



REPUBLIC OF TÜRKİYE
THE GENERAL PROSECUTION OFFICE
OF THE SUPREME COURT OF APPEAL

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Ahlatlıbel Çankaya / ANKARA/ TÜRKİYE

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CONTENTS

FOREWORD

1. History
2. Mission
3. Vision
4. Main Principles
5. Ethical Values
6. Prosecutorial Organisation in Türkiye
 - 6.1 Prosecutorial Organisation at First Instance Courts
 - 6.2 Prosecutorial Organisation at Regional Courts of Appeal
 - 6.3 General Prosecution Office of the Supreme Court of Appeal
 - 6.3.1 General Prosecutor of the Supreme Court of Appeal
 - 6.3.2 Deputy General Prosecutor of the Supreme Court of Appeal
 - 6.3.3 Public Prosecutors at the General Prosecution Office of the Supreme Court of Appeal
 - 6.3.4 Duties and Powers
 - 6.3.4.1 Appeal Review
 - 6.3.4.2 Review of Extraordinary Appeal
 - 6.3.4.3 Reversal of the Judgment in Favor of Law
 - 6.3.4.4 Investigation of High Level Public Officers and Representing the Prosecution Authority
 - 6.3.4.5 Duties Relating to Political Parties
7. International Relations
 - 7.1 Working Forum for the Balkan States' General Prosecutors
 - 7.2 Council of Prosecutor Generals of the Organisation of Turkic States
8. Training Activities

9. Accessibility

FOREWORD



Supreme Court of Appeal is designated as "Supreme Court" according to Article 154 of the Constitution of the Republic of Türkiye. The General Prosecution Office of the Supreme Court of Appeal has been organized within the Supreme Court of Appeal. It fulfils an important duty in ensuring the unity of implementation and criminal justice in the judiciary. Legal qualifications of the public prosecutors of the General Prosecution Office increase after they are appointed depending on their specialisation on a certain field. Their experience leads the jurisprudence in the field of criminal law. The General Prosecution Office of the Supreme Court of Appeal, which has an effective and decisive role in ensuring the unity of implementation, functions almost like a school in the Turkish judiciary.

The General Prosecutor, the Deputy General Prosecutor, and 200 Prosecutors have been working in the Supreme Court of Appeal's General Prosecution Office as of today, though the number of public prosecutors' changes from time to time.

The General Prosecution Office of the Supreme Court of Appeal performs an important duty in resolving judicial disputes by efficient and effective methods within a reasonable time, in a manner that is impartial, independent, and in reliable adherence to human dignity, in order to satisfy society's sense of justice, in the light of human rights, the rule of law, universal jurisprudence, and the Turkish Constitution and national laws.

Within the scope of in-service training activities carried out in coordination with the Ministry of Justice and the Justice Academy of Türkiye, the General Prosecution Office of the Supreme Court of Appeal provides training to judges and public prosecutors, who are newly appointed in the profession and candidate judges and prosecutors through the consultancy and

presentations of the expert prosecutors in a certain field. The General Prosecution Office shares its knowledge and experience with the participants in the interest of justice in accordance with the common goals of justice.

With this booklet, it is aimed to provide general information about the structure, duties, and activities of the General Prosecution Office of the Supreme Court of Appeal with the purpose of explaining institutional functions of the Office within the Turkish Judicial System. Brief information is also presented about its history, mission and vision, as well as appointment, performance and training of prosecutors, and the prosecutorial organisation at first instance level and at the regional courts of appeal.

In addition, this booklet aims to provide information on the international relations of our Office, which is the member of the International Association of Prosecutors and Council of Prosecutor Generals of the Organisation of Turkic States, with foreign judicial authorities and international organisations. More detailed information is available on the website of the General Prosecution Office of the Supreme Court of Appeal at www.gpo.gov.tr

I would like to express my pleasure to present this booklet, which contains information on the organisational structure and functions of the General Prosecution Office of the Supreme Court of Appeal.

Yours Sincerely,

Bekir Şahin

General Prosecutor
of the Supreme Court of Appeal
Republic of Türkiye

1. HISTORY

The Supreme Court of Appeal(Court of Cassation) was founded as “Meclisi Vala-yı Ahkam-ı Adliye” (Higher Assembly of Judicial Verdicts) during the Ottoman Empire by Sultan Mahmut II in 1837; then during the reign of Sultan Abdulaziz the Court of Appeal was created in 1868 as “Mahkeme Meclis-i Ahkam-ı Adliye” (Court Assembly of Judicial Verdicts); and the Court of Appeal was renamed as “Yargıtay” (Supreme Court of Appeal, in other words “Court of Cassation”) by the Law in 1945.

The General Prosecution Office of the Supreme Court of Appeal was first organized in 1879 within the structure of the Supreme Court of Appeal, which is the highest court of appeal in the field of judicial jurisdiction, under the name of "Müddeiumumîlik" (the Prosecutor's Office).



2. MISSION

Our mission is to make contributions to resolve judicial disputes by efficient and effective methods within a reasonable time, in a manner that is impartial, independent, and in reliable adherence to human dignity, in order to satisfy society's sense of justice and also to uniformly apply the law and foster the realisation of criminal justice all across the country, in light of human rights, the rule of law, universal jurisprudence, and the main principles of the Turkish Constitution and national laws.

3. VISION

Our vision is to ensure criminal justice throughout the country to contribute to the realisation of the judicial activities in accordance with the requirements of the rule of law, and to act as a respectable and reliable Prosecution Office in both national and international arenas.

4. MAIN PRINCIPLES

- Respect for human dignity and human rights

- Independence
- Impartiality
- Equality
- Commitment to universal jurisprudence
- Commitment to Atatürk's principles and revolutions
- Commitment to the rule of law and democratic values
- Reliability
- Expertise
- Accessibility
- Commitment to ethical principles
- Consistency

5. ETHICAL VALUES

Increasing public confidence in the judiciary requires that the public prosecutors of the Supreme Court of Appeal have high ethical values besides other actors of the judiciary. To this end, ethical principles specific to the public prosecutors of the Supreme Court of Appeal have been established, taking into account “*the European Prosecutors' Code of Ethics and Conduct*”, also known as the Budapest Principles.

Code of Conduct for Public Prosecutors was adopted unanimously on 19 October 2017 by the public prosecutors of the Supreme Court of Appeal (Court of Cassation) convened under the chairmanship of the General Prosecutor of the Supreme Court of Appeal. The principles set forth relate to professional behavior, independence, impartiality, behaviors in criminal proceedings and in private life. These principles were declared to the public by publication on the official website of the General Prosecution Office of the Supreme Court of Appeal.

6. PROSECUTORIAL ORGANISATION IN TÜRKİYE

Türkiye has three tier judicial system and prosecutorial organisation.

6.1 PROSECUTORIAL ORGANISATION AT FIRST INSTANCE COURTS

There are Chief Public Prosecutor's Offices in all the provinces and towns of a certain size.

The public prosecutor's office where the crime is committed has authority to conduct criminal investigation. The public prosecutor conducts the investigation directly or together with the law enforcement under his/her command. During the investigation all the evidence that is in favor and against the suspect is collected by the public prosecutor; according to the nature of the evidence collected, the public prosecutor decides whether or not to open a public case about the suspect.

The public prosecutor also represents prosecution authority during the hearings.

The public prosecutor examines decisions of the criminal courts and some decisions of the civil courts within the jurisdiction where he/she is authorized. After this examination, if the public prosecutor finds a violation of any law, he/she has authority to apply for an appeal review.

The appointment, promotion and disciplinary procedures of the public prosecutors are carried out by the Council of Judges and Prosecutors, which has 13 members composed of high judicial members, first-degree judges, lawyers and academics under the presidency of the Minister of Justice and works as two Departments.

After completing a period as prosecutor candidates, public prosecutors are accepted to the profession by the Council of Judges and Prosecutors and are appointed as first instance public prosecutors. A first instance public prosecutor's first place of duty is determined by lot.

6.2 PROSECUTORIAL ORGANISATION AT REGIONAL COURTS OF APPEAL

The Regional Courts of Appeal have been operating in fifteen regions of Türkiye. The parties to the case and first instance public prosecutors have the right to apply for appellate review at the Regional Court of Appeal against decisions made by first instance courts; decisions of courts that are appealed are examined by the relevant Criminal Chamber of the Regional Courts of Appeal.

In cases where the appellate review includes hearings, public prosecutors working at the Regional Courts of Appeal represent the prosecution authority during the hearings. In cases where review is conducted without hearings, after the relevant Criminal

Chamber of the Regional Court of Appeal has made its decision, the public prosecutor examines the case and evaluates whether or not to apply for appeal review at the Supreme Court of Appeal.

The appointment, promotion, and disciplinary procedures of the public prosecutors of the Regional Court of Appeal are carried out by the Council of Judges and Prosecutors.

Public prosecutors of the Regional Court of Appeal are appointed by the Council of Judges and Prosecutors, taking into account professional seniority and experience among judicial judges and public prosecutors.

6.3 GENERAL PROSECUTION OFFICE OF THE SUPREME COURT OF APPEAL

The General Prosecution Office of the Supreme Court of Appeal which has a duty to examine decisions of courts that are appealed, have also other judicial and administrative duties under different laws.

6.3.1 General Prosecutor of the Supreme Court of Appeal

The General Prosecutor of the Supreme Court of Appeal is selected for a four year term by the President of the Republic of Türkiye from five candidates, all of whom are five-year experienced members of the Supreme Court of Appeal and who have received a majority of votes cast by secret ballot of the members of the General Assembly of the Supreme Court of Appeal. The General Prosecutor can be re-elected.

6.3.2 Deputy General Prosecutor of the Supreme Court of Appeal

The Deputy General Prosecutor of the Supreme Court of Appeal fulfills his assigned duties and substitutes for periods of absence of the General Prosecutor of the Supreme Court of Appeal.

The election process of the Deputy General Prosecutor is the same as that of the General Prosecutor.

6.3.3 Public Prosecutors at General Prosecution Office of the Supreme Court of Appeal

Public prosecutors working at the Supreme Court of Appeal, on behalf of the General Prosecutor, examine cases on appellate review, apply for the reversal of judgments in

favour of law, and apply for extraordinary appeal of cases submitted to them. In addition, they perform other duties assigned to them by the General Prosecutor.

Public prosecutors of the Supreme Court of Appeal are appointed by the Council of Judges and Prosecutors, taking into account professional seniority and experience among judicial judges and public prosecutors. There is no term limit for their working duration.

6.3.4 Duties and Powers

6.3.4.1 Appeal Review

Where appeals are lodged against the decisions of the criminal courts of first instance after the review of regional courts of appeal, those cases are sent to the General Prosecution Office of the Supreme Court of Appeal.

Cases are examined by specialized prosecutors working at the relevant criminal chambers allocated according to the types of offenses. Prosecutors prepare a judicial opinion for each case at the end of their review. After the judicial opinion, the cases are sent to the relevant Criminal Chambers of the Supreme Court of Appeal. The task of preparing these judicial opinions constitutes the predominant part of the work of the General Prosecution Office of the Supreme Court of Appeal.

6.3.4.2 Review of Extraordinary Appeal: “Objection”

After the appeal review, the Criminal Chambers of the Supreme Court of Appeal send the cases together with their decisions to the General Prosecution Office of the Supreme Court of Appeal. The General Prosecution Office can apply, ex officio or upon request, an “objection” against a decision of the Criminal Chambers of the Supreme Court of Appeal, in order to eliminate irregularities in a judgment and to ensure harmony in the implementation of legal provisions.

Such a request for extraordinary appeal is made by the General Prosecutor.

6.3.4.3 Reversal of the Judgment in Favor of Law

Upon a request of the Ministry of Justice or ex officio, the General Prosecutor can apply to the relevant Criminal Chambers of the Supreme Court of Appeal for the reversal of a judgment in favor of law, which becomes final without an appeal. Such an appeal is undertaken in order to eliminate irregularities in the lower court’s ruling.

6.3.4.4 Investigation of High-Level Public Officers and Representing the Prosecution Authority

The General Prosecution Office of the Supreme Court of Appeal is mandated to conduct investigations about high level public officers, prepare indictments, decide whether or not to prosecute, represent the prosecution at hearings, and resort to legal remedies.

The General Prosecution Office of the Supreme Court of Appeal:

Conducts the investigation and prepares indictments for offences committed during their time in office by high level public officers such as:

- Chief of General Staff
- The Director of Administrative Affairs of the Presidency
- The Secretary-General of the Turkish Grand National Assembly
- Deputy Ministers
- The Director of the National Intelligence Organisation
- Governors
- The Commanders of the Land, Naval and Air Forces and the General Commander of the Gendarmerie
- Generals and Admirals
- The Chief Ombudsman and Ombudsmen

Prepares indictment or decides not to prosecute after finalizing the case transmitted with a summary of proceedings as a result of investigation on general provisions in case of personal offences within the jurisdiction of heavy penal courts by high level public officers such as:

- The Presidents of the Constitutional Court, the Supreme Court of Appeal, and the Council of State
- The General Prosecutor of the Supreme Court of Appeal and the Council of State
- The members of the Constitutional Court and Members&Chamber Presidents of the Supreme Court of Appeal and the Council of State

Represents the prosecuting authority at hearings when the Constitutional Court acts as “*Supreme Court*” for proceedings concerning high level public officers such as;

- The President of the Republic of Türkiye
- The President of the Turkish Grand National Assembly
- The Members of the Council of Ministers
- Presidents and Members of the High Courts
- Chief of General Staff
- The Commanders of the Land, Naval and Air Forces and the General Commander of the Gendarmerie

Represents the prosecution authority at the hearings regarding;

- The Presidents of the Constitutional Court, the Supreme Court of Appeal and the Council of State
- The General Prosecutors of the Supreme Court of Appeal and the Council of State
- The members of the Constitutional Court and members and chamber presidents of the Supreme Court of Appeal and the Council of State
- Members of the Council of Judges and Prosecutors
- The Director of Administrative Affairs of the Presidency
- The Secretary-General of the Turkish Grand National Assembly
- Governors
- Deputy Ministers
- The Chief Ombudsman and Ombudsmen
- First Class Judges and Prosecutors
- The Director of the National Intelligence Organisation

6.3.4.5 Duties Relating to Political Parties

The General Prosecution Office is responsible for keeping the registration file of the political parties. It monitors the statutes and programs of the political parties to ensure their compliance with the provisions of the Constitution and the Law.

It also monitors the activities of political parties and, if necessary, conducts investigations. If the statutes and programs of the political parties and their activities are found to be incompatible with the provisions of the Constitution and the Law, the General Prosecution Office is also empowered to file a lawsuit for a political party at the Constitutional Court.

The General Prosecution Office of the Supreme Court of Appeal monitors the activities of the political parties by taking into consideration their objectives within the framework of freedom of political party formation and association.

When it is detected that the statutes, programs and activities of the political parties are not compatible with the Constitution and the laws, the General Prosecution Office takes legal action far from guardianship perspective in accordance with the requirements of democratic life with due respect for the national will.

7. INTERNATIONAL RELATIONS

The General Prosecution Office of the Supreme Court of Appeal organizes study visits at home and abroad, participates in meetings abroad and organizes international meetings with the aim of improving relations with prosecuting and judicial authorities

in foreign states and with international organisations, thereby exchanging information and strengthening cooperation.

Further, it hosts foreign delegations and provides information about the judicial and prosecution system in Türkiye as well as the duties and powers of the General Prosecution Office of Supreme Court of Appeal.

The General Prosecution Office of the Supreme Court of Appeal has signed “*Memorandums of Understanding*” with the General Prosecution Offices of numerous countries in order to strengthen international cooperation and share experiences.

The General Prosecution Office of the Supreme Court of Appeal has been a member of the International Association of Prosecutors since 2014. It participates in annual conferences of the International Association of Prosecutors regularly.

7.1 WORKING FORUM FOR THE BALKAN STATES’ GENERAL PROSECUTORS

During the 1st Working Forum for the Balkan States’ General Prosecutors which was held in İzmir on 16-18 October 2019 with the joint initiative of the General Prosecution Office of the Supreme Court of Appeal of the Republic of Türkiye and the Prosecutor's Office of the Republic of Bulgaria to establish a permanent legal platform among General Prosecution Offices of the Balkan States, “Joint Conclusion on the Establishment of the Working Forum” was approved with the participation of General Prosecutors from Albania, Bosnia Herzegovina, Bulgaria, Montenegro, Kosovo, Romania and their delegations.

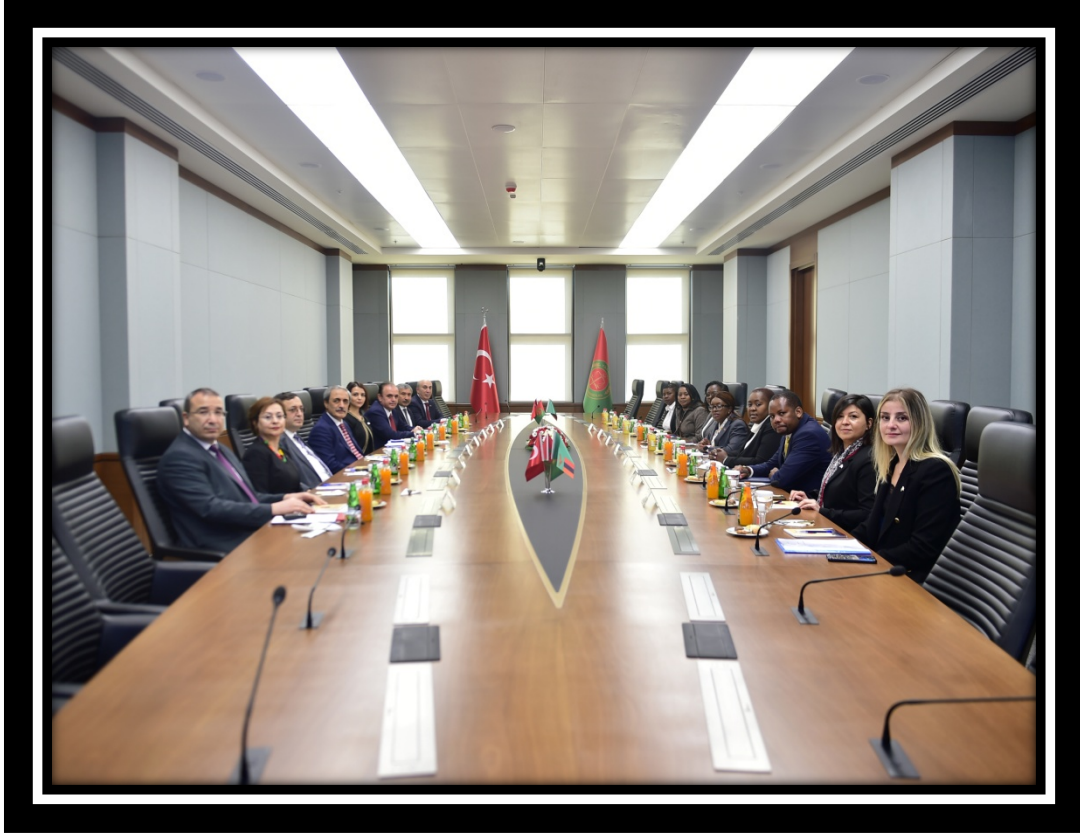
The Forum aims to strengthen the judicial cooperation between General Prosecution Offices of the Balkan region in order to fight against trans-boundary crimes such as human trafficking, migrant smuggling, drug trafficking and especially terrorism, which all have international aspect. It was aimed for the General Prosecutors of the Balkans States to convene in a Balkan State every year in order to share their problems and good practices within the framework of a particular theme.

2nd Working Forum for the Balkan States' General Prosecutors was held in Bulgaria in 2021 and 3rd Working Forum was held in Romania in 2022.

7.2 COUNCIL OF PROSECUTOR GENERALS OF THE ORGANISATION OF TURKIC STATES

As a result of the process initiated with the initiatives of Mr. Bekir Şahin, General Prosecutor of the Supreme Court of Appeal of the Republic of Türkiye and Mr. Kamran Aliyev, General Prosecutor of the Republic of Azerbaijan who both share the same view on the importance of establishing a permanent consultation and working

mechanism in order to develop and strengthen cooperation between the Prosecutors General Offices of Turkic Speaking States; the Establishment Document of the Council of Prosecutors General of the Organisation of Turkic States was signed in Baku on 1 November 2021 with the participation of Mr. Kurmankul Zulusev, the Prosecutor General of the Kyrgyz Republic, Mr. Nigmatilla Yuldoshev, the Prosecutor General of the Republic of Uzbekistan, and Mr. Berik Asilov, First Deputy Prosecutor General of the Republic of Kazakhstan. Mr. Cheol-Kyu Hwang, President of the International Association of Prosecutors (IAP), and Executive Officers of the IAP as well as authorities from the Organisation of Turkic States attended the signing ceremony of the Establishment Document; and also, the Hungarian representative participated as an observer.



8. TRAINING ACTIVITIES

In-service training programs for judges&public prosecutors and pre-vocational training programs for judge&prosecutor candidates is the primary duty of the Justice Academy of Türkiye.

General Prosecution Office of the Supreme Court of Appeal, in cooperation with the Council of Judges and Prosecutors and the Justice Academy of Türkiye, provides a significant contribution to improve efficiency and quality of judicial activities in Türkiye.

Under the supervision of the public prosecutors of the General Prosecution Office, in-service training programs for judges&public prosecutors and pre-vocational training programs for prosecutor candidates are organized at the General Prosecution Office.

Evaluation meetings are held at the end of each year for public prosecutors of the General Prosecution Office. Outcomes achieved in the year-end work and meetings are compiled and published in book-form for the benefit of the practitioners.

In addition, public prosecutors of the Supreme Court of Appeal contribute as instructors/trainers in their areas of expertise in the training activities organized by the Justice Academy of Türkiye, Universities, Vocational Higher Schools of Justice and other institutions.

9. ACCESSIBILITY

Through the official website of the General Prosecution Office of the Supreme Court of Appeal at www.yargitaycb.gov.tr, the interested parties may have access to information about:

- The status of their files and the judicial opinions prepared
- Political parties and political party membership status
- The case-law of the Supreme Court of Appeal