

Cross-Regional Court Performance Assessment – Country Report

📍 Türkiye



European Bank
for Reconstruction and Development

DENTONS



Key findings

Macro Data

Türkiye¹

EBRD region of operation

84,775,404 (2021)²

Population size

769,630.0³

Land area (sq.km.)

9,661.2 (2021)⁴

GDP per capita in USD

With the exception of Dimension 4. Small Claims Procedures, Türkiye has higher than average scores in most dimensions compared to other evaluated EBRD CoOs. The relatively consistent scores for the other three dimensions indicate that Türkiye has taken a systematic approach to implementing e-justice and optimising court processes.

Türkiye earns above-average scores for most indicators in terms of **Policies and Infrastructure for E-justice**, with the exception of stakeholder engagement. The level of broadband internet access in the country is low, while the level of internet penetration is 78%. This might impact access to e-justice systems and tools. Türkiye's court system operates using a fully integrated CMS. Professional court users and citizens can track the status of all documents uploaded to case files via the UYAP system. However, none or very few lower-level court decisions are openly published online, with no options for keyword searches. Türkiye is a clear leader in terms of digitisation of court processes, with e-filing and e-service available and commonly used.

In terms of **Commercial Dispute Resolution**, Türkiye has slightly above average scores. The jurisdiction has a relatively high level of commercial dispute specialisation with dedicated commercial courts being available at the first instance and specialised commercial divisions at the second instance. While inception training is mandatory, only voluntary commercial law training is provided on a regular basis to commercial judges. Türkiye displays a high level of development of mediation and ADR tools. Notably, attempting mediation is a prerequisite for launching a commercial case in Türkiye. Furthermore, there is a state online mediation platform functioning in Türkiye.



Mediation meetings can be held by teleconference or videoconference, while mediation minutes can be prepared via e-mail correspondence, and signed electronically by the parties and the mediator. Paradoxically, while there is an official registry of mediators, it is not publicly available.

Türkiye has slightly better than average scores in **Uncontested Procedures for Enforcing a Claim**. This is mainly due to the ease of filing of the application. Effective online filing of the applications is available and is commonly used by professional court users in Türkiye. Timelines for pronouncement on the application are not regulated but can be rather short provided that the claimant actively checks on his/her case.

¹ See <https://www.ebrd.com/where-we-are.html>.

² See <https://data.worldbank.org/country/turkiye?view=chart>.

³ See <https://data.worldbank.org/indicator/AG.LND.TOTL.K2?locations=TR>.

⁴ See <https://data.worldbank.org/country/turkiye?view=chart>.

Türkiye achieves slightly lower than average scores for **Small Claims Procedures** as compared to other assessed EBRD CoOs. Online filing is available and commonly used by professional court users. The UYAP system enables parties to lodge their applications to the relevant court and to pay the litigation fees and expenses. While the simplified procedure can develop fully in writing, there are few other meaningful procedural simplifications of the small claims procedure.

Overall, Türkiye has a high level of readiness for the introduction of ODR. The areas that might be particularly suitable for ODR initiatives are commercial litigation and uncontested claims procedures.



Questionnaire

| No. | Indicator Component | Score | Justification for the scoring and sources |
|---|---|-------|---|
| Dimension 1. Policies and Infrastructure for E-Justice | | | |
| | <p>Link to the strategy that covers e-justice (if any) and time-period of the strategy.</p> | | <p>Türkiye's Justice Reform Strategy was adopted in May 2019. It is available here: (https://rm.coe.int/judicial-reform-stratetegy-2019-2023/16809f008e). Objectives 4.7 and 4.10 of the strategy indeed relate to e-justice, namely:</p> <p>OBJECTIVE 4.7 Justice services will be citizen-oriented through the use of technology. ACTIVITIES a) The information system will be integrated into the foreign missions in order to provide easier judicial procedures for citizens living abroad. b) Statement taking will be done through SEGBIS in districts without a courthouse. c) Statement taking will be done through SEGBIS in large airports. d) Duty system in courts will be improved.</p> <p>OBJECTIVE 4.10 Information systems will be improved in the judiciary. ACTIVITIES a) Cyber security standards of the information system will be improved. b) Efforts will be undertaken to apply "artificial intelligence and specialized system" in the judiciary. c) Information systems will be renewed through user-friendly applications in line with the current technological developments.</p> <p>Additionally, judicial reform packages with draft legislation are developed by the Ministry of Justice and published in the Turkish Official Gazette. "Package" is the term used by Ministry of Justice. However, it refers to the new legislation/s. For instance, 5th judicial reform package refers to the "Law on Amendments to the Enforcement and Bankruptcy Code and other laws". Such Law covers many amendments related to different laws/ legislations.</p> <p>https://basin.adalet.gov.tr/yargi-reformunun-5-paketi-resmi-gazetede-yayimlanarak-yururluge-girdi</p> <p>5 reform packages have been published so far. The latest one was published in the Official Gazette on the date of 30 November 2021. For instance, the 5th reform package refers to the Law on Amendments to the Enforcement and Bankruptcy Code and some other laws ("Law"). A number of the amendments cover e-justice elements (e.g. electronic auction system has been entered into force by Law.)</p> |
| | <p>Which body is responsible for digitization of the judiciary?</p> | | <p>Ministry of Justice</p> |

| No. | Indicator Component | Score | Justification for the scoring and sources |
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| | Which body is responsible for digitization in public administration? | | Digital Transformation Office of the Presidency |
| | Is there a formal coordination mechanism for digitization projects in the judiciary and public administration? What is it? | | There is a practical coordination mechanism between the judiciary and the public administration. The digitization projects in the judiciary have effects on the public administration. To give an example, professional court users use an online judiciary platform (“UYAP”) to monitor the developments of the court cases. Most of the correspondence between the courts and the public administration authorities (e.g. public notaries, title deed registries, tax offices etc.) are carried out through an integrated online system and the professional court users have access to the documentation issued by both the court and the public administration authorities. |
| | Does the Case Management System of the courts allow for auto-generation of parts of the judicial acts? | Yes. | |
| | Can judges work remotely by accessing the Case Management System of the courts from a distance? | Yes. | |

| No. | Indicator Component | Score | Justification for the scoring and sources |
|---|--|-------|---|
| Indicator 1.1. Level of Development of E-governance and E-infrastructure | | | |
| 1.1.1. | Level of internet penetration | 2 | 78% |
| 1.1.2. | Level of development of electronic signatures | 3 | <p>The characteristics and the use of electronic signatures are regulated under the Law on Electronic Signature numbered 5070 which was published and entered into force by the Official Gazette dated 23 January 2004. According to the relevant law, an electronic signature is defined as “the electronic data which is attached to another electronic data or which has a logical connection with an electronic data and which is used for identity authentication”. Electronic signatures are used by professional court users in order to verify all kind of documents to be submitted to court case files via UYAP system. Documents signed with an electronic signature are considered as if they were signed physically by the professional court user himself/herself.</p> <p>In addition, a number of correspondences between the courts and the public administration bodies are made through documents with electronic signatures.</p> |
| 1.1.3. | Level of development of electronic documents | 3 | All kinds of legal documents can be transferred into the system format compatible with the e-justice system via specified applications that can be downloaded for free by all kinds of users whether they are professional court users or citizens. Courts also use the same system to submit documents to the e-justice system and in the correspondences with several public authorities. |
| 1.1.4. | Level of development of national electronic identification | 2 | <p>ID cards of citizens do not contain electronic identification. However, there is an electronic identification system through e-governance official website. Citizens can create an e-governance account or directly access to the e-governance portal through their ID numbers and passwords.</p> <p>They can easily access the e-government system and obtain copies or certified documents from several administrative authorities or make applications to administrative authorities to organize an appointment or to make any documentation request.</p> |
| 1.1.5. | Level of online access to administrative services | 2 | <p>Public services such as land registry directorates, municipalities, tax offices generally carry out administrative work through online platforms. For processes that require the person to be present in person, the documents are first uploaded to the system by making an online appointment, and the person should only come to the government office for signature at the appointment given to him/her.</p> <p>It is possible to access to publicly available trade registry records through online system, however, it is not possible to interact with the trade registries (associated with Chamber of Commerce and Industry) electronically.</p> <p>In the light of the above, the whole process with administrative services cannot be carried out in electronic form.</p> |
| 1.1.6. | Level of broadband internet access | 1 | 29,43 MbSS as of 12 October 2022 |

| No. | Indicator Component | Score | Justification for the scoring and sources |
|---|------------------------------|-------|---|
| Indicator 1.2. Overall level of development of justice system digitalisation | | | |
| 1.2.1. | Status of e-Justice strategy | 3 | <p>The Strategy itself does not contain timelines.</p> <p>An implementation plan for the strategy was published in 2020 (available only in Turkish). The targets related to e-justice are:</p> <ol style="list-style-type: none"> 1. Extension of the implementation of electronic service, which is currently in use. The target timeline is between 2019 and 2023 and the target budget is TRY 500,000. 2. Ensuring the electronic integration of the information system with foreign representative agencies in order to facilitate the judicial affairs of citizens living abroad. The target timeline is between 2021 and 2023 and the target budget is TRY 500,000. 3. Expanding the opportunity to submit verbal statements via sound and vision information technology system (SEGBIS) in districts where there is no courthouse. The target timeline is between 2020 and 2023 and the target budget is TRY 10,000,000. 4. Providing the opportunity to submit verbal statements via sound and vision information technology system (SEGBIS) at major airports. The target timeline is between 2020 and 2023 and the target budget is TRY 1,500,000. 5. Development of cyber security standards of information systems between 2019 and 2023. The target budget is TRY 45,000,000. 6. Conducting studies on the use of artificial intelligence and expert system applications in the judiciary system. The target timeline is between 2019 and 2023. 7. Updating information systems with user-friendly applications. The target timeline is between 2019 and 2023. 8. Free publication of court judgements on the condition that personal data is protected. The target timeline is between 2020 and 2023. 9. Preparing online brochures open to public which include information on how judicial system works. The target timeline is between 2020 and 2023. 10. Establishment of e-auction system under execution proceedings. The target year was 2021. As explained in Section 1.1.6 of the questionnaire, this has been implemented through the 5th judicial reform package on the date of 30 November 2021. 11. Establishment of virtual Bailiff offices. The target timeline is between 2019 and 2023. Currently, there are no virtual Bailiff offices. However, online transactions through UYAP system have been developed. <p>In the implementation plan, it was stated that the Ministry of Justice will publish a judicial reform strategy tracking and evaluation report in 2021 and 2023 and such report will include explanations on the recent status of the target actions together with statistical data. So far, only 5 judicial reform packages have been established and implemented through legislations. It is noted that the relevant department of the Ministry of Justice held a meeting relating to the implementation plan on 14 July 2021. However, there is no report published afterwards. In this respect, there is no regular reporting or system allowing the track of the above-mentioned actions.</p> <p>The latest (5th) judicial reform package was published on 30 November 2021 in Official Gazette numbered 31675. The package involves a new regulation on the execution proceedings which entitles the auction in electronic form (i.e. e-auction). Having interviewed with the Bailiff offices, it is noted that the e-auction process started to be implemented.</p> |

| No. | Indicator Component | Score | Justification for the scoring and sources |
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| 1.2.2. | Case management system (CMS) deployment rate | 3 | According to the latest available CEPEJ data, the case management system deployment rate is 100%. |
| 1.2.3. | Level of integration of the Case Management System | 3 | The CMS is integrated |
| 1.2.4. | Official information about the justice system available over the internet | 2 | <p>The guidelines and information about the justice system are published by the bar associations and there are a number of indicators available in UYAP system. These can also be obtained from the information pages of the courthouses and from the support lines (like helpdesks). Relevant information portals provide the contact information of all courts and forms that can be used by citizens and businesses for various filings with the court.</p> <p>Contact information of courts and forms are available but court schedules are not.</p> |
| 1.2.5. | Publication of court judgments and free online access to them | 2 | A wide range of Court of Appeal and Regional Court of Appeal decisions are available on online platforms through paid subscriptions to third-party applications. The finalized decisions rendered by the Court of Appeal through the official website of the Court of Appeal is open to public and free of charge. However, decisions made by the courts of the first instance and court files can only be examined by the citizens who are parties to the relevant case or by the lawyers who have suitable power of attorney within the scope of the protection and confidentiality of personal data. That said, there is access to some court of first instance judgements in some third-party applications. |

| No. | Indicator Component | Score | Justification for the scoring and sources |
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| Indicator 1.3. Digitisation of court processes | | | |
| 1.3.1. | Availability and use of e-filing | 3 | The regulation on the Code of Civil Procedure governs submission of a case to courts by electronic means. Both physical and e-filing are available in courts and Bailiff Offices. In general practice, e-filing is commonly being used. However, a few types of court or execution proceedings require physical application. |
| 1.3.2. | Availability and use of electronic service of process (e-service) | 3 | <p>The regulation on the electronic service of process has been published and entered into force through the Official Gazette numbered 30617 and dated 6 December 2018. The relevant regulation requires that the notifications must be made through e-service to the legal entities and public authorities. In this respect, the use of electronic service process is mandatory for the following private and public entities:</p> <ul style="list-style-type: none"> - Public authorities and allocated revolving fund authorities listed in the Law no. 5018; - Local administrations listed in the Law no. 5018; - Other public authorities established by specific legislation and funds and surety funds established by law; - Government business enterprises; - Partnerships of which 50% share capital is owned by State; - Professional organisations with public institution status; - Any and all private legal entities (companies); - Public notaries; - Lawyers; - Mediators and court experts; - Several public entities/authorities <p>However, given that a number of private legal entities and lawyers have still not applied to obtain an e-service address (even though they are required to do so), it is not possible to carry out e-service process for such entities/lawyers.</p> |

| No. | Indicator Component | Score | Justification for the scoring and sources |
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| 1.3.3. | Possibility to check case files and track case progress remotely | 3 | Professional court users and litigant citizens have the opportunity to follow up on all the documents uploaded to the case files through the UYAP system. It is possible to access to the entire digitized case file, almost all documentation, hearing dates and scheduled timing through the said online platform. |
| 1.3.4. | Possibility to hold online / videoconference hearings (for any type of case) | 3 | <p>The regulation on the e-hearing has been published and entered into force through the Official Gazette numbered 31527 and dated 30 June 2021. (https://www.resmigazete.gov.tr/eskiler/2021/06/20210630-9.htm). It is possible to attend online court hearings in almost all types of civil court proceedings by sending a request via UYAP system at least 2 working days prior to the hearing. Upon the request of one of the parties, the court may decide to conduct the hearing online. The judge must decide on the online hearing request within at least 1 business day before the hearing date and such decision is final. The judge can reject the request for online hearing on the grounds stipulated under the relevant regulation (e.g. if the request is not made within the stipulated time period, if the request is made to prolong the proceedings and with bad faith or if there are any legal, factual or technical obstacles that make it difficult to hold e-hearing).</p> <p>On a separate note, preliminary hearings cannot be conducted as online hearings given that the hearing minutes must be signed by the parties with their wet-ink signatures.</p> <p>The system for video hearings is a proprietary system of the court. Lawyers can access such system through UYAP system. They can connect from their home or anywhere else as long as they have access to UYAP system.</p> |
| 1.3.5. | Court fees | 3 | In Turkish Judiciary system, fixed fees and the rate of proportional fees are announced every year by official tariffs to ensure predictability. There are also online calculators in UYAP system as well as in the official website of Union of Turkish Bar Associations. Thereby it is possible to determine the amount of court fees due and the online payment can be made via UYAP system which is integrated with a bank namely Vakıfbank in Türkiye. In this respect, the payment methods are restricted, and no payment can be made through other means such as via credit card, PayPal, bank card etc. |
| 1.3.6. | Ability to initiate enforcement based on electronic enforceable titles | 3 | There is legislation governing electronic enforceable titles and enforcement can be initiated based on an electronic enforceable title. |

| No. | Indicator Component | Score | Justification for the scoring and sources |
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| Indicator 1.4. Stakeholder engagement | | | |
| 1.4.1. | Existence of an obligation for professional court users to interact with the court only electronically | 2 | The notifications to lawyers by the courts must be made through e-service through electronic platform. However, there is no obligation for the lawyers to communicate with the court through electronic platform. . It is up to the professional court users whether to make applications or submissions or track court files through UYAP system. However, in practice, court clerks and a number of court officials encourage professional court users to use UYAP system given that the physical requests increase their workload (e.g., they have to find the physical court case, they have to dig into the court documentation and in some cases to issue minutes or to scan the relevant professional court user's request and to add the same into UYAP system.) |
| 1.4.2. | Availability of monetary incentives for conducting certain court actions electronically | 1 | There are no monetary incentives for conducting certain court actions electronically. |
| 1.4.3. | Availability of user guides, help desk and guidance in the e-filing system | 3 | User guides, help desks and user guidance forms are available. For some types of cases, there are tutorial videos for citizens who seeks guidance on filing documents to the case file. Examples of videos: https://www.youtube.com/watch?v=H6pbpFuj4Kg https://www.youtube.com/watch?v=Um8o74iDLeg https://www.youtube.com/watch?v=SmV70A0J4ys |
| 1.4.4. | Whether court user surveys are conducted by the courts/ the judicial system on a regular basis | 1 | According to information collected through the interviews with justice systems representatives, it is noted that court user surveys are not conducted regularly by the courts/the judicial system. |

| No. | Indicator Component | Score | Justification for the scoring and sources |
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| Dimension 2. Commercial Dispute Resolution | | | |
| | <p>Pursuant to the Turkish Commercial Code, in order for a court case to be classified as a commercial case in general, it must be an absolute commercial case or it must arise from a dispute related to the commercial enterprises of both parties. Commercial cases are divided into 3 categories as follows:</p> <ol style="list-style-type: none"> 1. Absolute Commercial Cases: These are the cases listed in the relevant article of Turkish Commercial Code notwithstanding whether the parties have the title of merchant. Accordingly, the cases arising from the following disputes are considered as absolute commercial cases: <ul style="list-style-type: none"> - The disputes relating to Articles 962 and 969 (i.e., establishing loan in exchange for pledge) of Turkish Civil Code; - The disputes within the scope of several articles of Turkish Code of Obligations; - The disputes arising from intellectual property (most of these disputes are handled by specialised courts for intellectual and industrial property rights); - The disputes arising from the specific regulations relating to stock exchange, exhibition, markets, storages and other places allocated to commercial activities; - The disputes arising from the regulations on the banks and other financial institutions. 2. Relative Commercial Cases: <p>Cases in which both parties are considered as merchants in accordance with the provisions of the Turkish Commercial Code and the dispute is related to commercial enterprises of both parties are considered as relative commercial cases.</p> 3. Third Group Commercial Cases: These are the cases arising from the disputes regarding the transfer, trust and intellectual property rights that only concern the commercial enterprise of one of the parties. | | |
| <p>What is the definition of commercial case for the purposes of determining the jurisdiction of the commercial courts/divisions/chambers (if available in the country)?</p> | <p>Have significant reforms of commercial dispute resolution been introduced in the previous three years in the country (e.g., changes to the practice and procedure of commercial litigation and/or related alternative dispute resolution (ADR))? Briefly describe the nature and impact of the reforms.</p> | <p>For the disputes arising out of commercial matters that are related to claim for payment and/or return of an amount (such as claim for receivables or compensation), mediation process is a pre-requisite. The relevant amendment to the Turkish Commercial Code entered into force on 1 January 2019. The aim of such amendment is to provide a time and cost-efficient alternative dispute resolution method for parties while decreasing the workload of the courts. However, it is observed that the cases where the settlement before the mediator is achieved are rare.</p> <p>The relevant legislation is as follows:</p> <p>https://mevzuat.gov.tr/mevzuat?MevzuatNo=6325&MevzuatTur=1&MevzuatTertip=5</p> <p>https://www.resmigazete.gov.tr/eskiler/2018/12/20181219.pdf</p> | |

| No. | Indicator Component | Score | Justification for the scoring and sources |
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| | What has been the impact of the COVID-19 pandemic on commercial litigation in the country, e.g. introducing more electronic interactions? | | <p>With the Covid-19 pandemic, almost all mediation meetings are conducted as teleconference and the mediation minutes are signed in electronic form.</p> <p>It has become possible to apply to the mediation centre through UYAP system by signing the application with electronic signature.</p> <p>Expert examination, which is frequently used as evidence in commercial litigation, is commonly carried out through exchange of required accounting and commercial documents over e-mail correspondence (save for the cases where physical commercial books or records have to be examined).</p> <p>The regulation on e-hearings entered into force on 30 June 2021 as explained under Section 1.3.5 above. It is observed that e-hearings started to become more common in commercial litigation.</p> |
| | Number of female/male judges in the country. | | <p>According to the judicial statistics published by General Directorate of Judicial Records and Statistics of Ministry of Justice for year 2020, there are 9.121 judges in judicial courts whereas there are 1.310 judges in administrative courts. 4.979 of them are female whereas 5.452 of them are male.</p> |
| | Number of female/male first-instance commercial judges in the country. | | <p>There are no such statistics specific to the first-instance commercial judges in the country.</p> |

| No. | Indicator Component | Score | Justification for the scoring and sources |
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| Indicator 2.1. Level of specialisation of commercial dispute resolution | | | |
| 2.1.1. | Availability of a specialised commercial court or specialised commercial divisions in courts | 3 | There are dedicated commercial courts. Appellate courts have commercial divisions. |
| 2.1.2. | Modifications of the general procedural rules in respect of commercial cases as compared to general civil cases | 2 | <p>The modifications of the general procedural rules in terms of commercial cases as compared to general civil cases are as follows:</p> <ul style="list-style-type: none"> - Application to the mediation process is pre-requisite for a commercial case whereas most of the general civil cases are not subject to such mandatory mediation. - General civil cases are handled by a single judge whereas in commercial courts panel of judges hear the cases of which the claim amount is above TRY 500,000. |
| 2.1.3. | Inception training in commercial law for commercial judges | 3 | <p>In Türkiye, there is a pre-professional training programme which applies to all judges (for criminal, civil and commercial courts). Such training is not only specific to “commercial” judges.</p> <p>However, we should underline that commercial judges indeed go through a mandatory training before taking their posts.</p> |
| 2.1.4. | Continuous (regular) commercial law training for commercial judges | 2 | According to the information collected based on the interviews conducted with a number of commercial judges, it is noted that there is <u>only voluntary training</u> in commercial law provided regularly (continuously) to commercial judges. |
| 2.1.5. | Capacity building for commercial judges’ judicial assistants or for other types of specialised judicial clerks engaged in commercial justice (e.g., rechtspflegers) | 2 | According to the interviews conducted with court clerks in commercial courts, it is noted that commercial judges are assisted by legal clerks appointed to commercial courts, but they do not receive any specialized commercial law training. |

| No. | Indicator Component | Score | Justification for the scoring and sources |
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| Indicator 2.2. Use of mediation/ADR tools | | | |
| 2.2.1. | Availability of mediation in civil/commercial disputes | 3 | <p>The mediation in the Turkish judiciary is divided into two types: (i) mandatory mediation and (ii) voluntary mediation. The general provisions in relation thereto are regulated under the Law on Mediation in Civil Disputes numbered 6325 which has entered into force on 22 June 2012 (as amended on 6 December 2018 covering the mandatory mediation procedure). The mandatory mediation is available in several commercial disputes (as explained above) as well as in employment and consumer disputes which are regulated under specified laws.</p> <p>In mandatory mediation, the certified mediation minutes indicating the parties' disagreement should be attached to the Points of Claim while initiating court proceedings. The courts have also online access to the mediation centre's records.</p> <p>The voluntary mediation is up to the parties' discretion, however, if the parties agree before the voluntary mediation, such agreement would have the same effect with the one in mandatory mediation.</p> |
| 2.2.2. | Availability of an official register of mediators accessible online | 2 | <p>Accreditation of mediators is required and there is an official registry of mediators available online albeit only accessible to relevant officers at the courthouse and mediators themselves. The details and procedures relating to the registry of mediators are regulated under the Law on Mediation in Civil Disputes numbered 6325 which has entered into force on 22 June 2012.</p> <p>The score is lower because the registry is not publicly available.</p> <p>For voluntary mediation, the mediation center provides parties with list of mediators and contact information and parties can choose a mediator (but they do not have online access to the registry. For mandatory mediation, the mediation center assigns a mediator. There is no filing fee. If parties settle, they usually divide the fee that needs to be paid between themselves but they can also agree otherwise. The amount of the fee depends on the claimed amount (e.g., 1%). If they cannot settle, there is a low fixed fee depending on the duration of the mediation. This fee is paid to the mediator by the state. At the end of the court case, the losing party pays the fixed fee to the state.</p> <p>This is regulated in a Regulation on mediation linked to the code of civil procedure.</p> <p>There is also a Mediation Act.</p> |

| No. | Indicator Component | Score | Justification for the scoring and sources |
|--------|--|-------|--|
| 2.2.3. | Availability of incentives for mediation | 3 | <p>The application to the mediation is free of charge. If settlement is not reached between the parties, the mediation fees (which are fixed fees) are paid by the Turkish State, however, these fees are borne by the losing party at the end of the court proceedings. If settlement is reached between the parties, the parties can freely decide who will pay the mediation fees. The said fees are calculated on the basis of an official tariff in proportion to the claim amount. Such official tariffs are published in the Turkish Official Gazette.</p> <p>The application to the mandatory mediation can be easily conducted through UYAP system and especially due to Covid-19 pandemic, the Mediation Department in the Ministry of Justice encouraged mediators and parties to hold the mediation meetings via teleconference or videoconference.</p> |
| 2.2.4. | Enforceability of mediation settlement agreements | 3 | <p>If settlement is reached between the parties in the mediation process, the settlement document will carry the weight of a finalised Turkish court judgment through an “enforceability annotation”. In order to obtain such annotation of enforceability, an application is made to the Civil Courts for Small Claims (“Sulh Hukuk Mahkemeleri”). In principle, no hearing is held for such requests and the court conducts its examination through the court documentation. The expedited procedure applies. The court hearing is held only in cases where the dispute is related to family law. If the mediation settlement agreement was made while a court proceeding was pending, an annotation of enforceability can be requested from the relevant court. The court evaluates whether the content of the mediation settlement agreement is suitable for enforcement (as the specific performance is not enforceable) and whether the subject of the agreement is suitable for the mediation.</p> <p>On a separate note, if the mediation minutes which include the settlement agreement are signed by (i) both parties, (ii) both parties’ attorneys and (iii) the mediator, the application for the annotation of enforceability is not required. In such case, the mediation settlement agreement is deemed to have the force of a court judgement and is directly enforceable.</p> |
| 2.2.5. | Availability and use of online solutions for out-of-court settlement | 3 | <p>Mediation meetings can be conducted through teleconference or videoconference (especially due to Covid-19 pandemic), and the mediation minutes can be prepared through e-mail correspondence and signed by the parties’ and the mediator’s electronic signatures.</p> <p>There is state online mediation platform regulated under Regulation on the Implementation of Law on Mediation published in Turkish Official Gazette numbered 30439 and dated 2 June 2018. Such online mediation platform is accessible by the Mediation Department of Ministry of Justice and the mediators. The platform includes the appointment of mediators from the official list of mediators, online application, document upload and storage etc. Even if the professional court users do not have direct access to the online mediation platform, the online application through UYAP system is common among the professional court users. In addition, mediation meetings through teleconference or videoconference, albeit on private platforms, are common due to Covid-19 pandemic as explained under Section 2.2.3 above.</p> |

| No. | Indicator Component | Score | Justification for the scoring and sources |
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| Indicator 2.3. Efficiency and effectiveness of commercial litigation (to be assessed only if statistical disaggregation of commercial cases is available) | | | |
| 2.3.1. | Clearance rate of first-instance commercial cases for the latest year for which statistics is available | 3 | The clearance rate of commercial cases for 2020 (at latest) is 102.7% according to the latest statistics of General Directorate of Judicial Records and Statistics of Ministry of Justice. |
| 2.3.2. | Disposition time of 1st instance commercial cases as compared to CoE median for first-instance civil/commercial cases | 1 | According to the latest statistics of the General Directorate of Judicial Records and Statistics of Ministry of Justice (for year 2020), the disposition rate of 1st instance commercial cases is 93.3% and the disposition time is 586 days. |
| 2.3.3. | Disposition time of commercial cases as compared to the disposition time of general 1st instance civil cases in the latest year for which statistics is available | 1 | While the average disposition time in civil courts is 326 days, the average time in commercial courts is 586 days (based on the most recent data, 2020 statistics published by the General Directorate of Judicial Records and Statistics). |
| 2.3.4. | Dynamic of commercial cases disposition time over a 3-year period (the latest 3 years for which data is available) | 1 | <p>According to the latest statistics of the General Directorate of Judicial Records and Statistics of Ministry of Justice, the disposition time for commercial cases in year 2018, 2019 and 2020 is as follows:</p> <ul style="list-style-type: none"> - In 2018: 521 days - In 2019: 547 days - In 2020: 586 days. <p>There is 12% increase of disposition time in the between 2018 and 2020.</p> |

| No. | Indicator Component | Score | Justification for the scoring and sources |
|-----|---------------------|-------|---|
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Dimension 3. Uncontested Procedures for Enforcing a Claim

What is the name of the procedure (e.g., order for payment, issuance of a writ of execution based on document, other)? If there are several such procedures, please, describe each of them.

There are procedures under Turkish law called “pre-judgement execution proceedings” and “execution proceedings on the ground of a court judgement”. The pre-judgement execution proceedings are divided into several sub-categories which are mainly as follows:

- Pre-judgement execution proceedings through ordinary attachment procedure:

The creditor may initiate such proceedings by paying a fee in proportion to the claim amount and relevant expenses. The submission of a supporting document is not required to initiate such proceedings. Upon the creditor’s request, the Bailiff’s Office proceeds with the service of the payment order to the debtor. The debtor is entitled to object to the payment order or pay the debt within seven (7) days as of the date of service. If the debtor objects within the statutory period, the Bailiff would suspend the pre-judgement execution proceedings. The creditor can apply to the court seeking the cancellation of the objection to the payment order within one year of the objection. If the debtor does not object, the pre-judgement execution proceedings would be finalized. Thereafter, the creditor would be entitled to proceed with the attachment of the debtor’s asset and the auction sale of the assets etc.

- Pre-judgement execution proceedings on the grounds of negotiable instruments:

This proceeding can be initiated on the grounds of a negotiable instrument (i.e. promissory note, check, or bills of exchange etc.). The debtor is entitled to the object to the payment order within 5 days or pay the debt within 10 days as of the service of the payment order. Otherwise, the creditor can proceed with the attachment of debtor’s assets.

- Pre-judgement execution proceedings with the request for evacuation of leased immovable properties:

The creditor can initiate this proceeding on the grounds that the rent has not been paid or the rental period has expired. The debtor (i.e. the tenant) is entitled to object to the payment order within 7 days as of the service of the payment order. Otherwise, the creditor can proceed with the evacuation process.

- Foreclosure proceedings: If the underlying supporting document is a mortgage on an immovable property limited to a maximum amount, the foreclosure proceeding is considered as pre-judgement execution proceeding. In such case, the debtor is entitled to object to the payment order within 7 days or pay the debt within 30 days as of the service of the payment order. If the underlying supporting documents is a principal amount mortgage (without a maximum limit), such mortgage is deemed to have the force of a court judgement. In such case, the debtor is not entitled to object to the payment order as explained below.

| No. | Indicator Component | Score | Justification for the scoring and sources |
|-----|---|-------|--|
| | Which authority is entrusted with examining claims that may be uncontested by the debtor? | | State Bailiffs and Execution or Ordinary Civil Courts |
| | If the courts are competent to examine such claims, do the general rules of territorial jurisdiction apply to them or is the process centralized? | | Execution Courts which are located in the jurisdiction area of the relevant Bailiff's Office and ordinary civil courts are competent to examine such claims. Execution Courts only hear the cases which are related to execution proceedings (e.g. fault acts of Bailiff officers or any breach of Execution and Bankruptcy Code etc.) within the scope of Execution and Bankruptcy Code. |
| | What claims is the procedure applicable to (i.e., only claims based on certain trustworthy documents such as checks, bills of exchange, notary deeds, utility claims, or also all types of civil and commercial monetary claims)? | | All types of civil and commercial monetary claims can be subject to the pre-judgement execution proceedings. Submission of specific documents are required for various types of execution proceedings. For instance, the execution proceedings on the grounds of a court judgement or any other official document which is deemed as having the same effect can be initiated on the relevant judicial document. The pre-judgement execution proceedings on the grounds of negotiable instruments requires the submission of the relevant checks or other bills of exchange whereas the pre-judgement execution proceedings on the grounds of a mortgage and/or pledge requires the submission of the relevant mortgage or pledge agreement to claim the collection of the relevant receivables. In terms of pre-judgement execution proceedings with the request for evacuation of leased immovable properties, the rental contract and the evacuation undertaking must be submitted to the relevant Bailiff's Office. |
| | Is there a monetary threshold for applying the uncontested claims procedure? | | There is no monetary threshold for the execution proceedings. |

| No. | Indicator Component | Score | Justification for the scoring and sources |
|--------------------------------------|---|-------|--|
| Indicator 3.1. Ease of filing | | | |
| 3.1.1. | Effective self-representation | 2 | It is sufficient for the individuals to present their identity cards and submit a request for filing. Self-representation is allowed, however, in practice it is difficult to conduct the process without professional help and most creditors tend to appoint a lawyer. |
| 3.1.2. | Availability and use of forms for filing the claim | 3 | There are specific forms for the pre-judgement and post-judgement execution proceedings. These forms are attached to the Regulation on the Code of Bankruptcy and Enforcement. In practice, there are third-party applications that professional court users use for the preparation of the relevant application forms. As a recent development, UYAP system enables professional court users to fill in and submit the required forms in electronic form and to apply to the relevant Bailiff Office. |
| 3.1.3. | Availability and use of online filing | 3 | Online filing is available and commonly used by professional court users. |
| 3.1.4. | Level of court fees for filing a claim | 2 | Judicial fee tariffs are published in Official Gazette each year. Fees for filing the claim through pre-judgement execution proceedings and execution proceedings on the grounds of court judgement are lower compared to the fees for filing a general civil/commercial claim. For instance, the litigation fees for a claim for TRY 100,000 amount to TRY 1,707.75 plus general litigation expenses (approx. TRY 700). On the other hand, if one initiates pre-judgement execution proceedings for the collection of TRY 100,000, the filing fee amounts to TRY 500 plus general expenses (for the service of payment order etc. which are approx. TRY 300). |
| 3.1.5. | Simplified rules on attachment of evidence to the claim | 2 | Documentary evidence is required in pre-judgement execution proceedings; however, the claimants can attach such evidence by electronic means. In some types of pre-judgement execution proceedings, the originals of the documents must be submitted in paper (i.e. checks, promissory notes etc.). Documentary evidence must be served on the debtor together with the payment order. |

| No. | Indicator Component | Score | Justification for the scoring and sources |
|--|--|-------|---|
| Indicator 3.2. Efficient processing | | | |
| 3.2.1. | Predictability of the timelines for pronouncement | 1 | There timelines for pronouncement on applications under the procedure are unpredictable as they are not regulated. |
| 3.2.2. | Length of timelines for pronouncement | 3 | <p>The timeline is unpredictable and if you do not go personally and track it, it can also stay for months.</p> <p>However, professional court users should closely monitor the process and visit the relevant Bailiff Office given that a number of Bailiff Offices overlook the requests sent through UYAP system for the preparation and service of payment orders. If the claimant is active in approaching the Bailiffs' office, they take the necessary action for the service of the payment order to the debtor approx. within 3 or 4 business days.</p> |
| 3.2.3 | Availability of options for service to the debtor without proof of receipt | 2 | <p>Under Turkish law, the service of the payment order must be conducted in accordance with the Notification Law. If the debtor is an individual, the payment order must be dispatched to the latest known personal address of the debtor. If such service is made on the debtor himself or persons who are living in the same household, the service will be deemed duly made. If the service cannot be made as no one present at the relevant address, the creditor/claimant requests for the service to be made in accordance with Article 21/2 of Notification Law. In this respect, the service is made to the local authority located in the debtor's residence and such service is deemed valid. If the debtor has agreed to service to lawyer, then it would be possible to serve on the lawyer.</p> <p>If the debtor is a legal entity, the payment order must be sent to the electronic service address of the relevant entity. Even if such notice is not read or seen by the debtor, the service is deemed to have been duly made within 5 days as of the date of e-service. If the relevant legal entity has no e-service address, the payment order must be dispatched to the residence address registered in the Trade Registry. It is sufficient that such service is made on the employee or representative of the company. If such service cannot be made, upon the creditor's request, the post officers must hang the notice on the door of the debtor's latest registered address and such service is deemed to have been duly made.</p> |
| 3.2.4. | Ease of debtor's objection | 3 | Debtors can object without providing any explanations/justification thereof and they are provided with guidance as to the consequences of objecting/not objecting. |

| No. | Indicator Component | Score | Justification for the scoring and sources |
|--|--|-------|--|
| Indicator 3.3. Effective linkages between the uncontested procedure and the procedure following a statement of opposition | | | |
| 3.3.1. | Consequence of debtor's lack of objection | 3 | If the debtor does not object and does not pay the debt or objects only partially, an enforceable title is issued for part of the claim against which there has been no objection. In such case, the creditor can proceed with the attachment of the debtor's assets for the part of claim amount which was not objected by the debtor. |
| 3.3.2. | Launching the litigious stage of the procedure | 1 | If the debtor lodges a statement of opposition, the procedure becomes pending and if the claimant/creditor wishes to pursue its claim, he/she must apply to the mandatory mediation (if required) or if there is no such pre-requisite, he/she must apply to the court for the cancellation of objection to the payment order. The creditor can act within a one-year period. The details of the execution proceedings must be provided to the relevant court. |
| 3.3.3. | Link between the fees due in the uncontested claims procedure and in the litigious procedure | 3 | The fees calculated in proportion to the claim amount and which paid to the Bailiff's Office are deducted from the filing fees while initiating action for the cancellation of the objection to the payment order. |
| 3.3.4. | Management of statements of opposition | 2 | The jurisdiction tracks percentage of statements of opposition to claims filed relating to the execution proceedings but does not make an analysis thereof. For instance, according to the statistics for year 2020, 24.635 cases were initiated before commercial courts for the cancellation of debtor's objection to the payment order. |

| No. | Indicator Component | Score | Justification for the scoring and sources |
|--|--|-------|--|
| Dimension 4. Small Claims Procedures (this dimension is to be evaluated only in case a small claims procedure is available) | | | |
| | What is the name of the procedure (e.g., small claims procedure, simplified procedure, written procedure, fast-track procedure, other)? If there are several such procedures, please, describe each of them. | | The name of the procedure under Turkish law is “Simplified Procedure”. It is a faster and simpler procedure than the ordinary procedure. The simplified procedure applies in many kinds of court proceedings depending on the nature of the claim. In simplified procedure, the exchange of pleadings process is shorter (i.e. Points of Claims and Points of Defence are sufficient), there is a time limitation for the submission of evidence, in some cases, no court hearing is held and the court renders its judgement reviewing the court documentation. |
| | Is there a special small claims court or a special court division examining small claims? | | There is no special small claims court. However, there are courts that are called civil court for small claims (“Sulh Hukuk Mahkemeleri”). The distinction between these and ordinary civil courts (“Asliye Hukuk Mahkemeleri”) with regard to competence is not mainly on the basis of the amount of a dispute but rather the nature of the dispute where disputes and applications of specific natures are required to be referred to civil court for small claims (e.g. disputes arising from rental contracts, cases related to the physical possession of an immovable property or the division of civil rights on an immovable property, declaratory action relating to the collection of evidences and a number of undisputed claims). It follows that a “small claim” can be tried by an ordinary civil court albeit by application of simplified procedure as explained in the first box above. |
| | What is the monetary threshold for the applicability of the procedure? | | There is a monetary threshold in commercial courts. In commercial cases where the claim amount is or below TRY 500,000, the case is handled by a single judge and the simplified procedure applies. If the claim amount is above TRY 500,000, panel of judges hears the case and the case is subject to ordinary procedure. |
| | What claims is the procedure applicable to? | | <p>There is a list of cases subject to simplified procedure indicated in the Code of Civil Procedure as well as in several specific laws. The following claims are listed within the scope of the simplified procedure pursuant to Article 316 of the Code of Civil Procedure: - All cases/claims heard by Civil Courts for Small Claims;</p> <ul style="list-style-type: none"> - Cases where the judge has a discretionary power to examine the file without conducting any court hearing; - Applications for preliminary injunction, preliminary attachment, determination of evidences and any other temporary measures; - Cases related to alimony and custody claims; - Cases arising from employment disputes; - Arbitration; - Concordat proceedings; - Other cases specified in other laws. |

| No. | Indicator Component | Score | Justification for the scoring and sources |
|--------------------------------------|---|-------|---|
| Indicator 4.1. Ease of filing | | | |
| 4.1.1. | Effective self-representation | 2 | Self-representation is allowed for all kinds of civil procedures. |
| 4.1.2. | Existence of forms for filing the claim | 1 | There is no procedural difference in terms of paperwork between regular filings and filings for small claims procedure. Points of Claim must be submitted to the court for filing the claim by paying all required fees and expenses. The e-filing is available and commonly used by professional court users. There is no specific form requirement for the parties to state their allegations/statements. |
| 4.1.3. | Availability and use of online filing | 3 | Online filing is available and commonly used by professional court users. UYAP system enables parties to lodge their applications to the relevant court and to pay the relevant litigation fees and expenses. |
| 4.1.4. | Guidance to self-represented litigants | 1 | A separate tool of UYAP system is available for citizens / self-represented litigant. However, guidance is not sufficient. There are no special rules that require judges/court clerks to provide guidance to self-represented litigants. |

| No. | Indicator Component | Score | Justification for the scoring and sources |
|---|--|-------|---|
| Indicator 4.2. Availability of meaningful procedural simplifications of the small claims procedure | | | |
| 4.2.1. | Statutory timelines in the small claims procedure | 2 | Statutory timelines are more limited compared to ordinary proceedings. For instance, time extension can be requested up to 2 weeks (rather than 1 month) for submission of Points of Defence. |
| 4.2.2. | Simplified evidentiary rules | 1 | Although there is no difference in terms of the type of the evidence to be presented, it differs from the ordinary procedure in terms of statutory timelines for submitting evidences. Evidences can be submitted attached to the Points of Claim and Points of Defence or at latest until the preliminary court hearing. |
| 4.2.3. | Simplified rules on hearings | 2 | In some court cases subject to simplified procedure, the case can be decided based on only written submissions of the parties without scheduling a court hearing. |
| 4.2.4. | Special rules on encouraging conciliation or mediation | 1 | There are no special rules or practices that encourage conciliation or mediation in the framework of simplified litigation as compared to general litigation. |
| 4.2.5. | Simplified content of the judgment | 1 | The rules on the content of the judgment in the simplified procedure are the same as the rules on the content of the judgment in the general civil/commercial procedure. |
| 4.2.6. | Modifications to the rules on appealing the judgment in the small claims procedure | 1 | The rules on the appealing the judgment in the simplified procedure are the same as the rules on appealing the judgment in the general civil/commercial procedure. |

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