

## **Court of Appeal (İstinaf Mahkemesi) as a way of “Right to Appeal”**

Court of Appeal is a second instance inspection mechanism and a way of Right to Appeal between the first instance courts and cassation. If the Court of Appeal is applied, after the verdicts of first instance courts, the verdict is going to be inspected by Court of Appeal; and only after the inspection of Court of Appeal, can the verdict be brought to cassation phase if it is applicable.

Appellate review is run by Supreme Court. Whereas, in the case of Court Appeal, Regional Courts of Justice that are going to be established in certain regions according to vocational and demographic density are going to carry on appellate review. At this stage, establishment of regional courts of justice in nine different regions is admitted; but an increase in the number of regions is possible. As the new Right to Appeal way is implemented, our legal system will be a three-phased adjudication system. First step is the adjudication in the first instance courts and the verdict, second one is the inspection of the verdict and the case by Court of Appeal (İstinaf) and the last one is the cassation procedure by Supreme Court.

### **The principal difference between Court of Appeal and Cassation**

In appellate review, Supreme Court inspects the verdict whether it is lawful as a rule, which is a legal inspection. If Supreme Court is convinced that the verdict is not lawful, the judgment was reversed but not any new verdict is given by Supreme Court. Whereas, in Court of Appeal, relevant regional court of justice inspects the verdicts of first instance courts in terms of both judicial and corporal matters. If regional court of justice finds the verdict as not lawful, in some certain circumstances, if required, regional court of justice can reach a new verdict following a retrial by itself. In short; Court of Appeal not only inspects the verdicts or cases but also, if required, delivers a judgment after inspection and retrial. The verdicts of Court of Appeal can be brought in Supreme Court of Cassation only for inspection.

Another mistake on Court of Appeal issue is that this procedure is going to be a waste of time since Court of Appeal is a kind of cassation and the verdict in question is inspected by both regional court of justice and Supreme Court of Cassation. In fact, Court of Appeal inspection differently from cassation is going to bring the inspection of the verdict in both material and legal aspects and regional court of justice can bring a new verdict after a retrial if necessary. The inspection of Cassation is quite limited to a legal one, there is no such a retrial as in Court of Appeal if the verdict is not found appropriate, and after being reversed that verdict is just sent back to first instance courts. In short, Court of Appeal is not a kind of cassation or a way of it, it is a distinct way of Right to Appeal on its own. With Court of Appeal system, as regional court of justice which is superior court retries, a more credible justice system is ensured.

### **Benefits of Court of Appeal**

Court of Appeal as a Right to Appeal is going to ensure a more credible trial because instead of one way of Right to Appeal, with the implementation of Court of Appeal, a system of Right to Appeal with twin-stepped organization is going to be launched. This double inspection change is quite liable to bring more accurate and credible verdicts. Furthermore, as mentioned above, Court of Appeal not only inspects but also retries if required; and this facility is going to maintain calculable results. Just because of this, for long years, three-stepped legal system has been implemented in many countries.

With Right to Appeal, since the inspection mechanisms against the verdicts is going to be increased, the problems aroused on fair trial is going to be diminished and the confidence in courts is going to be raised.

After a short period of time, Court of Appeal is going to ease the work load of Supreme Court and this will enable Supreme Court to run its duties of legal inspection and and court practices more effectively.