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Sida Decentralised Evaluation

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Evaluation of the Development Programme for Turkish Judiciary

Final Report

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**Final Report
October 2014**

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Pia Sassarsson Cameron**

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The views and interpretations expressed in this report are the authors' and do not necessarily reflect those of the Swedish International Development Cooperation Agency, Sida.

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Abbreviations and Acronyms

ADR	Alternative dispute resolution
DAC	Development Assistance Committee; coordination body for donors; part of OECD
Danistay	Council of State; Turkish Administrative Supreme Court
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
HCoJP	High Council of Judges and Prosecutors (also sometimes HCJP; or HSYK in Turkish)
IPA	Instrument for Pre-Accession
MoJ	Turkish Ministry of Justice
MoU	Memorandum of Understanding
RBM	Results based management
Sida	Swedish International Development Cooperation Agency
SNCA	Swedish National Courts Administration (Domstolsverket)
SC	Steering Committee (of the SNCA programme)
ToR	Terms of Reference
Yargitay	Court of Cassation; Turkish Supreme Court

Preface

This is an evaluation of the “Development Programme for the Turkish Judiciary”, which originally started in 2007. The evaluation covers only the second phase of the programme from 2011–2014, but when necessary it takes into consideration what happened during the first phase.

We want to emphasise that the presentation of facts and the judgements and assessments put forward in the report are entirely those of the two authors. The report should not be interpreted as representing the views of the Swedish government institutions involved with the programme.

It was carried out by Indevelop under Sida’s Framework Agreement for Reviews and Evaluations. The members of the evaluation team were Stefan Dahlgren (team leader) and Pia Sassarsson Cameron, Swedish legal expert. Quality Assurance was conducted by Ian Christoplos and Anna Liljelund Hedqvist was the appointed Project Manager at Indevelop.

The team would like to thank everyone we interviewed or otherwise contacted in Turkey and in Sweden in connection with the evaluation for generously giving their time and assistance and in sharing their experiences from the programme. In particular we would like to thank the Turkish legal expert professor Müslüm Akinci, who provided invaluable advice to the team regarding judicial matters, and our interpreter during the fieldwork in Turkey, Ms. Caglayan Sayhan, for outstanding work.

Executive Summary

This is an evaluation of the “Development Programme for the Turkish Judiciary”, which originally started in 2007, and is executed jointly by the Turkish Ministry of Justice (MoJ) and Swedish National Courts Administration (SNCA). The evaluation covers only the second phase of the programme from 2011–2014.

As part of the long-term reforms that would facilitate Turkey’s membership in the EU, reforms in the legislation and within the judiciary are underway. The judicial reform strategy is crucial to the EU accession process and the efforts to comply with the European convention on human rights requirements. This reform strategy, in its different versions, together with the Swedish strategy for cooperation with Turkey are the primary guiding documents for the judiciary cooperation between Sweden and Turkey.

The *objective* of the evaluation is to assess the relevance, sustainability and effectiveness of the cooperation program and the main *rationale* and *purpose* are to justify and structure the next phase of the cooperation. The evaluation has used three – *relevance*, *sustainability* and *effectiveness* – of the usual DAC evaluation criteria, omitting efficiency and impact.

The evaluation was carried out during a period of some political tension in Turkey and it has been suggested to the team that this has affected the judicial reform process and thus also the SNCA-MoJ programme. The team has in conclusions and recommendations taken this information into consideration.

The main data sources were *reports* produced within the programme, *documents* from other sources and *interviews* in Turkey and in Sweden, and the evaluation was largely carried out during September 2014. All interviews in Turkey – in Ankara, Eskisehir, Izmir, Aydin and Istanbul – were made during the third week of September 2014.

The cooperation programme concentrated on five areas:

- Establishment of Court of Appeals in Administrative Judiciary (area 1)
- Strengthening the confidence in the Judiciary (area 2)
- Support to the Courts of Appeal Reform (area 3)
- Restructuring of tasks and court management (area 4)
- Juvenile justice, later also Domestic violence (area 5)

The modes of cooperation were largely study trips and seminars covering specific topics, with different participants each time, and sister court (or twinning) arrangements with a continued cooperation between a Turkish and a Swedish court about a defined theme, e.g. juvenile justice.

The overall, general *conclusion* is that the programme in line with the Swedish objective of supporting Turkey's EU accession process and has supported improvements

of the principle of rule of law by making positive contributions to the Turkish strategy for judicial reform.

The programme has in its planning and reporting been largely activity- and output-oriented with only limited analyses of its contributions to the larger picture. The conclusion on its *relevance* is that it nevertheless kept its focus on themes that are important for the overall objective.

In its planning and execution the programme should have been more clearly and consistently based on the principles of results based management.

Comparing work plans with reports about implemented activities shows that most of the programme plans have been carried out more or less according to schedule. The obvious exceptions are areas 1 and 3 regarding appeal courts, where delays in the making these courts operative and which were outside the control of the programme, caused a standstill of the planned activities.

Two features should be highlighted as contributing to the programme's *effectiveness* in executing the work plans. One is the role and operation of the joint *Steering Committee*, which was the main instrument for determining the content of the programme and coordination of its activities. Another is the development of *sister courts* (or twinning) as a mode of cooperation in selected areas. The continued contacts between a limited number of professional judges (and prosecutors in the case of juvenile justice) increased mutual understanding and built a foundation of trust and respect that facilitated discussions.

In terms of the number of Turkish staff reached and geographical coverage the subject of *conciliation* as a means to solve disputes stands out as particularly successful. Also the sister court cooperation on juvenile justice (Borås-Eskisehir) and domestic violence (Helsingborg-Sincan) indicate success, albeit on a somewhat more modest level.

Both projects in the area of confidence building – support to the institution of the Ombudsman and the open court pilot project – should be considered as successes, with the obvious proviso that the latter case is indeed only a limited experiment and it is not clear how this is expected to be replicated.

The introduction of limited access courthouses and information desks are examples of how knowledge has been retained and used for clear changes. Other parts of court management reform, especially delegation of tasks, seem to have been more difficult to implement although the extensive delegation in Swedish courts have received great attention and interest. A tentative conclusion on this is that the knowledge about alternative ways to organise courts and to redistribute responsibilities do exist and there may even be a willingness to adopt these practices in the future, but at the moment circumstances do not seem conducive to such changes.

It is not possible to provide firm, general conclusion about *sustainability* of knowledge and practices gained from the programme. Judging from interviews in Sweden and in Turkey, activities in the programme have been generally much appreciated with very interested and active participants from Turkey, eager to learn and compare practices and regulations, which all point in a positive direction, but sustainability will depend on what parts of the Turkish judicial reform programme go forward and to what extent such knowledge is applied.

In the SNCA-MoJ programme there is apparently a general notion about how changes should come about. The assumption is that an activity or series of activities within an area will initiate a change at (typically) one court and then will follow a spread effect which triggers changes at other courts, be it procedures, ways to organise work or simply an awareness about alternative ways to look at different types of cases. However, this mechanism is seldom elaborated and conditions for this spread to take place are not specified. Thus the crucial issue of replication is left to chance, and it also becomes unclear what is needed to bring about change and when an intervention can be terminated, whether it is successful or impossible to sustain.

Lack of funds does not seem to have been a strong limiting factor but an obvious problem is that comparatively few persons are available for international work within the SNCA organisation. Another limiting factor is that Turkish and Swedish courts do not have exactly the same responsibilities and SNCA had to engage other parts of Swedish judicial and social services to meet Turkish requests, which was sometimes complicated.

Regarding the future the team *recommends* that legal cooperation between Turkey and Sweden be continued.

However, in view of recent developments taking place in Turkey, which are affecting the Turkish Judiciary, as well as expected revisions of the relevant Turkish strategies, it may be premature for Sida to now continue planning a new full-scale phase. Such planning should be undertaken when the necessary information exists upon which to base a comprehensive, new programme, i.e., clarification of the context, feasibility and justification for the programme for the SNCA and the financier Sida.

A more limited cooperation programme building on and using the good, established cooperation mechanisms and identified subject matter, preferably in the already established sister court projects, is a recommended way forward. Any such continued cooperation can later step up efforts in the programme to deepen the cooperation to achieve a more focussed, results-based programme.

In a continued programme it would be necessary to be clearer about planning and reporting requirements, including a more elaborate theory of change, proper logical framework for planning and follow-up (at more than outcome level), and a better format for reporting.

1 Introduction

1.1 FRAMEWORK FOR THE ASSIGNMENT

Indevelop is contracted under “Sida's Framework Agreement for Reviews, Evaluations and Advisory services on Results Frameworks” in order to provide a range of high quality services that all of Sida's departments and Swedish Embassies can draw on when establishing results frameworks for projects and programs, as well as for planning and conducting utilization-focused evaluations and reviews. The evaluation is carried out under this framework agreement. Its terms of references (annex 1) were prepared by the embassy of Sweden in Ankara in May 2014. On this basis, in June 2014 Indevelop elaborated a proposal for carrying out the evaluation during summer and early autumn 2014.

The members of the evaluation team were Stefan Dahlgren, team leader and Pia Sassarsson Cameron, Swedish legal expert, with Müslüm Akinci, national legal expert, advising the team.

Dahlgren is a member of Indevelop's Core Team of professional evaluators. He has previously worked for 25 years at Sida both at the Evaluation Unit and in a number of countries with implementation of development cooperation projects. Sassarsson Cameron is a Swedish advocate with 26 years professional experience, and 22 years experience as an expert and senior advisor in rule of law programmes in international development cooperation. Akinci is associate professor specializing in administrative law at the Law Faculty, Kocaeli University, Turkey.

Anna Liljelund Hedqvist was the responsible project manager at Indevelop, and the quality assurance of the report was performed by Ian Christoplos, project director at Indevelop.

1.2 OBJECTIVES OF THE EVALUATION

In response to (a) the terms of reference, (b) Indevelop's proposal to carry out the evaluation, dated 15 August 2014, and (c) the inception meeting, which took place in September 2014 in Ankara, this evaluation was defined as comprising the following tasks.

The *objective* of the evaluation is to assess the relevance, sustainability and effectiveness of the cooperation program between the Swedish National Courts Administration (SNCA) and the Ministry of Justice of Turkey (MoJ) entitled “Development Programme for the Turkish Judiciary”, during its implementation period between the years 2011-2014.

The main *rationale* and *purpose* for the evaluation are, according to the ToR, to “justify, structure, manage and monitor the next phase of the cooperation between the SNCA and MoJ” and the recommendations by the evaluation team are “expected to inform future cooperation between the SNCA and the MoJ in light of the results

achieved and lessons learned, the choice of areas of reform on which to focus and any shortcomings that may be avoided”.

The evaluation assesses results achieved in the programme areas, i.e., finding out what has been achieved so far and assessing this against stated objectives, formulated results in the programme’s logical framework matrix, and as stated in the yearly work plans. The team also provides lessons learned and general recommendations for the future, based on the evaluation’s findings and conclusions.

The *scope* of the evaluation is what has been done within the five areas defined in the programme document¹ during the implementation period between the years of 2011-2014. As Swedish support regarding some cooperation areas began before 2011, this previous history has to be considered but is not formally part of the current evaluation.

The intended *users* of the evaluation are largely those already involved with the programme at the SNCA and the MoJ, as well as Sida and the embassy of Sweden in Ankara.

Against this background, this evaluation report is structured in the following way: after the methodology chapter (chapter 2), a brief background is given to the cooperation between Swedish SNCA and the Turkish judiciary (chapter 3). The two subsequent chapters (4 and 5) present the findings, first structured according to the five areas of intervention that the programme is divided into, and then according to the three evaluation criteria that have been used. A short chapter with the team’s conclusions follows. Finally, the team suggests recommendations for the future (chapter 6).

¹ Programme Proposal, undated but presumably from 2011 with file number 479-2011

2 Method

2.1 APPROACH

The ToR indicate that the evaluation should use three of the usual DAC evaluation criteria²: *relevance*, *sustainability* and *effectiveness* and only cover the second agreement period of the programme, the years 2011 – 2014. The ToR also suggest a list of questions under each of these three criteria that the evaluation should try to answer. The criteria and these questions were transformed into an evaluation matrix (part of annex 5) that the team has used as guidance for data collection and analysis.

Since the programme covers a number of quite diverse areas, the evaluation of *sustainability* poses considerable challenges. The application of this criterion is concentrated to the sustainability of mainly organisational changes, i.e., area 1 (regional administrative courts), area 3 (courts of appeal) and area 4 (court management), while less emphasis on assessment of sustainability has been put on area 2 (confidence) and area 5 (juvenile justice). The reason for this is that changes regarding the latter two areas may take longer time to detect with certainty and especially area 2 would require fairly elaborate measurements, which were beyond the evaluation's resources.

Effectiveness is determined individually for each of the five areas of support. Although the logical framework in the project document provides an overview of expected results and indicators, the document lacks to some extent a "theory of change", i.e., an explanation of how the concrete activities directed at certain individuals and parts of the organisation are expected to influence the entire judiciary and its practices in the short and the long run. Some of the activities aim to initiate changes in unique institutions, while other activities were aimed at being replicated and applied to all or to certain types of courts. A third kind of activities, like the study trips for candidate judges, seemed to aim to introduce awareness of e.g. alternatives to the current Turkish procedures in a more indirect manner. Clarifying the theory of change (or lack thereof), which in effect has governed the design of the activities, is important and affects the assessment of both effectiveness and sustainability.

Regarding *relevance*, the team has used a number of documents and sources to determine the strategic importance of the Swedish support in relation to Turkey's own efforts, which have been complemented with interviews. Some arguments are given

² The usual DAC list of evaluation criteria includes also *efficiency* (or cost-effectiveness) and *impact*, which is defined as long-term effects. None of these have been used in the present evaluation.

in the project document for choosing the particular areas for Swedish support that are included in the programme but possible alternatives are not examined.

2.2 DATA COLLECTION

The main data were *reports* produced within the programme, *documents* from other sources and *interviews* in Turkey and in Sweden.

The written sources from the programme comprise semi-annual progress reports and activity reports, the latter mainly from the various study trips that were an essential part of the programme. The reports largely provide information at the output level and seldom discuss outcomes from the programme.

The team held interviews, individually or in groups, with almost 60 persons; 13 in Sweden and 45 in Turkey, most of whom had been involved with the programme. The selection of interviewees both in Sweden and in Turkey was made so that they would represent both activities within all five areas of intervention and the implementation organisations, i.e., the MoJ in Turkey and SNCA in Sweden. In Turkey the availability of interviewees was limited due recent changes of staff, but the team consider nevertheless that the interviews cover all essential parts of the programme. Both SNCA and the embassy of Sweden in Ankara supplied extensive lists of persons that have been involved in the implementation or reached by the programme, and the team assessed their relevance and availability before making the final selection of interviewees.

For interviews with people involved with the programme semi-structured questionnaires were used that aimed at capturing the various aspects listed in the evaluation matrix. Other interviews focussed on more specific aspects related to the programme and its context.

The interviews with judges and prosecutors in Sweden were carried out over a period of three weeks in September while interviews with SNCA staff took place in June and in August. All interviews in Turkey – in Ankara, Eskisehir, Izmir, Aydin and Istanbul – were made during the third week of September 2014. (See annex 4 for a detailed schedule.)

The team considered using a *survey* with emailed questionnaires directed to certain categories of people benefitting from the programme but decided against this. It may have added valuable information from participants in the programme's various activities, but it was deemed not feasible largely due to limited time available and the efforts needed to ensure an adequate rate of response.

2.3 DISSEMINATION

The evaluation was carried out in close contact with the embassy of Sweden and SNCA during preparations and the inception stage. Contacts with Turkish Ministry of Justice were limited to meetings in connection with interviews, when the team also provided information about the evaluation work.

At the end of fieldwork in Turkey the team briefed the embassy in Ankara about how the work progressed, preliminary findings and further dissemination was dis-

cussed in relation to SNCA's preparations of a possible third phase of the programme during autumn 2014.

2.4 LIMITATIONS

The major limitation for the evaluation is lack of time to properly look at all aspects of the planning and implementation of the programme. What would have been desirable is the possibility to try to trace how far influences from activities in the five programme areas have reached different parts of the Turkish judiciary given that the governing idea (or theory of change) seems to have been that new experiences should spread from pilot projects or model practices to other parts of the judicial system.

The limits in time for the team were exacerbated by the fact that during a period prior to the evaluation many changes of staff had taken place in central bodies that handled the cooperation programme, and several persons are now working outside Ankara.

3 Background to the programme

3.1 BACKGROUND

The background and general development of the programme is succinctly described in the ToR for the evaluation:

”Two external dynamics drive Turkey’s judicial reform process, one being the European Union (EU) Accession Process, and the other being the cases decided against Turkey by the European Court of Human Rights (ECtHR). While the former is a process of conditionality whereby Turkey is required to fulfil the requirements of harmonizing its legislation and the implementation of this legislation according to Chapter 23 of the EU Acquis entitled “Judiciary and fundamental rights”, the latter is an obligation under international law due to Turkey’s membership to the Council of Europe and its acceptance of the jurisdiction of the Court on 28 January 1987.”

As part of the long-term reforms that would facilitate Turkey’s membership in the EU, changes in the legislation and within the judiciary are underway. The judicial reform strategy is crucial to the EU accession process and the efforts to comply with the European convention on human rights requirements.

This reform strategy, in its different versions, together with the Swedish strategy for cooperation with Turkey are the primary guiding documents for the judiciary co-operation between Sweden and Turkey.

The cooperation between the two institutions dates back to 22 October 2007, the date when the first bilateral agreement was signed. A second agreement covers the period 2011 – 2013 (with a six months amendment effectively into the first half of 2014).

The first phase of the “Development Program for the Turkish Judiciary” was scheduled to end in 2010. However, additional activities were planned through the first four months (January-April) of 2011, and the Program Steering Committee, in its first affirmation of the achievements of the cooperation, decided in its meeting held in Izmir on the 16th-17th of December 2010 that the program had been a success, and that cooperation should continue in the future.

Following this agreement, a new Memorandum of Understanding (MoU) was signed on 25 March 2011. A new “Strategy for Development Cooperation with Turkey” had been adopted by the Ministry of Foreign Affairs of Sweden covering the period between January 2010 – December 2013, and the new MoU had to take into consideration the general and specific objectives outlined in the strategy. While the general objective is stated in the Strategy as being “strengthened democracy that improves the prospects of membership in the European Union”, a specific focus is promised on the sector “for democracy, human rights and gender equality”. In light of

the 2010-2013 cooperation strategy, therefore, the following five areas of reform were delineated in the MoU:

- Establishment of Court of Appeals in Administrative Judiciary;
- Strengthening the confidence in the Judiciary;
- Support to the Courts of Appeal Reform;
- Restructuring of tasks and court management;
- Juvenile Justice.

A comparison of the five areas of reform outlined for the two different cooperation periods shows that the major new area of reform included in the March 2011 memorandum was “Juvenile Justice”, which replaced “individual capacity building”, because activities that fell under the latter category were already included in many of the other topics of reform. As the work plan was improved by the SNCA in the beginning of each year, the last topic of cooperation was expanded to include “domestic violence” as well, reflecting the sensitivity placed on the issue in both the Strategy for Development Cooperation with Turkey 2010-2013 and the Ministry of Justice’s strategy for reform.

3.2 OBJECTIVES OF THE PROGRAMME

The objective of the SNCA programme is not clearly formulated³. During both agreement periods it has been described as supporting Turkey in implementing the judicial reform strategy, as this quote from the ToR shows:

”The aim of the intervention was outlined in the program proposal as simply supporting the “Turkish judiciary in fulfilling important demands in this process”, meaning the process of conforming to EU standards for membership, with a particular focus on speed, efficiency and fairness within the justice system.”

This very general direction was narrowed down to the five areas listed above. While there has not been a precise aim for each area, which would have provided clear targets to evaluate against, the areas of intervention have been fairly well defined and concrete enough to generate ideas about activities that both parties, the SNCA and the Ministry of Justice, could agree upon as relevant and fruitful. The an-

³ According to the team's sources the project document was something of an afterthought and submitted to Sida when the programme had already started. An ambitious logical framework exercise with Turkish and Swedish participants was held early in order to better understand and agree on what should be done within each of the five areas that comprised the programme.

nual work plans are more detailed and have been, according to SNCA, the operational documents used to plan and implement the programme. The objectives and the fulfilment of the cooperation programme are further discussed in the Conclusions chapter.

3.3 FACTORS AFFECTING THE PROGRAMME

The evaluation was carried out during a period of some political tension in Turkey and it has been suggested to the team that this has affected the judicial reform process and thus also the SNCA-MoJ programme. This has also been mentioned in different reports and in media⁴. While it is outside the scope of the present evaluation and also outside the competence of the team to look into the underlying factors, the team must, of course, try to assess what importance such circumstances may have had on the progress of the current programme and how it may affect its future.

At the time of writing this report the opinion received by the team is that certain areas of judicial reform have progressed more rapidly than others as a result of their technical and neutral nature, while a more apprehensive approach has been adopted for those areas that more closely touched upon the careers of judges and prosecutors, or which were at the forefront of the tense environment in the judiciary in Turkey due to the events of the past year.

The team have in the sections on conclusions and recommendations of the report taken the information above into consideration.

⁴ For example *The Independent Commission on Turkey, Third Report*: "Turkey in Europe. The imperative for change". March 2014, p 16-17

4 Findings – Part One

4.1 GENERAL

Findings summarised in this chapter are based on the progress reports by SNCA to Sida and information from interviews in Turkey and in Sweden. Not all details are described here since the various reports within the project are easily accessible.

A discussion of the findings in relation to the specific questions listed in the ToR and other aspects that the team considers important are presented in the next chapter with a summary of conclusions in chapter 6.

4.2 ESTABLISHMENT OF COURT OF APPEALS IN ADMINISTRATIVE JUDICIARY (AREA 1)

The administrative justice system of Turkey involves three instances which are: the first instance courts (administrative courts and tax courts), regional administrative courts and the Council of State (which also decides some administrative disputes in its capacity as the court of first instance). Currently, there are administrative courts in 44 provinces, tax courts in 33 provinces and regional administrative courts in 25 provinces. Administrative courts have overall jurisdiction in administrative justice. Tax courts are the specialized courts for tax disputes. Regional administrative courts are the courts of second instance established as per article 45 of the law no 2577, and they deal with objections. The Council of State has the jurisdiction for review of cases.⁵

The Council of State has a huge backlog, since it receives applications for review concerning many of the judgments given by courts of first instance, which leads to delays in justice. Failure to conclude cases on time prevents individuals from obtaining access to justice and the right to a fair trial within reasonable time. As a consequence the European Court of Human Rights has ruled many times that Turkey has violated the European Convention on Human Rights.

With a view to address this problem, article 45 of the Procedure of Administrative Justice Act no 2577 was amended with the Law no 6545 in 2014 for the introduction

⁵ There are three main laws on administrative justice: The Council of State Act no 2575, Law no 2576 on the Establishment and Duties of Regional Administrative Courts, Administrative Courts and Tax Courts; and Procedure of Administrative Justice Act no 2577.

of administrative courts of appeal.⁶ This amendment allows for appeals to be made to the regional administrative courts against many judgments of the courts of first instance. The law prescribes a transition period to allow for the necessary organization. The plan is to decrease the number of Regional Administrative Courts, from 25 to 7 or 10. It should be noted that the new reduced number of regional administrative courts will have increased jurisdiction. The changed appeal system is, however, not yet functional, so any evidence of improvements may not be noted yet.

The project proposal is not very explicit about what the Swedish contribution should be in this area. It mentions discussions about alternative dispute resolutions and commenting on the draft law. The team understands the purpose to be for the Turkish side to draw on Sweden's considerable experience from administrative appeal courts in operation and use this to provide comparative law input to the Turkish judiciary.

After a promising start with mutual visits, a sister court relationship and two major topics established – the case filtering process and tax disputes – this area of cooperation gradually came to a standstill towards the end of 2013. In its latest progress report SNCA considers it finalised as part of the programme.

The third progress report from 2012 notes that the cooperation may have influenced the drafting of the law on administrative appeal courts and contributed to a change of the attitude among judges to become more positive to this part of the reform.

Within the sister court cooperation between the Regional Administrative Court in Izmir and the Administrative Court of Appeal in Gothenburg the focus was mainly on procedures regarding leave to appeal. Mutual visits took place and were considered useful but discussions during 2012 showed a disagreement regarding planning and on how to execute the programme, for example regarding how to select the participants and this seems to have had the practical consequence of ending work in this area.

4.3 STRENGTHENING THE CONFIDENCE IN THE JUDICIARY (AREA 2)

The area on strengthening confidence in the judiciary comprised two activities during the agreement period: support to the Turkish Ombudsman and a pilot project on open courts. These were two quite different activities: one very precise in scope and concrete in implementation; the other extremely wide in its potential replication over the country.⁷

⁶ The Law no 6545 entered in to force on 28 June 2014 and laid down a transition period of three months.

⁷ The team decided not to include these two activities among interviews and visits neither in Turkey, nor in Sweden, because the reporting seemed sufficient and the time available would presumably be bet-

From a Swedish perspective, a well functioning Ombudsman institution is both a contribution to citizens' confidence in the judiciary as well as a contribution to principle of the rule of law. This sub-project had only two activities, a seminar in Istanbul in January 2012 and a visit during one week by staff from the Turkish institution to the office of the Swedish Ombudsman in April 2013. According to the progress reports, both of these events were of major importance to the process of establishing the institution of Ombudsman in Turkey. The seminar influenced the drafting of the relevant law and the visit to Sweden is said to have been a very intense week when the visitors met all four of the Swedish ombudsmen and took full advantage of this opportunity to get information on procedures and practices. The general opinion at MoJ and SNCA is that the visit was successful and fulfilled the purpose of the visit. Its long-term effects are, of course, beyond the scope of this evaluation to assess. This part of the SNCA programme is now considered finalised.

From the open court pilot project in Mersin and its preparations in Ankara and by a visit to Sweden there is quite extensive activity reporting, giving the impression of a successful experiment and a generally positive response by both the local citizens and by court staff as well as people from MoJ. It gave apparently useful experience on how to carry out such an activity. As a single "experiment" it seemed to have been fruitful, but it is not clear from the programme documents to what extent there are plans to repeat and even institutionalise such activities in Turkey in the future.

4.4 SUPPORT TO THE COURTS OF APPEAL REFORM (AREA 3)

In 2004 a law was passed establishing courts of appeal⁸. It was stated that 1 June 2005 was the date when these courts would begin operation. However, after ten years the courts are not in full operation, although the head of the appeal courts and other staff have been appointed. Various reasons are given for this, among them delay in the construction of court buildings and problems to recruit and train appropriate staff.

A major Swedish contribution to the strengthening of the appeal courts was made already during the first agreement period when SNCA provided support and advice. Over one thousand staff was trained on procedures and court management with a view of assuming their posts with a near future. This did not happen as expected and, although the training presumably was not in vain, the preparations could not be used in an optimal way.

Nevertheless, the Swedish three-tier court system and especially procedures for filtering cases for the next level have gained strong interest among Turkish judges. No

ter spent on other parts of the programme.

⁸ The Law no 5235 on the Establishment, Duties and Competences of the Civil Courts of First Instance and the Regional Courts of Appeal, article 55

tangible results in terms of new legislation or adoption of new procedures have been mentioned but, according to reports and interviews, the visits related to this area were seen as fulfilling their aim. After one study trip to Sweden in November 2012 by the newly appointed chiefs of appeal courts, further activities were carried out during this agreement period but a planned training program for new staff during 2013 and 2014 was never carried out due to delays in getting the appeal courts into operation.

According to information received by the team there are plans to have secondary instance courts operational by the beginning of 2015, but to what extent that will happen and how it may affect future Turkish-Swedish cooperation in the area are not known at the time of writing this report.

4.5 RESTRUCTURING OF TASKS AND COURT MANAGEMENT (AREA 4)

The workload is by far heavier in the Turkish courts compared to the Swedish courts. Both the central government and the parliament are determined to take action for improving the efficiency of the judiciary.

The contributions made by the Swedish cooperation programme were mentioned by the judges in Aydin and the judges in the Court of Cassation with regard to the achievements concerning dispute resolution using alternative means such as “encouragement to peace”. The practices of conciliation and mediation as alternative dispute resolutions (ADR) have been in focus. It was mentioned that Swedish practices were useful and provided inspiration especially for the drafting of the Law no 6325 on Mediation in Civil Disputes, which entered into force in 2012.⁹ The new law on Civil Procedural Code has introduced a new system of preparatory proceedings in civil cases, including provisions on conciliation.

During the visit in Aydin, it was pointed out that judges there had translated the Swedish experience of conciliation into practice in their family and labour courts, in decisions and proceedings, with great success. The team was also shown some of their judgments¹⁰. This part of the cooperation programme – procedures and conciliation of disputes – is probably the greatest practical success in the programme during its second phase.

⁹ The Regulation on Mediation in Civil Disputes was enacted on 26 January 2013 for the implementation of the Law no 6325. An administrative structure has been established, and lawyers have been trained and certified on mediation in civil disputes.

¹⁰ “Regulation on Mediation and Arbitration in Collective Labour Agreements” allows for ADR in labour disputes published in the Official Gazette no 28844 no 07 December 2013.

According to reports and strong opinions in interviews the practice of conciliation has gained much positive attention. This came after an initial period of reluctance, when it was assumed it would increase instead of reduce the workload for the judges. Study visits, seminars and not least mock trials, where judges and lawyers were able to "try out" the changed roles and procedures, apparently contributed to convince many.

Overall area 4 has generated the highest number of activities and they are quite diverse. Activities in this area comprise both practical things like distribution of tasks within the courthouse and procedures. Among the former are limited access to the inner parts (restrictive areas) of the courthouse and establishing an information desk (front desk). These are important examples that have been implemented in at least one court related to the Swedish programme. A change of responsibilities linked to delegation of tasks among different kinds of staff has gained strong interest. However, no results regarding the introduction of assistant judges into the system have been made, since such a change required amendment of the law, and most likely of the constitution.

4.6 JUVENILE JUSTICE / DOMESTIC VIOLENCE (AREA 5)

This area, which was originally dedicated only to juvenile justice, soon also included domestic violence, later to concentrate on children as victims. The format of cooperation for both parts was mainly sister court cooperation between the district court and the office of public prosecutors in Borås and Eskisehir courthouse regarding juvenile justice, and between Helsingborg district court and Sincan courthouse on domestic violence.

Both series of activities seem to have been run vigorously and with great interest by all the courts involved, and in the interviews they are consistently deemed as very useful.

Reports and interviews about the juvenile justice part state that there seems to have been a change in ways to look upon this among Turkish participants, "shifting from a repressive to a reparative attitude"¹¹.

Both the rapporteur judges at the Ministry of Justice and the prosecutors in Eskisehir and Aydin referred to the good practices they could introduce thanks to the Swedish cooperation programme. Swedish practices include actions taken to prevent the secondary victimization of the juvenile victims by asking them to provide statements before several actors during the investigation and interrogation. To this end, specially

11 Report on the visit 11-15 June 2013 by Borås District Court and the Public Prosecution Office in Borås to Eskisehir and Istanbul. Annex 14 to Forth Progress Report.

designed victim rooms were prepared, where professionals (social workers or psychologists) assisted the child to give statement while the prosecutor would be watching through a monitor in his room. Another example could be closed hearings for juvenile offenders.

Experiences from the Helsingborg-Sincan cooperation emphasise the need to involve authorities outside the judiciary, e.g. social services and correctional care institutions. Close cooperation between Swedish courts and municipalities for the rehabilitation of children who drifted to delinquency was mentioned in interviews as a best practice, noting that such cooperation can also be encouraged in Turkey.

5 Findings – Part Two

5.1 RELEVANCE

5.1.1 Introduction¹²

There are various factors that encourage comparative legal cooperation. The most important factor is the actual willingness to seek inspiration from other countries. Other factors are a common language, institutional similarity, and a perception of “common problems”. Nonetheless, it should be pointed out that the Turkish and Swedish institutional frameworks for prosecutors and the judiciary are constructed differently. Moreover, there are significant differences in legal culture.

In Sweden courts and prosecutors are wholly separated systems. Prosecutors are, formally speaking, part of the executive power even if the autonomy of the Prosecution Authority (Åklagarämbetet) and individual prosecutors are strongly protected. Sweden has no equivalent to the High Council of Judges and Prosecutors, which represents and exercises supervision over both prosecutorial and judicial functions. The training and further education of judges and prosecutors in Turkey, undertaken by the Justice Academy, has no Swedish equivalent. Instead, training is handled by separate institutions for each professional category.

As regards administrative law, the Turkish system has been influenced by French administrative law. Sweden has for many years had a working system of regional administrative courts with full jurisdiction to hear appeals from courts of first instance. The courts of administrative appeal function to correct errors made at first instance, and ensure consistency between these courts. The main function of the Supreme Administrative Court in Sweden is to lay down precedents, guiding the lower courts. A precondition for this three stage legal hierarchy of courts functioning is fully reasoned judgments at both first instance and appellate level.

Although both Sweden and Turkey have “filtering” mechanisms for regulating appeals to higher administrative courts in administrative matters, the logic behind them may differ in some respects. In Sweden, the filtering mechanism (prövningstillstånd) strengthens efficiency, but equally or even more important considerations, are legal

¹² A precise terminology exists which must be adhered to in evaluation, monitoring and follow-up. The criterion “relevance” is defined by OECD/DAC as “the extent to which the objectives are consistent with beneficiaries’ requirements, the country’s needs, global priorities, and partners and donors policies”.

It should be noted that in the Turkish language, no exact translation appears to exist for the English word “relevance”, but it is translated as ilişki (relation) and uyumluluk (harmony).

security and access to justice for the “consumer”, i.e. the person complaining of some form of state action to the court. In other words, leave to appeal (at least to the court of second instance) is not supposed to be restricted where this would be to the detriment of legal security or access to justice.

As regards traditions of legal reasoning there are also differences. Turkey has the legal tradition of a court – even an appellate court – giving only very brief reasons for its decision, and case law appears only to be being given a limited role in the hierarchy of legal sources. Sweden could be said to occupy a middle position between this Turkish approach and the approach of common law countries such as England, where case law has very high status as a legal source, and judgments are extensively reasoned.

Finally, there are obvious differences in the factual contexts of the two countries, e.g. large disparities in population (79 million, respectively 9 million people, as well as considerable regional variations in Turkey) in numbers of judges and prosecutors, (approximately 14,000 in Turkey, and around 1,000 full-time judges and 900 prosecutors in Sweden) and in the extent of control over different matters (discipline, recruitment, budgets etc) exercised by the respective ministries of justice.

5.1.2 Strategic documents

Regarding relevance of the cooperation programme the terms of reference for the evaluation specifically requests an assessment of strategic documents. The five programme areas are in this section assessed in order to establish if they are relevant to Turkish and Swedish strategies and government policies.

The programme period assessed is 2011-2014 and during this period the following strategies are of particular interest regarding the Turkish and Swedish contexts of the programme:

- Ministry of Justice Strategic Plan 2010-2014
- Judicial Reform Strategy 2009 and 2012
- Strategy of High Council of Judges and Prosecutors, 2012-2016
- Swedish cooperation strategy for development cooperation with Turkey 2010-2013.
- Results strategy for Sweden’s reform cooperation with Eastern Europe, the Western Balkans and Turkey 2014-2020
- Swedish Gender Strategy “Gender Equality for development”, 2011.

5.1.3 The relevance of the five programme areas to Swedish strategy and policies

The programme and the selected five programme areas are on a general level adhering to the Swedish strategies.

Swedish Cooperation Strategy for Development Cooperation with Turkey 2010-2013

The strategy states that the Swedish support shall focus on EU integration, in particular alignment with European cooperation structures and stronger respect for human rights, including gender equality, minority rights and cultural rights. It is further stated that particular focus should be given to exchanges between people in Sweden and Turkey aimed at strengthening Turkey’s integration with European common values

and cooperation structures. The three strategy objectives for the democracy, human rights and gender equality sector are:

- Objective 1. Stronger opportunities for Turkey to implement its commitments within the EU accession process
- Objective 2. Increased respect for and compliance with human rights and gender equality
- Objective 3. Greater public debate on democracy, human rights and gender equality

Objectives 2 and 3 are associated with and have links to the bilateral programme regarding the Turkish judiciary, but are primarily addressed through other cooperation interventions in the Swedish programme portfolio. Although the programme is not a human rights programme, but rather a programme designed to improve the organization of one part of the administration of the state, the courts system, it has an indirect impact on a human right, namely the right of access to justice. However, the promotion of human rights is not the main purpose of the programme.

As regards objective 1 it is stated in the strategy that in order to achieve the objective support will be given to judicial reforms focussing on legal aid and access to justice, especially for women and minorities. It is further stated that such interventions will complement EU initiatives and support the implementation of Turkey's strategy for judicial reform and its related action plan.

Assessment of relevance of the strategy for development cooperation with Turkey 2010-2013 in relation to the programme

The programme areas 1-5 adhere to the objective. In general, contributions are made in a broad sense regarding access to justice, and the aim to complement EU initiatives and to provide support to Turkey's strategy for judicial reform.

The programme design or plan for the programme has not included objectives regarding legal aid, and has consequently not dealt with questions regarding legal aid. The plan for the programme was, however, designed to consider and address gender equality in targeted programme activities. The programme reporting states¹³ that SNCA tries to include some "gender equality elements" in every activity. (The question of gender equality, and the assessment whether a gender perspective has been applied in the cooperation is addressed in section 5.1.6 below.)

Results Strategy for Sweden's reform cooperation with Eastern Europe, the Western Balkans and Turkey 2014-2020

¹³ See for example SNCA; the Forth Progress report; Development Programme for the Turkish Judiciary, January-June 2013, dated 30 August 2013, and Fifth Progress report; Development Programme for the Turkish Judiciary, July-December 2013, dated 28 February 2014

The result strategy defines the following expected results for cooperation with Turkey of particular relevance for the programme:

“Strengthened democracy, greater respect for human rights and a more fully developed state under the rule of law.”

“Focusing on a strengthened public administration and judicial system

- An efficient public administration with administrative capacity to implement reforms for closer relations with the EU, with emphasis on fundamental rights.
- A more efficient judicial system that better guarantees the right to a fair trial in accordance with European standards.
- A reduction in gender-based violence”.

Assessment of the relevance of the Results strategy for Sweden’s reform cooperation with Eastern Europe, the Western Balkans and Turkey 2014-2020 in relation to the programme

The five programme areas have in broad terms made contributions towards access to justice by assisting reform efforts within the Turkish judiciary. However, the ambition to contribute to expediting reform, particularly regarding the contribution to strengthening the capacity of the judicial system to combat gender-based violence, has only received limited attention in the programme.

5.1.4 The relevance of the five programme areas in relation to Turkish strategies for the justice sector

Overall assessment of relevance of strategies

The team concludes that the programme and the selected five areas for the programme generally adhere to parts of the Turkish strategies mentioned below.

The Judicial Reform Strategy

At the Helsinki Summit in 1999, Turkey was granted the status of candidate for accession to the European Union. Negotiations started effectively in October 2005 on the 35 chapters in the EU Acquis Communautaire. The Ministry of Justice is responsible for chapter 23, namely the chapter on judiciary and fundamental rights. EU is said to have emphasized the need for Turkey to submit to the Commission a “Judicial Reform Strategy” under chapter 23 with a view to strengthening the impartiality, independence and effectiveness of the judiciary¹⁴.

The Judicial Reform Strategy and action plan was deliberated by the Council of Ministers in 2009. A commission at MoJ was later tasked to revise the strategy, and a Strategy for 2012 may be found on the MoJ website. It is stated by MoJ that this is a

¹⁴ See MoJ website Yargi_reformu_stratejisi_taslagi, Eylül 2012 / draft Judicial Strategy 2012, dated September “introduction” page 2

draft version and that work is on-going. The draft strategy of 2012 includes 11 objectives and 103 goals.

Judicial reform packages have been adopted since 2009, detailing envisaged implementation of the goals. Currently six reform packages have been adopted which are linked to the Judicial Reform Strategy. The reform packages include, for example, amendments to a number of laws and strive to, among other aims, accelerate judicial procedures and introduce legal remedies for a number of issues where the European Court of Human Rights has found Turkey to be in violation of the European Convention on Human Rights.¹⁵

The efficiency of justice and the large number of pending cases are of great concern¹⁶, something that is also the case in many other countries, Sweden included. The MoJ Strategic Plan 2010-2014 states in its SWOT analysis as a weakness: “the extensive workload of the courts and the fact that the time of trial exceeds the reasonable duration”.

Apart from the Turkish national judicial reform, several EU and Council of Europe related interventions of relevance are on-going. For example, Instrument for pre-accession under IPA I and IPA II, and the Council of Europe’s Commission for the Efficiency of Justice (CEPEJ) is monitoring efficiency progress regarding the Turkish judiciary inter alia by means of questionnaires and peer review. The latest series of questionnaires was carried out 2011¹⁷ and a new report by CEPEJ is expected to be finalized on 9th October. The backlog of cases is according to the EU progress report 2012 stated to be for the Court of Cassation 0.88 million pending cases in July 2012. As regards first instance courts the EU progress report for 2012 states that for criminal cases, approximately 1.34 million cases were pending, in civil courts 1.11 million cases were pending and in administrative courts roughly 170,000 cases were pending in 2011. The aim to tackle case backlogs is stated in the EU progress report to have generated positive results, but the backlog is still regarded as considerable.

The European Commission progress report 2012¹⁸, however, expresses concerns regarding the measuring of achievements and states that “the Ministry and High Council have yet to develop benchmarks to monitor and assess the performance of courts, the length of court proceedings and the efficiency and effectiveness of the judicial system”. The EU progress report¹⁹ for 2013 contains a few sentences follow-

¹⁵ See European Commission Turkey 2013 Progress Report 16.10 2013 SWD (2013)417 final, page 12 regarding judicial system, concerning reform package number 3.

¹⁶ See for example MoJ Strategy 2012-2014, SWOT analysis and European Commission Turkey 2012 Progress Report 10.10 2012 SWD (2012)336 final

¹⁷ Commission Européenne pour l'efficacité de la justice (CEPJ) 2011, Conseil de L'Europe. Questionnaire pour évaluer les systèmes judiciaires. CEPJ is also about the establishment of a judicial assistance system.

¹⁸ See European Commission Turkey 2012 Progress Report 10.10 2012 SWD(2012) 336 final, page 13-17 regarding judicial system.

¹⁹ See European Commission Turkey 2013 Progress Report 16.10 2013 SWD (2013)417 final, page 12,

ing up information on backlogs, where it is stated that the pending cases at the Court of Cassation were reduced, whereas the number of pending cases at the Council of State increased. In first instance courts, criminal cases increased and in civil cases the number of pending cases are approximately the same.

General assessment of the relevance of the Judicial Reform Strategy in relation to the programme

The SNCA-MoJ programme areas are broadly formulated and can be linked to several of the Judicial Reform Strategy objectives, in particular objective 3: “to introduce effective measures for preventing disputes and develop alternative dispute resolution methods” through the programmes’ activities regarding conciliation. Regarding conciliation and the programme, it should be noted that tangible results have been achieved²⁰. Activities regarding the Ombudsman have also been part of the cooperation programme.

Another example of a link to the strategy is objective 5 “to improve public relations of the judiciary” and efforts regarding relations with the media at higher courts. The experience and information on offices of media spokespersons in Sweden was during interviews mentioned as useful. The HCJP published a decree no 1057, dated 22 June 2011, regarding the introduction of media spokespersons in Turkish courts. The status of the introduction of such a function has not been possible to follow up under the scope and timeframe of this evaluation.

Under objective 6, goal 6.8 “functioning of courts of appeal in civil judiciary” and goal 6.9 “establishment and functioning of administrative courts of appeal” are directly linked to programme area 1 and 3.

The Ministry of Justice Strategic Plan 2010-2014

The MoJ Strategic Plan consists of 12 strategic goals and 80 objectives. The clearest links to the Swedish programme are found particularly in strategic goal 4, namely “to activate measures to prevent disputes and improve alternative dispute resolution methods”, where Swedish practice and methods for conciliation, mainly civil disputes, have provided inspiration and tangible results in the programme. Strategic goal 8 includes elements of access to justice, which include affordability of costs of proceedings for the concerned parties and resolution of simple disputes without bringing them before the courts. Thus, the conciliation activities in the programme are therefore deemed relevant in this sense to the strategic goal 8.

Furthermore, the cooperation programme has in general links to strategic goal 10: “to improve international cooperation and harmonize with the European Union acquis”.

and page 44-45

²⁰ See further above in Findings part 1

General assessment of the relevance of the Ministry of Justice Strategic Plan 2010-2014 in relation to the programme

Some of the 12 strategic goals in the MoJ Strategic Plan are clearly related to and relevant to the cooperation programme. Due to the format of any comprehensive strategy, goals are broadly formulated and some of the strategic goals, namely goal 4, 8 and 10, are easier to identify as relevant links to the cooperation programme.

The reporting undertaken under the programme does not support an assessment of relevance or links to national strategies or priorities. It may be, and it is probable, that MoJ internal reporting and follow up, and internal reporting undertaken from courts involved in the programme to MoJ, have such structured information on strategic relevance. No such information was, however, provided to the team, and other external sources outside of the MoJ are not available. Relevant parts of MoJ organizational structure such as the Unit Strategic Planning Teams, Ministerial Strategic Planning Team, Steering Committee, and Strategic Development Board²¹ may for future reference be able to provide such information and input to programme reporting. Direct links to comprehensive national Turkish strategies are deemed to strengthening the focus on relevance of efforts from all parties involved and may also be seen as enabling sustainability.

It may be noted that the 80 sub-objectives in the MoJ strategy have what is referred to as “strategies” regarding how implementation shall be carried out. These strategies are formulated for example as: “prepare legislation”, “identify views”, “carry out activities” and “organize scientific activities”. Bearing in mind the breadth of these implementation strategies, SNCA activities may have, in one way or another, been linked to, or contributed to them.

The High Council of Judges and Prosecutors Strategic Plan 2012-2016

The High Council of Judges and Prosecutors (HCJP/HSYK) is, according to Law no. 6087, an administratively and financially independent body, established in order to assure judicial independence and impartiality. In 2010, the Turkish government requested an opinion on a draft version of the above law of the Council of Europe advisory body in constitutional matters, the Venice Commission. The Venice Commission report²² made a number of important suggestions to improve the position of the HCJP/HSYK, and more generally regarding judicial and prosecutorial reform, suggestions which are still very relevant today.

The Strategic Plan was adopted by Decision No. 155 of HSYK Plenary on 14 March 2012. The strategic plan deals with all institutions and actors of the judicial

²¹ See MoJ Strategy 2010-2014, page 156, section on monitoring and evaluation

²² Interim Opinion On The Draft Law On The High Council For Judges And Prosecutors (of 27 September 2010) Of Turkey, Adopted by the Venice Commission at its 85th Plenary Session, Venice (17-18 December 2010)

system. The Strategic Plan states that it seeks to respond to the needs of both the judicial community and the general public. It has eight goals:

- Goal 1. To strengthen the independence and impartiality of the judiciary
- Goal 2. To strengthen the security of tenure of judges and prosecutors
- Goal 3. To improve confidence in the judiciary
- Goal 4. To enhance the effectiveness and efficiency of the judiciary
- Goal 5. To improve professional competencies of judges and prosecutors
- Goal 6. To restructure the judicial organization
- Goal 7. To strengthen the court management system
- Goal 8. To strengthen institutional infrastructure and capacity

There has not been time to develop any extensive contacts between the SNCA and HCJP during the period of the bilateral cooperation programme 2011-2014. However, based on the envisaged mandate of HCJP/HSYK and identified goals as stipulated in the strategic plan, there are indications that the Swedish SNCA could have proven to be an strategically interesting partner, particularly in relation to sub-goal 8:4 which strives to "To enhance relations with international organizations and other countries on matters related".

No interviews were possible to have with HCJP/HSYK during the evaluation, despite efforts to arrange meetings.

5.1.5 The relevance of the activities undertaken and actors chosen in each programme area to the objectives set out for each area in the inception of the Programme

The objectives as formulated in the cooperation programmes logical framework for each cooperation area in the SNCA programme proposal are very broadly formulated, and for some areas of cooperation vaguely linked to the MoJ Strategic Plan and to the envisaged activities. The cooperation programme plan as such does however not state or list activities to be delivered, but instead refers to Annual Work Plans to be developed and agreed upon in the Steering Committee.

In turn, the Annual Work Plans are more of a separate document where programme development is undertaken. The Annual Work Plans are flawed as regards the connection to results formulated in the programme plan in the logical framework matrix and indicators to be used for programme steering and programme follow-up. Further, the Annual Work Plans lack explicit links to relevant Swedish or Turkish strategies or references to national activities under such strategies.

As pointed out earlier, the programme plan has not, with the formulated objectives/area purposes and formulated results and indicators, provided a basis for effective monitoring and follow up of outcomes in accordance with the principles of result based management.

Considering the above factors, the question if activities and actors match the requirements and contribute to fulfilment of the objectives and expected results as expressed in the inception of the programme plan, could have been given a negative answer. However, the assessment we make is in fact positive. In most programme areas, considering the constraints on SNCA side, representing only Swedish courts,

most activities are assessed as in general relevant to the very broadly defined objectives. It may though be noted that cooperation area 4, restructuring of task and court management, has in practice been interpreted very extensively by the Steering Committee and has consisted of an array of activities, not always obviously relevant to the formulated objective for area 4.

One kind of mismatch exists in the programme, regarding area 5, Juvenile Justice. The difference in systems between Turkey and Sweden means that SNCA is not the most relevant actor for activities regarding the area of juvenile justice, as elaborated below in the conclusions on relevance.

5.1.6 The extent to which a gender perspective has been taken into consideration

The Swedish cooperation programme with the Turkish judiciary, as well as all Swedish development cooperation regardless of sector, shall adhere to the Swedish gender strategy “Gender Equality for Development”, 2011. Furthermore, women’s rights and gender equality form a part of the *Acquis Communautaire* under the section regarding fundamental rights.

In Turkey a national action plan for gender equality 2008-2013 existed. The action plan had as objective 1: “institutional mechanism and other general policies to enable women’s advancement” and in the strategies for implementing the action plan this objective, the following is stated in 1.5: “working towards the enforcement of the quality framework”. MoJ is together with Ministry of Labour and Social Security the appointed responsible agencies. The MoJ was asked by the evaluation team whether a new action plan is under development or if the existing action plan has been prolonged, or if a separate strategy or action plan for gender equality exists for the Turkish judiciary, but no answer had been received at the time of writing.

In general it may be noted that gender equality is an area in which much work remains to be done, especially regarding mainstreaming of gender equality via the legislative process. Turkey ranks 69 out of 153 countries on gender equality, with a score of 0.360 in the 2013 United Nations Development Programme (UNDP) Gender Inequality Index. Efforts to monitor actual implementation of laws and circulars on gender equality are further areas in need of attention and resources.

5.2 EFFECTIVENESS

5.2.1 Reporting

The programme should be based and executed on the principles of results based management (RBM). However, the reporting under the programme only partly follows these principles, and does not support a complete follow-up and monitoring of the programme during implementation. In particular analysis is lacking regarding outcomes, which are essential for understanding what the various interventions have achieved in relation to changes in strategies, attitudes and practices, both on the Turkish and the Swedish sides.

Reporting in the programme is a combination of detailed, although somewhat uneven, descriptions and comments from the various activities, and relatively short semi-annual progress reports, which concentrate on completed activities in relation to the work plans. They also include descriptions of deviations from work plans and discuss

briefly other issues. The semi-annual progress reports do not have much analysis of achievements in relation to objectives mentioned in the MoU, the Swedish Cooperation Strategy, and the Turkish judicial reform strategy (except sometimes the gender issue is briefly discussed). Although the reports on activities like seminars and study trips presumably are useful as a basis for the progress reports and for communication and information between within the programme, the written reporting on activities delivered by the programme cooperation partners has no consistent structure and information is uneven regarding content and details. A more ambitious format with ample room for reflection would have made them more useful. Admittedly, a few of these travel reports have reflections regarding a visit's wider implications, but this is apparently more because it was of interest to the writer to do this than a requirement based the reporting routines.

The reporting to Sida, apart from a few travel reports, has been delivered by the Swedish partner in the programme and this has partly been based on internal reporting to MoJ in Turkish, where information has been compiled and a summary sent to SNCA. In view of the strong Turkish ownership and influence on the programme through the Steering Committee and its clear base in the Turkish Judicial Reform Strategy it would have been useful with more extensive reporting and commenting on achievements in direct relation to the judicial reform strategy. A different role in reporting with more responsibility by the Turkish partner may have provided a more full view of progress in relation to the reforms implemented by Turkey.

The team has noted that there is no comprehensive report summarising and analysing results from the first agreement period. There was no external evaluation of the first phase, only a self-evaluation by the Steering Committee (SC), which is not really documented and only a conclusion about general success is noted in the SC minutes.

5.2.2 Work plans and implementation of activities

The progress reports have a section on deviations from the work plans and carefully note those in combination with comments regarding reasons for delays and plans to carry out an activity in the future or cancel it. This is a good practice that should be retained in the future if the programme continues.

Apart from what was mentioned about areas 1 and 3 in the previous chapter the team cannot see any worrying trends during most of the agreement period with the deviations of individual activities and, on the output level, the picture rather indicates a good flexibility and a will to generally keep the pace.

5.2.3 The Theory of Change

A theory of change, however rudimentary, is helpful and in most cases necessary to better understand what is needed from an intervention to achieve its overall goals. It also helps to detect and handle deviations and unexpected change of circumstances. Effects from interventions are usually discussed during the development of a logical framework matrix, but sometimes not in detail. The undeveloped logical framework for this programme was mentioned elsewhere in this report (e.g. section 5.1.5) and the team's judgement is that it needs to be improved for a continuation of the programme, especially regarding specification and means for follow-up of outcomes.

In the SNCA-MoJ programme there is apparently a general notion about how changes should come about. The assumption is that an activity or series of activities

within an area will initiate a change at (typically) one court and then will follow a spreading effect which trigger changes at other courts, be it procedures, ways to organise work or simply an awareness about alternative ways to look at a type of cases.

However, this spreading effect mechanism seems seldom to be elaborated and conditions for this spreading effect to take place are not specified. This means that the crucial issue of replication is left to chance, and it also becomes unclear what is needed to cause a substantial effect and when an intervention can be terminated, whether successful in achieving its goal or just impossible to sustain.

Admittedly, great efforts have been done from time to time to bring about changes, for instance the training of trainers regarding conciliation and, during the previous agreement period, training of staff for the appeal courts. In the case of conciliation it is not known at the moment of writing what will happen with further training, and this may be seen as an example of an incomplete design of a sub-project.

5.2.4 Factors limiting effectiveness

Factors identified by the team as limiting success are of two kinds: those outside the control of the programme and those inside the programme that are possible to control or substantially influence.

One factor outside the programme, the current political tensions in Turkey, which have apparently influenced the implementation during the last six months, has already been touched upon in section 3.3. While this was hardly possible for the programme to control, it happened towards the end of the agreement period and the consequences were thus automatically limited. However, judging from the interviews, it has caused some confusion and uncertainty in some of the sister projects since little information was provided about the situation.

Another factor, outside the programme but closer to the judiciary, are the delays in getting the appeal courts into operation. As mentioned above, there are several reasons for the delays, which are of course beyond the sphere of influence of the SNCA support. As a consequence parts of the programme have been cancelled or postponed. Resources have thus not been wasted and have presumably been possible to direct towards other activities. The team's impression is that activities like study trips and seminars that were actually carried out in areas 1 and 3 were valuable and can be seen as investments in knowledge for the future.

Whether the diversity of the programme is a factor that enhances or limits its effectiveness may be debated. The judicial reform strategy to which the SNCA programme is linked is quite wide and in principle there is a possibility to concentrate on only one or two things. On the other hand, assuming that the Swedish support is seen as much as an idea provider as a supporter of implementing concrete measures, there may be good reasons to go into several areas, as has been the actual case, to be able to show many examples and discuss a variety of experiences. This also relates to relevance.

Going beyond implementation effectiveness, which in results terms include activities and outputs, and to the outcome level, there is reason to believe that the lack of a clear theory of change and more concretely the absence of a proper logical framework for the programme may have reduced effectiveness, both because of uncertainty about how to reach intended objectives and because of a confusion between outcomes and

outputs. Insufficient analysis and links to Turkish relevant strategies to ensure relevance and contribute to sustainability may also have reduced effectiveness.

5.2.5 Coordination in the programme

As touched upon above, SNCA has from time to time engaged other organisations in Sweden to meet Turkish requests about legal actions that go, literally, outside the courthouse. The roles of the judges and the prosecutors are different in the two countries, which automatically may require another authority involved and hence coordination.

SNCA and especially the sister courts involved with juvenile justice and domestic violence have been able to engage other institutions like prosecutors, local social services and Swedish Prison and Probation Service in order to provide a more comprehensive picture to Turkish visitors. This seems to have been quite successful and much appreciated. It has, however, taken time to organise as it has been on an *ad hoc* basis and raised practical problems like cost-sharing. Visits in Sweden that have involved different kinds of courts have apparently been easy to organise because they all are part of the same organisation, the SNCA.

In practical execution of the various activities the Turkish partners has often impressed the Swedish visitors regarding organisation of events and committed engagement by participants.

5.2.6 Adequacy of funds and human resources for implementation

Lack of funds does not seem to have been a strong limiting factor. Naturally a programme like this one already at the outset adapts to the budget available but neither on the Swedish side nor among Turkish interlocutors have there been any complaints to the evaluation team about shortage of money.

However, an obvious limiting factor is that comparatively few persons are available for international work within the SNCA organisation. The recruitment of staff for this kind of work can only be based on interest by individuals and suitability for tasks outside Sweden, and depends also on whether current normal duties would allow for shorter or longer involvement with the programme. Another related factor is that Turkish and Swedish courts do not have exactly the same responsibilities and the Turkish setup is different with judges and prosecutors in the same organisation. SNCA has had to engage other parts of Swedish judicial and social services to meet Turkish requests, which has put some strain on staff resources.

5.2.7 Gender issues

The cooperation programme and the plan for the cooperation state that *targeted activities* are needed in order to change perceptions and increase awareness among the programme target groups. Very limited activities have been held within the framework of the programme to contribute to this ambition of changing perceptions or raising awareness. Gender mainstreaming is a process oriented and strategic approach used to integrate gender quality in formulation of for example, laws, strategies, action plans, policies, programmes etc. It is clear that a systematic gender approach, or what is referred to as gender mainstreaming, has not been applied in the cooperation programme. The cooperation programme reporting only uses *number of women that participated in activities* as the de facto indicator for the “gender perspective” in the pro-

gramme. It is noted that the logical framework for the programme is void of indicators related to gender mainstreaming.

5.2.8 Areas which have been most and least effective

This question requires determining what results level should be assessed – output or outcome? Examples from the previous chapter and from comparing work plans with reports about implemented activities show that most of the programme plans have been carried out more or less according to schedule. The obvious exceptions are areas 1 and 3 regarding appeal courts.

A contributing factor to the fulfilment of most of the plans may have been that the programme has consisted of “modules”, for instance a number of individual study trips to exchange information and experience within a defined field or aspect of the respective judiciaries, which allowed for flexibility in execution and timing. There is a risk with such flexibility since it may too easy to push activities ahead but that seems not to have happened; apparently the interest to carry out the various activities have been strong and the programme has been managed in such a way that this risk has been avoided.

Two features should be highlighted as contributing to the programme’s effectiveness in executing the work plans. One is the role and operation of the *Steering Committee* (SC). This has been the main instrument for determining the content of the programme and coordination of its activities between all involved institutions and probably a prerequisite for the relatively smooth implementation of these. Although the minutes from meetings are concise and do not record discussions, they give together with information from interviews an impression of active and engaged members and positive involvement with details of the programme.

Another important feature is the development of *sister courts* (or twinning) as a mode of cooperation in selected areas. The continued cooperation between a limited number of professional judges (and prosecutors in the case of juvenile justice) increased mutual understanding of the systems in the two countries has, according to interviews, built a foundation of trust and respect that facilitated discussions. Also the fact that certain defined topics were chosen and that the sister courts did not try to cover all things judiciary may have been a positive factor for success as well.

In terms of the number of Turkish staff reached and geographical coverage the subject of conciliation as a means to solve disputes stands out as particularly successful. Explanations for this suggested to the team include strong and committed leadership at the courts in Nacka and in Aydin, the concept of mock trials developed in Sweden that helped to understand the different roles in the process, that there were opportunities to present the method in several places in different parts of Turkey (called “the road show”) and that the subject was strategic for quick practical results regarding time for handling dispute cases. Also the sister courts on juvenile justice (Borås-Eskisehir) and domestic violence (Helsingborg-Sincan) indicate success, albeit on a somewhat more modest level, presumably connected to the more complicated issues, but also because the specific objective for cooperation regarding these sub-areas are not clearly set.

The sister court cooperation mode is, however, not a guarantee for success. The cooperation between the regional administrative court in Izmir and the administrative

appeal court in Gothenburg came to an end after an initially promising start. The reasons are not quite clear but may be related to different views on how to involve staff at the respective courts. A contributing factor may also be the complications in general regarding middle level courts in the Turkish system.

Both projects in area 2 (confidence building) should be considered as successes – support to the institution of the Ombudsman and the open court pilot project, with the obvious proviso that the latter case is indeed only a limited experiment and it is not clear how this is supposed to be replicated. (Both these projects are mentioned in the previous chapter on Findings.)

5.3 SUSTAINABILITY

5.3.1 Sustainability of the capacity development among various categories of staff and sustainability of services by Swedish consultants

On this item the team has only secondary and very uneven information. There has been no opportunity to systematically investigate what knowledge is retained, the probability that it remains so and the extent to which it is used. To the team's knowledge this has not been monitored by SNCA or MoJ in a systematic way or integrated in the reporting under the programme. What is available as sources are judgments in the progress reports and impressions from interviews.

Capacity development during the second agreement period was, if defined loosely, carried out in three forms: mutual study trips around a theme, e.g. conciliation; seminars, when lectures were combined with general discussions, in Turkey often with a large audience attending; and formal training courses. Not all study trips can be labelled as capacity development as they are “one-off” trips to become familiar with one aspect of the legal apparatus and the participants vary; then knowledge is not accumulated in the same group of people.

The conciliation project has, as mentioned above, attracted a lot of interest through mutual visits to the sister courts and a number of seminars in different locations in Turkey. There is no precise figure on the number of participants, but several hundred judges and lawyers attended the seminars. A descriptive booklet in Turkish presenting the programme, the Turkish and Swedish legislation and the procedure from the Swedish point of view was produced this year by MoJ and the method inspired by the Swedish procedures are to the team's knowledge regularly used in Aydin and neighbouring areas. A training course for Turkish trainers on conciliation was arranged in Nacka as a final step in this part of the programme but it is uncertain whether the trainers have yet begun running courses for colleagues in Turkey. The Justice Academy, which has not been part of the Swedish programme, is apparently considering developing courses in the subject, but it is unclear to what extent the Swedish experiences as further developed and applied in Aydin will be used for this.

Reports and secondary information from interviews indicate that knowledge from Sweden about the Ombudsman institution has been important from the outset when the ombudsman was established in Turkey, and it is likely that this knowledge is retained and regularly used in the operations in Turkey.

Interviews and reports related to area 5 (juvenile justice and domestic violence) suggest that Turkish participants have clearly taken in knowledge about Swedish practices. One report argues that the view on juvenile justice is “undergoing a reform signifying a change from repressive to reparative attitude” and that in these reforms “the experience from the Swedish administration of juvenile justice is considered a valuable input”.²³

It is impossible to provide any general conclusion about sustainability of knowledge gained from the programme. Judging from interviews in Sweden and in Turkey, activities in the programme have been generally much appreciated and the Swedish partners talk about very interested and active participants from Turkey, eager to learn and compare practices and regulations, which all point in a positive direction regarding sustainability of capacity development. Its sustainability will partly depend on what parts of the Turkish judicial reform programme go forward and to what extent such knowledge is applied.

5.3.2 Sustainability of “best practices”, especially court management

Regarding concrete measures connected to information and practices from Sweden the introduction of limited access courthouses and information desks can be seen as examples of how knowledge have been retained and used for clear changes. This may not be conventionally seen as capacity development but the concrete measures taken, like in the Sincan courthouse, is likely to maintain knowledge about this kind of organisation changes²⁴.

Other parts of court management reform, especially delegation of tasks, seem to have been more difficult to implement although the team’s interviews indicate that practices with extensive delegation in Swedish courts have received great attention and interest. The Council of Europe’s project on court management had the same experience, i.e. tangible measures like information desks and related things were relatively easy to implement while organisational changes and related changes in procedures were not possible to carry out in the pilot cases.

A tentative conclusion on this is that the knowledge about alternative ways to organise courts and to redistribute responsibilities is there and there may even be a willingness to adopt these practices in the future, but at the moment circumstances do not seem conducive to such changes.

²³ Report on the visit 11-15 June 2013 by Borås District Court and the Public Prosecution Office in Borås to Eskisehir and Istanbul. Annex 14 to The Forth Progress Report, August 2013.

²⁴ The Council of Europe project on court management also had these components implemented in 21 pilot courthouses and the two projects will presumably improve knowledge about the advantages with such measures. In this area the Swedish bilateral support was a complement to Council of Europe’s project.

5.3.3 Risks

The *risk analysis* in the project document mentions a number of important aspects and seems comprehensive in that respect but there is little discussion about how these risks would be managed; only the language problem during programme implementation has any solutions on how to handle the risks. Political risks were discussed in the program proposal but have not been referred to later.

6 Conclusions and lessons learnt

6.1 RELEVANCE

The conclusion is that the programme in general is relevant to Turkish and Swedish strategies and policies. However, to strengthen relevance in any future programme the design and logical structure should provide clearer linkages to strategies, objectives and action plans.

It should be noted that recent developments in Turkey are affecting the Turkish Judiciary. Furthermore, the MoJ strategy, and the Strategy for the Justice Academy are ending in December 2014 and will be replaced by new strategies, as from January 2015. The High Council of Judges and Prosecutors election took place in mid-October 2014, which was after this evaluation had been finalised, may bring about changes in the judiciary. The Judicial Reform Strategy of 2009 has been updated 2012 in a draft version. It appears that further revisions are in the process of being made during 2014. Hence, 2015 will be an important year with several new Turkish strategies.

This is a programme in which two legal systems and legal cultures meet. As pointed out in the section 5 above assessing the cooperation programmes' relevance, there are considerable differences between the two countries' systems of administrative law and legal culture. This makes mutual transfer of legal knowledge and institutions and mechanisms a challenge.

During previous programme periods experiences were gained from comparative law input. To step up efforts in a more focussed, results-based manner, striving to contribute to results on an outcome level, a contextual analysis of necessary preconditions for suitable subjects for cooperation should be undertaken before planning begins for a new phase.

Continued peer-to-peer exchange for orientation and information and focussed discussions will be necessary to deepen already started contacts, but also due to staff being relocated to other postings. Preparations of any future continued cooperation may benefit from an analysis, which basically would entail:

- Analysis of the legal basis. How can a Swedish contribution be useful, and provide input to on-going priorities and reforms in relation to the existing Turkish regulatory/legal framework? What changes in the laws, regulations, etc would be needed regarding, for example, the use of leave of appeal? The Swedish cooperation partner and the financier need to have an informed understanding of the present and intended future legal basis in order to be able to pursue a relevant and useful partnership.
- Analysis of institutional set up (the courts system, court management, court procedure etc.)
- Analysis of budget implications

- Analysis of capacity building needs and training needs

Despite significant differences between the Turkish and Swedish legal systems and legal cultures, peer-to-peer understanding and shared information are assessed to have contributed to increased knowledge and improved perspectives from a comparative law point of view. Turkish programme participants deem comparative legal input to be valuable, and has even in some cases provided inspiration for testing new approaches and work methods. This appears to be particularly true in relation to the subject matter of conciliation as alternative dispute resolution (ADR) both regarding civil and criminal cases.

The programme and SNCA have been flexible and have responded as far as possible within the framework of the cooperation and within their mandate and authority, to the emerging needs of their Turkish cooperation partner. Regarding juvenile justice and domestic violence, the SNCA have limitations as to what they can deliver. Under the present programme, SNCA used their best abilities to manage to have some activities that provided the multidisciplinary approach and content requested from their Turkish partners, by including representatives from the Swedish prosecutors, Swedish prison and probation service and the Swedish social services.

SNCA is an institution with a limited mandate and authority related to certain issues regarding Swedish courts. Further, the decision to participate made by Swedish courts, and the extent of that participation, is on a completely voluntary basis. SNCA can merely encourage the courts to involve themselves. Each individual court must assess their availability and capability to engage in an international cooperation programme.

This means that concerning e.g. juvenile justice, SNCA has very limited relevant possibilities to deliver relevant input. The prison service, prosecutors, police and social services set their own priorities regarding if, when and how they take part in any international cooperation programme. Each such Swedish authority must be approached separately. The Swedish Ministry of Justice does not decide upon or coordinate such international bilateral cooperation ventures.

6.2 EFFECTIVENESS

The effectiveness of the programme has to be assessed at least two levels, activity/output level and outcome level. There is also reason to discuss the impact level, even if evidence is scant and largely limited to impressions and opinions.

There is no doubt that the programme has been largely effective in the sense that activities have been carried out according to the work plans and – at the *output* level – reached the objectives. In areas 1 and 3, the appeal courts, and parts of area 4, court management, where work has been slowed down, the causes have obviously been beyond control of the programme.

At the more important *outcome* level, where the activities are supposed to cause short or medium term effects, the verdict is more mixed.

Whether outcomes have been achieved in areas 1 and 3, appeal courts, is uncertain. Neither of the two kinds of appeal courts is in full operation and effects from the SNCA programme cannot be determined. Nevertheless, judging from reports and

interviews, information about procedures and organisational issues have been met with great interest and may eventually influence the operations of these courts.

In area 2, strengthening confidence in the judiciary, the establishment of an Ombudsman institution, where the SNCA programme obviously has made important contributions, clearly constitutes an outcome, and it could be argued that this also contributes the overall objective of improving the rule of law.

Outcomes from the other main activity in area 2, the introduction of open courts, are more uncertain. The activities/outputs are achieved and deemed successful but wider effects are not yet possible to determine.

Area 4 show mixed results as summarised in section 4.4 above. Whether the physical changes should be considered as outputs or outcomes depends on what they are seen as representing. As indicators of organisational measures that show changes in how judicial matters are being handled in relation to the general public they can be seen as important outcomes, and even more so if regulations are passed that encourage this and such changes are successfully replicated in other courts. If they stay as single examples they are of course only outputs of these limited interventions.

As mentioned several times in this report the conciliation project in area 4 is a clear outcome achievement. Procedures that both increase efficiency at the courts and strengthen involvement by beneficiaries have been introduced to many judges and lawyers and they are well in operation at courts, albeit so far at just a few of them.

The two sister court cooperation projects in area 5, juvenile justice and domestic violence, both show successful outputs that are said to have changed how such matters are viewed upon by Turkish judges and prosecutors. This is an important achievement but concrete application is required to be seen as an outcome, i.e. have clear mid-term effects.

One possible objective of the cooperation that is never mentioned in the project document is the function of SNCA and the various Swedish institutions and individuals involved to be a sort of "sounding board" and general source of ideas for ways to "run" the judiciary. The effects of such a function is not easily measureable and would be based on opinions rather than hard facts. Nevertheless, it may be important for contributing to the overall objective of strengthening the rule of law. Whether the present format of cooperation is the best for such an objective is difficult to answer, but in interviews the importance of this overall aspect of the cooperation was frequently pointed out.

6.3 SUSTAINABILITY

"Sustainability" in development cooperation usually means that changes connected with support or advice will continue in largely the same way or remain reasonably unaffected when the external support is terminated. In this programme the expectation is that the SNCA-supported efforts will help MoJ to carry out reforms according to its strategy and that such reforms will not cease or disappear when support to an area or sub-project is terminated.

Naturally, the conditions for this to happen vary. In this programme Turkey's own vast resources and considerable capacity within the legal field provide good conditions for continuation and sustained reforms. As been discussed elsewhere in this re-

port, the aspects that seem most likely to “survive” in the long run are the conciliation procedures implemented under area 4 and the Ombudsman institutional knowledge under area 2. Other components have reached a certain level of interest and have introduced knowledge and practices to a number of Turkish members of the judiciary, but have hardly reached a “critical mass” that would guarantee a continuation. Some efforts have come to standstill by circumstances outside the programme.

The general conclusion is hardly surprising: that the likelihood for sustainability depends on varying conditions within and outside the programme. What is obviously essential in future cooperation is to more thoroughly identify such conditions and find ways to handle them. The great experience now gained in the programme both on the Turkish and the Swedish side can be put to good use and a third phase could be informed by the lessons learnt.

7 Recommendations

7.1 TO SIDA/EMBASSY OF SWEDEN IN ANKARA

1. Continue legal cooperation with Turkey. The cooperation is relevant, obviously highly appreciated, progress is encouraging in several areas, and there exists a Turkish framework in which such a programme can work.
2. Recent developments, institutional changes and new legislation currently taking place in Turkey are clearly affecting the Turkish Judiciary. Further, the Turkish relevant strategies ²⁵ are ending in December 2014 and will be revised, amended or replaced. The planning situation becomes complicated from both the Turkish and Swedish side and it may be premature for Sida to continue planning a new full-scale phase. Such planning should only be undertaken once the necessary information about context, feasibility and justification for the programme exists upon which a comprehensive, new programme can be based.
3. A more limited cooperation programme building on the good, established cooperation mechanisms and identified subject matters, preferably in the already established sister court projects, is a recommended way forward. Any such continued cooperation should step up efforts in the cooperation programme to achieve a more focussed, results-based programme, striving to contribute to results on an outcome level. It is necessary to be more clear about planning and reporting requirements, including more elaborate theory of change, proper logical framework for planning and follow-up, and better format for reporting.
4. Make sure a risk analysis is developed by the partners that also includes risk mitigation (where possible) and measures to handle unforeseen circumstances.
5. Ensure mechanisms are developed by the partners MoJ and SNCA for more elaborate joint reporting, which better reflects results from the Turkish point of view and is clearly linked to progress in the judicial reform strategy.

²⁵ The Ministry of Justice (MoJ) strategy, and the Strategy for the Justice Academy are ending in December 2014 and will be replaced by new strategies, as from January 2015. The High Council of Judges and Prosecutors election took place in mid-October 2014, which was after this evaluation has been finalised and submitted. The Judicial Reform Strategy of 2009 has been updated 2012 in a draft version (see MoJ website). It appears that further revisions are in the process of being made during 2014.

7.2 TO SNCA

6. Improve programme planning and reporting in accordance with the principles for results based management, especially regarding expected results and indicators, through for example a proper logical framework matrix that ensures reasonable links between activities, output and outcomes. This must be developed in close cooperation with Turkish partner.
7. SNCA should in any future agreement clarify roles and responsibilities of the agreement partners regarding the reporting to be undertaken visavi the financier Sida.
8. Make sure that a theory of change is worked out for each area of intervention that as clearly as possible shows the assumed mechanism for how the desirable changes will come about.
9. Develop a more suitable format for progress reports together with Sida, perhaps with higher ambitions for the annual report and more routine reporting in the semi-annual reports.
10. Keep the flexibility in the programme, making it possible to focus/refocus on certain core areas while making it possible to slow down or accelerate when need be.
11. The travel reports from study trips and seminars seem useful. Establish a clear format for these, which encourages reflections on results and not only factual reporting.
12. Establish a framework mechanism for future cost-sharing and management with Swedish authorities outside SNCA to ensure smooth cooperation when need occurs.

Annex 1 Terms of Reference

Terms of Reference

Consultancy for:	Independent evaluation of the “Development Programme for the Turkish Judiciary”
Evaluation team:	Three member team, comprising: • 1 X International Evaluation specialist (Team Leader) • 1 or 2 X National Justice specialist
Duration:	60 person-days
Evaluation Period:	15 August 2014 – 15 October 2014
Location:	Turkey & Sweden

The objective of the evaluation is to assess the relevance, sustainability and effectiveness of the cooperation program between the Swedish National Courts Administration and the Ministry of Justice of Turkey entitled “Development Programme for the Turkish Judiciary”, during its implementation period between the years 2011-2014. The results of the evaluation will be referenced in order to justify, structure, manage and monitor the next phase of the cooperation between the SNCA and MoJ.

The intended users of the evaluation will be, *inter alia*, the programme managers, implementers and participants at the SNCA and the MoJ, the judicial staff from Sweden and Turkey that have contributed to and participated in the Programme, along with relevant Sida departments and officials, and the Swedish Embassy in Ankara.

The recommendations made at the end of the evaluation is expected to inform future cooperation between the SNCA and the MoJ in light of the results achieved and lessons learned, the choice of areas of reform on which to focus and any shortcomings that may be avoided. Another important focus of the evaluation should be the methodology used throughout the Programme. In other words, an assessment of whether certain results could have been reached in a more effective way, such as the possibility to use consultancy firms for certain areas in which the participation of judges was not imperative, or in which the SNCA was not the optimal actor, will be very useful. An analysis is necessary, therefore, to underline the extent to which creative methods could have and should have been used in the running of the project, or whether the existing methods were sufficient on their own.

Two external dynamics drive Turkey's judicial reform process, one being the European Union (EU) Accession Process, and the other being the cases decided against Turkey by the European Court of Human Rights (ECtHR). While the former is a process of conditionality whereby Turkey is required to fulfil the requirements of harmonizing its legislation and the implementation of this legislation according to Chapter 23 of the EU Acquis entitled "Judiciary and fundamental rights", the latter is an obligation under international law due to Turkey's membership to the Council of Europe and its acceptance of the jurisdiction of the Court on 28 January 1987. The fact remains, however, that Chapter 23 is, at present, closed off due to vetoes by France and Cyprus. In addition, as of 31 December 2013, 11.3 percent of the pending files in front of the Court are cases brought against Turkey, placing it fifth on the list of CoE member states in this regard, while Turkey places first in terms of decisions of the Court in which Turkey is seen to have violated the European Convention on Human Rights (ECHR).

Yet EU membership and the desire to reduce ECHR violation decisions against Turkey remain as goals of the Government, exemplified by the fact that several important steps have already been taken by the Ministry of Justice (MoJ) on judicial reform. Two key guiding documents can be mentioned in this framework, namely the Judicial Reform Strategy of 2009, and the Human Rights Action Plan written by the Human Rights Department of the Ministry of Justice, established in 2011. As the basic policy document guiding the process of the accession negotiations between Turkey and the European Union for Chapter 23, the Judicial Reform Strategy includes 85 goals under 10 general objectives. The Ministry of Justice claims that nearly 70 percent of the Strategy has been realized.²⁶ In fact, a new judicial reform strategy has already been drafted as an update to the 2009 strategy, with a view to reflect the results achieved with regard to the 2009 strategy, to overcome obstacles in the implementation of reforms that proved difficult to achieve, and to better reflect the new developments in Turkey and the world. The Human Rights Action Plan, on the other hand, has been adopted by the Council of Ministers (Decision no: 2014/5984) and published in the Official Gazette on 1 March 2014. It is expected to present a road map for the amendment, introduction and implementation of legislation and practice encompassing a number of ministries and public institutions, all directed towards aligning Turkish legislation and practice with ECtHR case-law.

The EU Commission's 2013 Progress Report confirms progress in the area of judicial reform, remarking on progress achieved in the areas of the independence, impartiality and efficiency of the judiciary. Achievements cited include: the efforts of the High

²⁶ Ministry of Justice, Draft Judicial Reform Strategy (Objectives and Goals), 2012, retrieved from http://www.sgb.adalet.gov.tr/Yargi_reformu_stratejisi_taslagi.pdf, p. 3. The EU Commission's 2013 Progress Report confirms this achievement with the following statement: "Revision continues of the Justice Ministry's 2009 *judicial reform strategy*, the objectives of which were to a large extent achieved" (Turkey 2013 Progress Report: 47).

Council of Judges and Prosecutors in training judges and prosecutors and its consideration of decisions of violations of the ECHR in the professional evaluation of judges and prosecutors; the acceptance of individual applications by the Constitutional Court for claims of violations of fundamental rights and the Constitutional Court's recent annulment of provisions in Turkish anti-terror legislation allowing the doubling of detention on remand period; the completion of the Human Rights Action Plan; and the reduction of pending cases before the high courts. The 3rd and 4th judicial packages are also cited at length in the Report, with emphasis placed on the increase in the use of judicial control as an alternative to detention and the distinction between the freedom of expression and incitement to violence in the respective packages. Remaining challenges include, briefly, impediments to effective defense, inadequate reasoning regarding decisions relation to detention or continuation of detention, failure to guarantee equality of arms, lack of confidence in the judiciary, and the failure to create regional courts of appeal.

The cooperation between the Swedish National Courts Administration of Sweden (SNCA) and the Ministry of Justice (MoJ) of Turkey has contributed to some of these achievements, and has been effected by similar challenges. The cooperation between the two institutions dates back to 22 October 2007, the date when the first bilateral agreement was signed. The first agreement focused on five areas of reform:

- Restructuring of Regional Administrative courts;
- Strengthening confidence in the judiciary;
- Strengthening the impact and durability of the Courts of Appeal Reform;
- Delegation and restructuring of tasks;
- Individual capacity building.

The first phase of the “Development Program for the Turkish Judiciary” was scheduled to end by the end of 2010. However, additional activities were planned through the first four months (January-April) of 2011, and the Program Steering Committee, in its first affirmation of the success of the cooperation, decided in its meeting held in Izmir on the 16-17th of December 2010 that the program had been a success, and that cooperation should continue in the future.

Following this agreement, a new Memorandum of Understanding (MoU) was signed on 25 March 2011. A new “Strategy for Development Cooperation with Turkey” had been adopted by the Ministry of Foreign Affairs of Sweden covering the period between January 2010 – December 2013, and the new MoU had to take into consideration the general and specific objectives outlined in the Strategy. While the general objective is stated in the Strategy as being “strengthened democracy that improves the prospects of membership in the European Union”, a specific focus is promised on the sector “for democracy, human rights and gender equality”. In light of the 2010-2013 Strategy, therefore, the following five areas of reform were delineated in the MoU:

- Establishment of Court of Appeals in Administrative Judiciary;
- Strengthening the confidence in the Judiciary;
- Support to the Courts of Appeal Reform;

- Restructuring of tasks and court management;
- Juvenile Justice.

A comparison of the five areas of reform outlined for the two different cooperation periods shows that the major new area of reform included in the March 2011 memorandum was that of “Juvenile Justice”, which replaced “individual capacity building”, due to the fact that activities that fell under the latter category were already included in many of the other topics of reform. As the work plan was improved by the SNCA in the beginning of each year, the last topic of cooperation was expanded to include “domestic violence” as well, reflecting the sensitivity placed on the issue in both the Strategy for Development Cooperation with Turkey 2010-2013 and the Ministry of Justice’s strategy for reform.

The aim of the intervention was outlined in the program proposal as simply supporting the “Turkish judiciary in fulfilling important demands in this process”, meaning the process of conforming to EU standards for membership, with a particular focus on speed, efficiency and fairness within the justice system. The target group for the program is laid out, at the early stage in which the proposal was drafted, as the Turkish courts, the Ministry of Justice, the High Council for Judges and Prosecutors and the Justice Academy. It is also stated, specifically, that “there will be an equal amount of women and men involved in the program”, and that “gender issues will be taken into account in all activities. Towards this end, the five areas of cooperation outlined above were decided to be the main components of the program.

As a result of an agreement reached by the SNCA and the MoJ at the Steering Committee held on 4 December 2013, the program was extended for a further 6 months in order to complete certain activities that have been postponed due to various reasons. The evaluation should take into consideration this additional time period to be able to evaluate the program in its entirety.

Stakeholder involvement will mainly be through cooperating with the researchers in answering questions posed to them regarding and relevant to the Program, as well as disseminating the reports as they see fit. Sida officials will share all documents requested by the researchers providing that they are in possession of or have access to the requested documents.

Prior to the drafting of the inception report all requested documents will be handed over to the researchers. Should there arise a need to obtain additional documents after the inception phase, Sida will aid the researchers in this regard as well.

The objective of the evaluation is to assess the relevance, sustainability and effectiveness of the Development Programme for the Turkish Judiciary during its implementation period between 2011-2014, specifically in light of the **results achieved** and **lessons learned** in the process. Focus should be placed on which areas of the cooperation may have benefitted most from such a results based approach, which areas have actually yielded results that were picked up on or missed by the reports produced by the SNCA, and whether a results-based approach would be the right methodology for monitoring future cooperation. Other areas of focus may be the extent to which the

program aided the MoJ in its endeavour to fulfil the requirements stated in its judicial reform strategy, and the extent to which gender equality was in fact stressed throughout the program. The recommendations made at the end of the evaluation is expected to inform future cooperation between the SNCA and the MoJ, especially in the choice of areas of reform on which to focus and the prevention of committing the same errors in the new process.

Another important focus of the evaluation should be the methodology used throughout the Program. In other words, an assessment of whether certain results could have been reached in a more effective way, such as with the use of consultancy firms for certain areas in which the participation of judges was not imperative, or in which the SNCA was not the optimal actor, will be very useful. An analysis is necessary, therefore, to underline the extent to which creative methods could have and should have been used in the running of the project, or whether the existing methods were sufficient on their own.

These should be taken as non-exclusive suggestions. The consultants will be free to create their own sub-headings and criteria for evaluation.

The sub-headings to the evaluation may include, *inter alia*, the following dimensions:

Relevance:

- a) The relevance of the five Program areas to Swedish policy;
- b) The relevance of the five Programme areas to the latest developments experienced in the Justice Sector, as outlined by the EU Progress Reports, the old and new Judicial Reform Strategy, as well as the self-imposed strategies of the different judicial institutions, particularly the High Council of Judges and Prosecutors and the Ministry of Justice;
- c) The relevance of the activities undertaken and actors chosen in each Programme Area to the objectives set out for each Area in the inception of the Programme;
- d) The extent to which the Programme has shown flexibility and has been responsive to the emerging needs of the Ministry of Justice;
- e) The extent to which the Programme is credited with having achieved concrete results by the beneficiaries;
- f) The extent to which a gender perspective has been taken into consideration.

Sustainability:

- a) Sustainability of the capacity development of judges, prosecutors, candidate judges and auxiliary staff;
- b) Sustainability of services rendered by Swedish consultants throughout the project;
- c) Sustainability of the “best-practices” adopted from Sweden throughout the project, especially in terms of court management;

- d) Sustainability of networks created with institutions not tied to the Ministry of Justice.

Effectiveness:

- a) Quality and timeliness of reporting,
- b) Identification of factors that have limited project effectiveness and suggestion of remedial measures;
- c) Effective identification and management of spin-off projects;
- d) SNCAs coordination of efforts with other Swedish institutions, MoJ's coordination of efforts with other relevant Turkish institutions;
- e) Adequacy of funds for programme implementation up to the date in which the evaluation is made;
- f) Evaluation of areas in which cooperation has been most effective, and areas in which it has been least effective in terms of achieving objectively verifiable results and/or in terms of how beneficiaries have perceived the activities;
- g) Effectiveness in terms of making publicly visible the results achieved from the cooperation.

These should be taken as non-exclusive suggestions. The consultants will be free to create their own sub-headings and criteria for evaluation.

The evaluators will be responsible for choosing the appropriate research method. The chosen method should be described and justified in relation to possible alternatives in the inception report.

The Consultant is expected to be familiar with Swedish key steering documents for development/reform cooperation and methodological approaches.

The assignment will be carried out during August-October 2014 and will take up to 60 person-days. The team is expected to include two-three persons. The Consultant shall be responsible for all logistics during the assignment.

The evaluation and the reporting must follow DAC's evaluation quality standards. The Consultants shall take care to establish the reliability and consistency of the information by triangulation, i.e. comparing and checking similar information from various sources. Investigation of the potential and actual synergy effects in the portfolio will be highlighted wherever relevant. A mixed method (qualitative and quantitative) approach is envisaged for this evaluation. The evaluation team will outline a well-developed research strategy and propose an appropriate methodology to ensure a transparent and objective assessment of the issues to be analyzed in this evaluation.

The evaluation team will make use of secondary and primary data which will be analyzed using suitably defined qualitative and quantitative performance indicators. Primary data may be collected using empirical methods through interviews and focus groups. The field-study will be an important part of this assignment. Another field visit is planned for the presentation of the findings in a workshop.

1. Inception Report:

The Team Leader will present an Inception Report (please see section entitled “Reporting” for details) at the beginning of the evaluation mission. The Consultant is asked to begin the assignment by preparing an inception report elaborating on the feasibility of the scope of evaluation, the description of methodological choices, design of causal analysis, data collection methods, instruments for data collection and analysis, the detailed and operational evaluation work plan (including feedback workshops), activities and deliverables along with assigned responsibilities for the team members. The Consultant is asked to make an interpretation of the evaluation questions and how they will be researched.

The Consultant shall propose the methodology, time plan and division of labour in an Inception report (maximum 10 pages) submitted to the Embassy **no later than 20 August 2014**.

2. **Start-up meeting**

The Consultant, Sida and the Embassy will have a start-up meeting in the last week of August 2014 via video/telephone conference. During the start-up meeting the methodology, time plan and budget in the inception report will be discussed and agreed.

3. **Implementation**

The assessment shall be performed through studies and analysis of existing reports, evaluations, and other relevant documents as well as through interviews, focus groups, etc. with relevant stakeholders which will include implementing partners (such as government institutions and CSOs), beneficiaries and other donors. The work thus includes a field visit. The Consultant is expected to present a proposal on the division of days between field visit and desk study.

4. **Draft Evaluation Report**

The consultants will submit a draft evaluation report of the 2011-2013 Program highlighting achievements, constraints and lessons learned as well as the corrective measures required, including recommendations regarding Sida’s continued intervention in the justice sector, **by 26 September 2014**, in electronic form. Feedback from stakeholders will be sent to the Consultants by **1 October 2014**. The report shall be written in English and shall not exceed 30 pages, excl. annexes.

5. **Final Evaluation Report**

The final evaluation report incorporating Sida, SNCA and MoJ feedback to the Draft Evaluation Report will be submitted by the Team Leader to the Embassy, electronically and in two hardcopies by **15 October 2014**. The report shall be written in English and shall not exceed 30 pages, excl. annexes.

Approval of the Final Report will be based on its adherence to the OECD/DAC Evaluation Quality Standards. Contact person at the Embassy in Ankara will be Annika Palo (annika.palo@gov.se) and Onur Ariner (onur.ariner@gov.se).

6. Debriefing Meeting

The consultants will present a summary of evaluation findings, conclusions and recommendations at a debriefing meeting with the participation of Sida, SNCA and MoJ representatives. The debriefing meeting shall take place at a mutually agreed date.

The assignment is expected to be carried out by two-three persons. At least one of the three needs to fulfil the required qualifications for Category I (according to Appendix D in the Framework Agreement). The team leader should be an experienced evaluator and shall have an advanced academic degree, i.e. a minimum of a Master's Degree or equivalent. The team in combination should have the needed experience and knowledge to perform the tasks foreseen in this assignment including:

- Experience in the country and Turkish-speaking;
- Experience of human rights, gender equality and justice area analysis;
- Experience of efficiency analysis and evaluation of strategies;
- At least one team member shall possess experience of evaluation in a development context, experience of utilisation-focused evaluation, experience from facilitating participatory processes, seminars and workshops.

The consultants shall in the inception report propose a timeframe that indicates number of days per consultant engaged for the assignment.

The inception report shall include a full budget for the assignment, including reimbursement costs.

Annex 2 References

Sida documents related to the programme

Överenskommelse mellan Styrelsen för internationellt utvecklingssamarbete och Domstolsverket om genomförande av samarbetsprogrammet med det Turkiska justitedepartementet under perioden 2011-2013. [Agreement between SNCA and Sida 12 Dec 2011]

Ändring av överenskommelse mellan Styrelsen för Internationellt Utvecklings-samarbete och Domstolsverket om genomförande av samarbetsprogrammet med det turkiska Justitedepartementet under perioden 2011-2013. 12 December 2012. [Amendment of agreement]

Proposal regarding the continued development programme between the Ministry of Justice of Turkey and the Swedish National Courts Administration entitled "A development programme for the Turkish judiciary". Undated.

Evaluation of cooperation results under the Swedish Strategy for Development Cooperation with Turkey, 2010-2013. Final Report December 2013. By Roland Blomeyer and Zeliha Ünalı. Sida Decentralised Evaluation 2013:50

Results strategy for Sweden's reform cooperation with Eastern Europe, the Western Balkans and Turkey for the period 2014–2020. Ministry for Foreign Affairs, Stockholm 2014

Strategy for development cooperation with Turkey January 2010 – December 2013. Ministry for Foreign Affairs, Stockholm 2010.

Strategy for development cooperation Turkey January 2005 – December 2009. Ministry for Foreign Affairs, Stockholm 2005.

Project documentation from SNCA

Activity report Development Programme for the Turkish Judiciary, July – Nov 2012

Activity report Development Programme for the Turkish Judiciary, December 2012

Second Progress report, January – June 2012

Third Progress report Development Programme for the Turkish Judiciary, July – December 2012

Fourth Progress report Development Programme for the Turkish Judiciary, January – June 2013 (16 annexes, not listed here)

Fifth Progress report Development Programme for the Turkish Judiciary, July – December 2013 (18 annexes, not listed here)

Proposed activities and budget needs for 2013 Final.pdf

Annual Work Plan 2013 Final (Annex 1 to Fourth progress report)

Annual Work Plan 2014 final (Annex 17 to Fifth progress report)

Documents on judicial reform in Turkey

2013 Progress report prepared by Turkey. Republic of Turkey, Ministry for EU Affairs. December 2013

Judicial reform strategy action plan. Republic of Turkey, Ministry of Justice. August 2009.

Ministry of Justice Strategic Plan 2010 – 2014. Undated

Turkey in Europe. The imperative for change. Third report of the Independent Commission on Turkey. March 2014. Open Society Foundation.

Turkey 2013 Progress Report. European Commission staff working document. Bussel 16 October 2013.

Turkey-EU Relations. Republic of Turkey, Ministry of Foreign Affairs 2013
<http://www.mfa.gov.tr/relations-between-turkey-and-the-european-union.en.mfa>

Turkish Judicial System, bodies, duties and officials. By Ismail Aksel. Ministry of Turkey, Department for strategy development. Ankara 2013

Seda Kalem Berk: *Access to justice in Turkey: Indicators and recommendations.* TESEV Democratization Program. Policy report series. Istanbul October 2011

The High Council of Judges and Prosecutors in Turkey: Roundtable discussion on its new structure and operations. TESEV Democratization Program. Policy report series. Istanbul November 2012

Naim Karakaya & Hande Özhabes: *Judicial reform packages: Evaluating their effect on rights and freedoms*. TESEV Democratization Program. Policy report series. Istanbul November 2013

Hande Özhabes: *Assessment on changes regarding the specially empowered judicial system in Turkey*. TESEV Democratization Program. Istanbul April 2014

Articles in media related to judicial reform in Turkey

Controversy over judicial reform in Turkey. 17 April 2014.

<http://www.dw.de/controversy-over-judicial-reform-in-turkey/>

Why Sweden is going strategic with Turkey. Today's Zaman
March 11, 2013.

<http://www.todayszaman.com/newsDetail.action;jsessionid=Hcm+ccO0ZK4CICwiXm6S8w0h?newsId=309398&columnistId=0>

Annex 3 List of persons consulted

Name	Organisation/Affiliation	Function/Title
<i>SNCA – Swedish National Court Administration/Swedish Courts</i>		
Peter Stavferfeldt	SNCA, Jönköping	Coordinator, SNCA cooperation programme with Turkey
Monica Chiacig	SNCA, Jönköping	Administrator, SNCA cooperation programme with Turkey
Annika Sehlstedt	Previously with SNCA	Former coordinator, SNCA cooperation programme with Turkey
Lars Dahlstedt	Formerly with Norrköpings tingsrätt (district court)	Former Chief judge; various tasks in the programme; member of the Steering Committee
Ylva Osvald	Nacka tingsrätt (district court).	Senior judge; active in the programme, especially area 4; member of the Steering Committee
Göran Bodin	Administrative Court of Appeal (Kammarrätten), Göteborg	Senior judge; active in the programme, especially area 1; member of the Steering Committee
Ove Lindström,	Borås tingsrätt	Chief judge; contact person for cooperation Borås – Eskisehir court
Ylva Norling Jönsson	Helsingborg tingsrätt	Chief judge; contact person for cooperation Helsingborgs district court – Sincan court
Karoline Fridolf	Helsingborg tingsrätt	Judge; contact person for cooperation Helsingborgs district court – Sincan court
Hediye Kurt		
Anders Eka	Supreme Court	Justice of the Supreme Court
Thomas Bull	Supreme Administrative Court	Justice of the Supreme Administrative Court
<i>Embassy of Sweden, Ankara</i>		
Annika Palo		Counsellor
Onur Ariner		National programme officer, Swedish-Turkish Cooperation
<i>Ministry of Justice, Ankara</i>		
Ömer Serdar Atabey	Directorate General for EU Affairs	Director General
Canan Kaya	Directorate General for EU Affairs	Judge

	fairs	
Mehmet Yavuz	Directorate General for EU Affairs	Judge
Ahmet Güven	Directorate General for EU Affairs	Prosecutor
Celalettin Dönmez	formerly with Directorate General for EU Affairs; now at Bolu courthouse	Judge
<i>Turkish Courts</i>		
Ömer Faruk Ateş	<i>Danistay</i> (Supreme Administrative Court)	
Mahmut Vural	<i>Danistay</i>	
Bilal Çalışkan	<i>Danistay</i>	
Türkan Erturan	<i>Yargıtay</i> (Supreme Court)	President of Chamber, Judge
Havva Aydın	<i>Yargıtay</i>	Judge
Mehmet Beleş	<i>Yargıtay</i>	Rapporteur Judge
Mustafa Akkuş	Ankara Courthouse	Family Judge
Zeynep Öksüzöğlü	Ankara Courthouse	Family Judge
Vahide Kaya	Eskisehir Courthouse	Public Prosecutor
Hasan Karagöz	Eskisehir Courthouse	Public Prosecutor
Halil Taşlıgedik	Eskisehir Courthouse	President of Court of Commerce
Mehmet Müsebbih Engin	Eskisehir Courthouse	Public Prosecutor
Ahmet Şanverdi	Eskisehir Courthouse	Head of Assize Court, Heavy/Serious Crime/Penal Court
Turhan Turunç	Eskisehir Courthouse	Vice Chief Public Prosecutor
Ferhat Kapıcı	Eskisehir Courthouse	Public Prosecutor
Osman Ermumcu	Izmir Regional Administrative Court	President Regional Administrative Court
Ertuğrul Yılmaz	Izmir Regional Administrative Court	Head of Third Chamber
Mustafa Kemal Önder	Izmir Regional Administrative Court	Head of First Chamber
Haşim Şahin	Izmir Regional Administrative Court	Head of Tax Court
Mürteza Güler	Izmir Regional Administrative Court	President of Izmir 4. Adm. Court
Özlem Erol	Izmir Regional Administrative Court	Member Judge of Izmir 2 Adm. Court
Onur Sır	Izmir Regional Administrative Court	Member Judge of Izmir 4 Tax Court
Zenel İlca	Izmir Regional Administrative Court	President of İzmir Regional Administrative Court 2 nd Chamber
Cengiz Tanrikulu	Izmir Courthouse	Izmir Courthouse (Juvenile Court)
Gülşay Arıcıoğlu	Aydın Courthouse	Judge, Labour Law Court
Dural Bilir	Aydın Courthouse	Judge, Family law Court
Mustafa Celal Ertürk	Aydın Courthouse	Chief Public Prosecutor

Mustafa Mutlu	Aydin Courthouse	Head of Heavy/Serious Crime/Penal Court
Yilmaz Akçil	Justice Academy, Ankara	President of Justice Academy
Rıfat İnanç	Justice Academy, Ankara	Head of Training Centre, Vice President
Reyhan Yıldırım Atakur	Justice Academy, Ankara	Head of Department, Candidate Judge
Gökhan Karaköse	Justice Academy, Ankara	Head of Department
Burak Cenk İlhan	Justice Academy, Ankara	Judge, Human Rights Department
<i>Others</i>		
Özlem Demirel Cook	Council of Europe programme office in Ankara	Project officer
Ville Forsman	Raoul Wallenberg Institute, Istanbul office	Programme manager
Hande Özhabes	TESEV, Istanbul	Project coordinator, Democratization programme
Koray Özdil	TESEV, Istanbul	Project officer, Democratization programme
Berkay Mandiraci	TESEV, Istanbul	Project assistant, Democratization programme

Annex 4 Itinerary

TRAVEL PLAN AND INTERVIEWS IN TURKEY 14th September- 23rd September

Evaluation Team: Stefan Dahlgren (SD), Pia Sassarsson Cameron (PSC), Müslüm Akinci (MA) and Caglayan Sayhan (CS)

<i>Date</i>	<i>Location</i>	<i>Interviews-Meetings</i>	<i>Travel</i>	<i>Participants</i>
Sunday 14th Sep- tember	Ankara	Team arrives to Ankara. Dinner together	MA travel to Ankara; PSC, SD trav- el from Swe- den	Team: SD, MA, PSC & CS
Monday 15 th Sep- tember	Ankara	a.m. Swedish Embassy 9:30		Onur Ariner; Swedsih Embassy Annika Palo; Swedish Embas- sy Team:SD, MA, PSC & CS
		p.m. Ministry of Justice(MoJ) 13:30		Canan Kaya,MoJ/ Judge Mehmet Yavuz, MoJ/Judge Ahmet Güven,MoJ Prosecutor Celalettin Dönmez , judge in Bolu (to arrive15:30) 17:00 Director General Serdar Atabey Team: SD, MA, PSC & CS
Tuesday 16 th September	Ankara	Danıştay (Council of State) 9:45- 12:00		Ömer Faruk Ateş Selnur Çakmak Mahmut Vural Bilal Caliskan Team: PSC, MA, & CS
	Ankara	Council of Eu- rope		Name (to be inserted) Team: SD
	Ankara	Yargıtay (Court of Cassation)		Türkan Erturan, President of Chamber, judge Havva Aydınli,judge Mehmet Beleş,Rapporteur Judge Mustafa Akkuş, +Zeynep Öksüzöğlü (family judge in Ankara Courthouse) Team: PSC, MA & CS
Wednesday 17 th Sep- tember	Eskişehir	Eskişehir Court- house	MA, CS, PSC By fast train 9:00 Arrival 11:00	Vahide Kaya (public prosecu- tor/Borås sister project) Hasan Karagöz (public prose- cutor/Borås sister project Halil Tasligedik (president of Court of Commerce)

Cont.17 th sep		Eskişehir Court-house		Mehnet Müsebbin Engin (public prosecutor) Ahmet Sanverdi (Head of As-size Court, Heavy/Serious Crime/Penal Court) Turhan Turunuc (Vice Chief Public Prosecutor) Ferhat Kapici (Public Prosecutor) Team: PSC, MA & CS
17 th sep- tember	Istanbul	Raoul Wallenberg Institute TESEV		SD SD
17 th sep- tember	İzmir		19:40 THY Ankara Air- port to İzmir	
Thursday 18 th Sep- tember	İzmir		MA, CS, PSC 10:00 12:00 Izmir Region- al Administra- tive Court 14:00-17 Izmir Court House Civil Justice	Osman Ermumcu, President Regional Administrative Court Ergurul Yilmaz, Head of 3 rd Chamber Mustafa Kemal Önder, Head of 1 st Chamber Hasin Sahin, Head of Tax Court Mürlena Güler, İzmir 4 Özlen Erol, İzmir 2 Onur Sir, İzmir 4 Zenyal Ilica, Cengiz Tanrıkulu Team: PSC, MA & CS
Friday 19 th September	Izmir	a.m Discussion MA, CS, PSC. Processing the weeks interviews Writing sum- maries	.	
Saturday 20 th Sep- tember	Aydın	.	14:00	Gülay Arıcıoğlu (judge, la- bourlaw court/Nacka sister project) Dural Bilir (judge, family law, Nacka sister court project) Team: PSC, MA & CS
Sunday 21 st Sep- tember	Aydın	Informal lunch meeting 12-15 Back to İzmir- then 21.30 back to Ankara		Chief Public Prosecutor, Mus- tafa Celal Erturk Head of Heavy/Serious Crime Penal Court Gülay Arıcıoğlu Dural Bilir

				Team: PSC, MA
Monday 22nd September	Ankara	Justice Academy	13:30 -17:00 Justice Academy	Yilmaz Akcil, President of Justice Academy Ritnac Inanc Vice President, Head of Training Center Rey Yildirim Ataturk, Head of Department, Candidate Judge Gökhan Karaköse, Head of department Burka Cenk Ilhan, Team: PSC, MA & K
Tuesday 23 rd Sep- tember	Ankara	Swedish Embassy 10:00	DEBRIEFING	

Annex 5 Inception report

Judiciary in Turkey

15 August 2014

Stefan Dahlgren
Pia Sassarsson Cameron

1. Assessment of Scope of the Evaluation

1.1 Introduction

This report elaborates on the Proposal previously submitted to the embassy. The proposed evaluation approach is made more precise in relation to additional information gained through a first study of the documentation we have received and other sources. Some comments in the Proposal are repeated in this report for the sake of completeness. More detailed planning of the fieldwork in Turkey and Sweden will take place during the beginning of September after the plan proposed in the Inception Report has been approved.

The purpose of the Inception Report is twofold: one is to present the evaluation team's plan for carrying out the evaluation, based on the information we have at the moment; the other purpose is to put questions and propose interpretations of the tasks indicated in the Terms of Reference (ToR).

1.2 Purpose, objective and scope

The main *rationale* and *purpose* for the evaluation are, according to the ToR, to “justify, structure, manage and monitor the next phase of the cooperation between the SNCA and MoJ” and the recommendations by the evaluation team are “expected to inform future cooperation between the SNCA and the MoJ in light of the results achieved and lessons learned, the choice of areas of reform on which to focus and any shortcomings that may be avoided”.

This is a very clear purpose but also quite ambitious regarding the recommendations.

Lessons learned, and general recommendations, will be possible to formulate when the assessment of the evaluation criteria and evaluation questions as stated in the ToR 4.1-4.4 are concluded.

The evaluation will assess results achieved in the programme areas, i.e. finding out what has been achieved so far and assessing this against stated objectives (area purpose), formulated results in the programme's logframe matrix, and as stated in the yearly work plans.

The evaluation team will do its best to fulfil expectations regarding choice of areas of reform on which to focus in a future cooperation programme. However, any such recommendations will be of a general nature, giving overall recommendations and suggestions for consideration. To elaborate specific recommendations regarding, e.g. the justification for choosing a particular cooperation area in the future, which involves taking the entire Turkish legal context into account, will not be possible within the scope of this assignment.

It will however, be possible to reflect over results achieved so far in each area and link this to the methodical and organisational format of the programme; the planning model leading to the program design, the organisational setup with the programme partners, on the Swedish side and the Turkish side, and the organisation of execution of the programme content.

Some areas in the programme appear, based on a very initial and tentative assessment, to have been more successful than others, and there may be several reasons for this. One reason may be the chosen cooperation subject matter and the formulation of the cooperation area. Another reason for success or lack of success is likely to be related to the actual execution of the cooperation. There may be some areas of cooperation that have thus far yielded limited results due to being very difficult issues, sometimes connected to different political priorities. The evaluation may need to weigh the relevance of these areas against the difficulties in achieving results and recommend continued efforts. The material and the interviews will determine what type of conclusions that may be drawn.

Regarding shortcomings to be avoided in a future cooperation, we foresee that any such recommendations or reflections regarding implementation barriers or critical success factors that may be established, will primarily be related to planning/ programme design, implementation of the programme, monitoring and follow up of results, or related to organisational, institutional or policy related considerations in the programme.

We have noted that the Sida country programme evaluation carried out during the first half of 2013 also assessed Swedish support to the judiciary, and the evaluation suggested that that programme should be scaled down and concentrated to gender issues. The main argument was that Turkey should have enough resources on their own to ensure a sustainable continuation of the reforms. We will of course keep this in mind, but also consider other alternatives when formulating conclusions and recommendations.

The *objective* of the evaluation is to assess the relevance, sustainability and effectiveness of the cooperation program between the Swedish National Courts Administration (SNCA) and the Ministry of Justice of Turkey (MoJ) entitled “Development Programme for the Turkish Judiciary”, during its implementation period between the years 2011-2014.

On this we only repeat what was said in the Proposal that we find the ToR clear, and that it seems realistic to limit the evaluation to three of the five established DAC evaluations criteria, omitting *impact* and *efficiency*, in view of both the time frame for the interventions and the time available for the evaluation.

The *scope* of the evaluation will be what has been done within the five areas defined in the programme document (Programme Proposal, undated but presumably from 2011 with file number 479-2011) during the implementation period between the years of 2011-2014. As Swedish support regarding some cooperation areas began before 2011 previous history has to be considered but will not formally be part of the current evaluation.

The ToR list intended *users* of the evaluation, which will largely be those already involved with the programme at the SNCA and the MoJ, as well as Sida and the Swedish Embassy in Ankara.

We assume that the primary *users* of the evaluation would be the Programme Steering Committee together with the intended users already mentioned in the ToR and we will write the report with these users in mind.

As pointed out in our initial Proposal, the ToR are somewhat unclear about the presentation of the evaluation results apart from delivering the report. We foresee a meeting with Embassy before commencement of the evaluation team’s interviews and work in Turkey, as well as a debriefing before the team leaves Turkey. If it is deemed beneficial by the Embassy to have a presentation for a wider group, including the Turkish stakeholders, when a draft evaluation report is ready, we are more than happy to do so in Ankara.

We note that according to the information we now have, SNCA’s planning procedure for the next phase does not seem to fit completely with the timing of the delivery of the evaluation report. Although the dates for delivering the draft and the final versions of the evaluation report must remain as they are in the Proposal and the budget may limit the alternatives, we are open to various ways to handle a possible presentation and to ensure that the evaluation will be best used in SNCA’s planning procedure. We expect the discussion about this matter will continue into September.

2. Evaluation questions and evaluability

Indevelop's response to the ToR – the Proposal – had no objections regarding the evaluability of the programme. Some comments were made regarding some of the areas but largely our view is that it is possible to evaluate the programme in a useful way.

Comments and delimitation have been made above in section 2, in relation to the wording in section 1 of the ToR about evaluation purpose and the possible recommendations that may be possible to formulate given the scope of the assignment and the programme to be evaluated.

The ToR indicates a number of evaluation questions/tasks and lists categories of stakeholders/sources for interviews and documents that are likely to be used. We consider the list of questions relevant to the evaluation task and largely possible to answer. There are, however, a few basic problems related to the issue of evaluability.

We note that that the logframe matrices for several areas are flawed regarding stringency and adherence to results based management terminology, or indeed LFA terminology. The formulation of results, the logical causal link, and/or feasibility of chosen indicators regarding how to measure fulfilment and achievement of results, do not seem to provide adequate support regarding monitoring of results. Efforts will be made to design and ask evaluation questions in order to clarify and capture change, or in general what an intervention (project activity) may have led to.

Another problem is that some objectives/purposes or indicators use the words like "increased" and "enhanced", which automatically require a description of the situation before the interventions started. In a general way that is provided by the background descriptions in the programme document and in the "Intervention Background" chapter in the ToR. Those overall descriptions are of course judgements and not directly quantifiable benchmarks, and the same limitation will eventually apply to our assessment, which will be based on interviews and document studies.

A kind of measurement is said to exist regarding the view of the general public regarding the judiciary, but this is apparently the result of only one opinion poll, and it is of course impossible to say anything yet on the basis of this single poll about the impact of any initiatives to improve confidence.

We believe that we will be able to obtain a fair overview of the current situation and to assess achievements and programme progress by carefully selecting the interviewees and comparing different sources.

As noted above, a common problem regarding "soft" areas, where influences may come from various sources, is the issue of attribution: what changes, if any, can be verifiably connected to the activities of SNCA? Again, we will largely have to depend

on judgements by the experts and people with special insight that we will interview. For concrete changes, e.g. in administrative procedures, information will probably be easier to obtain, but how directly the SNCA have influenced concrete legislative or regulatory changes will probably be difficult to determine with certainty.

The ToR in section 4, Evaluation questions, stresses that the assessment shall be done in light of results achieved and lessons learned. We note that an underlying concern in the ToR appears to be the methodology used throughout the programme, and the methodology referred to is the result based approach.

2.1 Comments on the ToR evaluation questions

We will develop the list of questions further during the preparation of the evaluation and will only comment on a few questions here (using the same numbering as in the ToR).

Relevance

a) The relevance of the five Program areas to Swedish policy

Comment: With Swedish policy we understand this as primarily the "Cooperation strategy for development cooperation with Turkey 2010–2013", where relevant, general Swedish strategies are applied to the support to Turkey.

b) The relevance of the five Programme areas to the latest developments experienced in the Justice Sector, as outlined by the EU Progress Reports, the old and new Judicial Reform Strategy, as well as the self-imposed strategies of the different judicial institutions, particularly the High Council of Judges and Prosecutors and the Ministry of Justice

Comment: Main sources here would obviously be as stated, the old and new Judicial Reform Strategy and strategies developed by the High Council of Judges and Prosecutors and Ministry of Justice, the EU progress reports, and also other relevant EU and important relevant Council of Europe reports. If it can be made available, Turkish reporting related to the EU progress reporting and the accession process can also be used.

Documents will be supplemented with information from interviews. In order to address the questions in the ToR regarding relevance, the availability of persons at the General Directorate for EU Affairs involved when the programme started and who held key positions during implementation will be important. This means that travel to Izmir, Bursa and Diyarbakir will be necessary since several persons deeply involved with the programme have moved to those places.

A visit to Izmir will also serve the purpose of providing input assessment to area 1 and to provide input to a comparison of a more successful project, with the less successful Izmir "sister court" project in the cooperation. Bursa will, in addition to the

reason stated in relation to the relevance questions, provide input to the assessment of area 4. In the more detailed planning to follow, we will investigate how we can logistically fit in Diyarbakir. A tentative travel plan is set out below in the section on approach and methodology.

Persons currently holding the relevant positions at DG for EU affairs will also be interviewed.

- c) The relevance of the activities undertaken and actors chosen in each Programme Area to the objectives set out for each Area in the inception of the Programme

Comment: As mentioned we see flaws in the actual terminology of the logframe, as well as flaws in the logical causal relationship /link in the so called result chain. If activities indeed have supported/contributed to fulfilment of objectives as they are formulated, will be scrutinized closely.

The logframe, but also SNCA work plan and reporting and interviews and other data collection are plausibly relevant entry points to contribute to set objectives, expected results or how indicators have been used to measure or follow-up progress or lack thereof. The actors chosen and the model for implementation, including management that SCNA uses will be assessed. How the Turkish cooperation partners in the Agreement with SCNA have organised themselves during the period 2011-2014, will also be assessed.

Since changes have occurred during the programme period, access to information and the assessment of such information will determine the scope of comments the team can make in this respect.

- d) The extent to which a gender perspective has been taken into consideration

Comment: The programme document does not address the issue of gender to any extent, just states “that gender quality will not come automatically”. It is noted that the log frame is void of indicators related to this issue. It would appear, after a very preliminary assessment, that number of participants in activities is the extent of gender consideration in the Programme. Area 4 may present opportunities to assess this issue further since it appears that many young professionals have taken part in the activities. Possibly will the assessment of Turkish strategies provide information that can be pursued during interviews. The programme formulation and execution of the programme will be assessed to establish whether a systematic gender approach has been applied.

Sustainability

- a) Sustainability of the capacity development of judges, prosecutors, candidate judges and auxiliary staff

Comment: Capacity development is a term that is given different meanings and content. In current development cooperation it is usually a broader concept than systematic training over a limited period of time, e.g. recurrent courses. Only certain activities under the programme would meet such a narrow definition. Study trips are probably a borderline case, but we assume that *all* kinds of activities that aim at *informing* Turkish counterparts about Swedish (and other EU countries') legislation and judicial procedures would fall under the heading capacity development. Also, we assume that capacity development is about both individuals and institutions. This raises the crucial questions of replicability and transfer on knowledge, essentially the problems of sustainability and theory of change, which is briefly discussed in section 3 below.

- b) Sustainability of services rendered by Swedish consultants throughout the project

Comment: The Swedish consultants would presumably be only the SNCA and persons who have previously been employed through SNCA and now contracted as individuals. Does the expression "sustainability of services" sustainability of the changes the programme is supposed to contribute to or does it refer to the continuation of Swedish support?

- d) Sustainability of networks created with institutions not tied to the Ministry of Justice.

Comment: Clarification is sought regarding what networks and particular programme areas are referred to. Does "not tied to" mean *Danistay*²⁷ for example which is not under the Ministry of Justice? Programme documents state that networks between the two countries' respective Supreme Administrative Courts have been developed, but apart from that we have not seen any reference to formal networks that have been established.

Effectiveness

- c) Effective identification and management of spin-off projects;

Comment: Clarification is sought regarding what is meant with spin-off projects and would appreciate an explanation. Is it the project proposal that MoJ seems to have developed and proposed, or is something else intended?

²⁷ The Turkish Council of State (Turkish: *Danıştay*) is the highest administrative court in the Republic of Turkey and is based in Ankara.

- d) SNCAs coordination of efforts with other Swedish institutions, MoJ's co-ordination of efforts with other relevant Turkish institutions

Comment: We would like to also include coordination with other donors within the legal sector whether by Turkish authorities, SNCA or Sida/Embassy of Sweden.

- e) Adequacy of funds for programme implementation up to the date in which the evaluation is made

Comment: This may be something of a chicken-or-egg situation: the programme will initially adapt to funds available while more ambitious but in the long run necessary changes may need considerably larger funds. This question may partly be answered in relation to the theory of change discussed in the next section and partly in relation to experiences by the parties during the implementation of the programme when additional requirements or obstacles may have been identified.

- g) Effectiveness in terms of making publicly visible the results achieved from the cooperation.

Comment: The reason for this particular question is not clear. We assume it means public attribution that the programme has influenced changes.

3. Approach and methodology

Since the programme covers a number of quite diverse areas the evaluation of sustainability poses considerable challenges. Tentatively we propose that the application of this criterion be concentrated to the *sustainability* of mainly organisational changes, i.e. areas 1, 3 and 4, while less emphasis on assessment of sustainability be put on area 2 (confidence) and area 5 (juvenile justice). The reason for suggesting this is that changes regarding the latter two areas may take longer time to detect with certainty and especially area 2 would require fairly elaborate measurements, which will be beyond the evaluation's resources.

Effectiveness will presumably best be determined individually for each of the five areas of support. Although the log frame table in the project document provides an overview of expected results and indicators the document lacks to some extent a "theory of change", i.e. in what way the concrete activities directed at certain individuals and parts of the organisation are supposed to influence the entire judiciary and its practices in the short and the long run. Some of the activities aim to initiate changes in unique institutions while other activities appear to be aimed at being replicated and applied to all or to certain types of courts. Other activities, like the study trips for candidate judges, seem to aim to introduce e.g. alternatives to the current Turkish procedures in a more indirect manner. Clarifying the theory of change (or lack thereof)

that in effect has governed the design of the activities is important and will affect the assessment of both effectiveness and sustainability.

Regarding *relevance* the ToR mention a number of important documents and sources that seem indeed helpful to assess the strategic importance of the Swedish support in relation to Turkey's own efforts. Interviews will constitute an important input in the assessment of relevance.

Some arguments are given in the project document for choosing the particular areas for Swedish support that are included in the programme but possible alternatives are not discussed. Those may be interesting to clarify during the course of the evaluation in order to determine relevance.

The *risk analysis* in the project document mentions a number of important aspects and seems comprehensive in that respect but there is little discussion about how these risks would be managed; only the language problem during programme implementation has any solutions on how to handle the risks. It may be useful to consider the originally identified risks in relation problems encountered during to actual implementation.

The main data collection will be through *reports* generated within the programme, *documents* from other sources and *interviews*. We have already received a number of SNCA reports as well as Sida documents and have started collecting other documents about the Turkish judiciary. Further documentation about the efforts by other donors will be required.

We should add that the team has considered using a *survey* with emailed questionnaires to certain categories of people benefitting from the programme but decided against this. It may have added valuable information from participants in the programme's various activities but it as deemed not feasible largely due to limited time available and the efforts needed to ensure an adequate rate of response.

Both SNCA and the embassy have supplied lists of persons that have been involved in the implementation or reached by the programme. Detailed planning and booking of interviews will take place immediately after the approval of the Inception Report at the beginning of September.

3.1 Evaluation work plan

Interviews with relevant persons that have been involved and engaged in the cooperation are an important part of the evaluation. We will here tentatively outline what we are considering covering in Turkey.

During the programme period there have been major changes as regards the staffing of key positions for the implementation of the project. This means that in addition to the geographical spread stemming from the areas 1-5 of cooperation and the involvement of both courts and prosecutors, persons previously very engaged in the coopera-

tion at the General Directorate for EU Affairs are now stationed outside of Ankara. Since these people carry important periods of the programme's institutional memory and practical experience of the Swedish cooperation and cooperation partner, the SCNA, they must be part of the evaluation.

We therefore propose that our travel in Turkey will include (please note that the places are not stated in an order of a travel plan):

Izmir. In order to interview former EU deputy GD and to collect data regarding area 1. We consider further comparing a “good” example of cooperation with a “less good” example. Izmir Courthouse with Administrative Court of Appeal in Gothenburg appears to demonstrate less successful experiences from the cooperation and from the project planning. The project plan was never agreed upon.

Bursa. In order to interview former GD EU Affairs, Head of Department of Projects. Will further provide data regarding the assessment of area 4, restructuring of tasks and court management. Area 4 may be described as an area where the Swedish partner, SNCA, should be in a good position to provide relevant input. Area 4 has close links with EU integration and the accession process. It is also a cooperation area that has a wide range of activities and the greatest number of activities. The Chief Public Prosecutor of Bursa and the Head of Judicial Commission in Bursa have taken part in the cooperation. Bursa courthouse is said to have established front desks and receptions in the courthouse, as a possible result of the cooperation.

Diyarbakir (since only one interview would be in Diyarbakir, we will look into how to manage this)

Ankara. All programme areas can be covered in Ankara and important interviews will be held here with the target group of the programme: Ministry of Justice, High Council for Judges and Prosecutors, and the Justice Academy. Ankara Court House is proposed to be included, and Sincan Courthouse can be used as an example of a more successful “sister project”. The reasoning for selecting Sincan is elaborated below. The EU delegation and 1-2 other donors will also be on the meeting agenda in Ankara.

Possibly, **Istanbul.** Istanbul could provide input to the area 4 which is an important area (see rationale above), and further, area 4 seem to have taken up a great part of the budget and resources in the programme. A visit to Istanbul would further provide the evaluation team with access to informants outside the programme, including a meeting with TESEV and possibly the Sabanci Vakfi for gender input and reflections.

The requirements in the ToR will be met through document study and analysis and through conducting interviews at the above locations with relevant persons representing all programme areas.

We had tentatively thought of going Eskisehir to look into the “Sister Court” project with Borås, but since priorities need to be made, we believe it better to choose another sister project, namely the prosecutors cooperation (in area 5) to not only cover the judges and court component in the programme. Consideration needs to be given to the fact that in Sweden, unlike in Turkey, judges and prosecutors are wholly separate systems. Sweden has no equivalent to the “High Council of the Judiciary” which represents, and exercises supervision over, both prosecutorial and judicial functions.

Further, by including Sincan Courthouse when we are in Ankara, it can provide a contrast to the Cooperation with Izmir Courthouse. Sincan courthouse and Helsingborg District court “sister project” engages with the role of prosecutors and, importantly relates to the MoJ Strategy Plan regarding improvement of juvenile justice in line with international documents. The Sincan project may further be described to have links to area 4 and to the EU funded court management (CMS II project), and has included domestic violence and the MATRA project.

All in all this presents interesting and important opportunities for cross-references and triangulation.

We propose that we start our work in Turkey with a meeting in Ankara at the Embassy, and also end with a debriefing at the Embassy.²⁸

In Sweden we plan to carry out interviews in Stockholm (including Nacka), Gothenburg, Borås and Helsingborg. The interviews will include persons involved both with planning and general expertise for the programme and institutions engaged in the sister court projects.

We envisage starting interviews in Sweden during the first half of September and will spend eight to nine days for interviews in Turkey, starting 15 September. The Draft Report will be delivered on 2 October as stated in the Proposal.

3.2 Division of labour within the team

The work within the team will be split largely so that most of the interviews in Turkey will be done by Pia Sassarsson Cameron (PSC) and Müslüm Akinci (MA) while

²⁸ See also comment towards the end of section 2 above about presentation of the evaluation report.

Stefan Dahlgren (SD) will carry out interviews in Sweden. However, SD will participate in fieldwork in Ankara and possibly at one location outside Ankara (this will be determined later). Summaries of interviews for internal use within the team will facilitate sharing of information about results from the fieldwork.

The main reasons for this division of labour are that the budget and time available will not allow for the whole team to participate in all interviews and also that the legal expertise in the team will be best used in the Turkish context.

Regarding analysis and report writing PSC will be responsible for the text about relevance while SD will draft the chapters on effectiveness and sustainability. MA will support both main report writers with additional text and scrutiny of drafts.

The team leader (SD) will ensure proper coordination and will be responsible for the final version of the evaluation.

3.3 Budget considerations

During the planning period and preparation of the inception report the team became aware of the practical consequences for this evaluation of recent changes of staff at the Ministry of Justice and other judicial bodies. Staff related to the Swedish supported programme have moved and are in several cases now posted away from Ankara. Although at least one visit outside Ankara was expected in the preliminary planning the need for additional visits became obvious.

Therefore Indevelop proposes an increase of the budget for expenses to cover additional travel.

Partly to offset the cost for additional visits the team have split, as described above, and one member concentrates on interviews in Sweden while the other two team member carry out most of the interviews in Turkey, thereby reducing expenses for travel and accommodation.

Annex 1 – Evaluation Matrix

Questions raised in ToRs *)	Methods and Indicators to be used in Evaluation **)	Sources	Availability and Reliability of Data /comments
Relevance			
to Swedish policy	Adherence to Swedish development policy in general, Swedish policy for reform cooperation with Eastern and the cooperation strategy for Turkey	Programme plans and reports; interviews, in particular with Sida. the embassy and SNCA; country strategy evaluation 2013	
to Turkish policies and (changing) needs	Assessed against Turkish judicial reform strategies	Interviews, in particular with senior staff at Ministry of Justice; and with sources external to the MoJ; reports, also outside the MoJ	Think tanks outside MoJ have assessed the reform process
to EU requirements	Assessed against relevant EU policies and documents	Interviews as above; interviews with representatives of EU, Council of Europe and other donors; progress reports regarding EU accession process	
to beneficiaries	Assessed against presumed improvements for Turkish citizens according to plans and reports	Various reports; media reporting	Think tanks outside MoJ (e.g. TESEV) have assessed the reform process; media reporting
to gender aspects	Assessed against Swedish policy documents, as defined and discussed in e.g. <i>Gender equality for development</i> (Foreign Ministry 2011)	Interviews as above; programme reports	
(Impact)	<i>Not used in this evaluation</i>		

Questions raised in ToRs *)	Methods and Indicators to be used in Evaluation **)	Sources	Availability and Reliability of Data /comments
Effectiveness			
Quality and timeliness of reporting	Checking reporting against work plans; assessing quality of reporting against programme objectives and whether outputs or outcomes are reported and discussed	Activity and yearly reports.	Insufficiently clear "theory of change" complicates quality assessment

ANNEX 5 – INCEPTION REPORT

Factors limiting effectiveness; remedial measures taken	Will follow preliminary, continuous analysis of results achieved; analysis of reports against programme objectives and work plans	Reports; project document; interviews with members of Steering Committee; MoJ and SNCA staff	
Handling of spin-off projects	Same as previous entry	Same as previous entry	We assume this means projects and/or activities not mentioned in advance in yearly work plans
SNCA's and MoJ's coordination with other institutions in respective country	Assessing what coordination might have been possible and/or desirable for areas of cooperation and activities; comparison with plans and activities by relevant institutions in respective country and with support provided by other donors	Reports; interviews with programme staff at MoJ and SNCA; interviews with other donors ***)	May be discussed also under "relevance". Time may limit the team's possibility to cover this item
Adequacy of funds available	Assessed against budget and how funds were actually used; opinions asked from SNCA and MoJ staff as well as Sida and Embassy	Reports; decisions by Sida; financial reports; interviews	Often of resources provided by Turkey were "in kind" and sometimes Turkey financed additional participants in study trips, etc., which may make it difficult to assess whether funding was adequate. Also plans are made on the basis of funds available and not on what would have been ideally required.
Most and least effective areas	Assessed against reported results compared to work plans and overall objectives; and with the help of opinions of MoJ and SNCA staff and with participants in activities	Interviews with MoJ and SNCA staff and with participants in activities	****) see comment below Resources available for the evaluation may limit access to participants in different activities
Publicly visible results	Positive changes regarding public perception of judicial reforms	Media reporting; reports on judicial reform strategy achievements	Sources might be scarce and not directly measuring the general public's perceptions
Actual results achieved	Assessed in relation to programme objectives as well as objectives in documents mentioned under "relevance" above	Reports and interviews with MoJ staff and participants; interviews with Swedish and Turkish staff at "sister courts"	This question added to the list in ToR
(Cost Efficiency) <i>Not used in this evaluation</i>			

Questions raised in ToRs *)	Methods and Indicators to be used in Evaluation **)	Sources	Availability and Reliability of Data /comments
Sustainability			
Capacity development of different kinds of staff	Activities assessed against the reform strategy, programme objectives and work plans; perceived achievements by MoJ staff and participants in activities	Plans and reports; interviews with MoJ staff and participants; interviews with Swedish and Turkish staff at "sister courts"	
Service by Swedish consultants	Opinions sought from staff at MoJ and SNCA as well as staff at "sister courts"	Same sources as previous entry	
Of Swedish "best practices" in court management adopted	Reports; opinions sought from staff at MoJ and SNCA as well as staff at "sister courts"	Same sources as previous entry	
Of networks "not tied to the MoJ"			Clarification needed regarding what this refers to

*) Questions from section 4.1 in the ToR, abbreviated and sometimes two or more questions are combined. (Only one question added by the team at this stage.)

**) Only some examples of indicators included here

***) By "donors" is meant also EU and Council of Europe

****) The last part of the question – "... how beneficiaries have perceived the activities" – will be very difficult to answer within the limits of this evaluation, if "beneficiaries" refers to the general public in Turkey



Evaluation of the Development Programme for Turkish Judiciary

The "Development Programme for the Turkish Judiciary" started in 2007 and is executed jointly by the Turkish Ministry of Justice and Swedish National Courts Administration. The objective is to facilitate Turkey's judicial reform strategy, which is crucial to Turkey's EU accession process and efforts to comply with the European convention on human rights.

This evaluation covers the programme's second phase 2011–2014.

The overall conclusion is that the programme is in line with the objective and enhanced of the principle of rule of law by making positive contributions to the reform strategy. Particularly successful were "sister court" cooperation on e.g. conciliation procedures to increase efficiency of courts and support to the Turkish Ombudsman institution. The evaluation proposes continuation of the programme but improved planning and reporting of outcomes is important.

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