

CONTRIBUTIONS OF DECLARATION OF ETHICS FOR TURKISH JUDICIARY TO THE RIGHT TO A FAIR TRIAL IN TERMS OF EFFECTIVE PARTICIPATION IN TRIALS

Yargılamaya Etkili Katılım Açısından Türk Yargı Etiği Bildirgesi'nin Adil Yargılanma Hakkına Katkıları

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Abstract: A fair trial forms the foundation of all laws and procedures applicable in legal cultures. The European Court of Human Rights (ECtHR) defines a fair trial as a foundational norm of the rule of law in democratic societies and strives to guarantee the proper administration of justice. The right to a fair trial is enshrined in Article 6 of the European Convention on Human Rights (ECHR). One of values protected by the right is the right to participate effectively in a trial. For effective participation in a trial to occur, a hearing must be conducted, and a defendant must have the means and opportunity to express himself/herself. These opportunities must be afforded to defendants by the courts. A court must adhere to ethical rules as well as procedural or substantive rules to ensure a fair trial. The Council of Judges and Prosecutors published "Declaration of Ethics for Turkish Judiciary" on March 6, 2019. Judicial ethics determine how judicial services should be carried out fairly for specific purposes. The purpose of the article is to analyze the contributions of the principles outlined in "Declaration of Ethics for Turkish Judiciary" to the right to a fair trial in terms of effective participation in a trial.

Key Words: Right to a Fair Trial, Declaration of Ethics for Turkish Judiciary, Public Administration, Effective Participation In Trials, Human Rights

Öz: Adil yargılanma, her hukuk kültüründe uygulanabilir tüm prosedürlerin ve kanunların bel kemiğini oluşturmaktadır. Avrupa İnsan Hakları Mahkemesi, adil yargılanmayı demokratik toplumlarda hukukun üstünlüğünün temel bir ilkesi şeklinde tanımlar ve adalete ulaşmak için düzgün bir yönetimi güvence altına almaya çalışır. Adil yargılanma hakkı, Avrupa İnsan Hakları Sözleşmesi'nin 6. maddesinde tanımlanmıştır. Bu hakkın koruduğu değerler arasında yargılamaya etkili katılım hakkı yer almaktadır. Yargılamaya etkili katılımın söz konusu olabilmesi için duruşmanın yapılabilmesi, sanığın kendini ifade edecek araçlara ve imkâna sahip olması gerekmektedir. Bu durum mahkeme tarafından sanığa sağlanmalıdır. Mahkemenin adil yargılama yapabilmesi için usule ve esasa ilişkin kurallara uymasının yanı sıra etik kurallara da uygun davranması gerekir. Hâkimler ve Savcılar Kurulu'nun 6 Mart 2019 tarihinde Türk yargı mensuplarına yönelik mesleki etik ilkeleri yayımlamıştır. Yargı etiği, yargı hizmetlerinin belirli amaçlar ile adil bir şekilde nasıl yürütülmesi gerektiğini belirler. Bu makalenin amacı Türk Yargı Etiği Bildirgesi'ndeki ilkelerin yargılamaya etkili katılım açısından adil yargılanma hakkına katkılarını ele almaktır.

Anahtar Kelimeler: Adil Yargılanma hakkı, Türk Yargı Etiği Bildirgesi, Kamu Yönetimi, Yargılanmaya etkili katılım, İnsan Hakları

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INTRODUCTION

The right to a fair trial is considered a vital human right. Human rights are universal, and the right to a fair trial creates an essential component of universal rights, including the right of people to be tried by neutral and fair courts. This right is clearly stated in Article 6 of the ECHR. Fundamentally, the right to a fair trial was created to guarantee individuals an impartial, independent and public hearing. It serves as a foundational element of democratic societies, ensuring the rule of law and creating an environment where everyone is equal before the law. Additionally, it establishes justice in punishing criminals and respects the presumption of innocence. This right upholds democratic values and human rights and can be found in national laws, international documents, and regulations¹. Over time, it has become a fundamental and universal human right. Turkey has constitutionally recognized this right, mentioning it in Article 36 of the Turkish Constitution (1982). The right is strictly connected with democracy and the rule of law. In Article 6 of the ECHR, each person is entitled to a fair trial within a reasonable time, by legal, neutral and independent courts, with decisions made in public. Moreover, individuals accused of crimes should be promptly and thoroughly informed about the nature and reasons for the accusation. They should also be given sufficient time and opportunity to prepare their defense (with or without a lawyer). Furthermore, they have the right to request and obtain evidence to prove their innocence and to use an interpreter free of charge if they cannot speak the language of the court².

The rights and principles encompassed within this framework ensure the freedom to pursue justice³. A fair trial is broadly defined as a fundamental component of the concept of separation of powers, determining the qualities that constitute independence and freedom and give the judicial branch, one of the three branches, a distinct character. This right can be described as a protection and security provided to the public against the jurisdiction of the country. It applies to civil and criminal cases and related proceedings. Article 6§1 is equally applicable to civil and criminal cases, while Article 6§2 and 6§3 primarily concern criminal proceedings. Ethics and the application of the law are considered natural complements to Article 6. For instance, rights of access to courts and to legal assistance are guarantees established in the judicial conscience, stemming from a comprehensive interpretation of Article 6⁴. The notion of "fair hearing" in the first paragraph of Article 6 is directly connected with the presumption of innocence in Article 6§2 and the minimum rights of individuals accused of crimes in the third paragraph. The rights granted to

¹ European Convention on Human Rights - Article 6:

https://www.echr.coe.int/documents/d/echr/convention_tur

² Esra Bahar, Türkiye Anayasa Mahkemesi Kararları Işığında "Adil Yargılanma Hakkı", *Adalet Dergisi*, 2022, p. 255

³ Şeref Ünal, *Avrupa İnsan Hakları Sözleşmesi ve İnsan Haklarının Uluslararası İlkeleri*, TBMM Basımevi, Ankara, 2001, p. 165.

⁴ Christos Rozakis, *The Right to A Fair Trial in Civil Cases*, *Judicial Studies Institute Journal*, 2004, p. 96-97.

the accused in paragraphs 2 and 3 are concrete manifestations of the equitable trial mentioned in paragraph(§) 1⁵. Although the guarantees contained in Article 6§2 and 6§3 of the ECHR are rights granted to individuals accused of crimes, they can be applied in private law cases when necessary. As no specific list of rights is envisaged for civil rights and liability cases, national judicial authorities have a "wider margin of appreciation" in civil rights and liability cases compared to criminal cases⁶⁷.

On March 14, 2019, with the Declaration of Ethics for the Turkish Judiciary, Türkiye made a profound commitment to protecting human rights in the Universal Declaration of Human Rights. Especially emphasizing the universal protection of fundamental freedoms, Türkiye recognized the common heritage shared in the principles of respecting freedoms and the rule of law, thereby guaranteeing the right to a fair trial⁸. Main principles of judicial ethics revolve around "principle of independence," which dictates that members of the judiciary⁹ (judges and public prosecutors) should not be subject to external influences or pressures, and "principle of impartiality," which stipulates that members of the judiciary should not succumb to personal biases originating from within their ranks. These principles are intricately related to the right to a fair trial. Members of the judiciary are obligated to carry out their duties correctly within the framework of the principles and procedures specified by law. They must adhere to the principles of honesty, ensuring that their actions do not undermine the trust individuals place in the court and the state's judicial function. Judges should refrain from yielding to personal biases and must make decisions in accordance with the principles of universal equality, disregarding factors such as race, gender, economic status, social status, and religion. These issues underscore the importance of selecting competent and qualified individuals as members of the judiciary. Such individuals should possess high values including knowledge, wisdom, experience, and a profound respect for humanity and nature, all of which are essential for the profession of decision-making. This article aims to evaluate the significance of the right to effective participation in trials within the context of the right to a fair trial. In addition, it will explore the value of judicial ethics, which serve as the minimum tools for ensuring the fairness of decisions made by courts. Additionally, it will analyse the impact of the Declaration of Ethics for the Turkish Judiciary on ensuring a fair trial, particularly concerning effective participation in trial proceedings.

⁵ Albert and Compte v. Belgium, Application Number: 7299/75 7496/76, 10.02.1983, § 30

⁶ Dombo Beheer B.V. v. Netherlands, Application Number: 14448/88, 27.10.1993, § 32.

⁷ Sibel İnceoğlu, Adil Yargılanma Hakkı, Anayasa Mahkemesine Bireysel Başvuru El Kitapları Serisi – 4. Ankara, MRK Baskı ve Tanıtım Hizmetleri, 2018, p. 111-112

⁸ Türkiye Cumhuriyeti Yargıtay Başkanlığı, Yargıtay Yargı Etiği İlkeleri, Ankara, 2019.

⁹ In this article, the term "members of the judiciary" refers to judges and public prosecutors.

I.THE RIGHT TO EFFECTIVE PARTICIPATION IN TRIALS

The right to a fair trial is considered a cornerstone of legal systems, aiming to ensure that every person is treated fairly and equally throughout the trial process. Among these rights, the rights to be present at trials (or hearings) and to participate effectively in cases are crucial elements of direct involvement in trials. The right to be present at trials refers to individuals' entitlement to be physically present in court at every stage of their cases. Additionally, this right aids individual in effectively exercising their rights to defense and ensures transparency and fairness in the court process. It also allows individuals to directly participate in courts and influence cases. However, the right to be present at hearings does not always guarantee the right to effective participation in trials. The right to effective participation in trials encompasses the parties' right not only to be present at hearings but also to observe and involve in the proceedings¹⁰. It grants individuals the opportunity to actively participate in their cases, enabling them to present evidence, call witnesses, make a defense, and request legal representation. This right is essential for individuals to defend themselves and contributes to the administration of justice. Ensuring the protection and implementation of these rights is imperative for a democratic society. The state must uphold fairness and ensure a fair trial. This can be possible with the effective participation of parties in trials, which includes not only being present at hearings but also listening, following, and presenting arguments to support one's claims. This right, inherent in adversarial trials, can also be derived from the defendant's right to "self-defense" as outlined in Article 6§3 concerning criminal trials¹¹¹².

Countries have both negative and positive obligations regarding the right to a fair trial. The negative obligation, known as the obligation not to intervene, requires states to refrain from violating the right to a fair trial. This entails abstaining from specific actions or practices that could infringe upon the right. In contrast, the positive obligation involves taking proactive measures to defend people's exercise of their rights. This includes safeguarding people against violations by third parties. To fulfil this obligation, states may need to implement appropriate legislative frameworks and allocate sufficient resources. They should actively support and facilitate individuals' rights and create an enabling environment for the full realization of these rights. This positive obligation may necessitate significant steps to fulfil equitable obligations¹³. The freedom of the accused

¹⁰ Adem Çelik, *Adil Yargılanma Hakkı*, (Avrupa İnsan Hakları Sözleşmesine Türk Hukuku), Ankara, Adalet Yayınevi, 2007, p. 6.

¹¹ Abdullah Çelik, *Adil Yargılanma Hakkı Rehberi*, Anayasa Mahkemesi Yayınları Ankara, 2014, p. 112; İnceoğlu, 2018; Sibel İnceoğlu. *İnsan Hakları Avrupa Mahkemesi Kararlarında Adil Yargılama Hakkı*, Beta Basımevi: İstanbul, 2014.

¹² *Tarasov v. Ukraine*, Application No: 17416/03, 31/10/2013, § 98; *D.D. v. Lithuania*, Application No: 13469/06, 14/2/2012, § 119

¹³ Fatih Ulaşan. "The Decision of No Ground for Investigation On the Basis of Right Not to Be Labelled as Criminal and Presumption of Innocence in The Scope of Human Rights". *Süleyman Demirel Üniversitesi Hukuk Fakültesi Dergisi* 13/1,

is among the fundamental values that must be safeguarded, allowing individuals to defend themselves within the bounds of the law. Active participation in the case enables individuals to listen to statements from both parties and witnesses, ask pertinent questions, and uncover hidden truths. Failure to adequately participate in a case and discuss crucial evidence can constitute a violation of the right to a fair trial¹⁴. For instance, the ECtHR has ruled on cases where applicants were unable to attend hearings due to late notification of the hearing date. The ECtHR emphasized that theoretical guarantees of rights are insufficient and they must be effectively upheld in practice. Furthermore, individuals should have the opportunity to exercise their right to be present at a hearing, as stipulated in domestic law. Failure to notify a party of the case, denying them the chance to attend a hearing, is considered a violation of the right to a fair trial¹⁵. The first condition for the defendant to benefit from their right to defend themselves is the opportunity to appear before the court to present their defense. This is an integral part of the right to a fair trial and is generally understood as the defendant's right to be present at a hearing in a criminal case brought against him/her¹⁶. However, even if a person is in the country during the criminal case, an arrest warrant (due to the defendant not being found at his/her old address) and proceeding with the case in his/her absence may constitute a violation of the right to effective participation. The ECHR states that this situation cannot be reconciled with the efforts a country must make to ensure effective participation in the case under Article 6. If the defendant is not given the opportunity to be present, the rights of the accused cannot be said to be respected. Additionally, if a country does not make sufficient efforts to ensure the defendant's presence during his/her case, this might also constitute a violation of the right to effective participation¹⁷. The right for a defendant to be present at a hearing is not an absolute one. Special circumstances, such as the defendant disrupting the trial, hearing a witness whose identity is kept secret, or concerns about intimidating the witness, may be exceptions for this right. However, with technological advancements, alternative methods of obtaining defendants' statements have emerged. For instance, hearing the defendant via video conference or ensuring their participation using this method does not directly contravene the ECHR. Nevertheless, it should be analysed whether the use of this method serves a legitimate purpose and whether the regulations regarding

2023, p. 241-242; UN. Office of the High Commissioner for Human Rights/Centre for Human Rights, Human rights fact sheet, 1997, p.5

¹⁴ Barbera, Messeque and Jabardo v. Spain, Application No: 10590/83, 06.12.1988 § 89.

¹⁵ Yakovlev v. Russia, Application No: 72701/01, 15/3/2005, §§ 19 and 21; Groshev v. Russia, Application No: 69889/01, 20/1/2006, §§ 29-31.

¹⁶ Sejdivic v. Italy, Application No: 56581/00, 1/3/2006, § 81

¹⁷ Colozza v. Italy, Application No: 9024/80, 12/02/1985; Burak Ateş "Adil Yargılanma Hakkı Kapsamında Sanığın Duruşmada Hazır Bulunma Hakkı Ve Segbis Sistemi". Türkiye Adalet Akademisi Dergisi, 51, 2022, p. 449; Hüseyin Turan, İnsan Hakları Avrupa Sözleşmesinde ve Türk Hukukunda Adil Yargılanma Hakkı, Adalet Yayınları, 2016.

the presentation of evidence comply with the guarantees of the right to a fair trial in Article 6. In the case of Marcello Viola, the ECtHR first examined whether the application of video conferencing served a legitimate purpose¹⁸. The ECtHR stated that the use of video conferencing is in accordance with the principle of face-to-face communication. In the case of Marcello Viola, it was affirmed that taking the applicant's statement via video conferencing during the appeal phase did not violate the defendant's right to be present at hearings¹⁹.

II. JUDICIAL ETHICS

The term ethics or moral philosophy is derived from Greek words as 'ethike' and 'ethos' and the Latin word 'ethica,' and it started to emerge as a sub-discipline of philosophy. In short, ethics tries to investigate the roots of behavioral patterns that are considered moral in individual and social life and to deal with the issues related to these behaviors that are considered moral. In other words, ethics can be defined as the evaluation of the value dimension and its principles inherent in moral behavior or morality in general, from a philosophical perspective. In this respect, it is possible to define ethics as a kind of way of thinking, a theory of moral principles, or a discipline of philosophy that focuses on value and includes people's evaluative experiences. It encompasses everything that gives meaning to life. Ethics can be defined as a group of values advising people to do or not to do something. These values can be divided into four sections: the interests of society, duties, principles, and virtues. Duty can be considered a set of behaviors expected from a person's role. Virtues are the characteristics that characterize a good person. Principles are defined as the fundamental truths that shape human behavior. The interests of society are actions that benefit the general public. Considered as a whole, these four values determine the framework of ethical behavior²⁰. Ethics encompasses both a practical and theoretical dimension. Applied ethics, which emerged in the 1970s, entails the application of moral principles to real-world ethical dilemmas. This field arose due to the proliferation of concrete moral issues across various aspects of life, particularly in the latter part of the 20th century with advancements in technology, the creation of new job opportunities, and the rise of the middle class utilizing intellectual capacity. Rooted in normative and theoretical research methodologies, applied ethics addresses contemporary moral quandaries by analysing specific, recent, and contentious issues such as abortion, animal rights, and euthanasia. Its primary goal is to resolve dilemmas pertaining to individual matters. The proliferation of technological advancements has led to an increase in ethical challenges in both private and public spheres, consequently expanding the scope of

¹⁸ Marcello Viola v. Italy, Application No: 45106/04, 05.10.2006, § 67

¹⁹ Feridun Yenisey ve Ayşe Nuhoglu, *Ceza Muhakemesi Hukuku*, Seçkin Yayınevi, 8, 2020; Ateş, p. 452.

²⁰ Murat Özdemir, *Kamu Yönetiminde Etik*. "Uluslararası Yönetim İktisat ve İşletme Dergisi 4, no. 7, 2008; Bünyamin Özgür, *Kamu Yönetimi Denetçilerinde Etik Kültürün Geliştirilmesi*. Denetim, no. 5, 2016, p. 18.

applied ethics. To accommodate this growth, applied ethics has been subdivided into various categories such as business ethics, sexuality ethics, media ethics, and medical ethics. Essentially, applied ethics seeks to bridge the gap between theoretical knowledge acquired at the normative level and its practical application across diverse domains. It provides a structured approach to addressing the multifaceted challenges encountered in today's complex and diverse society. The evaluation of a topic or issue within the realm of applied ethics hinges on two fundamental elements. Firstly, the issue must be contentious, eliciting differing perspectives from individuals or groups. Secondly, the issue must represent an international ethical concern relating to the ethical responsibilities and obligations of individuals²¹.

Historically, in the 1980s and 1990s, new sectors emerged alongside humanity's progress, driven by advancements in technology and the evolving sociocultural landscape. For instance, during the industrial revolution, the concept of the service sector was nonexistent. Initially, humanity's primary motivation was the invention of steam engines, automation systems, and the attainment of high production capacity. However, with technological advancements in the 20th century, capitalism and globalization sparked significant transformations in societies. The transition from a mechanical society to an organic one, as Durkheim observed, resulted in the division of labor and production exceeding demand. This change caused new professions and the development of professional ethics influenced by technology. In essence, professional ethics encompass the guidelines determining right and wrong within a profession, establishing codes of conduct, mandating adherence to these behavioral norms, expelling those who violate professional standards, and upholding service ideals. Each profession has its own set of ethical rules²². For instance, professions such as medicine, accounting, media, law, sports, and politics each adhere to their unique professional ethics. Individuals practicing a profession bear the responsibility for upholding the ethical values associated with their occupation, and society relies on them to adhere to these principles. For example, lawyers are morally obligated not only to respect their clients' privacy but also to safeguard their professional confidentiality. Professional ethics evolve from the needs of practitioners within their respective fields. Professionals require ethical principles derived from widely accepted moral standards to address the challenges they encounter, enhance the quality of their work, and prevent the recurrence of past mistakes²³.

Professional ethics rules in Turkey encompass a broad spectrum of legal frameworks. For instance, attorneys are required to abide by the ethical

²¹ Ahmet Cevizci, *Felsefe. Anadolu Üniversitesi*, 2012

²² Adem Çabuk and Burcu İşgüden, *Meslek Etiği ve Meslek Etiğinin Meslek Yaşamı Üzerindeki Etkileri. Balıkesir Üniversitesi Sosyal Bilimler Enstitüsü Dergisi* 9, no. 16, 2006.

²³ Kadir Can Özel, *Etik Ve Etik - Hukuk Arasındaki İlişki. Türkiye Adalet Akademisi Dergisi*, no. 33, 2018.

guidelines outlined by the Union of Turkish Bar Associations. Similarly, the Public Officials Ethics Board has established ethical regulations for public servants, mandating their adherence to these principles. Judicial ethics, on the other hand, delineate the fair conduct of judicial services for specific purposes. Throughout history, judicial ethics have played a significant role, regulating transactions from bilateral relations to the delivery of duties, with ethical principles being periodically promulgated by various institutions. In Turkish history, the Ottoman Civil Code²⁴ of 1792 stands as one of the most notable and robust examples of judicial ethics. Although the Ottoman Civil Code was abolished and replaced with new regulations during the Republic period, the same principles of judicial ethics continued to be upheld. Most recently, efforts were made to establish codes of judicial ethics within the framework of the 10th Development Plan and the Judicial Reform Strategy Plan between 2014 and 2018. As a result of these initiatives, the Board of Judges and Prosecutors announced the Turkish Judicial Ethics Declaration in March 2019²⁵.

III. TURKISH DECLARATION OF JUDICIAL ETHICS

In order to ensure effective participation in a case and a fair trial, ethical values must be observed in the judiciary. Adherence to ethical values is necessary to ensure that the parties are represented fairly and that the trial process is carried out consistently with principles of impartiality and honesty. It is of paramount importance that the behaviours of members of the judiciary contribute to the provision of a fair trial process and society's trust in the law. Strengthening the relationship between effective participation in a case and judicial ethics plays an important role in improving fair trial processes. In order for the parties to be represented under equal conditions and for trial processes to be carried out consistently with principles of impartiality, independence, and honesty, society's trust in laws has to be increased, and the rule of law has to be protected. Turkish judicial ethics are a fundamental component of the Turkish judicial system and include the principles that determine the behaviour of members of the judiciary. Turkish judicial ethics have been shaped by various reforms and changes from the past to the present. Today, Turkish judicial ethics are mainly based on fundamental values such as impartiality, independence, honesty, and justice. The Declaration of Ethics for the Turkish Judiciary consists of eight basic principles and subheadings commenting on these principles. The subheadings basically outline correct behavioural patterns and heavily emphasize the qualifications of the judge and public prosecutor professions. Judges and public prosecutors adhere to eight basic principles²⁶:

²⁴ Mecelle-i Ahkam-ı Adliye

²⁵ Ejder Yılmaz, Yargı Etiği. Public and Private International Law Bulletin 40, no. 2, 2020, p. 1295.

²⁶ Hâkimler ve Savcılar Yüksek Kurulu, Türk Yargı Etiği Bildirgesi, 14.03.2019.

A-THEY RESPECT HUMAN DIGNITY, PROTECT HUMAN RIGHTS AND TREAT EVERYONE EQUALLY

Equal treatment to parties before courts is a crucial element for members of the judiciary. They should accept issues such as religion, age, origin, gender and race as natural and refrain from discrimination based on these factors. Judges and public prosecutors should not display prejudice towards any party, either verbally or through their actions. For example, even they feel poorly on a particular day, they should not allow this to affect their demeanor. Doing so could lead to misunderstandings and cast doubt on their impartiality. It is important to treat not only the parties to the case but also witnesses and lawyers equally, as the truth of the matter may evolve over time, and favoritism in attitude or speech could compromise fairness. It is crucial to avoid impulsive actions and to acknowledge that everyone is striving to fulfill their roles properly. Equality is indispensable for ensuring that every individual is treated fairly before the courts, and it stands as a universal principle and foundational value of the rule of law²⁷. Members of the judiciary must uphold this principle in the execution of their judicial duties, as the administration of justice is intrinsic to the judiciary's function and reflects its impartiality. Additionally, members of the judiciary should be mindful of their gestures and facial expressions when communicating with parties involved in the case. For instance, casual terms of address such as "sweetie" or "honey" should be avoided, particularly when addressing women²⁸.

Individuals should feel assured that they will receive a just and unbiased decision for their trials. Negative or derogatory remarks towards the parties, their lawyers, and witnesses should be avoided. Seriousness must be demonstrated in all interactions. For instance, refraining from questioning the individual due to fear of spreading the virus is contrary to the principle of equality and inconsistent with professional conduct. Members of the judiciary should speak thoughtfully regarding gender equality. Making sexist comments or derogatory remarks based on appearance may result in disciplinary action. One should not be swayed by clichéd language and should carefully consider the implications of their words. In a case involving an underage girl and an 18-year-old boy attempting sexual intercourse in England, the judge's remark that "the girl cannot be considered an angel either" is inappropriate and goes against principles of equality²⁹. Justification is crucial for ensuring public

²⁷ İnceoğlu, 2018, p. 358.

²⁸ Mehmet Akif Aydın, "Anayasa", Türk Diyanet Vakfı İslam Ansiklopedisi, V. III, İstanbul, 1991, p. 160.; United Nations Office on Drugs and Crime, Commentary on the Bangalore Principles of Judicial Conduct, 2007, Article 185; Melikşah Aydın, İslam Ve Osmanlı Hukukunda Hâkimlik ve Hâkimlerin Nitelikleri (Master Thesis), T.C Selçuk Üniversitesi Sosyal Bilimler Enstitüsü Kamu Hukuku Anabilim Dalı, Konya, 2015, p. 112

²⁹ Heather Mills, 'No angel' sex abuse case man jailed: Court of Appeal criticises judge for his unacceptable comment about girl, nine, Independent, 29 July 1993

legitimacy³⁰. Furthermore, this case violates principles of equality, fair trial, and non-discrimination according to the ECHR. As a result, a country that upholds human dignity, safeguards human rights, and treats everyone impartially can enact legal regulations that guarantee a fair trial and enable effective participation in legal proceedings. Such regulations ensure the rule of law and uphold transparency in a judicial process. A judicial system guided by ethical principles that uphold human dignity, protect human rights, and ensure equal treatment for all facilitates individuals' active participation in legal proceedings. When decisions are made fairly and impartially within the judicial system, individuals' confidence in the ability to achieve justice through active participation in legal proceedings grows. Consequently, this contributes to fostering trust and justice within society by ensuring a fair trial.

B-THEY ARE INDEPENDENT

Judicial independence is often considered a fundamental requirement for ensuring a fair trial and upholding the rule of law. Members of the judiciary must carry out their judicial duties based on their own conscientious understanding, rooted in their assessment of events and consistent with the law, without being influenced by any external pressures, threats, or interventions, whether direct or indirect. When discussing judicial independence, particular attention is typically given to the improper conduct of legislative and executive branches in their interactions with the judiciary. The separation of powers among the executive, legislative and judicial branches is designed to safeguard the independence of each branch from undue influence from the others. This separation serves as a means of protecting fundamental rights and freedoms within a country³¹.

In some cases, even seeking the opinion of one's own colleagues on a particular issue can undermine independence. This is because the individual dealing with the problem is ultimately responsible for the decision, and external opinions may lack the depth of understanding required to make an informed choice. Moreover, those offering opinions may not bear the consequences of the decision, leading to potential negligence or recklessness in their advice. Independence also entails maintaining an open mind and considering all perspectives. Judges and public prosecutors should thoroughly research every aspect of a case and remain impartial in their deliberations. They must weigh all possibilities and make decisions based on their own judgment, as they are entrusted with the responsibility of their profession and their opinions are relied upon. Members of the judiciary must maintain independence from the parties involved in the dispute they are tasked with resolving. While this is more systematically regulated for judges, public prosecutors face greater challenges due to their frequent interactions with society, which increases the risk of bias or improper

³⁰ Güher Ergun and others, (The Constitutional Court of the Republic of Türkiye) Application No: 2012/13, 2/7/2013, § 38.

³¹ Esra Nur Tuğan and Umut Ömürgönülşen, Türkiye'de Yargı Etiği İlkeleri Üzerine Bir İnceleme. Atatürk Üniversitesi Sosyal Bilimler Enstitüsü Dergisi,24, 2020, p.87

influence. It is crucial for judges and public prosecutors to avoid inappropriate connections with legislative and executive bodies, limit interactions with politicians, and demonstrate independence in their actions. To uphold independence, judges and public prosecutors must make decisions based solely on their personal convictions, free from influence from the parties to the case, colleagues, legislative and executive branches, and society at large³². Members of the judiciary must also maintain an appearance of independence from external influences. For instance, they should refrain from engaging in unnecessary conversations with suspects and defendants, and limit their interactions with these individuals in social settings. The goal is to ensure transparency and avoid raising doubts in the minds of observers regarding the nature of these relationships. For example, if judges and public prosecutors enjoy playing football, they should be mindful of the individuals they choose to play with. Furthermore, they should decline any gift and minimize private conversations with the parties involved in cases as much as possible³³.

Additionally, they should refrain from displaying any items they have received or acquired as gifts in their offices. In small spaces, it may become apparent where such gifts were obtained, potentially leading to suspicions of improper relations with the source of the gift. Independence is a dynamic process. It is crucial for the judiciary to remain independent from other branches of government, allowing judges and public prosecutors to perform their duties freely and independently. The separation and autonomy of the judicial branch from executive and legislative branches are referred to as "external independence," while the sense of freedom and autonomy felt by judges and public prosecutors in exercising their judicial authority is termed "internal independence."³⁴ Moreover, they should remain vigilant against the damage caused by groups such as FETO (the Fethullah Gülen Terrorist Organization), which have targeted Turkey in recent years and significantly eroded confidence in the judiciary. It is imperative to steer clear of any similar collective affiliations. Actions like "fabricating evidence," "illegitimate wiretapping," and involvement in "conspiracy cases" have to be avoided at all costs, regardless of the perceived justification³⁵. For instance, a case may garner widespread media attention and spark controversy, but judges and public prosecutors must remain impervious to external influences, including public opinion and social media. They should not allow the popularity or notoriety of a case to sway their judgment. Judicial independence also entails

³² United Nations Office on Drugs and Crime, *Commentary on the Bangalore Principles of Judicial Conduct*, 2007, p. 43-45.

³³ Hakimler ve Savcılar Kurulu, HSK Genel Kurulu Kararı (Yargı Etiği Tavsiye Kararı), 2019.

³⁴ Yüksel Metin, 'Türkiye'de Yargı Bağımsızlığına İlişkin Kimi Sorunlar ve Çözüm Önerileri', *Anayasa Yargısı*, 26(1),2010, p. 222-227

³⁵ Muharrem Kılıç, "Türk Yargı Etiği Bildirgesi." SETA, Ankara, 2019.

being free from partisan interests, public demonstrations, or the fear of criticism. It encompasses autonomy from all forms of external influence³⁶.

As a result, the independence of judiciary members stands as a crucial factor in facilitating effective participation within the legal system. The judiciary that operates independently allows its members to render decisions free from external pressures or influences. It fosters an environment where judges and public prosecutors can adjudicate without feeling beholden to any party or forming emotional attachments. Consequently, these judiciary members can enforce the law with impartiality, thereby upholding justice. Active participation by parties in legal proceedings serves to enhance the transparency and fairness of the judicial process, thereby bolstering its legitimacy. Parties who engage effectively in proceedings aid judges and public prosecutors in maintaining impartiality. Strong evidence presented by involved parties streamlines the decision-making process for judiciary members. Those who participate actively in trials also help steer judges and public prosecutors away from external or internal influences, ensuring that they adhere to the path of justice. Through exercising their rights to defense, presenting evidence, hearing testimonies, and lodging objections, individuals actively participating in trials serve as guardians of the legal process. An independent judiciary not only fosters effective participation in litigation but also upholds the credibility of the judicial process, thereby safeguarding the rule of law.

C-THEY ARE IMPARTIAL

Ensuring the correct execution of judicial duties is paramount³⁷. This principle applies not only to the provisions themselves but also to the process by which they are established. It encompasses the demeanor and disposition of the trial concerning the matters and parties involved in various cases. Impartiality denotes the absence of any actual or perceived bias³⁸. The impartiality of the ECtHR is assessed through both subjective and objective criteria. Subjectively, it considers a judge's personal views in a specific case. Objectively, it evaluates whether the judge possesses sufficient guarantees to dispel any reasonable doubts regarding impartiality³⁹. Objective impartiality pertains to assessing whether there exist verifiable circumstances, beyond personal behavior, that raise genuine suspicions or concerns regarding a judge or public prosecutor's impartiality. For example, a judge or a public prosecutor has personal or hierarchical ties

³⁶ Birleşmiş Milletler Uyuşturucu ve Suç Ofisi. "Bangalor Yargı Etiği İlkelerinin Yorumu." Ankara, 2020

³⁷ Hakim Savcılar Kurulu, BM Bangalor yargı etiği ilkeleri, 2002.

³⁸ SETA "Yargı Adaleti ve Etiği Açısından Yargı Mensuplarının Sosyal Medya Kullanımı." SETA Yayınları, 2021.

³⁹ Biljana Braithwaite, Catharina Harby, Goran Miletić, Yargı Bağımsızlığı ve Tarafsızlığı Avrupa İnsan Hakları Mahkemesinin İlgili İçtihadına Genel Bakış (Translator: Kasım Akbaş),2021, p. 49

to one of the parties to the trial⁴⁰, or a judge or public prosecutor has been involved in the same case in two or more ways⁴¹.

Members of the judiciary interpret existing laws, determine the provisions that should be applied, and conclude cases fairly. In order to bring the case to a conclusion that is appropriate for the parties involved and in accordance with existing law, they should not be subjected to any pressure. They must deliver a decision within the bounds of existing legal rules, utilizing their knowledge, experience, intellect, and conscience. They should refrain from acting with prejudice or preconceived notions and avoid taking sides while fulfilling their judicial duties. Impartiality refers to a judge or public prosecutor's ability to objectively apply the law to the case, free from individual opinions, preconceived notions, or prejudices. Independence, on the other hand, entails creating an environment that allows a member of the judiciary to reach a fair conclusion. While impartiality focuses on the judge or public prosecutor's internal judgment in this environment, independence ensures that external influences do not hinder the decision-making process. However, there are instances where independence may exist without impartiality. Even the most reputable judges and public prosecutors may render decisions based on personal reasons, including political, religious, or ethnic beliefs, or personal interests. Impartiality encompasses three distinct dimensions. Firstly, it has a "procedural" dimension, ensuring a fair trial for all parties involved. Secondly, it holds a "political" dimension as it fosters public trust in the justice system. Finally, it possesses an "ethical" dimension, serving as the foundation of the principle of good conduct that defines a member of the judiciary⁴².

Judges and public prosecutors must adhere to the principle of impartiality in their judicial duties and other matters, performing their duties without prejudice. They should strive to maintain not only material impartiality but also avoid any appearance of bias. Ensuring impartiality is crucial for justice. A biased judge or public prosecutor can impede the fairness of trials, undermining the principle of a fair trial. Therefore, impartiality plays a pivotal role in upholding this principle. The ECtHR has recognized fair trial as one of the fundamental principles of every democratic society⁴³. It is imperative that the court evaluates each case fairly and impartially, granting all parties an equal opportunity to explain and prove their positions before courts⁴⁴. Impartiality also fosters effective

⁴⁰ Kyprianou v. Cyprus, Application no: 73797/01, 15.11.2005 § 97.

⁴¹ Mežnarić v. Croatia, Application no: 71615/01, 15.07.2005 § 36; Wettstein v. Switzerland, Application no: 33958/96, 21.11.2000 § 47

⁴² Sezin Duygu Tuncer, 5271 Sayılı Ceza Muhakemesi Kanununda Hâkimin Yasaklılığı Reddi Ve Çekinmesi." Hacettepe Üniversitesi Sosyal Bilimler Enstitüsü Kamu Hukuku Anabilim Dalı Yayınlanmamış Doktora Tezi, 2020, p. 92-96

⁴³ Pretto and Others v. Italy, Application no. 7984/77, 08.11.1983

⁴⁴ Aurika Paskar, The role of administrative court in ensuring human rights protection under martial law, Eastern Journal of European Studies, 14/2, 2023, p. 171

participation in judicial processes. When individuals believe that the judiciary is impartial, they are more likely to engage in judicial proceedings comfortably and utilize their rights of defense more effectively. This encourages citizens to assert and defend their rights in a democratic society.

D-THEY ARE HONEST AND CONSISTENT

Judges and public prosecutors have a solemn duty to apply the laws impartially and independently, free from external pressures from the legislature, the executive branch, or any other influences. They must execute their duties with integrity, honesty, and consistency, both professionally and in their personal lives, in order to foster trust in their character and competence within their community. Upholding professional promises is essential to safeguarding their professional reputation, and they should avoid situations that could compromise their integrity⁴⁵. It is imperative for members of the judiciary to adhere to honesty in their words and actions, particularly in their interactions with the parties involved in legal proceedings. Consistency in their practices is vital to uphold the principle of legal certainty⁴⁶. Judges and public prosecutors must make decisions guided by honesty and moral principles, ensuring transparency and truthfulness in every aspect of their work. Honesty, as a virtue, entails being truthful, loyal, and sincere in one's conduct. One of the primary ethical duties of members of the judiciary is to uncover the truth in the cases they handle, necessitating a commitment to honesty in their deliberations and decisions. They should lead lives characterized by consistency and honesty, not just while performing official duties but at all times. It is crucial for them to maintain emotional control, as outbursts of anger can undermine their honesty and consistency, and possess the maturity and experience to make impartial judgments independent of personal biases⁴⁷.

As a result, it is imperative for members of the judiciary to discharge their duties with utmost honesty and integrity. Their conduct should inspire confidence in the judiciary and reinforce the belief in the righteousness of their decisions. When members of the judiciary exhibit honesty and consistency, parties involved in legal proceedings perceive their decisions as fair and trustworthy, thereby enhancing their trust in the judicial system and promoting confidence in the legal process. Consistent decision-making further enhances the transparency of the judiciary and encourages effective participation in trials. A lack of credibility in a judge or public prosecutor's personal integrity outside the courtroom may cast doubt on their ability to administer justice impartially. Therefore, judicial officers must view themselves as role models and meticulously monitor their behaviour and

⁴⁵ Cengiz Topel Çiftçioğlu, "2802 Sayılı Hâkimler Ve Savcılar Kanununa Göre Hâkim Ve Savcıların Disiplin Soruşturmaları" Dokuz Eylül Üniversitesi Hukuk Fakültesi Dergisi, 13, 2011, p. 130

⁴⁶ Hâkimler ve Savcılar Kurulu, Türk Yargı Etiği Bildirgesi, 14.03.2019.

⁴⁷ A. Can Tuncay, Hukuksal Etik (Legal Ethics) Dersleri, Beta Yayıncılık, İstanbul, 2022, p. 299-301

actions at all times. Given that interactions between the public and members of the judiciary are often brief and limited, first impressions play a crucial role in shaping public perception. Therefore, judges and public prosecutors should recognize the significance of these encounters and strive to convey trustworthiness and integrity in every interaction. By doing so, they can contribute to fostering public trust in the judiciary and upholding the integrity of the legal system.

E-THEY REPRESENT TRUST IN THE JUDICIARY

The values upheld by members of the judiciary and the authority they wield are intricately tied to the preservation of justice and the safeguarding of rights and freedoms. Therefore, judges and public prosecutors must adhere to ethical standards while discharging their judicial duties. This adherence is crucial for ensuring social justice and fostering trust in the judiciary among the public⁴⁸. Continuous self-improvement and staying abreast of legal developments are essential for members of the judiciary, considering their profession as one rooted in knowledge. By maintaining professional competence and diligence, judges and public prosecutors can discharge their duties efficiently and ensure timely justice without causing undue delays⁴⁹. Trust in judges and public prosecutors is fundamental to trust in the judiciary as a whole. Therefore, they must strive to inspire confidence in their actions and decisions. If their trustworthiness is ever called into question while performing their duties, they should consider recusing themselves. Moreover, they should refrain from any behaviour or expression, whether in their professional or private lives, that could undermine public trust in the judiciary. While they have the right to freedom of expression, members of the judiciary must exercise this freedom responsibly, ensuring that it does not compromise public confidence in the judiciary. By upholding ethical standards and fostering trust, members of the judiciary play a pivotal role in upholding the integrity and credibility of the judicial system⁵⁰.

Briefly, members of the judiciary play an important role in shaping the perception of the judiciary as a whole through their actions. Any perceived wrongdoing or unfair treatment by judicial officers is often attributed to the entire judicial system, reflecting negatively on its credibility. Therefore, judges and public prosecutors must exercise caution in their speech and actions, understanding the weight of their responsibilities. Engaging in public debates or discussions with each other should be avoided, and they should prioritize the interests of the country, even if they feel personally aggrieved. In today's age of social media, even minor events can be blown out of proportion, leading to misunderstandings and erosion of trust. Members of the judiciary must act with utmost

⁴⁸ Tuğan and Ömürgönülşen, p. 86

⁴⁹ Kılıç, p. 3-4

⁵⁰ Hâkimler ve Savcılar Kurulu, Türk Yargı Etiği Bildirgesi, 14.03.2019.

sensitivity to avoid any misinterpretation or exploitation of their actions by individuals with malicious intent. Particularly on social media, judges and public prosecutors should be mindful of their interactions, as even innocuous activities such as liking a post related to a sports team could be misconstrued. Maintaining impartiality is essential for judges and public prosecutors, as they may encounter a diverse range of cases and individuals. High levels of trust in the judiciary promote individuals' willingness to participate in the judicial process. When people believe in the impartiality, fairness, and adherence to the law within the judiciary, they develop confidence in the rule of law, fostering effective participation and bolstering the legitimacy of the judicial system. Judges and public prosecutors must exercise caution in their online activities, as even seemingly innocuous interactions on social media can be misinterpreted or misconstrued. A simple action like liking a post related to a sports team could lead others to question their impartiality, potentially undermining trust in their judgments. Given the varied nature of cases and individuals that members of the judiciary encounter, maintaining impartiality is paramount. Expressing personal preferences or opinions publicly can create doubts about their ability to judge cases fairly and objectively. Therefore, it's crucial for judges and public prosecutors to refrain from sharing personal views on social media or in any public forum. Trust plays a vital role in encouraging individuals to participate in the legal process. When people believe that the judiciary is the fairness and neutrality, people are more likely to engage with the legal system and seek resolution for their disputes. This increased participation ultimately strengthens the legitimacy of the judicial process and reinforces belief in the rule of law.

F-THEY CONSIDER CONFIDENTIALITY

The principle of privacy should be observed when sharing and commenting via mass media. All citizens who come to courthouses share their information and secrets, which must remain confidential during the judicial process. Information obtained should not be shared for personal benefit or to the benefit or detriment of others. Within the scope of freedom of expression, ethical norms should be followed when expressing opinions or sharing through the media⁵¹. For example, judges and public prosecutors should not share the information obtained from the files with the public and should not use it carelessly. Moreover, since judges and public prosecutors, especially in small places, have access to the locals' private information, they should limit their interactions with them and avoid giving them the impression that they possess certain information. It is not always necessary to disclose information, as creating the perception that you are privy to their personal details may exert undue pressure on the other party. Therefore, if there is a risk of creating such an impression, judges and public prosecutors should maintain professional boundaries with those individuals. Additionally, sensitivity regarding sharing and commenting through mass media should be governed by privacy principles. Privacy entails

⁵¹ SETA, 2021.

safeguarding the information and secrets of all citizens seeking justice within a fair trial, which must remain confidential during the judicial process. Therefore, members of the judiciary should refrain from sharing information that could neither benefit them about the public interest nor benefit or harm others⁵². As a result, the principle of respect for privacy increases the transparency and reliability of the judicial process. When individuals believe that their privacy is protected, they have more confidence in the judicial system and participate more willingly in judicial processes. This encourages effective participation. The principle of respect for privacy contributes to the creation of a fair trial environment.

G- THEY ACT WITH PROPRIETY AS REQUIRED BY THEIR PROFESSION

Professionalism and its presentation are considered indispensable elements for the performance of all activities of judges and public prosecutors⁵³. The members of the judiciary have to obey the judicial ethics required by the profession when expressing or sharing their thoughts in written, visual, audio, or social media within the scope of freedom of expression. The principle of behaving in a professional manner focuses on judges and public prosecutors maintaining their private lives within the framework of professional ethical principles. With this concern, they should be careful when exercising their freedom of expression in their social lives, act virtuously and prudently, and avoid casting a shadow on their impartiality by being cautious in their private lives⁵⁴.

They are obliged to act with awareness of the responsibilities that their profession imposes on them. They are obligated to consider the impact of their words and actions on others. They work in harmony, cooperation, and mutual respect with their colleagues while performing their duties. They avoid actions that would damage the public's trust in the judiciary. They should not even consider taking advantage of the power derived from their position and profession. They ensure that their relatives and the staff they work with also comply with this rule. To ensure that their professional reputation is protected, they pay attention to their private lives and strive to live virtuously. They make their decisions with care and attention and do not allow anyone to influence them⁵⁵. As a result, the principle of behaving in a respectful manner towards the profession is of great importance for ensuring effective participation and establishing a fair judicial system. It is necessary for judges and public prosecutors to perform their profession

⁵² Kılıç, p. 4

⁵³ Yılmaz, p. 1308

⁵⁴ Esra Nur Tuğan, Emekli Hakimlerin Bakış Açısıyla Türkiye'de Yargı Etiği, Hacettepe Üniversitesi Sosyal Bilimler Enstitüsü Siyaset Bilimi ve Kamu Yönetimi Anabilim Dalı Yayınlanmamış Bütünleşik Doktora Tezi, 2020, p. 84

⁵⁵ Council of Judges and Prosecutors, Declaration of Ethics for Turkish Judiciary, 2019.

honestly and impartially and to gain the trust of society, which encourages effective participation in the judicial process and serves a fair trial.

H-THEY ARE COMPETENT AND ACT DILIGENTLY IN THEIR PROFESSION

Nepotism, a social problem with historical roots and various support points, involves the use of one's power or influence to obtain favors or unfair advantages for one's family and relatives. While nepotism is commonly associated with official institutions, it also extends to family businesses, permeating almost every segment of social life. Regrettably, this social behavioral disorder is also evident within the judiciary. A prevalent example of nepotism in the public sector is favoritism toward fellow townsmen. In institutions led by individuals from specific cities, there is often systematic employment of fellow citizens across various levels. These recruitments and promotions typically prioritize ties of locality over considerations of competence and merit. Consequently, such practices disrupt the economic and social equilibrium of the institution, creating an environment of inherent oppression and marginalization for individuals who are not from the same locality⁵⁶. Merit criteria can sometimes be excluded. Merit can be expressed as the promotion of professional ranks and the recruitment of people with intelligence, diligence, and qualifications. The principles of merit and competence are called ethical rules that constitute the basic criteria of accountability. In addition to all these, when merit is mentioned, some adjectives that a person should have, such as humility, patriotism, sacrifice, leadership, loyalty, goodwill, diligence, being a team player, and openness to communication can be meant⁵⁷. Competency and merit are prerequisites for judges and public prosecutors to fulfill their duties properly. In their judicial duties, judges and public prosecutors should develop their virtues and act diligently in their profession. This will lead them to exhibit characteristic judge and public prosecutor behaviors throughout their professional lives, with all their personal qualities and skills. They are also people who are taken as role models in society. They should lead an exemplary life among the public and stay away from places such as, casinos and bars⁵⁸.

The enhancement of professional competence contributes to the decision-making of judges and public prosecutors. Before assuming their roles, judges and public prosecutors should enhance their knowledge, skills,

⁵⁶ Ercan Özçelik, *Nepotizm (Akraba Kayırmacılığı), Kamu Yönetiminde Kayırmacılık* (Eds: Coşkun Can Aktan and Osman Kürşat Acar), SOBİAD: Hukuk ve İktisat Araştırmaları Yayınları, İzmir, 2021, p. 160-161/167

⁵⁷ Osman Kürşat Acar and Muhammed Yusuf Ertek, *Türk Toplumunda Kayırmacılık Kültürü, Kamu Yönetiminde Kayırmacılık* (Eds: Coşkun Can Aktan and Osman Kürşat Acar), SOBİAD: Hukuk ve İktisat Araştırmaları Yayınları, İzmir, 2021, p. 35; Osman Kürşat Acar and Muhammed Yusuf Ertek, *Türk Yönetim Tarihinde Liyakat Siyasetnamelerden Günümüze Liyakat Açmazı*, Astana Yayınları, Ankara, 2019, p.429.

⁵⁸ Tuncay, 2022, p 304-306.

and experience through training in courts. Furthermore, they should continue to receive in-service training to stay updated after entering the profession. Particularly, it is essential for the state to be well-versed in international agreements and human rights criteria, and to closely monitor developments in these areas. Consequently, judges and public prosecutors must undergo necessary training and remain informed about current information related to their profession to maintain up-to-date professional knowledge and improve their skills. They are obligated to ensure fairness in their decisions and to complete their tasks within a reasonable timeframe. During trials, judges and public prosecutors should exhibit patience and understanding towards the parties, their representatives, and witnesses. They should also ensure that their staff treats everyone involved in legal proceedings with the same level of respect and professionalism. By doing so, they can obtain the necessary information to make fair decisions⁵⁹. Lastly, the competence and diligence of members of the judiciary in their profession contribute to the promotion of effective participation. A competent and diligent judicial system provides individuals with a safe environment to participate in judicial processes. This encourages citizens to actively seek and defend their rights in a democratic society.

CONCLUSION

The first of the indispensable basic institutions in states of law is justice. The foremost right to ensure full and complete justice is the right to a fair trial. Implementing this right secures the defendant's rights, but it's crucial to ensure these assurances are concrete and actionable, rather than merely theoretical. Although not explicitly stated, the defendant's right to effective participation in trials at the hearing holds significant importance within the right to a fair trial according to the ECHR. With the Declaration of Ethics for the Turkish Judiciary on March 14, 2019, Turkey deeply committed to human rights and the universal and effective protection of fundamental freedoms. Recognizing a common heritage in respect for freedoms and the rule of law, including the right to a fair trial, Turkey has taken a significant step. The issue of judicial ethics holds great importance in Turkey, and the succession of regulations in this field is a positive development. If all members of the judiciary embrace these ethical principles, it will positively impact the right to a fair trial. The first step toward this is for institutions determining these principles to make them known to the public through necessary promotional and training activities. Additionally, establishing auxiliary mechanisms such as advisory boards can yield positive results. Ensuring that not only practitioners but also citizens who are service recipients are sensitive to ethical principles can fully integrate ethical principles into the judicial system. The basic principles of judicial ethics are the 'principle of independence', which means that a member of the judiciary should not be exposed to external influences and pressures, and the 'principle of impartiality', which means that a member of the judiciary should not be exposed to external influences and pressures.

⁵⁹ Hâkimler ve Savcılar Kurulu, Türk Yargı Etiği Bildirgesi, 14.03.2019.

These principles are strictly connected with the rights to a fair trial and to effective participation in a hearing. Members of the judiciary are required to fulfil their duties correctly within the framework of the procedures and principles determined by law, by complying with the rules of honesty, and in a way that does not harm the sense of trust of individuals. Members of the judiciary are obliged to make fair decisions by ensuring the effective participation of the parties in the case, completely ignoring issues such as race, gender, economic status, social status, and religion. Turkey's Declaration of Judicial Conduct supports fair trial and effective participation in hearings, and provides members of the judiciary with the necessary qualifications for a fair trial through the principles set forth.

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