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THE ESTABLISHMENT OF THE INDIVIDUAL APPLICATION SYSTEM IN TURKEY: A PROMISING EXPERIENCE¹

(Türkiye’de Bireysel Başvuru Sisteminin Kurulması:

Başarı Vaad Eden Bir Tecrübe)

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ABSTRACT

The establishment of individual application (constitutional complaint) system to the Constitutional Court has been a ground breaking development in Turkey in the field of protection of human rights. Although the institution has been discussed since 1960s, the most concrete and important steps were achieved by constitutional amendments of 2010 approved by public referendum. Two years of preparation period was foreseen by the Constitution for receiving individual applications by the Court.

In this article, it is aimed to furnish information and shed light on the extensive preparations made in the main fields relating to the Turkish Constitutional Court’s structure, powers, functioning and administrative issues.

Key Words: Turkish Constitutional Court, Individual Application, Constitutional Complaint, Preparations for Individual Application.

ÖZ

Anayasa Mahkemesine bireysel başvuru (anayasa şikayeti) sisteminin kurulması, insane haklarının korunması alanında çığır açan bir gelişme olmuştur. Anılan kurum, 1960’lı yıllardan beri tartışılmasına rağmen, en önemli ve somut adımlar halkoyuyla kabul edilen 2010 Yılı Anayasa değişiklikleriyle gerçekleştirilmiştir. Anayasa tarafından, bireysel başvurula-

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rın kabul edilmesi için iki yıllık bir hazırlık süresi öngörölmüştü.

Bu makalede, Türkiye Cumhuriyeti Anayasa Mahkemesi'nin yapısı, yetki ve görevleri, çalışması ve idari işlere ilişkin olarak ana konularda yapılan hazırlıklara ışık tutma ve bilgi sağlama amaçlanmıştır.

Anahtar Kelimeler: Türkiye Cumhuriyeti Anayasa Mahkemesi, Bireysel başvuru, Anayasa Şikayeti, Bireysel Başvuru Hazırlıkları.

INTRODUCTION

20th century, which is known to be most bloody period of the human history, fortunately triggered the two important developments on protection of human rights at national and international levels: the establishment of constitutional courts at national level³ and foundation of global and regional protection mechanisms on human rights at international level. Since then, constitutional courts have become an essential part of many democracies. Turkish Constitutional Court, being founded in 1962, was among the first pioneers in Europe.

As it is known, constitutional courts uphold the supremacy of the Constitution by maintaining two fundamental functions: 1- "protection of constitutional order" and 2- "protection of fundamental rights". Although the protection of constitutional order was thought to be of primary nature in the past, the function of protecting fundamental rights is today the most distinctive feature of the contemporary constitutional courts. In this context, it can be said that direct access of individuals to constitutional courts constitutes the latest development on protection of human rights in the history of constitutional courts.

Although the practices vary in each country, over 40 countries in the world and around 20 countries in Europe have accorded their citizens the right to demand direct protection from the constitutional courts when their fundamental rights are violated by acts of public power.

As regards Turkey, although it had been widely discussed in many circles and generally welcomed, there was no positive result until 2010. Even during the *travaux préparatoire* of the 1961 Constitution which established the Constitutional Court, it was proposed to include the

3 Historically the Austrian Constitutional Court, established in 1920 as the first Constitutional Court in Europe, may be accepted as an exception to the general rule. However, the ideal concept of a constitutional court and the underlying needs for it were fully conceived after having witnessed the atrocities of the nazism and fascism in 1930s and 1940s throughout Europe. Therefore, the concept of a constitutional court before and after the World War II seems not to be the same. For more information about the history of the Austrian Constitutional Court between 1920 and 1945, please see, "Geschichte" <https://www.vfgh.gv.at/cms/vfgh-site/vfgh/geschichte.html> IAD:13.4.2015.

“constitutional complaint” among the powers of the Court. However, it was not accepted at the time. Until recent years several attempts were made to recognize constitutional complaint system in Turkey. Briefly, it can be stated that previous governments between 1960s and 1990s were reluctant to propose constitutional amendments⁴ due to strong opposition from high courts and some academic circles. In addition, possible political risks⁵ during the constitutional amendment process have been constituted another source of hesitation for the governing parties. Thus, in the last fifty years the Court was vested with many powers found in the continental European tradition such as abstract and concrete norm reviews, financial audit and dissolution of political parties, trial of high state officials, but not with the individual constitutional complaint.

At the beginning the second millennium, due to political turmoil and deadlock in Turkey, the urgent need was voiced more loudly for a reform of the 1982 Constitution still bearing quasi-authoritarian provisions. Civil society actors, NGOs, political parties and universities proposed constitutional amendments and even brand new constitutions containing provisions on individual application in 2000s for public consideration.

Individual application system was introduced into the Turkish legal order by the constitutional amendments approved in result of a public referendum held on 12 September 2010 (Article 18 of Law Nr. 5982, Article 148 of the Constitution). In a provisional article of the Constitution two years of preparation period was foreseen until 23 September 2012 for the establishment of individual application system.

I. THE NEED FOR THE INDIVIDUAL APPLICATION SYSTEM AND THE CIRCUMSTANCES OF THE TIME

Before dealing with the preparations made in this context, necessary explanation should be made why the individual application system was established in Turkey and which need was lying under such initiative.

One of the main reasons for the introduction of individual application to the constitutional court is the high number of applications and violations before the European Court of Human Rights. Turkey, one of the founding members of the Council of Europe, ratified the European Convention on

⁴ The powers and duties of the Constitutional Court can only be regulated by a constitutional provision in accordance with Article 148 of the Constitution. Therefore, vesting a new power to the Constitutional Court means adoption of a new constitutional amendment.

⁵ Constitutional amendments have to be realised either by the parliament or by a public referendum. Two thirds qualified majority in the parliament or absolute majority in the public referendum may easily return to a vote of confidence for the government.



Human Rights and its major additional protocols⁶, and recognised the individual application to the Strasbourg Court since 1987. The number of applications and the number of violations found by the Court has never decreased. The record number of violations and the huge amounts of just satisfaction paid from the state budget have always been a “credible point” for criticizing the governments due to lack of effective domestic protection of human rights.

The other reason for the establishment of individual application is the indifferent attitude of the state organs, especially the judiciary, towards protection of fundamental rights and freedoms especially in the last three decades. Both in respect of negotiations for a possible membership to the EU and in relations with international organisations on protection of human rights (the Council of Europe, the UN and the OSCE etc.), such indifferent attitudes posed many chronic problems until the end of 1990s.

Finally, the decrease of public trust in judiciary, daily human rights problems particularly related with fair trial and freedom of expression, actions of security forces and discontentment of civil society underlined heavily the need for a new and effective remedy.

In order to tackle with these problems, previous and present governments made many efforts and legislative reforms including the amendment of Article 90 of the Turkish Constitution which sets forth that international treaties on human rights will prevail in case of a conflict with the domestic legislation. Despite the great expectations, the result in practice was not satisfactory due to unwillingness of the state organs and courts to follow international standards and jurisprudence of the Strasbourg Court.

The most serious attempt for inclusion of individual application system was initiated in 2004 by the Constitutional Court in the form of a draft proposal on constitutional amendment. It was submitted to the Government. The Venice Commission gave an advisory opinion supporting the proposal⁷ and even the draft proposal was appeared on the agenda of the Turkish Parliament. However, the efforts were in vain. Although not successful, the initiative paved the way for having a permanent item of

6 For more details on Turkey, please see “Turkey-Member State” <http://www.coe.int/en/web/portal/turkey> IAD:13.04.2015. For country profile of Turkey before the European Court of Human Rights, please see “Turkey” http://www.echr.coe.int/Documents/CP_Turkey_ENG.pdf IAD:13.4.2015.

7 CDL-AD(2004)024-e, Opinion on the Draft Constitutional Amendments with regard to the Constitutional Court of Turkey adopted by the Venice Commission at its 59th Plenary Session (Venice, 18-19 June 2004), [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2004\)024-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2004)024-e) IAD:13.4.2015.

human rights on the agenda of public and professionals in the consecutive years.

We should mention here that the approach of the Turkish high courts at the time was somewhat unfriendly towards the individual application system, since it was construed by them that introducing individual application system would be a new legal instrument found by the Constitutional Court to be a super-cassation court over the existing high courts. There was a strong opposition especially from the other high courts including the Court of Cassation and the Council of State. In addition, although a minor, but effective group from the academicians were constantly declaring their hesitation about the individual application system⁸. Although it was known via public polls that most of the public was in favour of the individual application system, such negative approaches sometimes made the people and government in two minds. Constitutional Court either in cooperation with the Council of Europe and the institutions of the European Union, or by its own initiative held many national or international conferences, workshops, panels and similar various activities throughout Turkey in order to make the society and jurists familiar with the individual application system even before its establishment.

In result of long lasting initiatives by the Constitutional Court and insistent requests of civil society actors and institutions, the government of the time accepted to include the regulations on individual application in the text of constitutional amendments to be presented before the public referendum on 12 September 2010. In fact one of the most striking features of the constitutional amendments realised by Law No. 5982 was the introduction of individual application system. It was approved by the public with a high proportion and the constitutional amendments were published in the Official Gazette. Two years of preparation were foreseen until 23 September 2012.

II. PREPARATIONS MADE SINCE SEPTEMBER 2010 BY THE CONSTITUTIONAL COURT AS REGARDS INDIVIDUAL APPLICATION

Individual application system was included only by adding a paragraph to the relevant part of the Constitution on powers and duties of the Constitutional Court. Namely, it was a small step for a human, but a great step for humanity. The start for a metamorphosis was given and

⁸ For various opinions expressed at the time, please see, *Anayasa Mahkemesine Bireysel Başvuru* [Individual Application to the Constitutional Court], Ankara 2011, p.13 – 152. Please see, <http://tbbyayinlari.barobirlik.org.tr/TBBBooks/ambb-2011-382.pdf> IAD:13.4.2015.



all the lights directed on the Constitutional Court. The position of the Constitutional Court became harder after the constitutional amendments, since public really engaged in “great expectations”. The fact that the Court received many individual applications on the next morning of the referendum may give an idea on the enthusiasm of public.

The most important activities during the two years of preparation period for individual application system can be summarized under 7 main titles.

1. LEGISLATIVE AMENDMENTS

Legislative efforts made in respect of individual application system can be grouped under 3 main headings: constitutional amendments, legislative amendments and secondary regulations.

A. Constitutional Amendments Introduced by the Law No. 5982

Comprehensive improvements⁹ having reformative features were brought by constitutional amendments concerning the structure, duties and functioning of the Constitutional Court¹⁰. Most important results of these amendments can be mentioned briefly.

a. The remedy of individual application to the Constitutional Court has been introduced. “Every person may lodge an application to the Constitutional Court on the grounds of allegation of violation by public authority of any of his/her fundamental rights and freedoms safeguarded in the Constitution within the scope of the European Convention on Human Rights. It is imperative that ordinary legal remedies shall be exhausted in order to lodge an application. No review may be conducted in individual application on the issues to be considered during ordinary legal ways. The procedures and principles concerning individual application shall be provided by law.” (Article 148 of the 1982 Constitution regulates “Duties and Powers of the Constitutional Court.”).

b. Number of member judges was increased from 15 to 17. The Constitutional Court used to consist of 11 full and 4 substitute members in the form of a single plenary. The system of substitute membership was abandoned.

c. Decision making bodies of the Constitutional Court were designed to meet the needs of new individual application system. In addition

⁹ Articles 16, 17, 18 and 19 of “The Law on Amendment of Certain Articles of Constitution of the Republic of Turkey” and Articles 146, 147, 148 and 149 of the 1982 Constitution.

¹⁰ Article 146 of the 1982 Constitution, which regulated the Establishment of the Constitutional Court under the main heading “High Courts”, was totally altered by Article 16 of the Law No. 5982.

to the plenary assembly, sections and commissions were established. Thus, plenary assembly will deal with the conventional powers of the Court, whereas the sections and commissions will deal with individual applications¹¹.

d. Turkish Grand National Assembly acquired the right to appoint 3 member judges, which provides additional democratic legitimacy to the composition of the Court.

e. Term of office for a Constitutional Court judge is limited to 12 years¹² and it's non-renewable. Before there used to be no such special limitation apart from the compulsory retirement age limit of 65 for judges.

B.Legislative Amendments by the Law No. 6216¹³

One year after the constitutional amendments, namely in 2011, the discussions on the form, substance and effects of individual complaints came to a certain point and "The Law on the Establishment and Adjudication Procedures of the Constitutional Court" Law 6216 was enacted¹⁴. By these regulations, the basic legislative step related to the admissibility and examination of individual applications as the new duty of the Constitutional Court has been taken, thus one of the phases of

11 Article 149 of the 1982 Constitution, which provides the Functioning and Adjudication Procedures of the Constitutional Court, was considerably amended by Article 19 of the Law numbered 5982:

The Constitutional Court functions as two separate sections while dealing with individual applications. The sections convene with the participation of 1 chief judge and 4 member judges whereas the plenary court can be convened at least by 13 judges (President and 12 member judges). The quorum of decision in meetings is absolute majority. The plenary assembly of the Court is in charge of all conventional cases in addition to individual applications raising case-law conflicts between the sections. A two thirds majority vote is required for decisions on annulment of constitutional amendments (in respect of form) and dissolution of political parties.

12 Paragraph 1 of Article 147 providing "Member judges of the Constitutional Court shall retire upon the completion of 65 years of age limit was formulated as "Member judges of the Constitutional Court are elected for a term of twelve years. No member of the Court shall be elected for a second term. Member judges of the Constitutional Court shall retire upon the completion of 65 years of age limit. Other assignments and personnel affairs of member judges whose term of office terminate before compulsory retirement age shall be regulated by law."

13 For the English translation of Law No.6216, *please see*, http://www.anayasa.gov.tr/en/statutory/law_constitutional_court.pdf IAD:13.4.2015.

14 The right to individual application is defined in Articles 45 and 46 of the aforementioned Law, persons eligible for lodging applications are identified and the procedures to be followed before lodging an individual application are clarified. As for Article 47 of the Law No. 6216, procedural rules for individual application are explained, while in Articles 48 and 49, regulations on the methods concerning the admissibility review and examination on the merits are provided. Article 50 of the Law in question includes the rules concerning the decisions rendered as a result of individual application reviews, whereas Article 51 provides the judgements on the fine to be imposed in case of abuse of the right to individual application.



primary importance has been completed.

It should be mentioned that 3 posts of deputy secretaries general and 45 new posts of assistant judge rapporteurs were opened¹⁵. The number of posts of judge rapporteurs was increased to 150 by the new Law No.6216 in order to meet new needs of changing Court structure.

C. Secondary Regulations

In the Law on the Establishment and Adjudication Procedures of the Constitutional Court, a large number of issues concerning the functioning and activities of the court were envisaged to be regulated in the Court's Rules of Procedure. Therefore, after having considered several practices in the field (*inter alia*, the ECtHR, Germany, Spain and Korea), a Draft Rules of Procedure of Court was laid down. The draft text in question was distributed to the jurists working in the European Court of Human Rights and Turkish academic circles. After the receipt of their feedbacks, the draft was elaborated under the proposals and critics by rapporteur judges of the Constitutional Court and then final text was submitted to the consideration of the Plenary Assembly. Rules of Procedure of the Constitutional Court was published¹⁶ in the Official Gazette dated 12.7.2012 and numbered 28351.

In this context, necessary by-laws such as By-Law on the Admission Exam of Assistant Rapporteur Judges (published in the Official Gazette dated 21 May 2011 and numbered 27940) and By-Law on Training of Assistant Rapporteur Judge Candidates (published in the Official Gazette dated 8 May 2012 and numbered 26286) were issued and implemented to deal with needs of qualified human resources for the Court.

2. TRAINING ACTIVITIES

The *sine qua non* condition of individual application system is intensive training activities. During the last five years, President KILIÇ until his retirement personally participated in all training programs due to his heavy schedule and requested each judge and judge rapporteur to do same thing. An excuse for not participating in those training activities has been rarely acceptable.

It is not possible to explain in this article all the training activities made

15 Positions as assistant judge rapporteurs are established under Article 27 of the Law to fill the professionalism gap between rapporteur judges and administrative personnel. Furthermore, posts as Deputy Secretaries were enabled with the aim of providing assistance for the Secretary General in the administration of the enlarging Court (Article 23 of the Law).

16 For the English translation of the Rules of Procedure, please see http://www.anayasa.gov.tr/en/statutory/rules_of_court.pdf IAD:13.4.2015.

during the last 5 years. In addition, the training is still going on. Even if I count those activities by their names, an exhaustive list may really exhaust the readers. Therefore, those activities were grouped under 5 main headings and just their essence and some statistical data were furnished.

A. Training Activities Conducted within the Structure of Court

Activities for individual application training were conducted in collaboration with the academicians within the body of Court. In this context, in 2011-2012, five conferences were held on Philosophical and Legal Groundwork of Human Rights, legal interpretation methods applied by the ECtHR (doctrines of subsidiarity, living document, proportionality, margin of appreciation, fourth instance problems) and relations with other high courts during the examination of individual applications.

B. Training for Assistant Judge Rapporteur Candidates

A two-year training program for assistant rapporteur judge candidates was planned and implemented between 2012 and 2014. Around 3000 university graduates applied for the vacant posts and 26 candidates were admitted to the Court in result of 3 staged exam. Approximately 90 lectures and courses such as philosophy of law and its concepts, judicial ethics, human rights law, constitutional law, theory of rights, procedural laws, constitutional adjudication, individual application and legal English were provided to the candidates within this framework.

The candidates worked for 6 months in civil, criminal, administrative courts and public prosecution and 3 months in the high courts and justice academy.

In addition to this, the candidates were asked to submit three academic papers in the field of human rights and constitutional law to be published in law journals.

Finally they passed the proficiency exams, which lasted 4 days in May 2014 year and appointed to the different units working on individual applications.

C. Training for Judges and Prosecutors along with Lawyers

A crucial decision was taken for individual application training to be organised with the partnership of the several institutions as a consequence of deliberations held with the Turkish Justice Academy, the High Council of Judges and Prosecutors and the Turkish Bar Association, resulting in a plan for "The Training for Judges and Prosecutors". The participation of İzmir, Ankara, Eskişehir, Diyarbakır, Konya and Sakarya Bar Associations



in the seminars and conferences convened in 2012. Awareness training on individual application system was provided by a program for 1200 judges.

D. The Bilateral and Multilateral Projects Conducted

The famous Project on “Enhancing the Role of Supreme Judicial Authorities in respect of European Standards” was jointly conducted with the Council of Europe. Among stakeholders of this project, in addition to Constitutional Court there were the Court of Cassation, the Council of State and High Council of Judges and Prosecutors. The project was launched in February 2010 and finished successfully in 2013.

The activities conducted within the scope of the above-mentioned project are included below:

a. Study Visits to the European Institutions

Study visits were paid to the Council of Europe, the European Court of Human Rights, the European Court of Justice, European Parliament, the Commission of EU, Eurojust and Europol on several dates between 2010-2013 by the groups consisting of members and rapporteur judges of the Constitutional Court. During these visits, the cumulative information on this field was extended to a higher degree through the presentations delivered and mutually-held meetings in parallel with the on-sight examination of the working mechanism and practices of the aforementioned institutions.

b. Assignment of Rapporteur Judges at the European Court of Human Rights

From among rapporteur judges of the Constitutional Court, 9 of them were assigned for six months to the European Court of Human Rights in 2011 and 2012.

Information was furnished as regards the operating principles of DM, CMIS and HUDOC, which are among IT systems utilised by the ECtHR and experience in that respect was gained through self-usage of the systems within the framework of querying files, court decisions, and reports during the file-examination phase.

c. Round Table Meetings

Thirteen round table meetings were held between November 2011 and 2013. During these meetings, all the relevant articles of the European Convention on Human Rights and its additional protocols, relevant case-law of the Strasbourg Court were elaborated in detail with the participation

of judges from the Constitutional Court and other high courts, experts from the ECtHR and Turkish universities.

d. Other Training Activities

Two international symposia were organised with the Justice Academy and Anadolu University of Eskişehir. Participants from Turkish Universities, the ECtHR, the Venice Commission and the Constitutional Court have found opportunity to discuss the findings of comparative law on individual application systems during these symposia.

e. Research Visits to Several Constitutional Courts

Research visits, each lasting two or three weeks, were paid to the Constitutional Courts of Germany, Spain and Korea between 2010 and 2012. Detailed reports of these visits and written findings were distributed to the judges and judge rapporteurs.

3. STUDIES CONCERNING THE PUBLICATION AND TRANSLATIONS OF REFERENCE BOOKS

One of the reasons that judges, prosecutors, lawyers and academicians cannot follow the case-law of the ECtHR is lack of printed or online sources. In this context, in cooperation with the Council of Europe 3 cornerstone books (compendium) on the European Convention and the case-law of Strasbourg were published and thousands of them were distributed to the high court judges, instance judges and candidate judges.

The number of books and informative documents published by the Court or Court's co-operators since 2009 will exceed 50 at the end of 2014. Although this is a record for the Court history, no information is hidden from the public, academicians, lawyers and interested persons. Most of those books were published in the website of the Court and now accessible to any interested person¹⁷.

4. ACTIVITIES CONDUCTED WITHIN THE SCOPE OF DEVELOPING THE IT SYSTEM AND SOFTWARE

After the approval of the President of the Constitutional Court and the Minister of Justice, a written accord was designed on realisation of an effective IT system required for individual application. The development of software as a result of the negotiations with the General IT Department of the Ministry of Justice was planned.

¹⁷ For reference books and publications, *please see*, http://www.anayasa.gov.tr/BireyselBasvuru/El_Kitaplari/ IAD:13.4.2015; <http://www.anayasa.gov.tr/InsanHaklari/Kitaplar/> IAD:13.4.2015 <http://www.anayasa.gov.tr/InsanHaklari/ElKitaplari/> IAD:13.4.2015; <http://www.anayasa.gov.tr/InsanHaklari/Sunumlar/> IAD:13.4.2015.



In this context, an authentic software programme, which is peculiar to the remedy of individual application only, was developed in two years. The test phase of the programme passed successfully and it is still used effectively now. Every 3 months new patches are added to the system. The Court's actual IT system was designed to work on paperless environment. For the time being the hard copies of documents are still kept, but at anytime decided by the Court, it can be moved to paperless environment.

Since 2007, electronic signature has been used in the Court. The present IT system is designed to accept applications by electronic-signature in the future. The actual IT system is also integrated with National Judiciary Informatics System. Thus, judges and judge rapporteurs may access to cases of other courts and relevant official documents in case of need. Another prospective result of the system is to provide the possibility of applying to the Constitutional Court via e-signature, if the Court approves such an application.

5. ACTIVITIES CONDUCTED WITHIN THE SCOPE OF FOSTERING HUMAN RESOURCES

Several efforts for employment have been exerted with a view to increasing the Court's human resources. The number of rapporteur judges was increased from 20 to 80 within this context. The number of rapporteur judges was planned to be increased in proportion to the growing case load. Within this framework, 26 assistant rapporteur judges were also admitted to the Court. The employment of 2 interpreters in English and an interpreter in German language was concluded, making up 3 translators in total. Within this context, the establishment of a new unit for translation within the structure of the Directorate of Foreign Relations was realised. Finally, the number of Court administrative staff was tripled between 2009 and 2014 in order to cope with the ever increasing workload of the Court.

6. PUBLICITY ACTIVITIES

Another activity conducted within the scope of preliminary efforts aiming the transition to individual application is ensured via publicizing this legal remedy in both printed and visual mass communication media. Within this context,

a. A documentary was produced on the foundation of the Turkish Constitutional Court, its historical background, powers and duties in addition to individual application system in collaboration with Turkish Radio Television Corporation and presented in Turkish and English,

which is also accessible on the website of the Court¹⁸.

b. An individual application form and a handbook outlining the instructions for filling the form were prepared pursuant to the provisions of the Court's Rules of Procedure. 50 000 copies were published and distributed to the courts and bar associations.

c. The booklet named "Individual Application to the Constitutional Court in 66 Questions" was prepared by Dr. Musa Sağlam and Dr. Hüseyin Ekinci with the aim of furnishing basic information on individual application for both professionals and applicants. The content of the booklet includes basic pieces of information conveyed in plain language, shedding light on the most frequently asked or likely to be asked questions with respect to individual application. The above-mentioned booklet was also published and thousands of copies were distributed to judges and lawyers and bar associations.

d. The pre-study concerning the broadcast of public spots providing illuminative information related to the Court was concluded after the implementation of individual application and these publicizing activities were transformed into broadcasts in 2012.

e. Informative meetings with representatives of newspapers and TV channels at national level were held by the Court President or persons assigned by him.

f. Statistical data on individual application prepared pursuant to the information filled-in by the applicants are published every three months on the website of the Court.

g. On the website of the Constitutional Court, the legislation on individual application, materials in respect thereof, the link "Individual Application" enabling the completion of individual application form in physical and electronic media and the link on "Human Rights Data Bank" including books, handbooks and links concerning human rights were completed and made accessible for citizens and stakeholders.

7. ARRANGEMENTS IN THE COURT'S PHYSICAL APPEARANCE, PROCUREMENT OF TOOLS AND MATERIALS

a. The preliminary examination bureau of individual applications was established in a separate venue allocated at the Court building for the applicants and lawyers wishing to submit their applications in person. The bureau intended for *prima facie* reviews of individual applications is

¹⁸ For English version of the documentary, please see, <http://www.anayasa.gov.tr/en/Documentary/IAD:13.4.2015>.



headed by a senior rapporteur judge, where 20 officers can work together and approximately 30 applicants can petition their cases at the same time.

b. Rooms and halls specially designed for meetings and on the purpose of conducting Secretariat services were allocated in the Court building. Furnishing activities came to an end by 23 September 2012. Even after the introduction of individual application system, a second plenary meeting room was built inside the court building and allocated to the meetings of the individual applications.

c. E-signature devices, computers, scanners, printers and other hardware were ordered for the staff to be employed in individual application system, the installation of which was completed successfully.

CONCLUSION

Preparation for an individual application system is not a set of results, but rather a long on-going process. Some positive results, achieved between September 2012 and January 2015, have to be mentioned here.

The number of the cases against Turkey before the Strasbourg Court has been decreased considerably after the recognition of the new remedy as “effective” in the case of *Hasan Uzun v. Turkey*.¹⁹ The relatively quick recognition of the new remedy by the Strasbourg Court can be interpreted as the deep confidence towards the Turkish Constitutional Court on account of land marking judgments rendered in a short term.

Two years after the implementation of the individual application system the Court rendered many famous judgments²⁰ on protection of fundamental rights and freedoms which received extensive national and international acclaim. The Progress Reports of 2013 and 2014 on Turkey’s accession to the EU praise the additional protective function of the Court on fundamental rights and freedoms.²¹ The Venice Commission awarded the Court’s President in 2014 with *pro meritis* medal on account of the Court’s constructive role on safeguarding human rights²².

Considering the recent public surveys, the Constitutional Court has gained a high public confidence in recent years in comparison to previous

19 *Hasan Uzun v. Turkey*, Application No: 10755/13, Judgment of 30.4.2013.

20 For summaries of recent judgments, please see, <http://www.anayasa.gov.tr/en/News/Detail/14/IAD:13.4.2015>.

21 For the EU Progress Report of 2014 on Turkey, please see http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-turkey-progress-report_en.pdf IAD:21.4.2015 (especially pages 3, 13, 45 and 63). For the EU Progress Report of 2013 on Turkey, please see, http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/brochures/turkey_2013.pdf IAD:21.4.2015.

22 <http://www.anayasa.gov.tr/Haber/Detay/273/IAD:21.4.2013>.

years.

The Court was invited to the Council of Europe in 2014 among the best practice examples of Europe to share experiences with other countries²³.

Bearing in the mind the above mentioned facts, it can be said that the preparations for individual application system were generally well-founded and the Turkish experience on introduction of individual application system seems to be success story until now. In order that the Turkish Constitutional Court can keep the attained level of success in individual application system, the team spirit and synergy caught in the Court during the last 5 years should be survived. Secondly, a regular endeavour, constant awareness and interaction have to be maintained with international mechanisms on protection of human rights, especially the European Court of Human Rights and Council of Europe institutions. Finally, success in the individual application system depends on collective responsibility of all judicial actors. The positive relationship and solidarity to protect fundamental rights and freedoms among the high courts should be kept alive. Otherwise, the fairy tale may return to a nightmare, which is the last thing wished for Turkey.

²³ http://www.coe.int/t/dgi/hr-natimplement/Source/echr/Agenda_Conference_07072014.pdf
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