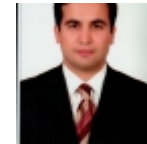


EU principles in modernisation of Justice and the Turkish IT project UYAP

Information and computer technologies play a major role in the development and improvement of the judicial process. It helps to deal with growing complexities of litigation and makes hearings faster and more efficient. Creation and maintenance of an effective, modern and capable judiciary is one of the main aims of the Union, and a continuing obligation of EU membership.

This article discusses the principles of the EU in the modernization of Justice and, in particular, Turkey's place in this process. As the eGovernment issue is so wide and comprehensive, discussion will be restricted to basic principles and initiatives in this field and will focus mainly on one particular aspect of it, namely eJustice. I shall present EU principles in modernization of Justice within the context of the accession process, and afterwards some main institutions and initiatives will be examined. The Turkish judicial IT Project (National Judiciary Informatics System, UYAP) will be analysed in order to demonstrate the Turkish Judiciary's potential role and function in this field, as well as the impacts and benefits of enlargement on the member and candidate countries in terms of modernization of Justice. Turkey will not only benefit from accession, but also contribute to the EU in terms of usage of IT in judiciary.

Many countries, even developed ones, are striving to carry out their domestic approaches on the substance of e-transformation like Turkey. It is believed that sharing the experiences gained during the course of the comprehensive UYAP project would be of interest and beneficial to many countries in the EU.



Ali Riza Cam

IT Department of
Ministry of
Justice, Turkey

Keywords

eJustice, turkey, enlargement, modernization, UYAP, judiciary, law, hearings, courts, e-transformation, administration

“ Thanks to the enlargement, the same level of technology can be provided in all the states of Europe and generate standardisation and interoperability between different systems. ”

1 Introduction

Modernity, as a brief and summarized term, is a process that constantly evokes the idea of promoting innovation, continual creation of the new towards the future, being avid for novelty and the establishment of the rights and freedoms. Globalization is one of the most visible consequences of modernity and it stimulates enterprises and states to concentrate on modernization. As for modernisation, it is the sum of the creative processes of large-scale and unceasing change in a society which has economic, political, cultural characteristic and implication of modernity. The development of science and technology, industrialization, political development, democratisation and the establishment of modernity values are the essential aspects of modernisation¹.

In this context, modernisation of Justice has become an indispensable and complementary part of these processes, and has a significant importance. As seen in this essay, the European Union (hereafter EU) has very sound institutions and principles in terms of providing efficient and modern judiciary within its borders. This essay discusses the impacts of EU principles on member and candidate states in the field of modernization of Justice, in particular Turkey's role in this process. As the eGovernment issue is so wide and comprehensive, attention will be restricted to basic principles and initiatives in this field; instead it is mainly focused on one particular aspect of it, namely eJustice. I shall present EU's principles in modernization of Justice within the context of the accession process, and then some main institutions and attempts will be examined. In the following section Turkish judicial IT Project – National Judiciary Informatics System (UYAP) - will be touched on shortly in order to demonstrate the Turkish Judiciary's potential role and function in this field. Afterwards, the impacts and benefits of enlargement to the member and candidate countries are assessed in terms of modernization of Justice. In the final section I will attempt to provide a summary and reach a conclusion.

2 Basic eGovernment Initiatives in Europe

EGovernment is one of Europe's foremost challenges. EGovernment is defined here as "the use of information and communication technologies in public administrations combined with organisational change and new skills in order to improve public services and democratic processes and strengthen support to public policies"².

With regards to the EU treaties, responsibility for eGovernment policies seems to remain to the EU member states' national governments. Member states try to get benefit of ICT in their governmental process within one of the main objective of EU; 'promoting new forms of governance'³.

It can be seen from the Ministerial conference in Manchester in November 2005 that there is a clear commitment from all member states to develop strategies to modernise public administration by using eGovernment to facilitate online services for citizens. In this step, the European Commission agreed to adopt a specific strategy 'e-commission 2006-2010' which offers online, integrated and fully transformed and paperless services. They should be better, more cost-effective, transparent and secure, which are beneficial for staff, national administrations, partners, business and citizens⁴. Main

¹ Alberto Martinelli, *Global Modernization Rethinking the Project of modernity*, Sage publications 1st edition, London, 2005, p.7-10

² Signposts towards e-Government 2010; (This report is prepared by the European Commission e-Government Unit in cooperation with the eTEN, e-Europe and IDABC units on behalf of the e-Government subgroup of the e-Europe Advisory Group.) European Commission Information Society and Media Directorate, November, 2005 p.8 (http://ec.europa.eu/information_society/activities/egovernment_research/doc/minconf2005/signposts2005.pdf) (accessed date 24.11.2007)

³ P.G. Nixon; *ctrl, alt, delete; Re-booting the E.U. via e-government*, E-Government in Europe, Routledge, 2007, p.19-21

⁴ e-Commission 2006-2010: enabling efficiency and transparency; http://www.ec.europa.eu/dgs/informatics/ecommm/doc/ecommm-2006-2010_cs_en_v414_postcis.pdf, p.13 (accessed date 23.11.2007)

initiatives presented below provide evidence that significant importance is given to the eGovernment issue in the EU.

Lisbon Strategy : During the meeting of the European Council in Lisbon (March 2000), the Heads of State or Government launched a "Lisbon Strategy" aimed at making the EU the most competitive economy in the world and achieving full employment by 2010. Information Society policies address main objectives of the Lisbon Growth and Job Strategy. They drive productivity growth, create an open and competitive digital economy, and stimulate innovation to tackle changes of globalisation and demographic change⁵.

eEurope 2002: In 2000 EU agreed to adopt this initiative as a part of the Lisbon Strategy. The major aims of eEurope 2002 was to ensure online eGovernment services to citizens by providing cheap, secure and fast internet⁶.

eEurope 2005: It was launched at the Seville European Council in June 2002 and endorsed by the Council of Ministers in the eEurope Resolution of January 2003. It aimed to develop modern public services and a dynamic environment for e-business through widespread availability of broadband access at competitive prices and a secure information infrastructure⁷.

i2010: 'European Information Society 2010' is a comprehensive strategy which is adopted by the Commission on 1 June 2005 to encourage the development of the digital economy by modernising and deploying all EU policy instruments. In this most recent attempt, the EU seeks to promote a system of joined-up, integrated policy initiative to facilitate an information society by enhancing eGovernment services. Organisational, semantic and technical interoperability are mentioned as essential in order to provide different systems which can work together for ICT enabled public services⁸.

3 Some basic principles of EU in the modernization of Justice

It is an undeniable fact that as a part of eGovernment, eJustice plays a crucial role to increase transparency, reduce administrative corruption, improve quality of service delivery, provide community a better access to Justice, enhance efficiency and productivity and decrease costs in the interaction of citizens with governments⁹. Furthermore thanks to eJustice projects, the duration of the assizes may even be diminished, especially in routine cases. The speed of service delivery also increases when a civil servant handling a case has real-time access to databases which are located in other units or countries. Data mining techniques enable policy makers to acquire a better insight into the needs of the society instead the need of politicians¹⁰.

There are some legal provisions addressing effective judiciary which can only be achieved by the aid of modernisation of Justice. Article 6(1) of the European Convention on Human Rights¹¹, as well as Article

⁵Lisbon Strategy, http://ec.europa.eu/information_society/eeurope/i2010/docs/launch/lisbon_strategy_and_ict.pdf (accessed date 26.11.2007)

⁶eEurope 2002, http://ec.europa.eu/information_society/eeurope/2002/action_plan/pdf/actionplan_en.pdf (accessed date 26.11.2007)

⁷eEurope 2005, http://ec.europa.eu/information_society/eeurope/2005/index_en.htm (accessed date 26.11.2007)

⁸i2010, www.europa.eu.int/information_society/eeurope/i2010/index_en.htm (accessed date 26.11.2007)

⁹Subhash Bhatnagar, *E-Government From Vision to Implementation*, Sage Publications, London 1st edition, 2004, p. 37-60

¹⁰Stavros Zouridis, Victor Bekkers, *Electronic Service delivery and the democratic relationships between government and its citizens*, Democratic Governance and New technology, Technologically mediated innovations in political practice in Western Europe Routledge, London 2001 P. 125, 126

¹¹Convention for the Protection of Human Rights and Fundamental Freedoms as amended by Protocol No. 11 www.echr.coe.int/NR/rdonlyres/D5CC24A7-DC13-4318-B457-5C9014916D7A/0/EnglishAnglais.pdf (accessed date 26.11.2007)

47 of the European Charter of Fundamental Rights¹² mention the right to “a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law”. The observance of this right requires member and candidate countries to have an independent, impartial, professional and efficient judiciary. The UN's International Covenant on Civil and Political Rights states (article 14-1)¹³ that “in the determination of any criminal charge against him, or of his rights and obligations in a suit of law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law”.

These provisions, which are explicitly mentioned in the progress and screening reports of candidates, show that significant importance is given to the efficiency and competency of the courts which can be easily provided by the modernization of judiciary. Relating to the 10 new Member States and the two acceding States, the EU stresses that ‘the establishment of an independent, reliable and efficient judiciary is of paramount importance. This notably requires sufficient human resources and qualified staff, adequate and modern equipment, acceleration of court proceedings, reduction of the number of pending cases to avoid unreasonable delays and measures to ensure the adequate enforcement of judgments’¹⁴.

The independent, efficient and accountable Justice system demonstrates the country’s ability to take on the obligations of EU membership. According to the screening report of Turkey: ‘Indicators of effort and progress made by a country to improve judicial efficiency include the level of the annual budget of the courts and infrastructure and equipment including the physical state and sufficiency of court houses, the level of computerisation, online access (to eg. constitutional court and supreme court jurisprudence) and effective case flow (the way cases flow through the entire court system, i.e. the way cases and court capacity are matched) and records management in courts’¹⁵.

There are some challenges all over the European judicial system: huge workload, keep updated with innovations, lack of well educated staff and the need of modern and well- equipped courts to name just a few. Functionally adequate court buildings equipped with the latest technology and linked with the inside or outside judicial units are essential for the efficient operation of a court. This is the most effective way to shorten the duration of the cases. The average duration for civil proceedings and criminal proceedings should not be over the reasonable time according to (Article 6-1) ECHR, in fact it is one of the most serious problems in many of the judiciary. This requirement has a significant importance not only from the individual’s human rights point of view, but also from the EU accession point of view.

4 Some basic institutions

Directorate-General for Justice, Freedom and Security

The European Commission set up a small task force for Justice and Home Affairs when the Maastricht Treaty was signed in 1992. This was expanded into a full directorate-general (The Justice, Freedom and Security DG) in October 1999. It is one of the European Commission's 36 departments and is made up by 17 policy units. One of them is the IT dimension of the area of Freedom, Security and Justice. This unit's task is to deliver support for the design and preparation of modern Justice and to implement large-scale IT systems to ensure the Freedom, Security and Justice in Europe¹⁶.

¹² Charter of Fundamental Rights of the European Union, www.europarl.europa.eu/comparl/libe/elsj/charter/art47/default_en.htm (accessed date 26.11.2007)

¹³ International Covenant on Civil and Political Rights (UN), Entry into force 23 March 1976. http://www.unhcr.ch/html/menu3/b/a_ccpr.htm (accessed date 26.11.2007)

¹⁴ Report, [www.eu-coordinator.gov.cy/harmonization/harmonization.nsf/All/1D8E86ADF769C9D5C2256E89002FC45D/\\$file/24_jha.doc](http://www.eu-coordinator.gov.cy/harmonization/harmonization.nsf/All/1D8E86ADF769C9D5C2256E89002FC45D/$file/24_jha.doc). (accessed date 26.11.2007)

¹⁵ E.C. Turkey Screening Report Chapter 23 - Judiciary And Best Practices

¹⁶ The Justice, Freedom and Security Directorate General http://ec.europa.eu/dgs/justice_home/index_en.htm (accessed date 27.11.2007)

The European Network of Councils for the Judiciary (ENCJ)

It was established in 2004 and consists of national institutions in the member states of the EU. These are independent of the executive and legislature, and responsible for the support of the Judiciaries. The Ministry of Justice in member states and institutions from EU candidate states may be granted observer status. National organisations for the judiciary from 24 EU (candidate) member states have joined the ENCJ. Main responsibilities of the ENCJ are: eJustice, quality management, supporting co-operation between members, exchange of experience in relation to how the judiciary is organised and how it functions, and provision of expertise, experience and proposals to EU institutions and other national and international organisations¹⁷.

European Commission for the Efficiency of Justice (CEPEJ)

The European Commission for the Efficiency of Justice (CEPEJ) was set up by the Committee of Ministers of the Council of Europe on 18 September 2002 with Resolution (2002-12). It consists of qualified experts coming from the 47 Member States of the Council of Europe. The aim of the CEPEJ is to ensure the improvement of the efficiency and functioning of Justice in the Member States. The creation of the CEPEJ demonstrates the will of the Council of Europe to promote the knowledge in the judicial systems and usage of new information technologies (IT) to improve the efficiency of Justice in Europe¹⁸. Due to the importance of the work undertaken by the CEPEJ, the EU considers it essential to co-operate with the Council of Europe in order to ensure consistency in the field of evaluation of Justice in Europe¹⁹.

Eurojust

Eurojust is a new EU body established in 2002 to enhance the effectiveness of the competent authorities within Member States in particular when they are dealing with the investigation and prosecution of serious cross-border and organised crime. Eurojust improves co-operation between the competent authorities of the Member States by facilitating the execution of international mutual legal assistance and the implementation of extradition requests. Eurojust fulfils a unique and important role as a new permanent body in the European legal area. Its mission is to enhance the development of Europe-wide co-operation on criminal justice cases.²⁰

5 Turkey's Status

Turkey is a democratic and secular country aiming to join EU because of economic, politic and historical reasons. The most important reason is the historical target showed by Atatürk, the founder of Turkish republic, to keep up with the modern nations' level. Everyone would agree with the idea that Turkey will benefit from EU if the negotiation process is completed successfully. On the other hand, it is widely discussed among academicians and politicians that the accession of Turkey would contribute to the EU. There are many aspects in this discussion, but it is mainly focused on the usage of technology in the judiciary.

6 National Judiciary Informatics System (UYAP)

The Ministry of Justice of Turkey has prepared a National Judiciary Informatics System (UYAP), which is to implement a very ambitious information system between the courts and all other institutions of the ministry. The UYAP equipped these institutions with computers and networks, and also gave them access to all the legislation, judicial records and data of the Police and the Army. It is an eJustice system

¹⁷ ENCJ, www.encj.net/encj/ (accessed date 27.11.2007)

¹⁸ CEPEJ, http://www.coe.int/t/dg1/legalcooperation/cepej/presentation/cepej_en.asp (accessed date 27.11.2007)

¹⁹ Twinning process, http://www.abgs.gov.tr/files/tarama/tarama_files/23/SC23EXP_Judiciary%20-%20Impartiality.%20Prof.%20Efficiency.pdf (accessed date 27.11.2007)

²⁰ EUROJUST, <http://www.eurojust.europa.eu/index.htm> (accessed date 27.11.2007)

integrated in the eGovernment, which has been developed in order to ensure a fast, reliable, soundly operated and accurate judicial system²¹.

The Accession Partnership with Turkey adopted on 8 March 2001 requires strengthening the efficiency of the judiciary through, in particular, reinforcing its institutional capacity²². Accordingly, Turkey prepared a National Plan for the Adoption of the Acquis (NPAA) to achieve the objectives stated in the Accession Partnership²³. Modernisation of Justice and penal reform are included as fundamental priorities in the Accession Partnership and in the NPAA.

The UYAP has not only integrated judicial units with each other, but also with concerned institutions, making it possible to reach all kind of data which is needed during processes. During the trials, judges can access criminal records online according to their authority. The judicial record database has been integrated with the database of UYAP.

The birth certificate registrations can also be accessed online by the courts and procedure's offices. All cases in Turkey's courts can be accessible online by the judges, prosecutors and lawyers provided that they have an approval from the judges who deal with the case. Land registries and drivers records can be retrieved instantly at the beginning of the trials²⁴.

6.1 Phases

The project was started in 2000 and completed by the end of 2007. UYAP has been planned in two phases. First, the central organization in Ankara: The first phase's objective was automating the procedures of the central organization of the Ministry and its subordinate units. This stage was completed in 2002.

Second, the countrywide organization: Automation of the UYAP Provincial Units. The second phase of the project was completed by the end of 2007, and since then the project has turned out to be a system rather than a project. All the judicial units and agencies make use of ICT in their daily processes, and all the judiciary processes, transactions and trials are transmitted into an electronic environment.

6.2 UYAP consists of these sub-systems:

- Penal and civil Law System
- Administrative Law System
- Public Prosecutors Services System
- Court of Cassation System
- Probation System
- Verdict Support System
- Lawyer Information System

²¹ UYAP, www.uyap.gov.tr/english/genelbilgiler/genelbilgi.html (accessed date 28.11.2007)

²² Council Decision 2006/35/EC of 23 January 2006. http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=Decision&an_doc=2006&u_doc=35 (accessed date 28.11.2007)

²³ National Plan for the Adoption of the Acquis, http://ec.europa.eu/enlargement/fiche_projet/document/TR%200401.02%20Courts%20of%20Appeal.pdf (accessed date 28.11.2007)

²⁴ UYAP, <http://www.uyap.gov.tr/english/index.html> (accessed date 28.11.2007)

- Enforcement-Bankruptcy System
- Convict-Arrest Management System
- Citizen Information System
- Personal Management System
- Financial Management System
- Supply and Procurement Management System
- Training Management System
- Document Management System
- Forensic Medicine System
- General Support System
- Inspection Management System

6.3 Citizens and Lawyers portals

Turkish citizens can now reach and examine their case information via Internet and learn the day fixed for a trial without going to the court; they can be informed online about their cases or hearing dates; they can submit their claims to the court by using their electronic signature and examine their files through internet. As a recent development, after reaching an agreement with the GSM operators and completion of technical issues, text messages containing information about the case files are also being sent to parties who need to be warned of when to attend court.²⁵

The Lawyer Portal is available only for certificated lawyers. According to the present online system, lawyers can obtain information to see in which phase the cases are or to learn the date of hearing without going to the courthouse. Lawyers can pay process and tax fees from their offices by use of VPN Technology; litigate a claim or dispute to court through electronic means; review cases and submit petitions online via UYAP²⁶. Online cases have just started in Turkey, as some lawyers have begun to submit their claims using their e-signature.

Thanks to the private passwords given to them, lawyers can enter the system from their computer in the bureau. It is no longer necessary to go to a courthouse to learn information about the phase of a case or to learn the date of a hearing, and this provides a 20% savings in working hours of the judicial staff.

6.4 Decision support system

In every stage of an investigation, especially during the hearings, the system may suggest some proposals to the users whenever they request it, or may warn them in order to prevent basic judicial errors.

It is expected that these improvements/ warnings can result in an 80% decrease in the number of cases returned from Supreme Court due to errors in the proceeding. For example, many fugitives have been

²⁵UYAP citizen portal <http://vatandas.adalet.gov.tr/proxy/lib/vatandas.html> (accessed date 28.11.2007)

²⁶UYAP Lawyer portal, <http://www.uyap.gov.tr/avukatport/avukat.htm> (accessed date 28.11.2007)

caught thanks to this new platform, because it warns users with pop-ups on the screen if the data of any fugitive is entered into the system.

6.5 Document Management System

The Document Management System (DMS), the exchange of the electronic documents between the provinces and the core centre, has been started. At present, all kinds of data and information flow electronically in a documentation management system between the MoJ and other units. Announcements, circulars, opinions and letters of the personnel, in addition to the data and all sorts of communications of the Legal Jurisprudence, Administrative Jurisprudence and Justice Commissions with the Ministry are managed within the UYAP.

With document management software, all documents are just a few clicks away. Judicial units use that system to get documents online and to store and manage them. All bureaucratic procedures and formal writings are made in the electronic environment, thereby avoiding delays and reducing mistakes, especially those related to codes of procedures, as well as ensuring some degree of transparency.

6.6 Structure

UYAP has a central filing system. Structure is central. All servers are in Ankara. All data flows into central units, providing money, hardware and personnel savings. All the data is processed by the UYAP database momentary. Thus all the data is integrated, factual, reliable and current.

The software was designed totally flexible to enable the convenient usage in all courthouses whatever the size, type of work or intensity may be. Data repository and migration is only in one system to avoid data confusion and duplications. Java programming has been used in the UYAP, as the Ministry of Justice believes it is a mature, robust, and versatile language.

6.7 Electronic signature

The legal status of the e-signature, activities of the electronic certificate servers and the transactions concerning the use of electronic signatures in every field are regulated under a legal framework with the Law on Electronic Signature no 5070, dated 15.01.2004. Furthermore, it is laid down under the Article 5 of this Law that a reliable electronic signature has the same legal effect as a hand signature. Moreover, the article 14/1 of the Law on Obligations says as follows: "Reliable electronic signature has the same power of proof with the hand signature"

After the enactment of legal provisions, the Turkish Ministry of Justice has reached an agreement with the public e-signature provider for the delivery of 30,000 e-signatures for judges, prosecutors and staff by the end of June 2008. Until now, 20,000 personnel applied for the e-signature and 8,000 of them have received it. The Ministry of Justice is planning to issue a regulation which will ban any document to circulate physically among the judicial units after 01.07.2008. All the documents will be required to be sent in an electronic environment, signed by an e-signature. Namely, correspondence among the judicial units will be completely transformed into a digital environment after that moment.

6.8 Benefits of UYAP

Speed and efficiency of operations: UYAP created a fast, secure and efficient system enabling the appropriate sharing of information across the Turkish judicial services by transferring key business processes of the judicial system into central electronic means. Instructions to other courts in order to collect evidence can be instantly sent and received online. Access to information and transactions are online, instant and secure.

All documents, processes and files are standardised: Before UYAP, courts and other judicial units had to write the writs one by one. After UYAP, similar writs are being written through stencils. That is one of the significant impacts of this case in terms of benefits and costs. Employees save time and effort - courts and other units save personnel. Due to standard and ready forms, all the data is filed automatically, such as instructions, indictments, hearing minutes, decision and others, allowing to finish cases faster and more efficiently. It has enabled court staff to produce common documents without having to type each of them one by one. UYAP has nearly saved on labour force by 30%.

Economical judicial services: UYAP has reduced the clerical, administrative and communications costs which would otherwise be incurred in the traditional manual and paper-based system. With the online connection of courts, expenses of bureaucracy and postal costs are removed.

The Ministry of Justice issues a monthly bulletin about Turkish judicial legislation. Paper copies of the periodical (a total of 13,000) were being sent to all Turkish judicial units including lawyers, bar associations, etc. A recent policy change has led to an important saving in the budget of the judiciary, some 400,000 New Turkish Liras (NTL). Indeed, since the recent decision, the bulletin is distributed through the ministry's website and not by post. Furthermore, consulting old issues of the Judicial Legislations Bulletin used to take some time. Now, previous numbers of the publication can be accessed online.

Obtain central financial control: The payments of the experts and taxes can be controlled in a more reliable way. Now the budgets of the judicial units are prepared by UYAP and budgetary control is made online. Determination, audit and expenses are pursued on a central database with the accounting system in UYAP.

Transparency in terms of accountability and data accuracy: All takeover files from previous years can be prepared instantly. An easy and fair dispatch of the files and works of courts and enforcement units is ensured.

Prevention of corruption: Destruction of files is impossible due to the electronic recording. All activities are logged in the system.

Performance management through integrated management information: To provide the capability to measure performance and report the effectiveness of Turkish judicial services in the terms and indicators defined by Government and stakeholders. All the data required for this is captured and made available through the operational UYAP system. The performance of the personnel can be followed through the digital environment.

Inspections by electronic means: Inspection of the judicial units can now be done online, providing time and costs savings.

Data mining in judicial field: Data mining tools which collect and disseminate aggregated data for future plans, providing a research capability to evaluate for example the impact of offender-crime assessment tools and programmes and to assess the effectiveness of interventions designed to reduce crimes. The evaluation of statistics is possible, and users who have the authority to gain access to this data can see it simultaneously and updated.

6.9 Simplify process:

- Before UYAP, promotion (being raised to a higher rank) of employees was notified in individual notifications. After UYAP, notifications are sent to the relevant units in a single copy.
- Decrease administrative and judicial workload, enabling practitioners to focus on other priorities. Processes that take hours or days can be done only in minutes with UYAP. Furthermore, the

figures related to files, selected crimes and the workload of units can be obtained in a swift way nationwide

- Instructions to other courts or other public offices in order to collect evidence can be instantly sent and received.
- Serving term of offenders can be calculated automatically by considering all related enforcement laws in detail. Miscalculations, discrepancies and waste of time are prevented.
- The forms and tables prepared by judicial units at the end of the day or year in order to take over files would last hours and weeks. All these documents can now be prepared within seconds and minutes. It has produced 25% savings in working time of staff and prevents overtime.
- Dispatch of the files and works of courts and enforcement units is being done and monitored easily and fairly by UYAP. For example, the collection of charges and duty distributions carried out before by hand are now carried out by the system, following the objective criteria determined in an electronic environment.

6.10 Interoperability opportunities

UYAP planned to set up integration means with other related public institutions and organizations. In this extent, integration was provided first of all with the MERNİS and Record of Convictions Database, giving users the opportunity of cross examination of identity and criminal records in seconds.

The integration continued with other projects such as POLNET (Police, Gendarmerie) and TAKBİS (Land Registry). Driver's license and land registries can be interrogated instantly by judges during the hearings. Prosecutors also can cross-examine the driver's license and land registries according to their limited authority.

On the other hand, postal services can be followed up by courts users instantly. Besides, arrest warrants in default can be pursued by courts automatically and online. When the system determines a sentence in absentia, it alerts users and due notice is under way.

6.11 General characteristics

- n-tier architecture, web-based, centralized system,
- Object-oriented software development technology,
- Java and J2EE V1.3 architecture,
- User interface by applets,
- Word processor, digital signature, coded documents
- Single sign-on,
- Using smart cards during login and access to improve security
- Integration with other systems in eGovernment scope,
- Menu and work flow driven processes within the system Can support multiple platforms

- All Framework of the Project deployed to Oracle Application Server at Automation of Election Information System
- Adaptable to changing laws

6.12 Some statistics

Number of UYAP User at 2006	10.012
Number of UYAP User at the beginning 2007	27.806
As of now number of UYAP user	48.615

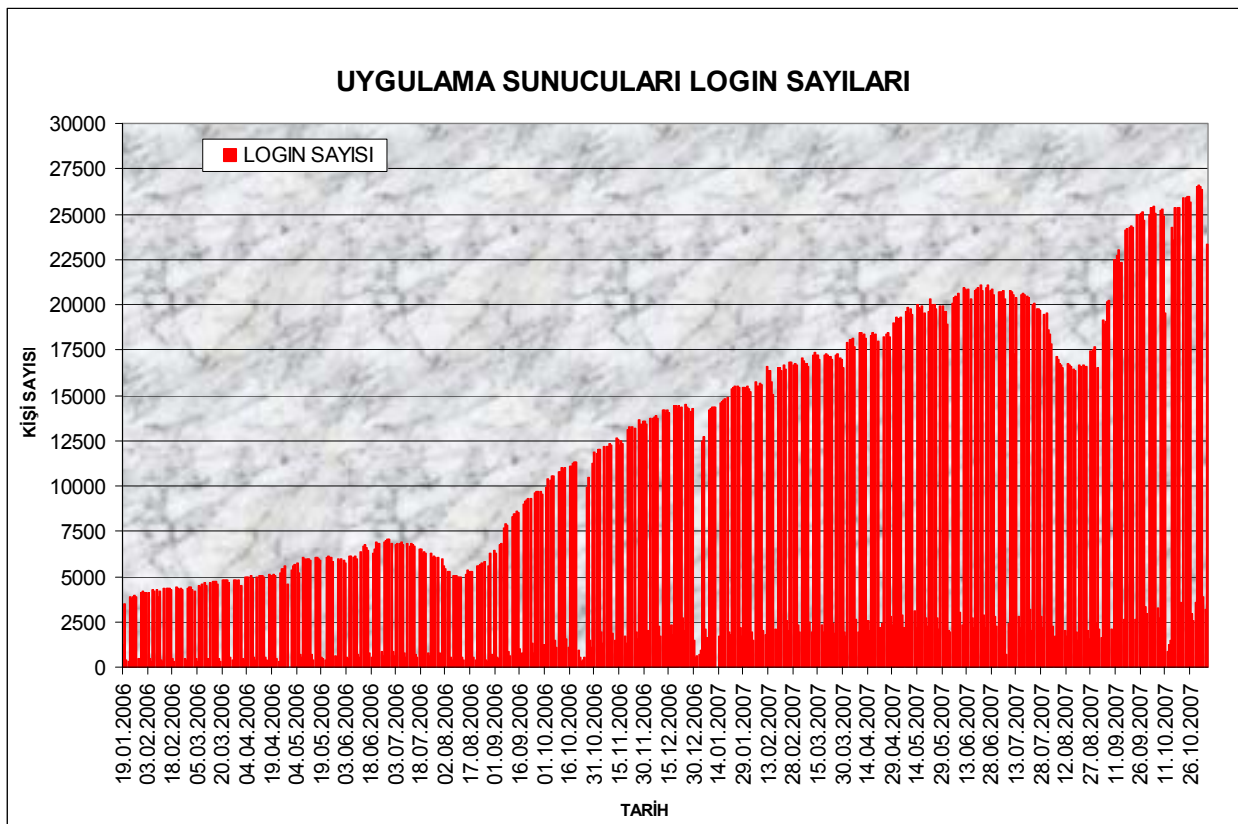


Figure. Number of Connected Users to UYAP System (LOG-IN Numbers)

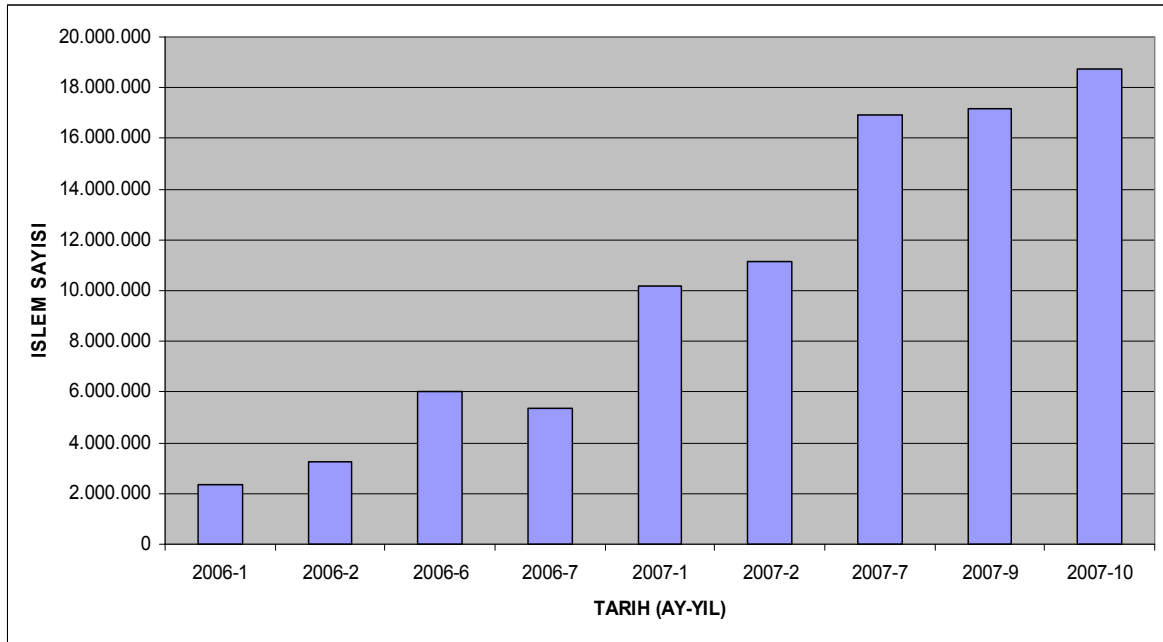


Figure. Number of transactions in UYAP

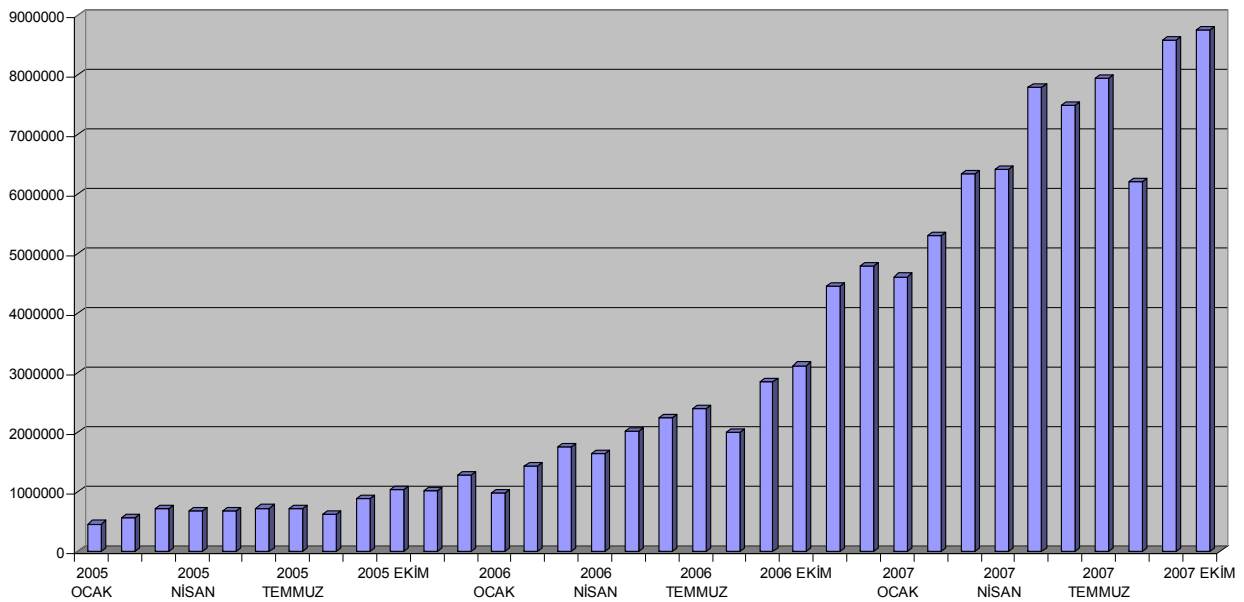


Figure. Monthly joined document's number in to the UYAP system

Comparison tables before and after UYAP

Criminal courts		
PROCESS	BEFORE UYAP	AFTER UYAP
Writing edits	3-5 mn.	3 mn.
Post lists	10-20 mn.	1 mn.
Statistics	15-20 day	15-20 mn.
Criminal record	1-15 day	1 mn.
Birth Certificate	1-15 mn.	1 mn.
Take over files	7-15 day	1 dk
Transferring files	15-20 day	2-3 mn.
Promotions	1 day	0-1 mn.
Annual statistics	1 week	0-5 mn.

Savings of UYAP	YTL	EURO
Savings thanks to UYAP-Judicial Record integration	25.320.896,0000 YTL	14.498.909,76 €
Savings thanks to UYAP-Birth Record integration	28.672.301,0000 YTL	16.417.946,06 €
Savings thanks to UYAP-Supreme Court integration	22.000.000,0000 YTL	12.597.343,11 €
Savings thanks to UYAP-SECSIS (E-ELECTION SYSTEM) integration	25.000.000,0000 YTL	14.315.162,62 €
Savings thanks to preventing duplicated data(double jeopardize)	29.268.000,0000 YTL	16.759.047,18 €
Savings thanks to eased takeover process	32.650.800,0000 YTL	18.696.060,47 €
Savings of UYAP in prisons	2.684.571,0000 YTL	1.537.202,82 €
Savings thanks to lawyer portal	261.150.000,0000 YTL	149.536.188,73 €
Savings thanks to citizen portal	4.128.850.000,0000 YTL	2.364.206.367,38 €
Savings thanks to databank, Laws and Jurisprudence programmes	3.565.600,0000 YTL	2.041.685,75 €
Savings thanks to UYAP editor	49.850.000,0000 YTL	28.544.434,26 €
Savings thanks to decision support system	28.448.489,0000 YTL	16.289.789,85 €
Savings of the free Lectern and e-mail services	25.000,0000 YTL	14.315,16 €
Savings of delivering hardware equipment	25.481.600,0000 YTL	14.590.929,91 €
Savings of rolling out activities	4.090.182,0000 YTL	2.342.064,82 €
Savings thanks to training of expert users	10.684.930,0000 YTL	6.118.260,42 €
Savings thanks to training of technical staff	194.400,0000 YTL	111.314,70 €
Savings thanks to distance learning facilities	12.500.000,0000 YTL	7.157.581,31 €
Savings thanks to Help desk	18.584.040,0000 YTL	10.641.342,19 €
Savings thanks to removal of outdated programmes	182.307,0000 YTL	104.390,17 €
Savings of UYAP I	7.713.568,0000 YTL	4.416.839,21 €
Savings of PM Social Aid and Solidarity Association spare system	276.000,0000 YTL	158.039,40 €
TOTAL	4.717.192.684,0000	2.701.095.215,30 €

7 Impacts of enlargement to the modernisation of Justice

It is common to hear that thanks to the unpreventable data flow in the borderless structure of internet, the world has been transformed into a small village. Information Technologies make all parts of the world more accessible and, potentially, networkable²⁷. In this enormous flow of information, more cooperation and collaboration is needed in order to fight crime effectively and globally, in particular war on extremism and terrorism²⁸. International crime forces the EU to be better organized, and that can be achieved by modernisation²⁹.

In a globalised world, to combat effectively international crime and terrorism requires more cooperation. Integration of data belonging to different nations and units is as important as the existing data collection in this process³⁰. It is completely true to say that the enlargement of the EU contributes to this process and enhances cooperation. In order to reach an effective cooperation, modernization of Justice is a must that comes with the natural result of the enlargement process thanks to some basic standards required by the EU in this field.

All over the world it has been argued that the growth of the technology has gone beyond the development of the legislation in particular in copyright law, advertising codes, consumer protection, data protection, marketing restrictions, criminal law, employment law and international law. Enlargement process affecting judiciaries as a whole also can play a vital role to reach a Euro-wide legislation about these important issues.

One of the three priorities set out by the EU in judiciary is to enable individuals and companies to exercise their rights in a Member State other than their own. Other priorities are mutual recognition of judicial decisions and increased convergence in procedural law. In addition to this, criminals must find no way of exploiting differences in the judicial systems of Member States. Judgments and decisions should be respected and enforced throughout the Union, while safeguarding the basic legal certainty of people and economic operators³¹. In the enlargement process, candidates are forced to catch some standards and this should play a vital role to realize these priorities efficiently all over Europe.

Furthermore, thanks to the enlargement, the same level of technology can be provided in all the states of Europe and generate standardisation and interoperability between different systems. New techniques in information and communications technologies are diffused quickly, however adopted unevenly across the member states and the candidate states³². Some basic and main requirements determined by the Union as the conditions of *acquis* motivate candidate states to modernize their judiciary in an upward high and same level. By the enlargement process assistance to some candidate states that are weak or inexperienced in this field can also be provided. All countries can still learn from one another by examining the more advanced solutions of the others for their own unsolved questions³³.

In this context, Turkey will not only benefit from accession, but also contribute to the EU in terms of usage of IT in judiciary. As reflected in the recent progress report in the topic of "judiciary and fundamental rights", the Ministry of Justice of Turkey has gained outstanding experience in the usage of

²⁷ Andrew Duff and Shirley Williams, *European futures, Alternative scenarios for 2020*, The federal Trus for Education and research, 2001, p.24.

²⁸ Malcolm Anderson And Joanna Apap, *Striking A Balance Between Freedom, Security And Justice In An Enlarged European Union*, Centre For European Policy Studies , Brussels, 2002, P.19

²⁹ Supra 27, p.37.

³⁰ Roland Traunmüller, *Modelling law and legal expert systems* Expert systems in Public Administration Elsevier Science Publisher Amsterdam 1989, P.93 94.

³¹ Judicial priorities of EU, http://ec.europa.eu/justice_home/fsj/intro/fsj_intro_en.htm (accessed date 28.11.2007)

³² Malcolm Anderson and Joanna Apap, *Striking A Balance Between Freedom, Security And Justice In An Enlarged European Union*, Centre For European Policy Studies , Brussels 2002 P.19

³³ Martin Eifert, Jan Ole Püschel; *Electronic Government as a challenge for cooperation between different levels of public administration* National Electronic Government Routledge 2004 p. 260-261

IT in judiciary³⁴. Many countries, even developed ones, are striving to carry out their domestic approaches on the substance of e-transformation like Turkey. It is believed that sharing the experiences gained during the course of this comprehensive study (UYAP) would be of interest and beneficial to many countries in the EU.

As mentioned in the global eGovernment report 2007 which has analyses 1,687 national government websites of 198 nations around the world, and based on the availability of publications, databases, and number of online services (namely *their overall eGovernment performance*), Turkey has been selected the 9th top ranked country in the world and the 3rd in Europe (after the UK and Portugal) between 2006 and 2007³⁵. This report proves that the level of technology being used in Turkey is not far behind Europe, especially in judiciary; on the contrary, Turkey is ahead of many other European countries.

At the present day UYAP is being used by over 40,000 users, and the deployment level of UYAP is approximately 98% in the whole Turkish judicial institutions. All units are using the National Judiciary Network and they make their transactions and trials via UYAP.

UYAP was awarded the annual eGovernment prize of Turkey in 2004 and 2005 due to its significant breakthrough in Turkish judiciary³⁶.

8 Conclusion

Information and computer technologies play a major role in the development and improvement of the judicial process. It helps to deal with growing complexities of litigation and makes hearings faster and more efficient³⁷. Creation and maintenance of an effective, modern and capable judiciary is one of the main aims of the Union, and a continuing obligation of EU membership as mentioned in this essay. It is aimed to achieve better compatibility and more convergence between the legal systems of Member States³⁸. In order to achieve these objectives, the EU set up some standards and started some initiatives not only for the member states but also for the candidates looking forward to develop a functional and modern judiciary. An independent, modern, efficient and accountable Justice system is mandatory for a country willing to take on the obligations of EU membership. As a result, the accession process and the enlargement policy has generated an unprecedented momentum for judicial reform in the candidate states³⁹.

Likewise, in the course of progress towards accession to the EU and in response to the obligations of the *acquis* of the EU, the Turkish government started an ambitious eJustice project called UYAP which aims to modernise judiciary on the way to Information Society. Finally, in response to Turkey's achievements on the way of joining the EU, it may be its duty and responsibility to contribute to the EU or any other candidate states in the field of modernisation of Justice thanks to the internationally recognized experience gained during the last ten years.

³⁴ Progress report 2007 http://ec.europa.eu/enlargement/pdf/key_documents/2007/nov/turkey_progress_reports_en.pdf p.10 (accessed date 28.11.2007)

³⁵ Global E-Government, 2007 by Darrell M. West 67 George St. Center for Public Policy Brown University Providence, Rhode Island 02912-1977 United States Darrell_West@brown.edu (401) 863-1163 www.insidepolitics.org august 2007 (accessed date 28.11.2007)

³⁶ UYAP information, <http://www.uyap.gov.tr/english/index.html> (accessed date 28.11.2007)

³⁷ Andrew Mowbray, *Justice and technology*, Justice in the twenty-first century Cavendish 2000 p. 207

³⁸ Supra note 31

³⁹ Monitoring The EU Accession Process: Judicial Capacity (accessed date 28.11.2007) www.eumap.org/reports/2002/judicial/international/sections/overview/2002_j_05_overview.pdf p.17-19

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Author

Ali Riza Cam

Examiner judge, IT Department of Ministry of Justice, Turkey

arcam@adalet.gov.tr

<http://www.epractice.eu/people/1968>



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Web: www.epracticejournal.eu

Email: editorial@epractice.eu



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