

**02 September 2024**

## **Justice Statistics Should Provide A Strategic Contribution to Development!**

To coincide with the start of the 2024-2025 Judicial Year, we wish to share the following recommendations on justice statistics for information the public, in hope that the recommendations can provide a strategic contribution to the further development of Türkiye.

### **Responsibility of Publishing Justice Statistics**

Each year, the Directorate General for Criminal Records and Statistics of the Ministry of Justice publishes the official justice statistics for Türkiye. On the web page of the General Directorate, the “mission for statistics” is explained as “to produce [...] quality, up-to-date, impartial and international standardised statistics [...] in order to develop policies for the justice system”, but no long-term goals (vision) are stated, and the mission is here recalled.

### **The Strategic Importance of Justice Statistics**

An increase in national income and welfare through economic strength are possible through the just, accurate and timely taking of management decisions at the macro level, and through the sound and efficient functioning of all legal relations of the production and consumption chain at the micro level, including the supply chain to the consumption of the end product. This depends on the effective resolution of disputes that naturally arise among all

economic actors, the efficient fulfilment of duty by the judiciary, and the praxis of the rule of law in all sectors, for all.

Justice statistics are a documentation of challenges that arise at macro and micro level in all such relations on which the economy is based, their characteristics, figures and the performance of the judiciary in resolving problems in this regards; and thus, these documents are related to social, production and consumption challenges that affect the performance of the economy.

For example, the ineffective combating of crimes of abuse of trust and embezzlement specific to professional managers, makes it difficult for enterprises to maintain professional management and become institutionalised, and thus prevent SMEs from growing and gaining competitive power in line with the economy of scale.

Failure to effectively and efficiently resolve disputes arising between shareholders in companies causes these enterprises to remain as “family companies” which are not conducive to development, preventing them from transforming into cooperations where those with various strengths, competences and resources come together to join forces, and prevent the failure of many enterprises with the potential of developing into successful companies.

Therefore, justice statistics should produce sound data concerning disputes arising directly or indirectly from matters affected by the economy and the success of the judiciary in bringing resolve to these disputes to provide strategic contribution to Türkiye’s economic power, competitiveness and improvement to the national welfare.

It is for these reasons that it is of strategic importance to prepare justice statistics in a scope and manner that provide strategic support to the development of Türkiye.

## **TURKSTAT Should Publish the Justice Statistics**

It is not appropriate for the Ministry of Justice, which is responsible and authorised for almost all provision of services and establishing policies, to collect and publish statistical data regarding its own areas of responsibility. For the service providing organisation to publish its own statistics is problematic in terms of transparency, accountability and objectivity. Any suspicion of whether there may be a bias in presentation of the data is sufficient to undermine the presumed benefit of the statistics. Even if the statistics were sound and true, any question mark as to the statistics published by an organisation would lead to an undermining of its reputation and credibility.

As the Turkish Statistical Institute (TURKSTAT) was established by Law No. 5429 regarding the production and organisation of official statistics, it would be more appropriate if TURKSTAT were to publish justice statistics.

Justice statistics should be organised in a manner and detail which is sufficient to appropriately evaluate the performance of responsible institutions by making separate assessments of the factors that ensure quality in the provision of service.

Justice statistics should be organised with the vision and aim of reducing durations of case files and for this period to be reduced to three to five months in view of the fact that cases take years. According to archaic criteria adopted in light of the European Commission for the Efficiency of Justice (CEPEJ), which is an official organisation of the Council of Europe, inferences based on the number of case filed during a certain year, but which carry over to the following year, are overturned or similar case files, are of no use to our country. In fact, the “rule of law” indices published by the iNGO “World Justice Project” are far more effective than the official CEPEJ statistics.

The total number of files categorised as “filed during a certain year, cleared, carried over from the previous year to the next year” and “received due to being overturned”, which we have adopted from CEPEJ, does not serve to properly assess the performance of the judiciary, nor is it of any value for Türkiye or our citizens.

For Türkiye to overcome the middle income trap by means of fast paced development, it is imperative for the state, and therefore the Ministry of Justice, to develop statistical criteria that will help to reveal the services, performance and quality of the judiciary according to regional differences, create an internally competitive system, and provide the necessary strategic support required for the development of the nation, while at the same time ensuring transparency and accountability. At the same time, this is also important for Türkiye to move from being a passive actor to gain a leading position to set an example for other countries.

### **Documents Containing Statistics Should Be “Reader Friendly”**

Justice statistics should be organised with the assumption that the reader is not familiar with the structure of the judiciary and should be easy to read. The data should be presented in accordance with the natural flow of judicial services, not according to the hierarchy of service provision institutions, and the reader should be able to access the data down to the finest detail. It should be considered to provide a separate booklet containing information on notaries, the execution system and even public prosecutor’s offices, which are their own entities.

### **The Documents Should Explain the System Well**

The Ministry of Justice, the Council of Judges and Prosecutors, justice commissions, chief public prosecutors’ offices, the Union of Bar Associations of Türkiye, bars, the Turkish Union of Notaries, public notaries and similar organisations related to the management of administrative service types should be separated from the service units that are directly responsible for the provision of the service. However, the relationships between administrative units and service units should be clearly explained.

The work flow charts of each unit should be given in such a way that they can be easily followed through until the last phase. In the work flow charts of service units, the relationships of administrative units with the courts of first instance, appeal and cassation and the various judicial remedies should be

established. In this way, even a person who is not familiar with the system should be able to see the whole system, the relationships between administrative institutions and service provision units and the whole process, and should be able to easily draw meaning from the statistical data and make inferences.

### **The Statistics Should Provide Regional, Sectoral and Social Details**

Justice statistics should include classified data, collated on the basis of development regions and courts of appeal, broken down by provinces and districts, and compiled as to accurately identify the impact of differences according to the degree of regional development on the priorities, needs and performance of the judiciary.

The data should be published in a way as to include sectoral information such as maritime, transport, software, space and aviation, white goods, heavy industrial manufacturing, as well as information on family, sexual assault, abuse of security, embezzlement and similar information.

The financial value of the judicial work, the sum of the duty fees and other taxes collected, and the time used for the resolution of the dispute should be calculated by converting them into a monetary value, and it should be clearly seen as to whether the judiciary brings added value to society or whether it is a burden.

Civil, criminal, administrative and tax disputes should be mapped and published on the basis of districts, provinces, development and appeal regions or sectors.

### **Service Units for Judicial Remedy Should be Integrated**

In line with the “separation of jurisdiction” adopted by Türkiye, statistics on provision of services should be organised separately for civil, criminal, administrative, judiciary and tax courts in scope of the judiciary. The data on the services provided by different levels of units for the same judicial remedy should be given in the order of courts of first instance, courts of appeal and

courts of cassation. In doing so, a reader outside of the profession should be able to foresee the process that a judicial remedy shall follow and what the duration will be at each phase, and how often they may encounter challenges such as revocation, lack of jurisdiction and similar issues.

The data of all courts in Türkiye in a particular statistical year should be published by classifying them according to the types of courts, the provinces in which they operate, the development regions in which the provinces are located and the regions of courts of appeal. Data on the duty undertaken by each court, the period from the commencement of the process up to its final conclusion, the changes of judges, prosecutors and lawyers during this period, the number and nature of complaints, investigations, dismissal of judges, reversals, approvals and other procedural actions taken against these officials should be published by courthouse, province, development region, appeals region and Türkiye in general.

Information on public prosecution offices should be published separately. More information and detail than the currently published data would help investors and even public officials in the area of security and similar fields to better analyse the relevant region.

Execution and bankruptcy offices and execution prosecutor's offices are not judicial authorities but execution authorities. It would be appropriate to provide data on these in a separate booklet and to diversify the details provided.

It would be appropriate to publish data on the Constitutional Court, Court of Disputes and the 1st Chamber of the Council of State, which is not an ordinary judicial authority but a judicial advisory body, or other similar competent authorities and chambers (if any), in separate booklets.

It would be appropriate to separate the statistics on individual applications to the Constitutional Court according to the judicial, criminal and administrative judicial remedies to which the applications relate, and to publish the statistics on these judicial remedies separately. In this way, the judicial system would be able to show that it is accountable and will give the message that "such and thus individual applications have been filed in relation to this judicial remedy". It would also be appropriate to publish the statistics on individual

applications with a breakdown of the competent authority where the proceedings subject to the application were held, the date of commencement and finalisation, the date of filing and finalisation of the individual application, and the nature of the decisions (violation, rejection of grounds of procedure, non-violation, referral to the compensation commission and non-examination of the application).

Statistics on the relationships between judicial service units, decisions on lack of jurisdiction, lack of competence and similar decisions, decisions on revocation and approval, decisions on appeal or cassation should be published and the nature of the relationship between them should be shared.

### **Regarding Statistics on Service Provision**

Data on members of the judicial service and their demographic characteristics should be presented separately for each judicial system, as well as being provided collectively.

Information on human resources in courts should be provided comparatively on the human resources, number of members, number of rapporteur judges, number of rapporteur judges per member, number of examining judges per member, number of files per examining judge, member and additionally per rapporteur in judicial units such as the Constitutional Court, civil and criminal chambers of the Court of Cassation, judicial chambers of the Council of State, courts of appeal and courts of first instance, and competition among service provision units should be improved.

The total number of judges, prosecutors, lawyers and other judicial officials who served in the relevant year and the number of judges of civil, criminal and administrative courts, their seniority and experience in the profession, and their diploma and examinations scores during their admission to the profession should be stated separately for each year in the statistical reports.

Judicial statistics should include information related to lawyers, alongside information on judges and prosecutors. The perception that the judiciary comprises only of judges and prosecutors should change. The information could be listed as judges, prosecutors, lawyers, notary publics, experts and

other judicial officials. An indicator such as the number of lawyers per judge should also be added to the report and information which is useful for the development of services and efficient planning such as number and characteristics of case files per lawyer should also be shared.

The reports should also include information on the length of service (seniority) and current position of the members of the judiciary (president, senior member, member, rapporteur judge and their deputy, prosecutor, chief public prosecutor, deputy).

Lawyers should be grouped according to criteria such as “those within the first 5 years of their career, those with 5-15 years of professional seniority, those with 15-25 years of professional seniority, 25-40 years of professional seniority, those with more than 40 years of professional seniority”, as well as “those who are self-employed, those who work under another lawyer, those who work for an institution, a public institution (or similar), those who employ lawyers” and these should be reflected in the statistics.

Data on the duty stations of judges and prosecutors whose duty stations have been changed through assignments, the duration of their duty, the number and nature of the case files they have undertaken, the lawyers, experts and other persons with whom they have had contact due to their case files, and the procedures they have carried out should be disclosed in such a way as to make it possible to assess their impact on the decisions rendered; such kinds of data should be easily accessible.

Data on the lawsuits and other duties and all the decisions rendered by each member of the legal profession during the year should be published; databases, decisions and other documents with statistical grounds should be easily accessible, and these documents should be downloadable.

Subjects such as assignments, promotions, resignations, dismissals, complaints, investigations, disciplinary penalties and rejections of professionals of the judiciary throughout the year should also be included in the statistics.

Information on the gross income, fringe benefits, taxes paid, social security premiums for groups of judicial professionals should be published as totals,



averages, median and separately according to seniority groups, and realistic information should be provided about the legal economy on the one hand and the economic situation of these groups on the other. The rate of contribution from the budget for judges, prosecutors and lawyers, and the fees, fringe benefits, salaries and other resources provided by the citizens should be published by district, province, development and appeal regions and for the national level.

### **Regarding the Types of Judicial Services**

It is valuable to report data on each judicial service with the same standards and details for all jurisdictions and areas. In doing so, on the one hand, a security map of the country can be drawn, and on the other hand, the distribution of human resources, which competencies are more easily found in which regions and social behavioural cultures may be determined. This, in turn, forms the basis for making decisions that directly affect enterprise, production and productivity. When seen in this context, it is of significance to publish this information in accordance with the strategic objectives of Türkiye and by grouping the subjects related to each objective.

For example, while the data on disputes related to intellectual and industrial property rights give an indication of invention and innovative thinking and the flourishing of enterprises in the region, disputes between partners allow us to understand the culture of joint entrepreneurial culture. However, this information should be compiled in a meaningful way. For example, the issue of mitigation of crime or reduction due to good conduct provided according to the relevant article of the law should not be presented separately, but in a complete manner.

A separate statistical report should be published for exceptional cases and situations. Separate data sets should be published for those that fall below and above the average or median, and information that allows a more detail analysis of these case should be provided. These exceptional cases should be analysed in detail and the most extreme and exemplary cases should be analysed by year, and should include the case history and information for each phase.

## **Case Files Should be Provided with a Unique Reference Number and Should Indicate the Year**

A system should be introduced to judicial statistics which gives the work in judicial authorities by year; the work for which statistics are prepared should be separated according to their nature, and the phases of first instance and appeal should be given both one after the other and as a whole, to make it easier to make inferences by bringing them together.

The practice of assigning a new reference number to a case file by each judicial authority which receives the file should end. When a case that has been revoked by way of appellate, it is given a new case reference number as if it has just been filed, even though it has been years since it was first filed – thus, concealing the fact that the cases have been pending for years.

A single and unique case file number should be created for each case arriving before judicial authorities, and the reference number should include the year and month of referral, the region, city and courthouse in which it was filed and the serial number indicating filing, and any indication of specialisation (if it may be the case).

As an example, if the 35657th case filed at the Istanbul Çağlayan Courthouse in June 2024 is an intellectual property rights trademark case, the file number should be 2024/06/01/34/01/35657/FHMA/ and this number should never change. At the end of the number, suffixes such as 01ISTNF33(1) or YAR12(1) should be added to indicate the phase and competent authority of the case. The unique number assigned to a case file should then never be changed again and statistical data, especially related to durations, should be based on this number and the date it was assigned.

## **Phases of Service, Objectives and Implementation**

The statistics are based on archaic criteria, which are analysed on the assumption that the incoming case files are finalised at most in the year to follow, and do not contain sufficient information and depth to ensure understanding of the situation in the judiciary, to plan economic and social

relations, and to measure and evaluate how effectively the judiciary fulfils its duties, in other words, its performance.

A record should be kept of the time spent by related and relevant members and units of the judiciary concerning such aspects such as preparing files, writing petitions, hearings, making interim and final decisions, and this information should be accessible for each file separately and in the desired detail by districts, provinces, development and appeal regions at the national level.

For each type of service of the judiciary, the standard foreseen processes, phases, procedures to be performed, the workload, time and targeted periods under the responsibilities of the parties, their attorneys, judges and prosecutors, experts and other officials should be defined, and statistical data should show the realisation/implementation of these standards and targets.

Information should be provided on the workload for both mandatory (e.g. lawsuit, defence, second lawsuit, second response, appeal) and non-mandatory procedures including statistics on the number of mandatory and voluntary petitions (such as statements), their nature and number of pages, and the time allocated for them.

In order to estimate the work and workload of the courts, information such as standard template interim decisions, decisions on injunctions and determination interim decisions, online and in-person hearings, missives/warrants, first, second and third expert reports and additional reports, petitions for appeal and average grounds of appeals should be compiled and published.

In this way, by allowing a comparison between the targets and the actual implementation, the root causes of problems encountered can be determined based on data and a basis can be established for efforts to develop proposals for solutions.

The case files in the judiciary should be analysed starting from the moment they first entered the judicial system, not according to whether they are finalised or transferred within the year according to their current service unit. Justice statistics should be reported in a way to include information on when

the cases were first filed and each meaningful phase in the judicial process (duty, competence, transfer to another competent unit, appeal, revocation, appeal, approval, etc.). Thus, information such as how many case files in total are in the system, how long they have been in the system, and how long they have remained at each phase should be publicly available. Without this information, it would be wrong to make inferences about the duration of case files within service units and statistics should not publish such inferences.

The duration and efficiency of the issuance of interim injunction decisions is not only an important performance criterion (as it reveals how fast and efficient the judicial service units are regarding the dispute before it), but also proves how the judiciary performs its usual function for society. Therefore, information such as the number of case files in which interim injunction decisions were requested, how many of them were accepted or rejected and how long these decisions took, the value of the subject of the dispute, whether there was a guarantee if a decision of acceptance was issued, and the nature and amount of the guarantee, whether there was reconciliation and settlement in the cases in which an injunction decision was issued, and how long it took for the case to become final would be presented to the public.

The types of decisions made in the cases, the nature of the decisions (acceptance, rejection, lack of jurisdiction, lack of jurisdiction, judicial remedy) and the reasons for these decisions (statute of limitations, loss of rights, lack of capacity, etc.) should be shared as separate statistical data. A criterion such as “rejection due to lack of evidence” should not be used. If such a criterion is used, it is necessary to use another strange criterion such as ‘acceptance due to finding of subsidence’, which confirms our opinion in this regard.

For your kind information,

**Better Justice Association**