

Criminal Justice in Turkish Judiciary System

Judicial courts



Supreme Court:
Court of Cassation

Constitutional Jurisdiction



Supreme Court:
Constitutional Court

Administrative Justice



Supreme Court:
Council of State

Litigation



Supreme Court:
Court Of Jurisdictional Disputes

Judgement of Accounts



Supreme Institution:
The Court of Accounts



* Freedom of expression cases mostly appear as criminal cases. While there are exceptions, we have focused on the criminal judiciary for the sake of comprehensibility.

INVESTIGATION

- Public Prosecutors conduct investigation as judicial authorities.
- In case there is reasonable suspicion of a crime, the prosecutor prepares an indictment, leading to the prosecution phase if accepted by the court.
- A Prosecutor can give a decision of non-prosecution if there isn't reasonable suspicion of the crime
- During the investigation, if there are facts that tend to show the existence of a strong suspicion of a crime and an existing "ground for arrest", an arrest warrant against the suspect may be rendered by a Criminal Peace Judgeship.

REGIONAL COURT OF APPEAL

- The Regional Court of Appeal might give the decision of a retrial at the original first instance court.
- The Regional Court of Appeal might give the decision of a retrial at the The Regional Court of Appeal.
- The Regional Court of Appeal may reject the appeal, confirming the decision of the first instance court.
- Decisions by Regional Courts of Appeal can be appealed to the Court of Cassation by all parties if the decision is formally subject to examination.*

First Instance Court or Regional Court of Appeal

The Court That Has Made The Decision

- In case the first instance court or the Regional Court of Appeal abides by the decision of the Court of Cassation, a new trial will be held. The new decision might be corrective or same with the original decision.
- The first instance court or the Regional Court of Appeal might insist on its former decision against the reversal decision, the case will then return to the Court of Cassation. The new review will be conducted by the General Assembly of Criminal Chambers of the Court of Cassation.

CONSTITUTIONAL COURT

- The Constitutional Jurisdiction, is a different jurisdiction branch as displayed above
- The Constitutional Court, in the context of Criminal justice, reviews individual applications of those claiming violation of their protected rights and freedoms.
- The rights claimed to be violated should be under the protection of the Constitution, ECHR and International Agreements.*

1

PEN NORWAY

This infographic is prepared by PEN Norway, as a part of the Turkey Indictment Project. The infographic aims to display basic information concerning the legal system in Turkey.

2

PROSECUTION

First Instance Court

- Prosecution begins when the court accepts an indictment
- The First instance court can decline an indictment that does not meet the criteria defined by law.
- Prosecution ends with one of the following decisions: acquittal, conviction, dismissal, decision of nonsuit or imposition of security measures.
- During the prosecution, if there are facts that tend to show the existence of a strong suspicion of a crime and an existing "ground for arrest", an arrest warrant against the accused may be rendered.
- The decision of the First Instance Court can be appealed to the higher court by all parties.*

3

4

COURT OF CASSATION

Criminal Chamber

- In case of a reversal decision the case file is returned to the court that has made the decision. So if the Regional Court of Appeal has approved first instance court's decision without changing it, the case will be returned to the first instance court.*
- Approval or Corrective Approval decisions by the Court of Cassation are final and do not require a re-trial.

5

6

COURT OF CASSATION

Criminal Chamber

- If the first instance court or the Regional Court of Appeal insist on its former decision, the Criminal Chamber of the Court of Cassation can also insist on its reversal decision. In this case the final decision will be made by the Court of Cassation General Assembly of Criminal Chambers.

7

COURT OF CASSATION

General Assembly of Criminal Chambers

- Approval or Reversal decisions at this stage are final.

European Court to Human Rights (ECtHR)

- ECtHR may only deal with the matter after all domestic remedies have been exhausted
- If the requirements are fulfilled for a Constitutional Court application, it is considered the final domestic remedy before applying to ECtHR
- All applications to ECtHR must be completed within 6 months of the final decision given by domestic courts.

* This chart aims to explain the steps of a standard criminal case in a simplified manner. The steps might differ in some exceptional cases. An appeal to the Court of Cassation or an application to the Constitutional Court, is only possible if the conditions meet the requirements defined by law.