

# 6 OPTIMUM STRUCTURE OF COURTS AND MODERNIZED JUDICIAL PROCEDURES

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Atty. Mehmet Gün  
Atty. Hande Haçar

### **Rationale**

The main purpose of our proposals is to provide the judicial units with an optimum structure and geographical distribution to enable them to provide quality judicial services to society and bring the service to the public. The headquarters of the Supreme Court of Appeals and the Council of State, which are the final courts of appeal, will be located in Ankara and their jurisdiction will cover the whole of Turkey. The 15 regional courts of appeal, established by taking into account regional needs, will be preserved exactly as they are. The regional administrative courts, which are currently gathered in seven regions, will be divided into 15 regions and matched with the regional courts of appeal. It is proposed that the first-instance administrative and tax courts should be combined with the first-instance judicial courts, but that they should also act as specialized courts.

First-instance courts will be provided with an optimum structure on the basis of 26 development regions. The courts of the committee, hearing issues that require experience and expertise, will be concentrated in easily accessible centers. The newly proposed judicial preparation courts, together with courts that need to be able to intervene quickly, will hear relatively small and easy cases, and will serve at the feet of the citizen. Rules of procedure will be developed so that all kinds of cases can be heard and concluded in a single session. It is proposed that preparation judicial courts should be established in order to carry out trial preparation procedures, to help attorneys perform their duties effectively and in full compliance with the law, and to prevent abuses.

Thus, it is estimated that it will be possible to reduce the number of courts from more than 7,000 to around 2,000–3000.

Civil, criminal and administrative procedures will be modernized. The preparation phase of the proceeding will, on the one hand, complete cases and, on the other encourage the re-establishment of honest behavior, compromise, solidarity and cooperation. As soon as conflicts arise, they will be recorded in a database, i.e. the National Conflict Database, and given a reference number indicating year, sector and region information in the Ministry of Justice “National Judiciary Informatics System” (UYAP). Services will be planned proactively and the reference number will not change until the conflict is resolved.

Disputes that are passed to the court as their file has matured will be resolved in a “single session” proceeding after the petition has been exchanged. The parties will explain the facts and evidence honestly, and the attorneys will collect evidence, find and assign experts, and ensure that the questions of the other party are answered. Judicial commissions will be content with keeping the records of experts and maintaining discipline.

Thus, the rates of peace and reconciliation before the proceeding will increase, and reconciliation and mediation institutions will demonstrate their true function without the need for coercion. However, in the event that a dispute cannot be resolved, cases that currently last four to five years in the first-instance courts will be resolved as a result of a highly satisfactory trial within three to four months from the date of submission to the court.



Saim Dursun, "Ses" (Sound), 45 x 60cm, oil on canvas, spatula technique, 2011



# The Outline of the Optimum Structure of Courts and Modernized Judicial Procedures

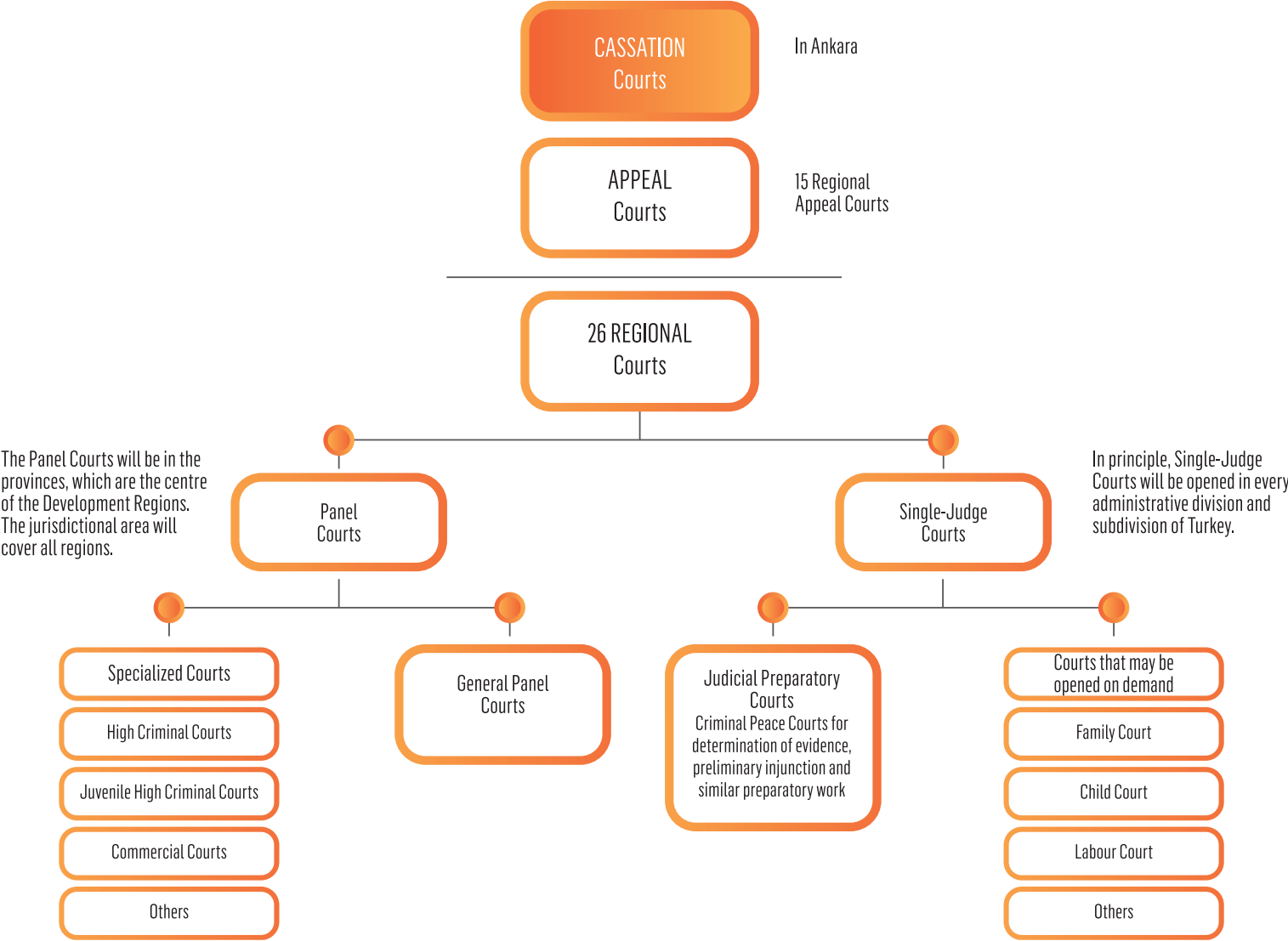
- 1- The Cassation Courts are in the capital city, Ankara.
- 2- The structure of the Regional Appeal Courts in the existing 15 regions will be maintained. It is advised that the judicial competence area of the seven Regional Administrative Appeal Courts be matched with the judicial competence area of the Regional Appeal Courts. It is also advised that the first-instance Administrative and Tax Courts be combined with the first-level Civil Courts, and the former two are organized as specialised courts within the general first-instance court structure.
- 3- The first-instance courts will be restructured in an optimal manner, based on the 26 Development Regions. The specialized courts' experience and expertise will be concentrated in easily accessible central areas, while, for minor conflicts, matters requiring expedited attention, and preparation work for a single-hearing adjudication, the judiciary will be on people's doorstep, allowing them easy access to justice.
- 4- Civil, criminal and administrative judicial procedures will be modernized, the preparation stages being used to enhance the integrity of the parties, improve aspects of amicable settlement, and reinstate co-operation and collaboration, while helping to prepare cases in the event they progress to court adjudication.
- 5- Each case will be recorded in a database of disputes in the National Judicial Network Project (UYAP) with a reference number that will indicate the year, the business sector and the region, and this number will not be changed.
- 6- The case file before the court will be complete and the case will be concluded in a single hearing after the exchange of petitions.
- 7- The experts will be selected and assigned by the lawyers, and the judicial commissions will be responsible for the registry of these experts.

## A First-Instance Court Structure Based on the Development Regions

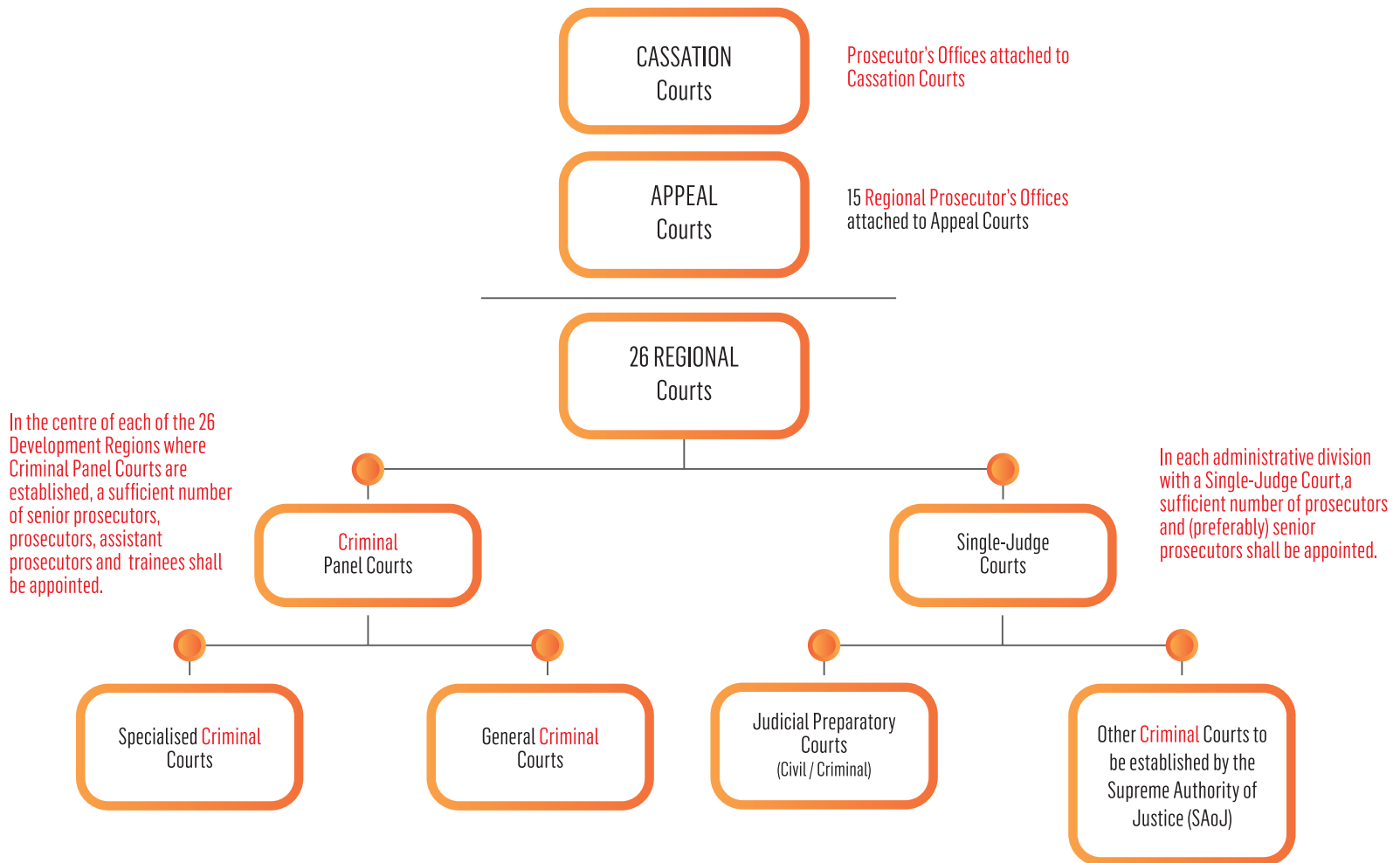
The restructuring of the first-instance courts will be based on the 26 Development Regions determined by the Nomenclature d'Unités Territoriales Statistiques (NUTS) system. They will be organized in line with the needs of each region, taking into consideration their demographic structure, social relations, business activities and GDP capacity.



# The Structure of the Courts, Based on the 26 Development Regions



## Prosecutor's Offices Structured in Line with Court Structure





# First Instance Courts Based in the Development Regions

- The Cassation Courts are subject to their own special laws. They are in Ankara and have jurisdiction over the whole of Turkey.
- The Supreme Authority of Justice is authorized to establish, merge or abolish courts or their specialization, and has jurisdiction over all courts except the Cassation Courts.
- Regional Appeal Courts shall be established in 15 regions to cover one or more than one Development Region.
- The First-Instance Courts consist of two types: Single-Judge Courts and Panel Courts. Panel Courts are classified as general courts or specialized courts. The general courts have the jurisdiction of specialized courts in areas where there are no such courts.
- Panel Courts are established in the province that is at the center of each Development Region. Their jurisdiction is over the entire Development Region.
- In principle, Single-Judge Courts are also established in the province that is at the center of each Development Region. Depending on the needs of inhabitants, and based on available transportation or other factors, Single-Judge Courts shall also be established in districts or smaller administrative divisions within the region.
- In principle, Single-Judge Courts dealing with urgent needs in civil, criminal or administrative matters such as interrogation, preliminary injunction, preliminary attachments, discovery, determination of evidence, collecting evidence shall be established in each administrative division. In exceptional cases, these courts may be established to cover several administrative divisions.
- The Supreme Authority of Justice may decide to establish Single-Judge Courts 'to deal with family or labour matters, depending on the needs of the inhabitants in an administrative division, based on the quantity and quality of conflicts.

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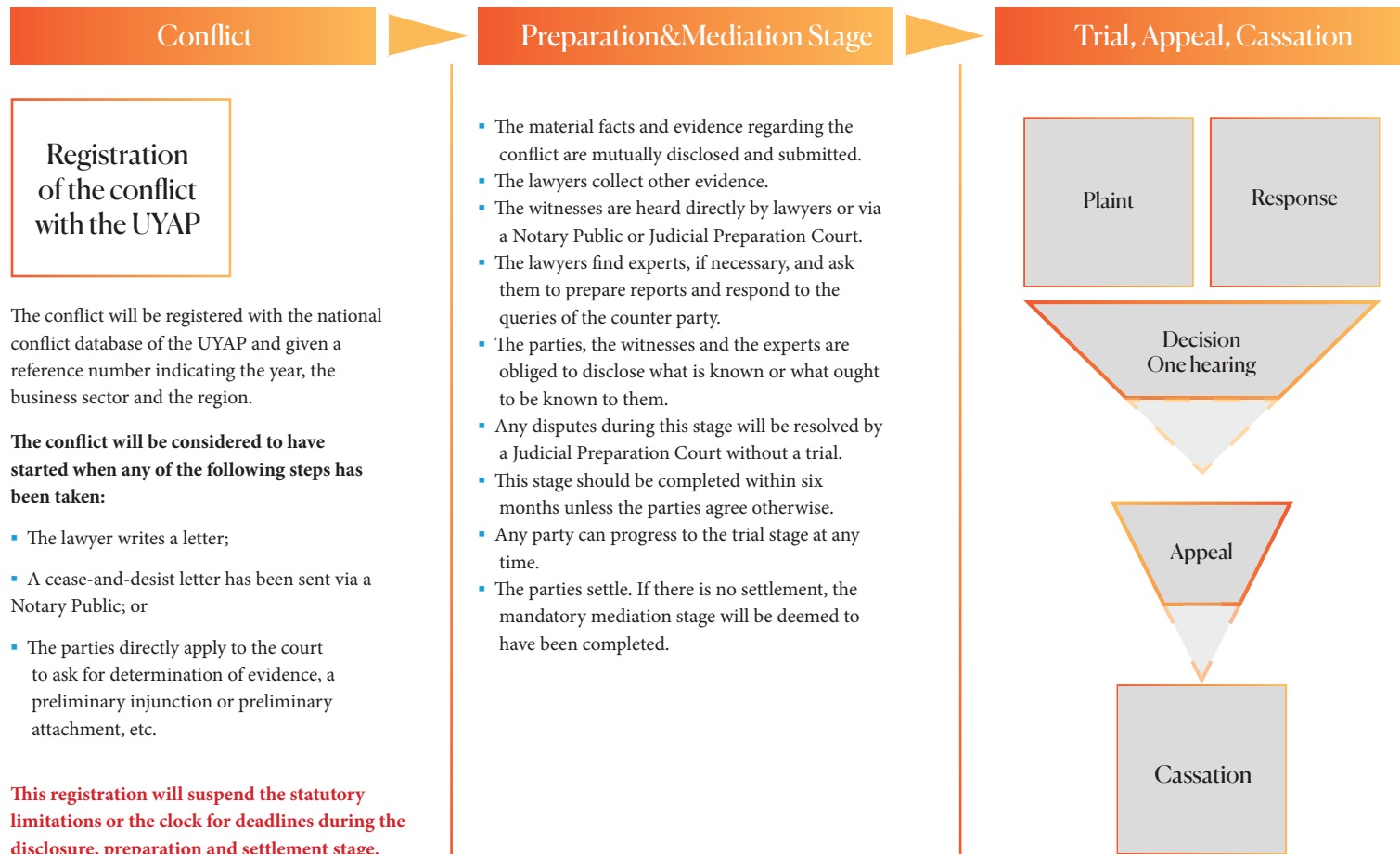
## Judicial Preparation Courts

- These courts are not separated into civil, criminal or administrative courts. They deal with all preliminary issues such as interrogations, collecting evidence, determination of evidence, and ordering for preliminary injunction or preliminary attachment in all types of conflicts, whether civil, criminal or administrative.
- In principle, these courts shall be established in each administrative division.
- In exceptional cases, they may be established to cover several administrative divisions. The Supreme Authority of Justice makes this decision based on economic size, and available transportation and human resources, as well as the social needs of the inhabitants of the administrative divisions.
- These courts are Single-Judge Courts, and first-level judges shall be seated. Depending on the court's needs, vocational interns and assistant judges shall also be assigned.
- Their task is to deal with all urgent and preliminary issues such as interrogations, collecting evidence, determination of evidence, and ordering for preliminary injunction or preliminary attachment in civil or criminal conflicts, and to ensure legal security.
- Any decision of these courts can be appealed before the Panel Court located in the center of the region.

# The Advantages of Modernized Judicial Process Management

- Data collected regarding (i) the quality of conflicts, (ii) related business fields, and (iii) geographical areas enables the need for judicial services to be foreseen and also enables parties to settle their conflict and/or better prepare for trial.
- The preparation and settlement stage (i) ensures the parties are open and honest with each other, establishes a courteous relationship between them and thereby encourages settlement. (ii) In the event the dispute is not settled, it ensures the case is filed with complete information and documents, and the trial can be completed in one hearing. (iii) Finally, it ensures that a conflict is resolved by one judge before he/she is moved to another court. In brief, all conflicts will be resolved in one hearing, without wasting resources.
- The intervention of a Judicial Preparation Court during the preparation stage provides an easily accessible, fast, efficient and effective service to the public. The judge of the Settlement Court supervises the preparation of the case file in a thorough manner.
- The direct appointment of experts by lawyers saves the court's time and enhances the quality of the expert reports. It also ensures that expert reports are prepared within two to three weeks, rather than the two to three years it has traditionally taken, and requires the appointment of more than one expert panel to be able to compile a complete report. The courts will thereby be saved an unnecessary workload.
- Taking the statements of the accused, witnesses and cross-examination experts during the preparation stage saves time and facilitates the single-hearing trial.

# Modernized Judicial Procedures in Civil Law Conflicts

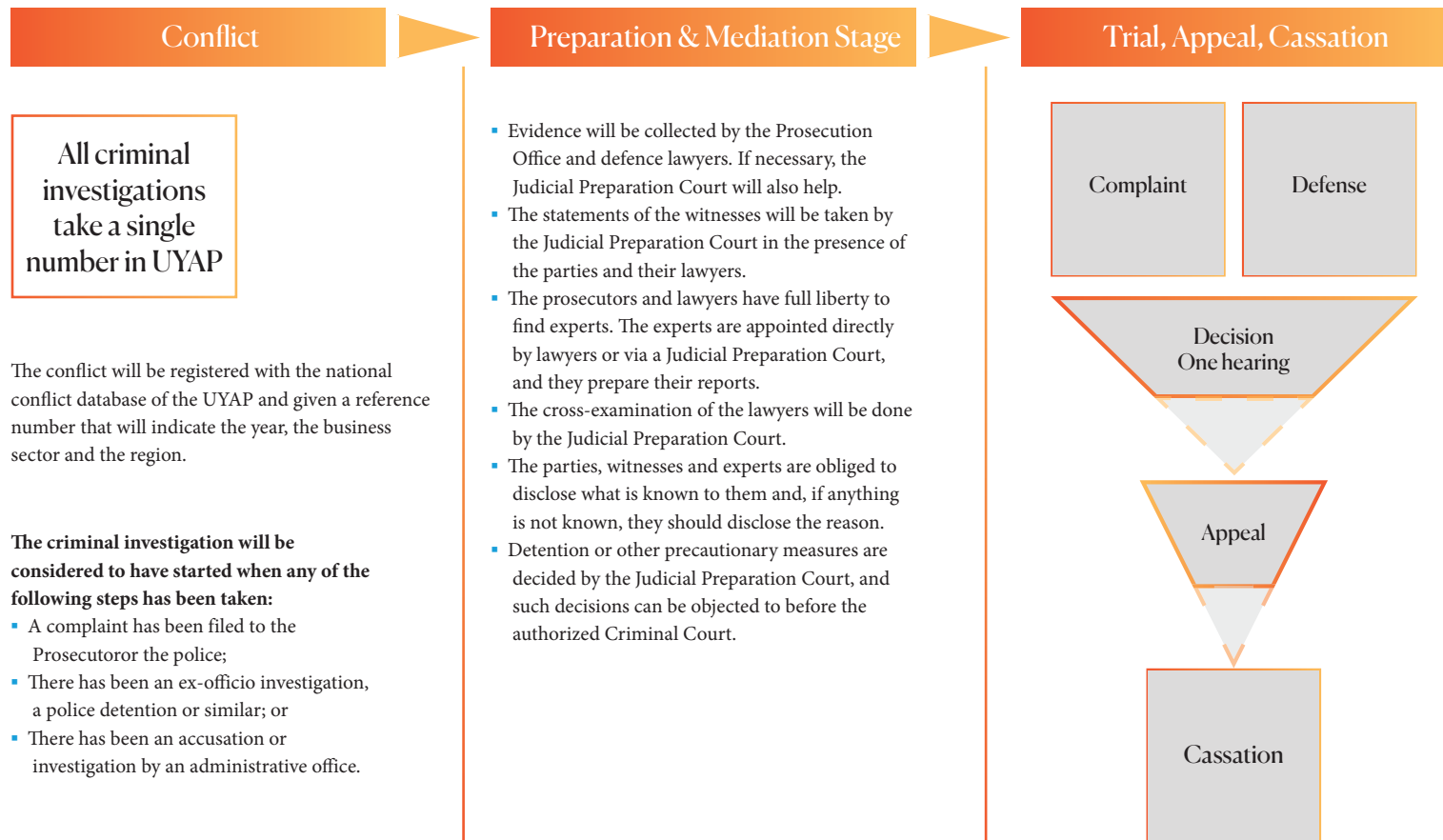




Saim Dursun, "Sebep" (Reason), 44 x 64cm, oil on canvas, spatula technique, 2013



# Modernized Judicial Procedures in Criminal Law Conflicts



# Modernized Judicial Procedures in Administrative and Tax Law Conflicts

