**THE SPEECH ADDRESSED BY TURKEY**

**IN THE FIRST INFORMAL MEETING**

**Thursday, 17 May at 15.00 in Meeting Room 0713**

**Dr. Mustafa SALDIRIM**

**Deputy Secretary General of the Court of Cassation**

Distinguished Participants,

I would like to greet you with respect.

As we all know, one of the most important safeguards of the human rights is based on independent, impartial, transparent and accountable judiciary. In 1948, the Universal Declaration of Human Rights recognized the right of everyone to a fair and public hearing by an independent and impartial tribunal in the determination of his rights and obligations and of any criminal charge against him. In 1966, the International Covenant on Civil and Political Rights elevated this right to the status of a treaty obligation.

Since then, several international instruments have addressed different aspects of the right to a fair trial. For example, we have the UN Basic Principles on the Independence of the Judiciary 1985; the Basic Principles on the Role of Lawyers 1990; and a Statement of the Essential Duties and Rights of Prosecutors 1999. More recently, in 2006, the UN endorsed the Bangalore Principles of Judicial Conduct. I also would like to present that the right to a fair trial is strongly preserved in some of the regional human rights conventions such as European Convention on Human Rights.

The fact that it is vital for judges both to be and be manifestly seen as independent, impartial and fair in terms of the right to a fair trial is obvious. For this reason, the Bangalore Principles of Judicial Conduct prepared by the Judicial Integrity Group as a representative group of Chief Justices and universal ethical principle and rules, which should be followed by judges, were designated. Following the adoption of Bangalore Principles, which were prepared by the judges and approved by Economic and Social Council in consequence of passing through the current path of İstanbul Declaration 13 years ago, judicial body of many countries, including Turkish Court of Cassation established its own ethical principles.Thus, Bangalore Principles have made important contributions to dissemination of ethical principles at universal level.

As it is emphasized in the preamble of the Bangalore Principles of Judicial Conduct, the importance of a competent, independent and impartial judiciary to the protection of human rights is given emphasis by the fact that the implementation of all the other rights ultimately depends upon the proper administration of justice. 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. Transparency in the judicial process plays a key role in promoting public confidence in the judiciary and protecting human rights. According to the United Nations Convention against Corruption, Implementation Guide and Evaluative Framework for Article 11, it is indicated how transparency in the judicial process is important in combating corruption.

The concept of “transparency in the judicial process” has long been a concept that was known to be important and sometimes used in the studies of international human rights. However, a comprehensive study in the subject of “transparency in the judicial process”, which is the fundament of judicial process, has not been conducted until the year of 2013. At that time, Turkish Court of Cassation and United Nations Development Program has launched an initiative with the aim of comprehensively addressing this subject. İstanbul Declaration’s 6-year human rights journey to date has thus begun.

Distinguished Participants,

I would like to summarize this process. As is known, the quality of such texts depends on not only their content, but also their formation as transparent and accountable.

The İstanbul Declaration on Transparency in the Judicial Process seeks to address these, as well as other relevant issues. In early 2013, a draft declaration was submitted by the Court of Cassation of Turkey and UNDP to the Chief Justices of the Asian and Pacific region. After their comments were received, including suggestions for the improvement of the Draft, they were invited to a Conference, in Istanbul, in November 2013 to share and document “best practice” and identify the essential elements of the multi-faceted concept of judicial transparency from their own jurisdictions. At that conference - the Conference of Chief Justices and Senior Justices of the Asian Region - each principle in that draft declaration was discussed in detail in different committees, and amendments incorporated where necessary. Finally, on 21 November 2013, the İstanbul Declaration was unanimously adopted at the final plenary session of the conference.

In June 2016, on the invitation of the Court of Cassation and UNDP, the Chief Justices and Senior Justices of the Balkan Republics met in Bursa, Turkey to review the Istanbul Declaration. At the end of a three-day conference, the Justices endorsed the Declaration without amendment.

In October 2017, an international expert group was convened in Ankara by the Court of Cassation and UNDP to develop a draft Action Plan for the implementation of the 15 Principles of the İstanbul Declaration. Following that meeting, the draft Action Plan was revised, and Draft Measures for the Effective Implementation of the Istanbul Declaration was prepared. Lastly, in 10-11 October 2018, the Measures for the Effective Implementation of the İstanbul Declaration were submitted to the opinions of chief justices and representatives from 30 countries in 5 continents in the 4th International Summit of High Courts. At the summit, the İstanbul Declaration was approved once again, Implementation Measures were adopted with some revisions. Besides, in 10 April 2019, the İstanbul Declaration and the Measures of its Effective Implementation were published as United Nations General Assembly Document (A/73/831) and United Nations Economic and Social Council Document (E/2019/56).

In this part of my speech, I would like to give a special information about the concept of “transparency in the judicial process” and the content of the İstanbul Declaration.

Transparency of the judicial process means more than a trial held in public, or televising court proceedings and thereby opening them to the public. It means providing information regarding the time and venue of hearings and ensuring that adequate facilities exist within the courtroom for the attendance of the public. It means locating courts within easy access of transportation hubs, with readable signs, orientation guides and court schedules. It means providing court users with user-friendly forms and assistance with legal representation. It means providing the free assistance of an interpreter, if a litigant cannot understand the language used in court. Transparency means all that and more.

There should be transparency in the assignment of cases, by ensuring that it is performed under a predetermined arrangement. Transparency requires that all information relating to judicial proceedings, both pending and concluded, is available to the public and the media through a court website or accessible records. Transparency requires that judicial decisions, especially of the superior courts, are regularly published, so that the public, the media, civil society, lawyers and legal scholars, may subject them to scrutiny. Public scrutiny makes judicial decisions more predictable and consistent, and thereby improves the quality of justice. It is also a powerful deterrent against judicial corruption.

Transparency involves something more than providing access to, and information relating to, court proceedings. The judiciary ought to reach out to the community and demystify the judicial process. Reaching out to the community, whether through town hall meetings, or radio and television programs, or through the dissemination of printed material such as court user guides, and educating the public, including students and the media, on the role of the justice system, is necessary to earn public confidence in the independence of the courts, in the integrity of its judges, and in the impartiality and efficiency of its processes. These are what sustain confidence in the judicial system of a country. As a corollary to the demystification process, the judiciary should regularly assess public satisfaction with the delivery of justice, whether through a complaint system, case audits, surveys of court users, or discussions with court user committees, and thereby seek to promote the quality of justice.

Finally, transparency is required in the appointment process of judges, in responding to complaints of unethical conduct of judges, and in the disciplinary process of judges. In this way, transparency prevents the perception of self-interest and self-protection, and addresses the fears that the community may entertain of corruption and of undue influence by the executive branch of government.

Recalling the 2030 Agenda for Sustainable Development, principles framed by the Istanbul Declaration and Implementation Measures as guidelines and benchmarks, introduces a framework for how to promote a **transparent and accountable judiciary to deliver justice for all.** The agenda includes key targets on **reducing corruption, improving access to justice, and protecting a number of human rights**. SDG 16, especially, seeks to achieve peaceful and inclusive societies for sustainable development, **universal access to justice and effective, accountable, and inclusive institutions**. A key imperative is to develop integrated solutions involving a range of actors working in justice systems, while exploring new pathways to **involve communities.** The SDGs advocate that an independent, transparent and impartial judiciary is a **cornerstone of the rule of law and of a democratic state**. It serves to protect human rights and people’s liberties, provides a check on other branches of government, and helps secure an environment conducive to economic growth and social progress. In that respect, promotion and implementation of the **Principles in the Istanbul Declaration on Judicial Processes** can be an important guidance for all countries seeking independent, transparent and accountable judicial institutions.

In conclusion, I would like to add one important observation. As a matter of fact, 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. In this regard, the principal responsibility belongs to the judiciary. The Bangalore Principles of Judicial Conduct were initiated by judges, were crafted by judges based on their own experience and are intended for use by judges. When it was endorsed, first by the UN Commission on Human Rights, and then by the UN Economic and Social Council, it became the first instrument not drafted by representatives of governments to be published in a compendium of United Nations standards and norms relating to the administration of justice. I am confident that the Istanbul Declaration on Transparency in the Judicial Process, and the Measures of its Effective Implementation, also drafted and adopted by judges, for use by judges, and addressing a vital, but hitherto unexplored, aspect of the judicial process, will be able to follow that same path to global acceptance.

Thank you so much for listening to me patiently.