessons learned:

This area has not been covered by Audit Reports in the Republic of Turkey as yet. However the preparation of design, Terms of Reference and full tender dossier of this project has been greatly assisted by framework contractor from (Plan Group) Finland.

4 Institutional Framework

With the co-ordination of GD For EU Affairs of MoJ, Technical Affairs Department of MoJ is the beneficiary.

The Construction Project will be implemented by the Ministry of Justice, particularly under the coordination of General Directorate for EU Affairs of the Ministry of Justice and the Technical Affairs Department of Ministry of Justice.

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.

The projects beneficiary will be the Ministry of Justice, Department of Technical Affairs in coordination with General Directorate for EU Affairs of the Ministry of
Justice. Department of Technical Affairs will appoint a senior engineer for the solution of contractual points that can appear during the implementation of the project. Ministry of Justice will be the owner of the land and the finished appeal houses.

Central Finance and Contracts Unit will be the Contracting Authority that will approve the design and technical specifications of courts of appeal (that shall be prepared by a design consultant and checked by the Beneficiary) and prepare the Tender Dossier, implement the tendering phase and make the payments for the Contractor and the Supervisor.

Contractor(s) will be the company (ies) who will carry on the construction works according to prepared drawings and technical specifications and according to conditions of contract.

Supervisor will be the person or the team of persons responsible for the supervision of construction works according to conditions of contract, design and technical specifications.

**Contact person at the Ministry of Justice and contact details:**

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5 Detailed Budget

<table>
<thead>
<tr>
<th>Year 2005 - Investment support jointly co funded</th>
<th>Phare/Pre-Accession Instrument support</th>
<th>Co-financing</th>
<th>Total Cost</th>
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<td>% of total public funds</td>
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| Total project 2005                            | €22,500                                | €7,500(*)    | €30,000** |

(*): contributions form National, Regional, Local, Municipal authorities, FIs loans to public entities, funds from public enterprises
(**): private funds, FIs loans to private entities

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 FIs 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

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

Contact details:
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6.2 Twinning - not applicable

6.3 Non-standard aspects
In the course of project implementation, the procedures specified in the PRAG will be followed.

6.4 Contracts
The project will provide the physical basis for the new courts of appeal. It is expected that three model courts of appeal will be created to fulfil its functions according to EU standards.

The service (for supervision) and works contract will be concluded by the CFCU, in line with Practical Guide requirements for public works and procurement of goods. Works tender will be made as 1 (one) tender but 3 (three) separate lots. Each lot will contain a Court of Appeal building. Service contract (for supervision) will be only one lot. A supervising company will be selected for the supervision of 3 buildings. MoJ already provided lands for the 3 (three) courts and there is no problem regarding pre-feasibility studies, land ownership certificates, work approvals, etc.
<table>
<thead>
<tr>
<th>Site</th>
<th>Estimated Cost (€)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ankara</td>
<td>13.000.000 Euro</td>
</tr>
<tr>
<td>Erzurum</td>
<td>7.500.000 Euro</td>
</tr>
<tr>
<td>Diyarbakır</td>
<td>7.500.000 Euro</td>
</tr>
</tbody>
</table>

7  Implementation Schedule

7.1 Start of tendering/call for proposals

September 2005

7.2 Start of project activity

January 2006

7.3 Project Completion

January 2007

The new courts of appeal are scheduled to start working on 1 June 2007 and new courts have to be finished before this date.

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

The Environment Impact Assessment process will be carried out based on the Turkish Environment Impact Assessment Regulation, with a similar procedure as the one described in the EIA Directive.

The Project Introduction File will be submitted to the MoEF by beginning of 2006 for initiating the EIA process.

The impact of the project on these sites will be analyzed by the Consultant and the analysis will be approved by the competent authorities.

The EIA process is estimated to be finalized by end of June 2006 - Sewage and drainage systems of those three courts will be connected to the closest points of those cities’ sewage and drainage system.
10 Rates of return
With the start working of courts of appeal following rates of return are expected:
- Good working conditions will provide high level of performance for judges and prosecutors
- Common and high level of architectural standards will be established and these standards will be widened across the all courts buildings;
- Backlogs of courts of first instance will be prevented;
- Average duration of case will be shortened;
- Court of Cassation will have case law function efficiently;
- Functioning and efficiency of judiciary will increase;
- Unification of case law among the all 19 regional courts of appeal will be provided.

11 Investment criteria

11.1 Catalytic effect
Under the EU Project entitled “Support to Establishment of Court of Appeal Twinning project” which is at currently contracting stage, will increase the efficiency and functioning of Judiciary as well as improved performance of the judges and prosecutors are expected to be obtained through intense training activities. In accordance with the present project the emerging needs of the Ministry of Justice will be met with EU funding.

11.2 Co-financing
Under this project, 7,500,000 Euro amounting 25% of the total investment costs - which is 30,000,000 - will be provided by the national public funds.

11.3 Additionality
Not Applicable

11.4 Project readiness and size
With regard to the works under this project, the necessary technical specifications and full tender dossier and necessary documents have been prepared by the Framework Contractor.

11.5 Sustainability
In order to manage effectively and ensure the sustainability of this project, a Project Steering Committee (PSC) will be set up with the participation of the representatives of the institutional parties to this project, Bar Association as a NGO as well as representatives of the European Commission, and CFCU. The PSC will meet at least three times a year and will monitor the implementation of the activities through regular review of progress of the program activities, deliver recommendations
concerning any problems that might arise during the implementation and give support in the promotion of the programme.

11.6 Compliance with state aids provisions

Not applicable

12 Conditionality and sequencing

As stated above the Legislation process was completed: Law on the Establishment, Duties and Powers of the Ordinary Courts of First Instance and Regional Courts of Appeal Civil Procedure Code, Criminal Procedure Law and Turkish Penal Code were approved by parliament. The said laws will entry into force on 1 June 2005.

Providing necessary areas for construction of courts, ownership certificate of areas and pre-feasibility studies and works approval are under the responsibility of Ministry of Justice and all of them were already provided.

EU co-financing for this project is provided on the understanding that the design and operation of the court houses will incorporate the relevant recommendations of the EU Advisory Visits, including the position of the prosecutors’ offices in the court houses (recommendation 18); the provision of facilities to allow lawyers to receive instructions from their clients in confidence (recommendation 29); and the position of the prosecutor in the courtroom, namely that the defence lawyer should sit in a position in the bench equivalent to the public prosecutor (recommendation 33). A recovery of funds will be executed should these recommendations not be implemented when the Court Houses begin functioning.

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. Relevant Legislation
5. Reference List of Feasibility Studies
6. Reference list of relevant strategic plans and studies
## ANNEX 1 LOGFRAME PLANNING MATRIX FOR PROJECT FISCHE

<table>
<thead>
<tr>
<th>PROJECT: Support to the Establishment of Courts of Appeal in Turkey Construction Project</th>
<th>Programme number:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Contracting period expires: November 2007</td>
</tr>
<tr>
<td></td>
<td>Disbursement period expires: November 2008</td>
</tr>
<tr>
<td>Total budget 30.000.000 Euro</td>
<td></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>Regional Courts of Appeal are established and operational.</td>
<td>Evaluation of the EU Regular Report on Turkey’s progress towards accession</td>
<td>Lack of financial resources to cover all needs of the Courts of Appeals.</td>
</tr>
<tr>
<td></td>
<td>Evaluation of the progress in the implementation of the Turkish National Programme for the adoption of the Acquis</td>
<td></td>
</tr>
</tbody>
</table>

### Project Purpose

The purpose of this project is the construction of three model new Turkish Court of Appeal Houses, designed in Line with EU member

<table>
<thead>
<tr>
<th>Objectively Verifiable Indicators</th>
<th>Sources of Verification</th>
<th>Assumptions/Risks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Three Courts of Appeal Houses are fully operational</td>
<td>Evaluation and expert mission reports</td>
<td>Continued political support for the reforms to the justice systems of the Republic of</td>
</tr>
</tbody>
</table>
states standards and practices.

<table>
<thead>
<tr>
<th>Results</th>
<th>Objectively Verifiable Indicators</th>
<th>Sources of Verification</th>
<th>Assumptions/Risks</th>
</tr>
</thead>
</table>
| The following results are expected. Expected results:  
- Improving the standards to design the architecture of new court houses and improving awareness on EU standards and best practice in the field of court house architecture;  
- Guidelines for designing and adoption the architecture of new court houses;  
- Construction of 3 new court of appeal houses during the project period in line with EU standards and practices;  
| These model courts of appeal houses are accepted as model and these model are widened and used for other 19 Courts of Appeal houses and other courts of first instances | Interim Payment Report  
Reports from the project Senior Project Officer  
Progress reports  
Monitoring and interim evaluation reports  
Quarterly Reports to Steering Group | Sustained support for project by the MoJ.  
Selection of sufficient qualified and experienced construction company and supervision company  
Sufficient financial and human resources are allocated by the Turkish government  
Possible delay to finish the construction of courts before the start working of courts of appeal |
<table>
<thead>
<tr>
<th>Activities</th>
<th>Means</th>
<th>Assumptions/Risks</th>
</tr>
</thead>
<tbody>
<tr>
<td>The following levels of intervention are considered.</td>
<td>It is anticipated that: 3 works contracts and 1 service contract will be signed for construction and supervision of three model courts of appeal houses</td>
<td>Full commitment of the involved authorities</td>
</tr>
<tr>
<td>2. Service contract: Supervising the construction of three model court of appeal houses</td>
<td></td>
<td>Timely availability of adequate resources</td>
</tr>
</tbody>
</table>

PRECONDITIONS
Providing necessary areas for construction of courts, ownership certificate of areas and pre-feasibility studies and works approval (all of them were already provided).

ANNEX 2 INDICATIVE IMPLEMENTATION CHART (COMPULSORY)

<table>
<thead>
<tr>
<th>Year</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project fiche approved by Brussels</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Launch request proposal to Member States</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Signing contract</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Beginning of project</td>
<td></td>
<td></td>
<td>XXXXXXXXX XXXX</td>
<td></td>
</tr>
<tr>
<td>Project implementation</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

As stated above the Legislation process was completed: Law on the Establishment, Duties and Powers of the Ordinary Courts of First Instance and Regional Courts of Appeal Civil Procedure Code, Criminal Procedure Law and Turkish Penal Code were approved by parliament. The said law entered into force in June 2005.
- The new courts of appeal will start working on June 2007 and new courts have to be finished before this date.

**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>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>30/06</td>
<td>30/09</td>
<td>31/12</td>
<td>31/03</td>
</tr>
<tr>
<td><strong>Contracting</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Works</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(as different lots)</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>28.000.000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Services</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>( 1 lot)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>20000.000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total contracting</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(cumulative)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Disbursement</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Works</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.500.0000</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Supervision</td>
<td>400.0000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>20000.0000</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total disbursement</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(cumulative)</td>
<td>5.900.0000</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
ANNEX 4   LISTS OF ALL PRIMARY LEGISLATION RELEVANT TO THE PROJECT

1. The Law on the Establishment, Duties and Powers of the Ordinary Courts of First Instance and Regional Courts of Appeal
2. The Amending the Civil Procedure Code
3. The Penal Procedural Code,
4. Turkish Penal Code

ANNEX 5   LISTS OF FEASIBILITY STUDIES

1. Full Technical Specification
2. Full Technical Drawings
3. Final Tender Dossier (3 lots as Works and 1 for Services)
4. Detailed Bill of Quantity and Cost Estimation

ANNEX 6   LISTS OF STRATEJIK PLANS AND STUDIES

1. National Plan for the Adoption of Acquis
2. 8.5 Yearly National Development Plan