

# Effective Techniques for Teaching Anglo-American Legal System in Turkish Legal Education

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## Introduction

Following establishment of the Republic of Turkey in 1923, one of the most important developments in Turkish legal history was the adoption of the Civil Code and the Code of Obligations of Switzerland in 1926. Since the Swiss Civil Code enacted in 1912 had been influenced by Roman-German legal systems, Turkish legal system has necessarily been built on the foundation of Roman law or Continental legal system. For example, the separation of the public and private law in Turkish legal system relies on Roman law tradition. Statutory law is the main source of Turkish law in contrast to judge made law of the Anglo-American legal system. In 1926 the commercial law of Turkey which was later replaced by the Commercial Code of 1957 had been enacted. Turkey adopted its Penal Code from Italian Penal Code of 1889 in 1926. A new Penal Code of Turkey implementing the relevant provisions of European Union (EU) law came into force in 2005. A new Turkish Civil Code also came into effect in 2000. A draft Commercial Code implementing EU company law directives is expected to be enacted in the near future. In general, Turkey's public law has been influenced by French law while a Swiss-German influence can be seen on Turkish private law. The implications of the influence of Swiss-German law on Turkey's private law and that of French law on Turkey's public law have been, predominantly, the use of the languages of French and German in Turkish legal education as well as in legal profession.

Recently, however, Turkey, stemming from its EU membership agreement has started to implement all EU law provisions. The main language used to translate all EU

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law to Turkish is English. Further, the domination of use of English language in international business transactions, international securities market and information technology has led to English language to gain substantial importance in Turkish legal education while Anglo-American legal system influences on certain areas of Turkish law such as securities market law, consumer protection and competition law. Indeed, some elements of Anglo-American legal system such as self-regulation (soft law) have already been introduced into Turkish legal system as a result of the implementation of EU law provisions.

Both academics and those in legal profession, such as judges, lawyers now attach great importance to understand Anglo-American or common law system while English language is now used in Turkey's legal education more commonly.

### **Language and Case Based Approach as Techniques for Teaching Anglo-American System in Turkish Legal Education**

In Turkey the formal language in legal education is Turkish. Turkish law faculties accept students after high school. Students are admitted to the law faculty from all over the country after the university entrance examination which is held nationwide by the Higher Education Board (Yuksekk Ogretim Kurulu "YOK"). The university entrance examination is very competitive. There are two types of universities, namely private universities and state universities in Turkey. Both state and private universities are supervised by the Higher Education Board.

While the formal language in legal education is Turkish, the growing number of universities' law faculties has introduced English Language into their curricula as a compulsory course which lasts one year term. Following the entry to law faculty students who cannot demonstrate that they have certain level of English by a written exam should study English language one year period if the curriculum of the faculty includes English language on a compulsory basis.

The legal education takes four years as a rule in Turkey. However, a number of private universities' law faculties add to their curricula general courses such as legal philosophy, sociology, economics, which lasts one year period before students take their

legal courses. If the faculty which adds general courses to its curriculum has also one year compulsory English course, the legal education will take for six years at most. Students who are taught English language and those who are exempted from taking English language as they already have certain level of English, are also offered some courses, on a voluntary basis, such as European law, international law, international human rights, international transactions in English during their four or five year legal education period.

English language is becoming an essential technique for teaching common law cultures and legal systems in Turkish legal education. The ability of using English language provides law students and those in the legal profession such as judges and lawyers with the access to materials of Anglo-American system. Nevertheless, both Turkish law students and those who have already completed their legal education in civil law tradition are not familiar with the basic features of common law systems, and therefore they cannot use English to gather information about common law systems, even though they know English. To response to this problem, the increasing number of law faculties offers their law students some courses, on a voluntary basis, providing them with the legal terminology as well as basic elements of the Anglo-American legal system during their formal legal education. Some law faculties also organize certificate programs and short –term courses for both law students and those in legal profession to teach them basic principles of common law tradition.

Besides teaching English language, case based approach is adopted as a technique in teaching common law legal system in Turkish legal education. Cases relevant to the course are examined in the classes so as to convey basic principles of common law system and cultures.

