

(INFORMATION NOTE BY COURT OF CASSATION OF REPUBLIC OF TURKEY)

(WORKSHOP I, THE RIGHT TO EFFECTIVE REMEDY BEFORE A COURT)

(12 September 2019, Paris)

As we all know, one of the most important warrants of human rights depends upon an independent, impartial, transparent and accountable judicial system. The importance of independent and impartial judiciary in terms of human rights as it is expressed in Universal Declaration of Human Rights in 1948 advanced to a contractual commitment level with the International Covenant on Civil and Political Rights in 1966. As we all know, there has been a considerable accumulation of knowledge regarding rules, standards and other requirements of independent and impartial judiciary as a result of intergovernmental meetings at the international and regional level, particularly European Convention on Human Rights.

Today, we should focus on the questions “What do we, as judges, do about a well-functioning judicial system?” “Or what should we do?” Of course, these questions are also crucial in terms of access to judiciary. In this regard, it is emphasized in the Bangalore Judicial Principles of Judicial Conduct that “The importance of a competent, independent and impartial judiciary to the protection of human rights... depends upon the proper administration of justice”. Moreover, it is stated in the same principles that judges are responsible for proper functioning of the judiciary both individually and collectively. To be more precise, although the support of the legislative and executive branch is necessary in some cases, we, judges are responsible for a well-functioning judicial system.

It is also expressed in the Bangalore Judicial Principles of Judicial Conduct that public confidence in the judicial system and in the moral authority and integrity of the judiciary is of the utmost importance in a modern democratic society. The most critical point here is how to ensure the public confidence. Of course, ethics takes place on the top. Firstly, weas judges should have ethical principles and rules as a guide. In the last quarter of 2017, the Court of Cassation in cooperation with UNDP formulated and adopted a whole of three different codes of conduct for judges, prosecutors and staff simultaneously and in harmony with each other in a democratic and participatory way.

Transparency in the judiciary is another subject as important as ethics in ensuring public confidence. We can see that some aspects of transparency is mentioned in international documents. Even if the first thing that springs to mind is the public access to court hearings, this subject constitutes only a small part of transparency in the judicial process. Until recently, transparency in the judiciary had not been comprehensively defined in all aspects in an international text.

We, as the Court of Cassation, made an attempt in order for transparency in the judicial process to be defined and for its content to be determined with the cooperation

of UNDP 6 years ago. Over the last three years, we have increased our efforts on that issue, and prepared the "İstanbul Declaration on Transparency in the Judicial Process" and the "Measures for the Effective Implementation of the İstanbul Declaration" with the participation of chief justices of 37 countries from five continents. A content rich text has been created with the support of the highly esteemed international specialists. Most recently, with the initiative of the Court of Cassation, a resolution including the invitation of the UN Member States to adapt the İstanbul Declaration and the Implementation Measures into their domestic legal systems was adopted in the Economic and Social Council on 23 July 2019. In this way, the İstanbul Declaration has also become a reference text of the justice policies which embrace equality as well as the Bangalore Principles of Judicial Conduct. The İstanbul Declaration is a text which has emerged as a result of the dialogue among judges. Therefore, the meetings held at the regional or international level are of utmost importance and I would like to take this occasion to extend my gratitude to the Chief Justices of the Supreme Court of France for arranging this great organization.

The İstanbul Declaration includes invaluable guiding principles and detailed explanations and standards in terms of access to justice. We, as the Court of Cassation, also strive to provide the best examples of the İstanbul Declaration. I would like to give some examples regarding the things that we have done:

1-We publish all of our decisions on our website without exception.

2-We train students through law clinics, and also we train students which will give education on this subject.

3-We are able to develop more improved relations with the media through the press office that we established.

4-Our legal system enables the requests for legal assistance even in the files which are at the appeal stage.

5-We conduct periodic satisfaction surveys for lawyers in order to provide a better judicial service.

6-When needed, we provide translation and interpretation facilities to the litigants, free of charge.

7-Our system for allocating cases operates transparently and is based on automation.

8-Litigants and lawyers can access to the information about their cases electronically.

All the details of the articles that I stated are included in the İstanbul Declaration and Implementation Measures which are built upon 15 main principles.

Court of Cassation of Republic of Turkey