



**REPUBLIC OF TURKEY
COURT OF CASSATION**

COURT OF CASSATION CODES OF CONDUCT



COMPETENCE AND DILIGENCE

EQUALITY

PROPRIETY

INTEGRITY

IMPARTIALITY

INDEPENDENCE



“ETHICS, TRANSPARENCY AND TRUST PROJECT OF THE COURT OF CASSATION”

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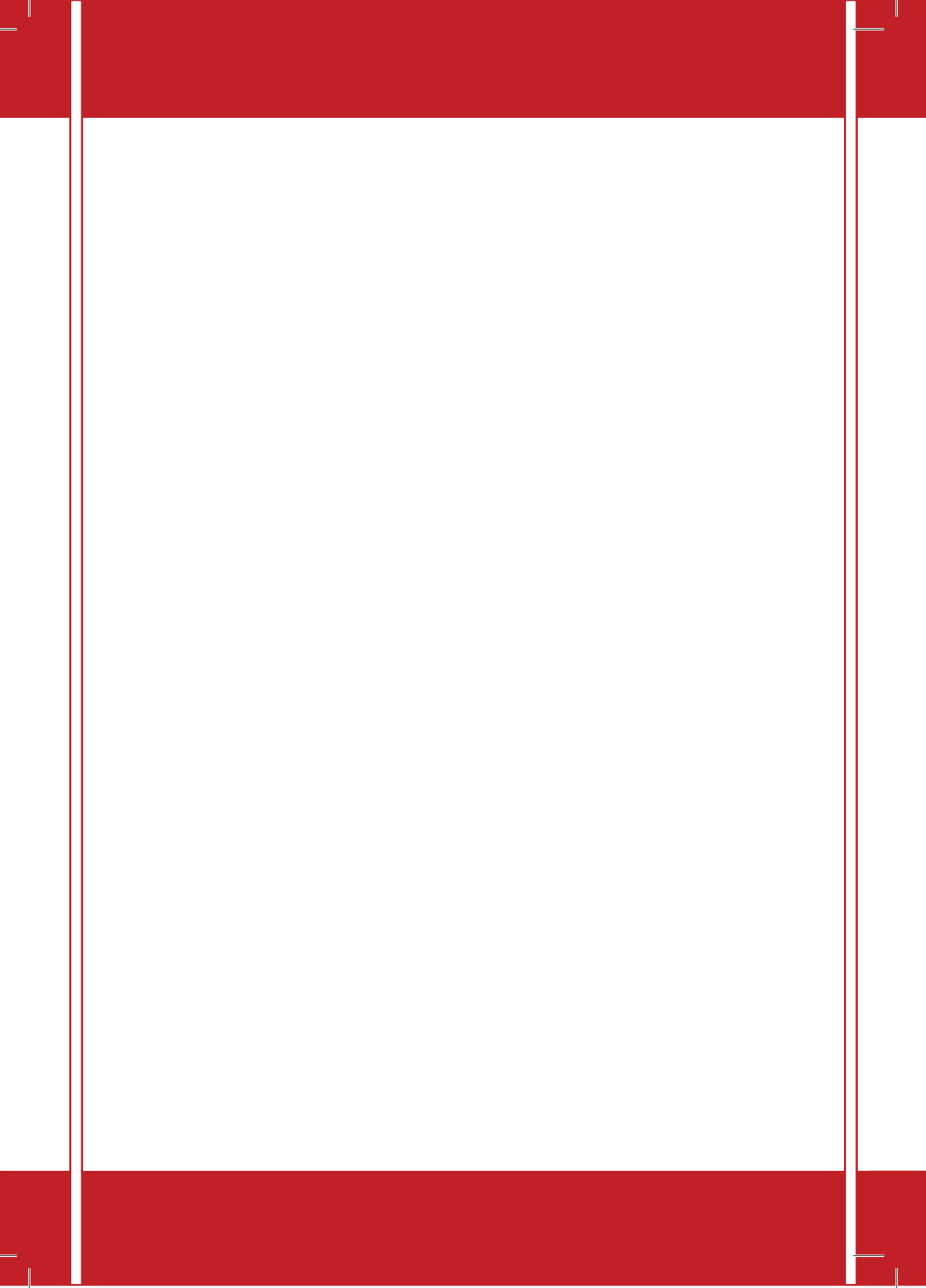
CONTENTS

FOREWORD..... 5

COURT OF CASSATION CODE OF JUDICIAL CONDUCT..... 7

COURT OF CASSATION CODE OF CONDUCT FOR PUBLIC PROSECUTORS .. 17

COURT OF CASSATION CODE OF CONDUCT FOR STAFF..... 25



FOREWORD

The success of our judicial system may, to a large extent, be measured by the public trust in judges, public prosecutors and court staff. In order to ensure such trust, judiciary officials should comply with the codes of professional conduct and the public should also be aware of such codes. To date, the Court of Cassation has made valuable contributions to the justice policies in Turkey through appropriate means. Developing and implementing the codes of conduct specific to bench members, rapporteur judges, public prosecutors and staff of the Court of Cassation, and making them recognisable and visible to the public constitute a best example of our contributions in recent years to the justice system.

The communication strategy of the Court of Cassation is premised on “discussing the issues of justice in transparent and unbiased milieus”. Therefore, the “Court of Cassation Code of Judicial Conduct,” “Court of Cassation Code of Conduct for Public Prosecutors,” and “Court of Cassation Code of Conduct for Staff” were prepared through broad and democratic participation and ensuring internal and external transparency. Our ethical codes are the most important one of the reforms undertaken by the Court of Cassation celebrating its 150th anniversary in the march towards a “transparent judiciary accountable to the society.”

I believe that the care and diligence shown in developing the Court of Cassation Codes of Conduct will similarly persist in their implementation; and extend my appreciation and gratitude to chamber president, bench members, rapporteur judges, public prosecutors and staff of the Court of Cassation who selflessly worked in the formulation of our ethical codes. 15.01.2018.

İsmail Rüstü CİRİT

President of the Court of Cassation

COURT OF CASSATION CODE OF JUDICIAL CONDUCT

(The Court of Cassation Code of Judicial Conduct was adopted unanimously on 8 December 2017 by the Grand Plenary Assembly of the Court of Cassation convened under the chairmanship of İsmail Rüştü CİRİT, President of the Court of Cassation.)

PREAMBLE

WHEREAS a competent, independent and impartial judiciary is essential if the courts are to fulfil their role in upholding constitutionalism and the rule of law;

WHEREAS public confidence in the judicial system and in the moral authority and integrity of the judiciary is of the utmost importance in a modern democratic society;

WHEREAS it is essential that judges, individually and collectively, respect and honour judicial office as a public trust and strive to enhance and maintain confidence in the judicial system;

WHEREAS the United Nations Universal Declaration of Human Rights proclaimed on 10 December 1948 emphasizes that everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law, and is entitled in full equality to a fair and public hearing by an independent and impartial tribunal;

WHEREAS the European Convention on Human Rights, reaffirming the profound belief of the European countries signatory thereto in the universal and effective protection of the human rights and particularly of the fundamental freedoms declared in the United Nations Universal Declaration of Human Rights, aims at securing the right to a fair trial by affirming that they have a common heritage on respect of freedoms and rule of law;

WHEREAS the İstanbul Declaration on Transparency in the Judicial Process emphasizes that the widest possible dissemination to the public of the judicial codes of conduct with which the judges comply and the fact that the public knows and sees that such codes are enforced play a key role in enhancing judicial performance and public confidence in the judiciary;

WHEREAS the primary responsibility for the promotion and maintenance of high standards of judicial conduct lies with the judiciary;

WHEREAS the United Nations Economic and Social Council, in Resolution 2006/23 dated 27 July 2006, invited Member States, consistent with their domestic legal systems, to encourage their judiciaries to take the Bangalore Principles of Judicial Conduct into consideration when reviewing or developing rules with respect to the professional and ethical conduct of members of the judiciary;

THE GRAND PLENARY ASSEMBLY OF THE COURT OF CASSATION upon the proposal of THE BOARD OF PRESIDENTS OF THE COURT OF CASSATION, aiming to provide guidance to the bench members and rapporteur judges of the Court of Cassation by establishing the standards of ethical conduct, enable the members of the legislature, the executive, the lawyers and the public to better understand the judiciary and provide support to the judiciary, complete binding rules of professional conduct for the judges without disregarding the fact that compliance with the code of conduct is the first and foremost responsibility of the judges, hereby ADOPTS this Code of Conduct.

PART I

INTRODUCTION

Title

- I.** This Code shall be referred to as the “Court of Cassation Code of Judicial Conduct.”

Definitions

- II.** The following definitions shall apply in this Code:
- “Judge” refers to the First President, vice presidents, chamber presidents, bench members and rapporteur judges of the Court of Cassation;
- “Court of Cassation staff” refers to all personnel of the Court of Cassation.

Code

- III.** The provisions of the Code for judges are as follows:

PART II

COURT OF CASSATION CODE OF JUDICIAL CONDUCT

Value 1

INDEPENDENCE

Principle:

Judicial independence is a pre-requisite to the rule of law and a fundamental guarantee of a fair trial. A judge shall therefore uphold and exemplify judicial independence in both its individual and institutional aspects.

Rules:

- 1.1 A judge shall reject any attempt to influence his or her decision regarding a case before the judge where such attempt arises outside the proper performance of judicial duties.
- 1.2 A judge shall not allow the judge's family, social or other relationships improperly to influence the judge's judicial conduct and judgment as a judge.
- 1.3 A judge shall not deviate from the law to appease public clamour, to avoid criticism, or to advance an improper interest.
- 1.4 A judge shall maintain his/her independence in relation to the particular parties to a dispute which the judge has to adjudicate.

- 1.5 A judge shall be free from inappropriate connections with, and influence by, the executive and legislative branches of government, and also demonstrate to a reasonable observer to be free therefrom.
- 1.6 In performing judicial duties, a judge shall be independent of other judicial colleagues.
- 1.7 A judge shall encourage and uphold safeguards for the discharge of judicial duties in order to maintain and enhance the institutional and operational independence of the judiciary.
- 1.8 A judge shall exercise the judicial function independently on the basis of the judge's assessment of the facts and in accordance with a conscientious understanding of the law, free of any extraneous influences, inducements, pressures, threats or interference, direct or indirect, from any quarter or for any reason.

Value 2

IMPARTIALITY

Principle:

Impartiality is essential to the proper discharge of the judicial office. It applies not only to the decision in the appeal process but also to the process by which the decision is made.

Rules:

- 2.1 A judge shall perform his or her judicial duties without favour, bias or prejudice, and shall not be influenced by any improper motive or corrupt practice.
- 2.2 A judge shall accord to the parties to a case and their lawyers the right to be heard according to law and equally.
- 2.3 A judge shall, except as authorised by law, not communicate with the parties on the merits, or procedures affecting the merits, of a proceeding that is before, or could come before, the judge.
- 2.4 A judge shall ensure that his or her conduct, both in and out of court, maintains and enhances the confidence of the public, members of the judiciary and litigants in the impartiality of the judge and of the judiciary.
- 2.5 A judge shall, so far as is reasonable, so conduct himself or herself, and organize the judge's own and the judge's family's personal and economic activities in such a way as to minimise the occasions on which it will be necessary for the judge to be disqualified from hearing, deciding, appeal or otherwise dealing with, cases.
- 2.6 A judge shall not knowingly and willingly, while a proceeding is before, or could come before the judge, make any public or implicit comment that might reasonably be expected to affect the outcome of such proceeding or impair the manifest fairness of the process.

- 2.7 A judge shall disqualify himself/ herself from participating in any proceedings in which the judge is unable to decide or deal with, the matter impartially or in which it may appear to a reasonable observer that the judge is unable to decide, or deal with, the matter impartially. Such proceedings include, but are not limited to, instances where
- 2.7.1 The judge has actual bias or prejudice concerning a party to a case;
 - 2.7.2 The judge previously served as a lawyer or advisor, or was a material witness, in the matter in controversy;
 - 2.7.3 The judge or a member of the judge's family, has any interest that could be affected substantially by the outcome of the case;
 - 2.7.4 A member of the judge's family represents a litigant or is associated in any manner with the case.

Value 3

INTEGRITY

Principle:

Integrity is essential to the proper discharge of the judicial office.

Rules:

- 3.1 Considering that justice must not merely be done but must also be seen to be done, the judge shall avoid situations where his or her words and conduct, both personal and professional, may be reproachable or partial in the view of a reasonable observer and conduct which may undermine public confidence in the judiciary.
- 3.2 A judge shall, in all activities, exhibit respect for the rule of law and act in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
- 3.3 A judge shall not use the judicial office to further his or her interests or those of others.
- 3.4 A judge and members of the judge's family, shall neither ask for, nor accept, any gift, loan, hospitality, advantage, privilege or favour in relation to anything done or to be done or omitted to be done by the judge in connection with the performance of judicial duties. In fact, the judge shall also avoid from other behaviours that might reasonably be perceived as being intended to influence the performance of judicial duties.
- 3.5 A judge shall not permit court staff subject to the judge's influence, direction or authority, to ask for, or accept, any gift, loan, hospitality, advantage, privilege or favour in relation to anything done or to be done or omitted to be done in connection with his or her judicial duties or functions.

Value 4
PROPRIETY

Principle:

Propriety, and the appearance of propriety, are essential to the performance of all of the activities of a judge.

Rules:

- 4.1 A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities. The test for appearance of impropriety is determined by whether the conduct would create in the mind of a reasonable observer a positive or negative perception about integrity, impartiality and competence of the judge.
- 4.2 As a subject of constant public scrutiny, a judge must accept personal restrictions that might be viewed as burdensome by the ordinary citizen and should do so-willingly.
- 4.3 A judge shall, in his or her personal relations, avoid situations which might reasonably give rise to the suspicion or appearance of favouritism or partiality in the eyes of his/her other colleagues.
- 4.4 A judge shall not allow the use of his/her residence or workplace by a member of the legal profession to receive clients, or use the residence or workplace of another member of the legal profession for such purpose.
- 4.5 A judge shall, in exercising freedom of expression, belief, association and assembly, always conduct himself or herself in such a manner as to preserve the dignity of the judicial office and the impartiality and independence of the judiciary.
- 4.6 A judge shall avoid taking part publicly in political or controversial discussions and expressing an opinion.
- 4.7 A judge shall exercise self-restraint in using the social media to avoid posts that involve political, ethnic, sectarian, sexist or similar language.
- 4.8 A judge shall administer his/her or his/her family's assets in a manner not to interfere with the proper performance of judicial duties.
- 4.9 A judge shall refrain from relations involving any interests that tend to reflect adversely on the judge's impartiality, interfere with the proper performance of judicial duties, exploit the judicial office, or involve the judge in transactions with lawyers and other persons likely to come before the court in which the judge serves.
- 4.10 A judge shall not use or lend the prestige of the judicial office to advance the private interests of the judge, a member of the judge's family or of anyone else.
- 4.11 A judge shall not convey or permit others to convey the impression that anyone is in a special position improperly to influence the judge in the performance of judicial duties.

- 4.12 A judge shall not use the information acquired by the judge in the judicial capacity for any other purpose not related to the judge's judicial duties.
- 4.13 A judge shall not accept gifts; but by means of law and of any legal requirements of public disclosure, s/he may receive a gift, award or similar item which has no substantial value, is symbolic and in the nature of a memento that might not reasonably be perceived as intended to influence the judge in the performance of judicial duties or otherwise give rise to an appearance of partiality. The acceptance of a gift as required by international protocol, etiquette, custom or institutional courtesy is excluded. Gifts at a value exceeding the statutory limit shall be kept at the museum of the institution. A judge shall not give gifts which may create the impression of anticipation of a return.
- 4.14 The complete isolation of a judge from the community in which the judge lives is neither possible nor beneficial. As understanding the community is essential to the sound administration of justice, provided that s/he does not adversely affect his/her judicial duties, a judge may:
- 4.14.1 Write, lecture and teach or participate in other activities concerning the law.
 - 4.14.2 Meet with public bodies, private organizations and participate in open sessions on matters relating to the law.
 - 4.14.3 Serve as a member of an official body, commission, committee or other body, on condition that the judge does not contradict with impartiality and political neutrality and give such an impression.
 - 4.14.4 Engage in civic activities, on condition that such activities do not detract from the dignity of the judicial office or otherwise interfere with the performance of judicial duties.
- 4.15 A judge shall not give advice to the parties to a case even when it is to be provided without taking any benefit in return.
- 4.16 A judge shall not act as a professional or individual arbitrator or mediator or perform judicial function unless expressly authorised by law.
- 4.17 A judge may form or join professional associations or participate in other organisations representing the interests of judges provided that such act does not break the law.
- 4.18 A judge shall primarily speak through his or her judgments. Unless required by his or her duty, a judge shall not criticise his/her own decisions or those of his or her colleagues, communicate with such critics in a manner to influence decisions. Unless s/he is so authorized, a judge shall not make statements on such news and comments in the media.
- 4.19 A judge shall generally avoid applying administrative, criminal and legal sanctions to restrict legitimate public criticism of judicial performance unless necessary.
- 4.20 A judge shall not engage in psychological harassment (mobbing) against his/her colleagues and court staff, or allow such behavior by others.

Value 5
EQUALITY

Principle:

Ensuring equality of treatment to all before the courts is essential to the due performance of the judicial office.

Rules:

- 5.1 A judge shall be aware of, and understand, diversity in society and differences arising from various sources and not grounds for the case such as race, colour, political view, sex, religion, conscience, belief, culture, dress, language, place of birth, ethnic or social origin, disability, age, marital status, sexual orientation, social or economic status or other like causes and not allow such diversities to influence his/her decision.
- 5.2 A judge shall not, in the performance of judicial duties, by words or conduct, manifest bias or prejudice towards any person or group on the aforementioned grounds.
- 5.3 A judge shall carry out judicial duties by displaying sensitivity equally for all persons, such as the parties, witnesses, lawyers, court staff, judicial colleagues.
- 5.4 A judge shall not permit court staff to differentiate between persons concerned, in a matter before the judge.
- 5.5 A judge shall prevent the parties or their lawyers in a case before the court from manifesting, by words and/or conduct, bias or prejudice based on the aforementioned grounds to exceed the limits of legal claim and defence.

Value 6
COMPETENCE AND DILIGENCE

Principle:

Competence and diligence are prerequisites to the due performance of judicial office.

Rules:

- 6.1 The judicial duties of a judge take precedence over all other activities.
- 6.2 A judge shall devote the judge's professional activity to judicial duties, which include not only the performance of judicial functions and responsibilities in court and the making of decisions, but also other tasks relevant to the judicial office or the court's operations.

- 6.3 A judge shall particularly observe the working hours, and ensure that the judiciary officials under his/her administration do so.
- 6.4 A judge shall be attentive to the effective and efficient delivery of justice in the court in which s/he holds the office. Chamber president shall take necessary measures to fairly distribute the case files among bench members or rapporteur judges.
- 6.5 A judge shall take reasonable measures to maintain and enhance the judge's knowledge, skills and personal qualities necessary for the proper performance of judicial duties and supervision of the court, taking advantage for this purpose of the training and other facilities which should be made available. Judges with administrative powers shall support, encourage the judges and court staff administratively subordinate to him or her in this respect, and when necessary, determine the case load considering this situation.
- 6.6 A judge shall follow the relevant developments of international and comparative law, including international conventions and other instruments establishing human rights norms.
- 6.7 A judge shall perform all of his or her judicial duties, which include writing dissenting opinions, efficiently, fairly and within a reasonable time.
- 6.8 A judge shall maintain order and decorum in the court and be patient, dignified and courteous in relation to litigants, witnesses, lawyers and others with whom s/he deals in an official capacity. The judge shall ensure lawyers and court staff to conduct similarly.
- 6.9 A judge shall not engage in conduct incompatible with the diligent discharge of judicial duties.
- 6.10 Access to justice being of fundamental importance to the rule of law, a judge shall, within the limits of his or her powers, adopt procedures to facilitate and promote such access.
- 6.11 A judge shall exhibit and promote high standards of judicial conduct in order to reinforce public confidence in the judiciary which is fundamental to the maintenance of judicial independence.
- 6.12 A judge shall, when performing administrative duties relating to the appointment, promotion, title change and similar personal affairs of judges or personnel, subscribe first and foremost to competence and merit in a transparent way, and ensure his or her subordinates to conduct in the same way.

PART III

IV. Judicial Ethics Advisory Committee

1. A Judicial Ethics Advisory Committee (“Advisory Committee”) shall be established to advise judges on the propriety of their conducts and models of their future conduct to ethical values.

The Advisory Committee shall consist of 7 bench members of the Court of Cassation (chamber presidents or bench members, at least two of whom shall be women), 2 rapporteur judges, 1 public prosecutor of the Court of Cassation and 1 university faculty member who wrote scientific works on the field of ethics and already served in the ethics committees of universities. The term of office shall be 2 years; the members whose term of office ended cannot be re-elected. The most senior bench member of the Court of Cassation in the committee shall serve as the Chair, whereas the second most senior member shall serve as the Vice Chair.

The bench members shall be elected by the Grand Plenary Assembly of the Court of Cassation in the procedure for electing the chamber presidents of the Court of Cassation. The rapporteur judges shall be assigned by the Board of First Presidency from among 20 rapporteur judges with longest tenure in the Court of Cassation; and the Public Prosecutor shall be assigned by the Chief Public Prosecutor of the Court of Cassation from among 10 Public Prosecutors with longest tenure in the Chief Public Prosecutor’s Office of the Court of Cassation. The members so elected to the Advisory Committee shall elect, by absolute majority vote, the university faculty member to the Advisory Committee. Where the first round of vote fails to elect the person; the second round of voting shall be held for the two candidates having the highest number of votes in the first. In case of a tie, the candidate receiving the Chair’s vote shall be elected. Where seat is vacated in the Advisory Committee, the replacing member shall complete the term of office of the replaced member. Decisions shall be taken by absolute majority vote. The secretariat services shall be undertaken by the Deputy Secretary General of the Court of Cassation as designated by the President of the Court of Cassation.

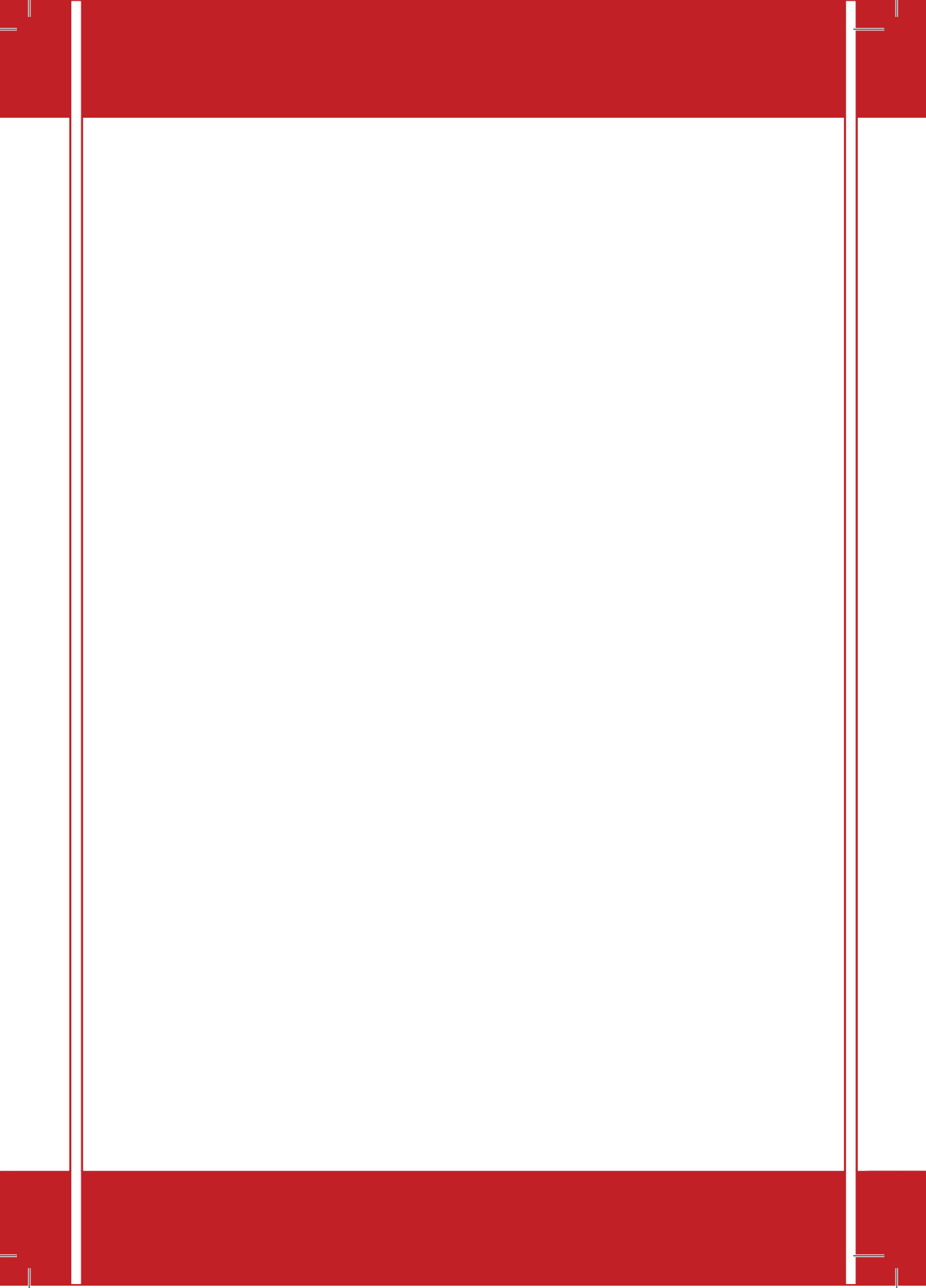
2. The Advisory Committee shall regulate its own procedure rules.

V. Duties of the Advisory Committee

1. Judges may request an opinion from the Advisory Committee about the propriety of their conducts and models of their future conduct to ethical values.
2. The Advisory Committee, in furnishing its opinion and giving advice, shall set forth the concrete facts, upon which its opinion is based, rules, case-laws and the ethical principles, opinions and decisions of other institutions, which it takes into consideration as a reference in its opinion and advice.
3. The Advisory Committee shall send the original formal opinion to the relevant person requesting the opinion, then prepare a version that omits the personal information, and a corrected copy is published on the internal network (intranet) of the Court of Cassation.
4. An opinion of the Advisory Committee is not binding; it is in the nature of a recommendation.

COURT OF CASSATION CODE OF CONDUCT FOR PUBLIC PROSECUTORS

*(The Court of Cassation Code of Conduct for Public Prosecutors was adopted
unanimously on 19 October 2017 by the public prosecutors of the Court of
Cassation convened under the chairmanship of Mehmet AKARCA, Chief Public
Prosecutor of the Court of Cassation.)*



FOREWORD

The purpose of laying down ETHICAL PRINCIPLES AND RULES for the judiciary is to increase public confidence in the judiciary. For that purpose, judicial proceedings and processes should be carried out in a fair, independent and impartial manner.

The public prosecutors of the Court of Cassation should have high ethical values.

The Court of Cassation Code of Conduct for Public Prosecutors was developed by our public prosecutors themselves considering the “Budapest Principles”.

Transparency was ensured through consulting the opinions and comments from the relevant institutions and organisations before finalising the principles and rules.

The Code of Conduct is a guideline for the public prosecutors of the Court of Cassation to follow in their professional and private lives.

In addition, the Code will contribute to forming a common understanding of ethical conduct among the public prosecutors of the Court of Cassation, as well as strengthening the institutional culture, and increasing public confidence in the judiciary. I also believe that the Code will lead to a better understanding of the function of the judiciary through informing the members of the executive and the legislative, lawyers and the general public. 19.10.2017.

Mehmet AKARCA

Chief Public Prosecutor of the Court of Cassation

PREAMBLE

WHEREAS the Universal Declaration of Human Rights enshrines the principles of equality before the law, the presumption of innocence, and the right to a fair and public hearing before an independent and impartial tribunal;

WHEREAS the organization and administration of justice should be inspired by these principles;

WHEREAS the crucial role that public prosecutors play in the criminal justice system imposes an obligation on them to abide by these principles and act in accordance with the highest ethical standards and in a manner to serve the best interest of justice;

WHEREAS the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders meeting in Havana in 1990 adopted the Guidelines on the Role of Prosecutors;

WHEREAS the Conference of Prosecutors General of Europe, meeting in Budapest in 2005 under the auspices of the Council of Europe, adopted European Guidelines on Ethics and Conduct for Public Prosecutors (“The Budapest Guidelines”);

WHEREAS the Consultative Council of European Judges and the Consultative Council of European Prosecutors jointly adopted, in 2009, the Opinion on the relations between Judges and Prosecutors in a Democratic Society (“the Bordeaux Declaration”);

WHEREAS the United Nations Commission on Crime Prevention and Criminal Justice, in 2008, invited Member States, consistent with their domestic legal systems, to encourage their prosecution services to take into consideration the Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors developed by the International Association of Prosecutors when developing and reviewing rules with respect to the professional and ethical conduct of members of prosecution services;

The Chief Public Prosecutor’s Office of the Court of Cassation, having taken into consideration the aforementioned principles, hereby ADOPTS this Code of Conduct for Public Prosecutors of the Court of Cassation.

Title

1. This Code shall be referred to as the “Code of Conduct for Public Prosecutors of the Court of Cassation.”

Applicability

2. This Code shall apply to the Chief Public Prosecutor, Deputy Chief Public Prosecutor, and all public prosecutors of the Court of Cassation.

Construction

3. This Code shall be construed in accordance with the “Court of Cassation Code of Judicial Conduct.”

Judicial Ethics Advisory Committee

4. The provisions of the Court of Cassation Code of Judicial Conduct relating to “JUDICIAL ETHICS ADVISORY COMMITTEE” shall also apply to the Court of Cassation Code of Conduct for Public Prosecutors.

Code

5. The provisions of the Court of Cassation Code of Conduct for Public Prosecutors are as follows:

1. PROFESSIONAL CONDUCT

Public prosecutors of the Court of Cassation shall at all times;

- 1.1 Discharge their duties in accordance with the relevant national and international law,
- 1.2 Maintain the honour and dignity of their profession,
- 1.3 Exercise the highest standards of integrity and care,
- 1.4 Discharge their duties in a fair, impartial, independent and consistent manner and appear so,
- 1.5 Conduct themselves professionally in accordance with the law and the rules and ethics of their profession,
- 1.6 Strive to maintain and enhance their professional knowledge and skills, and keep themselves well-informed and aware of legal developments,
- 1.7 Protect and uphold human dignity and human rights, in full awareness of serving on behalf of the public,
- 1.8 Preserve professional confidentiality,
- 1.9 Respect the right of all people to be held equal before the law, and abstain from discrimination against any person on any ground such as gender, race, colour, language, religion, sect, political or other opinion, sexual orientation, national or social origin, property, prosperity, place of birth, health, disability or any other status,

- 1.10 Avoid any speech or behaviour that may be perceived as sexual harassment by a reasonable observer, and not allow persons under their supervision to engage in such speech or behaviour,
- 1.11 Perform respectfully and politely the tasks in relation to courts, law enforcement, public entities, personnel, clients and lawyers,
- 1.12 Not engage in mobbing (psychological harassment) against their colleagues and personnel, or allow such behaviour.

1. INDEPENDENCE

- 2.1 Public prosecutors of the Court of Cassation shall discharge their duties independently in accordance with the law.
- 2.2 Public prosecutors of the Court of Cassation shall act independently in a manner that will not cause, in the eyes of the parties or of the society, any perception of collusion with judges or external interference with their area of duty.

2. IMPARTIALITY

Public prosecutors of the Court of Cassation shall;

- 3.1 Discharge their duties impartially without fear, favour or prejudice.
- 3.2 Not allow their personal or financial interests or their family, social or other relationships, improperly to influence their professional conduct. They shall particularly not serve as prosecutors in cases in which they, their family or business associates have a personal, private or financial interest or affiliation.

3. CONDUCT IN CRIMINAL PROCEEDINGS

Public prosecutors of the Court of Cassation shall;

- 4.1 Discharge their duties fairly, consistently and within reasonable time,
- 4.2 Respect the presumption of innocence and the right not to be labeled as criminal,
- 4.3 Particularly uphold the principle of fair trial as enshrined in Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and explicitly expressed in the Case-Law of the European Court of Human Rights,
- 4.4 Take care to remain impartial and objective in their relations with the parties,
- 4.5 Strive to make and conclude all necessary and reasonable investigations regarding the offence,
- 4.6 Exercise their powers objectively, impartially and professionally where they personally conduct or have law enforcement or other officials conduct the criminal investigation,

- 4.7 Ensure that law enforcement and other officials respect the law and fundamental human rights when supervising the criminal investigation,
- 4.8 Proceed only when there exists evidences reasonably believed to be reliable and admissible regarding a concrete case, on the contrary, render decision of non-prosecution,
- 4.9 Ensure that the safety and rights of victims, witnesses and vulnerable groups in need of protection are protected,
- 4.10 Ensure that parties are informed of alternative dispute resolution options such as mediation and conciliation on access to justice,
- 4.11 Safeguard the rights of the suspect and the accused in co-operation with the court and other relevant agencies,
- 4.12 Safeguard the principle of equality of arms, in particular by disclosing information to the suspect and/or accused and his/her attorney in accordance with the law and the principle of fair trial,
- 4.13 Collect all evidence irrespective of whether it is to the advantage or disadvantage of the suspect; examine and evaluate the evidence to ascertain if it has been lawfully obtained,
- 4.14 Refuse to use evidence obtained through unlawful methods and particularly methods which constitute torture or cruel treatment, against anyone other than those who applied such methods; and ensure that appropriate action is taken against those responsible for using such methods,
- 4.15 Always search for the truth and assist the court to arrive at the truth and to deliver justice between the community, the victim and the accused according to law and the dictates of fairness,
- 4.16 In order to ensure the fairness and effectiveness of investigations and prosecutions;
 - (a) Co-operate with law enforcement, courts, parties' attorneys and other government agencies, whether nationally or internationally,
 - (b) Render assistance to the prosecution services and colleagues of other jurisdictions, in accordance with the law and in a spirit of mutual co-operation.

4. PRIVATE CONDUCT

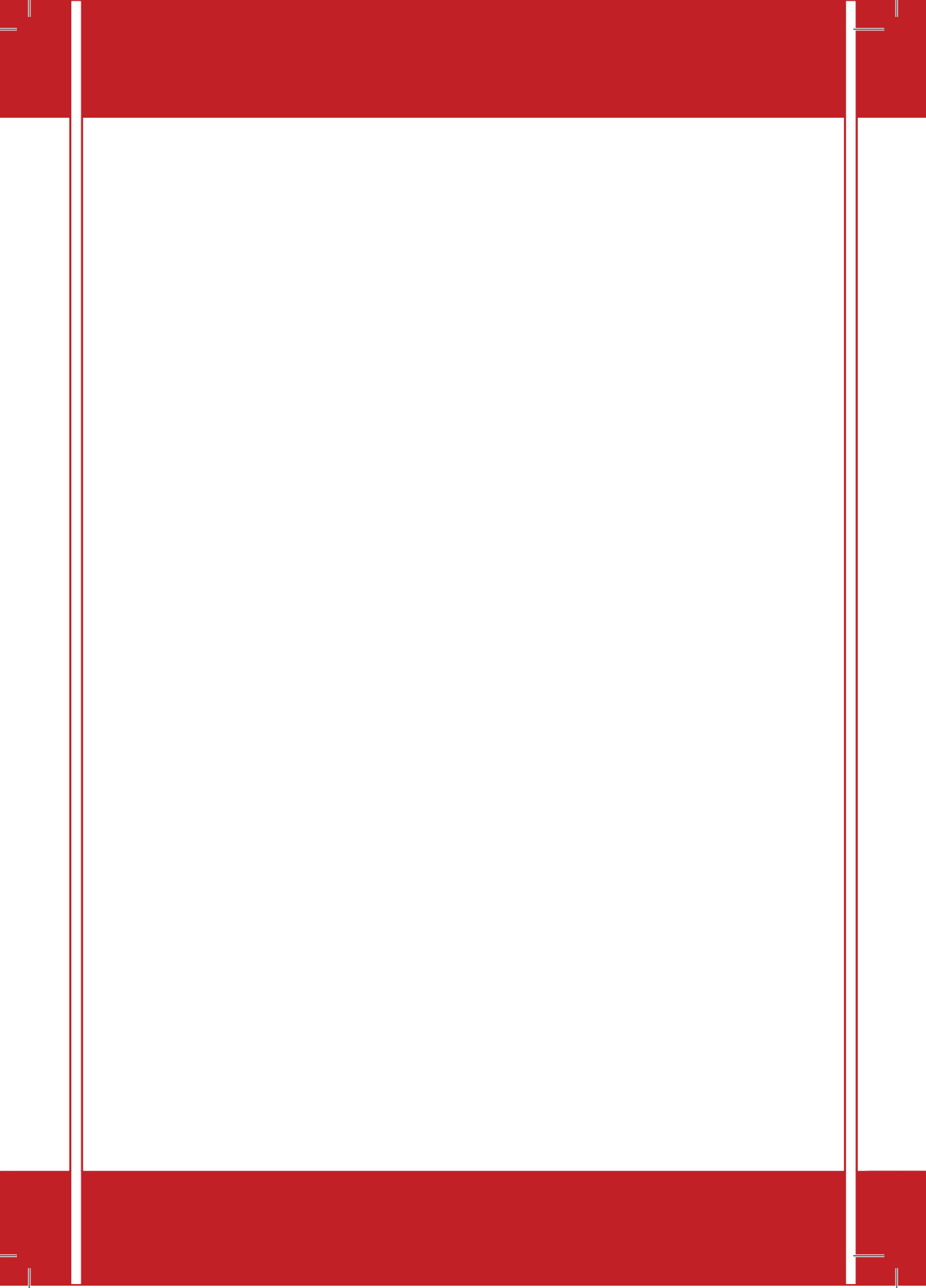
Public prosecutors of the Court of Cassation shall;

- 5.1 Not compromise the actual or the reasonably perceived dignity, integrity, and impartiality of their profession by behaviours and activities in their private lives, and not reasonably cause such perception,
- 5.2 Respect and obey the law at all times and fulfil the requirements,

- 5.3 Conduct themselves in such a way as to further and retain public confidence in their profession,
- 5.4 Not allow their personal or financial interests or their family, social or other relationships, improperly to influence their professional conduct,
- 5.5 Not use any information to which they have had access during the course of their work to further their own private interests or those of others,
- 5.6 Not accept any gifts, prizes, benefits, inducements or hospitality which may be seen to compromise their integrity, fairness and impartiality,
- 5.7 Act, when using the social media, in a manner to protect the honour, independence and impartiality of their profession,
- 5.8 Abstain from making statements and giving opinion to the public that will compromise the honour, independence and impartiality of their profession.

COURT OF CASSATION CODE OF CONDUCT FOR STAFF

(The Court of Cassation Code of Conduct for Staff prepared by the Court of Cassation staff was adopted on 19 October 2017 by İsmail Rüştü CİRİT, President of the Court of Cassation.)



**REPUBLIC OF TURKEY
COURT OF CASSATION**

First Presidency

Number: 99113045/2017/604
Subject: Code of Conduct for Court of Cassation Staff

19.10.2017

TO THE OFFICE OF THE FIRST PRESIDENCY OF THE COURT OF CASSATION

Reference: Petition of 19.10.2017 of the Court of Cassation Staff

Article 26 “Institutional Codes of Conduct” of the Regulation on Code of Conduct for Public Officials and Procedures and Principles for Filing Applications published in the Official Gazette of 13.04.2005 issue 25785 and issued pursuant to the Law No. 5176 on Establishment of Ethics Board for Public Officials and Amending Certain Laws that determines the organisation, duties, working procedures and principles of the “Ethics Board for Public Officials” to lay down such ethical principles as transparency, impartiality, integrity, accountability, protecting public interest that should be observed by public officials and oversee the practice provides that “The codes of conduct set forth with this Regulation shall apply to institutions and organisations covered in its scope. In addition, institutions and organisations may, depending on the nature of the service or mission assumed, submit their institutional codes of conduct to the Board for review and approval.”

As a result of the work implemented within the scope of the Ethics, Transparency and Trust Project of the Court of Cassation, the “Court of Cassation Code of Conduct for Staff” was prepared by the Court of Cassation staff themselves in a broad and democratic participation in order to lay down the standards of conduct and service that should be observed by the Court of Cassation staff and ensure regular functioning of the judiciary; circulated to approximately 90 national and international institutions, organisations and experts for consulting their opinions. As required by the laws, the opinion of the Prime Ministry Ethics Board for Public Officials was elicited as well; and necessary reviews and amendments were incorporated by the Court of Cassation staff. In addition, the draft Court of Cassation Code of Conduct for Staff was reviewed on 11 October 2017 by the Chamber President and 10 bench members of the Court of Cassation who were assigned to draft the Court of Cassation Code of Judicial Conduct; and concluded that both draft texts were consistent and coherent in meaning.

Pursuant to the provisions of the above-mentioned Law and Regulation, I hereby submit to your high appreciation that approval be given for the entry into force of the draft “Court of Cassation Code of Conduct for Staff” submitted in attachment to the petition of 19.10.2017 by the Court of Cassation staff.

Dr. Mustafa SALDIRIM

Deputy Secretary General of the Court of Cassation

Submitted with affirmative opinion.

19.10.2017

Yusuf Ziyaattin CENİK

Secretary General of the Court of Cassation

APPROVED

19.10.2017

İsmail Rüştü CİRİT

First President of the Court of Cassation

PETITION DATED 19.10.2017 OF THE COURT OF CASSATION STAFF

Our Honourable President of the Court of Cassation,

In full awareness of the function of the Court of Cassation, a longest-standing institution of the Republic of Turkey, to administer justice that constitutes the very foundation of the state, With the sense of responsibility incumbent upon us as a significant part of the reform efforts initiated to build the most advanced standards of justice in the universal culture of law built on the common human heritage,

Enjoying the broad space of freedom, expertise support and conducive working conditions accorded to us during the drafting of the codes of conduct,

Feeling proud of experiencing a tangible example of “democratic and transparent philosophy of administration” as the most valuable asset of the Court of Cassation,

We, on behalf of the Court of Cassation staff, respectfully submit to your high appreciation and approval that the “Court of Cassation Code of Conduct for Staff”, for which preliminary studies were conducted through surveys and focus groups involving approximately 1,000 staff members of the Court of Cassation, which was further developed in scientific meetings and workshops of each lasting two days with the participation of 130 staff members of the Court of Cassation, then finalised with intensive efforts of the 18-person working group, be put into force. 19 October 2017.

M. Şükrü Akbıyık
Chief Clerk
Chief Public Prosecutor's Office
of the Court of Cassation

Feyzullah Cömert
Chief Clerk
19th Criminal Chamber

Melek Güler
Chief Clerk
5th Civil Chamber

Selma Demirbağ
Chief Clerk
15th Civil Chamber

Gülây Keven
Chief Clerk
General Assembly of Civil
Chambers

Seçkin Gül
Chief Clerk
4th Civil Chamber

Ayşe Çetinkol
Chief
10th Civil Chamber

Leyla Şen
Chief
General Assembly of Civil
Chambers

Meliha Güvel
Chief
21st Civil Chamber

Levent Yiğit
Chief
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Interpreter
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PREAMBLE

WHEREAS modern legal systems recognize as fundamental the principle that everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal established by law in the determination of rights and obligations and of any criminal charge;

WHEREAS competent and impartial judicial staff is essential if the courts are to fulfil their role in upholding this principle;

WHEREAS public confidence in the judicial system is dependent on the perceived integrity of all judicial staff who play any role in the administration of justice;

WHEREAS the principal responsibility for court administration, including supervision and disciplinary control of judicial staff, rests with the judiciary;

The “Court of Cassation Code of Conduct for Staff” which has been formulated by the Court of Cassation staff themselves through broad and democratic participation in order to set the standards of conduct and service with which the Court of Cassation staff should comply hereby enters into force upon approval by the President of the Court of Cassation. This Code is also supported by the presidents, bench members, rapporteur judges and public prosecutors serving in the Court of Cassation and also aims to ensure the proper functioning of the judiciary. Its function is to support and complement the existing rules without derogating from the other rules of law and conduct which bind such judicial staff.

Title

1. This Code shall be referred to as the “Court of Cassation Code of Conduct for Staff.”

Applicability

2. This Code shall apply to all judicial staff, other than judges, who are in contract or other status, directly or indirectly involved in the operations of the Court of Cassation. All such judicial staff who are no longer employed in the Court of Cassation are subject to Rule 3.3.

Construction

3. All provisions of law, rules and administrative directives governing or regulating the conduct of Court of Cassation staff are deemed to be included into this Code.

This Code shall be construed in accordance with the “Court of Cassation Code of Judicial Conduct.”

Sanctions

4. The breach or violation of any Rule contained in this Code shall constitute misconduct and may attract disciplinary action. However, it does not constitute an impediment for the disciplinary or judicial action foreseen by any law that criminalises such a violation.

Code

5. The provisions of the Court of Cassation Code of Conduct for Staff are as follows:

Value 1

COMPETENCE AND DILIGENCE

Principle:

The Court of Cassation staff shall discharge their duties with competence and diligence.

Rules:

The Court of Cassation staff shall;

- 1.1 At all times perform official duties properly and with diligence, and devote themselves exclusively to the business and responsibilities of the office during working hours,
- 1.2 Perform the assigned duties expeditiously, efficiently and impeccably within the limits of their authority,

- 1.3 Carry out their responsibilities to judges, public prosecutors, other staff, court users and all with whom they are in formal relations in a timely, impartial, diligent and courteous manner,
- 1.4 Acting in the capacity of a superior, when performing administrative duties relating to the appointment, promotion, title change and similar personal affairs of personnel, subscribe first and foremost to competence and merit in a transparent way, and require the same of their subordinates,
- 1.5 Not alter, falsify, destroy or mutilate, or fail to make required entries on, any record within their control. This provision does not prohibit the alteration or expunction of records or documents pursuant to a court order;
- 1.6 Not recommend lawyers to litigants, prospective litigants, or anyone dealing with the judiciary;
- 1.7 Avoid close personal association with lawyers, litigants and other court users, where such association may reasonably give rise to suspicion or appearance of partiality or favouritism;
- 1.8 Respond to inquiries concerning court procedures, but not give legal advice, propose to find support or provide insider information or introduce themselves in a manner that would create an impression of potentially alter the course of justice;
- 1.9 Not perform, or request others not to perform, any arbitrary work or duty other than those in line with the job description in the legislation or compatible with the functioning of the office as assigned by judges, public prosecutors, chief clerk or other superiors.

Value 2

EQUALITY

Principle:

The Court of Cassation staff shall observe the principle of equality in all conduct.

Rules:

The Court of Cassation staff shall;

- 2.1 In performing official duties, not discriminate, nor manifest by word or conduct, bias or prejudice based on race, colour, sex, religion, conscience, belief, culture, dress, language, place of birth, ethnic or social origin, disability, age, marital status, sexual orientation, social or economic status or other like causes;

- 2.2 Not accept any favours from anyone, nor accord privileges by dispensing special favours;
- 2.3 Not engage in, or allow, mobbing (psychological harassment). Particularly, acts of arbitrary treatment, oppression, insult and threat on and against colleagues and staff constitute mobbing.
- 2.4 Assist victims of sexual harassment and mobbing in seeking remedy, and comply with confidentiality throughout the process.
- 2.5 In case of administration capacity, be fair in conduct and distribution of work.

Value 3
CONFIDENTIALITY
Principle:

The Court of Cassation staff shall observe professional confidentiality.

Rules:

The Court of Cassation staff shall;

- 3.1 Not disclose to any unauthorized person any confidential information acquired while employed in the judiciary, whether such information came from authorized or unauthorized sources.
- 3.2 Report confidential information to the appropriate authority in the Court of Cassation when they reasonably believe this information is or may be evidence of a violation of law or of unethical conduct. They shall not be disciplined for disclosing such confidential information to an appropriate authority.
- 3.3 After leaving the office in the Court of Cassation, not disclose confidential information acquired during employment in the Court of Cassation when disclosure by the current Court of Cassation staff of the same information would constitute a breach of confidentiality.
- 3.4 Be aware that confidential information means information that has not been made a matter of public record relating to pending cases, as well as information not yet made public concerning the works of any judge relating to pending cases, including notes, drafts, research papers, internal discussions, internal memoranda, records of internal deliberations and similar papers. The notes, drafts, research papers, internal discussions, internal memoranda and similar papers that a judge or a public prosecutor uses in preparing a decision or order shall remain confidential even after the decision or order is made public.

Value 4
PROPRIETY

Principle:

The Court of Cassation staff shall act with propriety.

Rules:

The Court of Cassation staff shall;

- 4.1 Avoid conflicts of interest that would compromise integrity in the performance of official duties. They shall also exercise utmost diligence in becoming aware of conflicts of interest, disclosing conflicts to an appropriate authority in the Court of Cassation, and terminating them when they arise. A conflict of interest shall be deemed to exist in the official duty when:
- (a) A staff member's objective ability or impartiality in performing official duties is impaired or may reasonably appear to be impaired,
 - (b) A staff member derives unfair gains because of his or her official act,
 - (c) Any benefit does not accrue to a staff member of the Court of Cassation as a member of a profession, business or organization to the same extent as any other member of such profession, business or organization who does not hold a position within the judiciary.
- 4.2 When discharging their duties;
- (a) Not enter into any contract with the judiciary for services, supplies, equipment, or lease or sale of property, apart from the employment contract relating to his or her job position,
 - (b) Not use his or her position in the judiciary to assist any of his or her family members in securing a contract with the judiciary in a manner not available to any other interested party,
 - (c) Not negotiate or recommend for the future employment of self or any other person, by using his or her position and the name of the institution and promising preferential treatment to third parties in violation of the requirements of his or her office,
 - (d) Not solicit or accept any gift, loan, hospitality, advantage, privilege or favour under circumstances from which it is, or could be, reasonably inferred that a major purpose of the donor is to influence the performance of official duties, nor permit any member of his or her family to do so.

- 4.3 In case of having authority to enter into or approve contracts for the Court of Cassation, make declaration of assets at the beginning, upon termination of employment and during employment at times as required by the legislation. The declaration shall follow the guidelines established by the designated authority, and include all sources of income, including investments and immovable property, as well as all known income received by the staff member's spouse or dependent children,
- 4.4 Not initiate or repeat ex parte communications with litigants, witnesses or lawyers, judges or any other person not compatible with the requirements of his or her official duties,
- 4.5 Have careful attire and appearance in accordance with the legislation,
- 4.6 Act with propriety in using the social media,
- 4.7 Avoid any speech or behaviour that may be perceived as sexual harassment by a reasonable observer, and not allow persons under their supervision to engage in such speech or behaviour,
- 4.8 Not use or attempt to use his or her official position to secure unwarranted privileges or exemptions for, or to confer any unfair advantage upon, himself or herself or any relation or associate,
- 4.9 Carefully preserve the court fees, fines or other funds placed in his or her custody in official duty, not take even by way of loan for himself or herself or give them to any person,
- 4.10 Not use, for private purposes, the vehicles and materials entrusted for official duties, nor allow others to use in the same way.

We would like to express our respect and appreciation for following chamber presidents, bench members, rapporteur judges, public prosecutors and staff of the Court of Cassation and the project team who selflessly worked on all challenging processes till the adoption of the drafting of the Court of Cassation Code of Judicial Conduct during the workshops held through broad and democratic participation on 13-14 April and 12-16 May 2017.

Chamber President and Bench Members of the Court of Cassation

- Doç. Dr. İbrahim ŞAHBAZ – President of the 4th Criminal Chamber
- Türkan ERTURAN – Member of the 22nd Civil Chamber
- Advıye Füsün AYAZ – Member of the 13th Civil Chamber
- Fatma Feyza ŞAHİN – Member of the 4th Civil Chamber
- Nilgün TAŞ – Member of the 4th Civil Chamber
- Mustafa ÖZER – Member of the 3rd Civil Chamber
- Mustafa TAŞ – Member of the 10th Civil Chamber
- Mehmet AKSU – Member of the 23rd Civil Chamber
- Dudu İrem TOROS – Member of the 19th Civil Chamber
- Nevzat ÖZSOY – Member of the 8th Criminal Chamber
- Salim ÇEVİK – Member of the 13th Criminal Chamber

Rapporteur Judges of the Court of Cassation

- Funda TUNER – Rapporteur Judge of the 2nd Civil Chamber
- Yıldray ÖĞÜT – Rapporteur Judge of the 3rd Civil Chamber
- Selcan ÜNAL GÖKER – Rapporteur Judge of the 8th Civil Chamber
- Güner DURMUŞ – Rapporteur Judge of the 21st Civil Chamber
- Adalet BULGUROĞLU – Rapporteur Judge of the 2nd Criminal Chamber
- Didem Seda KARACA – Rapporteur Judge of the 2nd Criminal Chamber
- Cengiz S. DOĞAN – Rapporteur Judge of the 4th Criminal Chamber
- Nimet KÖSEOĞLU – Rapporteur Judge of the 12th Criminal Chamber
- Fırat PALA – Rapporteur Judge of the 15th Criminal Chamber
- Hüseyin BAKAY – Rapporteur Judge of the 18th Criminal Chamber

Public Prosecutors of the Court of Cassation

- Abdullah Aydın KUYUCU – Public Prosecutor of the Court of Cassation
- Dr. Sacit YILMAZ – Public Prosecutor of the Court of Cassation
- Haluk BEŞER – Public Prosecutor of the Court of Cassation
- Halil İbrahim ÇİFTÇİ – Public Prosecutor of the Court of Cassation
- İsmail AYDIN – Public Prosecutor of the Court of Cassation

Staff of the Court of Cassation

M. Şükrü AKBIYIK – Chief Clerk, Chief Public Prosecutor’s Office of the Court of Cassation

- Feyzullah CÖMERT – Chief Clerk, 19th Criminal Chamber
- Melek GÜLER – Chief Clerk, 5th Civil Chamber
- Selma DEMİRBAĞ – Chief Clerk, 15th Civil Chamber
- Gülay KEVEN – Chief Clerk, General Assembly of Civil Chambers
- Seçkin GÜL – Chief Clerk, 4th Civil Chamber
- Ayşe ÇETİNKOL – Chief, 10th Civil Chamber
- Leyla ŞEN – Chief, General Assembly of Civil Chambers
- Meliha GÜVEL – Chief, 21st Civil Chamber
- Levent YİĞİT – Chief, 14th Criminal Chamber
- Nazan DİZBAY – Data Preparation and Control Operator, 4th Civil Chamber
- Tülin ÇINAR – Data Preparation and Control Operator, 15th Criminal Chamber
- Nevzat Can BİLECEN – Clerk, 14th Criminal Chamber
- Esra SEMEN – Programmer, Treatment Office
- İbrahim CEYLAN – Servant, General Correspondence Branch

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- Dr. Nadire ÖZDEMİR - National Consultant
- Dr. Mustafa SALDIRIM – Deputy Secretary General of the Court of Cassation
- Gülşah Sibel AKBULUT – Rapporteur Judge of the Court of Cassation
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