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**TURKEY 2010 PROGRESS REPORT**

*accompanying the*

**COMMUNICATION FROM THE COMMISSION  
TO THE EUROPEAN PARLIAMENT AND THE COUNCIL**

**Enlargement Strategy and Main Challenges 2010-2011**

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# COMMISSION STAFF WORKING DOCUMENT

## 2010 Progress Report

### 1. INTRODUCTION

#### 1.1. Preface

Following the conclusions of the Luxembourg European Council in December 1997, the Commission has reported regularly to the Council and the Parliament.

This report on progress made by Turkey in preparing for EU membership largely follows the same structure as in previous years. The report:

- briefly describes the relations between Turkey and the Union;
- analyses the situation in Turkey in terms of the political criteria for membership;
- analyses the situation in Turkey on the basis of the economic criteria for membership;
- reviews Turkey's capacity to assume the obligations of membership, that is, the *acquis* expressed in the Treaties, the secondary legislation, and the policies of the Union.

The period covered by this report is from early October 2009 to October 2010. Progress is measured on the basis of decisions taken, legislation adopted and measures implemented. As a rule, legislation or measures which are under preparation or awaiting Parliamentary approval have not been taken into account. This approach ensures equal treatment across all reports and permits an objective assessment.

The report is based on information gathered and analysed by the Commission. In addition, many sources have been used, including contributions from the government of Turkey, the EU Member States, European Parliament reports<sup>1</sup>, and information from various international and non-governmental organisations.

The Commission draws detailed conclusions regarding Turkey in its separate communication on enlargement<sup>2</sup>, based on the technical analysis contained in this report.

#### 1.2. Context

The Helsinki European Council of December 1999 granted the status of candidate country to Turkey. Accession negotiations with Turkey were opened in October 2005.

The Association Agreement between Turkey and the then EEC was signed in 1963 and entered in force in December 1964. Turkey and the EU formed a customs union in 1995.

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<sup>1</sup> The rapporteur for Turkey is Mrs. Oomen-Ruijten.

<sup>2</sup> Enlargement Strategy and Main Challenges 2010). COM (2010) 660 of 09.11.2010

### 1.3. Relations between the EU and Turkey

*Accession negotiations* with Turkey continued. During the preparatory analytical phase the level of preparedness to start negotiations on individual chapters has been assessed on the basis of screening reports. Of a total of 33 screening reports, one has still to be delivered by the Commission to the Council whilst nine are being discussed in the Council.

So far, negotiations have been opened on thirteen chapters (*Science and research, Enterprise and industry, Statistics, Financial Control, Trans-European Networks, Consumer and health protection, Intellectual property law, Company law, Information society and media, Free movement of capital, Taxation, Environment and Food safety, veterinary and phytosanitary policy*) one of which (*Science and research*) was provisionally closed. The December 2006 Council decision<sup>3</sup> remains in force.

The *enhanced political dialogue* between the EU and Turkey has continued. Political dialogue meetings were held at ministerial level on 26 November 2009 and 13 July 2010. There was one political dialogue meeting at political director level on 10 February 2010. These meetings focused on the main challenges faced by Turkey in terms of the Copenhagen political criteria and reviewed progress being made towards fulfilment of Accession Partnership priorities. Foreign policy issues related to regional areas of common interest to the EU and Turkey, such as Iraq, Iran, the Middle East and the Caucasus, were also regularly discussed. Economic dialogue took place in a bilateral meeting with the Commission and Turkish senior officials in February 2010. In addition, the multilateral economic dialogue between the Commission, EU Member States and Candidate Countries in the context of the pre-accession fiscal surveillance continued, including a meeting at Ministerial level in May in Brussels. Moreover, a number of high-level visits from Turkey to the European institutions took place during the reporting period.

The EU-Turkey *Customs Union* continues to contribute to the enhancement of EU-Turkey bilateral trade, which amounted to €80 billion in 2009. Turkey is the EU's seventh biggest trading partner while the EU is the biggest trade partner of Turkey. Almost half of Turkey's total trade is with the EU while more than two thirds of FDI in Turkey come from the EU. However, Turkey maintained and introduced legislation and restrictions that are in violation of its commitments under the Customs Union. A number of Turkey's commitments on removing technical barriers to trade such as conformity assessments checks, import and export licensing requirements, restrictions on import of goods from third countries in free circulation in the EU, State aid, enforcement of intellectual property rights, requirements for the registration of new pharmaceutical products and tax discriminatory treatment remain unfulfilled. No progress can be reported concerning Turkey's longstanding ban on imports of live bovine animals, beef meat and other animal products. Turkey needs to fully implement the Customs Union and to remove a large number of obstacles affecting EU products that are in free circulation. The EU urged Turkey to remove all remaining restrictions on the free movement of goods, including restrictions on means of transport regarding Cyprus, and to fully implement the Customs Union.

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<sup>3</sup> The decision sets out that negotiations will not be opened on eight chapters relevant to Turkey's restrictions regarding the Republic of Cyprus and no chapter will be provisionally closed until the Commission confirms that Turkey has fully implemented the Additional Protocol to the Association Agreement.

The EU provides guidance to the authorities on reform priorities through the *Accession Partnership*, adopted in February 2008. Progress on these reform priorities is encouraged and monitored through the bodies set up under the Association Agreement. The Association Committee met on 27 March 2010, the Association Council on 19 May 2010. Eight sector sub-committees have been held since November 2009.

As regards *financial assistance*, some €654 million have been earmarked for Turkey from the Instrument for Pre-accession Assistance (IPA) in 2010. The revised Multi-Annual Indicative Planning Document 2011-2013, which provides the strategic multi-annual framework for all programmes at national level (covering all five IPA components), has been drafted based on input from the Turkish institutions and will be presented to the IPA Management Committee in the beginning of 2011. Support will focus on priority areas such as, fundamental rights and the rule of law, public administration reform, competitiveness, environment, transport, energy, social development and agriculture and rural development. In addition, Turkey is benefiting from support for cross-border cooperation and a series of regional and horizontal programmes under IPA.

EU financial support has been provided to *civil society* development under the Civil Society Facility, in particular to enhance civil society organisations' capacities. Moreover, technical assistance was provided to the Turkish administration promoting good practices on support of active citizenship. In 2010 funding was also provided to encourage a *civil society dialogue* between Turkey and the EU in the areas of political criteria and media. In addition, Turkey's participation in EU programmes and agencies has been co-financed and projects in areas such as media, youth, academic institutions, local authorities, cultural organisations/centres and civil society organisations have been supported.

Assistance under IPA is implemented through decentralised management, meaning that assistance is managed by the Turkish authorities as a result of an accreditation process carried out by the Commission that was completed for IPA components I-IV in 2009. In 2010 the main focus has been to start implementation under these components. Turkey needs to strengthen its capacity to absorb funds, achieve results and implement in a timely manner components I-IV. Moreover, preparations for the conferral of management responsibility under the rural development component (V) need to be completed. The supervision by the National Authorising Officer needs to address system weaknesses, including monitoring and control, and further improve the quality and efficiency of the project and programme cycles.

## **2. POLITICAL CRITERIA**

This section examines progress made by Turkey towards meeting the Copenhagen political criteria, which require stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. It also monitors compliance with international obligations, regional cooperation and good neighbourly relations with enlargement countries and Member States.

### **2.1. Democracy and the rule of law**

The domestic political agenda has been dominated by the constitutional reform package, the government's democratic opening to address notably the Kurdish issue and the widening investigations into alleged coup plans. A confrontational political climate prevailed, marked

by lack of dialogue and spirit of compromise between the main political parties and the government and strained relations between key political institutions.

Further judicial investigations were opened into alleged coup plans prepared by military officers. In July, a criminal court in Istanbul accepted the indictment against 196 suspects including 19 retired and 28 serving generals and admirals for establishing a structure outside the military hierarchy and attempting to overthrow the government and constitutional order. The coup plan, referred to as 'Sledgehammer', was allegedly prepared in 2003 under the auspices of the First Army. Pending the start of the trial on 16 December 2010 all defendants are free.

The trial against the alleged criminal network Ergenekon is continuing and investigations have been widened. A total of 270 people, including 116 military officers and 6 journalists, were charged with trying to overthrow the government and to instigate armed riots under seven separate indictments. The case concerning the 2006 attack on the Council of State, which left a senior judge dead, was merged with the Ergenekon case. A coup plan, referred to as the 'cage plan', dated March 2009, was seized by investigators from Ergenekon suspects. The 'cage plan' allegedly aimed at destabilising the country by killing members of non-Muslim minorities, Former commanders of the air force, navy and army testified in the case and, for the first time, a full general on active duty, the commander of the Third Army, was summoned to testify as a member of the Ergenekon network in Erzincan. The investigation into the coup plan, referred to as the 'action plan against reactionarism' begun in 2009 continued.

The time lapse between arrests and the presentation of indictments to the court in these investigations fuelled concerns about effective judicial guarantees for all suspects. The length of pre-trial detention raises concern.

In December, the Constitutional Court (CC) ruled unanimously to dissolve the Democratic Society Party (DTP) and to ban 37 members from party politics for five years, including two Members of Parliament who thereby lost their parliamentary seats. The ruling was a serious setback to the government's efforts at democratic opening. Under Articles 68 and 69 of the Constitution and the relevant provisions of the Law on political parties, the party was sentenced as a 'focus of activities against the indivisible integrity of the State'. Former DTP Members of Parliament joined the new Peace and Democracy Party (BDP) and created a new parliamentary group under the BDP.

Overall, the investigation into the alleged criminal network Ergenekon and the probe into several other coup plans remain an opportunity for Turkey to strengthen confidence in the proper functioning of its democratic institutions and the rule of law. However, there are concerns as regards judicial guarantees for all suspects. Turkey still needs to align its legislation as regards procedure and grounds for closure of political parties with European standards.

### *Constitution*

The government put forward a number of amendments to the Constitution which were adopted by parliament in May and approved in a referendum in September with a majority of 58% of the votes and high voter turnout (73%). The key provisions of the package change the composition of the Constitutional Court and of the High Council of Judges and Prosecutors, restrict the authority of military courts, allow appeals against expulsion decisions by the

Supreme Military Council to be brought before civilian courts, establish a constitutional base for the Ombudsman service, introduce the right to collective bargaining for public servants and allow positive discrimination measures in favour of women, children and the elderly.

The government established an action plan on legislation necessary for the implementation of the constitutional amendments, and indicated its intention to consult stakeholders. Consultations are also ongoing with the Venice Commission of the Council of Europe for those constitutional amendments regarding the judiciary.

However, one of the key provisions originally included in the package, which would have made closure of political parties more difficult, was dropped when it failed to secure sufficient votes in parliament.

The drafting and adoption of the constitutional reforms was not preceded by a consultation process involving political parties and civil society.

The main opposition Republican People's Party (CHP) lodged a petition before the Constitutional Court to annul the entire package. The Court ruled against the annulment request but amended two provisions relating to the process for appointing members of the Constitutional Court and of the High Council of Judges and Prosecutors.

*Overall*, the constitutional amendments are a step in the right direction. They address a number of priorities of the Accession Partnership in the area of the judiciary, fundamental rights and public administration. However, broad public consultation involving all political parties and civil society, with their full engagement, is needed to strengthen support for constitutional reform. The implementation of the amended constitutional provisions through legislation, in line with European standards, is key.

### *Parliament*

The confrontational political climate between the main political parties continued to slow down work on political reforms. The main opposition CHP party elected a new party leader in May. Apart from the Law amending the Constitution, parliament passed a limited number of laws covering areas related to the Copenhagen political criteria.

In October, an amendment to the Law on the election of parliamentarians was adopted. Accordingly, parliamentary elections will be held every four years instead of every five, in line with an amendment to the Constitution adopted earlier in the year.

In March, the Law on elections and electoral rolls was amended to allow use of languages other than Turkish for oral and written publicity material during election campaigns. Further changes to the law aimed at ensuring transparency concerning the income and expenses of political parties and candidates during campaigns.

No changes were made to the electoral system. The 10% of the national vote required for representation in parliament, which is the highest threshold in any Council of Europe member state, remains.

The scope of parliamentary immunities continues to raise concerns. It is too wide in cases of corruption but at the same time it does not adequately protect the expression of non-violent opinions. The majority of the DTP/BDP Members of Parliament have been taken to court, based on an interpretation of Article 14 of the Constitution in favour of restriction of



immunities when crimes against the ‘integrity of the State’ are concerned (*see the chapter on Anti-corruption policy*).

No progress has been made on improving parliament’s rules of procedure. Adoption of the draft finalised in February 2009 by the Consensus Committee on Rules of Procedure is still pending, due to lack of consensus between the political parties.

Concerns about the administrative capacity of Turkey’s parliament persist in several fields, including executive-legislative relations and parliamentary oversight and scrutiny. The Turkish Grand National Assembly plays a limited role in the formulation and implementation of Turkey’s accession strategy.

#### *President*

The President continued to play an active conciliatory role promoting dialogue between the main political parties and endeavouring to ensure the sound operation of state bodies. However, there were concerns expressed concerning the President’s appointments to certain key State institutions, in particular the judiciary and universities. The President stated his commitment to addressing the Kurdish issues and kept up his active role in foreign policy.

#### *Government*

In January, a new strategy for Turkey’s accession to the EU was prepared with the aim of speeding up the accession negotiations and increasing public awareness and support for accession. In this context, on 15 March the Turkish Council of Ministers adopted the 2010-2011 action plan outlining legislation to be enacted and studies to be carried out on each chapter of the negotiations.

In February, the Reform Monitoring Group (RMG) – made up of the Minister of Foreign Affairs, the State Minister for EU Affairs and Chief Negotiator and the Ministers of Justice and of the Interior – met under the chairmanship of the Prime Minister for the first time since the group was established in 2003, stating the government’s commitment to the EU accession process. The RMG continued to meet regularly in different parts of the country underlining the determination of the government to involve the people more closely in the accession process.

Some of the RMG’s recommendations have been put into practice. A sub-committee on political affairs, made up of high-level civil servants, has been established to speed up work on political reforms. A deputy governor in each province has been designated as the EU contact point. Key reforms relevant to the accession process were included in the package of amendments to the Constitution.

The State Minister for EU Affairs and Chief Negotiator further streamlined inter-ministerial coordination for the accession negotiations. The minister frequently met civil society stakeholders to promote their participation in the accession process.

However, further changes to the legislation, in particular as regards protection of fundamental rights, is necessary. The special legislative procedure for EU reforms in parliament has not been adopted, in order to expedite its work related to Turkey’s accession.

Regarding local government, a delegation from the Council of Europe Congress of Local Authorities visited Turkey in May to follow up on recommendations made in 2007.

Transparency, accountability and participatory mechanisms need to be strengthened, especially in local government to which further resources and responsibilities have been transferred. Strategic plans, performance measures, establishing financial control systems, project management, crisis management, environmental management and information technology management remain to be established at local level.

*Overall*, after a significant slowdown in the reform agenda over the last few years, the government put forward a number of key constitutional reforms and specific measures, albeit of limited scope. The strained relations between key state bodies are continuing to have a negative impact on the smooth functioning of political institutions.

#### *Public administration*

An inventory of public services was carried out by the government. Specific public service standards for procedures, quality, eligibility criteria and complaints were developed. Work on providing basic public services on-line (e-government) has continued with a view to improving their quality and to increasing transparency and accountability.

The constitutional reform provides the basis for establishment of an Ombudsman institution.

The amendments to the Constitution introduced protection of personal data and access to information as constitutional rights.

However, no progress has been made on reforming the civil service system, in particular to reduce red tape, to develop regulatory impact assessments (RIA) and to ensure transparency and merit-based advancement and appointments, particularly to high-level positions. Also, there is a lack of consultation by civil service of relevant stakeholders in the preparation of policies and legislation. Enforcement of common standards and uniform implementation of the rules across the civil service remain to be achieved.

With regard to implementation of the public financial management and control (PFMC) law, an effective internal audit system, in the form of autonomous units within all State institutions, is not yet operational.

Clear rules for establishing a business company or a corporation to deliver public services by municipalities remain to be introduced. Such rules will reduce opportunities for partisan employment and public funding without effective control.

*Overall*, some progress has been made, in particular towards establishing an Ombudsman institution, protection of personal data and access to information. Further efforts are needed, in particular on reforming the civil service and implementing the PFMC law. Increased political support to the public administration reform is necessary.

#### *Civilian oversight of security forces*

In February, the government annulled the secret protocol on Security, Public Order and Assistance Units (commonly called EMASYA), which allowed military operations to be carried out without the consent of civilian authorities. Implementation of the annulment decision remains to be completed.

In February, parliament adopted a law establishing an Under-secretariat for Public Order and Security under the Ministry of the Interior to develop policies on counter-terrorism and to

serve as secretariat for the Counter-Terrorism Coordination Board. The law also established an Intelligence Assessment Centre to strengthen intelligence-sharing between security institutions.

The constitutional reform limits the jurisdiction of military courts to 'military service and military duties'. Under the new system, crimes against state security, the constitutional order and the functioning of this order will be dealt with by civilian courts.

The amendments to the Constitution opened dismissals of military staff by the Supreme Military Council to judicial review. The constitutional provision providing immunity for the perpetrators of the 1980 coup d'état was deleted from the Constitution. In addition, the Chief of General Staff and the commanders of the army, air force, navy and gendarmerie will be tried before a high tribunal for any offences committed in the course of their official duties.

Progress has been made as regards internal audits, introduced by the public financial management and control law, in security institutions following the adoption of a regulation on the internal audit and management of movable properties of the armed forces, the national intelligence agency and the national policy, in July. The Court of Auditors has launched the planning phase for auditing the extra-budgetary Defence Industry Support Fund (SSDF).

The case against two non-commissioned officers and an informant from the terrorist group PKK concerning the bombing of a bookstore in Semdinli<sup>4</sup> is still pending. The case is with a criminal court in Hakkari further to the decision of the Van military court that the defendants should be charged for homicide and that there is no evidence to prove that they committed the offence of "Impairing the unity of the state" regulated in article 302 of the Turkish criminal code. The military court set the accused free pending trial.

Implementation of the regulation on the powers of the police and the gendarmerie in urban and rural areas has continued. Residential areas in 31 towns with a combined population of about one million civilians were transferred from the Gendarmerie to the police, which is under civilian control. However, there has been no progress on civilian control over the gendarmerie's law enforcement activities.

The trial of a serving gendarmerie colonel who was allegedly involved in extra-judicial killings in the south-east in the 1990s continued. The proper conduct of this trial is critical for the fight against impunity.

There is a decrease in the number of incidents where the armed forces exerted formal and informal influence on political issues beyond their remit. Nonetheless, on some occasions, the Chief of General Staff made comments about ongoing court cases and investigations. A number of criminal complaints were lodged by citizens and NGOs about such statements. However, there was no judicial follow-up. The selective accreditation by the military of certain media has continued.

No change has been made to the Turkish Armed Forces Internal Service Law, which defines the duties of the military and contains an article leaving the military wide room for manoeuvre to intervene into politics. The Law on the National Security Council provides a broad

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<sup>4</sup> The defendants are accused of the November 2005 bombing that killed one person and injured others in the town of Semdinli in Southeast Turkey.

definition of ‘security’, which, depending on interpretation, could cover almost any policy field.

No progress has been made concerning parliamentary oversight of the defence budget or on audit of the properties of the armed forces by the Court of Auditors. The Law on the Court of Auditors was adopted by the Planning and Budget Committee in May and is awaiting approval by the plenary.

*Overall*, progress has been made on civilian oversight of security forces. The jurisdiction of military courts was limited, the decisions of the Supreme Military Council were opened to judicial review and arrangements were made for high-ranking officers to be tried by civilian courts. However, senior members of the armed forces have made a number of statements going beyond their remit, in particular on judicial issues. No progress was made on parliamentary oversight over extra-budgetary military funds.

### *Judicial system*

Progress has been made on reforming the judiciary. Implementation of the 2009 judicial reform strategy has continued. Some of the central pillars of the strategy were put in place by the amendments to the Constitution.

As regards the *independence* of the judiciary, the constitutional amendments increased the number of full members of the High Council of Judges and Prosecutors from seven to twenty-two. In addition to representatives of the Court of Cassation and the Council of State, the new members include representatives of first instance judges, the Justice Academy, law faculties and lawyers. This new membership lays the foundation for making the High Council representative of the judiciary as a whole.

The amendments to the Constitution open to judicial review decisions by the High Council dismissing members of the judiciary from the profession. This is a move in the direction of establishing an effective remedy against decisions by the High Council. A Secretariat-General established under the High Council provides it with professional and secretarial support. Previously, professional and secretarial support for the High Council was provided by the Ministry of Justice. The High Council appoints judges and prosecutors to this Secretariat. This should reduce the opportunities for the executive to interfere with administration of the Council.

Judicial inspectors responsible for evaluating the performance of judges and prosecutors henceforth will report to the High Council and no longer to the Ministry of Justice, thus giving the High Council a basis for carrying out its work without the risk of political interference. However, the minister is still President of the High Council and the investigative authority of the High Council is subject to his approval<sup>5</sup>.

The Semdinli case is still pending. (*See the chapter on Civilian oversight of security forces*) The dismissal of the civilian prosecutor previously in charge of the case, together with the

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<sup>5</sup> The draft Law on the High Council of Judges and Prosecutors proposed by the Ministry of Justice provides that these decisions of the Minister are subject to judicial review.

handling of the case to date, has raised questions about the independence of the High Council<sup>6</sup>.

With regard to *impartiality*, constitutional provisions allowing military courts to try civilians have been taken out of the Constitution and new provisions explicitly prohibit such trials. Cases related to offences against the security of the state, the constitutional order and the functioning of this order are to be tried before civilian courts. This followed the annulment by the Constitutional Court, in January 2010, of provisions of the Criminal Procedure Code allowing civilian courts to try members of the armed forces in cases of organised crime and crimes against the state, on the basis that these conflicted with the constitutional provisions at the time. The new provisions for trial of such cases by civilian courts are positive.

Since the adoption of the amendments to the Constitution, the Constitutional Court will be made up of seventeen members. Ten will be nominated by the President amongst the candidates nominated by the Court of Cassation, the Council of State, the Military Supreme Administrative Court, the Military Court of Cassation and the High Education Board, and four will be elected directly by the President from among senior administrators, lawyers and rapporteur judges of the Constitutional Court. The Parliament elects three members of the Constitutional Court from amongst the candidates proposed by the Court of Auditors and the Bar Associations. There are three voting rounds in Parliament. In the third voting round the candidates are elected by simple majority. No alternate members are envisaged. The involvement of the Turkish parliament in the election of Constitutional Court judges brings Turkish practice closer to that of EU Member States. However, two of the judges are still military judges. As constitutional jurisprudence in a democratic system is a civilian matter, the presence of military judges is questionable. In addition, the amended Constitution provides that judges should be at least forty-five years of age when elected for a non-renewable term of twelve years. This implies that military judges might return to the military justice system when their term in the Constitutional Court expires, which could raise questions about their impartiality as Constitutional Court judges.

Senior members of the judiciary and of the military have made statements that could put the impartiality of the judiciary at risk in important cases.

With regard to the *efficiency* of the judiciary, use of information technology in the judicial system has accelerated judicial procedures and facilitated third party access to judicial proceedings. The number of judicial staff continued to increase. On 20 September 2010 there were a total of 11,394 judges and prosecutors (11,121 judges and prosecutors on 1 May 2009). Progress has been made as regards juvenile justice. (*See the chapter on Children's rights*)

However, the overall number of vacancies for judges and prosecutors remains significant at 3,299 on 20 September 2010 (3,875 on 1 May 2009). The regional courts of appeal are not operational yet. By law, they should have been in operation by June 2007.

The regional courts of appeal have not been established yet. By law, they should have been in operation by June 2007.

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<sup>6</sup> The civilian prosecutor in this case published the indictment in 2006. It included accusations against high-ranking military commanders. The General Staff criticised the indictment and urged those bearing constitutional responsibility to take action. The High Council of Judges and Prosecutors took the dismissal decision in April 2006.

The arrest of the Chief Public Prosecutor of Erzincan on the grounds of involvement in alleged organised crime led the High Council of Judges and Prosecutors to revoke the powers of the specially authorised public prosecutor who ordered the arrest. Senior members of the judiciary made public statements in support of this decision by the High Council. This situation created tensions, both within the judiciary and between the High Council and the ministry, and raised questions about the ability of the judiciary to conduct a fair trial.

Investigations in some high-profile cases continued to raise concerns. This points to the need to improve the work of the police and the gendarmerie but, also, the working relationship between the police and the gendarmerie on the one hand and the judiciary on the other. The ECtHR in its Chamber judgement of 14 September 2010 on the case of *Dink v. Turkey*<sup>7</sup> considered that the Turkish authorities had not done everything that could reasonably have been expected of them to prevent Mr Dink's assassination and that no effective investigation had been carried out into the failures which occurred in protecting the life of Mr Dink. There had therefore been a violation of Article 2 (right to life). In addition, the Court found a violation of Articles 10 (freedom of expression), and 13 (right to an effective remedy) in conjunction with Article 2. Turkey indicated that it will not appeal the Chamber's judgement.

There has been no progress on introduction of a mediation system into civil justice. Reconciliation, introduced into the criminal justice system in 2005, is not used effectively. Provision of legal aid is inadequate in terms of either its coverage or the quality of services provided. The implementation of pre-trial detention is not limited to circumstances where it is strictly necessary in the public interest. This adds to the overcrowding in prisons, where more than half of the inmates await trial. Judges do not make effective use of the probation system.

There are concerns about the functioning of the Forensic Medicine Institute. In a number of cases the institute gave conflicting reports on the same case at different times. The backlog of the institute leads to delays in judicial proceedings.

A Council of State judgment in 2009 pointed to the overlapping responsibilities for provision of in-service training between the Training Department of the Ministry of Justice and the Turkish Justice Academy. Pre-service and in-service training both fall under the responsibility of the Justice Academy.

*Overall*, there has been progress in the area of the judiciary. The adoption of the amendments to the Constitution on the composition of the High Council of Judges and Prosecutors as well as the limitation of the authority of military courts is a positive step. However, the Minister of Justice still chairs the High Council and has the last word on investigations. Attention needs to be paid to establishing an effective dialogue with all stakeholders and to implementing these reforms in accordance with European standards and in an open, transparent and inclusive way.

#### *Anti-corruption policy*

The government adopted a 2010-2014 strategy for enhancing transparency and strengthening the fight against corruption in February 2010. A ministerial committee<sup>8</sup> was established in December 2009 together with an executive board made up of representatives of public

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<sup>7</sup> Applications no. 2668/07, 6102/08, 30079/08, 7072/09 and 7124/09.

<sup>8</sup> The ministerial committee consists of the Deputy Prime Minister and four ministers (Ministry of Justice, Ministry of Interior, Ministry of Finance, Ministry of Labour and Social Security).

institutions, labour unions and the Turkish Union of Chambers and Stock Exchanges (TOBB) to form further anti-corruption strategies and to direct and monitor their implementation.

The strategy aims at developing preventive and repressive measures against corruption and improving public governance by introducing more transparency, accountability and reliability in the public administration.

An action plan setting the timetables for adoption and implementation of each measure was approved by the ministerial committee in April 2010. Effective implementation could contribute to changing behaviour of public administration, so that it promotes and protects integrity and reduces opportunities for corrupt practices. However, participation by civil society and its role on the executive board and in implementation of the strategy need to be strengthened.

By June 2010, Turkey had implemented 15 of the 21 recommendations in the 2005 evaluation reports by the Group of States against Corruption (GRECO). The GRECO report suggests further efforts, in particular to broaden the representation of the anti-corruption oversight body, to enhance the independence of the judiciary and, to reform the system of immunities and to finally establish the Ombudsman institution. The constitutional amendments provide the basis for progress on enhancing the independence of the judiciary and an Ombudsman institution.

In December 2009, the Prime Ministerial Inspection Board was appointed as the counterpart of the European Anti-Fraud Office (OLAF) and was given the task of Anti-Fraud Coordination Structure (AFCOS) responsible for investigation of irregularities in the context of financial cooperation between the EU and Turkey. (*See Chapter 32 – Financial control*)

In February 2010, the Constitutional Court annulled the provisions of the Law on the Council of Ethics regarding publication of the names of civil servants who violate the code of ethics, on the grounds that publishing names without a judicial decision would jeopardise the presumption of innocence. Ethics training has continued and around 7,000 civil servants working for central and local governments have been trained between October 2009 and September 2010. In September, the Government adopted a regulation on the code of ethics with which investigators and auditors should comply while doing their jobs. However, no progress has been made on extending ethics rules to academics, military personnel and the judiciary.

No progress has been made on limiting the immunities of Members of Parliament concerning corruption-related offences.

Further measures are needed to complete the existing legislation and ensure its effective implementation to increase transparency on the financing of political parties and election campaigns. More resources are also required in order to better detect illegal practice, in particular to extend the current monitoring mechanism to election campaign funding of parties and candidates.

For the first time, a mayor of a metropolitan municipality (Adana) was suspended from mayoral duties on March 2010 by the Ministry of Interior because of serious corruption allegations. Administrative and judicial investigations are continuing.

The investigation begun in 2009 into the charity association Deniz Feneri concerning a fraud case in Germany is continuing. The police made searches on the premises of the association and at the homes of the suspects. However, no indictment has been submitted to court yet.

The draft law on the Turkish Court of Auditors, which envisages strengthening the Court and extending its mandate, was adopted by the Planning and Budget Committee of the Parliament in May and is awaiting approval by the plenary. (*See Chapter 23 - Judiciary and fundamental rights*)

*Overall*, progress has been made as regards the development of a comprehensive anti-corruption strategy and action plan and of a body to oversee and monitor its implementation, thus addressing Accession Partnership priorities. However, effective implementation of the strategy is necessary to reduce corruption which remains prevalent in many areas. Turkey needs to develop a track record of investigations, indictments, and convictions.

## **2.2. Human rights and the protection of minorities**

### *Observance of international human rights law*

As for *ratification of human rights instruments*, ratification of the Optional Protocol to the UN Convention against Torture (OPCAT) is still pending before parliament. Turkey has not ratified three additional Protocols to the European Convention on Human Rights (ECHR)<sup>9</sup>.

The number of rulings of the *European Court of Human Rights (ECtHR)* finding that Turkey has violated the ECHR continued to increase. During the reporting period the court delivered a total of 553 judgements finding that Turkey had violated the ECHR. The number of new applications to the ECtHR went up for the fourth consecutive year. Since October 2009, a total of 5,728 new applications were made to the ECtHR. The majority of them concern the right to a fair trial and protection of property rights. As of September 2010, 16,093 cases were pending before the ECtHR regarding Turkey. The amendment to the Constitution introducing the right to submit individual applications to the Constitutional Court is an important step to reduce the number of applications to the ECtHR.

Turkey has abided by the majority of ECtHR rulings, including payment of compensation totalling €6.1 million in 2009. Amendments to the Law on enforcement of judgments address shortcomings in the judicial process that were identified in several ECtHR rulings against Turkey. However, some rulings have not been followed up by Turkey for several years<sup>10</sup>. The government's announcement that it would address these issues was not followed by action.

In the *Cyprus v. Turkey* case, the issue of missing persons and restrictions on the property rights of Greek Cypriots living permanently in the northern part of Cyprus remains pending. At a meeting in September 2010, the Committee of Ministers decided to postpone examination of these issues until December 2010. In its Grand Chamber Decision of 5 March

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<sup>9</sup> Protocols 4, 7 and 12.

<sup>10</sup> The non-implementation of the Hulki Güneş, Göçmen and Söylemez judgments has resulted in deprivation of liberty for the defendants for several years without due process of law. A legislative amendment is required to remedy this situation. Furthermore, Turkey has not adopted legal measures to prevent repetitive prosecution and conviction of conscientious objectors. Other issues awaiting legislative measures by Turkey concern control of the activities of security forces, effective remedies against abuse, restrictions on freedom of expression and excessive length of pre-trial detention.



2010 on the *Demopoulos v. Turkey* case the ECtHR concluded that, for the purposes of the ECHR, remedies available may be regarded as effective and accessible domestic remedies which have to be exhausted before applications before the ECtHR can be found admissible. However, the court stressed that this decision was not to be interpreted as requiring applicants to make use of the Immovable Property Commission procedure. Applicants could choose not to do so and await a political solution. Since March the number of applications to the Immovable Property Commission has increased substantially.

Regarding *promotion and enforcement of human rights*, the government plans the establishment of several human rights institutions. In particular, the draft law on the establishment of the Turkish Independent Human Rights Institution was submitted to parliament in February 2010. Opinions from NGOs were discussed by the relevant parliamentary sub-committee. The draft law before parliament needs to be amended to bring it into line with the UN framework, in particular as regards the independence and functional autonomy of this new institution. It is important to conduct this process in close consultation with NGOs.

The constitutional reform provides the basis for establishment of an Ombudsman institution.

Human rights training for public officials, judges, public prosecutors and police officers continued. In-service and on-the-job training for the gendarmerie includes training on human rights together with specialist training on techniques for reviewing allegations of human rights violations.

The Human Rights Investigation Committee of the Parliament published 13 reports. However, the Committee has been focussing on policy making and the legislative process.

*Human rights defenders* have continued to face criminal proceedings. Investigations carried out as part of the fight against terrorism have raised concerns following the arrests of trade union and human rights activists. The wide definition of terrorism under the Anti-Terror Law remains a cause for concern (*See the chapter on the Situation in the south-east*).

Human rights institutions lack resources, independence and impact.

Overall, some progress was made on observance of international human rights law. However, a number of reforms have been outstanding for several years. Legislation on human rights' institutions needs to be brought fully in line with UN principles.

### *Civil and political rights*

The government pursued its efforts to ensure compliance with legal safeguards to prevent *torture and ill-treatment*. This policy has continued to produce positive results. Training for health personnel, judges and prosecutors on effective investigation and documentation of torture and ill-treatment cases continued with a view to implementation of the Istanbul Protocol<sup>11</sup> in Turkey.

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<sup>11</sup> Istanbul Protocol: Manual on the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment, submitted to the United Nations Commissioner for Human Rights, 9 August 1999.

The draft Law on the Establishment of a Monitoring Commission on Security Forces was submitted to the Parliament in October. The draft foresees the establishment of a Supervisory Commission for the registration and monitoring of disciplinary procedures and measures against law enforcement officers.

However, disproportionate use of force by law enforcement bodies continued. Reports to NGOs of disproportionate use of firearms by security forces resulting in death have increased.

Ratification of OPCAT has been pending since 2005. (*See the chapter on Observance of international human rights law*)

Law enforcement bodies frequently launch cases against persons who allege torture or ill-treatment. Such legal proceedings may deter complaints. In many instances these cases are given priority by Turkish courts.

No forensic doctors are recognised by courts, apart from the Forensic Medicine Council, which is under the Ministry of Justice. Law enforcement officers are sometimes present during medical examination of prisoners.

As regards *the fight against impunity*, the case concerning the death in detention of Engin Çeber<sup>12</sup> was brought to conclusion in June 2010. The court sentenced three prison guards and the deputy director of the prison to life in prison for murder. Two police officers received 7.5 year prison sentences and one police officer received 2.5 year in prison. This is the first verdict where a court has convicted a senior prison official. However, the efforts to fight impunity for human rights violations have not sufficiently addressed the backlog of judicial proceedings. The ECtHR found that the criminal proceedings were still not finalised as regards members of the security forces who took part in an operation at Diyarbakir prison on 24 September 1996, which had led to the death of eight prisoners and injured six. The ECtHR condemned Turkey, on several accounts including the lack of an effective investigation into this case (article 3 of the ECHR). In 2009 the Human Rights Committee of the TGNA found that very few lawsuits filed against police officers for ill-treatment or torture resulted in a conviction<sup>13</sup>. Administrative investigations into allegations of torture or ill-treatment are still carried out by fellow police officers.

Overall, the positive trend on prevention of torture and ill-treatment continued. Some high-profile cases of human rights violations have resulted in convictions. However, disproportionate use of force by law enforcement authorities continued and is of concern. The efforts to fight impunity for human rights violations have not sufficiently addressed the backlog of judicial proceedings.

There has been some improvement in *access to justice* in rural areas. However, access to free legal aid was limited, especially in the south-east. The Istanbul bar boycotted the legal aid

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<sup>12</sup> Engin Çeber was arrested for distributing a legal journal on 28 September 2008. Çeber died as a result of injuries sustained during torture in a police station in Istanbul and Metris prison on 10 October 2008.

<sup>13</sup> The Human Rights Investigation Committee noted that none of the 35 lawsuits filed against 431 members of the Istanbul police for ill-treatment or torture resulted in a conviction. The committee concluded that this gives rise to suspicions about the effectiveness of proceedings initiated against law enforcement agents. According to the same report, only 2% of police officers accused of ill-treatment or torture are subject to disciplinary sanctions as a result of an administrative investigation into allegations of torture or ill-treatment. The committee concluded that such investigations should not be carried out by fellow police officers.

scheme from June 2009 to March 2010 and no legal counsel was appointed during that period at Istanbul courts. There is evidence that a large number of prison inmates have never received any legal aid or knew that they could benefit from the services of a legal counsel had they requested one. There is no monitoring of implementation of the relevant legislation in terms of either its coverage or the quality of services provided by legal aid lawyers. Hence, there is no assessment of whether the funds available and fees charged are adequate. In addition, there is no body, either independent or within the government, responsible for monitoring this issue.

Overall, little progress has been made. Provision of legal aid is inadequate in terms of either its coverage or the quality of services provided. There is no effective monitoring mechanism that would ensure that problems are addressed.

The *prison* reform programme continued. The four training centres organised courses for 8249 prison staff in 2009 and an additional 4929 staff have been appointed.

Use of languages other than Turkish in prisons was extended. If the prisoner or his visitor does not know Turkish, use of another language is allowed. The Law on enforcement courts strengthens defendant's rights in case of the application of disciplinary sanctions against prisoners.

The Ministry of Justice is developing a case management model to be brought into operation for juveniles first and then extended to all prisons. This improves rehabilitation services.

Architectural changes to some high-security prisons enabled more communal activities to be carried out. The Ministry of Justice has started to build juvenile prisons.

However, the high proportion of prisoners in pre-trial detention is still a significant problem. Close to half of those imprisoned in Turkey are either awaiting trial or awaiting a final verdict on their cases<sup>14</sup>. The situation is even more worrying as regards juveniles in penitentiaries. Only 12% are serving prison sentences, the rest are awaiting trial.

The number of juvenile reformatories is insufficient. Children are not fully separated from adults in all prisons. This is especially the case with girls, who are usually imprisoned with women.

The inadequate resources of prisons continue to raise concerns. The rapid increase in the number of inmates, which has doubled in a few years, led to a growing overcrowding problem. The number of prison staff and their qualifications are still inadequate. There are 7981 vacancies.

The standards of monitoring of national prisons have not been improved to UN standards.

The inadequate health services for prisoners remain a concern. The protocol signed between the Ministries of Justice and Health in April 2009 transferring responsibility for health care services in prisons to the Ministry of Health has had limited impact. The number of permanent physicians is insufficient.

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<sup>14</sup> Currently there are 119,145 people in prisons in Turkey, 56,557 of whom have not yet been sentenced, according to Ministry of Justice statistics.

Overall, the implementation of the prison reform programme continues. However, the high proportion of prisoners in pre-trial detention remains one of the most significant problems. Health services in prisons need to be improved.

As regards *freedom of expression*, an increasingly open and free debate continued on a wide scale in the media and public on topics perceived as sensitive, such as the Kurdish issue, minority rights, the Armenian issue and the role of the military.

There are few cases initiated on the basis of Article 301 of the Turkish Criminal Code (TCC), after it was amended in May 2008<sup>15</sup>.

However, a high number of violations of freedom of expression by Turkey are still being submitted to the ECtHR.

Defamation is a criminal offence under Turkish law. Article 125 of the TCC provides that defamation is punishable by either a prison sentence or a fine. There are many ongoing cases and convictions under this provision. Insults against the Turkish nation are still criminalised under Article 301 of the TCC. Other provisions of the TCC<sup>16</sup>, the Anti-Terror Law and the Press Law are also used to restrict freedom of expression.

The high number of cases initiated against journalists who have reported on the Ergenekon case is a cause for concern<sup>17</sup>. They face prosecutions and trials for violating the principle of confidentiality of an ongoing judicial process. This could result in self-censorship.

Pressure on newspapers discussing the Kurdish question or publishing in Kurdish increased. In the course of the year, publication of the *Azadiya Welat* newspaper in Diyarbakır was banned several times and its journalists were sentenced in prison under terrorism propaganda charges. In its ruling on the *Ürper and others v. Turkey* case, the ECtHR ruled that Turkey should revise Article 6(5) of the Anti-Terror Law.

The review carried out by the Ministry of Justice on the legal framework on freedom of expression was not finalised.

Regarding hate speech, the Council of Europe<sup>18</sup> recommended Turkey to encourage the media to develop a code of ethics on respect for religious minorities and to prosecute incitement to hatred passed on by the media.

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<sup>15</sup> According to the Ministry of Justice, since the amendment to Article 301 of the Turkish Penal Code, a decrease in the number of cases opened has been observed. The figures below cover examinations concluded between 1 January 2010 and 31 July 2010: 369 files examined, 270 files for which permission was denied, 10 files for which permission was granted, 3.57% files for which permission was granted

<sup>16</sup> Examples include offences against public order (Articles 214, 216, 217, 218 and 220 of the TCC), State security (Article 305) or the constitutional order (Articles 312 and 314) and obscenity (Article 226). In addition, prosecutions and convictions are continuing on the basis of Article 318 of the TCC (on discouraging people from military service).

<sup>17</sup> 4,091 investigations have been initiated against journalists for breaches of the confidentiality of investigations or attempts to influence a fair trial (Articles 285 and 288 of the Turkish Criminal Code), following their reporting on the Ergenekon case.

<sup>18</sup> CoE Resolution 1704 (2010).

In October, the Court of Cassation ruled that Nobel Prize winner Orhan Pamuk can be sued for remarks made in 2005, when he was quoted in a Swiss magazine commenting on the Kurdish and Armenian issues.

The interpretation of certain articles of the broadcasting law and the sanctions imposed on broadcasters raised concerns (*See Chapter 10 – Information society and media*).

There are frequent website bans, which are disproportionate in scope and duration. Youtube was officially inaccessible in Turkey from May 2008 to November 2010, after publication of videos which allegedly violated the Law on crimes against Atatürk. Other court cases are still ongoing against the video sharing website and other mainstream web portals have been banned for several years. Law n°5651 on the Internet limits freedom of expression and restricts citizens' right to access information.

As regards freedom of the press, concerns remain as regards political attacks against the press. The court case on the tax fine ordered in 2009 against Dogan Media Group, critical of the government, continues. The press exercises self restraint when reporting following the initiation of this case.

Court cases have been opened against journalists about their work by politicians and high-level authorities, including military authorities.

Overall, open and free debate has continued and expanded. However, the high number of legal suits against journalists and undue pressure on the media undermine freedom of the press in practice. Turkish law does not sufficiently guarantee freedom of expression in line with the ECHR and the ECtHR case law. The frequent website bans are a cause for concern.

As regards *freedom of assembly*, some positive developments took place. *Newroz* (the Kurdish New Year) and 1 May demonstrations took place peacefully in most places during the reporting period. A number of symbolic public events took place on 24 April to mark 'Armenian Genocide Commemoration Day'. The gatherings received police protection where necessary.

However, some demonstrations in the south-east of the country related to the Kurdish issue continued to be marred by violence.

Difficulties with the implementation of the Law on the duties and legal powers of the police, adopted in 2007, are still being reported, especially in the south-east.

Impunity remains a problem for effective judicial and administrative investigations against members of the security forces who are involved in excessive use of force (*See the chapter on Impunity*).

As regards *freedom of association*, there are a large number of civil society organisations and other associations in Turkey.

The case for closure of the political party DTP confirmed the need for changes to the legal framework, including the Constitution. A government proposal to amend the Constitution to this end was rejected by parliament in May.

The Court of Cassation decided at the end of 2009 against the closure of the lesbian, gay, bisexual, transgender and transvestite (LGBTT) association Lambda Istanbul. In a similar

case against the LGBTTT Black Pink Triangle Association (BPTA), the Izmir Governorate launched a new closure case alleging violation of the rules on morality. The court concurred with the public prosecutor who had asked for the dismissal of the case.

The judicial investigation into the Istanbul branch of the Human Rights Association, initiated by a complaint by the Istanbul Governorate, is still pending from last year. The closure case against the Özgür-Der Association for Freedom of Thought and the Right to Education was rejected by the court.

The ECtHR judgment on the *Özbek and others v. Turkey* case about the establishment of the Kurtuluş Protestant Church Foundation in Ankara found Turkey in violation of Article 11. The court ruled that the ability to establish a legal entity in order to act collectively in a field of mutual interest was one of the most important aspects of freedom of association.

The case against the executive members of Diyarbakır Göç-Der, which has been active in the area of internal displacement and immigration, ended in closure of the association and is under appeal.

Raising awareness in public institutions and in the public at large about the role played by *civil society organisations*, including in the accession process, continued. The government (EU Secretariat-General) organised consultative meetings with civil society representatives on the EU accession process.

However, civil society organisations continue to face disproportionate administrative checks and fines. Moreover, the bureaucratic requirements for fund-raising, obtaining public benefit status and lack of simplified rules for small or medium-sized associations prevent a more enabling environment for associations. More restrictive legislation applies to foreign associations.

Overall, the legal framework on freedom of association is broadly in line with EU standards. However, associations face difficulties to meet legal requirements and some are subject to disproportionate controls. There is no progress on amendment of the legal provisions on the closure of political parties. Launching of closure cases against LGBTTT associations restrains the full exercise of freedom of association. As regards freedom of assembly, there has been progress on the ground. However, some demonstrations in the Southeast of the country related to the Kurdish issue continued to be marked by police violence.

Concerning *freedom of religion*, freedom of worship continues to be generally respected. Ecumenical Patriarch Bartholomew celebrated on 15 August, after almost nine decades, the Divine Liturgy of the Dormition of Theotokos at the Soumela monastery in the Black Sea province of Trabzon. On 19 September the first religious service since 1915 was held at the Armenian Holy Cross church on the Akhdamar island in lake Van.

The Turkish authorities granted Turkish citizenship to fourteen members of the Greek Orthodox clergy. This facilitates the work of the patriarchate and of the Holy Synod.

The Turkish authorities, including the State Minister for EU Affairs, the EU Secretariat-General and relevant line ministries, have had frequent meetings with the religious leaders of non-Muslim communities.

In May 2010, the Prime Minister issued the first circular instructing all relevant authorities to pay due attention to the problems of non-Muslim Turkish citizens. The issues covered in the

circular include protecting and maintaining non-Muslim cemeteries, control of which has been transferred to municipalities; implementing court decisions in favour of non-Muslim community foundations at title-deed registry offices; and launching immediate legal proceedings against publications inciting hatred and animosity against non-Muslim communities.

Opening to the *Alevi* community continued. Seven workshops were held, as initially planned, with different social and professional groups and with Alevi representatives.

Implementation of the Law on foundations of February 2008 proceeded albeit with some delays and procedural problems. (*See the chapter on the Right to property*)

However, under Article 24 of the Turkish Constitution and Article 12 of the Basic Law on national education, religious culture and ethics classes remain compulsory in primary and secondary education. The October 2007 ECtHR judgment – which found that these classes did not only give a general overview of religions but also provided specific instruction in the guiding principles of the Muslim faith and requested Turkey to bring its education system and domestic legislation into line with Article 2 of Protocol 1 to the ECHR – has still not been implemented.

Protestant students were obliged to take such religious classes. Jehovah's Witness communities brought two new administrative court cases against national education directorates of provincial governorates after applications for exemption were rejected. Cases on the same issue, brought by Jehovah's Witness families, are pending before the Council of State.

Non-Muslim communities – as organised structures of religious groups – still face problems due to lack of legal personality. In March, the Venice Commission of the Council of Europe concluded that the fundamental right to freedom of religion, as protected by Article 9 read in conjunction with Article 11 of the ECHR, includes the possibility for religious communities to obtain legal personality<sup>19</sup>.

Restrictions on the training of clergy remain. Turkish legislation does not provide for private higher religious education for individual communities and there are no such opportunities in the public education system. The Halki (Heybeliada) Greek Orthodox seminary still remains closed, although there have been positive statements by senior government officials on the possibility of re-opening it. The Armenian Patriarchate's proposal to open a university department for the Armenian language and clergy has been pending for three years now. The Syriacs can provide only informal training, outside any officially established schools.

The Ecumenical Patriarch is not free to use the ecclesiastical title 'Ecumenical' on all occasions. In March, the Venice Commission concluded that any interference with this right would constitute a violation of the autonomy of the Orthodox Church under Article 9 of the ECHR.

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<sup>19</sup> The Venice Commission considered that this is important not least to ensure access to courts and protection of property rights. It could see no justification, which would be in conformity with the strict requirements of Articles 9(2) and 11(2) of the ECHR, for not granting such rights to the non-Muslim religious communities.

In June 2007, the Court of Cassation ruled that persons who participate and are elected in religious elections held in the patriarchate should be Turkish citizens and be employed in Turkey at the time of the elections. However, Turkish and foreign nationals should be treated equally as regards their ability to exercise their right to freedom of religion by participating in the life of organised religious communities in accordance with the ECHR and the case law of the ECtHR.

Personal documents, such as identity cards, include information on religion, leaving potential for discriminatory practices. In January, in the *Sinan Isik v. Turkey* case the ECtHR decided that indication of religion on identity cards was in breach of the Convention.

Regarding places of worship, non-Muslim religious communities report frequent discrimination and administrative uncertainty. Applications to authorities for allocation of places of worship continued to be refused. Two cases regarding Alevi places of worship (Cem houses) have been concluded before the courts, and applications have been refused. In May 2010, a Cem house applied to the ECtHR after exhausting all other domestic remedies. Despite the *de facto* recognition by some municipal councils of Cem houses as places of worship, the overall policy of not recognising them has not changed.

Protestant and other Churches (e.g. the Kurtuluş and Batıkent Churches in Ankara) have not been able to obtain permission for places of worship within the boundaries of their provinces. Jehovah's witnesses had similar problems, as the courts found that their place of worship in Mersin violated the zoning law. This case has been taken to the ECtHR. The same religious community has a similar case before the courts related to a worship place in Izmir.

Jehovah's witnesses face tax claims by the municipalities of Istanbul and Ankara. The municipal authorities sent demands for payment of property tax for their places of worship, despite their exemption in principle following a Court of Cassation decision recognising their religion under Christianity. Several court cases are pending on taxation issues.

Missionaries are widely perceived as a threat to the integrity of the country and to the Muslim religion. A court case against two missionaries in Silivri is continuing.

The court case concerning the killing of three protestants in Malatya in April 2007 continues. A police report, prepared at the request of the Chief Public Prosecutor's Office in Istanbul, drew attention to the link between the killing of protestants in Malatya and the Ergenekon case.

Judicial proceedings against conscientious objectors on religious grounds continued. Public statements on the right to conscientious objection have led to convictions. Implementation of ECtHR judgments regarding *conscientious objectors* is still pending. Turkey has adopted no legal measures to prevent repetitive prosecution and conviction of conscientious objectors. Several members of the Jehovah's Witness's community face court cases as conscientious objectors. A military court rejected the right to conscientious objection.

Overall, freedom of worship continues to be generally respected. The implementation of the Law on foundations continued, albeit with some delays and procedural problems (*see the chapter on Property rights*). The dialogue with the Alevis and with the non-Muslim religious communities continued but has not yet produced results. Announcements on the Halki (Heybeliada) seminar were not followed up. Members of minority religions continue to be subject to threats by extremists. A legal framework in line with the ECHR has yet to be



established, so that all non-Muslim religious communities and the Alevi community can function without undue constraints, including the training of clergy.

### *Economic and social rights*

As regards *women's rights* and gender equality some progress can be noted. An amendment to the Constitution provides that positive discrimination measures in favour of women can be adopted. A Prime Ministerial circular was issued with the aim of promoting women's employment and equal opportunities, particularly on the labour market. The circular provides for establishment of a national board for monitoring and coordinating matters related to women's employment, for involvement of social partners and NGOs in the work of the board and for pursuit of gender equality and gender mainstreaming in drafting and implementing legislation and policies.

The Parliamentary Committee on Equal Opportunities for Women and Men continued its work. It conducted a number of investigations, prepared reports and consulted relevant bodies, including NGOs on issues such as violence against women, early marriages or sexual harassment of minors at school.

A tripartite protocol was concluded between the Social Services and Child Protection Agency, the Directorate-General for Women's Status and the Turkish national police with the aim of improving the services for women and children victims of domestic violence. The police have started to use standard reception forms for victims for risk assessment and subsequent referrals. Training for police officers continued. Awareness-raising activities for public servants continued, particularly at local level.

The gender gap in primary education continued to narrow and has virtually closed at national level<sup>20</sup>. This needs to be sustained by continuing to encourage enrolment of girls and preventing school drop-outs particularly in rural areas.

However, gender equality and combating violence against women remain major challenges for Turkey.

Women's representation in politics, senior positions in public administration and in trade unions<sup>21</sup> is very low.

As regards women's participation in the labour market, the absence of sufficient child-care facilities, difficulties in access to secondary and further education and the existence of stereotypes all contribute to this. Unpaid work in subsistence agriculture and employment in the informal sector continue to be challenges. There are no social inclusion mechanisms for women to counter-balance the impact of poverty, migration and other socio-economic problems.

The situation of children, especially of girls, at primary boarding schools needs attention in order to avoid drop-outs and increase the quality of education. The safety of minors in these institutions, in particular girls, is a cause for concern and was debated in the press. There is a

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<sup>20</sup> The primary school enrolment rates (grades 1 – 8) rose to 98.47% for boys and 97.84% for girls.

<sup>21</sup> In reply to a parliamentary question in late 2009, State Minister Selma Aliye Kavaf said that 2,282 managers are employed by State institutions. Of these, 1,995 are male and 287 female. Women thus account for only 12.5% of senior State administrators.

need for a transparent and objective review of the system. The gender gap in secondary and other levels of education persists.

School textbooks still contain stereotypes about women's role and status.

There is evidence of an increase in honour killings. The number of shelters for women<sup>22</sup> and other preventive and protective services remains limited. There is no effective government oversight of shelters and of the work of municipalities. Inter-institutional cooperation needs to be stepped up. Training of law enforcement bodies and public institutions, particularly in the field of violence against women, needs to be sustained.

As regards domestic violence, execution of the ECtHR judgment in the *Opuz v. Turkey* case is pending. Family courts have been applying severe sanctions in cases of domestic violence and honour killings. However, this practice needs to be applied consistently. In one honour killing case, the Court of Cassation reduced the penalty due to 'unjust provocation'.

Early and forced marriages remain a cause for concern. Such marriages could also lead to reproductive health risks and domestic abuse. There are no reliable figures on the incidence of such marriages.

Women's organisations report deterioration in their dialogue and their cooperation with relevant public institutions, at both central and local levels.

Implementation of the national action plan on gender equality and violence against women lacks sufficient human and financial resources. The action plan does not contain firm and measurable targets. A number of members of the judiciary were trained on gender issues under the protocol signed between the Directorate-General for Women's Status and the Ministry of Justice. However, additional national resources are required to sustain this training. A comprehensive approach to women's rights has yet to be adopted, with the participation of women's organisations.

Overall, the legal framework guaranteeing women's rights and gender equality is broadly in place. This framework has been strengthened through the constitutional amendment permitting the adoption of positive discrimination measures for women. However, ensuring women's rights and gender equality in practice remain key challenges for Turkey. Notably sustained further efforts are needed to turn this legal framework into political, social and economic reality. Honour killings, early and forced marriages and domestic violence against women remain serious problems. Legislation needs to be implemented consistently across the country. Further training and awareness-raising on women's rights and gender equality are needed.

With respect to *children's rights*, an amendment to the Constitution stipulates that measures to guarantee children's rights in practice cannot be interpreted as contrary to the principle of equality. This would allow adoption of positive discrimination measures for children.

The pre-school education enrolment rate for children between 4 and 5 years of age increased to 39% in 2009-2010 from 33% in 2008-2009. The primary school enrolment rates (grades 1-

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<sup>22</sup> As of October 2010, the number of these shelters is 62, 11 of which were opened in 2010. The 2005 Law on Municipalities provides, however, for establishment of shelters for women in municipalities with a population of 50 000 or more.

8) rose for both boys and girls, virtually closing the gender gap at national level in primary education. The Ministry of National Education has developed an early-warning system for children at risk of dropping out. In secondary education (grades 9-12), the net enrolment rate rose to 65% in 2009-2010 from 59% in 2008-2009.

The State covers health expenses of children of low-income families and of those who are not covered as dependants by the social security system. The family doctor system is gradually being extended and covers a larger number of provinces. This could result in better monitoring of children's health if sufficient implementation capacity is built up.

A Department for Disadvantaged Groups was established in the Ministry of Labour and Social Security. One of its duties is to coordinate the efforts by institutions to tackle child labour.

Parliament's Child Rights Monitoring Committee became more active. Among other things, it set up an interactive website that allows children to share their views with the members of the Committee. Each message is being assessed and replied. However, it is still an informal committee and is not responsible for monitoring all proposed legislation for compatibility with children's rights.

A parliamentary investigation committee on missing children and other cases where children are victimised was established. Its report is expected to be debated in parliament in 2010.

A Prime Ministerial circular was issued with the aim of improving the conditions for seasonal migrant agricultural workers and their families, including better access for children to education and health services.

Turkey submitted to the UN its second and third combined state reports on implementation of the Convention on the rights of the child.

As regards *juvenile justice*, a July 2010 Law amending the Anti-Terror Law and other laws provides that children accused of committing terror-related crimes will be tried by juvenile courts<sup>23</sup>. This applies even when such offences are committed together with adults. In addition, children sentenced for propaganda for a terrorist organisation or for resistance to security officers during participation in meetings or demonstrations will no longer also be sentenced for membership of a terrorist organisation. In general, the law provides for non-application to juveniles of a number of aggravating circumstances included in the Anti-Terror Law. In practice, this is expected significantly to reduce the prison sentences imposed on children participating in meetings or demonstrations. Finally, the law allows juvenile courts to decide to postpone announcement of a judgment, to convert a prison sentence to alternative sanctions or to suspend sentences for terror-related crimes.

The probation system, although new, has been established in every province and psychologists and social workers have been appointed. On 17 September 2010, there were 6,233 children on probation.

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<sup>23</sup> Under the 2005 Law on child protection, all Turkish citizens up to eighteen years of age are considered children and are eligible for children's rights. However, amendments to the 2006 Anti-Terror Law provided that children between fifteen and eighteen years of age can be tried as adults. As a result, minors participating in demonstrations, particularly in the south-east, faced charges of 'membership of a terrorist organisation' and, hence, disproportionate prison sentences.

However, close to 200,000 children – especially girls in some eastern and south-eastern provinces – are still out of school. In the case of secondary education, there are large geographic variations. There is also a significant gender gap, with net enrolment rates of 68% among boys and 62% among girls. Implementation of the strategy for tackling violence in educational institutions is limited and needs to be monitored. Some cases of violence and/or abuse reported at children’s homes and boarding schools attracted extensive media coverage and public criticism. In order to tackle violence against children effectively, stronger commitment from, and coordination between, relevant institutions is needed.

There has been limited progress on preventing child labour. There is still no effective monitoring system in place.

The poverty rate amongst children under 15 years has dropped to 24.4%. Nevertheless, this is still 7.3 percentage points higher than the general poverty rate. In rural areas, this rate is as high as 44.9%. Special measures are needed to tackle poverty amongst children in rural areas.

As regards efforts to de-institutionalise the services provided by the Social Services and Child Protection Agency (SHÇEK), there is a need for increased counselling, guidance and financial support for natural and foster parents. The administrative capacity of the SHÇEK remains limited.

The 2008 demographic and health survey<sup>24</sup> shows that 6% of children under the age of five were not registered. This rate rises to 11% in eastern regions.

There has been no progress towards removing the reservations to the main international instruments on children’s rights<sup>25</sup>.

Children are often still held in prisons and detention centres not reserved for children (or for children and young people). In many institutions where children are detained, there is high turn over of unqualified personnel.

The Child Protection Law calls for juvenile courts to be established in all 81 provinces of the country. By September 2010, there were ninety five such courts established with only seventy two of them functioning covering only 30 provinces.

Overall, there has been progress with the legal framework on children’s rights, juvenile justice and the gender gap in primary education. Nevertheless, efforts on implementation need to be further strengthened in all areas, including education, child labour, health, juvenile justice, administrative capacity and coordination.

As regards *socially vulnerable persons and/or persons with disabilities*, an amendment to the Constitution cleared the way for positive discrimination in favour of persons with disabilities by stating that special measures for them cannot be regarded as against the equality principle. 2010 has been declared ‘Accessibility for All Year’. However, the strategy paper on

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<sup>24</sup> 2008 Demographic and Health Survey - Final Results: <http://www.hips.hacettepe.edu.tr/eng/index.html>.  
<sup>25</sup> Turkey ratified the UN Convention on the rights of the child in 1995. However, it has reserved the right to interpret and apply Articles 17, 29 and 30 of the Convention - all of which refer to language rights and/or cultural identity – in accordance with the letter and spirit of the Constitution of the Republic of Turkey and of the 1923 Treaty of Lausanne.

accessibility and the related national action plan have not been adopted yet. A national mechanism for monitoring implementation of the UN Convention on the rights of disabled persons and its optional protocol still has not been established.

Employment of persons with disabilities in public institutions has been exempted from the recruitment limitations in the general budget, paving the way for improving their employment prospects. Further measures are needed to increase the employability of persons with disabilities in both the public and private sectors, including promotion of alternative methods of employment.

Lack of data and research on persons with disabilities and mentally ill persons remains a barrier to informed policymaking.

Access to education, health, social and public services for persons with disabilities are still critical issues, despite legislation in this field. Physical barriers to access to public buildings are a particular problem<sup>26</sup>. Awareness-raising efforts to fight prejudices about people with disabilities need to be intensified, with a view to increasing their participation in social and economic life.

Conditions of care for the mentally ill continue to give cause for concern.

As regards *labour and trade unions rights*, the amendments to the Constitution grant civil servants and other public employees the right to collective bargaining and make disciplinary decisions against civil servants subject to judicial review. The bans on politically motivated strikes and lockouts, solidarity strikes and lockouts, general strikes and lockouts, occupation of work premises, labour go-slows, productivity go-slows and other forms of resistance were lifted. Membership of more than one trade union at the same time in the same branch of activity was made possible. The Economic and Social Council has gained a constitutional basis. A Prime Ministerial circular called for facilitation of exercise of trade union rights in the public sector. Marches to celebrate 1 May went peacefully. Taksim Square was opened for celebrations for the first time since 1977, when 34 persons were killed and many injured during the labour day demonstrations.

However, trade union rights are not in line with EU standards and ILO conventions. The ILO bipartite high-level mission called for the government and social partners, including employers' and workers' associations, to seek a consensus and, at the same time, emphasised that it is for the government to ensure compliance with international obligations.

The demonstration by workers from TEKEL (the state monopoly for tobacco processing) raised concerns over the labour rights of workers who are to be temporarily employed by the State after privatisation.

Overall, the constitutional amendments broaden trade union rights in the public service. However, there are restrictive provisions in the current legal framework which are not in line with EU standards and ILO Conventions. Lack of consensus among social partners and the

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<sup>26</sup> The 2005 Turkish Disability Act states that all existing public buildings and roads, pavements, pedestrian crossings, open and green areas, sports areas and similar social and cultural infrastructure serving the public must be made suitably accessible for disabled people by 2012. However, apart from pilot accessibility projects in four municipalities, no progress has been achieved in this field yet.

government is an obstacle to the adoption of new legislation. The constitutional amendment package did not introduce the right to strike for civil servants.

The principle of *anti-discrimination* is enshrined in the Constitution and upheld in several laws. The government consulted civil society organisations, universities and relevant authorities on the draft Law for the establishment of an anti-discrimination and equality board.

However, the current legal framework is not adequately aligned with the EU *acquis*. (See Chapter 19 – *Social policy and employment*) There have been several cases of discrimination at the workplace, where LGBTT employees have been fired because of their sexual orientation. Provisions of the Turkish Criminal Code on ‘public exhibitionism’ and ‘offences against public morality’ are sometimes used to discriminate against LGBTT people. The Law on misdemeanours is often used to impose fines against transgender persons.

The statements by the State Minister responsible for Women and the Family on homosexuality being a disorder sparked reactions from the LGBTT community and human rights circles. Negative stereotyping by political figures can provoke further discrimination against LGBTT people.

Court cases for the closure of LGBTT associations ended positively during the reporting period. (See *Freedom of association*)

Homophobia has resulted in physical and sexual violence. The killing of several transsexuals and transvestites, along with recent violence by police in Ankara against transgender persons, are worrying developments. Courts have applied the principle of ‘unjust provocation’ in favour of perpetrators of crimes against transsexuals and transvestites.

The Turkish armed forces have still a health regulation which defines homosexuality as a ‘psychosexual’ illness and declares homosexuals unfit for military service. Conscripts who declare their homosexuality have to provide photographic proof. Some have had to undergo humiliating medical examinations.

Overall, efforts continued to improve the situation of socially vulnerable persons and/or persons with disabilities, to strengthen labour union rights and to fight discrimination. However, in practice many challenges remain to be addressed in these areas.

With respect to *property rights*, implementation of the February 2008 Law on foundations continued throughout the reporting period, albeit with some delays and procedural problems. The initial deadline of 27 August 2009 for submission of applications by non-Muslim foundations for the restitution of properties registered under figurative or fictitious names, or in the name of the Treasury or of the Directorate-General for Foundations, was extended to give the foundations time to obtain all the documents required.

Representatives of the Turkish authorities met members of non-Muslim foundations a number of times about implementation of Provisional Article 7. A total of 1,410 applications for restitution were submitted by 107 foundations. To date, 131 positive decisions have been given, while another 150 requests were met without taking the cases to the Foundations Council.

For 943 applications the Foundations Council extended the period by two months to 16 July in order for the files to be completed. On another 347 applications negative decisions were issued.

As regards the *Ecumenical Patriarchate v. Turkey*<sup>27</sup> case and the issue of just satisfaction, the ECtHR judgment of 15 June 2010 found that Turkey had to re-register the property in question in the land register in the applicant's name. The Büyükada civil court of first instance ruled in favour of the Ecumenical Patriarchate, reflecting the ECtHR's judgement and the position of the Foundations Assembly.

However, the legal framework does not address cases of properties seized and sold to third parties or properties of foundations merged before the new legislation was adopted in February 2008.

Syriacs continue to face difficulties in property and land registration procedures. A number of court cases are in progress concerning both individuals and religious institutions. The Mor Gabriel Syriac Orthodox monastery court cases regarding land ownership continued throughout the reporting period.

Turkey has yet to implement the ECtHR judgment<sup>28</sup> of March 2009 on the property rights of a Greek Orthodox church on the island of Bozcaada (Tenedos).

Problems encountered by Greek nationals when inheriting and registering property are still being reported, in particular with application by the Turkish authorities of the amended Land Registry Law, including interpretation of its provision on reciprocity. With respect to that issue, the ECtHR held that there had been a violation of Article 1 of Protocol 1 (peaceful enjoyment of possessions) to the ECHR and ordered either the return of the property or financial compensation for the applicants.

Overall, the Law on foundations has been implemented, albeit with some delays and procedural problems. The Foundations Council acknowledged these problems and tried to speed up procedures. However, this law does not address the issues of properties seized and sold to third parties or of properties of foundations merged before the new legislation was adopted. Turkey needs to ensure full respect of the property rights of all non-Muslim religious communities.

### *Respect for and protection of minorities, cultural rights*

The debate on minority-related issues has developed under the auspices of the government, and a few symbolic acts have taken place, such as the Roma gathering in March. Work is under way to remove discriminatory language from textbooks.

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<sup>27</sup> On 8 July 2008, the ECtHR decided on the claim of the Ecumenical Patriarchate that had been deprived of its property acquired in 1902 and dedicated to a specific use in 1903 via the Foundation of the Büyükada Greek Orphanage for Boys. The applicant alleged, in particular, that by ordering registration of its real estate in the name of the orphanage, under the management of the State Directorate-General for Foundations, the domestic courts had breached its right to peaceful enjoyment of its property. The court held that the Turkish authorities were not entitled to deprive the owner of its property without providing appropriate compensation and that there had been a violation of the ECHR.

<sup>28</sup> In March 2009, the ECtHR ruled that Turkey had violated the property rights of a Greek Orthodox church on the island of Bozcaada (Tenedos). It held unanimously that the refusal by the Turkish courts to register the immovable property of the applicant foundation in the land registry in its name was a violation of Article 1 of Protocol 1 (peaceful enjoyment of possessions) to the ECHR.

However, Turkey's approach to minority rights remains restrictive. Turkey is a party to the UN International Covenant on civil and political rights, but its reservations regarding the rights of minorities and the UN Covenant on economic, social and cultural rights regarding the right to education are causes for concern. Turkey has not signed the Council of Europe Framework Convention for the protection of national minorities.

A constructive dialogue between Turkey and the OSCE High Commissioner on National Minorities, including on participation by minorities in public life and broadcasting in minority languages, would facilitate further alignment with international standards and best practice in EU Member States.

The situation of the Greek minority has not changed. It continues to encounter problems with education and property rights, including on the islands of Gökçeada (Imvros) and Bozcaada (Tenedos). Management of minority schools, including dual headship<sup>29</sup>, remains an issue, pending an implementing regulation. The schools face procedural and bureaucratic difficulties with registration, budget problems and sustainability problems due to the number of students (restricted by law on condition that they must be from the same minority) plus administrative issues and educational problems.

Anti-Semitism remains an issue, especially in connection with hate speech in the pro-Islamist and ultranationalist media.

The court case on the murder of Armenian journalist Hrant Dink is continuing without significant progress. The court case against two protestants in Silivri is continuing under Article 301 of the Turkish Criminal Code, as allowed by the Ministry of Justice. The Malatya murder case continued. The court case against the coup plan, referred to as 'cage plan' targeting non-Muslim minorities started in June. (*See Civilian oversight of security forces*)

Overall, Turkey's approach on minorities remains restrictive. Full respect for and protection of language, culture and fundamental rights, in accordance with European standards, have yet to be fully achieved. Turkey needs to make further efforts to enhance tolerance or promote inclusiveness vis-à-vis minorities.

As regards *cultural rights*, the Regulation on the Radio and Television Supreme Council (RTUK) was amended in November, removing all restrictions on broadcasting in Kurdish and other languages by private and public channels at local level. Fourteen radio stations and TV channels have been given permission to broadcast in Kurdish and Arabic. Restrictions have been lifted. (*See Chapter 10*)

For the first time, the Diyarbakır Municipal Theatre staged a play in Kurdish. In June, the State Minister for EU Affairs invited all EU embassies to a Kurdish literature event in the village of Bahcesehir (Van).

Mardin Artuklu University established the first Kurdish and Assyrian language departments, and started to accept students to post-graduate programmes organised by these departments.

TRT started broadcasting 24 hours a day in Arabic on the TRT El Turkiye television channel, which can be watched via satellite by more than three million viewers.

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<sup>29</sup> The deputy head of these schools is a Muslim representing the Ministry of Education and has more powers than the head.



The amended Law on fundamental principles of elections and the electoral registry entered into force on 10 April 2010, *de facto* allowing use of Kurdish in election campaigns.

However, use of any language other than Turkish in political life is still illegal under the Law on elections and political parties. The courts have been issuing contradictory decisions in court cases against Kurdish politicians.

Diyarbakır High Criminal Court No 4 banned 13 members of Bahar Cultural Centre (BKM) from performing arts for one year. The court ruled that the 13 artists ‘may not take part in any social and artistic events’. Members of the BKM Music and Theatre Group were punished for performing at the Batman Cultural Festival, Newroz celebrations and press gatherings. The musicians and artists were charged with ‘*violating the law on assembly and demonstrations*’. One musician has been in pre-trial detention. 13 artists and musicians were each given 10-month prison sentences.

In practice, children whose mother tongue is not Turkish cannot learn their mother tongue in either private or public schools.

No measures have been taken to facilitate access to public services for non-speakers of Turkish. While interpretation during the investigation phase and court hearing is possible under the current legislation for suspects, victims or witnesses, it is not consistently applied in practice.

There have been improvements in use of the Kurdish language in prisons. However, this is still restricted because of security concerns and implementation varies between prison administrations. (*See chapter on Prisons*).

As regards *Roma*, the government launched an ‘opening’, including a workshop and a meeting with the Prime Minister in March.

The government submitted to parliament a proposal to amend a discriminatory clause in the Law on the movement and residence of aliens<sup>30</sup>, which authorises ‘the Ministry of the Interior to expel stateless and non-Turkish *gypsies* and aliens that are not bound to the Turkish culture’.

In June, the Ministry of the Interior asked all governors about the housing needs of the *Roma* population in each province. It also issued a circular requesting all governors to facilitate the registration of all ‘persons without a civil registry’. The registration of *Roma* is an important step to ensure their access to public services.

However, in the absence of a comprehensive policy to address the situation of *Roma*, the latter still face social exclusion and marginalisation in access to education, discrimination in health services, exclusion from job opportunities, difficulties in gaining access to personal documentation and exclusion from participation in public affairs and public life.

The *Roma* population continues to face socio-economic problems, such as poverty, displacement and lack of social services in the aftermath of the demolition in *Roma* districts under urban renewal programmes in various cities. In January, in western Manisa province,

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<sup>30</sup> Law No 5683 on the movement and residence of aliens (Article 21).

several incidents took place between Roma and other citizens, resulting in the displacement of Roma citizens.

Turkey has not been participating in the 2005-2015 ‘Decade of Roma Inclusion’, despite calls on the government to do so by the Roma community.

Overall, Turkey has made progress on cultural rights, especially by further relaxing use of the Kurdish language in private TV and radio broadcasts and in prisons. The 24-hour Arabic-language TV broadcasts started in 2010 in addition to the Kurdish-language TV channel which started the previous year. However, restrictions remain, particularly on use of languages other than Turkish in political life, education and contacts with public services. The legislation on use of languages other than Turkish is open to restrictive interpretations and implementation is inconsistent. There has been some progress in the situation of the Roma, as their issues have become more publicly debated, and implementation some measures is underway. However, Roma still frequently face discriminatory treatment.

#### *Situation in the east and south-east*

Implementation of the government’s plan to complete the South-East Anatolia project (GAP) by 2012, a key project for *socio-economic development* of the region, continued. According to official statistics, GAP’s share of total public investment increased to 14.4% in 2009 (from 12% in 2008). Investments on irrigation, road transport, health and education continued along with special programmes on business development, human resources development and empowerment of women. The first meeting for evaluation of the revived GAP took place in February 2010 and a monitoring report for 2009 was published.

Following the debate on the government’s democratic opening to address notably the Kurdish issue, some restrictions on the use of the Kurdish language in broadcasting and the use of pasture land in the region have been removed. In a number of cases original place names have been restored in response to public demand<sup>31</sup>.

However, *terrorist attacks* by the PKK, which is on the EU list of terrorist organisations, continued to claim many lives, not only in the south-east but also throughout Turkey. During the summer, terrorist attacks increased strongly throughout Turkey, including in major urban centres. Turkey conducted air strikes against terrorist hideouts in northern Iraq in May, following parliament’s decision to extend its 2007 motion authorising the government to order cross-border operations. At the same time, temporary security zones were established in several provinces, restricting access by civilians.

The return of PKK members and refugees from the Mahmur camp has been put on hold. In October 2009, a group of 34 people crossed from Iraq as part of the government’s democratic opening. In July some of the refugees returned to Iraq.

Concrete measures announced within the framework of the democratic opening fell short of the expectations and were not followed through and implemented.

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<sup>31</sup> Currently the law allows only village place names to be changed by a decision of the Council of Ministers.

A large number of executives and politicians, including elected mayors from the BDP party, were arrested as part of operations against the KCK-PKK. Members of the Human Rights Association and Göçder Diyarbakır have also been arrested.

Restrictions on the exercise of fundamental freedoms, in particular freedom of expression, stemming from a wide definition of terrorism under the Anti-Terror Law continue to be a cause for concern.

Landmines remain a security concern for military personnel and civilians, after causing several casualties. The government reported continuing use of anti-personnel mines by the PKK. Under the 'Ottawa Convention' on the prohibition of the use, stockpiling, production and transfer of anti-personnel mines and on their destruction, Turkey has undertaken to destroy all anti-personnel mines in mined areas as soon as possible, but no later than 1 March 2014.

Landmine clearing at the border areas continues to be a priority. Following the adoption of the law on "mine clearing and tender procedures to be conducted at the land borders between Turkey and Syria", a "project management group" has been established in under the Ministry of Defence, working in particular on the re-demarcation of the Turkish-Syrian border. Further actions are needed to de-mine border areas in the country, in particular the ones adjacent to Iraqi and Iranian borders.

No steps have been taken in addressing the problem of village guards, who are paid and armed by the State.

Overall, despite public statements of commitment, the democratic opening announced by the government in August 2009 to address notably the Kurdish issue, was only partly followed through. Terrorist attacks increased. It is important to sustain efforts to address the Kurdish issue. The anti-terror legislation needs to be amended to avoid a broad interpretation, to improve the human rights situation in the region and to reduce the disproportionately high number of detainees linked to alleged terrorist acts. Landmines and the village guard system are still causes for concern.

#### *Refugees and internally displaced persons (IDPs)*

Continued progress has been made on the process of compensation of losses due to terrorism and the fight against terrorism since 2004. Since the law entered into force in March 2008, 247,729 applications out of 360,660 have been resolved. Out of these applications 139,832 received a positive decision and 106,887 were rejected. A total of 2,096,521,347 Turkish Lira had been paid to applicants so far. Numerous cases have been launched in administrative courts by rejected applicants. Several of them applied to the ECtHR.

The Damage Assessment Commissions continue to face lack of resources and a heavy workload, which results in slow progress on assessment and payment of compensation.

The situation of IDPs in urban areas remains a cause for concern. IDPs cannot return because of a wide range of factors, mainly the poor security situation and the presence of landmines, the lack of basic infrastructure and of capital, the limited job opportunities and the threat posed by the village guard system.

In March 2010, two circulars were adopted with the aim of ensuring better access to and information on the asylum procedures and combating illegal migration. These are positive measures and some improvements have been observed.

UNICEF notes that some efforts have been made to safeguard the rights of children of asylum-seekers to health care and education<sup>32</sup>.

However, the lack of a comprehensive legal framework on refugees and asylum-seekers stands in the way of provision of services for their children. Only about a quarter of asylum-seeker and refugee children aged 7 to 14 attend school regularly, due to a mixture of financial, language and bureaucratic constraints and lack of demand. Unaccompanied asylum-seeker children benefit from the care services of the Child Protection Agency (SHÇEK). Efforts to locate the families of unaccompanied children are carried out by the UNHCR and the Turkish Red Crescent.

Overall, compensation of internally displaced persons (IDPs) has continued. However, implementation is not effective. The government has not developed an overall national strategy to address the IDP issue and needs to step up efforts to address IDPs' needs. The legal framework for refugees and asylum-seekers and implementation of circulars regarding procedures for applications need to be strengthened. Further improvements of the general conditions in foreigners' detention centres is important.

### **2.3. Regional issues and international obligations**

#### *Cyprus*

Turkey continued to express public support for the negotiations between the leaders of the two communities under the good offices of the UN Secretary-General. As emphasised by the negotiating framework and Council declarations, Turkey is expected to actively support the negotiations aimed at a fair, comprehensive and viable settlement of the Cyprus problem within the UN framework, in accordance with the relevant UN Security Council resolutions and in line with the principles on which the EU is founded. Turkey's commitment in concrete terms to a comprehensive settlement is crucial.

Despite repeated calls by the Council and the Commission, Turkey still has not complied with its obligations as outlined in the declaration of the European Community and its Member States of 21 September 2005 and in the Council conclusions, including the December 2006 and December 2009 conclusions.

It does not meet its obligation of full, non-discriminatory implementation of the Additional Protocol to the Association Agreement and has not removed all obstacles to the free movement of goods, including restrictions on direct transport links with Cyprus.

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<sup>32</sup> UNICEF: 'Girls under eighteen are among the foreigners - mostly women from ex-Soviet countries - who are trafficked into Turkey as forced prostitutes. Thirty-one out of 706 victims of trafficking assisted by the International Organisation for Migration in Turkey between 2004 and mid-2009 were under eighteen, according to the IOM. Victims of human trafficking are provided with health and rehabilitation services by the Ministry of Health and, in the case of children, SHÇEK. Human trafficking is specifically prohibited by the Turkish Penal Code. It is worth noting that a third of all trafficked adult women have children of their own.'

In addition, Turkey has not made progress towards normalising bilateral relations with the Republic of Cyprus. It continues to veto Cyprus's membership of several international organisations, including the OECD and the Wassenaar Arrangement on export controls for conventional arms exports and dual-use goods. The Commission will continue to monitor closely and specifically report on all issues covered by the 21 September 2005 declaration, in accordance with the Council conclusions of December 2006.

The government of the Republic of Cyprus reported violations of its territorial waters and airspace by Turkey.

#### *Peaceful settlement of border disputes*

Turkey and Greece have intensified their efforts to improve their bilateral relations. From 13 to 15 May Prime Minister Erdogan met Greek Prime Minister Papandreou in Athens. A number of agreements for cooperation on trade, education, transport, energy, culture and the environment were signed. A bilateral agreement was reached to readmit a number of illegal migrants to Turkey, but is not yet in operation.

The 47<sup>th</sup> round of exploratory talks was held in Athens in summer 2010. Exploratory talks have been continuing since 2002 and have intensified. The threat of *casus belli* in response to the possible extension of Greek territorial waters, made in the resolution adopted by the Turkish Grand National Assembly in 1995, still remains. In line with the Negotiating Framework, the Council conclusions of December 2009 noted that 'Turkey needs to commit unequivocally to good neighbourly relations and to the peaceful settlement of disputes in accordance with the United Nations Charter, having recourse, if necessary, to the International Court of Justice. In this context, the Union urges the avoidance of any kind of threat, source of friction or action which could damage good neighbourly relations and the peaceful settlement of disputes.' A considerable number of formal complaints were made by Greece about continued violations of its airspace by Turkey, including flights over Greek islands. Greece also made complaints about violations of its territorial waters.

#### *Regional cooperation*

Turkey remains actively involved in regional initiatives. It is a member of the Regional Cooperation Council (RCC) and also held the one-year rotating Chairmanship-in-Office of the South-East European Cooperation Process (SEECP), which ended with a summit in Istanbul in June.

*Bilateral relations with other enlargement countries and neighbouring EU Member States* have been developing positively. Turkey has taken a number of initiatives in the *Western Balkans*, expressing commitment to promoting peace and stability in the region. Turkey supports integration of all countries in the region both with the European Union and at Euro-Atlantic level. The Turkish Foreign Minister held and facilitated several contacts throughout 2010. Regular tripartite meetings were held between the Ministries of Foreign Affairs of Turkey, Serbia and Bosnia and Herzegovina. In parallel, regular tripartite talks have been held between Turkey, Croatia and Bosnia and Herzegovina. On Turkey's initiative, the Presidents of Bosnia and Herzegovina and of Serbia met for the first time since the war. At their meeting in Istanbul in April, the three countries adopted the "Istanbul Declaration" and underlined that their common goal is integration into the European Union. They agreed that regional policy should be based on ensuring security, permanent political dialogue and preservation of the

multi-ethnic, multi-cultural and multi-religious nature of the region. The Turkish President visited Bosnia and Herzegovina in September.

In addition, high-level bilateral meetings were conducted with Albania, the former Yugoslav Republic of Macedonia, Kosovo<sup>33</sup>, Montenegro and Serbia. The Turkish Prime Minister visited Serbia in July 2010. The Serbia-Turkey free trade agreement came into force in September 2010.

On 20 November, an agreement was signed to lift visa requirements for Albanian citizens travelling to Turkey.

Relations with *Bulgaria* remained positive.

*As regards the International Criminal Court (ICC), see Chapter 31 – Common foreign and security policy.*

### **3. ECONOMIC CRITERIA**

In examining the economic developments in Turkey, the Commission's approach was guided by the conclusions of the European Council in Copenhagen in June 1993, which stated that membership of the Union requires the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union.

#### **3.1. The existence of a functioning market economy**

##### *Economic policy essentials*

The Pre-Accession Economic Programme (PEP) submitted to the Commission in January 2010 adequately reflects needs and commitments to further reform. It draws largely on the Medium-Term Plan (MTP) published in mid-2009. The government's new MTP, due by October 2010, should focus on the recovery conditions. The authorities largely adhered to the economic policy principles as reflected in the International Monetary Fund's (IMF) Article IV report. The fragmentation of responsibilities between government bodies, however, continues to complicate coordination of budgeting and medium-term economic policy-making. Another challenge that Turkey is facing is to lock in its future economic success and stability in a consistent and comprehensive framework aimed at broader-based productivity growth and higher labour market participation. Strong inflationary pressures and a rapidly growing current account deficit have to be carefully monitored and addressed properly. *Overall*, consensus on economic policy essentials has been preserved. However, confidence in the government's economic policy stance would benefit from better planning, coordination and communication.

##### *Macroeconomic stability*

GDP contracted by about 5% in 2009, a sharp contrast to the 6% average annual growth rate in the period 2004-08 and the growth of 0.7% in 2008. Turkey's GDP per inhabitant stands at 46% of the EU average. The global financial crisis hit the economy hard dramatically reducing fixed investment and external demand. Fiscal and monetary stimulus measures, combined with a healthy banking sector, helped cushion the blow. After a severe contraction

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<sup>33</sup> Under UNSCR 1244/1999.

in the first half of 2009, economic growth resumed in the second half and then gained pace in the first half of 2010 recouping the output lost in 2009. Domestic demand drove the fastest expansion in almost six years. Real GDP increased in the first half of 2010 by 11% from a year earlier, up from 2% in the second half of 2009, reflecting a very significant recovery over the last year. All sectors demonstrated strong positive growth: trade, industry and construction expanded by over 15% in the first semester of 2010. Domestic demand and in particular investment were particularly strong, as the year-on-year growth in gross fixed capital formation amounted to a sheer 22%. The high growth in domestic demand translated into imports growth amounting to 20%. Net exports pulled down the growth performance by 3.4%. Consumer and corporate loans have maintained their rapid pace and continue to spur domestic demand. High frequency indicators point at a growth slowdown – albeit gradual and from very high levels – starting in mid-2010. *Overall*, the Turkish economy has demonstrated high resilience. It is recovering rapidly from the crisis and growing at robust rates since mid-2009.

Pressures on the current account – which had seen a major crisis-led improvement – started in late 2009, as robust domestic demand and higher energy prices fuelled imports, which increased by 30% in the first half of 2010. In tandem with the rise in imports, exports performed relatively well and rose by about 15% in the first six months of 2010. Consequently, the trade deficit more than doubled passing from 3% of GDP in the first half of 2009 to 6.2% of GDP in the same period in 2010. The current account balance broadly shows similar patterns and the deficit is widening rapidly. In the first six months of 2010, the deficit amounted to 6.2% of GDP, compared with 2.7% in the same period of 2009. Total financing needs have almost doubled in 2010. The financing has been shifting dramatically towards more portfolio and in particular more cross-border credits to domestic banks (covering two thirds of the current account deficit) and less direct investment. Reserves rose by about €4 billion to roughly €40 billion. The gross external debt stock amounted to 37% of GDP in the first half of 2010, down by about five percentage points from the same period in 2009. About two thirds is held by the private sector. *Overall*, external imbalances and financing needs have been growing significantly on the back of high domestic growth. Access to external finance remained unproblematic.

In 2009, the unemployment rate amounted to 14%. In tandem with the recovery, the unemployment rate declined to 11% by mid-2010 from 13% in mid-2009. The non-farm unemployment rate, which stood at 17% in mid-2010, showed a broadly similar downward trend. The youth unemployment rate dropped faster, most likely due to the priority given to this segment in the employment package, to 20% from over 24% in July last year. Employment data show a marked improvement, as the number of employed increased by over 1,000,000 compared with July last year. The employment rate went up from 42% in mid-2009 to 44% in the same period of 2010. Female labour participation increased by over 1.5 percentage points since mid-2009, but female employment remains particularly low, at just half the overall rate. The prevalence of undeclared work remains a crucial issue (*See Chapter 19: Social Policy and employment*). Given the high unemployment rate and the annual growth rate of 1.2% in the working-age population, the labour market needs to absorb not only the unemployed but also one million new entrants every year. Overly strict employment protection discourages employers from hiring new people. *Overall*, the unemployment rate remains higher than pre-crisis and demographic factors are expected to keep unemployment high in years ahead in the absence of additional labour market reforms and the application of an appropriate combination of flexibility and security.

Annual inflation was 6.3% in 2009. A combination of several unfavourable developments, such as price increases for unprocessed food and oil, base effects and administered price rises, has led to a significant increase in inflation since the last quarter of 2009. These factors pushed headline inflation significantly above the central bank target, leading to an adverse impact on inflation expectations. Between November 2009 and April 2010, inflation rose from 5.1% to 10.2% before falling to 8.3% in August, reflecting large volatility in food prices. The central bank expects inflation to fall towards the end of 2010, although it is unlikely to reach the central bank end-year target of 6.5%. Core inflation went up from about 3% in mid-2009 to 4% by August-2010. Turkey's real policy rate is now low given the robust economic recovery. Cuts in the policy rate were transmitted to market rates, but at speeds and pass-through rates that varied across instruments. Rates on corporate lending declined the most, by more than 15 percentage points. Recovering domestic demand and easing lending standards in the second half of 2009 helped revive credit supply which accelerated further to an annualized rate of around 30% in the first half of 2010. The Turkish central bank is looking ahead to a period of strong growth and has announced plans to roll back the extraordinary measures put in place during the economic crisis in 2009 and to inject less liquidity into the market and currency reserves requirements have been increased. The operational structure of the central bank's liquidity management has been changed in order to ensure a better allocation of liquidity within the banking system and to reduce the dependence of banks on the central bank's lending facilities. Taking into account its reading of the – not yet closed – output gap (according to estimates by the central bank), the Monetary Policy Committee has indicated that the monetary tightening/exit strategy should be prudent and slow. *Overall*, price stability worsened, chiefly because of pressures stemming from energy and food inputs and buoyant economic activity, triggering a tighter monetary stance.

Turkey's fiscal consolidation over the past decade was very significant as, in the wake of the 2001 financial crisis, the government managed to cut the public debt to GDP ratio from a high of over 70% in 2001 to less than 40% by mid-2008. Structural loosening as well as cyclical factors weakened the fiscal balance from mid-2008 to mid-2009. The deterioration in public finances accelerated as fiscal measures to stimulate economic growth, equivalent to about 5% of GDP over the period 2009-2011, were taken to minimise some of the adverse effects of the crisis. They appear to have successfully propped up private consumption and are being phased out gradually. But they also caused the budget deficit to soar from 2.2% of GDP in 2008 to about 5.7% in 2009. So far, the budget performance has improved in 2010. Budget realisation in the first six months of 2010 was much better than anticipated, as strong consumption is leading to higher tax revenue performance (up 20% year-on-year). Tax increases also contributed (VAT and special consumption taxes on, amongst others, cars and white goods had previously been lowered to prop up consumption). Subsequently, in the first half of the year, the budget deficit declined significantly to only about half last year's. The exit strategy was less visible on the spending side, as real expenditure remained at the same level as in 2009. There are signs that pressures in some expenditure categories are building up (mainly personnel expenditure and capital spending). The public debt stock rose by around 6% year-on-year to less than 45% of GDP in mid-2010. According to the government, public debt should drop to the low 40s by the end of 2010, and subsequently continue to fall slowly. With an election scheduled in 2011, however, the fiscal picture could change. *Overall*, although the anti-crisis measures have cushioned the economic downturn, they must be exited in a timely fashion and targeted in order to lay the foundations for strong, sustained and balanced growth.

The Public Financial Management Law was supposed to be implemented between 2007 and 2010 and to make Turkey's public finance administration broadly consistent with EU standards on internal controls. However, three years after the adoption of the law, the



accountability, efficiency and transparency of the budgeting process would benefit from a modernisation of the public audit, while the adoption of the draft Turkish Competition Authority Law would contribute to less opacity on state aids in public finances. The unification of all tax administration functions under the Revenue Administration announced earlier has not been implemented in full. This unification would strengthen the audit capacity and facilitate greater use of standard risk-based audit techniques, thereby enhancing transparency and providing significant support for reducing informality. *Overall*, measures to increase fiscal transparency were modest.

Over the last few years, Turkey had successfully implemented a strong stabilisation programme and the resilience of the Turkish economy had benefited from in-depth structural reforms in many key areas, including banking, restructuring of enterprises and privatisation, education and energy. Although the financial crisis has hit the Turkish real economy hard, the earlier regulatory and supervisory reforms have paid off and growth resumed rapidly and strongly. Turkey's fiscal and monetary policy mix proved successful during the crisis and adjustments are being made in order to benefit from the recovery. A new draft law establishing a fiscal anchor that has potential for considerably improving the fiscal performance over time, as well as removing the current pro-cyclical bias of fiscal policy, was submitted to parliament in mid-July, but its discussion was postponed. Making more progress with fiscal transparency, strengthening the inflation targeting and preserving financial stability will be important to minimise the risks of a boom-bust scenario. *Overall*, although the current policy mix has proved effective in recent months, macroeconomic stability remains vulnerable and could benefit from a stronger fiscal anchor.

#### *Interplay of market forces*

The government has confirmed the independence of the regulatory and surveillance agencies. But despite the regulatory framework, government authorities still tend to set the prices in some key areas, including in electricity and gas markets, and to a lesser extent in telecommunications and transportation, in particular in rail transportation. Liberalisation of backbone services has advanced significantly and prepared the ground for several successful privatisations in the energy sector. Indeed, Turkey continued its privatisation efforts in a more challenging and crisis-prone environment. Total privatisations completed decreased from €4.4 billion (1% of GDP) in 2008 to €1.6 billion (0.4% of GDP) in 2009. A total of 106 transactions were completed in 2009. Ongoing major privatisations include the transfer of operating rights for 52 small-scale hydropower plants plus the privatisation of four sugar companies, electricity distribution in 13 regions and three ports. *Overall*, some progress has been made on improving the interplay of market forces. Privatisation has advanced, albeit at a slower pace due to the worsening external environment.

#### *Market entry and exit*

In 2009, the economic circumstances had a major impact on market entry and exit. The number of newly established firms decreased by 10%, while the number of firms which were closed down increased by 8.5%. Foreign owners still face restrictions in various areas, including maritime transport, civil aviation, ground-handling, road transport, radio and TV broadcasting, energy, accountancy and education. Licensing procedures are relatively lengthy. For example, 25 different procedures are still needed in order to build a warehouse, from securing licences and permits to completing the necessary notifications and inspections and obtaining utility connections. Market exit is difficult too, as closing a business still takes 3.3 years on average. Moreover, claimants recover only one fifth of their claims from insolvent

firms. *Overall*, market exit procedures remain relatively cumbersome. The crisis had a negative impact on the number of newly established firms.

#### *Legal system*

Turkey has established most of the legal framework of a market economy, but must ensure further implementation. A reasonably well functioning legal system, including in the area of property rights, has been in place for several years. Registering a property requires six procedures and takes six days in Turkey. However, enforcing commercial contracts remains a lengthy process, which involves 35 procedures and takes 420 days on average. The specialisation of commercial court judges is insufficient, leading to lengthy court proceedings. The expert witness system still functions as a parallel judiciary system, without improving the overall quality. Use of out-of-court dispute-settlement mechanisms remains low. *Overall*, the legal environment, in particular court procedures, continues to pose practical challenges and create obstacles to a better business environment.

#### *Financial sector development*

The banking sector has shown resilience to the global financial crisis, largely due to major improvements made to the regulatory and supervisory framework in previous years. Risk ratios in the financial sector remained robust. The sector also benefited from the central bank's liquidity measures and some easing of regulations governing loan classification and provisioning requirements. In a crisis context, a temporary easing of conditions for restructuring loans and a temporary elimination of general provisioning for new loans aimed at preserving the banks' high capital adequacy ratios while encouraging lending. These measures helped the nominal capital adequacy ratio to increase to almost 20% by early 2010, substantially higher than the EU legal requirement of 12%. Non-performing loans fell to about 5% by mid-2010 from a peak of about 6% at the end of 2009 and stress tests by the regulator show that the sector is sound. The banking sector, by far the largest part of the financial sector, increased its share to 78% of the total financial sector. The relative size of the insurance sector increased slightly to 3%, about the same size as mutual funds. Domestic private banks had a 32.5% share of total assets, whereas the share of foreign banks increased to 39.5%, taking into account foreigners' investments in the stock exchange, which is equivalent to 20% of banking sector assets. The Istanbul Stock Exchange increased considerably during 2009, with total stock market capitalisation almost doubling, from 19% of GDP in 2008 to 37% in 2009 and over 40% of GDP by mid-2010. Concentration in the banking sector remained broadly stable, as the shares of the top five and top ten banks were 60% and 80%, respectively. However, due to the very strong ongoing credit growth fuelled by increased consumer and business confidence and low interest rates, regulatory authorities need to remain vigilant. *Overall*, in difficult crisis conditions, the financial sector has shown resilience thanks to earlier reforms.

### **3.2. The capacity to cope with competitive pressure and market forces within the Union**

#### *Existence of a functioning market economy*

The strength of domestic demand is fuelling a fast recovery from recession, which confirms the economy's improved shock resilience. But it is also fuelling rapid expansion in the current account deficit, pointing to the return of persistent imbalances in the Turkish economy. As the recovery gets under way, a golden opportunity for structural reforms is being opened up by

the sharp drop in real interest rates in recognition of Turkey's solid fundamentals. At the same time, potential growth in Turkey is being held back by high inactivity and insufficiently broad-based productivity growth. *Overall*, the crisis did not jeopardise the functioning of market mechanisms.

### *Human and physical capital*

The educational reform programme, which is a key part of the National Development Plan (2007-2013), is being implemented. It sets two key priorities for education, modernisation and reform: increase the responsiveness of education to demand and enhance the educational system. In 2010, the challenges remain significant. Although there has been some progress and the top students in Turkey are performing well, the vast majority of Turkish students perform at the lowest proficiency levels in basic skills and problem-solving. Participation in higher education remains low by international standards. Around 44% of 20- to 24-year olds go to university, 8 percentage points more than in 2006, while only 1.5% of school-age children fail to finish primary school, compared with 10% in 2006. *Overall*, reforms and increased spending on education are obviously having some positive impact on educational attainment, but significant problems persist.

During the crisis, investment decreased and gross fixed capital formation (GFCF) fell by around 3% in 2009 to about 20% of GDP, but growth resumed by as much as 22% in the first half of 2010. Private capital formation totalled around 15% of nominal GDP. FDI inflows held up relatively well in 2009 helped by the privatisation of the electricity grids but fell by about 20% in the first half of 2010 compared with a year earlier. At the same time, their composition improved, as more than three quarters went into utilities and manufacturing. For many years infrastructure investment has been hampered by the need to consolidate public finances and the failure to cut lower-priority spending. Inadequate infrastructure is increasingly affecting economic activity. Though in 2009 and 2010 some — albeit modest — progress can be reported on infrastructure, in particular roads and oil pipelines, there is a risk that inadequate infrastructure, including for power supply, could hamper the economic recovery. Gross electricity consumption growth has averaged some 7% in each of the last few years, and extra power-generating capacity is being constructed, albeit with some delays. Although the official government target was to increase research and development expenditure to 2% of GDP by 2010, R&D expenditure remains much lower, on just 1.4%. *Overall*, some limited progress was made on upgrading the country's human and physical capital.

### *Sectoral and enterprise structure*

The independence of the regulatory and surveillance agencies has been largely preserved. Market liberalisation has not advanced in agriculture, whereas some progress has been made in the pricing mechanisms for the energy sector. The sectoral shift from agriculture to services and industry was reversed by the slowdown in economic activity. The share of agriculture in *overall* employment increased from 23.7% to 24.7% between December 2008 and December 2009. The share of services stabilised at 50%. On the other hand, both industry and construction saw their relative shares of total employment decline by a combined total of 1.5%. The quality and frequency of data on small and medium-sized enterprises (SMEs) remained poor. Various new initiatives have been launched to improve access to finance for SMEs. However, the share of SMEs in total banking sector loans decreased from 23% at the end of 2008 to 21.4% by December 2009. For instance, a new guarantee fund for SMEs was part of the stimulus packages with the aim of alleviating the impact of the crisis on SME

finances. But the earmarked funds of €500 million were underutilised, as only seven SMEs had received credit guarantee support by 31 March 2010. The large informal sector which is fuelled by weaknesses in tax and expenditure policies, as well as in law enforcement, remains an important challenge. Turkey therefore adopted a comprehensive action plan to combat the informal economy in 2009. *Overall*, the crisis slowed down or even reversed structural shifts in economic activity. In spite of new initiatives by the Turkish government, the crisis has complicated access to finance for SMEs.

#### *State influence on competitiveness*

There has been no tangible progress in the field of state aid. As transparency in the decision-making process remains low, it is still difficult to judge the rationale and consistency of the individual decisions taken. In addition, the scale of state aid and its importance in some key sectors are likely to have increased substantially following the introduction of the various fiscal stimulus packages. Adoption of the commercial code has again been postponed. The absence of transparent monitoring of state aid and of supporting policies to reduce distortion continued to have an adverse effect on competition and competitiveness in the economy. Public procurement policies continued to be undermined by exceptions to the regulatory framework. *Overall*, state intervention continued to be untransparent, which might have had a negative effect on competition and competitiveness.

#### *Economic integration with the EU*

The openness of the Turkish economy, as measured by the total value of exports of goods and services as a percentage of GDP, decreased to about 47.5% of GDP by the end of 2009, from 52.2% in 2008, largely in line with the crisis-led contraction in world trade. The EU's share of Turkey's total trade increased from 41.4% in 2008 to 42.6% in 2009. Its share in Turkey's exports decreased from 48% in 2008 to 46% in 2009. While the EU's share of Turkey's trade varies slightly from year to year, depending on numerous factors, including commodity price trends and exchange rate movements, its decline in Turkey's exports is likely to be the result of relatively more subdued demand in the EU. Simultaneously, Turkey was somehow able to diversify its exports towards other regions. The share of exports to African and Middle East countries in Turkey's total exports increased from 10% in 2008 to over 20% in 2009. FDI inflows to Turkey from EU Member States remained very significant, growing from 75% of the total in 2008 to 80% in 2009, thus illustrating the strong economic interdependence between the EU and Turkey. *Overall*, trade and economic integration with the EU remained high. Turkey was able to diversify part of its trade towards new markets, thereby partly alleviating the impact of the crisis.

Incipient nominal exchange rate appreciation pressures were observed in the first half of 2010. In the year to July 2010, the exchange rate for the lira appreciated by 5% in nominal terms against a basket of 50% US dollar and 50% euro. In real effective terms, corrected for both producer and consumer price developments, the lira strengthened by 8%. *Overall*, standard indicators suggest that Turkey's export competitiveness has stopped improving.

#### **4. ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP**

This section examines Turkey's ability to assume the obligations of membership – that is, the *acquis* as expressed in the Treaties, the secondary legislation and the policies of the Union. It also analyses Turkey's administrative capacity to implement the *acquis*. The analysis is structured in accordance with the list of 33 *acquis* chapters. In each sector, the Commission's

assessment covers progress achieved during the reporting period and summarises the country's overall level of preparations.

#### 4.1. Chapter 1: Free movement of goods

No progress can be reported towards alignment with the **general principles** applicable to free movement of goods. The legislation on standardisation in foreign trade marginally reduced the list of items subject to conformity assessment upon import in 2010. Restrictions applicable since 2009 on goods from non-EU countries in free circulation in the EU were not abolished in 2010. Such goods are still subject to conformity assessment procedures based on documentation accompanied, if necessary, by physical checks at the customs posts, thus delaying and sometimes inhibiting access to the Turkish market.

Technical barriers to trade have increased in certain areas, such as pharmaceuticals. A new requirement calling for good manufacturing practice certificates for registration of pharmaceutical products for human use resulted in a *de facto* ban on imports from Europe by causing long delays in the registration process. The registration requirements for imports of textiles and clothing are still in force. The mutual recognition principle has not been introduced into the Turkish legal order, thus limiting free movement of goods in the non-harmonised area. Licences are still required for the import of goods considered old, renovated or faulty, for second-hand motor vehicles and for alcoholic beverages. Furthermore, exports of copper scrap have also been subjected to a licence which introduces a ban to exports contrary to the Customs Union provisions.

As regards **horizontal measures**, further progress can be reported on *standardisation*. Over the reporting period the Turkish Standards Institute (TSE) continued to adopt European standards. So far it has adopted a total of 16,194 standards of the European Committee for Standardisation (CEN) and the European Committee for Electrotechnical Standardisation (CENELEC). Harmonisation with the European Telecommunication Standards Institute's (ETSI) standards remained at around 350. The overall rate of harmonisation with European standards rose to 99.7%. The TSE is running 67 operational mirror committees, showing a decline in interest in voluntary standardisation activities since last year, when it had 86 operational committees. The revised law reflecting the new structure of the TSE meeting the requirements for full membership of CEN-CENELEC has not yet been adopted.

In terms of *conformity assessment*, further progress was achieved on notified bodies. There are now 14 Turkish notified bodies, compared with 12 in 2009, operating in the areas of toys, personal protective equipment, lifts, hot-water boilers, appliances burning gaseous fuels, construction products (cement), simple pressure vessels, pressure equipment, medical devices, recreational craft and machinery.

Some progress can be reported on accreditation. TURKAK (the Turkish Accreditation Agency) is also the monitoring authority over good laboratory practice. The number of TURKAK accreditations increased by 17% compared with last year and reached the number of 465. Although TURKAK is already a member of the European Accreditation Cooperation (EA) and a signatory of seven EA multilateral agreements, the revised law aiming at further harmonising TURKAK's structure with the European accreditation system has not yet been adopted.

Some progress can be reported in the area of legal *metrology*. The Ministry of Industry and Trade issued new and amending legislation on non-automatic weighing instruments, type approval of measures and measuring instruments and their inspection, metrological control

methods for such instruments, the international system for units of measurement and nominal quantities of pre-packed products. Although progress has been made towards further alignment, full implementation of the Measuring Instruments Directive has not yet been achieved.

There was some progress on *market surveillance*. The Under-Secretariat of Foreign Trade issued legislation to lay down a common template for market surveillance reports and notifications. A national surveillance strategy for 2010-2012 has been adopted. The Ministry of Industry and Trade and the Ministry of Agriculture published legislation for organisational aspects of market surveillance activities. The Under-Secretariat's report on market surveillance activities in 2009 is a major step towards systematic collection of comparable surveillance data, even though a number of authorities were unable to contribute basic data. Market surveillance activities have continued to increase, even though some product categories deserve more focus, such as civil explosives, detergents, machinery and the non-harmonised area in general. Financial and human resources devoted to market surveillance are insufficient; in particular, more full-time specialised inspectors are needed. The use of appropriate risk assessment and sampling methods, which would help optimise the use of limited market surveillance budgets, remains limited, as is the evaluation of the effectiveness of the action taken. There is no database linking accidents and injuries to products. The visibility of market surveillance remains low. Coordination within and between surveillance agencies is still deficient, including on use of IT. Stakeholders are not systematically informed of market surveillance activities and measures and their general involvement in surveillance remains weak. In particular, consumer organisations need to be supported in order for them to better understand technical legislation and to use complaint mechanisms more effectively. Full alignment with the 2001 version of the general products safety directive remains outstanding. Full and systematic implementation of Regulation 765/2008, setting out the requirements for accreditation and market surveillance relating to the marketing of products, remains to be ensured, including provisions on external border controls.

Alignment of horizontal measures is advanced. However, effective implementation of market surveillance and adoption of final changes to the legislation on standardisation and accreditation have yet to be achieved. Furthermore, the new legislative framework on marketing of products has yet to be adopted in the areas of market surveillance, conformity assessment procedures, CE marking and accreditation.

Further progress was made on the **old approach** *acquis*. The Ministry of Industry and Trade adopted various pieces of legislation on the type approval of motor vehicles and emissions from vehicles and tractors. In particular, the Ministry of Trade and Industry published a regulation concerning the type approval of motor vehicles with regard to their reusability, recyclability and recoverability aiming to transpose the related EC Directive on the same subject. The same Ministry published a regulation and an implementing communiqué aiming to transpose the EC Regulation on the type approval of motor vehicles with regard to the protection of pedestrians and other vulnerable road users. The Ministry of Health issued an amending regulation regarding the packaging and labelling of pharmaceutical products for human use. The same Ministry issued an amending regulation on the pricing of pharmaceuticals for human use and provisions were adopted on clinical trials. The problem of protection of regulatory data persists and the authorisation system for generic medicines for which marketing authorisation was applied prior to 1 January 2005 remains in place. Turkey is continuing to violate the Customs Union obligations in this area. The Ministry of the Environment and Forestry issued a regulation on good laboratory practice which is of key importance for the chemicals sector. The requirements imposed on imports of alcoholic

beverages remain burdensome. The Tobacco and Alcohol Board still requires the same documentation as it did before the import licence requirement was lifted. The documentary requirements to obtain the control certificate from the Ministry of Agriculture remain also burdensome. Alignment with the old approach *acquis* is advanced, but further efforts are needed to complete the process.

Alignment with the **new approach product legislation** is already advanced. Limited further progress can be reported in this area. The Ministry of Public Works and Settlement issued legislation on the criteria applicable to the notified body and published technical specifications for construction products. The same Ministry abolished about 188 mandatory standards in the area of construction products. Mandatory certification by the Turkish Standards Institute for products falling under 22 standards is also abolished. The Ministry of Health published a communiqué laying down the principles and procedures for a warning system on medical devices.

No progress can be reported on **procedural measures**. The Under-Secretariat of Foreign Trade continued implementing the provisions of Regulation 765/2008 regarding the control of products entering the EU market, even though this Regulation has not been transposed yet into Turkey's national legislation. No progress was made on cultural goods and firearms.

There was no progress in the non-harmonised area. The mutual recognition principle still has not been introduced into Turkey's trade arrangements. The Ministry of Public Works and Settlement issued legislation establishing a conformity assessment procedure for the G mark for all construction products in the non-harmonised area with effect from July 2010. This legislation creates an advantage for products that carry the TSE mark (Turkish Standards Institute's quality mark). Conformity assessment bodies were assigned for this purpose. The provision concerning products originating from non-EU countries, including those put into free circulation in the EU and re-exported to Turkey, has not been revised. These construction products would still have to go through conformity assessment checks in Turkey.

Turkey has still not fully incorporated into its domestic legal order all EU acts for the removal of technical barriers to trade enumerated in Annex II to Decision 2/97 of the EU-Turkey Association Council. Moreover, Turkey has still not accepted the update of the Annex to this Decision reflecting *acquis* adopted since 1997.

'Free movement of goods' is one of the eight chapters covered by the conclusions on Turkey adopted by the Council (General Affairs and External Relations) on 11 December 2006 and endorsed by the European Council on 14/15 December 2006. As long as restrictions remain in place on the free movement of goods carried by vessels and aircraft registered in Cyprus or whose last port of call was in Cyprus, Turkey will not be in a position to implement fully the *acquis* relating to this chapter.

### *Conclusion*

Limited progress can be reported in this chapter. Although alignment is advanced, the new legislative framework on marketing of products has yet to be transposed into the Turkish legal order and the requirements of the *acquis* need to be fully incorporated. Technical barriers to trade are still hampering free movement of goods and new barriers have been added in areas such as pharmaceuticals and construction products. Deficiencies persist in the market surveillance system. The mutual recognition principle still has not been introduced in Turkey's trade legislation and the problem of data protection in connection with pharmaceutical products remains unsolved. Turkey needs to fully implement Decision 1/95 on

the EU-Turkey Customs Union, including the update of Annex II to Decision 2/97, and to abolish the remaining import and export licences and the restrictions on imports of used products, in particular motor vehicles.

#### 4.2. Chapter 2: Freedom of movement for workers

With regard to **access to the labour market**, Turkey amended the Law on work permits for foreigners, introducing the possibility of preliminary permits for up to one year for foreigners providing 'professional services'. The Regulation on enforcement of the Law on employment of foreigners was also amended. The new regulation explicitly mentions that foreign experts employed in projects under financial cooperation programmes between Turkey and the EU are not required to obtain a work permit during their assignment. However, a comprehensive reform of the Law on work permits for foreigners has been pending in parliament since 2007.

Regarding Turkey's participation into **EURES** (European Employment Services), the IT infrastructure, electronic services and staff capacity of the Turkish Employment Agency (ISKUR) need improvement.

The social security institution continued to receive expertise and training to improve its capacity for **coordination of social security systems**.

There were no developments as regards the **European health insurance card**.

#### *Conclusion*

There has been little progress on freedom of movement for workers. Alignment is at an early stage.

#### 4.3. Chapter 3: Right of establishment and freedom to provide services

There has been limited progress on the right of establishment and freedom to provide services. Work on the preparation of the detailed strategy related to alignment with the *acquis* is ongoing.

As regards the **right of establishment**, disproportionate requirements are still in place.

There has been no progress in the area of **freedom to provide cross-border services**. Registration, licence or authorisation requirements incompatible with the *acquis* still exist. Service-providers already established in an EU Member State are subject to such requirements before they can obtain work and residence permits. No legislative or regulatory steps have been taken to align with the Services Directive. An amending regulation regarding professional tourist guides, as well as chamber of commerce regulations on agricultural and shipping engineers, confirmed the nationality requirements imposed, which are not in line with the *acquis*. A systematic structure for identifying obstacles to exercise freedom to provide cross border services has not yet been set up. The Ministry of Industry and Trade, the coordinating body for implementing the Service Directive, started working on establishing a Point of Single Contact for the provision of services.

No progress can be reported on **postal services**. The draft postal law has not yet been adopted. The accounting system still lacks transparency. The legal monopoly remains in place and an independent regulatory authority has not yet been established.

Little progress can be reported on **mutual recognition of professional qualifications**. A decision of the Constitutional Court annulled the remaining references to women in the Law



on nurses. The regulation laying down minimum training conditions for regulated professions subject to automatic recognition was amended. However, recognition of professional qualifications is still not differentiated from recognition of academic qualifications. Some regulated professions are still subject to reciprocal recognition. Nationality and language requirements remain.

‘The right of establishment and freedom to provide services’ is one of the eight chapters covered by the conclusions on Turkey adopted by the Council (General Affairs and External Relations) on 11 December 2006 and endorsed by the European Council on 14/15 December 2006. As long as restrictions remain in place on the free movement of goods carried by vessels and aircraft registered in Cyprus or whose last port of call was in Cyprus, Turkey will not be in a position to implement fully the *acquis* relating to this chapter.

#### *Conclusion*

Alignment under this chapter is, overall, at an early stage. No progress can be reported in the areas of right of establishment, freedom to provide cross border services, and postal services. There has been very limited progress regarding mutual recognition of professional qualifications.

#### **4.4. Chapter 4: Free movement of capital**

There has been no progress in **capital movements and payments** over the reporting period. Turkey has yet to make significant progress on alignment of its legislation with the *acquis*.

The legislative framework regulating real-estate acquisition by foreigners remains inconsistent with Article 63 of the Treaty on the Functioning of the European Union. Turkey still needs to propose an action plan for gradual liberalisation of acquisition of real estate by foreigners in line with the *acquis* and to demonstrate that it is making progress towards gradual liberalisation, which is a key element for the accession negotiations in this chapter.

There has been no progress on removing remaining restrictions on foreign direct investments originating from the EU, a priority in this area. Sectoral restrictions remain in place, for example on energy, transport, education and radio and TV broadcasting. A draft law raising the limit on foreign participation in the above-mentioned areas is before parliament. Turkey’s overall level of preparedness in the area of capital movements and payments is limited.

No progress can be reported on further alignment of Turkey’s **payment systems** legislation with the *acquis*. The Central Bank revised its communiqué on use of the IBAN (international bank account number) in bank transfers, making its use in practice optional if the recipient’s IBAN is unknown. Adoption of a new payment systems law in line with the *acquis* is pending. The overall level of preparedness in payment systems remained incomplete.

Progress has been made on alignment with the *acquis* on the **fight against money laundering**. A number of regulations have been adopted to implement the 2006 Law on the prevention of laundering proceeds of crime and the 2008 action plan, which is a key element for the accession negotiations in this chapter. A regulation introduced detailed provisions on customer identification, including real persons, legal persons and entities and electronic transfers. Another regulation adopted allows obliged parties to take simplified measures in terms of customer due diligence. The Ministry of Finance is authorised to decide implementing measures and the types of transactions falling within the scope of this regulation.

The Financial Action Task Force (FATF) included Turkey amongst 25 countries subject to a *targeted review* because of deficiencies with regard to nine out of ten key and core recommendations. At its plenary session in February 2010, the FATF published a list entitled 'Improving global AML/CFT compliance: on-going process' which also includes Turkey. Particular deficiencies identified include areas such as criminalisation of financing of terrorism and an adequate legal framework for identifying and freezing terrorist assets. Turkey submitted to the FATF an action plan setting out the measures to address the deficiencies.

The Turkish Financial Investigation Unit (MASAK) signed memoranda of understanding for exchanges of information with its counterparts in Croatia, Bosnia and Herzegovina, Ukraine, Japan and Norway.

A considerable increase was recorded in the number of suspicious transaction reports relating to possible money laundering: 9,823 reports were notified to MASAK in 2009, compared with 4,924 in 2008. Most of them were submitted by the banking sector. In contrast, the number of suspicious transaction reports concerning financing of terrorism decreased to 49 in 2009 from 228 in 2008. Prosecutions were brought in 23 cases in 2009, compared with 42 in 2008; 15 of those resulted in opening of cases before courts in 2009, compared with 34 in 2008. Convictions, confiscations, seizures and freezing of assets remain limited.

Turkey applied the 2008 Law regarding recovery of certain assets to the national economy until December 2009. Statistics are not available on suspicious transaction reports made under this law. MASAK included specific courses on the law in the training programme for obliged parties. It continued running training activities for examiners, judges, prosecutors and obliged parties. The capacity of MASAK needs to be strengthened and training of the judiciary and law enforcement bodies needs to continue. Turkey has not yet ratified the Council of Europe Convention on laundering, search, seizure and confiscation of the proceeds from crime and on the financing of terrorism (CETS 198), although it signed it in 2007.

### *Conclusion*

Progress has been made on alignment with the *acquis* on the fight against money laundering, but the legal framework against financing of terrorism is still incomplete. There has been no progress on capital movements and payments, nor on payment systems, areas in which alignment with the *acquis* remains incomplete. Obstacles still stand in the way of acquisition of real estate by foreigners. Sectoral restrictions are still in place, including on foreign direct investments originating from the EU.

## **4.5. Chapter 5: Public procurement**

No progress can be reported on **general principles**. Extensive use of the 15% price advantage for domestic bidders continued. The advantage clause was applied to 24% of the overall contract value which was above the threshold, as opposed to 18% in 2009. There was a significant increase in the number of contracts covered by exclusions and via direct purchases. In all, 28% of contracts and 12% of the overall contract value were not subject to the tender procedures stipulated in the Public Procurement Law. Revision of the legislation is necessary to reduce the frequency of use of alternative procurement procedures. Preparations are moderately advanced in this area.

Some progress has been made on **award of public contracts**. The strategy adopted in February 2010 for enhancing transparency and strengthening the fight against corruption is a

positive step to enhance integrity in public procurement activities. The Public Procurement Authority launched a call centre to provide advisory services to procuring entities in January 2010. Comprehensive guides to supply, service and works tenders were published in May 2010.

Turkey's public procurement legislation remains different from the *acquis* in various respects. Turkey has not repealed derogations contradicting the *acquis*, nor has it further aligned its legislation, or its scope, particularly on utilities, concessions and public-private partnerships. Classical sectors and utilities are still subject to the same public procurement procedures. In the absence of a coherent legal framework, there is a lack of transparency about the award of concessions and public-private partnerships. Preparations are not very advanced in this area.

Turkey has drafted an alignment strategy on public procurement, with milestones on the way to eventual full alignment. The strategy now needs to be adopted and implemented.

The necessary administrative capacity is in place both in the Public Procurement Authority and in the State Planning Organisation. The Ministry of Finance coordinates policy formulation and plays an implementing role confirmed by law. An ad-hoc unit set up in 2009 under the Directorate of budget and financial control is being restructured with a view to providing better coordination of public procurement reform. However, administrative and operational capacity needs further improvement. Market functionality and competition with other stakeholders (contracting entities and economic operators) are satisfactory in most sectors. Preparations are highly advanced in this domain.

No progress can be reported on alignment with the **Remedies** Directives. The Public Procurement Board has a maximum of 20 calendar days to reach a decision and announce it on the website. Turkey will need to align its legislation on review procedures with the *acquis* and to strengthen its administrative capacity and enforcement mechanisms. Preparations are moderately advanced in this area.

### *Conclusion*

Some progress can be reported in this chapter. The institutional set-up and administrative capacity are advanced. A draft alignment strategy, with a time-bound action plan, needs to be adopted. Turkey has not completed the alignment of the scope of its legislation to the *acquis*, particularly on utilities, concessions and public-private partnerships.

## **4.6. Chapter 6: Company law**

Little progress can be reported on **company law**. No progress has been made towards adoption of the long-pending Turkish Commercial Code (TCC) and the Law on the entry into force and implementation of the TCC. Without adoption of the TCC, electronic disclosure of and access to company information is not possible. Nor is online company registration operational either. Adoption of other draft laws is contingent upon entry into force of the TCC.

The Capital Market Board (CMB) issued a communiqué on the principles of takeovers. In particular, the concept of control of a company has been defined in the securities legislation for the first time. New rules were introduced for setting the price of the bid, mandatory bids, voluntary bids and public disclosure in line with the directive.

The CMB further amended the communiqué on the principles regarding mergers in order to enhance transparency. In cases of acquisition of one company by another which holds 95% or more of its shares, a simplified procedure will be applied. The disclosure document on the merger will have to be published electronically.

Turkey amended its Law on financial reporting in the capital market. As a result, companies must disclose annual and interim financial reports on their websites and keep them available to the public for five years.

Some progress can be reported in the area of **corporate accounting**. The Turkish Accounting Standards Board (TASB) published several standards, interpretations and revisions of a number of international accounting standards (IAS). The standards apply to 600 listed companies. Specialised training was organised for TASB staff members.

Limited progress can be reported on **auditing**. The CMB issued a communiqué on principles for independent auditing standards in the capital markets. The CMB also changed the sanction of ‘permanent cancellation’ of the independent audit licence to ‘the cancellation of not less than two years. After two years, the independent audit firm can apply for lifting of the sanction.

Partially in line with the Directive on statutory audits of annual accounts and consolidated accounts, a database on independent audit firms was opened to the public. The CMB speeded up quality controls on audit firms and joined the International Forum of Independent Audit Regulators in order to intensify cooperation with international organisations. The regulatory framework for auditing is not in place. A public oversight body for statutory auditors and audit firms has yet to be established.

### *Conclusion*

Overall, limited progress was made in this chapter during the reporting period. The new Commercial Code has not yet been adopted. The administrative capacity of the TASB requires further strengthening. The legal and institutional framework for auditing is not yet in place.

## **4.7. Chapter 7: Intellectual property law**

In the area of **copyright and neighbouring rights**, the Directorate-General for Copyrights (DGCC) in the Ministry of Culture and Tourism (MoCT) improved its online services. Coordination and cooperation between the copyright bodies has further improved as a result of training organised jointly by the MoCT, the police, the judiciary and the anti-piracy commissions. After the police joined the anti-piracy commissions, physical piracy has decreased. However, in cities other than Istanbul, Ankara and Izmir, conducting *ex-officio* raids against pirated products is very difficult, due to the lack of a common understanding of the legislation on the part of enforcers and the complicated wording of the rules on banderolling. The rules and procedures for the fight against piracy need simplification. In particular, adoption of the pending package of amendments to the Law on intellectual and artistic works is crucial.

No progress can be reported in the legislative framework for **industrial property rights**. A constructive and structured dialogue should be established between the Turkish Patent Institute (TPI) and IPR-holders. Issues linked to bad faith and similar trade marks and industrial designs remain unresolved. The re-examination board needs more legal experts. The search and examination capacity of the Patent Department needs to be improved. The draft

laws regulating industrial design and patent and geographical indication rights, including deterrent criminal sanctions, prepared by the TPI in consultation with other stakeholders need to be urgently adopted by parliament as the deadline for the adoption of new legislation expired on 10 June 2010.

Following the decision of the Constitutional Court to revoke criminal provisions on trademark infringements in the trademark decree-law, Turkey adopted a new trademark law. On the basis of the same decision, the Supreme Court of Turkey decided that a defendant under the repealed criminal provisions of the trademark decree-law should be acquitted of all charges. Moreover, confiscated counterfeit goods had to be returned to the defendants, since they were no longer the subject of a crime. As a result, a big number of counterfeit goods found their way back to the Turkish market and possibly to other markets too. Turkey did not act timely to prevent the above negative development. The Court also ruled that the provisions of the Turkish Commercial Code on unfair competition cannot apply to trademark cases. This decision of the Supreme Court is another negative development with regard to criminal enforcement of trademark rights in Turkey.

As regards **enforcement**, the high-level inter-ministerial Intellectual and Industrial Property Coordination Board eventually agreed to establish an IPR working group as a platform for dialogue between the EU and Turkey. Establishment of such dialogue on IPR issues and successful engagement of Turkey in it is a key element for the accession negotiations on this chapter.

The IT system of the customs authorities has been fully centralised. One complaint about IPR infringements will be sufficient to seize counterfeit goods at all customs posts. However, the customs controls against counterfeit and pirated goods are not yet up to the expected level and no accurate data are available about checks and seizures.

As part of IPR criminal enforcement, the Turkish police force continued its successful operations to fight piracy and counterfeiting during the reporting period. However, piracy and counterfeiting remain widespread, since there is no technical tracking of criminals and tools against organised crime are not employed.

Preliminary court injunctions are difficult to obtain in response to IPR infringements, especially for patent cases. Judicial procedures are very lengthy: a final decision takes, on average, three to four years, while preliminary injunctions are sometimes decided within three or four months. Access to judicial decisions on IPR is very limited and random. In negative clearance cases for pharmaceuticals, the owner of the patent (defendant) is not able to examine the plaintiff's documents or technical information on the product in the market authorisation files.

Reports by expert witnesses are unnecessarily required by some courts in cases where the judge's legal and professional expertise should suffice to solve the conflict. This common practice makes IPR enforcement very lengthy and costly. Furthermore, the independence and impartiality of the expert witnesses are not ensured. In some patent cases, the expert witnesses are not sufficiently knowledgeable of the patentability criteria.

Adoption of a law on IPR enforcement procedures, in line with the EU Enforcement Directive, is needed, as IPR cases have different merits than other court cases. IPR stakeholders and public bodies need to improve their coordination and awareness on the risks of IPR infringements.

## *Conclusion*

Overall, alignment of the legislation with the *acquis* is relatively high, although implementation and enforcement are still problematic. Turkey's decision to agree to establish an IPR working group with the Commission is a positive development addressing a key element of the accession negotiations on this chapter. Adoption of crucial updated draft laws regulating industrial property rights, including deterrent criminal sanctions, is pending. Closer coordination and cooperation between the IPR-related public bodies and specialised IPR enforcement units is of the utmost importance. IPR holders should be better represented in public IPR platforms. Greater public awareness of the risks which counterfeit and pirated goods pose to consumer safety, public order and health should also be a priority. Inconsistencies in practices between the different IPR courts and discrepancies between TPI and court decisions persist and reliable statistics are still not available.

### **4.8. Chapter 8: Competition policy**

Turkey made some progress in the field of **antitrust**. The Competition Authority adopted two sets of implementing legislation. These rules introduce defendants' right to oral hearings, the rights of access to case files and rules on protection of business secrets. The Competition Authority and the Public Procurement Authority signed a protocol facilitating exchanges of information and cooperation for handling competition infringements in public tenders. However, Turkey needs to transpose the *acquis* on horizontal cooperation agreements and the *de minimis* rules. Moreover, the Turkish Competition Act does not apply to banking mergers and acquisitions of market shares below 20%.

The Competition Authority's overall administrative capacity is high. It has a satisfactory level of administrative and operational independence and is committed to providing a high level of training for its staff. The authority has a solid track record on implementing the competition rules.

There has been no progress towards alignment of the rules concerning public undertakings and undertakings holding exclusive and special rights.

Good progress can be reported in the area of **State aid**. The law on monitoring and supervision of State aids has been adopted. It also establishes a competent authority for this task, which is supported by an institutional structure within the Undersecretariat of Treasury, has been adopted. These bodies now need to become operational as soon as possible. The law provides provisions on notification and monitoring of aid schemes in line with Turkey's Customs Union obligations. The services sector is excluded from its scope.

In 2009, Turkey adopted a stimulus package targeting the least developed regions of the country. Some parts of this package have yet to be adjusted to Customs Union rules.

Little progress was made on State aid to the steel sector. State practices in support of this sector between 2001 and 2006 need to be finally assessed. No progress has been made in establishing institutions or a legal framework to regulate state aid in the transport or energy sector.

## *Conclusion*

In the field of antitrust and merger control, Turkey has a high level of alignment. It is enforcing the competition rules effectively. The Competition Authority continues to enjoy a satisfactory level of administrative and operational independence. Good progress has been

made in the area of State aid. A State aid law establishing a monitoring authority has been adopted. It is now expected that Turkey adjusts its State aids to the requirements of the Customs Union and of the ECSC Free Trade Agreement.

#### 4.9. Chapter 9: Financial services

There has been some progress in the areas of **banks and financial conglomerates**. The authorities introduced new measures with a view to mitigating the negative impact of the global crisis on the banking sector and their balance sheets. The Central Bank of Turkey and the Banking Regulatory and Supervisory Authority (BRSA) have brought some flexibility to the reserve and liquidity requirements. The BRSA signed MoUs with the Banking Control Commission of Lebanon and the National Bank of Ukraine, increasing the total number of such agreements to 21. The BRSA further improved its supervisory and enforcement capacity, by updating its risk-based audit guidelines and initiating surveys for the regulatory impact assessment of draft implementing legislation. The BRSA was accepted as a member of the Basel Committee on Banking Supervision and Financial Stability Board in 2009. No progress can be reported regarding the implementation of the Basel II Accord for credit institutions and investment firms. The legislation in the area of banks and financial conglomerates remains largely satisfactory.

Some progress can be reported in the areas of **insurance and occupational pensions**. The Treasury still retains the right to revise motor third party liability insurance tariffs if it deems necessary. The Treasury required all insurance companies to report their outsourcing activities on a quarterly basis with a view to monitoring the risks they are exposed to. The Treasury issued a detailed communiqué on catastrophic risks and on the requirement for insurance companies to take into account the previous claims history of their customers. The main gaps in the insurance legislation are the calculation of solvency margins, the minimum amounts of cover in motor third party liability insurance, which are very low, and the coverage of the guarantee fund. Overall alignment with the *acquis* in the insurance sector remained partial.

Alignment of insurance legislation with the Solvency II framework — the Solvency II Directive 2009/138/EC and its implementing measures — is currently being prepared.

No progress has been made in the establishment of an independent regulatory and supervisory authority in the insurance and occupational pensions sector.

Turkey's legislative framework on **financial market infrastructure** is already largely in line with the *acquis*.

Some progress can be reported in **securities markets and investment services**. The Capital Markets Board (CMB) published a communiqué on real investment trusts to facilitate initial public offerings. The CMB has become a member of the International Forum of Independent Audit Regulators. The Turkish Capital Market Consultation Council has been established, a high-level coordination body to improve cooperation in securities markets. As a provisional measure, the CMB has obtained general ministerial approval for the listing of foreign securities at the Istanbul Stock Exchange. The CMB amended the communiqué on intermediary activities and intermediary institutions, facilitating entry and exit in the brokerage market. There has been no progress as regards investor compensation schemes, market abuse and undertakings for collective investment in transferable securities (UCITS). However, some progress can be noted with regard to the Markets in Financial Instruments Directive (MiFID) and prospectus requirements. There has been further progress in

strengthening prudential and supervisory standards in both banking and the non-bank financial sectors as referred above.

'Financial services' is one of the eight chapters covered by the conclusions on Turkey adopted by the Council (General Affairs and External Relations) on 11 December 2006 and endorsed by the European Council on 14/15 December 2006. As long as restrictions remain in place on the free movement of goods carried by vessels and aircraft registered in Cyprus or whose last port of call was in Cyprus, Turkey will not be in a position to implement fully the *acquis* relating to this chapter.

#### *Conclusion*

There has been some progress in the area of financial services, as supervisory authorities introduced further prudential measures. Turkey's overall alignment with the *acquis* remains partial.

#### **4.10. Chapter 10: Information society and media**

Concerning **electronic communications and information technologies**, progress can be reported. The regulator (ICTA) has continued to align regulations with the EU framework following the enforcement of the new Electronic Communications Law of November 2008, in particular as regards authorisation, spectrum management, access and interconnection, numbering, number portability, rights of way, and tariffs.

ICTA introduced a strategic plan for 2010-2012 which provides a three-year perspective for the sector. Publication of ICTA Board decisions on the internet is a positive development with regard to transparency and accountability of the regulator's activities.

However, the primary law and the implementing regulations are not yet fully aligned with the *acquis*. The authorisation procedures confer a margin of discretion on the regulator that could lead to legal unpredictability. The market review process is insufficiently established, giving discretionary powers to the regulator to decide when and how to impose obligations on operators, notably in the access conditions. Furthermore, the Framework Law does not provide the necessary conditions and the setting to ensure transparency and independence of the regulatory authority. This is one of the key elements for the accession negotiations in this chapter. The implementation of universal service obligations continues to be largely divergent from the EU Directive.

Total revenue of alternative operators is 14% of total revenue of the telecom sector. Fixed line telephony services have been opened for competition. However, the share of alternative operators has remained limited. No progress was achieved regarding number portability on fixed lines. The authorisation of mobile virtual network operator services, and issuance of the implementing regulation on authorisation of broadband wireless access services operators, are pending. Communications charges imposed on operators remain high.

As regards **information society services**, limited progress can be reported towards legislative alignment. Turkey is not a party to the European Convention on the legal protection of services based on, or consisting of, conditional access. The Law on electronic signature still shows several discrepancies with the EU Directive. The Law on internet content and the conditions under which internet providers can operate appear not to be in line with international standards protecting freedom of expression and may affect citizens' rights relating to internet access. (*See the section on freedom of expression*)



As regards **audiovisual policy**, the Radio and Television Supreme Council (RTÜK) adopted a regulation in November 2009 that lifted the time restrictions for private broadcasters and allowed 24-hour broadcasting in languages other than Turkish. The Regulation also removed the subtitle/consecutive translation requirement, thus opening the way for live broadcasts. Limitations as regards children's and language teaching programmes have also been lifted. As a consequence, the number of radio stations and TV channels broadcasting in languages other than Turkish has increased to 15 (5 TV channels and 10 radio stations), all of them broadcasting regionally.

The consultation forum with broadcasters continued, although on an irregular basis. RTÜK has reinforced its monitoring capacity by recruiting new staff who speak Kirmanji and Zaza. For the moment however, the monitoring of all local TV and radio broadcasts are carried out with the contributions of the monitoring units of the local police in line with a protocol that was first signed in 1998 and amended in 2006.

TRT became a shareholder in Euronews, whose Turkish service has been on air since January 2010, 24 hours a day, 7 days a week. Euronews in Turkish is distributed all over Turkey by TRT and is available on all distribution networks. In addition, TRT 2 is using Euronews programmes and the Turkish internet service also features Euronews programmes on demand.

In terms of alignment with the *acquis*, however, there has been no development. Media legislation is not yet aligned with the Audiovisual Media Services Directive. The draft law aiming to implement the directive was submitted to parliament in May 2010. RTÜK has not yet reallocated frequencies and the broadcasters have continued to use terrestrial frequencies on a *de facto* basis. The licensing deadlock continues to damage the broadcasting industry and also causes technical difficulties, such as significant interference, including cross-border, on both telecommunication systems and television and radio broadcasts. Switchover to digital would solve this problem, since Turkey adopted a roadmap on digital switchover in 2009, in line with the objective set by the European Commission for EU Member States.

The interpretation of certain articles of the broadcasting law and the sanctions imposed on broadcasters raised concerns. In June, RTÜK imposed a broadcasting ban on a channel for the words of a writer who spoke about the Armenian issue and which according to the regulator exceeded the limits of criticism.

### *Conclusion*

Turkey has made progress in aligning the national legislation with the EU framework on electronic communications and information technologies. However, the primary law and the implementing regulations are not yet fully aligned with the *acquis*. Several obstacles to market development, not least in the internet broadband market, remain in place. In order to enhance competition in the sector, the regulatory authority's independence and effectiveness should be reinforced. Regarding information society services and audiovisual policy, there has been little progress and the legislative alignment remains at an early stage. In the area of information society and media, Turkey should continue efforts for further alignment and enforcement of regulations.

## **4.11. Chapter 11: Agriculture**

Limited progress can be reported towards legislative alignment with the common agricultural policy (CAP). Turkey has not yet adopted a law to restructure the Ministry of Agriculture and

Rural Affairs (MARA), an important step in developing the administrative structures necessary to implement the CAP.

Progress on **horizontal issues** has been limited to preparations for the integrated administration and control system (IACS), a key element for the accession negotiations in this chapter. The strategy for a land parcel identification system (LPIS) and farmer registration system has been adopted by the Turkish authorities. No progress can be reported regarding the farm accountancy data network (FADN). Regarding agricultural statistics, another key element for the accession negotiations in this chapter, a protocol has been signed to enhance cooperation between MARA and the Turkish Statistics Institute. However, the absence of an adopted strategy remains a shortcoming.

There has been limited progress on alignment of the Turkish agricultural policy with the CAP, a further key element for the accession negotiations in this chapter. Coupled direct support continues to be the main type of support to Turkey's agricultural sector. Turkey has been developing a strategy aimed at adjusting its support policy to future integration in the CAP but no significant progress has been achieved in the reporting period. As concerns the agricultural budget in 2010, a significant rise took place in area-based payments for hazelnut production, replacing previous public intervention measures for this crop. The adoption of implementing regulations introducing payments per head for cattle and sheep and goats represents some degree of convergence with current CAP measures.

Following the substantial increase in consumer meat prices over the past year, the government declared a partial lifting of the import ban for live cattle and beef meat, which represents progress in solving this long-standing problem. However, Turkey continues to remain in breach of its bilateral obligations under the trade agreement for agricultural products, in particular by not allowing the import of live animals from a great majority of Member States. The complete removal of the ban for live cattle and beef meat remains a key element for the accession negotiations on this chapter.

There has been no progress in the area of common market organisation.

As regards **rural development**, the sectoral agreement laying down detailed rules for the implementation of IPARD (Instrument for Pre-accession Assistance for Rural Development) has been signed and ratified. Progress has been observed in the recruitment and training of personnel and towards accreditation of the IPARD agency, a key element for the accession negotiations in this chapter. The national accreditation of the IPARD-related structures, originally planned for the beginning of 2009, was completed in July 2010. Further checks of the compliance of these structures with IPARD accreditation criteria need to be done by the European Commission before the conferral of management can be granted to Turkey and the implementation of the IPARD programme can start. Major efforts are still needed by the Managing Authority and the IPARD Agency to ensure good absorption capacity and prevent the loss of IPARD funds. Progress has also been noted through the adoption of a national rural development plan to supplement the EU's IPARD support to Turkey.

Only limited progress can be reported on **quality policy** and **organic farming**. As regards the former, a new law on geographical indications has been adopted. On organic farming, Turkey has taken further measures to improve the certification and control system.

'Agriculture and rural development' is one of the eight chapters covered by the conclusions on Turkey adopted by the Council (General Affairs and External Relations) on 11 December

2006 and endorsed by the European Council on 14/15 December 2006. As long as restrictions remain in place on the free movement of goods carried by vessels and aircraft registered in Cyprus or whose last port of call was in Cyprus, Turkey will not be in a position to implement fully the *acquis* relating to this chapter.

### *Conclusion*

There has been limited progress towards alignment with the *acquis*. Agricultural support policies showed only minor transition towards the CAP, following the significant divergent trend reported in recent years. Initial steps have been taken for the development of an integrated administration and control system. However, the failure to fully remove unjustified technical barriers to trade in bovine products and the continued delays in the accreditation of the structures to use the Instrument for Pre-accession Assistance for Rural Development represent significant shortcomings. Similarly, further progress is required on agricultural statistics, the farm accountancy data network, quality policy and organic farming.

#### **4.12. Chapter 12: Food safety, veterinary and phytosanitary policy**

Substantial progress has been made towards transposition and implementation of the food safety *acquis*. The Framework Law on veterinary services, plant health, food and feed has been adopted. Turkey also prepared a detailed strategy for the transposition, implementation and enforcement of the *acquis*.

In the area of **veterinary policy**, some progress was observed towards transposition and implementation of the *acquis*. Legislative alignment in the area of import control systems is still incomplete. Construction of three land and two seaport border inspection posts (BIPs) has been completed, but they are not yet fully functioning. Problems in directing consignments from Ataturk Airport to Sabiha Gokcen Airport remain unresolved and the BIP at Sabiha Gokcen Airport in Istanbul is still not fully functional.

Turkey pursued efforts to bring the system for identification and registration of bovines and their movements fully into line with the *acquis*. The system has been strengthened to allow an effective cross-checking system with off and on movement notifications. The administrative capacity of the Ministry of Agriculture and Rural Affairs (MARA) has been improved through information and training activities for staff and stakeholders. Implementation of identification and registration of ovine and caprine animals has started across the whole country. Implementation of systems for identification and registration of animals constitutes a key element for the accession negotiations in this chapter. Turkey has made no progress as regards control of commercial movements of pet animals.

Turkey's efforts in the area of combating animal diseases have continued, with foot and mouth disease (FMD) still being the main focus. However, the FMD contingency plan has not yet been adopted and the regulation on the control of FMD has not entered into force. Turkey's intensive FMD vaccination programme accompanied by strict animal movement measures between Thrace and Anatolia has been implemented. Nevertheless, the number of FMD outbreaks has increased substantially in Anatolia. Thrace has been recognised by the World Organisation for Animal Health (OIE) as FMD-free with vaccination. The regulation concerning the control of rabies has not yet entered into force. No avian influenza outbreaks occurred in the reporting period and MARA continued implementing awareness campaigns and simulation exercises. Turkey made no progress as regards transmissible spongiform encephalopathy (TSE). Timely notification of animal diseases by Turkey has continued under

its international obligations. Control and eradication of animal diseases, in particular FMD and TSE, as well as notification of animal diseases are key elements for the accession negotiations in this chapter.

Procedures have been improved regarding the implementation and follow-up of the national residue monitoring plan and the control of veterinary medicinal products. However, no progress can be reported concerning deficiencies of laboratories and the inclusion of all substances.

The current system for financing veterinary inspections and controls is not in line with the *acquis*. No progress has been observed as regards import requirements for live animals and animal products to bring the system into line with EU rules. The *de facto* beef ban was partially lifted (*See also Chapter 11*). Turkey has made no progress on zootechnical issues or on animal welfare, the latter being a key element for the accession negotiations in this chapter.

As regards **placing on the market of food and feed and animal by-products**, limited progress can be reported. The hygiene package, a key element for the accession negotiations in this chapter, has not yet been transposed. Hygiene guidelines have been prepared and their implementation has started in some sectors. Risk-based inspections and controls are being implemented. A food safety information network system has become partially operational. The national rapid alert system for food and feed (RASFF) has been improved. The number of notifications received, particularly on aflatoxins and certain pesticide residues remained high. The Law on the restructuring of MARA has not been adopted. Intensive training programmes have led to improvements in administrative capacity. Annual inspection and monitoring programmes have been implemented. The classification of agri-food and animal by-products establishments has been completed in line with the *acquis*. However, no significant action has been taken to bring these establishments into line with EU requirements, which is a key element for the accession negotiations in this chapter.

Concerning **food safety rules**, legislative alignment and implementation have further advanced on labelling, presentation and advertising, food additives and purity criteria, extraction solvents, quick frozen foodstuffs, food for particular nutritional uses, irradiated food and mineral waters. As regards contaminants, a communiqué concerning the methods of sampling and analysis for the official control of levels of dioxins and dioxin-like PCBs in certain foodstuffs has entered into force.

Turkey has not completed transposition in the area of flavourings, food supplements and novel food. The Law on biosafety and two implementing regulations have entered into force. However, further alignment in this area is still required. Limited progress has been observed in the area of food contact materials. A regulation relating to materials and articles made of regenerated cellulose film intended to come into contact with foodstuffs has entered into force.

No progress can be reported with regard to **specific rules for feed**.

Some progress on **phytosanitary policy** has been achieved, with the main focus on the area of plant protection products (PPPs). The control system in this area has been further strengthened by providing training sessions on prescription, certification and the use of PPPs. Alignment has further improved on banned active substances. The use of certain pesticides, *i.e.* amitraz on pears, oxamyl on peppers, tomatoes and cucumbers, has been banned. A regulation concerning the marking of wood packaging materials as a plant health measure has entered into force. Implementation of a pilot-scale plant passport system has not yet started.

Progress in the area of seed and propagating materials remained very limited. The variety registration and seed certification software system has still not become fully operational. No developments can be reported on the implementation of international phytosanitary agreements.

### *Conclusion*

Progress has been achieved on all key elements for the accession negotiations in this chapter. The adoption of the Framework Law on veterinary services, plant health, food and feed has contributed significantly to Turkey's alignment process in the area of food safety, veterinary and phytosanitary policy. However, the restructuring of the Ministry of Agriculture and Rural Affairs has not taken place yet. The adoption of a complete alignment strategy should facilitate transposition and implementation of the relevant *acquis* in this area. However, further efforts are still necessary for the alignment process.

### **4.13. Chapter 13: Fisheries**

There has been no substantial progress in alignment with the fisheries *acquis*. The revised Law on Fisheries and the Law on restructuring of the Ministry of Agriculture and Rural Affairs (MARA) has not yet been adopted.

Some progress has been made in the area of **resource and fleet management**. The fisheries information system (FIS) has been improved to include recording of fishing vessels and commercial fishermen, special fishing permits, monitoring of blue-fin tuna (BFT), baby clam quotas and anchovy fishing. Further improvement is needed on collection of catch and landing data.

Turkey completed building and equipping two new fisheries port offices, thereby increasing the total number to 36. Some progress can be reported as regards the administrative capacity of MARA. However, technical capacity needs to be built for stock assessment and data collection.

There has been some progress in the field of **inspection and control**. MARA circulated implementing instructions to meet the requirements of the Council Regulation on illegal, unreported and unregulated (IUU) fishing. Catch certificates and re-export certificates are issued for products to be exported to the EU. These products are also monitored and the data on their catch and sale are cross-checked in the FIS. All vessels over 15 m in length have started using automatic identification system (AIS) devices. All BFT vessels have been monitored by the satellite based vessel monitoring system.

Further improvement is necessary with regard to fisheries control and measures to ensure sustainability of the fish stocks.

No progress has been made on **structural action, market policy and state aid**.

Turkey has not concluded any new **international agreements** but there has been some progress as regards the implementation of International Commission for the Conservation of Atlantic Tunas (ICCAT) decisions. The number of authorised BFT vessels has been reduced from 57 to 18 and an individual quota system has been applied to distribute the total quota allocated to Turkey by the ICCAT. The ICCAT regional observer scheme has been introduced and ICCAT observers have been deployed to all BFT farms and authorised vessels. Fishing

periods are aligned with ICCAT requirements for BFT and swordfish. Further efforts are required to comply with the requirements of the multi-annual recovery plan for Eastern BFT.

'Fisheries' is one of the eight chapters covered by the conclusions on Turkey adopted by the Council (General Affairs and External Relations) on 11 December 2006 and endorsed by the European Council on 14/15 December 2006. As long as restrictions remain in place on the free movement of goods carried by vessels and aircraft registered in Cyprus or whose last port of call was in Cyprus, Turkey will not be in a position to implement fully the *acquis* relating to this chapter.

### *Conclusion*

Overall, some progress has been made on resource and fleet management, inspection and control and implementation of international agreements. Further progress needs to be made on legislative alignment, administrative structures and market policy, structural action and state aid.

#### **4.14. Chapter 14: Transport policy**

Some progress has been made in the area of **road transport**. Turkey became a party to the European Agreement on the international carriage of dangerous goods by road (ADR) on 22 February 2010. However, the institutional and technical capacity of the directorate general for land transport (DGLT) for implementing the ADR remains limited. 26 additional inspection stations for the weight and dimensions of commercial vehicles were built in 2010. In January 2010, Turkey appointed the Ministry of Transport (MoT) as the national authority charged with establishing a digital tachograph system (DTS). The MoT has delegated its tasks to the Union of Chambers of Commerce (TOBB) via a protocol. The implementing legislation concerning the use of tachograph devices on vehicles providing international transport services entered into force on 21 May 2010 and first user card was issued in September 2010. The regulation is in line with Council Regulation 3821/85/EEC and the European Agreement concerning the work of crews of vehicles engaged in international road transport (AETR).

On road transport, legislative alignment regarding driving and rest hours of drivers by the Ministry of Labour and Social Security is slow. Further work is required, especially in order to align with the new legislative packages adopted by the European Union after 2007. Technical and human resources capacity is not on a par with the level of legislative alignment.

**Rail transport** is the only transport sub-sector where no progress has so far taken place. Preparedness in this sector remains at a very early stage.

There is no **inland waterway transport** in Turkey.

Good progress can be reported in the area of **air transport**. An EU-Turkey horizontal aviation agreement, which will constitute a new legal basis for relations in the aviation field, is at a final stage. Turkey has declared its willingness to be integrated in the aviation architecture that will emerge from the single European sky initiative. Preparations to draw up a pre-accession strategy for the aviation sector are at an early stage. The directorate-general for civil aviation (DGCA) has improved the technical capacity of its human resources through an active training policy which calls for systematisation of curricula and better training facilities.

The DGCA extended the scope of the regulation on carriage of liquids on airplanes to include all international airports. It finalised a circular on passenger rights which is undergoing stakeholder consultation with the aviation industry. The DGCA also issued a regulation on safety assessment of national and foreign aircraft (SAFA – SANA). Despite widespread use in practice, DGCA still has not issued a regulation on computerised reservation systems.

Air traffic management is still suffering from a lack of regional cooperation. The lack of communications between air traffic control centres in Turkey and the Republic of Cyprus is seriously compromising air safety in the Nicosia flight information region. A technical solution has been submitted by the Commission and Eurocontrol to the parties and the International Civil Aviation Organisation (ICAO) for further consideration. No agreement has so far been reached between the parties.

In the field of **maritime transport**, some progress can be reported, particularly on the strengthening of institutional capacity. The undersecretariat for maritime affairs (UMA) has prepared a pre-accession sector strategy and identified priority policy areas for short-term actions. The directorate general for coastal safety and salvage operations established a long-range identification and tracking system (LRIT) and the Turkish national LRIT data centre integrated with the International Maritime Organisation (IMO) and the International Mobile Satellite Organisation (IMSO). Also a national assistance, search and rescue automation system called Yakamos was put into operation in October 2009. These investments substantially enhanced UMA's technical capacity for monitoring, pollution estimation and integrated planning in coastal zones. Vessel traffic monitoring information systems (VTMIS) for the ports of Izmit, Izmir, Mersin and Iskenderun are being installed. UMA also initiated a comprehensive annual training programme on oil pollution preparedness and emergency response. However, actual physical capacity for pollution prevention and emergency response is limited. The regulation on seafarers was amended on 28 May 2010: graduates of the military navy schools are required to complete training and take the seafarer exam in accordance with the Convention on standards of training, certification and watch keeping (STCW).

The regulation on reception of waste from ships and waste control was amended and specific references to Marpol Annexes were made in relation to the definition of waste. Turkey became a party to protocol on limitation on liability for maritime claims (LLMC 1996). UMA issued an administrative instruction to comply with the anti-fouling systems convention while the ratification process is ongoing. There was no progress in becoming a party to SOLAS-78, SOLAS-88, the Convention on facilitation of international maritime traffic (FAL), the International Convention on the control of harmful anti-fouling systems on ships (AFS) and Marpol Annexes III and IV.

The detention rate of Turkish vessels was 4.2% in 2009 (5.6% during the first half of 2010) compared to 2.2% for the EU average in 2009. Turkey is on the white list of the Paris Memorandum of Understanding. Alignment in the maritime safety area is at a good level but the third EU Maritime Package adopted on 11 March 2009 amends some of the legislation with which Turkey has already aligned.

No particular development in the area of **combined transport and satellite navigation** can be reported.

'Transport policy' is one of the eight chapters covered by the conclusions on Turkey adopted by the Council (General Affairs and External Relations) on 11 December 2006 and endorsed

by the European Council on 14/15 December 2006. As long as restrictions remain in place on the free movement of goods carried by vessels and aircraft registered in Cyprus or where the last port of call was in Cyprus, Turkey will not be in a position to implement fully the *acquis* relating to this chapter.

### *Conclusion*

Except for the railways sector, some progress has been achieved towards alignment of the transport sector. Legislative alignment has reached an advanced level in the aviation, maritime and road sectors. However, some recent legislative packages adopted by the EU amending the *acquis* require additional alignment efforts. No progress has been made regarding rail market opening and safety. The lack of communications between air traffic control centres in Turkey and the Republic of Cyprus continues to seriously compromise air safety. In the maritime sector, no progress has been made on becoming a party to international conventions. The implementation capacity is limited, particularly for road transport and for prevention of pollution and emergency response in the maritime area. Human resources and technical capacity to implement the *acquis* remain limited.

## **4.15. Chapter 15: Energy**

Progress can be reported in the field of **security of supply**. Turkey completed the ratification procedure of the intergovernmental agreement on the Nabucco gas pipeline in August 2010. As the next step project support agreements can now be concluded between governments. In June 2010 Turkey and Azerbaijan reached agreement on gas pricing and gas transit through Turkey. The agreement for the construction of the Samsun-Ceyhan oil pipeline was signed between the Turkish, Italian and Russian companies. There have been few developments as regards oil stocks. The planned oil stockholding agency to facilitate oil stockholding arrangements remains to be established.

Regarding the **internal energy market**, good progress can be reported on electricity. With new private sector investments undertaken, Turkey's installed capacity increased by 2,800 MW and private investments in the energy sector amounted to €3.1 billion in 2009. Implementation of the new balancing and settlement regulation started, thereby launching modern electricity market trading practices. Sales through the balancing and settlement system correspond to around 75% of total electricity sales volume. The electricity market licensing regulation was amended. The amendment makes completion of the environmental impact assessment procedure a precondition for granting generating licences in the electricity sector. The threshold for eligible consumers was further reduced to 100,000 kWh, equivalent to opening 63% of the market. Privatisation of distribution assets through block sales of 100% of shares continued. Three private companies began operating in the electricity distribution sector. The privatisation process for five more distribution regions was completed but assets have not been transferred to the new owners yet. According to the revised strategy paper, the government plans to complete privatisation of distribution assets in 2010.

Regarding the natural gas market, little progress can be reported. The threshold for eligible consumers was reduced to 800,000 m<sup>3</sup>/year from 1 million m<sup>3</sup>/year. By April 2010, 66 cities in Turkey were connected to the natural gas grid. Two companies started spot LNG imports in 2009. No developments can be reported regarding the gas release programme or the unbundling of BOTAS to meet the requirements of the Natural Gas Market Law.



Good progress can be reported in the field of **renewable energy**. The electricity licensing regulation was amended to tackle the large number of wind licence applications that were submitted to the energy market regulatory authority in 2007. Private sector interest in renewable energy investments grew strongly. By the end of 2009, around 1,000 MW of additional renewable installed capacity was developed by the private sector. By the end of 2009, Turkey was producing 19.6% of its electricity from renewable energy sources. Nevertheless, further efforts are needed in particular towards creating a stronger regulatory environment favourable for the use of renewable energy sources in all sectors required by the EU *acquis*.

Regarding **energy efficiency**, further progress can be reported. The implementing regulation on energy performance of buildings came into force. By the end of 2009, 17 private sector companies and one professional chamber were authorised to provide energy efficiency services. Efforts to increase energy efficiency in the country could benefit from improvements in the capacity of the general directorate of electrical power resources survey and development administration as well as development of strategies to increase further awareness in this field.

Regarding **nuclear energy, nuclear safety and radiation protection** limited progress can be reported. In October 2010, Turkey ratified its first agreement with Russia to establish and operate a nuclear power plant in Akkuyu on the Eastern Mediterranean coast with an installed capacity of 4,800 MW. In June 2010 the Turkish state-owned electricity generation company EUAS and Korea Electric Power Corporation (KEPCO) signed a protocol to build Turkey's second nuclear power plant in Sinop, on the Black Sea coast. Improvements were made to the radioactive waste management unit at the Cekmece nuclear research and training centre, which still need to be assessed by the Commission. According to Turkey's revised strategy paper on the electricity market and security of supply, Turkey plans to have 5% of its installed capacity from nuclear energy by the year 2023. The Turkish Atomic Energy Agency (TAEK) continues to perform both regulatory functions and its operational tasks.

Compliance of the existing regulations with the EU *acquis* still needs to be demonstrated. Turkey does not participate in the IPA horizontal programme on nuclear safety and radiation protection, making an assessment of the level of transposition of the EU *acquis* very difficult.

Turkey does not have a framework nuclear law to address the *acquis* requirements regarding nuclear safety and it has not acceded to the Joint Convention on the safety of spent fuel management and radioactive waste management. As a Contracting Party to the Convention on Nuclear Safety, Turkey is obliged to consult its neighbouring countries and the Euratom Community on nuclear power plants planned on its territory.

### *Conclusion*

There has been good progress with regard to electricity, renewable energy and energy efficiency, as well as on security of supply. Developments in the fields of natural gas, nuclear energy, nuclear safety and radiation protection require further efforts.

## **4.16. Chapter 16: Taxation**

There has been limited progress in the area of **indirect taxation**. Turkey's value added tax legislation is not fully in line with the *acquis*. The structure, exemptions, special schemes and application of reduced rates remain to be further aligned. Some progress can be reported with regard to *excise* duties. In line with the action plan adopted on 18 May 2009, Turkey

abolished the Tobacco Fund levy imposed on processed tobacco as of 1 January 2010. This is a positive step towards full elimination of discriminatory practices in the taxation of tobacco. The Tobacco Fund sets a special duty on imported raw tobacco, which is not applicable to domestic products. Minimum excise tax amount and ad valorem on tobacco products were increased. However, discrepancies between the Turkish legislation and the *acquis* continue to exist in terms of the structure of the excise duty on tobacco and tobacco products. Turkish legislation lays down ad valorem rates and minimum excise duty whereas it lacks the element of specific excise duties.

With regard to alcoholic beverages, uneven progress can be reported. Specific duties are levied on alcoholic beverages, differentiated on the basis of the type of product instead of the alcoholic content. The levels set are higher for imported products than for comparable domestic ones. Turkey had reduced the differentials between these levels through a cabinet decree of April 2009 as part of an action plan adopted on 18 May 2009 setting clear mutually accepted milestones with a view to the gradual elimination of all discriminatory taxation. Other changes in the taxation of alcoholic beverages went in the right direction, such as the abolition of ad valorem duties on wine, which aligns the Turkish legislation with the EU *acquis*. However, in January and October the excise duty rate on alcoholic beverages was increased by 10% and 30% respectively across the board. Contradicting the action plan, this increased the differentials in absolute figures between the taxation of imported compared to domestic alcoholic beverages. Turkey needs to comply with the commitments in the action plan, which is a key requirement in the negotiations under this chapter. Turkey will need to introduce a duty-suspension regime for domestic movements and tax warehouses prior to membership.

There is no progress to be reported on **direct taxation**. The Income Tax Law is under revision.

Some progress can be reported in the field of **administrative cooperation and mutual assistance**. The revenue administration monitored the activities to be carried out by nine institutions in line with the action plan for combating the informal economy. The plan covers the period 2008-2010. Sharing the overall assessment of the action plan's results with the public is crucial for ensuring transparency.

Regarding **operational capacity and computerisation**, some progress has been achieved. The revenue administration kept up its efforts to increase voluntary compliance. The measures taken were aimed at simplifying procedures, enhancing enforcement as well as improving taxpayer services. The taxpayer call centre received three awards<sup>34</sup> at the 2009 Istanbul call centres conference. The revenue administration developed a number of IT infrastructure projects such as VERIA (electronic database) and VEDOS (risk assessment system) as an extension of VEDOP (tax offices automation project). Automation of tax rulings has been a significant step in increasing the transparency and consistency of the Turkish tax legislation.

### *Conclusion*

There has been some progress towards legislative alignment under this chapter, particularly in eliminating discriminatory practices in the taxation of tobacco, despite the remaining discrepancies with the *acquis*. Efforts to reinforce the tax administration, combat the informal economy and increase voluntary compliance were pursued. However, the increases in excise

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<sup>34</sup> Special award of the jury, best call centre manager, best customer representative.

duty on alcoholic beverages contradicted the action plan for eliminating the differentials between imported and domestic products. The realignment of the Turkish tax legislation with the commitments taken by Turkey in the context of the opening of Chapter taxation needs to be ensured without delay. Abolition of discriminatory practices in taxation is a key element for making further progress in the accession negotiations on this chapter. Hardly any progress can be reported on direct and indirect taxation. Overall preparedness in this chapter is moderately advanced.

#### **4.17. Chapter 17: Economic and monetary union**

There has been some progress on **monetary policy**. The Central Bank announced an exit strategy for its monetary policy, which aims to gradually reduce the excess liquidity in the system. As a first step, the Bank increased the foreign currency reserve ratio for the banking sector from 9% to 9.5%. Turkey's legislative alignment with the *acquis* remains partial in this area. The Central Bank's statute does not fully ensure its independence. The government and the Central Bank jointly decide on the inflation target. The legislative framework (for example implementing regulations on the investor protection fund and on the operation of pension investment funds) contains provisions that are not in line with the prohibition of privileged access of the public sector to financial institutions. Overall the preparations in the field of monetary policy are well advanced.

Some progress has been made on **economic policy**. Turkey is a member of G20, and coordination of economic policy in this forum has stepped up with all the other members, including with the EU. The authorities have been very active in reviving their economic relations with several countries in the region, in particular through visa exemption, trade facilitation and cooperation agreements. Privatisation activities in the energy sector gathered momentum, first in electricity distribution and then in generation. Turkey ended negotiations with the International Monetary Fund (IMF) for a new stand-by arrangement. The authorities have been more active in working with international financial institutions (IFIs), particularly the European Investment Bank (EIB), the World Bank (WB), the European Bank for Reconstruction and Development (EBRD) and the Islamic Development Bank (IDB), while increasing their absorption capacity for new loans. Turkey's 2010 budget aims to gradually reduce the budget deficit, particularly through increasing public revenues. Technical work for the adoption of a fiscal rule through new legislation to control the budget deficit in the medium term has been completed but the adoption of the draft law has been postponed. Turkey submitted its Pre-Accession Economic Programme (PEP) to the Commission in January 2010. Overall, in the field of economic policy the country is well advanced.

#### *Conclusion*

Some progress has been made on economic and monetary policy. The Central Bank started to implement an exit strategy for its anti-crisis monetary policy. The authorities have been very active in improving their economic relations within a G20 context, with the countries in the region, and have increased their cooperation with various international financial institutions. The legal framework is not fully in line with the *acquis*, with special reference to full independence of the Central Bank and the prohibition of privileged access of the public sector to financial institutions. Overall the preparations in the field of economic and monetary union are well on track.

#### 4.18. Chapter 18: Statistics

There has been progress in the area of **statistical infrastructure**. The Turkish national statistical institute (TurkStat) signed new cooperation protocols with the Ministry of Agriculture and Rural Affairs (MARA) and the Ministry of Education. Cooperation among the main owners of administrative data on enterprises has greatly improved. These activities further reinforced the coordinating role and improved the administrative capacity of TurkStat. Preparations in this area are well advanced.

Progress can be reported on **classifications and registers**. TurkStat further improved the business register. TurkStat and MARA started to work on establishing a statistical farm register and initiated a pilot study to that end. Turkey still needs to submit a detailed description of preparations for setting up the farm register and the methodology and organisational set-up for the collection of agriculture statistics which is a key element for the accession negotiations in this chapter. Preparations in this area are advanced.

Good progress has been made on **sector statistics**. Preparations for the 2011 population and housing census are on track. As for national accounts, progress has been made on excessive deficit procedure statistics, outward foreign affiliates trade statistics and financial accounts for the government sector. Gross value added for the regions equivalent to NUTS level 2 was published for the years 2004 to 2006. TurkStat started publishing key labour force indicators at the provincial level, as well as seasonally adjusted figures. The results of the 2008 labour cost survey were published. Structural business statistics as well as short-term statistics were further improved. Regarding agriculture statistics, TurkStat started collecting monthly animal production data. Progress was made on environment statistics. Preparations in this area are advanced.

Turkey has not yet submitted key national account indicators together with the methodology used, which is a key element for the accession negotiations in this chapter.

#### *Conclusion*

There has been good progress in the area of statistics. TurkStat further improved the coordination of the statistical system. Good progress has been made on the business register and on sector statistics. Further alignment is needed in particular in national accounts and in agriculture statistics, not least in the establishment of the statistical farm register. Turkey's overall level of alignment with the *acquis* in statistics is advanced.

#### 4.19. Chapter 19: Social policy and employment

There has been no progress regarding transposition of the *acquis* on **labour law**. The Labour Law does not apply to certain sectors of the economy. The decision to set up a new department for disadvantaged groups in the Ministry of Labour and Social Security is a positive step. The labour inspection board<sup>35</sup> remain to be strengthened in particular as regards staffing and cooperation with the social partners.

Little progress has been made in the area of **health and safety at work**. Administrative capacity as well as the awareness level have increased, with the contribution of EU-funded actions. According to official statistics covering only registered workers, 72,963 occupational

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<sup>35</sup> The number of labour inspectors dealing with labour relations increased to 321.

accidents occurred in 2008, slightly less than in 2007. The numbers would be much higher if the informal sector were included. There has been no progress regarding transposition of the Framework Directive on health and safety at work. This is a major shortcoming for the implementation of legislation already transposed. The capacity of the labour inspection board, which is a priority in this area, continued to be strengthened through recruitment and training of additional staff. However, the number of labour inspectors remains very low compared to the size of the economy and the labour market<sup>36</sup>. Dramatic fatal occupational accidents in the mining and quarrying sectors have raised concerns over enforcement of legislation as well as the inspections carried out by public authorities<sup>37</sup>. Fatal ‘silicosis’ diseases caused by poor working conditions in jeans sandblasting workshops continued to occur.

There has been some progress in the area of **social dialogue**, in particular in the public sector. Amendments were made to the Constitution granting the right to collective bargaining and collective agreements to civil servants and other public employees and making disciplinary decisions against civil servants subject to judicial review. Amendments also included lifting the ban on certain strikes<sup>38</sup>, removing the ban on membership of more than one trade union at the same time and in the same branch of activity, and repealing the restriction to one collective agreement at the same workplace for the same time. Furthermore, with the constitutional amendments, the Economic and Social Council has become a constitutional body, to be consulted by the government for policy making in the economic and social fields. Furthermore, the Prime Minister’s Office issued a circular aiming to improve the situation of civil servants, including facilitating the exercise of trade union rights in the public sector. However, the legal framework to which the Constitution refers in view of regulating the rights to negotiate, to organise collective actions for workers, employees and civil servants remains restrictive and needs to be brought into line with EU standards and ILO Conventions. An ILO high-level bipartite mission to Turkey consisting of the employers’ and workers’ spokespersons from the Committee on the application of standards was unable to note any measurable progress towards the adoption of relevant legislation. The government has attempted to address some key issues such as ensuring the right to freedom of association and collective bargaining at workplace level in a new draft law on trade union rights in the private sector, which failed to receive the support of the social partners. The number of workers covered by collective labour agreements remains very low<sup>39</sup>. The work of the main social dialogue mechanisms (Tripartite Consultative Board, Economic and Social Council) and the capacity of social partners needs further strengthening. (*See Political criteria — Labour rights and trade unions*). The constitutional amendment package did not introduce the right to strike for civil servants.

There has been some progress on **employment policy**. Turkey is preparing its national employment strategy. Job creation incentives announced in the midst of the financial crisis were prolonged. There is a decreasing trend in unemployment compared to 2009. The Turkish Employment Agency (ISKUR) kept up its efforts to register unemployed and deliver services

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<sup>36</sup> The number of labour inspectors dealing with Health and safety issues is 314. The total number of labour inspectors is 635, i.e; 7% more than last year. However, in the same period, the number of people in employment increased by 1.5 million.

<sup>37</sup> Big fatal accidents occurred in Bursa, Mustafakemalpaşa (19 deaths in December 2009), Balıkesir, Odaköy (17 deaths in February 2010), Zonguldak, Karadon (30 deaths in May 2010), Edirne and Keşan (3 deaths in July 2010).

<sup>38</sup> Politically motivated strikes and lockouts, solidarity strikes and lockouts, general strikes and lockouts, occupation of work premises, labour go-slows, reduced productivity and other forms of resistance.

<sup>39</sup> The collective agreements concluded in 2008 and 2009 cover a total of 767,582 workers. The total number of people in employment is around 23,5 million.

to them. The active labour market measures have been significantly extended<sup>40</sup>. However, the coverage rate of unemployment benefit is too low. Only 6% of the unemployed received benefits from the fund in March 2010. The overall administrative capacity of Turkey's public employment service remains weak. Labour force participation and employment rates are low<sup>41</sup>. The south-east region has the lowest participation rates<sup>42</sup>. The youth unemployment remains high but has shown a decreasing trend in the first 2 quarters of 2010<sup>43</sup>. The percentage of undeclared workers has followed a downward trend after reaching a peak in June 2009. However, 44.8% of the people in employment are not registered with the social security system and hence are deprived of the protection of labour law and pension rights. The work to combat against undeclared work intensified, especially through increased coordination and cooperation between the SSI and the other public and private institutions. 336,838 undeclared workers were identified with this means. However the inspection capacity remains insufficient compared to the wide scope of the informal economy. There has been no progress regarding finalisation of the joint assessment paper (JAP) on employment priority policies.

There has been some progress in preparations for the **European Social Fund (ESF)**. The operating structure established under the Ministry of Labour and Social Security, which is responsible for the management of the human resources development operational programme (HRD OP) under IPA component IV, has continued to increase capacity. After all the formal requirements had been met, implementation of the HRD OP started with the launch of the first award procedures and signature of the first contracts. However, major delays have occurred in the evaluation process and signing of the first contracts which took place only in May 2010. Implementation of operations currently launched needs to be speeded up to prevent the risk of substantial loss of funds. Monitoring and evaluation of programmes needs strengthening.

There has been little progress in the field of **social inclusion**. An amendment to the Constitution paves the way for positive discrimination for children, the elderly and disabled people. Turkey has no comprehensive policy framework to address poverty. The percentage of the population at risk of poverty remains high, and children continue to face a disproportionate risk of poverty. Poverty among the working population remains a concern, especially among seasonal workers, those in subsistence agriculture and undeclared workers.

An action plan has been adopted by the Economic Coordination Committee, aiming to establish links between social services and public employment services<sup>44</sup>. The government has lifted budget-related staff limitations on employment of persons with disabilities in public institutions<sup>45</sup>. However, national Turkish institutions promoting social inclusion remain

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<sup>40</sup> The number of beneficiaries increased from 30,000 in 2008 to 200,000 in 2009.

<sup>41</sup> The figures are 50% and 44,7% in June 2010, showing an improvement compared to last year but still very low compared to EU average..

<sup>42</sup> According to TurkStat 2008 figures, participation rates are 26.9% for Diyarbakır, 27.2% for Siirt and 29.8% for Şırnak. However, in 2009 the highest increase in employment rate was registered in the south-east.

<sup>43</sup> Youth unemployment rate decreased to 19.1% in June 2010 compared to 23.7% in the same period of 2009.

<sup>44</sup> Based on this action plan, social assistance recipients, who are of working age and able to work, will be registered in the public employment agency database and encouraged to receive relevant employment services.

<sup>45</sup> In January 2010, out of 48,943 public sector posts allocated by law to people with disabilities (accounting for 3% of all public sector posts), only 14,325 could be filled due to budgetary limitations. Now that an exemption has been granted, lifting budget-related restrictions on the employment of people with disabilities, the recruitment process for the remaining posts has started.

dispersed and weak. Further efforts are needed to increase the employability of persons with disabilities in both the public and private sector. No progress has been made towards finalisation of the Memorandum on social protection and social inclusion (JIM).

There has been little progress in the field of **social protection**. A circular was issued by the Prime Minister's Office addressing the conditions of seasonal migrant agricultural workers with regard, among other things, to housing, access to education, health and social security. A free helpline number (144) regarding social assistance services has been launched. The percentage of people covered by the social security system remained at 80%. The draft law on social assistance and payments without premiums is still pending. Turkey reports a large deficit in the pension system, which has widened considerably in the wake of the crisis. More efforts are needed to extend the coverage of the pension system to undeclared workers and to encourage those covered to work longer in the formal sector. Access to primary health services and extension of the general health insurance scheme have improved. Staff shortages remain an acute challenge for the healthcare system.

There has been no progress towards transposition of the *acquis* in the field of **anti-discrimination**. The Labour Law is not applicable to the period prior to conclusion of a labour contract. There is no definition in Turkish legislation of direct and indirect discrimination. The *acquis* covering discrimination on grounds of racial or ethnic origin, religion or belief, disability, age and sexual orientation is not transposed.

Some progress can be reported in the field of **equal opportunities**. The constitutional amendment stipulates that measures taken to achieve substantive equality between men and women cannot be deemed contrary to the principle of equality. A circular was issued by the Prime Minister's Office to mainstream gender issues into implementation of, among other things, employment-related legislation and policies, workplace inspections, strategic plans and in-service training. The parliamentary Commission on equal opportunities for men and women continued its work by preparing reports and holding consultations with relevant parties. Women's employment and labour force participation rates<sup>46</sup> remain lower than all the EU Member States and the lowest among OECD countries. Women are disproportionately affected by informal work conditions and unpaid work in agriculture. The provision of affordable child care is insufficient. The gender pay gap persists. Legislation and policies aiming to harmonise work and family life are yet to be adopted. Efforts to implement the national action plan for 2008-2013 on gender equality lack sufficient human and financial resources (*see Political criteria — Economic and social rights*).

### *Conclusion*

Overall, Turkey made some progress in the field of social policy and employment. The constitutional amendment package brings significant improvements in the area of social dialogue in the public sector and paves the way for positive discrimination towards women, children, elderly and disabled people. However, Turkey's alignment in the field of social policy and employment remains limited. A comprehensive reform of trade union legislation aimed at achieving full trade union rights in line with EU standards and ILO conventions is still pending. The constitutional amendment package did not introduce the right to strike for civil servants. The Turkish labour market continues to feature large-scale undeclared work and low female employment rates. The limited scope of the labour law and enforcement of the health and safety legislation are areas of concern. A general policy framework to combat

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<sup>46</sup> 22.3% and 26% respectively.

poverty remains to be established. The administrative capacity for effective implementation of the *acquis* in the field of social policy and employment needs to be strengthened.

#### **4.20. Chapter 20: Enterprise and industrial policy**

Turkey made further progress with regard to **enterprise and industrial policy principles**. Turkey finalised a revised draft industrial strategy document and action plan covering the period 2010-2013, which now is awaiting adoption.

The Coordination Council for improvement of the investment environment (YOIKK) adopted an action plan for 2010. Efforts are continuing to systematically monitor and evaluate strategies and action plans that have been adopted, through e.g. the quarterly reports issued on the YOIKK action plans and the assessment of the SME strategy and action plan. A medium-term economic programme was announced for 2010-2012 covering areas related to industrial policy. . A new evaluation board for the export-oriented production strategy was established on 12 March 2010, bringing together the ministries, related public organisations and the private sector. Turkey has joined the Small Business Act implementation process together with the Western Balkan countries.

Some progress was made with respect to **enterprise and industrial policy instruments**. New loan programmes including a credit guarantee scheme were extended by the Small and Medium-sized Industry Development Organisation (KOSGEB) following the adoption of new pieces of legislation on the management of KOSGEB funds, in particular on sectoral and regional priorities. KOSGEB signed a protocol with the Development Agencies and the State Planning Organisation in order to establish joint support programmes for SMEs. Business incubation centres were established in five regions. Most of the activities scheduled under the SME action plan have been completed. R&D spending continued to increase while the share of the private sector greatly surpassed that of the public sector. The participation of Turkey in the EU Entrepreneurship and Innovation programme, and in particular in the Enterprise Europe Network, is a positive development. No progress can be noted towards completing alignment with EU Directive 2000/35 on combating late payments in commercial transactions.

Some progress has been made in **sector policies**. The Ministry of Industry and Trade prepared a strategy and action plan on tradesmen and craftsmen including measures such as improving access to finance, support for clustering, entrepreneurship, innovation and university cooperation. Roadmaps were prepared for the chemicals, iron and steel and automotive sectors. No further developments can be reported in the national restructuring programme for the Turkish steel industry following the revision made last year. Formal verification of the steel industry restructuring programme by the state aid monitoring authority is called for once that authority is established.

#### *Conclusion*

Turkey has made further progress in this chapter, in terms of finalisation of the industrial strategy and action plan covering the period 2010-2013, wider availability of enterprise and industrial policy instruments and adoption of sectoral strategies and roadmaps. Some limited improvements can be reported in the business environment and in terms of continued monitoring and evaluation efforts. Overall, Turkey maintains a sufficient level of alignment with the *acquis* in the field of enterprise and industrial policy.



#### 4.21. Chapter 21: Trans-European networks

Good progress was made in the area of **transport networks**. The Ministry of Transport finalised the technical document on the future Trans-European Transport Network (TEN-T) in Turkey and the priority projects of European interest on the TEN-T Network. The technical document constitutes a sound basis for further negotiations, as confirmed by sites visit. In the meantime, Turkey has effectively utilised pre-accession assistance to continue technical preparations for transport infrastructure projects on the core transport network. However, a master plan for long-term investment has not yet been prepared.

Some progress can be noted in the area of **energy networks**. The ratification procedure of the intergovernmental agreement on the Nabucco gas pipeline was completed in August 2010. As the next step, project support agreements can now be concluded between the governments. Nabucco is an important strategic step towards closer energy cooperation between the EU, Turkey and other countries in the region and remains one of the highest energy security priorities of the EU.

Preparations continue to bring into operation the Turkey-Greece-Italy Interconnector (ITGI) natural gas pipeline.

As regards electricity networks, after completion of all necessary studies and tests, trial synchronous operation with ENTSO-E (European Network of Transmission System Operators for Electricity) began on 18 September 2010. The interconnection with Iran, a 400 kV link that was operating at 154 kV, has been upgraded to 220 kV. Studies to upgrade the Georgia link have also started.

No progress can be reported in the area of **telecommunications networks**.

#### *Conclusion*

Turkey has made progress in the area of Trans-European networks. In particular, it has facilitated technical discussions under the future Trans-European Network for Transport and reached an advanced stage in negotiations. Some progress can also be reported on energy networks.

#### 4.22. Chapter 22: Regional policy and coordination of structural instruments

Some progress was made with regard to the **legislative framework**. During the previous reporting period the Prime Minister's Office issued a circular on the official appointment of institutions under IPA, which has been completed in the current period with the including formal appointment of the strategic coordinator under components III and IV

Progress was made with the **institutional framework**. The technical committee established by the State Planning Organisation (SPO), as the IPA strategic coordinator, meets quarterly to support the smooth implementation of all four operational programmes (on transport, the environment, regional competitiveness and human resources development). The SPO is working on the establishment of a regional development committee which will coordinate regional development policies among central institutions and between the local authorities.

Progress was made as regards **administrative capacity**.

Training and technical assistance to strengthen central institutions involved in IPA implementation has continued and the setting-up of management and control systems has further advanced. Concerns remain about the capacity of the institutions to effectively and efficiently manage IPA funds. Use of funds is marked by delays in contracting and there is a serious risk that not all funds allocated can be absorbed and that the impact and results are less than anticipated. High staff turnover in the DIS institutions, lack of coordination among institutions and delays in the preparations of the operating structures in line ministries to take over duties of contracting and payments from the central finance and contracts unit (CFCU) have aggravated these concerns. The capacity of the CFCU needs to be urgently adjusted to the new timetable to ensure the full and sound use of EU funds allocated. To address these risks, supervision by the NAO needs to be strengthened, urgent measures have to be taken and capacity needs to be brought rapidly into line with the amount of funds under implementation. Administrative capacity at regional level remains weak. The regional development committee (RDC), which aims to coordinate regional development policies among central institutions and between the local level and the centre is envisaged as a main element of Turkey's new regional policy and is scheduled to be established in 2010, but no concrete developments can be reported yet.

Some progress was made with regard to **programming** and programme implementation. Improvements have been made in building up project pipelines for IPA, particularly in the environment, regional competitiveness and employment operational programmes. This should improve absorption of funds in the medium term. In some minor revisions of the OPs budgetary and timing aspects as well as geographical targeting were fine-tuned. As implementation is at an early stage more comprehensive conclusions on the impact and results can only be drawn later on.

In the area of **monitoring and evaluation**, some progress was made. Working groups between the IPA operating structures and the state planning organisation have been active, and progress was made in setting up the integrated management information system (MIS). Sectoral monitoring committees for all IPA components continued to meet on schedule.

In the area of **financial management and control**, some progress was made. However, capacity building and preparations for conferral of management within the operating structures are lagging behind and the timetable for enabling these structures to take over financial management and control responsibilities from the CFCU could not be adhered to, so that the takeover had to be postponed until 2011 in the case of Transport and Human Resources Development and until 2012 in the case of Regional Competitiveness. As a result, the co-operation agreements with the CFCU need to be extended beyond the current deadline of 31 December 2010.

### *Conclusion*

Progress, albeit uneven, was made in this area. In particular, the legislative and institutional framework for implementation of IPA components III and IV has been finalised, involvement of local and regional stakeholders in preparing the project pipeline has been improved and the DAs are well on the way to becoming fully operational. In order to prepare effectively for the use of structural instruments (Structural Funds and Cohesion Fund) upon accession, administrative capacity of central, regional and local institutions should be reinforced. Moreover, pre-accession funds have to be used more effectively and the absorption capacity of key institutions, namely the CFCU and Operating Structures in line Ministries needs to increase in order to demonstrate readiness to absorb larger amounts of EU funds.

#### 4.23. Chapter 23: Judiciary and fundamental rights

There has been progress on the **judiciary** (*see also under political criteria – part I of the report*).

As regards *independence* of the judiciary, the permanent membership of the High Council of Judges and Prosecutors increased from seven to twenty two: in addition to representatives of the Court of Cassation and the Council of State, the new membership includes representatives of first instance judges, the Justice Academy, law faculties and lawyers.

The constitutional amendments provide that decisions of the High Council dismissing members of the judiciary from the profession are open to judicial review. A Secretariat General is established under the High Council, providing it with professional and secretarial support; the High Council appoints judges and prosecutors to this Secretariat.

Judicial inspectors, who are responsible for evaluating the performance of judges and prosecutors, report to the High Council and no longer to the Ministry. These reforms meet priorities of the Accession Partnership and the Progress Reports. However, the Minister is still the president of the High Council; albeit with reduced competence (the Minister cannot join the meetings of any of the three chambers of the Council ). In addition, the investigative authority of the High Council is subjected to the approval of the Minister of Justice in his capacity as president of the Council.

The Semdinli case is still pending (*see the section on civilian oversight of security forces*). The dismissal of the civilian prosecutor previously in charge of the case, together with the handling of the case to date, raised questions about the independence of the High Council<sup>47</sup>.

With regard to *impartiality*, constitutional provisions allowing military courts to try civilians have been taken out of the Constitution and new provisions prohibit such trials explicitly. Cases related to offences against the security of the state, constitutional order and the functioning of this order are to be tried in civilian courts. This followed the annulment by the Constitutional Court, in January 2010, of provisions of the Criminal Procedure Code allowing civilian courts to try members of the military in cases of organized crimes and crimes against the State on the basis that these were in conflict with the then constitutional provisions.

The Constitutional Court, further to the adoption of the constitutional amendments, is composed of seventeen members nominated by both the President of the Republic and Parliament, while no substitute membership is foreseen. However, two of the judges continue to be military judges. As constitutional jurisprudence in a democratic system is a civilian matter, the presence of military judges is questionable. In addition, military judges might return to the military justice system when their term in the Constitutional Court expires, which could raise questions about their impartiality as Constitutional Court judges.

Senior members of the judiciary and of the military made statements that could put the impartiality of the judiciary at risk in important cases.

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<sup>47</sup> The civilian prosecutor in this case published the indictment in 2006. It included accusations against high-ranking military commanders. The general Staff criticised the indictment and urged those bearing constitutional responsibility to take action. The High Council of Judges and prosecutors took the dismissal decision in April 2006.

With regard to the *efficiency* of the judiciary, the use of information technology in the judicial system has accelerated judicial procedures and facilitated third party access to judicial proceedings. The number of judicial staff continued to increase. On 20 September there were a total of 11,394 judges and prosecutors (11,121 judges and prosecutors on 1 May 2009). Progress has been made as regards juvenile justice (*see the section on children's rights*).

However, the overall number of vacancies for judges and prosecutors remains significant, i.e. 3,299 on 20 September 2010 (3,875 on 1 May 2009). The regional courts of appeal are not operational yet. By law, they should have been in operation by June 2007.

The quality of the investigation in some high profile cases continued to raise concerns. No progress can be reported as regards the need to improve the work of the police and the gendarmerie but, also, the working relationship between the police and the gendarmerie, on the one hand, and the judiciary, on the other.

There has been no progress on the introduction of a mediation system into civil justice. Reconciliation, introduced into the criminal justice system in 2005, is not used effectively. Provision of legal aid is inadequate in terms of either its coverage or the quality of services provided. The implementation of pre-trial detention is not limited to circumstances where it is strictly necessary in the public interest. This adds to the overcrowding in prisons, where more than half of the inmates await trial. The probation system is not used to its full extent by judges.

There are concerns as regards the functioning of the Forensic Medicine Institute. On a number of cases the Institute gave conflicting reports on the same case at different times. The backlog of the Institute leads to delays in judicial proceedings.

As regards the *professionalism* and *competence* of the judiciary, a Council of State judgement of 2009 pointed out to the overlapping competences, as regards the provision of in-service training, of the Training Department of the Ministry of Justice and of the Turkish Justice Academy. Pre-service and in-service training fall both under the responsibility of the Justice Academy.

The implementation of the 2009 *judicial reform strategy* has continued. Some of the major pillars of the strategy were implemented through the constitutional amendments.

Some progress can be reported on **anti-corruption** (*see also under political criteria – part I of the report*).

The Government adopted a 2010-2014 strategy for enhancing transparency and strengthening the fight against corruption in February 2010. A ministerial committee<sup>48</sup> was established in December 2009 together with an executive board composed of representatives of public institutions, labour unions and of the Turkish Union of Chambers and Stock Exchanges (TOBB) to form further anti-corruption strategies and to direct and monitor their implementation. The Strategy aims at developing preventive and repressive measures against corruption as well as improving public governance by introducing more transparency, accountability and reliability into the public administration.

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<sup>48</sup> The ministerial committee consists of the Deputy Prime Minister and four ministers (Ministry of Justice, Ministry of Interior, Ministry of Finance, Ministry of Labour and Social Security).

An action plan, with timetables for the adoption and implementation of each measure, was approved by the ministerial committee in April 2010. Effective implementation could contribute to changing behaviour of public administration, so that it promotes and protects integrity and reduces opportunities for corrupt practices. However, participation by civil society and its role on the executive board and in implementation of the strategy need to be strengthened.

By June 2010, Turkey had implemented 15 of the 21 recommendations in the 2005 evaluation reports by the Group of States against Corruption (GRECO). The GRECO report suggests further efforts, in particular to broaden the representation of the anti-corruption oversight body, to enhance the independence of the judiciary and, to reform the system of immunities and to finally establish the Ombudsman institution. The constitutional amendments provide the basis for progress on enhancing the independence of the judiciary and an Ombudsman institution.

In December 2009, the Prime Ministerial Inspection Board was appointed as the counterpart of the European Anti-Fraud Office (OLAF) and was given the task of Anti-Fraud Coordination Structure (AFCOS) responsible for investigation of irregularities in the context of financial cooperation between the EU and Turkey. (*See Chapter 32 – Financial control*)

In February 2010, the Constitutional Court annulled provisions of the law on the Council of Ethics regarding the publication of names of civil servants who violate ethics code, on the grounds that publicizing these names without judicial decision would jeopardize the presumption of innocence. Ethics training continued; approximately 7,000 civil servants working for central and local governments have been trained between October 2009 and September 2010. In September, the Government adopted a regulation on the code of ethics with which investigators and auditors should comply while doing their jobs. However, no progress has been made on extending ethics rules to academics, military personnel and the judiciary.

No progress has been made on limiting the immunity of Members of Parliament concerning corruption-related offenses.

Further measures are needed to complete the existing legislation and ensure its effective implementation to increase transparency on the financing of political parties and election campaigns. More resources are also required in order to better detect illegal practice, in particular to extend the current monitoring mechanism to election campaign funding of parties and candidates.

For the first time a mayor of a metropolitan municipality was suspended from mayoral duties on March 2010 by the Ministry of Interior because of serious corruption allegations. Administrative and Judicial investigations are continuing.

The investigation begun in 2009 into the charity association Deniz Feneri concerning a fraud case in Germany is continuing. The police made searches on the premises of the association and at the homes of the suspects. However, no indictment has been submitted to court yet.

The draft law on the Turkish Court of Auditors, which envisages strengthening of the Court and expanding its mandate, was adopted by the Plan and Budget Committee of the Parliament in May and is currently on the agenda of the plenary.

Turkey needs to develop a track record of investigations, indictments and convictions.

As regards **fundamental rights**, there has been some progress (*see also under political criteria and chapter 19 Social policy and employment*).

There have been developments on the *institutions* monitoring and promoting human rights. The draft law on the establishment of the Turkish Independent Human Rights Institution was submitted to parliament in February 2010. Opinions from NGOs were discussed by the relevant parliamentary sub-committee. The draft law before parliament needs to be amended to bring it into line with the UN framework, in particular as regards the independence and functional autonomy of this new institution. It is important to conduct this process in close consultation with NGOs.

As regards prohibition of torture and inhumane or degrading treatment or punishment, the positive trend on prevention of torture and ill-treatment continued. Some high-profile cases of human rights violations have resulted in convictions. However, disproportionate use of force by law enforcement authorities continued and is of concern.

With regard to respect for private and family life, the constitutional amendments introduced the protection of personal data and the right to access to information as constitutional rights.

In the area of freedom of thought, conscience and religion, freedom of worship continues to be generally respected. The implementation of the Law on foundations continued amidst administrative delays (see the chapter on Property rights). The dialogue with the Alevis and with the non-Muslim religious communities continued but has not yet produced results. Members of minority religions continue to be subject to threats by extremists. A legal framework in line with the ECHR has yet to be established, so that all non-Muslim religious communities and the Alevi community can function without undue constraints, including the training of clergy.

Regarding freedom of expression, including freedom and pluralism of the media, there was limited progress while open and free debate has continued and expanded. However, Turkish law does not sufficiently guarantee freedom of expression in line with the ECHR and the ECtHR case law. The high number of cases initiated against journalists and the frequent website bans are a cause for concern. Undue political pressures on the media and legal uncertainties affect the exercise of freedom of the press in practice.

As regards freedom of assembly and freedom of association, including the right to form political parties and the right to establish trade unions, the legal framework on associations is broadly in line with EU standards. However, there are still cases where associations are subject to disproportionate controls of their activities and to judicial proceedings. There is no progress on amendment of the legal provisions on the closure of political parties. Launching of cases against LGBTTT associations by administrative authorities, based on morality, limits the full exercise of freedom of association. The Constitutional amendments broaden *trade union rights*. However, there are restrictive provisions in the current legal framework, which are not in line with EU standards and ILO Conventions (*see Chapter 19 – social policy and employment*).

As regards treatment of socially vulnerable and disabled persons and the principle of non-discrimination, an amendment to the Constitution paves the way for positive discrimination for disabled. Access to education, health, social and public services for persons with disabilities still remain critical issues, despite existence of legislation in this field. The Government prepared a draft proposal establishing an anti-discrimination and equality board. Provisions of the Turkish Criminal Code on ‘public exhibitionism’ and ‘offences against public morality’ are sometimes used to discriminate against LGBTT people. The Law on Misdemeanours is often used to impose fines against transgender persons.

With regard to the right to education, pre-school education enrolment rate for children between 4 and 5 years of age increased to 39% in 2009-2010 from 33% in 2008-2009. The primary school enrolment rates (grades 1-8) rose for both boys and girls, virtually closing the gender gap at national level in primary education. The Ministry of National Education has developed an early-warning system for children at risk of dropping out. In secondary education (grades 9-12), the net enrolment rate rose to 65% in 2009-2010 from 59% in 2008-2009. However, close to 200,000 children – especially girls in some Eastern and South-eastern provinces – are still out of school. As regards secondary education, there are large geographic variations. There is also a significant gender gap, net enrolment rates being 67.55% among boys and 62.21% among girls.

On the right to property, the Law on foundations has been implemented, albeit with some delays and procedural problems. The Foundations Council acknowledged these problems and tried to speed up procedures. However, this law does not address the issues of properties seized and sold to third parties or of properties of foundations merged before the new legislation was adopted. Syriacs continue to face difficulties in relation to property. A number of court cases are in progress. In particular, the Mor Gabriel Syriac Orthodox monastery continues to face problems with land ownership. Turkey needs to ensure full respect of the property rights of all non-Muslim religious communities.

With regard to gender equality and women's rights, the legal framework is broadly in place (see chapter 19 Social policy and employment). This framework has been strengthened through the constitutional amendment permitting the adoption of positive discrimination measures for women. However, sustained further efforts are needed to turn this legal framework into political, social and economic reality. Honour killings, early and forced marriages and domestic violence against women remain serious problems. Legislation needs to be implemented consistently across the country. Further training and awareness-raising on women's rights and gender equality are needed.

As regards the rights of the child, there has been progress with the legal framework on children's rights, juvenile justice and the gender gap in primary education. Nevertheless, efforts need to be further strengthened in all areas, including education, child labour, health, juvenile justice, administrative capacity and coordination.

With regard to liberty and security and the right to a fair trial, there was some improvement as regards access to justice in rural areas. However, access to free legal aid was limited especially in the South-east. Provision of legal aid did was inadequate in terms of either its coverage or the quality of services provided and there was no effective monitoring mechanism that would ensure that problems are addressed. A law of July 2010 amending the Anti-Terror Law and other laws provides that children accused of committing terror-related crimes will be tried at juvenile courts. This applies even when such offences are committed together with adults. In addition, children sentenced for propaganda for a terrorist organisation or for

resistance to security officers for their participation in meetings or demonstrations, will no longer be sentenced also for membership of a terrorist organisation. In general, the law provides for the non-application on juveniles of a number of aggravating circumstances included in the Anti-Terror Law. This is expected to reduce in practice significantly the prison sentences imposed on children participating in meetings or demonstrations. Finally, the law foresees that juvenile courts can decide to postpone the announcement of a judgement, to convert a prison sentence to alternative sanctions, or to suspend the sentence for terror-related crimes.

As regards minority rights and cultural rights, Turkey has made progress on cultural rights, especially by further relaxing use of the Kurdish language in private TV and radio broadcasts and in prisons. The 24-hour Arabic-language TV broadcasts started in 2010 in addition to the Kurdish-language TV channel which started the previous year. However, restrictions remain, particularly on use of languages other than Turkish in political life, education and contacts with public services. The legislation on use of languages other than Turkish is open to restrictive interpretations and implementation is inconsistent. There has been some progress in the situation of the Roma, as their issues have become more publicly debated, and implementation is underway. However, Roma still frequently face discriminatory treatment. Turkey's approach on minorities remains restrictive. Full respect for and protection of language, culture and fundamental rights, in accordance with European standards, have yet to be fully achieved. Turkey needs to make further efforts to enhance tolerance or promote inclusiveness vis-à-vis minorities.

*Overall*, there has been progress in the area of the *judiciary*. The adoption of the constitutional amendments on the structure of the High Council of Judges and Prosecutors along with the limitation of the competence of military courts is a positive step. Attention needs to be paid on the establishment of an effective dialogue with all stakeholders and the civil society at large, and on the implementation of these reforms in line with European standards. With respect to *anti-corruption*, progress was made as regards the development of a comprehensive anti-corruption strategy and an action plan as well as a body to oversee and monitor their implementation. However, effective implementation of the Strategy is necessary to mitigate corruption which remains prevalent in many areas. Turkey needs to develop a track record of investigation, indictments and convictions. With regard to *fundamental rights*, progress has been made. Constitutional amendments bring important changes in the area of data protection, trade union rights, women and children's rights. However, further significant efforts are needed in most areas, in particular freedom of expression and freedom of religion. Turkey's approach to minority rights remains restrictive.

#### **4.24. Chapter 24: Justice, freedom and security**

Some progress has been made with regard to **migration**. An amendment to Article 79 of the Turkish Penal Code on smuggling of migrants increasing the sentences for those involved in migrant smuggling, was adopted in July 2010. In March 2010, a circular was issued by the Ministry of the Interior on combating irregular migration. According to the circular, an irregular migrant for whom the legal procedures have been completed will be placed in a removal centre or alternative premises previously indicated by the governorate. The circular also lays down the 'principles concerning the physical conditions in removal centres and the practices adopted in these centres', stating that removal centres need to be regularly inspected by the governor, district governor and the Turkish National Police (TNP); allegations of human rights violations in removal centres need to be investigated; irregular migrants need to



be given an opportunity to contact the UNHCR at their request; access to legal counsel is given provided that illegal migrants cover the costs themselves.

Foreigners who are irregular migrants and victims of trafficking may benefit from free health services since the directorate general for social solidarity and assistance in the Prime Minister's Office issued a circular in May 2009 to the Social Solidarity and Assistance Foundation. Furthermore, the task force for asylum and migration is preparing a comprehensive revision of the law on foreigners, in close consultation with the IOM and the UNHCR.

The full implementation of the newly established circulars, and the rapid adoption of this legislation under preparation, is a key priority in view in particular to establish fair procedures for the detention and removal of irregular migrants, and to enhance their reception conditions. This is also very important to address the judgment issued by the European Court of Human Rights (ECtHR) in particular on the following two cases related to Turkey : the judgement in *Abdolkhani and Karimnia v Turkey* and *Z.N.S. v Turkey*, where the Court found that the detention and deportation of irregular migrants to their country of origin, due to the absence of clear provisions for ordering and extending detention, the lack of notification of the reasons for detention and the absence of any judicial remedy to the decision on detention were in breach of the European Convention on Human Rights; and to the judgment in *Charahili v Turkey*, where the Court concluded that the applicant's conditions of detention amounted to a violation of Article 3 of the European Convention on Human Rights, prohibiting torture.

Consultation of civil society, international organisations and academia is also crucial. Turkey needs also to draw on the expertise in joint cooperation projects ongoing in this field provided particularly by the EU. Work is also being done in view of enhancing the administrative capacities of Turkey to prevent irregular migration and deal with its consequences. A coordination board for combating illegal migration was established in February 2010 to identify measures to fight irregular migration, strengthen inter-institutional cooperation and coordination and monitor operational activity. The board is chaired by the Deputy Undersecretary of the Ministry of the Interior and meets every two months. Members are the Chief of General Staff, the Land Forces, the Ministry of Foreign Affairs, the TNP, the Gendarmerie General Command and the Coast Guards.

The General Directorate for Security issued a circular in September 2010 which provides that each illegal migrant apprehended will be accommodated in a removal centre with the written permission of the Governor. The circular also introduces a standard notification that makes clear that all costs during the stay in a removal centre will be borne by the state. The right to contact a lawyer is also made clear. Additionally the notification explicitly states the right to appeal against the decision of deportation and the administrative custody.

Efforts to increase the capacity to host irregular migrants in accordance with international standards, pending the completion of their removal procedures, continue: while, as of August 2010, the current hosting capacity stands at 2,875; the construction/refurbishment/equipment through national funds of four removal centres (Bitlis, Van, Aydın and Edirne), with a capacity of 650 persons each, is ongoing. In addition, the establishment through EU-financed projects of two additional removal centres in Ankara and Erzurum, with a capacity of 750 persons each, is under preparation.

Awareness raising among administrators, governors, district governors, municipalities and the public at large on the rights of irregular migrants and procedures involved in migration management is a key issue to be addressed through concrete measures.

Substantial progress has been made towards finalising negotiations on an EU-Turkey readmission agreement. Meanwhile, adequate implementation of already existing bilateral readmission agreements remains a priority.

As regards the implementation of the existing readmission protocol with Greece, positive steps have been taken to apply its provisions more effectively. In May 2010, a joint declaration has been signed between the Turkish Ministry of the Interior and the Greek Ministry for Protection of People to achieve this aim.

Turkey has also completed the negotiations for a readmission agreement with Pakistan. Readmission agreements with other countries of origin (Azerbaijan, Bangladesh, Belarus, Bosnia and Herzegovina, FYROM, Georgia, Lebanon, Libya, Moldova, and Uzbekistan) are being discussed. Discussions also with Russia took place in June 2010.

The number of irregular migrants apprehended by the law enforcement forces declined from 65,737 in 2008 to 34,345 in 2009. In 2009 the irregular migration flow through the Greek and Bulgarian land borders dropped by 40% compared to the year 2008. The number of irregular border crossings at sea border between Greece and Turkey saw a decrease of 16%. In the first seven months of 2010, 15,397 irregular migrants were reported to have been apprehended. 1,027 smugglers were apprehended in 2009, 970 of whom are Turkish.

In the area of **asylum**, some progress can be reported. With 7.834 new asylum seekers in 2009 the number reportedly decreased in comparison with 2008 (11.248). Out of 7.834 applicants, 3.763 are Iraqis (48 %), 1.981 are Iranians (25 %), 1009 are Afghans (13 %) and 295 are Somalis (4 %). An amendment to the regulation implementing the Law on work permits for foreigners adopted on January 2010 softened the conditions under which asylum seekers can apply for work permits. A person to whom asylum seeker status has been granted by the Ministry of the Interior can apply for work permits irrespective of the validity period for which the residence permit has been delivered.

In March 2010, a circular has been issued by the Ministry of the Interior on the residence permit fees (*'Ikamet'*) imposed on asylum seekers which, without providing explicitly for the removal of such fees, sets out a procedure that may, *de facto*, bring about a similar effect. The circular also has a retroactive effect with regard to outstanding fees and additional fines due by asylum seekers prior to its entry into force. The efficient and uniform implementation of this circular is crucial to the resettlement prospects of asylum seekers who, despite the availability of a third country to host them, are not currently allowed to leave Turkey pending the satisfaction of unpaid fees and fines.

A new circular has been adopted in March 2010 for asylum seekers who are hosted in the institutions run by the directorate general for social services and the child protection agency. The circular encompasses data protection, social and general health insurance as well as access to premises by UNHCR staff. The asylum seekers subject to these provisions include unaccompanied minors, the physically disabled and the elderly.

In addition, the task force on asylum and migration is preparing a law on asylum and a law on the establishment of an asylum unit, in close consultation with the UNHCR.

Progress continues to be limited by the fact that Turkey maintains the geographical limitations on the 1951 Convention relating to the status of refugees and the related 1967 Protocol.

Overall, the landmark reforms to provide Turkey with a modern, efficient and fair management system in line with core international and European standards are still at an early

stage. The finalization of a roadmap on asylum and migration is key. The Turkish institutions have only limited capacity and, most importantly, no ownership of the refugee status determination process for non-European asylum seekers. Thus the UNHCR, despite not having formal status in Turkey, is virtually the sole authority capable of carrying out and managing asylum procedures.

It remains a key priority to ensure equal and fair access to asylum procedures, to shorten, albeit with the limited existing capacity, the waiting time as well as to give would-be asylum seekers full access to legal aid and UNHCR staff.

Progress in the work towards the establishment of a country of origin and asylum case management systems, and to facilitate the possibility for civil society organisations to cooperate with the administration in providing assistance to refugees and migrants is also key. A number of civil society organisations working in the area of asylum and migration came together on 15 March 2010 and founded the ‘Turkey Refugee Rights Coordination’.

There has been little progress on **visa policy**. In August 2010, Turkey revised its policy as regards duration of stays allowed for 90 days within 180 days, in line with EU *acquis*. However, Turkey does not apply a uniform policy towards all EU citizens as regards the visa obligation. Currently, citizens of 12 EU Member States are required to hold a visa to enter Turkey, which can be obtained at the Turkish borders. Citizens of the other 15 Member States are exempted from the visa obligation for a short stay of up to 90 days.

Turkish passports with biometric security features were put into use on 1 June 2010. Visa issuing is now processed on-line among the Consular Offices and the Ministry of the Interior. Introduction of new Turkish visa stickers with higher security features was further delayed. Airport transit visas remain to be introduced. No administrative initiative took place for gradually abolishing the issuance of sticker- and stamp-type visas at borders. Turkey agreed on visa exemptions with, Libya and Jordan in December 2009, Lebanon in January 2010, Russia in May 2010 and Tanzania and. Similar agreements with Syria in October 2009, Serbia in July 2010 and Cameroon, published in July 2010, exclude ordinary passport holders. Some of these countries are on the EU’s negative list.

Overall, alignment with the *acquis* in this area is at a very early stage.

On **external borders and Schengen**, limited progress has been achieved. The task force for external borders meets every two months and prepares a draft roadmap for harmonising the border management system with EU standards as part of the efforts to implement the national action plan on integrated border management (IBM). A coordination board for IBM has been established in May 2010 by Prime Ministerial decree to create an official follow-up mechanism at decision-making level to screen progress towards achieving the target of IBM. The board is also tasked with developing further policies and strategies in the area. In-service training on IBM was delivered to all sub-governors, despite the delays in adopting the proposed legislative amendment currently pending in the Parliament on expanding the tasks of the deputy governors acting as administrative heads of the border agencies.

Inter-agency cooperation remains a key issue to be developed pending the reform process. For instance, efficient and coordinated use of databases and risk analysis at the borders are missing elements for integrated border management. Measures are required to deploy more trained staff and additional border check equipment at border crossing points to prepare for professionalised border management. Further efforts are needed to transfer border control tasks to a new border security agency; the current agencies need to be strengthened at the

same time as this new agency is established. The setting-up of the specialised department for passports within TNP in May 2010 is a step forward in that direction.

Negotiations on a working agreement with Frontex has continued and few outstanding issues need to be solved to conclude it. Contact points have been established and joint operations with Member States conducted.

Overall, further efforts are needed as regards alignment with the *acquis* in this area.

No progress can be reported on **judicial cooperation in criminal and civil matters**. On the latter, Turkey has not yet ratified the 2007 Hague Convention on the international recovery of child support and other forms of family maintenance nor the 1996 Hague Convention on jurisdiction, applicable law, recognition, enforcement and cooperation in respect of parental responsibility and measures for the protection of children. On legal aid, a draft law on compensation of crime victims is under preparation. During the reporting period, 2,270 requests falling within the ambit of judicial cooperation in civil matters were received by Turkey and 1,809 requests from Turkey.

As regards judicial cooperation in criminal matters, Turkey has not yet signed the Council of Europe Convention on cybercrime. Turkey participated in the regular meetings of the European Judicial Network (EJN). A website for Eurojust and EJN has been created by the Ministry of Justice on which all requests forwarded to contact points are now being published. No steps have been taken to sign a cooperation agreement with Eurojust. Effective personal data protection regime is crucial for efficient international judicial cooperation.

During the reporting period a total of 159 extraditions were requested by Turkey,. 20 extraditions were requested by the EU Member States, of which 3 were accepted. Regarding mutual legal assistance on criminal matters, 1,986 requests were received by Turkey and 2,190 requests from Turkey.

Overall, alignment with the *acquis* in this area is at an early stage.

In the area of **police cooperation** Turkey is a party to the main international conventions. It signed a number of bilateral agreements on police cooperation (Iraq – October 2009, Ukraine – December 2009, and Syria – December 2009). The delay in adopting a personal data protection law is limiting police cooperation at international level and conclusion of an operational cooperation agreement with Europol is still proving difficult. Training has started to be delivered to the Turkish National Police staff under the ethical leadership programme. This programme is a training package prepared by the council of ethics for public service on ethical principles and ethical conduct. Implementation of community policing aiming at strengthening public relations of the Police is being widened and institutionalised in all provinces.

Overall, further efforts are needed as regards alignment with the *acquis* in this area.

Limited progress has been registered in the **fight against organised crime**. A national strategy (2010 – 2015) and action plan (2010 – 2012) against organised crime were signed by the Prime Minister in July 2010. The Turkish National Police has established witness protection units in 60 provinces. Establishment of a national fingerprint and DNA database is needed. Reliable and comparable data need to be collected in relation to law enforcement. Inter-agency cooperation remains to be strengthened.

During the reporting period no significant progress has been noted in the area of combating trafficking in human beings. 87 traffickers were arrested and the number of victims of trafficking identified and assisted amounted to 37. The general directorate for social assistance and solidarity in the Prime Minister's Office has signed an agreement with the Foundation for Women's Solidarity and the Human Resource Development Foundation, the two NGOs that are currently running respectively the shelters for victims of trafficking in Ankara and Istanbul, allowing the shelters to receive financial support amounting to approximately €120,000 for each.

Institutionally, the support mechanism envisaged to assist the national task force on the fight against human trafficking in its coordination tasks has not been established as yet. Identification of victims of human trafficking and provision of necessary support and coordination between the different institutions is undertaken within the framework of National Referral Mechanism (NRM) which includes all actively involved stakeholders. Adequate management and organisational arrangements are in particular needed for one of the NRM's main features, the 157 helpline. Further work to bring the national legislation into line with the Council of Europe's Convention on action against trafficking in human beings is important and so is setting a clear timetable for its ratification.

Overall, further efforts are needed as regards alignment with the *acquis* in this area.

*For the fight against money laundering see Chapter 4*

With regard to progress concerning the **fight against terrorism**, an Undersecretariat for public order and security has been established in March 2010 in the Ministry of the Interior to develop policies and strategies on counter-terrorism and to ensure coordination among the relevant institutions. A law is in preparation concerning the fight against financing of terrorism to meet the requirements of the Financial Action Task Force (FATF) recommendations on imposing sanctions on persons involved in financing terrorism. Turkey has taken decisions to freeze the assets of some of the persons included in the list adopted by the UN Security Council. The Financial Crimes Investigation Unit (MASAK) received 49 suspicious transaction reports regarding financing of terrorism in 2009 compared to 228 in 2008. MASAK signed memoranda of understanding to exchange information with regard to the fight against financing of terrorism and money laundering with its counterparts in Croatia, Bosnia and Herzegovina, Ukraine, Japan and Norway. Turkey faced increased terrorist attacks from the PKK in 2010, which have prompted preparations for involving professional security forces in the fight against terrorism.

Turkey has not yet ratified the International Convention for the suppression of acts of nuclear terrorism, the Council of Europe Convention on the prevention of terrorism, and the Council of Europe Convention on laundering, search, seizure and confiscation of the proceeds from crime and on the financing of terrorism.

Overall, further efforts are needed as regards alignment with the *acquis* in this area.

Some progress has been made in the area of the **fight against drugs**. Following the adoption of a national strategy against drugs and drug addiction (2006-2012), local action plans have been adopted in 63 provinces. An action plan specific to the fight against drug trafficking in rural areas was adopted in April 2010. This action plan needs to be coordinated with the implementation of the national action plan against drugs and drug addiction (2010-2012), which has not been adopted yet by the Ministry of the Interior although the previous plan (2007-2009) has come to an end.

Successful operations resulting in seizures of 51,451 kg of cannabis and 16,391 kg of heroin were carried out by Turkish law enforcement bodies. In all, 11 controlled delivery operations have been made. 453,5 kg heroin, 623 gr cocaine and 2 kg opium were seized as a result of those operations. Turkey remains one of the main trafficking routes for drugs to the EU. As regards treatment of drug addicts, a new treatment centre has been opened in Gaziantep in February 2010. Bupronorfin and Naloxan have started to be used as substitute treatment in line with the implementing regulation for treatment centres. A new regulation on the protection of human health from the damages caused by solvents/inhalants has been issued on August 2010 by the Ministry of Health. The regulation covers production, import, trade, supervision, storage and usage areas of these substances.

The agreement concerning Turkey's participation in the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) has still not been ratified. Turkey continues to attend Reitox meetings of heads of focal points as an observer. As regards the status of the national Reitox focal point (TUBIM), a draft legislation on the establishment of a national drugs observatory has been prepared and needs to be adopted. TUBIM human resources capacity increased from 9 to 17 but it has no autonomous budget in particular for full data collection. The capacity of TUBIM should be further strengthened and stabilised. A more balanced approach towards drugs supply and demand reduction needs to be followed also through strengthening treatment and rehabilitation facilities.

Overall, further efforts are needed as regards alignment with the *acquis* in this area.

Some progress can be reported in the area of **customs cooperation**, with regard to enforcement capacity. The Undersecretariat for customs strengthened its vehicle tracking system and mobile inspection units. One scanner was installed in Hamzabeyli border crossing points that further enhance their enforcement capacity. Coordination between the customs enforcement and other law enforcement agencies at the border needs to be strengthened. Risk-based controls need to be improved. Turkey continued to be one of the main suppliers of counterfeit goods seized at EU customs and lacks enforcement capacity for IPR controls on both imports and exports.

Overall, further efforts are needed as regards alignment with the *acquis* in this area.

*For counterfeiting of the euro see Chapter 32.*

### *Conclusion*

Progress, albeit uneven, has been achieved in the area of justice, freedom and security. Substantial progress was made towards finalising negotiations on an EU-Turkey readmission agreement. Institutional arrangements on migration and asylum need to set clear responsibilities for all institutions concerned and endow them with the necessary resources and skills to handle the assigned tasks efficiently. Some progress can be reported in the area of drugs and customs cooperation. Limited progress can be reported in the area of external borders and Schengen, organised crime and terrorism. Little progress has taken place in the area of visa policy. There has been no progress on judicial cooperation in criminal and civil matters. Overall, legislation currently being drafted needs to be adopted, and signed international agreements need to be ratified, as a matter of urgency.

#### 4.25. Chapter 25: Science and research

Good progress can be reported in the area of **science and research policy**. A number of regulatory arrangements were made to encourage international researchers to stay longer or settle permanently in Turkey. A new support programme was launched to encourage the return to Turkey of Turkish researchers who have completed their doctoral studies but currently live abroad.

At its December 2009 meeting, the Turkish Supreme Council for Science and Technology (SCST) decided to begin preparing a national science, technology and innovation action plan for the period 2011-2016. At the June meeting, the SCST decided to establish, under the coordination of TÜBİTAK, Work Groups consisting of experts from the public and private sector as well as from universities to prepare national research and innovation strategies in the fields of energy, water and food.

R&D expenditure under the national support programmes granted by the Turkish Scientific and Technological Research Council (Tübitak) was increased to €310 million (€210 million for industrial R&D) in 2009, from €205 million (€150 million for industrial R&D) in 2008, representing a 50% increase overall. A total of 62 new private-sector R&D centres have been approved by the Turkish Ministry of Trade and Industry. This was the first result of the R&D Law, adopted in March 2008, which aims to encourage research and technological development activities by providing a number of incentives and support mechanisms for investors and SMEs (tax incentives and elimination of some bureaucratic obstacles to R&D).

The expenditure on research increased to €5.63 billion, from €5.47 billion in 2007, reaching 0.73% of GDP. This is well below the national target of attaining 2% by 2013. In July 2010, the Board of the European Investment Bank (EIB) approved an investment loan of €300 million aiming, in co-financing with the Turkish Undersecretariat of Treasury, to strengthen the research infrastructure capacity for a sustainable future.

The administrative capacity of Tübitak has been reinforced through recruitment of new staff. This brought about a 15% personnel increase at Tübitak.

The level of Turkish participation in the 7th **Framework Programme** for Research and Technological Development (FP7) further improved but efforts remain necessary to increase the research capacity and scientific excellence. The discussions with the Commission on the update the action plan covering the period 2010-2011 are ongoing aiming at supporting Turkey's take up of FP7 projects are ongoing.

Active cooperation with the Joint Research Centre (JRC) continued through the participation of Turkish researchers in JRC workshops, high-level meetings and JRC projects and networks, and the secondment of Turkish researchers to JRC institutions.

Turkey launched, *in June 2010*, an online consultation process targeting the Turkish research community to determine their national positions for FP8. The outcome will then be submitted to the Commission to contribute to FP8 preparations.

Negotiations and preparations for the association to the Seventh Euratom Framework programme through the conclusion of a S&T Agreement are ongoing.

Concerning its integration into the **European Research Area (ERA)**, Turkey is participating in seven Joint Programming Initiatives, which aim to address major European societal

challenges by harmonising national research activities. Turkey participates, as an associated country, in the Strategic Energy Technology Plan (SET Plan), and is committed to strengthen its research efforts accordingly. Turkey further increased the number of scientists and improved the mobility of researchers. Turkey actively participates in all advisory bodies on the European Research Area including the ERAC (European Research Area Committee) as observer.

Turkey actively participates in all advisory bodies on the European Research Area including the ERAC (European Research Area Committee) as observer.

### *Conclusion*

Turkey is well prepared in the area of science and research and good progress has been achieved towards future integration into the European Research Area. Overall, Turkey's participation and success rate in Framework Programmes are on the rise. However, further efforts are required to maintain these rates all through the 7<sup>th</sup> Framework Programme for Research and Technological Development (FP7).

## **4.26. Chapter 26: Education and culture**

There has been some progress in the area of **education, training and youth**.

The Ministry of National Education adopted its strategic plan 2010–2014 including targets and performance indicators for the implementation of Turkey's reform agenda in line with key EU standards, including the European Qualification Framework.

A Green Paper for the restructuring of the services of the Ministry, notably in vocational education and training, was finalised.

Turkey improved its performance in all the areas in which EU-level benchmarks have been set for 2010 and 2020, but remains in general well below the EU average, in particular for the rate of early school leavers and participation of adults in lifelong learning. The enrolment rates continued to increase at all educational levels. In particular, following the introduction of compulsory pre-school education in 32 pilot provinces, the enrolment rate for pre-school education rose to 39%. The same measure was extended to 57 provinces in the school year 2010-11 and is to cover all provinces in the school year 2012-2013. In the area of higher education, with the establishment of 7 new state and 1 private universities in 2009 and 2010 the total number of universities in Turkey has reached 154. The share of 30-34 years having successfully completed tertiary education increased to 14.7 % in 2009.

Turkey is at an advanced stage of implementing the Bologna process recommendations. However, there are a number of challenges ahead. These are recognition of qualifications, quality assurance and establishment of a national qualifications framework based on the European Qualifications Framework (EQF).

The Lifelong Learning and Youth in Action programmes continue to attract grant applications far exceeding the available budget. In 2009, more than 1200 project applications and some 10,000 individual mobilities were funded. In 2010, Turkey's financial contribution to the programmes reached almost €80 million and was paid in time.

In the area of **culture**, Turkish operators continued to participate in the Culture programme, although as project co-organisers and not as lead applicants. In addition, Turkey also took part



in the European Cultural Heritage Days. In April 2010, departments of, respectively, Kurdish, Arab and Assyrian language and culture were established at Mardin University.

Despite the resignations of key players from the organisational structure, the activities for Istanbul 2010 European Capital of Culture were launched in January. The agency responsible for the events, Istanbul 2010, selected nearly 600 projects, two thirds of which are related to urban rehabilitation/restoration while the remainder involve arts events. The agenda covers all aspects of traditional as well as contemporary arts. Youth, children, artists and the public at large have all been targeted.

Turkey has not yet ratified the UNESCO Convention on the protection and promotion of the diversity of cultural expressions.

### *Conclusion*

There has been some progress in this chapter, in particular in the area of education. The overall school enrolment continued to increase and Turkey continued to improve its performance against the EU common benchmarks. There has been some progress in the area of culture but no progress on legislative alignment.

## **4.27. Chapter 27: Environment**

Limited progress can be reported on **horizontal legislation**. The scope of the by-law on environmental impact assessment (EIA) has been extended and the EIA Directive is now transposed to a large degree. However, procedures for public and transboundary consultations have not been fully aligned and implemented. There are increasing national and international public concerns over the planned Turkish-Russian nuclear power plant project to be built on the eastern Mediterranean coast of Turkey, where seismic activity may create high risks and for which so far no EIA or strategic environmental assessment (SEA) has been carried out. Turkey started discussions with Bulgaria with the view to concluding an agreement that would address the transboundary aspects of the environmental impact assessment for the EU-backed Nabucco pipeline project to be built across the frontier of the two countries. Transposition of the SEA Directive is at an early stage.

Some progress has been achieved on **air quality**. The legislation relating to the sulphur content of certain liquid fuels has been fully aligned with the *acquis*. A by-law on waste incineration was adopted. Turkey became a party to the Stockholm Convention on persistent organic pollutants. The administrative capacity for implementing the Directive on ambient air quality is not sufficient.

Good progress can be reported in the field of **waste management**. Turkey adopted its national waste management plan for 2009–2013. Legislation on the control of hazardous waste, on receipt of waste from ships and on control of waste has been amended in line with the *acquis*. New legislation on end-of-life vehicles has been adopted. Legislation on the sanitary landfilling of waste was adopted, including provisions from the Waste Framework Directive on reducing the percentage of biodegradables. A by-law on the reclamation of land degraded by mining activities has also been adopted. Some EU companies complained about barriers to trade created by implementation of the by-law restricting the use of certain hazardous substances in electrical and electronic equipment.

There has been little progress in the area of **water quality**. Legislation on the control of water pollution was amended so as to regulate permit procedures. A high-level steering committee

for water quality management was set up in order to increase coordination among the institutions involved and with the aim to develop strategies and policies for further alignment with the *acquis*. The institutional framework for water management is fragmented and not organised at river basin level. A number of basin protection action plans have been drafted, which will eventually be converted into river basin management plans. Transboundary consultations on water issues are still at a very early stage. Turkey signed with Greece a joint declaration providing for increased cooperation on the management of the Meric/Evros river basin.

No progress can be reported on **nature protection**. The draft law on nature protection and biodiversity, submitted to the Turkish parliament, raises concerns, in particular as regards the abolition of the current protection status of many sites that would be a useful contribution to the Turkish Natura 2000 network. The national biodiversity strategy and action plan, and implementing legislation on birds and habitats remain to be adopted. There is growing concern about the negative effects on potentially protected species of flora and fauna of building new water and energy infrastructure in the eastern part of the country. The list of potential Natura 2000 sites has not yet been compiled. An amendment to the by-law on the protection of wetlands has weakened the protection status of wetlands, which are protected under the Convention on Wetlands of International Importance. Responsibility for nature protection is not clearly allocated between the various competent institutions.

Limited progress can be reported regarding **industrial pollution control and risk management**. The legislation on the control of industrial air pollution was amended in order to regulate the permit procedures. By-laws on large combustion plants and on the control of major-accident hazards were adopted. Introduction of an integrated permit system is at an early stage.

There has been some progress in the field of **chemicals**. Legislation on biocidal products was adopted. The capacity is insufficient for effective implementation.

Very limited progress was made regarding **climate change**. Some progress was made on trade in ozone-depleting substances. Turkey began implementing legislation transposing the *acquis* on the availability of consumer information on fuel economy and CO<sub>2</sub> emissions in connection with the marketing of new passenger cars. A national climate change strategy was adopted by the Ministry of Environment and Forestry with UNDP/GEF support. Moreover, a climate change department was established within the Ministry of Environment and Forestry and a high level coordination committee for climate change was set up in order to increase coordination among government institutions. However, no preparations for the EU Emissions Trading Scheme have started yet. Turkey submitted its greenhouse gas inventory but has not submitted its fifth national communication so far. In the international climate negotiations on the post 2012 agreement, Turkey has had a tendency not to align with the EU positions lately. It has not associated itself with the Copenhagen Accord either. Turkey's aim to limit greenhouse gas emission growth by 11% from the projected 2020 emissions on the basis of the business as usual scenario cannot be considered to be ambitious.

Legislative alignment in the field of **noise** is well advanced. However, preparation of noise maps and action plans is still at an early stage.

Some progress has been made in the area of administrative capacity. The Law on environmental permissions and licences was adopted to enhance the environmental inspectorates. Mechanisms to coordinate the work between administrative bodies at different

levels were put in place. No progress has been made towards establishing a national environment agency. Administrative capacity needs further strengthening, including coordination between the relevant authorities at all levels. Environmental protection requirements are still not taken into account in the framing of policies and in the implementation of infrastructure projects.

### *Conclusion*

Overall, progress was made towards further alignment. Preparations in the field of environment are at an early stage. Turkey has made good progress on waste management whereas limited progress can be reported on horizontal legislation, air and water quality, industrial pollution, chemicals and administrative capacity. Turkey has made very limited progress as regards climate change and no progress in the area of nature protection. Turkey made progress on administrative capacity by putting in place mechanisms to coordinate the administrative bodies at different levels in this field. Investments in the field of the environment need to be increased.

## **4.28. Chapter 28: Consumer and health protection**

There has been little progress in the area of **consumer protection**. The consumer movement is still weak and does not receive government support. Better dialogue as well as active participation by NGOs in policy- and law-making mechanisms needs to be ensured, but government activity is low in this respect.

Some progress can be reported in the field of *product safety-related issues*. The Undersecretariat for foreign trade issued legislation streamlining surveillance reports and notifications. A national market surveillance strategy for 2010-2012 was adopted. Market surveillance activities have continued to increase and the Undersecretariat's report on market surveillance activities performed in 2009 is a notable step towards the systematic collection of comparable data. The use of risk assessment methods, which would help optimise the use of limited market surveillance budgets, remains insufficient, as is evaluation of the effectiveness of actions. Market surveillance needs to be further improved through enhanced visibility, involvement of consumer organisations and awareness among the general public of the concept of risky products, as well as better coordination within and between surveillance agencies, including the use of IT tools. The revision of the general product safety legislation is pending, which is a key element for the accession negotiations in this chapter. [See Chapter 1]

There has been little progress in the area of *non-safety related issues*. Adoption of the consumer protection law is pending too, which is a key element for the accession negotiations in this chapter. The consumer portal providing e-application services to consumers for their complaints has been made operational. Consumers can now file their complaints electronically and the complaint is directed to the consumer arbitration committee. This is a positive step to speed up the arbitration process and ease access to information for the consumer courts. Follow-up of the decisions of the advisory Consumer Council, and consistent legal interpretation of the consumer laws by the courts and arbitration committees need to be ensured. Specialisation of the arbitration committees needs to be improved.

Some progress can be reported in the field of **public health**.

Regarding *horizontal aspects*, the Ministry of Health published its first strategic plan, covering the years 2010-2014. The plan aims to improve and enhance the well-being of society by combating threats to health, improving the safety and quality of health services,

and responding to health needs on the basis of equity and accessibility through a human-centred service approach. The introduction of a family medicine system aims to better respond to health needs and monitoring the population's health status, which currently is constrained by the limited number of family physician specialists and the absence of a well designed reporting system.

As regards *tobacco*, Turkey largely fulfils the *acquis* requirements. Only final verifications of provisions on export of tobacco products and implementing measures remain outstanding. The Turkish authorities have identified 14 pictorial warnings which must be used for all tobacco products produced. Efforts have been made to raise the awareness in the fight against smoking. As a result of relatively successful implementation of the smoking ban in all public places since 2009, Turkey observed the lowest cigarette consumption level in five years during the first quarter of 2010. However, the smoking ban was challenged with reference to personal freedoms and business interests, and a Constitutional Court procedure was launched.

In the field of *communicable diseases* little progress was made. *Acquis* alignment is moderately advanced, and harmonisation regarding notifiable diseases and case definitions to ensure compatibility and comparability of data at EU level continued. However law enforcement is insufficient, and no progress was reported on strengthening the administrative structures for systematic monitoring, follow-up and implementation of control and surveillance measures, or on the establishment of the national institute of public health. The trial to establish an early warning and response system for intestinal diseases was expanded to another 10 provinces.

There has been some progress in the area of *blood and blood components*. Legislative harmonisation is well advanced. Further alignment efforts concerning definitions and standards are ongoing. It still remains to be verified whether the enforcement capacity to carry out monitoring, surveillance and inspection tasks is sufficient and competent authorities are fully defined. Preparations in this area are ongoing.

There has been some progress in the area of *tissues and cells*. An implementing regulation was adopted but it remains to be verified whether this legislation fully responds to EU *acquis*. The national cell coordination centre (Türkök) has not become operational yet and administrative capacity for surveillance activities in this area needs to be reinforced. Preparations for alignment with the EU *acquis* for all types of tissues and cells (musculoskeletal, cardio-vascular, cornea, ART, etc.) are still ongoing.

No progress can be reported in the field of *mental health*. The mental health action plan is finalised but has yet to be adopted. Overall, preparations in this area are at an early stage.

Little progress can be reported in the field of *cancer*. The physical infrastructure to conduct community-based screening programmes is in place. The screening of target groups for breast and cervical cancers has reached 12% and 18% respectively (target 70% by 2015). Drafting of the regulation on electromagnetic fields is in progress. The national cancer institute has yet to be established. Preparations in this area are on track.

### *Conclusion*

Some progress can be reported on consumer and health protection. In the area of consumer protection, more efforts are still necessary, in particular on non-safety related issues, to strengthen the consumer movement and to ensure proper enforcement of consumer protection in general. Coordination and cooperation between stakeholders remain weak. In the area of

public health, there has been good progress in terms of legislative alignment. However, enforcement remains insufficient in areas other than tobacco. The administrative structures and enforcement powers necessary to implement the transposed legislation and monitor progress require strengthening. Preparations in the area of consumer and health protection are on track.

#### **4.29. Chapter 29: Customs Union**

There has been some progress with regard to **customs legislation**.

Turkey adopted the provisions implementing its new customs law, further aligning its customs rules with the EU *acquis*. The Undersecretariat for customs adopted implementing legislation on binding tariff information that limits the rights of economic operators to apply for binding tariff information, particularly those importing products that are subject to mandatory laboratory testing. The Undersecretariat amended the implementing provisions on laboratory controls for processed agricultural products to limit mandatory laboratory controls exclusively to cases where the products are imported in bulk or their tariff classification cannot be determined by customs. The overall level of alignment with the EU *acquis* in the field of customs rules is high thanks also to the existence of the EU-Turkey Customs Union. However, further alignment is required with regard to customs rules on intellectual property rights and on the exemptions granted to goods used or consumed in the free zones regulated by the Undersecretariat for foreign trade. The Turkish duty relief legislation allowing duty-free shops at entry points is not in line with Turkey's Customs Union obligations.

There has been no alignment regarding the rules on surveillance of imports and exports of goods and tariff quotas. In particular, the legislation for tariff quotas provided for processed agricultural products is not in place and the management of the few existing tariff quotas is not in line with EU standards. Products originating outside the EU but in free circulation in the EU market are still subject to product safety inspections in Turkey, even if the goods have already been cleared by customs in the EU, bear the CE mark and are accompanied by an ATR movement certificate. In the context of these inspections, economic operators are systematically obliged to submit a declaration of origin before customs clearance. Requiring operators to declare the origin of products before their customs clearance is an infringement of the Customs Union.

As regards **administrative and operational capacity**, some progress can be reported. The Undersecretariat strengthened its vehicle tracking system and mobile inspection units. Through public-private partnership contracts signed with Turkish private sector organisations, the Undersecretariat was supplied with scanners that further enhanced its enforcement capacity at some border crossing points. The Undersecretariat has to improve its risk-based analysis with a view to applying it soundly and uniformly throughout all customs offices. The feedback reporting mechanisms between the Undersecretariat's central risk analysis units and regional customs teams should be reinforced. Coordination between customs enforcement and other law enforcement agencies at the border needs to be improved. Simplified procedures need to be applied in order to facilitate legitimate trade by reducing physical inspections. Turkey continued to be one of the main suppliers of counterfeit goods seized at EU customs and lacks enforcement capacity for IPR controls on both imports and exports.

Further efforts were made towards achieving IT interconnectivity with the EU systems on transit (NCTS) and tariffs (TARIC, Quota, and Surveillance). Turkey reached a high level of alignment in the field of transit with a view to starting the process for acceding to the

Common Transit Convention (CTC). Turkey needs to step up its efforts to introduce paperless customs procedures incorporating one-stop controls. No progress can be reported regarding the adoption of an IT strategy by the Undersecretariat. The Undersecretariat published an information notice on setting the rules determining the preferential origin of products in the framework of the Pan-Euro Med system of cumulation.

‘Customs Union’ is one of eight chapters covered by the conclusions on Turkey adopted by the Council (General Affairs and External Relations) on 11 December 2006 and endorsed by the European Council on 14/15 December 2006. As long as restrictions remain in place on the free movement of goods carried by vessels and airplanes registered in Cyprus or whose last port of call was in Cyprus, Turkey will not be in a position to implement fully the *acquis* relating to this chapter.

### *Conclusion*

The Customs Union has enabled Turkey to reach a high level of alignment in this field in terms of both legislation and administrative capacity. However, the duty-free status of shops located at entry points is not in line with the *acquis*. Legislation on free zones, surveillance and tariff quotas which are regulated by the Undersecretariat for foreign trade still needs to be aligned. Requiring importers of products which are in free circulation in the EU market to submit information on origin prior to customs clearance is not in line with the Customs Union. Further efforts are required to improve risk-based controls and simplified procedures in order to facilitate legitimate trade and reduce physical controls. The Undersecretariat for customs must deliver on its commitment to effectively enforce intellectual property rights and combat counterfeit goods.

### **4.30. Chapter 30: External relations**

Some progress can be reported in the field of the **common commercial policy**.

Turkey’s level of alignment with the EU’s common commercial policy remains high. Good progress was recorded in the alignment of the Turkish general system of preferences (GSP). Iraq was included in the list of countries to which Turkey applies its GSP. Turkey adopted the GSP scheme, including for processed agricultural products in terms of their industrial component. Further alignment with the EU’s GSP, in particular with regard to its geographic coverage, is needed.

Turkey decided to extend for three years the safeguard measures imposed in four cases (footwear, motorcycles, steam irons, and vacuum cleaners), which have been in place since 2006. Turkey has made increasing use of safeguard measures over the last four years.

There has been progress on **bilateral agreements with third countries**. During the reporting period, Turkey signed a free trade agreement with Jordan.

Turkey’s level of coordination with the EU within the World Trade Organisation, in particular as regards the Doha Development Agenda, has been satisfactory but there is still room for improvement in this area, notably in the field of agriculture and trade facilitation. Within the OECD, the coordination has been satisfactory.

No progress can be reported on medium- and long-term export credits, as well as on dual use goods. Concerning *dual-use export controls*, Turkey has not aligned itself with the EU position on membership of certain suppliers’ groups, such as the Wassenaar Arrangement on

export controls for conventional arms and dual-use goods and technologies, and the Missile Technology Control Regime.

Turkey made some progress in the field of **development policy** and **humanitarian aid**. The total amount of official development aid granted by Turkey reached some €707 million in 2009. The level of alignment remained satisfactory in this field.

‘External relations’ is one of eight chapters covered by the conclusions on Turkey adopted by the Council (General Affairs and External Relations) on 11 December 2006 and endorsed by the European Council on 14/15 December 2006. As long as restrictions remain in place on the free movement of goods carried by vessels and airplanes registered in Cyprus or whose last port of call was in Cyprus, Turkey will not be in a position to implement fully the *acquis* relating to this chapter.

### *Conclusion*

Although Turkey has achieved a high level of alignment in this area, owing to the Customs Union, alignment has not yet been completed and further work remains to be done in many areas, in particular on the general system of preferences with regard to its geographical coverage.

#### **4.31. Chapter 31: Foreign, security and defence policy**

The regular **political dialogue** between the EU and Turkey continued to cover international issues of common interest, including Iraq, Iran, the South Caucasus, Pakistan, Afghanistan, the Middle East peace process and the Balkans. (*Concerning neighbourly relations with other enlargement countries and Member States, see Section 2.3 — Political criteria*)

As regards the **common foreign and security policy** (CFSP), in the reporting period, Turkey aligned itself, when invited, with 54 out of 73 the relevant EU declarations and Council decisions (74 % alignment).

Bilateral relations with *Iraq* continued to develop positively. Turkey maintained close contacts with Iraqi authorities. Several high-level visits took place, including those by vice-President Adil Abdul Mahdi and Kurdish regional government President Massoud Barzani. Turkey held extensive consultations with Iraqi political factions in the aftermath of the March general election.

As for relations with *Iran*, Turkey sees Iran as an important partner in the region and has sought to further develop its relations with that country. Turkey has confirmed its opposition to Iran’s military nuclear programme. Turkey, together with Brazil, negotiated an agreement with Iran concerning a fuel swap deal for the Tehran Research Reactor (TRR). Turkey did not support the EU, US and other countries in the UN Security Council for additional sanctions against Iran.

As regards relations with the *South Caucasus and Central Asia*, Ankara gave full support to the interim government established in Kyrgyzstan after the uprising in April and provided immediate humanitarian assistance. A strategic partnership agreement was signed with Kazakhstan. Turkey will chair the Conference on Interaction and Confidence Building Measures (CICA) in Asia until 2012 and hosted the CICA summit in June. The protocols signed with Armenia to normalise relations are still not ratified.

As regards the *Middle East*, Turkey's seeks to play a constructive role, notably by offering a mediator role between Israel and Syria. Relations with Syria improved substantially with both countries lifting visa restrictions and setting up a strategic cooperation council. Turkey continues to contribute to stabilisation in *Lebanon*, through diplomatic activities and its participation in UNIFIL. However, relations with *Israel* deteriorated after the Gaza conflict, and in particular following the Gaza flotilla incident.

Turkey continued its efforts to bring *Afghanistan* and *Pakistan* closer. Turkey remains engaged in NATO's International Security Assistance Force (ISAF). It assumed command of the Kabul region for the second time as of 31 October 2009. Ambassador Engin Soysal was nominated UN special envoy for assistance to Pakistan. Turkey organised two trilateral summits in Istanbul and also hosted the Istanbul Summit on Friendship and Cooperation in the Heart of Asia. Turkey hosted the fourth Regional Conference on Afghanistan (RECCA).

Turkey intensified its economic and political ties with *Russia* and *China*. The relations between Turkey and Russia were marked by an exchange of high-level visits. A high-level strategic cooperation council between the two countries was established.

Turkey continued to intensify its relations with *African and Latin American countries*. Several high-level visits were made by the President and the Prime Minister.

Relations with the *United States* have been marked by tensions. Turkey withdrew its Ambassador for a short period after the Foreign Relations Committee of the House of Representatives adopted a resolution recognising the killings of Armenians in 1915 as genocide.

No particular developments can be reported as regards *restrictive measures*.

Concerning *non-proliferation* of weapons of mass destruction, Turkey has not aligned itself with the EU position on membership of certain suppliers' groups, such as the Wassenaar Arrangement on export controls for conventional arms and dual-use goods and technologies. (*For dual-use goods, see Chapter 30 — External relations*)

With regard to cooperation with *international organisations*, Turkey continues holding a non-permanent seat in the UN Security Council in 2010. The third forum of the UN-backed Alliance of Civilisations was held in Rio in May. Although Turkey is not a member of the League of Arab States, it attended the last two meetings of the League and hosted the third meeting of Foreign Ministers of the Turkish-Arab Cooperation Forum (TAC). Turkey also enjoys observer status in the Organisation of African States. In 2010, a member of the AK party was elected president of the Parliamentary Assembly of the Council of Europe. Turkey has not signed the statute of the International Criminal Court.

Turkey extended for one year the navy's participation in an international task force to join the UN-led international anti-piracy coalition in Somalia.

As regards the **common security and defence policy** (CSDP), Turkey is continuing to contribute to the EU-led military mission in Bosnia and Herzegovina (EUFOR/Althea). Turkey is also contributing to EUPM, the EU-led police mission in Bosnia and Herzegovina and to the EU rule of law mission (EULEX) in Kosovo. The issue of EU-NATO cooperation that would involve all EU Member States beyond the 'Berlin plus arrangements' remains to be resolved.



## Conclusion

Turkey's alignment with the EU's common foreign and security policy has continued. Turkey has sought dialogue and consultation with the EU on various foreign policy issues. Through its 'zero problems with neighbours' policy Turkey made efforts to normalise relations with its neighbouring countries such as Greece and Armenia (*see section 2.3 — Regional issues and international obligations*), Iraq, including the Kurdish regional government, and Syria. Relations with Israel have significantly deteriorated. Turkey is contributing substantially to the CSDP and seeking greater involvement in CSDP activities. The issue of EU-NATO cooperation that would involve all EU Member States beyond the 'Berlin plus arrangements' remains to be resolved. Turkey has not aligned itself with the EU position on membership of the Wassenaar Arrangement.

### 4.32. Chapter 32: Financial control

There has been limited progress on **public internal financial control (PIFC)**, where alignment with the *acquis* is advanced. Budget spending units started to submit their action plans for harmonisation with public internal control standards to the central harmonisation unit for financial management and control (CHU-FMC), in line with the guide published last year.

The 2002 public internal financial control (PIFC) policy paper and the related action plan remain to be updated, following which the Public Financial Management and Control Law (PFMCL) will have to be amended. These documents will have to address the issues of managerial accountability, delineation of control, audit and inspection functions, as well as the establishment of a permanent central harmonisation unit for internal audit (CHU-IA). The location of the CHU-IA is crucial to ensure that the modern public internal audit profession can develop under optimum conditions. The steering role of the Ministry of Finance in the reform process needs to be further reinforced.

No progress can be reported in the area of **external audit**. The revised law on the Turkish Court of Accounts has been pending in parliament since 2005. This law is to provide the institution with the legal and structural bases for its extended mandate and to align audit practices with relevant international standards.

Some progress can be reported on **protection of the EU's financial interests**. There has been good operational cooperation between the European Anti-fraud Office (OLAF) and the Prime Ministerial Inspection Board (PMIB) and the other relevant institutions in assessments and investigations of suspected fraud cases. In December 2009 a circular issued by the Prime Minister's Office formally appointed the PMIB as the permanent body responsible for cooperation with OLAF and coordination of the fight against fraud (AFCOS). The strategy for improving transparency and combating corruption was adopted in February 2010. Further efforts are needed to ensure the operational independence of the AFCOS in reporting and carrying out its tasks as well as to establish a network to operate horizontally in addressing prevention, detection and follow-up issues.

There have been no developments concerning implementation of the Convention on the protection of the European Communities' financial interests (PIF Convention) and its Protocols. The level of monitoring of the actual implementation of the Convention by the Turkish authorities remains low. Preparations are moderately advanced in this area.

No progress can be reported on the **protection of the euro against counterfeiting**. Institutions serving *de facto* as the national analysis centre, national coin analysis centre and national central office are yet to be formally appointed to ensure sustainable cooperation with the EU institutions. The Turkish legislation does not provide for any sanctions against credit institutions that fail to withdraw counterfeits from circulation and against medals and tokens similar to euro coins. Preparations remain moderately advanced in this field.

#### *Conclusion*

Limited progress can be reported in the area of financial control, which already shows a fairly advanced level of alignment. Legislation implementing the PFMC Law is in place, whilst the PIFC policy paper and action plan require revision. The revised law on the Turkish Court of Accounts, bringing external audit into line with relevant international standards, has not yet been adopted. The Turkish AFCOS has not yet evolved into an operational network. Permanent structures are required for contacts with the Commission on the protection of the euro against counterfeiting.

### **4.33. Chapter 33: Financial and budgetary provisions**

There have been no particular developments as regards the **traditional own resources**. Alignment with the relevant *acquis* has continued under the linked *acquis* chapters, resulting in customs legislation that largely complies with the *acquis*. However, additional efforts are needed for full alignment and implementation.

A national VAT system is in operation, further assessment thereof is needed to ensure the system's appropriateness to allow Turkey to contribute properly to the EU VAT own resources system upon accession. As regards the **Gross National Income (GNI) resource**, Turkish financial and statistical data were further aligned with the European System of Accounts (ESA 95). Further progress is needed for full implementation of the ESA 95 standards to ensure that the GNI resource is measured appropriately.

No progress can be reported in the field of **administrative capacity** and infrastructure related to the application of the own resources system itself. Turkey will need to establish coordination structures and implementing rules for accurate collection, monitoring, payment and control of own resources, and reporting to the EU.

#### *Conclusion*

Limited progress has been made under this chapter. Turkey's alignment with the basic principles and institutions of the *acquis* in this area is well advanced. Sound coordination structures, administrative capacity and implementing rules will need to be established in due course. Preparedness in the area of the own resources *acquis* is at an early stage.

## Statistical Annex

### STATISTICAL DATA (as of 14 October 2010)

#### Turkey

<b>Basic data</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Population (thousand)	1)	64 259	65 135	66 009	66 873	67 734	68 582	69 421	70 256	71 079	71 897
Total area of the country (km <sup>2</sup> )	2)	783 562	783 562	783 562	783 562	783 562	783 562	783 562	783 562	783 562	783 562

<b>National accounts</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Gross domestic product (GDP) (million national currency)		166 658	240 224	350 476	454 781	559 033	648 932	758 391	843 178	950 534	953 974
GDP (million euro)		289 446	219 816	243 570	269 322	314 304	387 655	419 013	472 879	501 339	441 600
GDP (euro per capita)	1)	4 504	3 375	3 690	4 027	4 640	5 652	6 036	6 731	7 053	6 142
GDP (in Purchasing Power Standards (PPS) per capita)	1)	8 000.0	7 400.0	7 400.0	7 400.0	8 600.0	9 100.0b	10 500.0	11 100.0	11 400.0	10 800.0
GDP per capita in PPS (EU-27 = 100)	1)	41.9	37.4	36.1	35.7	39.6	40.4b	44.3	44.6	45.4	45.8
Real GDP growth rate (growth rate of GDP volume, national currency, % change on previous year)		6.8	-5.7	6.2	5.3	9.4	8.4	6.9	4.7	0.7	-4.7
Employment growth (national accounts, % change on previous year)		-0.4e	-1.0e	-1.8e	-1.0e	3.0e	1.4e	1.3e	1.1e	1.8e	:
Labour productivity growth: GDP growth per person employed (% change on previous year)		7.2e	-4.7e	8.1e	6.3e	6.1e	6.9e	5.5e	3.3	-0.7e	-5.1
Real unit labour cost growth (national accounts, % change on previous year)		:	:	:	:	:	:	:	:	:	:
Labour productivity per person employed (GDP in PPS per person employed, EU-27 = 100)		53.2f	49.0f	48.9f	49.6f	53.9f	58.0f	61.4f	62.5f	63.5f	63.4f
Gross value added by main sectors (%)											
Agriculture and fisheries		10.8	9.4	11.4	11.1	10.7	10.6	9.4	8.5	8.5	9.1
Industry		24.6	23.8	23.2	23.5	23.0	23.0	22.9	22.3	22.0	20.8
Construction		5.4	4.7	4.6	4.5	5.0	5.0	5.4	5.4	5.2	4.2
Services		59.2	62.1	60.8	60.8	61.3	61.3	62.4	63.7	64.3	66.0
Final consumption expenditure, as a share of GDP (%)		82.2	80.8	80.8	83.4	83.2	83.5	82.9	84.1	82.7	86.3
Gross fixed capital formation, as a share of GDP (%)		20.4	15.9	16.7	17.0	20.3	21.0	22.3	21.4	19.9	16.8
Changes in inventories, as a share of GDP (%)		0.4	-0.9	0.9	0.6	-1.0	-1.0	-0.2	-0.4	1.9	-2.0
Exports of goods and services, relative to GDP (%)		20.1	27.4	25.2	23.0	23.6	21.9	22.7	22.3	23.9	23.2
Imports of goods and services, relative to GDP (%)		23.1	23.3	23.6	24.0	26.2	25.4	27.6	27.5	28.3	24.3

<b>Industry</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Industrial production volume index (2000=100)		:	:	:	:	:	100.0	107.8	115.3	114.2	103.2

<b>Inflation rate</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Annual average inflation rate (HICP, % change on previous year)		53.2	56.8	47.0	25.3	10.1	8.1	9.3	8.8	10.4	6.3

<b>Balance of payments</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Balance of payments: current account total (million euro)		-10 741	4 198	-662	-6 643	-11 601	-17 843	-25 640	-27 954	-28 519	-10 067
Balance of payments current account: trade balance (million euro)		-23 882	-3 755	-6 758	-11 925	-18 278	-26 590	-32 699	-34 144	-36 049	-17 820
Balance of payments current account: net services (million euro)		12 316	10 201	8 339	9 292	10 288	12 272	10 841	9 737	11 641	11 605
Balance of payments current account: net income (million euro)		-4 333	-5 583	-4 816	-4 912	-4 509	-4 693	-5 301	-5 183	-5 547	-5 500
Balance of payments current account: net current transfers (million euro)		5 158	3 335	2 573	902	898	1 169	1 520	1 637	1 437	1 648
of which government transfers (million euro)		221	224	526	257	252	485	495	590	495	853
Net foreign direct investment (FDI) (million euro)		121	3 188	993	1 080	1 612	7 208	15 340	14 550	10 688	4 359
Foreign direct investment (FDI) abroad (million euro)	3)	-942	-555	-151	-424	-627	-855	-736	-1 537	-1 733	-1 114
of which FDI of the reporting economy in EU-27 countries (million euro)		:	:	:	:	:	:	:	:	:	:
Foreign direct investment (FDI) in the reporting economy (million euro)	3)	1 063	3 743	1 144	1 505	2 239	8 063	16 076	16 087	12 421	5 473
of which FDI of EU-27 countries in the reporting economy (million euro)		:	:	:	:	:	:	:	:	:	:

<b>Public finance</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
General government deficit/surplus, relative to GDP (%)		:	-33.0	-12.9	-11.3	-4.5	-0.6	0.8	-1.0	-2.2	-6.7
General government debt relative to GDP (%)		:	104.4	93.0	85.1	59.2	52.3	46.1	39.4	39.5	45.4

<b>Financial indicators</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Gross foreign debt of the whole economy, relative to GDP (%)		44.7	57.7	56.2	47.3	41.2	35.3	39.4	38.4	37.4	43.9
Gross foreign debt of the whole economy, relative to total exports (%)		427.0	362.5	359.2	304.9	254.8	231.0	242.7	232.5	210.3	265.5
Money supply: M1 (banknotes, coins, overnight deposits, million euro)		12 205	8 965	9 291	13 188	15 762	38 978	38 616	44 644	39 927	49 691
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)	4)	51 591	37 253	36 325	47 398	59 415	150 152	160 193	201 366	203 840	228 237
Money supply: M3 (M2 plus marketable instruments, million euro)	5)	54 207	38 973	38 041	50 488	63 411	164 302	171 832	215 308	214 473	240 246
Total credit by monetary financial institutions to residents (consolidated) (million euro)		44 492	26 977	20 035	29 025	43 328	83 772	100 358	140 157	138 301	153 867
Interest rates: day-to-day money rate, per annum (%)		56.0	95.5	49.6	36.1	22.0	15.1	15.8	17.3	16.1	9.2
Lending interest rate (one year), per annum (%)	6)	51.2	78.8	53.7	42.8	29.1	23.8	19.0	20.1	19.7	19.7
Deposit interest rate (one year), per annum (%)	7)	38.2	62.2	53.9	40.3	23.6	19.9	21.5	22.3	22.9	17.2
euro exchange rates: average of period - 1 euro = ... national currency		0.574	1.094	1.430	1.685	1.768	1.670	1.800	1.778f	1.896	2.151
Effective exchange rate index (2000=100)		100.0	46.8e	40.1e	40.4e	39.3e	43.6e	39.1e	44.5e	:	:
Value of reserve assets (including gold) (million euro)		25 331	22 660	26 949	28 134	27 654	44 277	48 116	52 058	52 442	52 160

<b>External trade</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Value of imports: all goods, all partners (million euro)		59 444.4	46 255.8	54 478.3	60 162.6	78 528.0	93 409.5	111 096.0	123 959.4	136 441.0	100 657.6
Value of exports: all goods, all partners (million euro)		30 181.9	35 062.2	38 137.1	41 679.1	50 891.1	58 849.5	68 020.2	78 126.4	89 557.2	73 304.9
Trade balance: all goods, all partners (million euro)		-29 262.5	-11 193.5	-16 341.3	-18 483.5	-27 636.9	-34 560.1	-43 075.8	-45 833.0	-46 883.8	-27 352.7
Terms of trade (export price index / import price index)	8)	103.0	100.7	100.1	100.0	102.0	99.3	96.0	103.5	96.9	104.9
Share of exports to EU-27 countries in value of total exports (%)		56.4	56.0	56.6	58.0	57.9	56.4	56.1	56.3	47.9	45.9
Share of imports from EU-27 countries in value of total imports (%)		52.4	47.9	49.8	50.6	49.3	45.2	42.6	40.3	37.0	40.1

<b>Demography</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Natural growth rate: natural change (births minus deaths) (per 1000 inhabitants)		14.1	13.7	13.5	13.2	12.9	12.6	12.4e	11.4b	11.4	11.2
Infant mortality rate: deaths of children under one year of age per 1000 live births		31.5	28.4	25.6	23.1	20.9	18.9	17.5	16.7	16.0	15.3
Life expectancy at birth: male (years)		69.0	69.4	69.8	70.1	70.5	70.9	71.1	71.2	71.4	71.5
Life expectancy at birth: female (years)		73.1	73.5	73.9	74.3	74.6	75.0	75.3	75.6	75.8	76.1

<b>Labour market</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Economic activity rate (15-64): share of population aged 15-64 that is economically active (%)	9) 10)	52.4	52.3	52.3	51.1	49.6	49.8	49.8	49.8	50.6	51.7
Employment rate (15-64): share of population aged 15-64 that is in employment (%)		48.9	47.8	46.7	45.5	44.1	44.4	44.6	44.6	44.9	44.3
Employment rate male (15-64) (%)		71.7	69.3	66.9	65.9	66.4	66.9	66.8	66.8	66.6	64.6
Employment rate female (15-64) (%)		26.2	26.3	26.6	25.2	22.3	22.3	22.7	22.8	23.5	24.2
Employment rate of older workers (55-64): share of population aged 55-64 that is in employment (%)	10)	36.4	35.9	35.3	32.7	29.5	27.9	27.6	27.1	27.4	28.2
Employment by main sectors (%)											
Agriculture	10)	36.0	37.6	34.9	33.9	29.1	25.7	24.0	23.5	23.7	24.7
Industry	10)	17.7	17.5	18.5	18.2	20.0	20.8	20.9	20.8	21.0	19.4
Construction	10)	6.3	5.2	4.5	4.6	4.9	5.5	5.9	5.9	5.9	5.9
Services	10)	40.0	39.7	42.1	43.4	46.0	48.0	49.2	49.8	49.5	50.0
Unemployment rate: share of labour force that is unemployed (%)	9) 10)	6.5	8.4	10.3	10.5	10.8	10.6	10.2	10.3	11.0	14.0
Share of male labour force that is unemployed (%)	9) 10)	6.6	8.7	10.7	10.7	10.8	10.5	9.9	10.0	10.7	13.9
Share of female labour force that is unemployed (%)	9) 10)	6.3	7.5	9.4	10.1	11.0	11.2	11.1	11.0	11.6	14.3
Unemployment rate of persons < 25 years: share of labour force aged <25 that is unemployed (%)	9) 10)	13.1	16.2	19.2	20.5	20.6	19.9	19.1	20.0	20.5	25.3
Long-term unemployment rate: share of labour force that is unemployed for 12 months and more (%)	9) 10)	1.3	1.7	2.9	2.5	4.2	4.2	3.7	3.1	2.9	3.5

<b>Social cohesion</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Average nominal monthly wages and salaries (national currency)		:	:	372.1	492.0	529.4	595.4	:	:	:	:
Index of real wages and salaries (index of nominal wages and salaries divided by the CPI) (2000=100)		:	:	:	:	:	:	:	:	:	:
Early school leavers - Share of population aged 18-24 with at most lower secondary education and not in further education or training (%)	10)	58.1	58.1	55.1	52.9	52.2	50.0	49.1	47.2	45.7	44.6

<b>Standard of living</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Number of passenger cars per 1000 population	1) 11)	68.8	69.6	69.7	70.3	79.7	84.2	88.5	92.1	95.6	98.7
Number of subscriptions to cellular mobile telephone services per 1000 population	1)	234.4	280.9	353.3	417.0	512.4	635.9	758.6	882.1	926.1	873.2

<b>Infrastructure</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Density of railway network (lines in operation, per 1000 km <sup>2</sup> )		11.1	11.1	11.0	11.1	11.1	11.1	11.1	11.1	11.1	11.5
Length of motorways (thousand km)		1.8	1.9	1.9	1.9	1.9	1.8	2.0	2.0	2.0	2.0

<b>Innovation and research</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Spending on human resources (public expenditure on education in % of GDP)		2.6	2.3	2.8	3.0	3.0	3.1	3.0	3.3	3.0	:
Gross domestic expenditure on R&D in % of GDP		0.6	0.7	0.7	0.6	0.7	0.8	0.8	0.7	0.7	:
Percentage of households who have Internet access at home (%)	12)	:	:	:	:	7.0	8.0	:	19.7	25.4	30.0

<b>Environment</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Greenhouse gas emissions, CO2 equivalent (tons, 1990=100)		159.0	149.0	153.0	162.0	167.0	176.0	187.0	203.0	196.0	:
Energy intensity of the economy (kg of oil equivalent per 1000 euro GDP)		295.2	293.2	286.8	291.5	279.2	267.1	273.3	282.0	261.5	:
Electricity generated from renewable sources in % of gross electricity consumption		24.3	19.1	25.6	25.2	30.9	24.7	25.5	19.1	17.3	:
Road share of inland freight transport (% of tonne-km)		94.3	95.3	95.5	94.6	94.4	94.4e	94.3	:	:	:

<b>Energy</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Primary production of all energy products (thousand TOE)		26 047	24 576	24 281	23 783	24 332	24 549	26 580	27 453	29 257	:
Primary production of crude oil (thousand TOE)		2 887	2 679	2 564	2 494	2 389	2 395	2 284	2 241	2 268	:
Primary production of hard coal and lignite (thousand TOE)		12 487	12 282	11 360	10 777	10 532	11 213	13 087	14 797	16 674	:
Primary production of natural gas (thousand TOE)		582	284	344	510	644	816	839	827	931	:
Net imports of all energy products (thousand TOE)		54 291	49 536	54 234	60 505	63 232	67 266	73 256	80 596	77 413	:
Gross inland energy consumption (thousand TOE)		80 500	75 402	78 331	83 826	87 818	91 074	99 642	107 625	106 338	:
Electricity generation (thousand GWh)		124.9	122.7	129.4	140.6	150.7	162.0	176.3	191.6	198.4	194.1

<b>Agriculture</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Agricultural production volume index of goods and services (producer prices, previous year=100)		104.2	93.3	108.5	98.0	101.6	106.9	:	:	:	:
Total utilised agricultural area (thousand hectare)		38 757	40 967	41 196	40 645	41 210	41 223	40 496	39 505	39 073	38 935
Livestock: cattle (thousand heads, end of period)	13)	10 761	10 548	9 803	9 788	10 069	10 526	10 871	11 037	10 860	10 724
Livestock: pigs (thousand heads, end of period)		3	3	4	7	4	2	1	2	2	2
Livestock: sheep and goats (thousand heads, end of period)		35 693	33 994	31 954	32 203	31 811	31 822	32 260	31 749	29 568	26 878
Production and utilisation of milk on the farm (total whole milk, thousand tonnes)		:	:	:	:	:	:	:	:	:	:
Crop production: cereals (including rice) (thousand tonnes, harvested production)		32 108	29 426	30 686	30 658	33 957	36 471	34 642	29 256	29 287	33 577
Crop production: sugar beet (thousand tonnes, harvested production)		18 821	12 633	16 523	12 623	13 517	15 181	14 452	12 415	15 488	17 275
Crop production: vegetables (thousand tonnes, harvested production)		22 357	21 930	23 698	24 018	23 215	24 320	24 017	25 676	27 214	26 780

: = not available  
p = provisional value  
e = estimated value  
f = forecast

- 1) Mid-year population estimates
- 2) Including lakes.
- 3) The balance of payments sign conventions are used. For FDI abroad a minus sign means investment abroad by the reporting economy exceeded its disinvestment in the period, while an entry without sign means disinvestment exceeded investment. For FDI in the reporting economy an entry without sign means that investment into the reporting economy exceeded disinvestment, while a minus sign indicates that disinvestment exceeded investment.
- 4) Before December 2005, M2 included M1 and time deposits (TRY). From December 2005 onwards, M2 included M1 and time deposits (TRY,FX); central Bank of Turkey (CBRT) buying rate is used when converting money supply data in national currency (TRY) to Euro; monetary liabilities of Participation Banks, Investment and Development Banks and amount of Money Market Funds are added to money supply data beginning from December 2005.
- 5) Before December 2005, M3 included M2 and official deposits (time/demand). From December 2005 onwards, M3 included M2, fund received from repo transactions and money market funds (B type liquid funds). Also beginning from December 2005, deposits of Central Government are removed from M3 and other general government deposit items are classified in M1 and M2 according to maturity; central Bank of Turkey (CBRT) buying rate is used when converting money supply data in national currency (TRY) to Euro; monetary liabilities of Participation Banks, Investment and Development Banks and amount of Money Market Funds are added to money supply data beginning from December 2005.
- 6) Averages of monthly data, lending to enterprises more than one year.
- 7) Averages of monthly data, up to one year or longer.
- 8) Calculated on the basis of ISIC Rev.3, base year 2003 as Paasche.
- 9) Unemployment is not defined according to the standard ILO concept. A wider definition is used resulting in higher unemployment and economic activity rates. For example, the unemployment rate for 2009 would be 1.5 percentage points lower following the standard ILO definition, and the unemployment rate of persons < 25 years of age would be 2.6 percentage points lower.
- 10) From 2004 onwards, calculated according to mid-year population estimates.
- 11) From 2004 onwards, data source is the General Directorate of Public Security.
- 12) From 2007 onwards, calculated according to mid-year population estimates.
- 13) Excluding the number of buffaloes.