

General Report of the Turkish National Legal Education System*

Prof. Dr. Yasemin Işıktaç - Dr. Sercan Gürler

Legal Education

Questions to be addressed by the national reporters

A. General Structure of Legal Education

1. How many law schools are there in your country, and what are the requirements, if any, for accreditation or licensing of law schools?

- As of 2010 there are 47 law schools in Turkey. 22 of these are state universities and 25 of them are private. With regards to the accreditation or licensing of such institutions, we refer to a procedure recorded in the Establishment of Higher Education Institutions Law (article 3, paragraph 2) and the Higher Education Law (article 7). Therefore first of all it should be noted that the procedure for opening a new law school requires a legislative process. According to this procedure if there is a proposal to establish a law school, this is presented to YÖK (Yüksek Öğretim Kurulu/The Council of Higher Education). YÖK is one of the functionally decentralized organizations in the Turkish Administrative Law System. YÖK is a central board which has the power of nomination of the rectors and appointment

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of the deans of the universities. YÖK also aims to co-ordinate general higher education through programming curriculums, deciding upon the academic organization of faculties and examinations and the approval of the budgets of the universities. So, YÖK considers the proposal concerning the establishment of a new law school. If YÖK accepts the proposal, it brings it to the Ministry of National Education. If this proposal is also accepted by the Ministry of National Education, it makes a new law bill regarding the establishment of the new law school. This is made by adding a new article to the Establishment of Higher Education Institutions' Law. As understood from the above, both YÖK and the Ministry of National Education have the discretion to accept or reject a proposal for the establishment of a new law school.

2. *What are the approximate costs of legal education in your country, estimated either by year or across the course of law school study? If costs differ significantly between public and private law schools, please indicate how.*

- In our country, higher education requires the students to pay some tuition on an annual basis. The amount of this money is determined by YÖK for every year differently. First, YÖK determines an amount, then presents it to the Council of Ministers. If the Council of Ministers accepts this amount, it will be applied for that academic year. For private law schools this amount is totally different. It is not determined by YÖK. Every private law school decides separately, on their own, the amount the students have to pay them. For example by the year 2010, this amount is around 10.000 Turkish Lira at least and 25.000 Turkish Lira at most. For the year 2010, the amount YÖK determined for a normal daytime education course is 313 Turkish Lira and for a nighttime education course 1155 Turkish Lira. So, it can be said that for a law school student four years legal education costs approximately 1200 Turkish Lira (considering the standard daytime course).

3. *What are the requirements for entry into law school in your country? Is there an entrance exam, either nationally or by certain schools?*

- There is a national entrance exam after secondary education in our country. Every year, students for undergraduate programs of the universities are selected and placed via a centrally administered examination system. The basis of this system is the “Student Selection Examination”. The organization responsible for its administration is ÖSYM (Öğrenci Seçme ve Yerleştirme Merkezi/ The Student Selection and Placement Center) which is affiliated to YÖK. Based upon the marks they achieve in this exam, students can then choose one of law schools in the country.

4. *How many students graduate from law schools in your country in any given year, and how many lawyers do you estimate to be licensed to practice law in your country at this time?*

- As of the educational term 2006-2007 there are 4303 students which have graduated from law schools in our country. In the same period 4207 graduated students began to work as a lawyer apprentice in order to become one of the member of a bar. However only 3206 of them completed their apprenticeship. The difference between the number of the graduated students and the number of the apprentices shows that not all graduated students go on to be a lawyer (by preference or circumstance). This difference in number is however not so big; as such we can comfortably say that in our country most of the students graduated from law schools go on to work as a lawyer in their professional life. The difference between the number of the apprentices who began an apprenticeship and the number of apprentices who completed their apprenticeship can be explained mainly by considering apprentices changing their minds during the apprenticeship. These usually want to work in another le-

gal profession, especially as a prosecutor or a judge. The other reason for the difference is that some apprentices begin their apprenticeship, but because of some unforeseen obstacle they can not continue. If the obstacle can be overcome they then again start from the point they left off and currently are still apprentices. As of the educational term 2007-2008 there are 4191 students who have graduated from law schools. However for this period there is not yet any information about the number of graduated students who began an apprenticeship. The latest available statistical information is for the academic year 2008-2009. In this year 4790 students have graduated from law schools. And again the number of graduated students who began and completed an apprenticeship is not known.

5. *What is the standard course of study for law school students in your country –number of years of study and educational level that must be attained in order to enter law school?*

- The standard course of study for law school students in our country is four years. In order to enter law school it is required that the students have to finish secondary education. In our country primary education takes eight years and secondary education takes four years. So, before a student can enter a law school, he/she must have been taught at least twelve years.

6. *Are there general requirements for graduation from law school, and who imposes these requirements?*

- The only requirement for graduation from law school is that students have to successfully pass the exams of all lessons included in the curriculum and must finish the school in eight years at the latest. As mentioned above, normally the standard course of study for law school is four years but the students are given the opportunity to finish the school in eight years at the latest. There are no other general requirements for graduation from law schools. The requirements for graduation from law school can be extracted from the Higher Education Law, Arti-

cle 43. According to this we can discern two stages. At the first stage, YÖK determines a standard about graduation in order to coordinate the general higher education in the country. At the second stage, the universities regulate their own graduation requirements based on the standard YÖK has put forward.

7. How much of the law school curriculum is mandatory, and how much consists of optional elective courses that permit students to choose? Who decides the proportion of mandatory versus elective courses at any given law school?

- Most of the law school curriculum is mandatory and, except for a few, the mandatory courses are all the same in every law school. However optional elective courses are present and differ from university to university. The proportion of mandatory versus elective courses is also determined in two stages. At the first stage, YÖK defines some courses as mandatory in order to coordinate general higher education in the country. At the second stage, in every university first the university senates and rectorates define the general curriculum of the university, than the deans determine their own faculty curriculum. All of these are made through by-laws.

8. What additional requirements are imposed by law, rule or regulation, before or after graduation from law school, and prior to licensure as a practicing attorney? Is there an examination for entry into the bar, and if so, who administers it? Briefly describe the bar examination, particularly if it contains any component that measures practice skills, ethics or values, as discussed below. What percentage of aspirants pass the bar examination each time it is administered?

- In our country, after graduation from law schools, in order to be an attorney, the graduated students have to complete a one year apprenticeship. The first six months of this period is carried out in courthouses and enforcement departments and the last six months has to be done alongside a certified attorney. After completing this period the apprentices can obtain the

certificate given by the Apprenticeship Center of the Bar. With this certificate the apprentices make an application to the Bar in order to be an attorney. So, there is no examination for entry into the bar. However, few years ago a provision prescribing an examination for entry into the bar was inserted into the Attorney's Act. But then it was repealed.

9. *Can you estimate what percentage of law school graduates in your country who go on to enter into the practice of law, not only as advocates, but as prosecutors or in government service? If there are other categories of "lawyers" who engage in law practice, other than those set out here, please describe them.*

- As mentioned above, the graduated students have firstly the opportunity of being a lawyer if they fulfill the conditions. The other opportunity they have as a freelancer is to practice as a notary. Apart from being self-employed as a lawyer or a notary, the graduated students can also decide to be a judge or a prosecutor. In order to be a judge or a prosecutor it is required to pass an examination and then to complete the apprenticeship period of tenure for judges and public prosecutors. As well as being a judge or a public prosecutor, they can work as public officials in some public institutions and organizations. Public offices for which the graduated students can run include basically those which are located in Justice Ministry and in the higher courts. There are also some other public offices at which the graduated students can work. For instance the public offices located in the central and provincial parts of the administration can be counted amongst them. The students graduated from law schools can work in these offices as an expert or as an expert assistant. As understood from above in question 4, the graduated students mostly prefer to practice directly as lawyers. Apart from this we do not have at present any statistical information concerning what percentage of law school graduates in our country enter into the practice of law as advocates or judges or prosecutors etc.

10. *Is the professoriate within law schools in your country made up of full or part-time teachers, and in what percentage for each? May law school professors in your country engage in the private practice of law while employed as a professor? Under what circumstances? If law schools in your country do offer “practice” components, as discussed below, are the faculty who teach “practice” courses given status equal to or commensurate with those who teach in the classroom only?*

- In our country, the professoriate within law schools is made up of 858 full-time, 46 part-time and 242 contract-basis teachers. In recent years there are more private law schools which have begun to teach. Not all of them however have enough teachers tenured. So, there is a need for contract-basis teachers. Due to this need, the number of contract-basis teachers is very high. In law schools there is no distinction regarding the teachers who only teach theoretical courses and those who teach only practical courses. The circumstances under which the professors engage in the private practice of law are held in Higher Education Law, Article 36. According to this, professors, associate professors and assistant professors can work at the university either as full-time or part-time teachers. As for those who teach full-time it is legally prohibited to work outside the university in any kind of job. However, the ones who teach part-time can work outside. They must however teach at the university for at least 20 hours in a week.

B. Practice elements within the law school curriculum or otherwise, prior to licensure

1. *“Practice” within law school courses or curricula can encompass many elements. Please describe broadly what courses or elements of courses within your country’s law school curricula contain an element of “practice.” Please do not limit your answer to legal analysis and reasoning, or to general theories regarding law or legal science. Examples of “practice” include both skills training and methods of instruction. Examples*

of skills training include the preparation and conduct of interviews with possible or present clients; fact investigation; development of case theory; counseling; selection of expert witnesses; negotiation, mediation or other alternative dispute resolution processes; problem solving; legal research; written or oral communication and persuasion skills; trial or appellate advocacy skills, organization and management of legal work within a law office, etc. Methods of instruction for the teaching of “practice” are generally experiential (the student plans, does and reflects on some lawyering activity), and might include the professor’s use of legal or fact pattern problems, simulations, role plays, games, moot courts, structured and supervised internships or externships with practitioners or judges, clinical programs offering legal services to real clients under faculty supervision for credit, etc. If these elements are not present within law school curricula, is there some other required component of preparation for the practice of law, such as a required period of apprenticeship, that assures that the aspiring lawyer will acquire this training prior to becoming a licensed attorney?

- In our country the curricula amongst law schools shows very little difference. As an example, a four year curriculum is attached. Within most of the courses in the curriculum, there is at least one hour of practical courses included. The courses which include practical courses are listed below:

The Name of the Course	Practical Hour	The Name of the Course	Practical Hour
I.TERM		V.TERM	
Constitutional Law I (General Principles)	1	Law of Property I	1
Civil Law I (Introduction Law of Persons)	1	Law of Obligations (Special Part)	1
		Commercial Law I	1
		Civil Procedure Law I	1

II.TERM		VI.TERM	
Constitutional Law II (Turkish Constitutional Law)	2	Law of Property II	1
	1	Commercial Law II	1
Civil Law II (Family Law)	1	Civil Procedure Law II	1
Roman Law		Criminal Law (Special Provisions)	1
III.TERM		VII.TERM	
Law of Obligations I (General Provisions)	1	Private International Law I	1
		Maritime Law	1
Criminal Law I (General Provisions)	1		
	1	Enforcement and Bankruptcy Law I (Enforcement Law)	1
Administrative Law I		Labor Law I	1
Public International Law I (General Provisions)	2	Criminal Procedure Law I	1
		Administrative Procedure Law	1
IV.TERM		VIII.TERM	
Law of Obligations II (General Provisions)	1	Private International Law II	1
		Law of Insurance	1
Criminal Law II (General Provisions)	1		
	1	Enforcement and Bankruptcy Law II	1
Administrative Law II		Labor Law II	1
Public International Law II (General Provisions)	2	Inheritance Law	2
	1	Criminal Procedure Law II	1
Tax Law		Social Security Law	1

- The practical courses are performed by solving fictional cases and analyzing some real cases by examining court decisions. In some private and state universities there is an activity called “virtual court”. The virtual court activities are usually performed under the chairmanship of advisor teachers and as an event of student associations. The students are very interested in these activities. Besides these, there are always some meetings, symposiums etc. which are also organized by student associations. In these meetings and symposiums judges, prosecutors, lawyers and intellectuals are usual participants. Although these activities are very useful in many respects, they have also some defects. For example, subjects such as preparing for interviews with clients and professional behavior are not examined in these activities. Similarly, the alternative dispute resolution processes and techniques like negotiation, mediation, collaborative law and arbitration are not taken into account in these activities. Although these processes and techniques are examined as a theoretical subject, due to the structural properties of the Turkish legal system, they are not reflected in the practice of law.
 - As mentioned before, in section A, while answering question 8, it is required that an apprenticeship period be completed by graduated students who wish to be lawyer. The first 6 months of this period is done in the court and the last 6 months with a lawyer who has been lawyer at least for 5 years. During this period the apprenticeship centers of the bars of big cities like Istanbul, Ankara and Izmir open some courses and give information about advocacy.
2. *Is there a legal, regulatory or internal administrative regime which mandates, regulates, permits or proscribes practice as part of legal education? If so, please briefly identify it and its major components.*
- The percentage of legal education pertaining to practical courses is determined by the Higher Education Council by consid-

ering the general properties and credits of mandatory courses. Some changes can be made by deans if necessary. However, in order to coordinate general higher education and prevent some problems which can occur in the case of transfers between law schools, the current tendency is for the stable curriculum across the board.

3. *Practice-related courses are often focused on the teaching of the basic skills necessary to function as a practicing attorney. However, the teaching of “practice” within a law school might also be said to include elements of ethics or professional responsibility, as well as values relating to the practice of law. To what extent do law schools in your country offer courses or components of courses, either required or optional, on ethics or professional responsibility? On promoting justice, fairness and equality within the legal system? On professional obligations to improve the legal profession and to enhance the likelihood that law and legal institutions will do justice? On assuring that the legal profession does not engage in discrimination based on gender, race or ethnicity, religion, sexual orientation, disability or other grounds? If these elements are not present within law school curricula, is there some other required component of preparation for the practice of law, such as a required period of apprenticeship, that assures that the aspiring lawyer will acquire this training prior to becoming a licensed attorney?*

- The practice-related courses in our law schools are mainly focused on the teaching of the basic skills necessary to work as a lawyer. Subjects like professional ethics and professional responsibility are examined in legal philosophy courses. As such, there are neither mandatory nor optional distinct courses titled “professional ethics”. Legal philosophy is however mandatory. Subjects such as promoting justice, fairness and equality are also the main titles of legal philosophy courses. Discrimination based on gender, race or ethnicity, religion, sexual orientation, disability etc is the subject of both legal philosophy and constitutional law. Apart from these courses held in the universities,

during the apprenticeship (in the apprenticeship centers of the bar associations, especially in big cities like Istanbul, Ankara and Izmir) experienced lawyers also give seminars on professional ethics.

4. *Is the provision of legal services by law students – “student practice” – permitted under the law of your country, and if so, under what circumstances?*

- In our legal system the provision of legal services by law students is not permitted.

5. *Do law schools in your country offer mandatory or optional clinical legal education courses? In this context, “clinical legal education” means a course within the law school, for credit, in which the student provides legal advice or other services to persons who could not otherwise afford counsel. If law schools offer clinical legal education, what is the nature and extent of faculty or practicing lawyer supervision of student work product? Do teachers or students accompany students to court for court appearances or filings? How is credit awarded for participation in a clinical program, and during what year in the course of study is clinic made available or required? Are there prerequisite or co-requisite courses required before enrollment in a clinical program? Is there a prior or parallel seminar conducted in conjunction with participation in a clinical program, and if so, what does that seminar cover?*

- Clinical legal education is not given a place in the standard curriculum. Some new private law schools give importance to this Anglo-American concept. However, even in these law schools there is no credit-course concerning clinical legal education.

6. *Do law schools in your country require or offer internships or externships with a law office, government agency or court, outside of the law school? If so, how are these programs supervised or overseen within the law school? Is there a seminar, either in parallel or separate from internships, to discuss issues arising from the external experience, such as professional role, legal institutions, etc.?*

- In our country the law schools neither require nor offer internships or externships with a law office, government agency or court, outside of the law school. Some teachers however may take students to visit the courts. Also in courses like Criminology, the students may have been taken to the Forensic or prisons. Moreover, during the courses sometimes discussions are held about professional issues and legal concepts and institutions. These discussions are made around daily life events, especially daily news, literature and cinema.

7. *What specialized components of training for the practice of law exist outside of or beyond the required course of law school study, or as an alternative to it, to prepare a student or law school graduate for either the general practice of law, or for a specialized area of practice such as that of a prosecutor or judge? Describe these programs, please, and by whom they are administered.*

- Outside of or beyond the required course of law school study, there are two special types of training for the practice of law in our country. One of these is attorney internship and the other is the internship for being a judge or a prosecutor. The attorney internship lasts for one year and is administered by the bar associations. As mentioned before, the first six months of this period is held in the courts and the last six months in a legal office. During this period, at the apprenticeship centers of the bars, some courses are given. At the end of this period, if the apprentice is successful, he/she has the right to work as an attorney. The internship for being a judge or a prosecutor lasts for two years. During this period the apprentices participate in the trials in an educational capacity. They also take some professional courses and programs which are mandatory. These courses and programs are held by some specialists and also are under the control of the head of the prosecutors or the assistant of the head of the prosecutors.

C. Possible future elements of practice in legal education

In our opinion more importance must be given to the practical aspect of legal education and also more seriousness is needed regarding issues of professional ethics. In order to achieve this, the law must also be considered as a cultural phenomenon.

We do not approve of the difference between the periods of attorney internship and the internship for being a judge or prosecutor. The fact that there is an examination required to be a judge or prosecutor, but not one required to be an attorney also does not seem to me appropriate. The emphasis on being a judge or prosecutor as public servant can be reasonable but this characteristic of being public can also be ascribed to the advocacy.

In recent years it has been claimed that in order to improve the quality of legal education the teaching period in law schools must be increased to 5 years. We do not agree with this view. We believe that to make legal education better, it would be enough to make some rearrangements to the curriculum, think about some additional supportive programs and open new courses. All of these can be achieved whilst maintaining a 4 year teaching period. The other point which has to be taken into account is that one more teaching year may not be feasible from the point of view of the current Turkish financial situation.

Finally we would like to add that we believe in the usefulness of the kinds of practices such as clinical legal education, court visits, seminars by experienced lawyers and the activities of student associations. These practices should be encouraged, insofar as it is possible.