

Assoc. Prof. Dr. Nilay ARAT



**Kadir Has University Faculty of Law
Department of Administrative Law
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EDUCATION

Habilitation, Inter-university Council (2017): Habilitation Thesis: *Administrative Discretion under Turkish Law*

İstanbul University Social Sciences Institute, İstanbul/Turkey (2003-2009): Ph.D. in Public Law
Ph.D. Thesis: “*Alternative Dispute Resolution under Turkish Administrative Law*”, Supervisor: Prof. Dr. İl Han ÖZAY

Bilgi University School Of Law, İstanbul/Turkey (2003): Law of Economics Programme.

Tulane University Law School, New Orleans/USA (2001-2002): LL.M. in International and Comparative Law, Supervisor: Prof. Dr. Martin DAVIES, Prof. Dr. Thomas CARBONNEAU

Oxford University Magdalen College, Oxford/UK (2000): Public International Law Programme, Supervisor: Prof. Dr. Chaloka BEYANI

İstanbul University School of Law, İstanbul/Turkey (1995-1999): LL.B.

PROFESSIONAL EXPERIENCE

2020-2021 : **Associate Professor** at Academy of European Public Law and at European Law and Governance School

2017-... : **Associate Professor** at Kadir Has University Faculty of Law, Department of Administrative Law

2010-2017 : **Assistant Professor** at Kadir Has University Faculty of Law, Department of Administrative Law

2003-2010 : **Research Assistant** at Istanbul University Faculty of Law, Department of Administrative Law

2002 Fall : **Legal Intern** at the United Nations Conference on Trade and Development, Geneva/Switzerland

2002 Summer : **Legal Intern** at the Turkish Permanent Mission to the United Nations, New York/USA

OTHER EXPERIENCES and MEMBERSHIPS

Board Member of Press Council, 2021-onwards.

Director of the Kadir Has University Liability Law Research and Practice Center, January 2021-onwards.

Head of the Kadir Has University Vocational School of Justice, March 2018-onwards.

Member of “Board of Directors” of Kadir Has University Faculty of Law, 2011- onwards.

Member of “Social Sciences Institute Board”, Kadir Has University, 2011-2018.

Member of “Kadir Has University Laws and Regulations Committee”, 2010-2020.

Vice-Dean, Kadir Has University Faculty of Law, 2011-2014.

Member of the European Public Law Organisation, 2011.

Member of Editorial Board of İstanbul University Faculty of Law Journal, 2008.

Member of the Law Research and Analysis Bureau of the İstanbul University, 2006.

Member of Istanbul Bar and Union of Turkish Bars since 2003.

Member of Foreign Lawyers’ Association at Tulane, 2002.

MAIN AREAS OF RESEARCH

Administrative Law, Judicial Review of Administration, Law of Arbitration, Human Rights Law, Health Law, Liability Law.

SCHOLARSHIPS

2006 :Research Scholarship of **Tinçel Foundation, İstanbul University Faculty of Law**, for research on Ph.D. thesis at the George Washington University School of Law.

RESEARCH

Max Planck Institute for Comparative Public Law and International Law, Heidelberg, Germany.

Visiting Scholar, August –September 2013.

Institut Suisse de Droit Comparé, Lausanne, Switzerland.

Visiting Scholar, August –September 2011.

George Washington University Law School, Washington, D.C., USA.

Visiting Scholar, October 2006 - July 2007 (George Washington University waiver).

COURSES TAUGHT

GRADUATE COURSES

- Arbitration in Administrative Disputes (LL.M. in Public Law)
- Administrative Discretion and Its Judicial Review (LL.M. in Public Law)
- Liability of Health Institutions (LL.M. in Public Law, LL.M. in Private Law)
- Effects of ECtHR Case Law on Turkish Administrative Judicial Procedure (LL.M. in Public Law)
- Expropriation and Right to Property under the ECtHR Case Law (LL.M. in Public Law, LL.M. in Private Law)
- Right to Private and Family Life (LL.M. in International and Comparative Law)

UNDERGRADUATE COURSES

- Administrative Law (Faculty of Law)
- Administrative Judicial Procedural Law (Faculty of Law)
- Planning Law (Faculty of Law)
- Environmental Law (Faculty of Law)

- Introduction to Administrative Law (Faculty of Economics, Administrative and Social Sciences)
- Introduction to Comparative Law (Faculty of Law/ Faculty of Economics and Public Administration)

LANGUAGES

Turkish (native), English, French (*working knowledge*).

LIST OF SELECTED PUBLICATIONS

BOOKS & BOOK CHAPTERS

- 1- **Türk İdare Hukuku'nda İdarenin Hukuk Sınırları İçinde Hareket Serbestisi "Takdir Yetkisi" ve Bunun Sınırları Üzerine Bir İnceleme (Administrative Discretion and Its Limits under Turkish Administrative Law)**, Beta, İstanbul 2015. (ISBN 9786053334699)
- 2- **İdari Yargıda Adil Yargılanma Hakkına İlişkin Emsal Kararlar**, Avrupa Konseyi Yayınları (İdari Yargının Etkinliğinin Artırılması ve Danıştay'ın Kurumsal Kapasitesinin Güçlendirilmesi Projesi), Ankara 2022 (Co-writers: Prof. Dr. Sibel İNCEOĞLU, Dr. Öğretim Üyesi Erkan DUYMAZ). (In Publication).
- 3- Commentary on the European Social Charter, "*Article 16: The Right of Family to Social, Legal and Economic Protection*", **RACSE Project on the Commentary on the European Social Charter** (Co-writers: Doç. Dr. Demirhan Burak ÇELİK, Dr. Öğretim Üyesi Sedef KOÇ, Dr. Aslı TOPUKCU) (In Prep.)
- 4- "Kanun Yolları", **Açıklamalı ve İçtihatlı İdari Yargılama Usulü Kanunu**, Ed. Zehreddin ASLAN, Gözden Geçirilmiş ve Yenilenmiş 2. Baskı, Seçkin Yayınları, 2020 İstanbul, p. 397-440.
- 5- "Kanun Yolları", **Açıklamalı ve İçtihatlı İdari Yargılama Usulü Kanunu**, Ed. Zehreddin ASLAN, Seçkin Yayınları, 2019 İstanbul, p. 374-418.
- 6- "Introduction to Human Rights Law", **Introduction to Law**, Ed. Gökhan GÜNEYSU, Anadolu University Publication, 2017 Eskişehir, p. 56-84.
- 7- "Introduction to Administrative Law", **Introduction to Law**, Ed. Gökhan GÜNEYSU, Anadolu University Publication, 2017 Eskişehir, p. 86-109.

EDITORIAL WORKS

- 1- Kadir Has Üniversitesi Hukuk Bülteni, Oniki Levha, İstanbul 2021. (Co-Editor: Prof. Dr. Başak BAYSAL).
- 2- İdari Yargıda Avrupa Adil Yargılanma Standartlarına İlişkin Emsal Kararlar (Casebook on European Fair Trial Standards in Administrative Justice), Arman Zrvandyan, Council of Europe, 2020.

ARTICLES

INTERNATIONAL JOURNALS

- 1- "Critics and Assesment on the 2017 Amendments to the 1982 Constitution of Turkey", **European Review of Public Law**, Vol. 32, No. 3, 2020, p.1141-1156. (Co-author Prof. Dr. Semih GEMALMAZ).
- 2- "Summary Proceeding under Turkish Administrative Law", **European Review of Public Law**, Vol. 31, No. 3, 2019, p.1021-1033.
- 3- "The Executive Branch Under the Recent Constitutional Changes in Turkey", **European Review of Public Law**, Vol. 30, No.3, 2018, p.1005-1024.
- 4- "Right to Personal Liberty v. 'Administrative Detention'? The case of Immigrants under Turkish Administrative Law", **European Review of Public Law**, Vol.29, No.1, 2017, p. 273-289.
- 5- "Legal Framework of Discretion under Turkish Law in a Nutshell", **European Review of Public Law**, Vol.27, No.3, 2015, p. 1279-1299.
- 6- "Judicial and Political Power – Where is the Dividing Line? A General Assesment on the Turkish High Council of Judges and Prosecutors under the 2010 Constitutional Amendments", **European Review of Public Law**, Vol.27, No.1, 2015, p. 497-513.
- 7- "2010 Constitutional Amendments- 'Balance Sheet' of Constitutional Complaint Mechanism in the Light of Constitutional Court's Judgments on Cases from Administrative Courts", **European Review of Public Law**, Vol.25, No.3, 2013, p. 903-915.
- 8- "General Assesment Regarding the Relations of National and International Judges Turkish Perspective", **European Review of Public Law**, Vol.24, No.1, Esperia Publications, London 2012, p.503-519. (Co-author Aslı TOPUKCU).
- 9- "Ombudsman in Turkey, The Death and Birth Story of an Unborn Child", **European Review of Public Law**, Vol.23, No.4, 2011, p.1209-1227.
- 10- "The Place of Arbitration in Turkish Administrative Law as a Judicial Alternative Dispute Resolution Method", **European Review of Public Law**, Vol.22, No.3, Esperai Publications, London 2010, p.873-897.

NATIONAL JOURNALS

- 1- "İdare Hukuku-Ceza Hukuku Sarkacında Disiplin Hukukunda Kanunilik İlkesini Bir Hak İhlali Kararı Üzerinden Yeniden Düşünmek" ("Rethinking the Principle of Legality under Disciplinary Law"), **Prof. Dr. Metin Günday'a Armağan, Atılım Üniversitesi Yayınları No:65**, Ankara 2020, s. 111-139. (Ortak Yazar: Araş. Gör.Burçak Bal Yalçın)
- 2- "Assesments On Legal Frame Work of Reproductive Rights - The Case Of Abortion Under International Standards And Turkish Legal System", **Legal Hukuk Dergisi Özel Sayı Rona Aybay'a Armağan**, 2014, s.337-355.
- 3- "İdari Uyuşmazlıkların Alternatif Uyuşmazlık Çözüm Yöntemleri ile Halli Önündeki Engeller" ("Bars on ADR Methods for Administrative Disputes"), **İstanbul Üniversitesi Hukuk Fakültesi Mecmuası Prof. Dr. İl Han ÖZAY'a Armağan Sayısı**, Cilt 69, Sayı 1-2, 2011, s. 891-906.
- 4- "Kamu Hizmeti İmtiyaz Sözleşmelerinden Kaynaklanan Uyuşmazlıklarda Tahkim Usulü"("Arbitration Procedure for Cases Arising out of Concession Contracts"), **İstanbul Ticaret Üniversitesi Sosyal Bilimler Dergisi**, Yıl:4 No: 8 2005/2, s. 1-25. (Ortak yazar: Prof. Dr. Zehreddin Aslan)

PRESENTATIONS SUBMITTED and PUBLISHED IN INTERNATIONAL CONFERENCES

- 1- "Public Law Responses to Economic Crises", **European Review of Public Law**, Vol.25, No.1, 2013, p.553-577.
- 2- "Alternative Dispute Resolution Methods on Relations Between Public Authorities and Private Parties", **L'influence du droit européen en Suisse et en Turquie**, Lausanne 2015, p.285-299.
- 3- "Freedom of Religion in Turkey and Its Constitutional and Administrative Consequences: Is There a Need to Develop a New Understanding?", **Proposte Per Un Diritto Del Terzo Millennio 4 Atti Del Convegno "Visioni Del Giuridico 2014**, Vol. II., UNIVALI, Perugia, 2015, s. 20-33. (Co-writer: Asli TOPUKCU).
- 4- "The Economic Reforms in Turkey and the Challenges of the Crisis", Sovereign Debt Crisis and the New Boundaries of the State, **European Public Law Series**, Volume CIII, p.93-105, Esperia Publications, London 2012.

PRESENTATIONS IN INTERNATIONAL CONFERENCES

- 1- "Group Actions in Administrative Law – Issues on Legal Reform", **1st Consultation Meeting on the Assessment of Pilot Judgment (Group Actions) Procedure**, EU & Council of Europe & Turkish Ministry of Justice, 27.05.2021.
- 2- "In Search of the Most Applicable ADR Method in Turkish Administrative Law", **Webinar on Alternative Dispute Resolution Methods in French Administrative Justice System**, EU & Council of Europe & Turkish Ministry of Justice, 16.12.2020.
- 3- "Protection of Human Rights under State of Emergency Times – Aguarantee for or Threat to the Rule of Law?", **70 Years of the European Convention on Human Rights**, Iustinianus Primus Faculty of Law, Ss. Cyril and Methodius University, 06.11.2020, Skopje/Macedonia.
- 4- "Legal and Procedural Measures During Covid -19 Pandemic – Turkey", **State of Emergency and Covid in Mena Region**, 16-17.07.2020, Mena Legal Network.
- 5- "Bars on ADR under Turkish Administrative Law and Proposed Solutions", **Workshop on ADR Mechanisms under Administrative Justice System**, Council of Europe & Turkish Ministry of Justice, 04.02.2020.
- 6- "Where Has the Separation of Power Gone After the Fall of the Berlin Wall?" **Transition of Legal Systems**, Iustinianus Primus Faculty of Law, Ss. Cyril and Methodius University, 8-9.11.2019, Skopje/Macedonia.
- 7- "Liability and Accountability of Judges and Prosecutors: Turkish Case within a Comparative Perspective", **Rule of Law as a Promoter of Human Rights and Economic Growth**, 9-10.10.2019, EPLO and Titu Maiorescu University, Bucharesti/Romania.
- 8- "Proposals on Drafting a New Public Management in Turkish Constitution", **Regional Conference-Constitutional Challenges and Constitution Making**, The Center for Constitutional Studies at Ilia State University, 11-12 June 2015, Tbilisi Georgia.
- 9- "Arbitration under Turkish Administrative Law", **Foreign Investment Law Symposium**, Kadir Has University School of Law, 15-16.04.2015, İstanbul Turkey.
- 10- "Public Arbitration-Private Arbitration: Foreign Investment Arbitration and Public Contracts under Turkish Administrative Law", **Lex Mercatoria Publica**

Project , Max Planck Institute for Comparative Public Law and International Law, 21-22 November 2014, Heidelberg, Germany.

11- "How is Proportionality as a Common Law Principle of Public Law Being Applied in Turkish Administrative Law", 5-6 December 2013, **National Administrative Law as a Tool for the Implementation of European Law**, Petru Major University, Tirgu Mureş, Romania.

12- "Public Law v. Private Law A Distinction or an Interaction?", **100 Years of Justice and Doctrine**, 9 May 2013, Tirana University School of Law, Albania.

PRESENTATIONS IN NATIONAL CONFERENCES

- 1- "Alternatif Uyuşmazlık Çözüm Yöntemlerinin İdare Hukuku Açısından Genel Olarak Değerlendirilmesi" ("General Assessment of the ADR Mechanisms under Administrative Law"), **Danıştay'ın 153. Kuruluş Yıldönümü - Danıştay ve İdari Yargı Günü**, 16.09.2021, Danıştay, Ankara.
- 2- "Ürün Sorumluluğunda İdarenin Denetimi" ("State Supervision on Product Liability"), **Sorumluluk Hukukunda Güncel Gelişmeler I - Ürün Sorumluluğu**, Kadir Has Üniversitesi Sorumluluk Hukuku Uygulama ve Araştırma Merkezi, 18.05.2021.
- 3- "Doğal Afetlerden Kaynaklanan Zararlar Kapsamında İdarenin Sorumluluğu" ("Liability of State for Damages Arising Out Of Natural Disasters"), **Afet Risk İdaresinde Çok Aktörlü Disiplinlerarası Yaklaşım**, 24-25.04.2019, Marmara Üniversitesi, İstanbul.
- 4- "Biyotıp Sözleşmesi Perspektifinde Sağlık Hizmetlerine Erişimde Adalet" ("Justice in Reaching Health Care Services under Oviedo Convention"), **IV. Ulusal Sağlık Hukuku Sempozyumu "Biyoloji ve Tıbbın Uygulanması Bakımından İnsan Hakları ve İnsan Haysiyetinin Korunması Sözleşmesi"**, 14.03.2018, Kadir Has Üniversitesi, İstanbul.
- 5- "İdari Yargıcın Hukuk Yaratması Üzerine Düşünceler" ("Thoughts on Law Making Capacity of Administrative Judges"), **Hukuka Felsefi ve Sosyolojik Bakışlar - VII**", Hukuk Felsefesi ve Sosyolojisi Arkivi & İstanbul Barosu, 4-7 Kasım 2014, İstanbul.
- 6- "Kamu Kudretinin Özel Kişilere Devri Sorunu" ("Problematic of Vested Public Power to Private Persons"), **Adli Kolluk İdari Kolluk Ayırımının Gerekliliği ve Anayasal Temeli**, Kadir Has Üniversitesi, 22 Mart 2014, İstanbul.
- 7- "Ulusal İnsan Hakları Kurumları" ("National Human Rights Institutions"), **10 Aralık Dünya İnsan Hakları Günü Etkinliği**, Milli Eğitim Bakanlığı İstanbul İlçe Milli Eğitim Müdürlüğü, 10 Aralık 2012, İstanbul.
- 8- "Yerel İdareler ve Yaşlı Hakları Hakkında Atılması Gereken Hukuksal Adımlar" ("Local Administrations and Elder Law"), **II. Yaşlı Hakları Sempozyumu**, 4 Şubat 2011, Kadir Has Üniversitesi & KASEV, İstanbul.

OTHER NATIONAL/INTERNATIONAL PUBLICATIONS

- 1- “100. Yılında 1921 Anayasası’na Dair” (“The Constitution of 1921 in its Centenary Year”), **Kadir Has Üniversitesi Hukuk Fakültesi Hukuk Bülteni**, 23.04.2021. (Co-writer: Dr. Aslı Topukcu) (<https://law.khas.edu.tr/tr/100-yilinda-1921-anayasasina-dair>)
- 2- “The Turkish Constitution of 1921: An Assessment of the “Double Constitution Period”, **International Constitutional Lawyers’ Association Symposium Post**, 09.03.2021. (Co-writer: Dr. Aslı Topukcu) (<https://blog-iacl-aidc.org/centenary-of-the-turkish-constitution/2021/3/9/the-turkish-constitution-of-1921-an-assessment-of-the-double-constitution-period-f7r2fi>)

TRANSLATIONS

- 1- “Resolving Citizens’ Disputes – Alternatives To Litigation: Common Law Perspective” Martin Partington, Trans. Nilay Arat, **Commemorative for Prof. Dr. Hüseyin Hatemi**, Vedat Publication, İstanbul 2009, Vol 2, p.1683-1700.
- 2- Kerstin André “Ombudsman-Meeting Today’s Changing Needs”, Trans. Nilay Arat, **Istanbul Law Review**, Vol. LXV, Number. 2, 2007, p. 417-428.

BLIND REVIEWED JOURNALS

Annales de la Faculté de Droit
Dokuz Eylül University Faculty of Law Journal
İstanbul University Faculty of Law Journal
Turkish Justice Academy Journal
The Journal of International Relations
Marmara Journal of European Studies
Hacettepe University Law Review
İstanbul Kültür University Law Review
Kadir Has University Law Review
Zeynep Kamil Medicine Review
İnönü University Law Review
Selçuk University Law Review
Economic and Social Research Review

PROJECTS

National Consultant, Council of Europe Project on “Improving the Effectiveness of the Administrative Judiciary and Strengthening the Institutional Capacity of the Council of State”, 2019-...