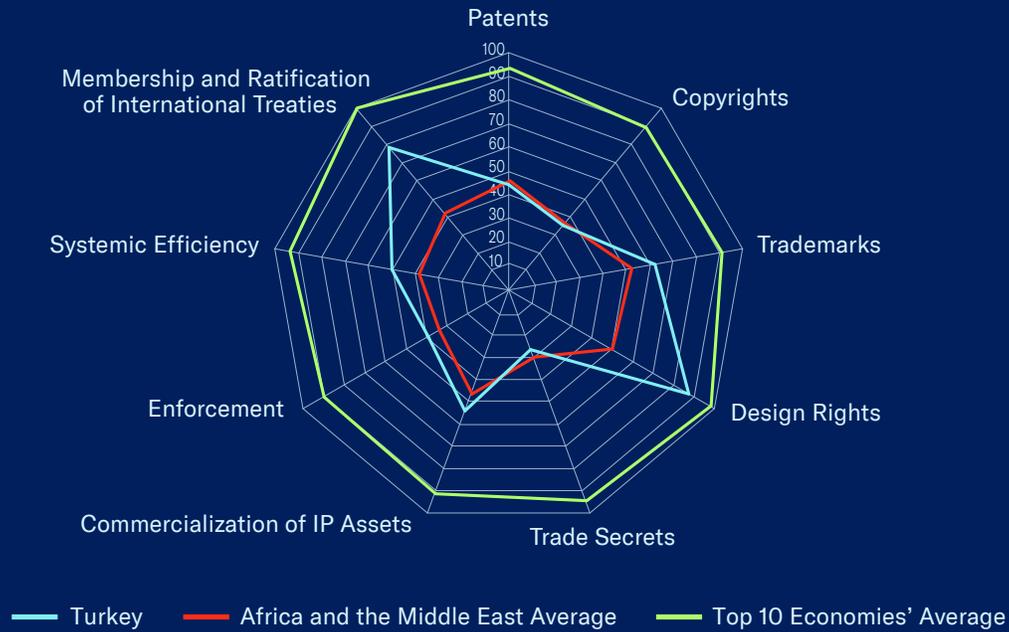
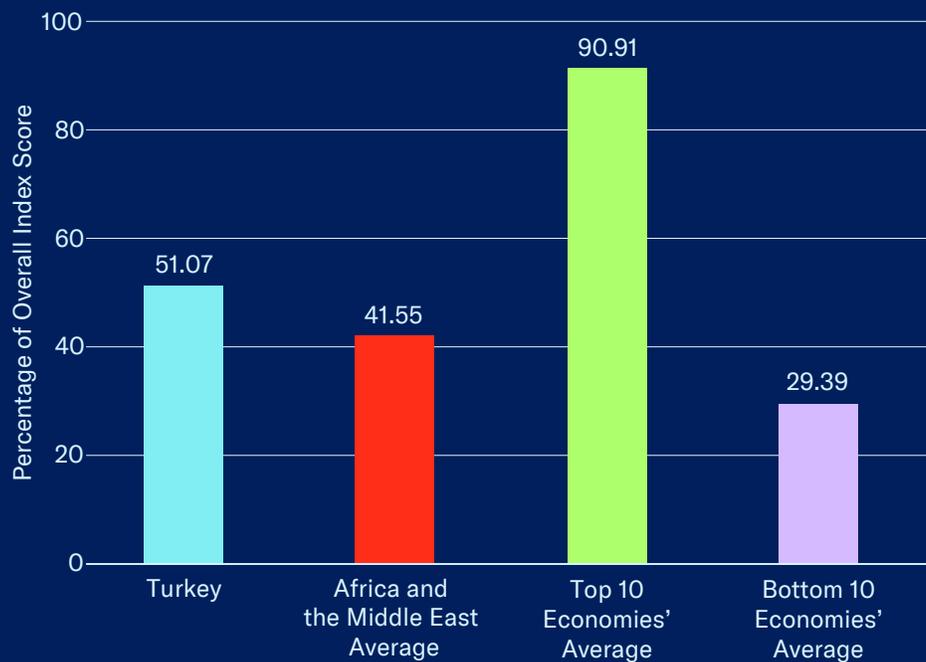
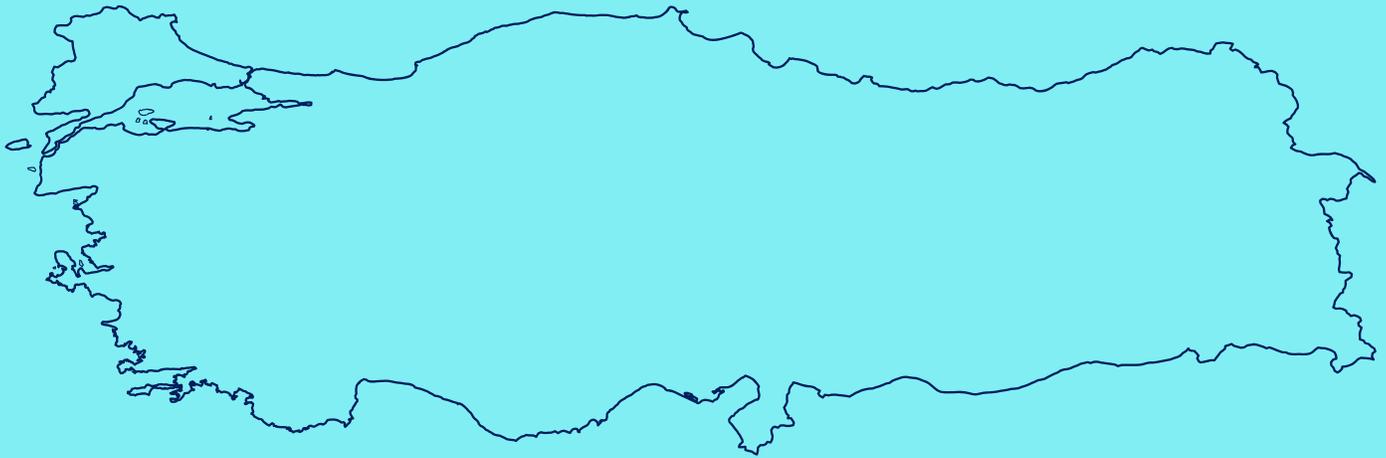


Category Scores



Overall Score in Comparison





Key Areas of Strength

- Turkey has over the years sought to align its national IP environment with EU standards
- Active promotion of importance of IP protection and use as an economic asset among public/SMEs
- Generous R&D and IP-specific tax incentives in place

Key Areas of Weakness

- Localization policies are becoming a more prominent part of industrial and economic policy targeting high-tech sectors
- RDP not being granted to biologics
- Key gaps persist in copyright environment and patent protection and enforcement
- For biopharmaceuticals, industrial localization policies have fused together with IP policy and broader health policy on the pricing and procurement of medicines
- High counterfeiting and software piracy rates—56% in the latest BSA estimates

Indicator	Score
Category 1: Patents, Related Rights and Limitations	4.00
1. Patent term of protection	1.00
2. Patentability requirements	0.50
3. Patentability of computer-implemented inventions (CIIs)	0.50
4. Plant variety protection, term of protection	1.00
5. Pharmaceutical-related patent enforcement and resolution mechanism	0.00
6. Legislative criteria and use of compulsory licensing of patented products and technologies	0.00
7. Patent term restoration for pharmaceutical products	0.00
8. Membership of a Patent Prosecution Highway (PPH)	0.50
9. Patent opposition	0.50
Category 2: Copyrights, Related Rights, and Limitations	2.49
10. Copyright (and related rights) term of protection	0.74
11. Legal measures which provide necessary exclusive rights that prevent infringement of copyrights and related rights (including Web hosting, streaming, and linking)	0.25
12. Expeditious injunctive-style relief and disabling of infringing content online	0.25
13. Availability of frameworks that promote cooperative action against online piracy	0.25
14. Scope of limitations and exceptions to copyrights and related rights	0.25
15. Technological protection measures (TPM) and digital rights management (DRM) legislation	0.25
16. Clear implementation of policies and guidelines requiring that any proprietary software used on government ICT systems should be licensed software	0.50
Category 3: Trademarks, Related Rights, and Limitations	2.50
17. Trademarks term of protection (renewal periods)	1.00
18. Protection of well-known marks	0.75
19. Legal measures available that provide necessary exclusive rights to redress unauthorized uses of trademarks	0.50
20. Availability of frameworks that promote action against online sale of counterfeit goods	0.25
Category 4: Design Rights, Related Rights, and Limitations	1.75
21. Industrial design term of protection	1.00
22. Legal measures available that provide necessary exclusive rights to redress unauthorized use of industrial design rights	0.75
Category 5: Trade Secrets and the Protection of Confidential Information	0.80
23. Protection of trade secrets (civil remedies)	0.25
24. Protection of trade secrets (criminal sanctions)	0.25
25. Regulatory data protection term	0.30

Indicator	Score
Category 6: Commercialization of IP Assets and Market Access	3.25
26. Barriers to market access	0.00
27. Barriers to technology transfer	0.50
28. Registration and disclosure requirements of licensing deals	0.50
29. Direct government intervention in setting licensing terms	0.50
30. IP as an economic asset	0.75
31. Tax incentives for the creation of IP assets	1.00
Category 7: Enforcement	2.74
32. Physical counterfeiting rates	0.30
33. Software piracy rates	0.44
34. Civil and preceudural remedies	0.25
35. Pre-established damages and/or mechanisms for determining the amount of damages generated by infringement	0.25
36. Criminal standards including minimum imprisonment and minimum fines	0.25
37. Effective border measures	0.50
38. Transparency and public reporting by customs authorities of trade-related IP infringement	0.75
Category 8: Systemic Efficiency	2.50
39. Coordination of IP rights enforcement	0.50
40. Consultation with stakeholders during IP policy formation	0.50
41. Educational campaigns and awareness raising	0.75
42. Targeted incentives for the creation and use of IP assets for SMEs	0.25
43. IP-intensive industries, national economic impact analysis	0.50
Category 9: Membership and Ratification of International Treaties	5.50
44. WIPO Internet Treaties	1.00
45. Singapore Treaty on the Law of Trademarks and Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks	0.75
46. Patent Law Treaty and Patent Cooperation Treaty	0.75
47. Membership of the International Convention for the Protection of New Varieties of Plants, Act of 1991	1.00
48. Membership of the Convention on Cybercrime, 2001	1.00
49. The Hague Agreement Concerning the International Registration of Industrial Designs	1.00
50. At least one post-TRIPS FTA with substantive IP provisions and chapters in line with international best practices	0.00

Total Score:
25.53



Spotlight on the National IP Environment

Past Editions versus Current Scores

Turkey's overall score remains unchanged at 51.07% (25.53 out of 50).

Commercialization of IP Assets and Market Access

26. Barriers to market access: Over the last two decades, Turkish industrial and economic policy has increasingly been driven by an effort to localize industrial production and R&D. A major part of these efforts has been localization and import substitution policies that actively discriminate against foreign entities and favor domestic Turkish companies. These policies have to a large extent targeted the research-based biopharmaceutical and ICT industries. In November 2014, the Turkish Prime Minister presented the objectives of covering 60% of national demand for pharmaceuticals and 20% for medical devices with local production, as well as increasing clinical research by 25%. In 2016 the Turkish Medicines and Medical Devices Agency began implementing an import substitution plan whereby drugs that have at least one local generic or therapeutic equivalent are required to localize their production by 2018 or be excluded from public reimbursement. An Import and Transfer Commission was set up to manage the process and evaluate commitments by drug producers. Industry reports suggest that close to 200 products were delisted in 2018, of which 71 medicines were identified and delisted from reimbursement in early 2018 by the Turkish Social Security Institution.

In 2019 the European Union filed a complaint before the WTO alleging that Turkey's localization policies were in violation of fundamental provisions of the General Agreement on Tariffs and Trade (GATT), the Agreement on Trade-Related Investment Measures (TRIMS), TRIPS, and the Agreement on Subsidies and Countervailing Measures (SCM) agreements. In September 2020, the WTO announced that due

to the COVID-19 pandemic, no final report would be issued on this dispute until the second half of 2021. As the time of research—late 2021—no report had been published by the WTO. More broadly, the Turkish government actively uses public procurement policies as a form of incentivizing localization and discriminating against foreign bidders. Since 2002, under Article 63 of the Procurement Law, domestically manufactured products are afforded a 15% price advantage in tenders. For several years, there was some uncertainty as to what constituted a “local” product. In 2014 the threshold for being considered a local product was explicitly defined and raised as part of Decree 2014/35. In order to obtain a Domestic Goods Certificate, and in so doing qualify for the price preference, all companies operating in Turkey, including foreign firms, must make domestic investments of at least 51% of the contract value. This investment must include major parts of the production process and not just the final stages. Also, any certificate applicants operating under a joint venture must be comprised of only domestic partners. Since 2015 all government ministries have the possibility to apply Industrial Cooperation (civil offset) clauses for public procurement contracts. Regarding the ICT sector, Turkish laws place onerous requirements (including local data storage) on ICT companies and digital service providers.

Sector-specific data storage requirements are in place on payment service providers and banking and financial services institutions. As with other localization measures, the requirements for data providers have intensified in the last few years. In 2020 the Turkish Parliament passed amendments to Law No. 5651 (the Regulation of Internet Broadcasts and Prevention of Crimes Committed through Such Broadcasts). These amendments require social media service providers with over 1 million visits per day to store any user data locally in Turkey, appoint a legal representative in Turkey, and report regularly on their activities and requirements under

these amendments. Non-compliance is potentially subject to substantial fines. While cross-border transfers are technically allowed under the Law on the Protection of Personal Data, such transfers can only take place after explicit consent has been obtained from the data subject or the country to which data is being transferred to provide an equivalent level of protection as in Turkey. These conditions have not improved in 2021. The Index will continue to monitor these developments in 2022.

Enforcement

34. Civil and procedural remedies; and 35. Pre-established damages and/or mechanisms for determining the amount of damages generated by infringement:

IP laws in Turkey generally provide for basic civil remedies, which include injunctions, damage awards, and, for patents and trademarks, the confiscation of goods and equipment used to produce infringing material. However, with respect to practical enforcement in Turkey, this is characterized by long delays. In the 2020 edition of the World Bank's *Doing Business* report, Turkey ranked 24th in the category "Enforcing contracts." Although a good overall ranking, it takes, on average, 623 days to enforce a contract—almost 2 years—and at an estimated cost of 24.9% of the claim value. These long delays have actually increased by almost 200 days over the last decade from an average of 449 days in the time period 2004-2015. More broadly, there remains a general dearth of IP expertise and experience on the part of the judiciary and public prosecutors and, in addition to the difficulty in obtaining preliminary injunctions, many sentences are reversed on appeal.

As noted over the course of the Index, there have been some positive developments over the last decade in Turkey, the most prominent being the introduction of specialized IP courts in select cities and the establishment of a special prosecutor's agency responsible for IP rights investigations. However, industry reports suggest

that the specialist courts are over-burdened and rightsholders continue to face difficulties in gaining redress through the judiciary. With respect to damages, while there are mechanisms in place in the IP Code to estimate damages for most major IP rights, historically, damages awarded have been fairly low and non-deterrent. In a positive development, local legal analysis suggests a record amount of damages have been awarded in a long-running copyright infringement case. The case, first filed in 2008, finally saw a judgment in late 2020 with the plaintiff receiving compensatory damages of three times the amount of its standard licensing fee. It would be a marked improvement in the enforcement environment if this case sets an example for future awards in IP disputes. The Index will monitor these developments in 2022.